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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by Rev. Ralph Lord Roy of Southington, CT.

The guest Chaplain offered the following prayer:

Let us pray.

Almighty God, creator of this magnificent universe and fount of all wisdom, we offer our thanks for life and liberty and for those many benefits that we too often take for granted. Bless our beloved Nation that as one people of many colors and creeds, we may dwell together in mutual respect and harmony. Be with fellow Americans in distant places and especially men and women serving our country overseas. Bless those around the world who hunger and thirst, the sick and sorrowful, and victims of natural disasters, of prejudice and oppression.

Guide this Senate, O Lord. Grant that its Members and those who assist them may be filled with prudence and foresight as they confront the complex challenges of our time. Bless all others in high office, and let the light of freedom and the lamp of justice shine brightly here and around the globe. Grant peace to our lives, to our homes, to our communities, to our Nation, and to humankind everywhere.

We ask this in Your Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 19, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR 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, I will yield in a brief minute to the distinguished Senator from Connecticut so he can say some words about the guest Chaplain and his thoughtful prayer this morning.

Following leader remarks—and it does not appear there will be any—the Senate will resume consideration of the motion to proceed to H.R. 6049, the Renewable Energy and Job Creation Act, with Senators permitted to speak for up to 10 minutes each, but we expect to begin legislating on the housing legislation today.

Mr. President, what I would like to do is yield to the Senator from Connecticut so he can say some words about our distinguished visiting guest Chaplain.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

THE GUEST CHAPLAIN

Mr. DODD. Mr. President, it is truly a privilege and pleasure this morning to welcome to the Senate a remarkable individual who opened the Senate with a prayer this morning. He has lived an equally remarkable life and today resides in the community of Southington, CT.

In the 80 years we have enjoyed the fortune of having the Reverend Ralph Lord Roy in our midst, he has been an author and columnist, an activist, a teacher, and a radio host, and, of course, a pastor to some 12 different churches and ministries in New York and for some 36 years in Connecticut. At each stop along the way, he has spread the same message: one of justice and tolerance in the face of fear, resentment, anger, and prejudice.

In 1961, as part of the Congress of Racial Equality, Reverend Roy was one of the fabled ''Freedom Fighters'' who traveled to protest segregation policies in the South, for which he was arrested in Tallahassee.

A year later, he led a prayer pilgrimage to Albany, GA, at Martin Luther King's personal request. For his peaceful protests there, praying for the cause of desegregation, Reverend Roy was also arrested. In leading the largest group of clergy to be arrested in American history in Albany, GA, Reverend Roy became the first Caucasian Methodist minister in our Nation to be imprisoned for standing up for the civil rights of all Americans. The message he and his fellow clergy men and women sent at that moment—some 75 Jewish and Catholic laymen and clerics, most of them White, standing peacefully in solidarity with Dr. Martin Luther King on the sidewalk before the Albany City Hall—reverberates to this very day. It echoes in the books and articles that Reverend Roy has penned on social and faith issues and in his powerful and personal accounts of his experiences with the slain civil rights leader. It echoes as well in his

radio shows and travels across the world. And today, of course, it echoes in the Halls of the Senate.

A remarkable 80 years, making a significant contribution to the improvement and the betterment of our great country. So it is truly an honor to welcome Reverend Roy from Southington, CT, who has opened our Senate session this morning with his wonderful, thoughtful prayer. We wish him and his family the very best, and we thank him for his wonderful contributions to our country.

RESERVATION OF LEADER TIME

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

RENEWABLE ENERGY AND JOB CREATION ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 6049, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 767, H.R. 6049, an act to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. DODD. 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.

HOUSING AND ECONOMIC RECOVERY ACT OF 2008

Mr. DODD. Mr. President, let me begin by thanking the majority leader, Senator HARRY REID of Nevada; the Republican leader, Senator MITCH MCCONNELL of Kentucky; and the respective Members of our two parties, but particularly the leadership for their ability to make it possible for us to move forward on this very important piece of housing legislation. We have been at this for some time.

Every Member in this Chamber, as well as the American people, realize the seriousness of the problem we face as a nation. We have a serious economic crisis in the country, and the heart of that economic crisis is the housing crisis. The heart of the housing crisis is the foreclosure crisis.

Let me begin this discussion by noting that several months ago on two previous occasions we dealt with housing legislation—which I will point out is a part of this larger package today—and at that time we were having about 7,100 foreclosures a day. At least that was the number of filings of foreclosures when I first announced the level of foreclosures that were occurring. The numbers from May have just come in. The numbers are now close to 8,500, or 1,500 more than they were even 1 month ago. So we are now approaching 9,000 filings of foreclosures on a daily basis in our country.

In light of these numbers, I hope no one will suggest the problem is not a serious and growing one. We have not even hit July 1 yet when, of course, we realize the resets on some of these adjustable rate mortgages will begin to kick in; and as they do, we are warned by those following this issue almost on an hourly basis that the tidal wave of foreclosures will increase in the coming months, not decrease.

Obviously, with 1.5 million people who have already lost their homes, we are talking about a problem that is now spreading to commercial lending, municipal financing, student loans, and even having global implications as well for those who purchased these mortgage-backed securities. This is not confined to our own country. These were being purchased across the globe. So the problem begins with the foreclosure crisis, and yet the effects of it have spread far beyond the individual home, which is obviously the heart of most people's dreams in our country.

So the fact we were able to have our leadership, and Senator SHELBY will obviously speak for himself, but both of us, I can say with confidence, are very grateful to Senators REID and MCCONNELL for making it possible for us to move forward on this legislation.

I will guarantee that if I were able to write this bill all on my own, it would look different. And I promise that Senator SHELBY would probably write a different bill himself. But we don't live in a world where we get to write these things on our own. We serve in a body with 100 Members, and we have to work closely with others in the Chamber and the other body with 435 Members. We have a White House and an administration with which we have to deal. There are also, obviously, private interests around the country, from consumer groups and lending institutions, all having a deep interest in what we are trying to put together. So it is no easy task to cobble together a piece of legislation that will allow us to deal with this crisis, get us back on our feet again, restore some confidence and optimism among the American people so we can see capital begin to flow again, and thus wring ourselves out of this foreclosure issue and begin to see our economy grow and prosper.

That is what brings us to this very moment. I can't begin to express my gratitude to Senator SHELBY, who is the former chairman of this committee, to the members on the Democratic side of the Banking Committee, beginning with Senator TIM JOHNSON of South Dakota, along with, of course, the Republican members as well. On two previous occasions we have brought forth pieces of legislation that have been adopted overwhelmingly by this body with 84 votes on the first bill and 90 votes on the second.

On the matter that will be a part of this bill, which has not been considered by the full Chamber, it passed our Banking Committee 19 to 2 back on May 20. So we come to this day having spent a great deal of time working with our colleagues, listening and working with the Members of the other body, as well as those who bring unique and special expertise to these very complicated issues. That is what we hope in the coming days to be able to complete, send our product to the other body, and hope they will endorse and support it, and then send the bill to the President for his signature.

With that as background, let me share a few thoughts about what are in these bills. As I mentioned already, most of what we are talking about has been voted on overwhelmingly by the Members of this body. On April 10, the Senate passed the Foreclosure Prevention Act of 2008, and passed it by an overwhelming majority. At that time, I shared my view of the legislation, and that it did not quite live up to the title. I told this body we had more work to do to prevent foreclosures in this country and to strengthen the housing finance system before we could say we had lived up to the name of that bill.

I am very happy to report this morning that the Banking Committee of the Senate went back and did that work, and today Senator SHELBY and I are reporting back to the Senate the Housing and Economic Recovery Act of 2008. This legislation incorporates all of the housing provisions of H.R. 3221 as it passed the Senate on April 10 by a vote of 84 to 12. It also includes the HOPE for Homeowners Act of 2008, which will help at least 400,000 families, we are told, and maybe more, to save their homes from this fate of 8,427 foreclosure filings a day. We need to try to put a break on that, if we can, and spare what it does to individual homeowners.

The bill creates a new, strong, independent regulator for the housing government-sponsored enterprises—the so-called GSEs, Fannie Mae, Freddie Mac, and the 12 Federal home loan banks. It also establishes a new permanent fund that will help build affordable rental housing for low- and moderate-income families.

I will review these titles in more detail momentarily, but first let me remind my colleagues why Senator SHELBY and I have been working so hard on this issue for the past number of months and throughout this entire Congress. Quite simply, we are living through the worst housing market since the Great Depression of the 1920s and 1930s. Here are the facts, Mr. President.

Residential construction in the United States fell by over 30 percent in the first quarter of this year. Sales of existing homes fell by 13 percent over

the past year. And while the new data for April indicates that sales may have finally picked up slightly, most analysts believe that pickup in home sales occurred only because home prices have continued to fall. They call this ''price capitulation,'' which means homeowners finally gave up and are dropping prices precipitously at a great loss to their financial security.

The number of new homes that remain unsold continues to rise, reaching the highest number in over a quarter of a century. Adding to this number are the increasing number of foreclosed homes.

Foreclosures have hit a new all-time record, according to the Mortgage Banker's Association—MBA. This data shows that almost one in every 11 homes with a mortgage in the country is in default or foreclosure, as of the end of March. That is the highest level since the MBA began tracking foreclosures in 1979. Foreclosure rates have been growing at record levels for some time and last year alone 1.5 million American homes entered into foreclosure.

During each and every day of May, more than 8,400 American families entered foreclosure and the projections are that foreclosure rates will remain at historic highs for the foreseeable future. In fact, the investment bank Credit Suisse recently released a report in which they predict that 6.5 million homes will fall into foreclosure over the next 5 years. They state:

> The coming flood of new foreclosures could put 8.4 percent of total homeowners, or 12.7 percent of homeowners with mortgages, out of their homes.

The scenario that they are describing is one in which one out of every 8 American families with a mortgage would lose their homes. That is a chilling prediction.

The effect that this is having on our economy cannot be overstated. Martin Feldstein, who served as President Reagan's chief economist, recently wrote in the Wall Street Journal:

> The 10 percent decline in house prices has cut household wealth by more than $2 trillion, reducing consumer spending and increasing the risk of a deep recession.

That means that American families have lost more than $2 trillion of wealth. Losses of that magnitude are staggering. That is almost 20 percent of our Nation's annual GDP. Put another way, a national loss of wealth of $2 trillion means that a typical family of four will have lost over $25,000 of wealth due to the current housing market crisis.

This sharp loss in wealth for the average American homeowner comes at a time when they face record-high prices for the essentials of American life—food, gas, health care, and higher education. So the so-called foreclosure crisis is affecting more than those facing foreclosure. It is affecting nearly all of us. As one home falls into foreclosure, the values of countless other homes decline rapidly, if not immediately.

Robert Shiller, the widely respected economist, predicted recently that home prices will fall by 30 percent nationally. If that happens, the loss to American families will exceed $6 trillion. That is more than half of our Nation's annual GDP. It would mean that the typical family of four would have lost approximately $80,000 of wealth. That is more than most American families earn in an entire year.

The nationwide implications of this crisis help explain why consumer sentiment is at historic lows. Americans' expectations for future economic growth are at the lowest levels in 35 years, since the deep recession of the early 1970s.

These negative views about our economic prospects are based on the real experiences of most Americans. The Pew Center recently conducted a survey on Americans' views on not only the economy as a whole, but on their personal well being. The Washington Post characterized the Pew Center's findings as:

> Offering the gloomiest assessment of economic well-being in close to half a century, a new survey has found that most Americans say they have not made progress over the past five years as their incomes have stagnated and they have increasingly borrowed money to finance their lifestyles.

By almost any measure—by any measure, Americans are struggling more than at any time in recent memory. Real median family income has fallen this decade as the costs of gas, health care, and college tuition have risen at levels far outstripping any increases in paychecks. Just to keep pace with these rising costs, Americans have turned to borrowing from credit cards and their homes. But now, as the crisis in our capital markets begins to threaten sources of liquidity for people, such as mortgages, student loans and other types of lending, the American economy is in a precarious place. That is why we need new policies and new action to prevent this recession from becoming more severe, and to lay the foundation for our recovery.

We have a responsibility to the American people to respond to their plight and to their pessimism, and to renew their confidence in the promise of the American dream.

The package Senator SHELBY and I bring before the Senate today meets this test. Is it perfect? Hardly. Never is there a piece of legislation that is perfect. Would either of us have done it a bit differently? I am confident we would. Are we guaranteeing it will work? Absolutely not. All we know is this is our best judgment, having worked together now for the last year and a half to listen to people at some 50 different hearings on a wide range of subject matters. Then we put together legislation that has enjoyed, I say again with thanks to our colleagues, overwhelming support in this Chamber on a bipartisan basis. That is not something we have done with great frequency, I might point out, in recent years. The package is a good one. It is one we think covers many of the issues, if not most of them, with which we are grappling.

Let me review the major provisions included in this package.

First, FHA Modernization. FHA Modernization will help hundreds of thousands of homeowners gain access to safer, more affordable loans. FHA does not insure the kinds of risky, adjustable rate mortgages that so many homeowners were steered into, to their great peril and eventual sorrow. I want to point out to my colleagues that the only change from the FHA Modernization provisions passed in April is hat we have increased the maximum loan limit to $625,000, a provision that will expand the reach of this crucial mortgage lifeline to a broader cross-section of the country.

Veterans housing provisions—a number of our colleagues included important improvements to update the loan limits for VA loans; assist returning soldiers avoid rising mortgage rates and foreclosure; and expand housing benefits to disabled veterans.

CDBG funds—the bill includes about $3.9 billion in emergency CDBG funds directed to those communities most affected by the foreclosure crisis. These resources will be used to buy foreclosed homes at a discount, renovate them, and return them to the market. These funds will help turn around neighborhoods decimated by disinvestment by bringing in new capital to start rebuilding homes and communities.

Counseling Funds—the bill also includes $150 million in additional funds for housing counselors to help keep people out of foreclosure. There are many Members who care about this and were involved and talked about it. This language we have already adopted, but it is in this bill as well.

The HOPE for Homeowners Act of 2008, another provision in this legislation, creates a new fund at FHA to make loans to distressed borrowers to refinance them out of mortgages with payments they cannot make into safe, affordable, 30-year fixed rate loans.

Only homeowners—not investors or speculators—will qualify for these loans. And the lenders must agree to take steep discounts from the existing outstanding mortgages.

Only homeowners who cannot afford their current payments will qualify, and, once they take out the new loan, they will have to agree to share all newly created equity and future appreciation with FHA to help defray the Government's cost.

We have heard many people voice concerns about this bill, calling it a taxpayer bailout. Let me assure my colleagues, the Congressional Budget Office makes it clear that no taxpayer money will be used to fund this program. We pay for this important new program by all or part of the first 3 year's funding from the affordable housing fund created in the GSE portion of the legislation. Then we have

an additional $2 billion cushion at the Treasury Department, should there be any negative implications.

In fact, according to the CBO, this program will make nearly $250 million for the taxpayers over the next 10 years. In return, we will be saving the American dream for hundreds of thousands of elderly and hard-working families; stopping the bleeding in our communities; and helping restore confidence in our capital markets.

Finally, this package establishes a new, independent, world class regulator for Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, known as the housing Government-sponsored enterprises, GSEs. The legislation endows this regulator with broad new authority, equivalent to the authority of other Federal financial regulators, to ensure the safe and sound operations of the GSEs. Let me recite the powers included in this legislation: Establish capital standards; establish prudential management standards, including internal controls, audits, risk management, and management of the portfolio; enforce its orders through cease and desist authority, civil money penalties, and the authority to remove officers and directors; restrict asset growth and capital distributions for undercapitalized institutions; put a regulated entity into receivership; and review and approve, subject to notice and comment, new product offerings.

As we all know, the housing GSEs have played the central role in keeping the mortgage markets functioning. Yet in recent months, like many others in the mortgage industry, Fannie Mae and Freddie Mac have lost billions of dollars. It is their very importance that makes it imperative that we assure ourselves, and the American people, that the GSEs are on solid financial footing so they can continue to serve that crucial function. A strong and of active regulator can help make sure that the GSEs continue to operate in a safe, sound, and effective manner.

The new legislation significantly enhances the affordable housing component of the GSEs' mission, and expands the number of families Fannie Mae and Freddie Mac can serve by raising the loan limits in high-cost areas to 150 percent of the comforming loan limit. Currently, this limit would be $625,000.

The legislation tightens targeting requirements of the affordable housing goals, and rewrites those goals to ensure that the enterprises provide liquidity to both ownership and rental housing markets for low- and very-low income families.

Finally, the legislation creates a permanent, new Housing Trust Fund and a Capital Magnet Fund, financed by annual contributions from the enterprises, which will used for the acquisition or construction of affordable rental housing, some ownership housing, and economic development for low-income families and communities.

This new affordable housing fund—financed fully by the enterprises—will provide a steady stream of financing to build housing for those most in need. The Capital Magnet Fund requires that each dollar leverage at least an additional $10. Together, these programs will provide billions of dollars for new affordable housing in years to come. I want to acknowledge the important contributions of Senator JACK REED to this part of the legislation. This is going to be a permanent program that will make a difference for millions of people in years in come.

I thank my ranking member, Senator SHELBY, and his staff, for their hard work to reach consensus on this whole package.

This is what we are supposed to be doing. This is what we get elected to do. We don't get elected to decide exactly what we want to do at the expense of everyone else. It means sitting down and working together to come up with solid ideas that can make a difference in our country. Today, 8,427 people are going to start to lose their homes. Tomorrow another 8,427 will have that happen, and that will happen every single day until we do something to bring this to a halt. That number has gone up by 1,000 families in the last 2 months. We cannot waste another day. There is no other issue which demands our attention and our action more than this one, and any effort to be dilatory and to stop us from saving these people and keeping them in their homes ought to be rejected by every Member of this body.

This is a cancer in our society, and it is causing us deep problems. We need to do something about it. Senator SHELBY and our staffs and the members of our committee have worked hard and long to bring this package forward. It enjoys broad-based bipartisan support, as we hoped it would. Now we have a chance to complete action on this and to make a difference and to say to the American people: In this Congress, we did something. We stepped up and tried to make a difference for that great dream of home ownership, of raising your family in a decent house, of being able to provide for your long-term security, of making a difference for your neighborhoods and communities. We are going to do everything we can to see to it that these numbers decline, that foreclosures at this rate on a daily basis are going to stop in our country.

Again, we say to you, we realize not everyone agrees with what we are doing here.

You never can here. I have been here for 27 years. The greatest moments of this body are where people have come together to try and make a difference, not trying to get their own way all the time. You are part of a larger body representing a great country. And even though you come from one State and one area of the Nation, we all have a job to do, to take care of all of us in this country.

While this problem does not affect every citizen of the country, it is growing. If we do not do something soon about it, we will be indicted by history for not doing it.

I thank my great friend from Alabama, who has been a great chairman of this subcommittee, been a great member of this committee, and he has worked awfully hard to bring us to this moment. I am grateful to HARRY REID and to MITCH MCCONNELL for making it possible.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, this morning I am pleased to join my colleague, the chairman of the Senate Banking Committee, Senator CHRIS DODD. The Banking Committee has devoted considerable time and effort to developing comprehensive and complex housing legislation. The proposed legislation's most significant provisions include a new regulatory structure for Fannie Mae, Freddie Mac, and the Federal Home Loan Bank system, a new program to help qualified homeowners stay in their homes, and reforming the FHA.

This legislation creates a new regulator who has the authority and the flexibility to regulate the GSEs appropriately. I am also pleased that the HOPE for Homeowners proposal is paid for; not by taxpayer's money either. I believe we should do what we can to help struggling homeowners, short of asking the taxpayers to foot the bill.

The legislation also provides immediate help to the marketplace by reforming the Federal Housing Administration, allowing it to provide greater liquidity and thereby enhancing the options available to America's homeowners.

It also provides additional funding for foreclosure prevention counseling, which will hopefully help homeowners stay current on their mortgages and able to remain in their homes.

In order to prevent this situation from repeating itself, the legislation increases the disclosures made to consumers obtaining mortgages. I believe that giving consumers more information and a greater ability to understand the choices they are making will help them avoid the pitfalls and bad decisions many underinformed consumers made in the recent past.

To better protect our soldiers, sailors, and airmen, this legislation extends additional consumer protections and provides those returning from combat a chance to get back on their feet before they face foreclosure of their homes.

In an effort to provide communities with the ability to clean up the damage caused by foreclosures that have already occurred, we have also included funding to allow States and communities to buy up and repair foreclosed residences. Attached to this funding is a requirement—here I think this is important—that any profit from the sale of properties must be used to buy and repair additional properties. I believe

the reuse of this funding in this manner will maximize the impact of these dollars and minimize the possibility that funds will be wasted or profits inappropriately pocketed by someone.

The bill also contains a number of tax-related provisions prepared in a bipartisan fashion by the chairman and the ranking member and the staffs of the Finance Committee.

While there is a large and growing number of homes entering foreclosure in this country, we must remember that the vast majority of homeowners are living within their means and making their mortgage payment. Therefore, my primary consideration here during negotiations on this bill has been to protect the American taxpayer. In creating a strong regulator for the GSEs and using an independent funding stream to pay for the FHA program, I believe we have met that goal.

With crises such as this one we are facing now in this country, I believe the American people expect us to provide effective and timely solutions the best we can. Chairman DODD and I have worked together to develop a package of targeted measures intended to stabilize and strengthen the housing financial markets.

I strongly urge my colleagues to support this carefully crafted compromise.

I remind my colleagues that this bill came out of the Banking Committee 19 to 2. That is a strong vote for a bipartisan measure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Alabama.

I want to read this list into the RECORD to give our colleagues some sense of the broad support this proposal has developed. Let me quote from several of our major editorials as well as major economists representing the political spectrum in our country. I will share this with you.

Alex Pollack, resident fellow at the American Enterprise Institute:

> This is an appropriate and targeted approach to the downward spiral caused by the deflation of the great housing and mortgage bubble of the 21st century.

Alan Blinder, an economist at Princeton University and the former vice chairman, Board of Governors of the Federal Reserve System:

> I think that the HOPE for Homeowners bill is the most important piece of economic legislation before the Congress today.

The Miami Herald:

> The Senate represents a bipartisan compromise that deserves wide support.

The Boston Globe:

> There is no bailout or windfall here. Congress is merely offering a fighting chance for families and credit markets to recover.

Newsday:

> The Senate program is called Hope for Homeowners. That's just what families facing foreclosure need.

Fran Grossman, the senior vice president of Shore Bank in Chicago:

> With millions of hard working Americans torn between looking for work and putting gas in the tank or paying their mortgage, we must enact legislation to provide access to the resources that will help families to hold onto the American dream and get our economy moving again.

Robert Shiller, as I pointed out earlier, supports this legislation. He is highly respected, by the way, as someone who deals with the issue of the index dealing with housing values.

Again, groups from the American Enterprise Institute to the Consumer Federation of America.

Alan Fishbein. Let me quote him:

> With foreclosures on the rise a stepped-up Federal lifeline is desperately needed if many hard-pressed families are to save their homes.

From the Consumer Federation of America to members of the American Enterprise Institute, former members of the Federal Reserve Board, members of the Reagan administration, the Council of Economic Advisers, others, all are advocating—and I am not suggesting dotting every ''i'' and crossing every ''t.'' But they have taken this work of Senator SHELBY and 17 of our other colleagues of the 21-member committee, 19 out of 21 having gone through all of the hearings, 50 of them over the last year, listening to all sorts of people talking about what needs to be done. It is now the bipartisan overwhelming majority opinion of us on that committee that this package we offer here is our best step forward.

Having done the work for a year now, spending the hours that we have listening to people and getting solid advice, this is what we believe, as they believe, is the best response America can make at this moment.

Remember, this HOPE for Homeowners is voluntary; it does not mandate anything. It creates an opportunity for people. We hope they will take advantage of it when this legislation is signed into law.

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

The PRESIDING OFFICER (Mr. WHITEHOUSE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 3221, and that the only amendments in order today be those relating to the subject of housing, except the amendment I will offer on behalf of Senators DODD and SHELBY, in my motion to concur in the amendment of the House, striking section 1, and all that follows through the end of title V, and inserting certain language to the amendment of the Senate to H.R. 3221, and that no other motions, except motions to reconsider and motions to table, be in order during today's session.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. Mr. President, reserving the right to object. I appreciate the leader's sensitivity to some concerns we expressed yesterday on the length of this bill and the fact that probably very few, if any, of us have had a chance to read it, as well as his sensitivities to a slew of credible media reports that question some of the intents in the bill.

We all know the housing crisis is an issue in this country, and we do need to look at what we can do as a Senate to relieve the foreclosures and to help Americans stay in their homes. But we need to do it in a way the American people trust. We are trying to get through this bill. We know it has been changed since the committee has considered it.

I ask the leader if he would consider a modification of his agreement that we be assured that before this bill is finished, we will have an opportunity in the minority to offer an amendment that would refer the bill to the committee with instructions to report what direct benefits Countrywide or other financial institutions would receive from this legislation. Would the leader be willing to modify his agreement to include that?

Mr. REID. I say to my friend from South Carolina, the distinguished Senator, and I remind everyone, that 75 percent of this bill has already been passed and was done by a very big vote.

The 25 percent we are working on now—we hope to work on—is work that has been done on a bipartisan basis. And much of it, if not all of it, was in total consideration with the White House. So I say to my friend, let's go ahead and we will legislate on this bill today, the Senator not objecting. I will be happy to sit down with Senator DEMINT alone, with the minority leader, anyone else, and talk about the concerns you have, as you have indicated, as to benefits going to whomever they go to, and let us see if we can get from here to there by approaching it in that manner.

But as I indicated yesterday, this is important legislation. We want to make sure there are no problems with any Senators who have other concerns. So, in short, let me say this: My friend loses nothing by allowing us to go to the bill as indicated in this consent agreement. And then any time during the day, I will be happy to meet with him and the other eight Senators, together or alone, who signed that letter, and the distinguished Republican leader can suggest whomever, if anyone, he wants in on that meeting. I will be happy to work with the Senator.

Mr. DEMINT. I do not feel qualified as an individual member to make the

judgments that I think the committee could. Our hope was to have an up-or-down vote at one point to allow this body to at least decide if we should refer this back to the committee to look at that specific area, to make sure there is complete transparency, and to address what benefits some of these companies have.

All we want is an up-or-down vote, not necessarily a determination of how the bill should be changed. I certainly cannot determine. We have had one media source say it is $25 billion to Countrywide. We thought the committee had indicated $2.5 billion. Certainly, because of the media promotion of this, this has become a national issue. So our hope is that, again, before the bill is over—not today; it is certainly a reasonable request to deal with housing amendments today—but that the leader would assure us that before this bill is finished, we would have an up-or-down vote on referring it back to committee.

Mr. REID. I say to my friend, through the Chair, I can't give him assurance that there will be a vote, but I do give assurance that we will sit down and talk with him and do what we can to pacify his interests. What I mean by that is, there may be another way we can get from where we are today to where he thinks we should go. We will be happy to work with the Senator throughout the day. I give him the assurance, without any reservation, that his concern is not untoward, and we will be happy to sit down and see if there is a way we can accomplish what he wants to accomplish, as I said, the Senator from South Carolina and the eight other Senators who wrote me the letter.

Mr. DEMINT. Mr. President, I appreciate the leader's reasonableness. I would like to work with him. Again, the goal is not to pacify me but to make sure the American people can look on us and know we have had an open and transparent process. I trust the leader and respect him and how he will approach that. For that reason, I will not object to the unanimous consent request.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I thank my good friend from South Carolina for allowing us to go forward today. As he knows full well, we have been complaining on this side that we have not been allowed to legislate on frequent occasions lately. The majority leader has outlined a way to go forward today that allows us to do what we used to do in the Senate, which is to actually offer amendments related to the subject and vote on them. I believe this is a good way to proceed. I thank the majority leader for his accommodation, and I thank my good friend from South Carolina as well.

The PRESIDING OFFICER. There being no objection, the unanimous consent request is agreed to, and it is so ordered.

Under the previous order, the Chair lays before the Senate a message from the House with respect to H.R. 3221, which the clerk report.

The assistant legislative clerk read as follows:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 3221) entitled ''An act to move 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,'' do pass with amendments.

AMENDMENT NO. 4983

Mr. REID. Mr. President, I move to concur in the amendment of the House, striking section 1 and all that follows to the end of title V, and inserting certain language, to the amendment of the Senate to H.R. 3221 with the amendment at the desk. Basically, so everyone knows what this is, it is the bipartisan Dodd-Shelby amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DODD, for himself and Mr. SHELBY, proposes an amendment numbered 4983 to the House amendment striking section 1 through title V and inserting certain language to H.R. 3221.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let the games begin. We are open for business. If Members have amendments they would like to raise, Senator SHELBY and I are here, and we would like to move along. I know there are Members who have plans they would like to do later this week, perhaps for the weekend, but if we can move quickly, who knows what might happen, since we have done two-thirds of the bill already with overwhelming votes, with a couple modest changes in it. We have increased loan limits in a couple of areas. We invite our colleagues to come over. If they want any questions answered about this, we have staff here as well as members of the committee. We are prepared to entertain amendments and move forward on this very important piece of legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

CHANGE IN OREGON'S FORESTS

Mr. WYDEN. Mr. President, today, I am honoring a commitment and submitting for public review a proposal to protect old-growth forests and to aggressively move to restore, through thinning, the millions of acres of at-risk forests across the State of Oregon.

The novelist Ellen Glasgow once remarked:

The only difference between a rut and a grave is their dimensions.

We find ourselves today in a decades-old rut that threatens our forests and our lives like never before. It is time for change for Oregon forests, and that change can only begin with new ideas—ideas that depart radically from recent decades of forest mismanagement, old-growth destruction, catastrophic fire, and political gamesmanship.

We must break this cycle of endless fighting, of old, unwinnable battles in the woods that now endanger our forests and communities alike. We must make the preparations now to move forward, under new national leadership in 2009, to restore our treasured and endangered forests with sustainable, ecologically beneficial restoration thinning while permanently protecting the few remaining old-growth forests we have left.

We ought to be creating new and sustainable jobs in forestry for now and for the future and finally achieve the economic and ecological promise of the Northwest Forest Plan. It is my view that it is critical to change the mindset of Federal land management bureaucracies by requiring large-scale efforts to address the obscene backlog of at-risk forests and by restoring the tools and the public trust required to accomplish these jobs. In short, we must change the way the Federal Government manages forests, and especially Oregon's forests.

I am hopeful my proposal—driven by science and the will of the people of Oregon to end the destruction of old growth and to restore our at-risk forests through sustainable thinning—can help begin a new dialog that leads to change that is so desperately needed.

So I invite all Oregonians to review my proposal and to share their thoughts at my Web site: www.wyden.senate.gov. My staff and I will review those comments and seek to improve upon it before it is formally introduced as legislation in the Senate.

Our forests are the foundation of our natural, historical, and sociological culture. Unfortunately, decades of scientifically unsound forest management have created dangerous risks that now threaten our forests and our cultural identity.

Instead of making progress on the huge backlog of priority management projects that could restore our forests, Presidentially imposed political agendas have taken precedence, for well over a decade now, over commonsense opportunities to move forward to an

ecologically sound, economically advantageous, and sustainable forest future.

Scientifically unsupportable agendas and the resulting cycle of mistrust, litigation, and institutional paralysis now threaten vast tracts of Oregon's forest land and especially what remains of Oregon's ancient forests.

The Federal Government owns more than half of my State. That probably is a little bit different than it is in Rhode Island, but it is the case, and most of it is forest land. Due to decades of poorly designed, even-aged management and fire suppression, we have millions of acres of choked, second-growth forest at an unacceptably high risk for disease, catastrophic fires, and insect infestation. Fire, disease, and infestation certainly don't respect geographic boundaries, but they sure present a severe risk to private landowners and communities alike.

In 2008, at our Oregon Economic Summit in Portland, I announced that I will begin work on a proposal to address the bureaucratic and political roadblocks that prevent restoring millions of acres of choked, second-growth plantations in moist west side forests and the many at-risk dry forests, particularly found in the eastern and southern part of my State. I said I would work to avoid a return of the counterproductive and senseless forest battles of the past several decades—battles fought over logging in old growth and environmentally sensitive forests, areas which tend to be far more fire resistant and play a critical role in water quality and species protection.

Today, I am honoring the commitment I made to the people of Oregon, and I intend to use my chairmanship of the Senate Subcommittee on Public Lands and Forests to attempt to bring my home State the changes that our forests so desperately need.

The guiding premise of my proposal is to direct and help the Federal land agencies move forward quickly with local input on what should be the most critical, least controversial objectives to restoring our Federal forests in Oregon and to move those agencies away from practices that have been widely discredited and are not supported by the public.

In short, my proposal expedites restoration of Oregon's forests by thinning the millions of acres of choked plantations and dry, at-risk forests that pose a risk to lives, forests, and property. It also attempts to begin the task of restoring public trust in Federal land management agencies by permanently ending the commercial logging of Oregon's old growth forests. Forest Service and BLM managers in my State would be given new direction based on the principles of restoration forestry. Overstocked stands that I have been referring to and stands unhealthy due to a lack of age or species diversity would become the focus of this proposal. The managers would be instructed to avoid all old growth and inventoried roadless areas and incorporate a comprehensive aquatic conservation strategy into all projects. Activities conducted under this new management direction would receive expedited administrative procedures and limits on administrative appeals because they would then be focusing on critical priorities in the noncontroversial areas.

This proposal further works to restore the trust of the public in our Federal land agencies by giving those agencies an incentive to pursue new, sustainable forest management directives and to create the first ever automatic, independent review of the agencies' forest management actions, as well as new openness, transparency, and accountability for the actions by these agencies.

The overwhelming body of scientific evidence assigns a negative ecological value to the cutting down of Oregon's remaining old growth forests. Science has demonstrated time and time again that old and mature trees play an indispensable role in preserving water quality for communities, preserving critical wildlife habitat, and storing the carbon gases that contribute to global warming. Further, the evidence shows that those older trees are far more resistant to fire than younger trees. Equally important, after the disappearance of over 90 percent of Oregon's old growth, the people of my State no longer support the cutting of what little old growth remains on our public lands.

In the drier forests found predominantly, but not exclusively, on the east side of Oregon, the old growth picture is a bit more complicated due to decades of questionable management. Many scientists and environmentalists agree that more active forest management will have to be pursued quickly on the east side forests if there is going to be a genuine effort to save the native older trees and restore a healthy, diverse, and more fire-resistant mix to forests currently under a relentless and devastating assault by fire, disease, and insects.

For these reasons, I propose a permanent protection from logging for all remaining old growth and mature trees in Oregon's Federal forests. In the mostly west side ''moist'' forests, no tree currently 120 years or older would be allowed to be cut ever again for commercial purposes. In the drier forests, no tree currently 150 years or older would be allowed to ever again be cut for commercial purposes. The decades-old debate over the fate of old growth in Oregon would finally come to an end.

This is a crisis which cries out for action across the millions of acres of choked, at-risk forests in our State, and reasonable people on both sides of the forestry issue need to come together so that we get fresh policies and Oregon doesn't suffer foolishly and needlessly lose more forests, property, and lives.

What I propose today is to shift the focus of our Federal land agencies off of logging old growth and other environmentally sensitive areas and on to addressing the horrific backlog of desperately needed restoration thinning in the Federal forests. This involves harvesting ground and ladder fuels in areas that ought to be considered noncontroversial, fuels that currently endanger old growth in other healthy forests—Federal, State, and private alike—as well as endangering human and animal life. The new required management focus will also allow for the economic potential of the Northwest Forest Plan to be secured.

This proposal envisions that in many cases it is going to be possible to achieve the goals I have set out by bringing about collaboration from timber industry groups and environmental leaders. I have already seen great collaborative successes like this in the Siuslaw, Colville, and other national forests, with the help of organizations such as Oregon Wild, the Nature Conservancy, and K-S Wild. My proposal creates incentives for these partnerships, but due to the enormous and dangerous backlog of work, it is my view that collaborative efforts such as these must be stepped up; they must come at an accelerated pace.

Unfortunately, history has shown that it is not possible to rely just on good will, and that is especially the case if you don't find a way to discourage the cycle of endless administrative appeals and litigation that has produced Federal agency inertia and undermined even the most commonsense management efforts in our forests.

Under my proposal, each Oregon Federal forest and BLM district would be empowered to create a landscape-level restoration project of up to 25,000 acres designed by local collaboration organizations. If collaboration is not achieved, the land agency would be allowed to go forward but on a smaller scale of up to 10,000 acres.

One of the reasons there have been endless appeals and litigation is that over the past several decades, the level of public trust of Federal public land agencies has fallen to such unhealthy levels that it is impossible to conduct even routine and commonsense forest management projects. An era of mistrust of these agencies and the accompanying legacy of public protests, appeals, and litigation have produced what I consider to be an institutional paralysis in these land agencies, and it must be reversed. To begin to restore public trust and empower the land agencies to move forward aggressively, I believe the proposal I offer today will bring an unprecedented level of scrutiny, transparency, and accountability to the forest projects that are conducted under the new authorities I propose.

I borrow in this regard from a model that has been used by fisheries regulated by the National Oceanic and Atmospheric Agency that employ observers to monitor the bycatch of fish.

Under my proposal, independent forest observers hired and managed by the independent inspectors general of the Agriculture and Interior Departments, who will monitor all of the projects that are conducted under the proposal I offer today to make sure the prohibitions against cutting old growth and mature trees, and cutting trees in roadless areas—that those protections are strictly observed. The forest observer reports will be made available to the public online, and Federal forests found violating the Federal protections would lose their ability to provide expedited project authorities for several years as a penalty.

Finally, for the sake of our environment, economy, and our way of life, my hope is that an approach such as I offer today is going to make it possible to create thousands of new jobs and restore the health of our forests. The only way to produce this kind of change is to put new ideas forward, bold ideas that break out of the old rut that has produced so much institutional paralysis, and move to an approach that protects our forests, protects our communities, and protects a new opportunity to create family wage employment.

I am certain there are many additional issues Oregonians are going to want to consider and suggestions they will have to improve this proposal. I wish to make it clear that starting today, with this proposal online, I invite and welcome the people of Oregon to weigh in so that it will be possible, at the end of their opportunity to be heard and offer their suggestions, to go forward with a concrete, specific proposal to break bold, new ground with respect to forestry and provide the changes the public so desperately desires.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The senior Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, in a moment I am going to ask for unanimous consent to speak as in morning business and to lock in an order, but I wish to say, while we are on the housing bill, that I will be coming and offering again a slim-downed amendment that had been declared not germane to the housing bill before, in order to promote people to be able to stay in their homes by withdrawing from their 401(k) savings plan without paying the 10-percent penalty. I will be offering that amendment. We are getting it scored again by the Congressional Budget Office. We think its impact will be much less, and I will be conferring with the chairman and the ranking member of the committee as we approach that.

Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes, and I ask unanimous consent that I be followed by the Senator from New Hampshire for 10 minutes as well.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I intend to speak on the bill, and I presume it will be for about 10 minutes, but I am not sure.

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

The Senator from Florida is recognized.

ENERGY PRICES

Mr. NELSON of Florida. Mr. President, we have quite a brouhaha that was stirred up in my State of Florida when the President and Senator MCCAIN both announced their position—a changed position for Senator MCCAIN—that all of the offshore lands on the continental United States be drilled for oil and gas. Presently, most of those offshore lands are under a Presidential moratorium until the year 2012, save for the Gulf of Mexico off the west coast of Florida, which is under statutory prohibition to drill until the year 2022. It has caused quite a brouhaha because both Senator MCCAIN and the President have said that if you want to lower the $4 price of gas that people are hurting under, what you have to do is drill.

But what they have neglected to say is that there are 65 million acres, onshore and offshore, which have already been leased, that the oil companies have not drilled. So if you want to drill as if that were the answer to lowering gas prices—which it is not, and I will tell you why in just a minute—you have plenty of land and submerged land in which to drill. So why don't you drill?

It is being used as a red herring to get everybody off of what we ought to do, which is eliminate our addiction to oil and start going to alternative sources, which is ultimately the solution.

Let's take the President's and Senator MCCAIN's point of view that you are going to lower gas prices by drilling. As a matter of fact, the President's own administration has said—the Energy Information Administration, in their annual report last year, has said—that drilling in the offshore of the continental United States will not have any affect on gas prices until after the year 2030. That is 22 years into the future. So the internal documents that have just emerged in the Bush administration belie the very same thing that the President and Senator MCCAIN were trying to do.

What are they trying to do? The administration is trying to give away the store before they leave town. They are trying to help the oil companies. How do they do it? The value of an oil company is, in part, determined by how many reserves of oil and gas they own. Therefore, if they have additional acres of leases that have not been produced both onshore and offshore, which is considered a reserve—and that is certainly a value—and that is listed as an asset on the books of the oil companies, and the greater amount of land they can have that has some proven oil and gas deposits, the greater their asset value even though it is not being drilled and not produced, which is the very reason they say we ought to drill. But, of course, that is belied by the fact that they already have 65 million acres they have not drilled.

By the way, 31 million acres of that is in the Gulf of Mexico. This Senator has fought for years. I first started this fight in 1982 as a young Congressman over in the House of Representatives, when a Secretary of the Interior, named James Watt, wanted to drill off the entire east coast of the United States, from Cape Hatteras, NC, all the way south to Fort Pierce, FL. I have been fighting this since then.

Why? Clearly, there is an economic reason in our State. We have a $65-billion-a-year tourism industry that depends on pristine beaches. Clearly, there is an environmental reason, which is that the bays and estuaries are necessary for so much of the spawning of the marine life in both the Atlantic and the gulf. But the other reason is that almost the entire Gulf of Mexico off of Florida—that area which is prohibited in statute, which Senator MARTINEZ and I were able to pass 2 years ago—that area is the largest testing and training area for the U.S. military in the world. It is where we train our pilots in live-fire exercises. It is where we have joint sea and air and, combined with Eglin Air Force Base, land operations. It is where some of the most sophisticated weapons systems that have to be shot for hundreds of miles are tested.

We have a letter from the Secretary of Defense that says drilling for oil and gas would be incompatible with the use of the U.S. military, and that is the main testing and training area for the U.S. military in the world. As a matter of fact, it was that very excuse that I used back in 1982, as a young Congressman, facing down the Secretary of the Interior, James Watt, when he wanted to drill off the east coast of Florida in the Atlantic because one thing they omitted to find was, how can you have oil rigs out there off the east coast of Florida, where we are dropping solid rocket boosters in the launch of a space shuttle and the first stages of the expendable booster rockets coming out of the Cape Canaveral Air Force Station in all of our space launches? You simply can't. Thus, that was the reason I was able to defeat it back in the 1980s. And here we are, still carrying these arguments on.

Mr. President, no, this is not the answer. The answer, if you want to drill, is to go on and drill. You have the leased land, on land and submerged land. The real answer to the question of $4 gas or $140-a-barrel oil at the end of the day is to wean ourselves from total dependence upon that oil with alternative fuels so that we start having alternative fuels, such as ethanol, made from things that we don't eat, synthetic fuel made from coal. How do you think Germany fueled its war machine during World War II when they

were embargoed on oil? They made synthetic fuel from their coal reserve. The United States has 300 years of coal reserves. Using our yankee ingenuity and research and development to develop new engines, new technology, and new fuels—did you see where Honda came out that they are going to produce the first mass-produced hydrogen engine car? This is the beginning of the change of weaning ourselves from total dependence on oil.

In the meantime, what can we do about oil which last week spiked $11 per barrel in 1 day and has gone all the way up to $140 a barrel? What is it? Is it just the tightness of supply and demand in the world market? That is part of it. But an ExxonMobil executive, 2 months ago, testified to Congress that supply and demand would say that oil is $55 a barrel. So what is the difference between $55 a barrel and what it sold for last week at $140? The biggest difference is an unregulated commodities trading market that allows speculators, who are not going to use the oil, who are just bidding on the contracts—and they keep bidding that price up and up and up.

We did one thing about that last night when we passed the farm bill because in the farm bill was a part that partially started to reregulate those commodities markets. But it wasn't enough. You need to come in and put energy commodities clearly back in the regulation by the Commodity Futures Trading Commission. If you do that, then they will require those bidding on oil contracts for future delivery of oil to say they actually are going to use most of that oil instead of just speculating on the price and driving it up and up.

It is true the weakness of the U.S. dollar plays into this a little bit, and something we can do about that is balance the budget and strengthen the dollar because oil is traded in U.S. dollars. The weakness of the dollar, compared to other currencies of the world, makes the stronger currencies bid up the price of oil in dollars. But the main reason is speculation. We simply have to be realistic, with common sense, as to what we are going to do about $4 gas from which our people are hurting so much.

Sometimes I have been a lonely voice because it is easy and seductive to say, with $4 gas, we ought to drill. But I hope I have demonstrated to the Senate that the problem is much more complicated and that we cannot simply drill our way out of the problem.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I am seeking recognition on the bill in morning business, but first I will comment on the oil issue. I am rising primarily to speak to the bill, which has been brought to the floor by the Senators from Connecticut and Alabama—and I congratulate them—at a time when there hasn't been a lot of effort to do business in a cooperative way to produce positive events for our Nation or Government. They have done it, and they deserve a tremendous amount of praise for that. I have not had a chance to read the whole bill, but I have listened to what they are planning to do. We have worked with their staffs. Up until a couple of weeks ago, we were working reasonably close, and Senator SHELBY has been a force for progress. In my opinion, they appear to be on the right track. I want to get into the specifics of why I feel that way in a second.

OFFSHORE OIL EXPLORATION

First, I wish to talk about the oil issue, about whether or not we explore offshore. The proposal we have seen for energy that has been brought to the floor so far, primarily by the other side, has been to do three basic things. One is to litigate; sue the oil cartels. If you are the Saudis, and America gives American attorneys a new right to sue you, or if you are the Emirates States or some other oil-producing nation, you are going to be affronted by the fact that the United States would suddenly turn to its legal community and say: You can sue these other nations. I suspect my reaction, were I running a government of one of those countries that had oil reserves, would be to say, A, we don't need you, we don't need to sell you this oil; or, B, reinvest in your economy with the proceeds from purchasing this oil.

Our economy, to a large degree, is dependent upon people being willing to invest in it, both domestically and also internationally. Obviously, the petrodollars that are floating around the world because of the price of oil are a significant part of the investment capital in this world, and we are shipping overseas massive amounts of our capital to purchase oil. That is one of the biggest problems with the fact that we are buying all this foreign oil at ridiculously high prices.

We should not take an action that essentially would be cutting off our nose to spite our face by saying: We are going to sue you if you don't do what we want relative to our laws and relative to cartels. Their laws don't bar cartels. They don't have to invest in the United States. I suspect they would limit their investment through their sovereign funds in the United States were we to take that action. That would not produce more energy for us.

The second proposal is to take a percentage of the profits of our domestic oil companies because, I guess we believe that as a Congress we can spend those profits better than those domestic oil companies. First off, those domestic oil companies don't make up the majority of producers in this world. In fact, only 6 percent of the proven reserves in the world are controlled by publicly held companies. The rest are controlled by companies that are managed by governments, the Saudi company being the biggest. But you have Venezuelan companies, Chinese companies, and the Russians, and you have a series of nations, of course, that have control over their supply. So supply is not controlled by these private companies. And their profit, if we take it as a government, is not going to give us the capacity to produce more oil. We are going to take that money as a Congress and spend it on whatever interest group we think is important today. We will probably spend it on some program to help out people who are trying to buy their energy. But that is not going to produce more oil. That is not going to produce more exploration.

Remember, these companies are owned by Americans, for the most part. They are owned by Americans through pension funds. People who work for unions own these companies, people who work in businesses own these companies, people who have a job and have a 401(k) own these companies. The profits flow back to two different actions: One, exploration; or two, dividends—dividends running to American citizens, most of whom are retired, or many of whom are retired. So to simply say, well, their profits are too high and we are going to grab them as a government and spend that money because we can spend that money more efficiently and better than those companies—because they are evil, they are oil companies—is, again, cutting off our nose to spite our face.

It won't produce more exploration. It will produce less. It will take from Americans who have invested in those companies through their pension funds and their dividends. That makes no sense.

The things that make sense are: More conservation, more renewables—both of which I strongly support—and also more exploration in the United States. Produce more American energy—clean energy, hopefully. One way to do that, of course, is to expand nuclear power. But another way is to look for reserves where we have reserves, and where we can look for them in an environmentally sound way. One way is to take a look at oil shale. That is a great opportunity. We have more oil reserves in oil shale, three times more in oil reserves in oil shale, than Saudi Arabia has in plain oil. We have over 2 trillion barrels of reserves in oil shale, and we are not using it. We are not using it because it is on public lands and we have been barred by the activists and the environmental communities from using that oil. Remember, the way you produce that oil is underground. You don't produce it aboveground. So there is no destruction of the surface area of the ground.

Secondly, there is the fact that we have proven we know how to drill. We know how to explore in the ocean. The greatest example of that was Katrina. Here is the largest hurricane to hit the American shore in history, as far as damage is concerned—it wiped out one of our great cities, New Orleans, then came right up the Gulf of Mexico—and

not a barrel of oil was spilled, even though the Gulf of Mexico is filled with drilling rigs. Why is that? Because we know what we are doing. We have the technology to drill and to produce from the Outer Continental Shelf in an environmentally sound and safe way, even in the face of a force 5 hurricane.

So of all that has been proposed here and that makes sense is let's look for other places where we can produce oil, American oil, off our shores, if States agree to it. That is the caveat: If a State agrees to it. Now, if Florida doesn't want to do it, that is their choice. Louisiana does want to do it, Mississippi does want to do it, Alabama does want to do it. Virginia wants to do it, but Virginia is barred from doing it because we have a Federal law saying even if Virginia wants to do it, they can't do it. That makes no sense.

Why should we be buying oil from people who hate us, who want to destroy our civilization and do us in, when we can produce it off of States, where the States agree, where the people of those States agree they are willing to explore because they know it can be done in an environmentally safe and sound way? That makes no sense.

I am sorry to get off on that tangent, but I had to, because this is a topic of current concern and the Senator from Florida raised a number of issues on this question.

To return to the issue at hand, however, the bill brought to the floor by Senators DODD and SHELBY, whom I just finished praising for their excellent effort here—as a conservative, it is not my inclination to have the Government step into the marketplace. In fact, that is anathema to me in most instances, and I am fairly resistant to it. I think I have as good a record on trying to keep the Government out of unnecessary interference in the marketplace as anyone else around here, and certainly have a very conservative fiscal record. But I have an experience here which I think lends some knowledge on what is happening and what we need to do.

I was Governor of the State of New Hampshire in the late 1980s and early 1990s when we went through a massive real estate bubble meltdown. It was incredibly destructive to the Southwest and to New England. The Southwest's was caused by a large amount of fraud, regrettably, and in New England it was caused by excessive speculation, especially in commercial real estate development. As a result of that, we had seven major banks in New Hampshire in late 1989 and five of them went bankrupt. The other two would have gone under, except they were owned by larger banks from outside of New Hampshire that were able to come in and give them the capital to sustain themselves. Numerous other smaller banks, community banks, went under. Lending contracted, people's home values, as a result of the bubble bursting, dropped by between 30 and 50 percent. It was a horrific time for our citizenry in New England, and it was an incredibly difficult time economically.

How did we get out of this? There were a lot of things done, but one of the key things that was done was the Resolution Trust Corporation. The leadership of the FDIC at that time, led by Bill Seidman, and the Federal Government came in and intervened. It essentially came in underneath the failed banks and said they would be there to backstop the deposits and liquidate the assets so they became marketable again and so the economy could move forward.

When you have a contraction such as that, which is what we are seeing in our market today as a result of the subprime meltdown in States such as Florida, Arizona, and California—and it is spreading, regrettably, to some instruments that weren't subprime—when you have a meltdown such as that, what happens is the banking and the lending industry of the Nation start to have to rebuild their capital quickly because they are taking huge losses. And the only place a bank can rebuild its capital is by calling in essentially good loans. So even though somebody might have a good idea and know how to make a business work and have a real estate proposal which makes sense and is going to have a positive cashflow, it is extremely difficult for them to get a loan—extremely difficult—because the banks are trying to build their capital and they are not lending. That is what we are seeing today. We are seeing that type of contraction.

On top of that, of course, we have the meltdown. We have the major investment house of Bear Stearns, which was reacted to appropriately by the Federal Reserve, by opening the window so other investment houses would be able to have resources, but we still have this serious issue of liquidity. That is what it all comes down to. It comes down to the ability of the lender to be able to take the loan and sell it and move it in the marketplace so they can actually lend some more money by taking money in and by selling the loans which they have on their books. That is what it comes down to. What we have today is a market that is contracting because they do not have that capacity. The lenders do not have that capacity.

That being the case, what is the role of the Federal Government? I am hesitant to have the Federal Government step into this, beyond what it has already done, but I think setting up a backstop is appropriate, and that is essentially what the bill that is brought to us by Senators DODD and SHELBY does today.

First, I congratulate them for the regulatory reform they put in for Fannie Mae and Freddie Mac, very important reform. But going to the part which is the essence of the bill beyond the reform, which is very important, the question of expanding FHA authority to basically become a backstop for these mortgages and basically a force for making these mortgages liquid is the key element of this bill.

As I understand it—and, again, I haven't been able to read the whole bill—the way it basically works is for these loans, for the FHA to step in and insure refinanced mortgages, the loans first have to be written down to 90 percent of the market value of the house; second, the home has to be owner occupied, so it is not a speculative home; and third, all the secondary liens that might be on the property have to be cleared so it is basically the single underlying primary first mortgage that is being underwritten. That is the proposal as I understand it.

The possible effect of this, in my opinion, will be that the lenders, the banks specifically, the people who have made these insured mortgages, may be able to move these mortgages off their books, unlike mortgages which are not moving right now, in a way which will free up the marketplace and allow them to relend money to other people who want to buy a home.

Equally important, of course, is that the homeowners, who find themselves caught in this subprime web of having taken on a mortgage which they couldn't afford because the adjustment in the ARM went up so quickly and so radically in an unexpected way, will be able to stay in their home and make their payments, if they have the capacity to do that. That should be our goal. Our goal shouldn't be to have foreclosures occurring all across this country. Our goal should be to keep the homeowners in their homes, those who do have the wherewithal to pay for their mortgages, as long as their mortgage is properly priced. That is what this bill will accomplish in many ways.

What is the cost of this bill? That is of primary concern for me, and I know it is a primary concern for Senator SHELBY, because he is probably even more of a skinflint than I am around here.

CBO is saying the ability of people to take advantage of this may be limited because of the fact you have to clear all the second liens off the home, so there may not be as much use of it as one might think. But I think there will be more use of this option than CBO thinks, because the lender and the borrower will see it as an opportunity for the borrower to stay in the home and for the lender to get the loan and move it off the books so they can get more liquidity and rebuild their capital.

I think that will be the outcome of this language, should it go into place: A lot of homes will be saved.

Secondly, as I understand it, a lot of the money to support this is going to come out of Fannie Mae and Freddie Mac. I may be wrong about that, but I think that is the way it works. That is appropriate, because Fannie Mae and Freddie Mac have an unfair playing field here. They get a tilted rate benefit because of the fact they are perceived as being backed up by the Federal Government, even though they

aren't. So this will level the playing field a little bit, and it will take resources which aren't coming into the Treasury anyway to support it.

Thirdly, and I think this is probably the most important part, the economic slowdown we are in today I believe will be relieved to some degree because there will be a mechanism in place. It is not a magic wand. It is not the absolute full response to the problem. In fact, there is only one end of the pyramid that needs to be built here. But it is a response which will help the economy recover quicker and with more energy.

I opposed the original stimulus package we passed, and I opposed the housing bill that was on the floor earlier this year because I didn't think either one was going to do a heck of a lot to help the economy move forward. This bill, however, if it is in the form that I think it is in, does something to accomplish that goal. It will help the economy because it will free up the market. It will make the market more liquid, which is what we need, and it will also give people the capacity to avoid foreclosure, which is very important to the mindset and the psychology of the economy.

I do think this will be part of the effort to raise the economy of this country as we continue in this rather significant—and I do not think we are out of the woods yet—severe slowdown in the area, especially, of the financial industries.

Again, I hope I understand the bill. I am not sure I fully understand it. I wouldn't claim I do. But I think I understand its concept, its purpose, and I agree with its concept and its purpose, and I congratulate the leadership of the Banking Committee.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the leaders of this effort, my good friends, Senators DODD and SHELBY, for their hard work and their efforts to address the housing crisis and the need to reform regulatory oversight of the government-sponsored enterprises, Fannie Mae, Freddie Mack, and the Federal Home Loan Banks, and reforming FHA.

These are clearly needed. They are long overdue. I am happy to support them.

In addition, there is clearly a role and a need for the Government to address the current housing crisis. I have supported and led various efforts in the SAFE Act—Security Against Foreclosure and Education Act—that I introduced in March. That had additional housing counseling, improved disclosure and transparency in the homebuying process, and strong enforcement actions against predatory lending. These were essentially included in the bipartisan measure this Senate passed early in April. But I have grave concerns about some aspects of H.R. 3221, the Housing and Economic Recovery Act of 2008. I filed three amendments to that bill today that I hope we will be able to discuss thoroughly and act upon.

It is a fundamental principle that the Congress does not create programs that perpetuate or reward the behavior that led to the housing crisis or damage the key agencies that play a key role in stabilizing the housing market. Unfortunately, this legislation before us today goes against that principle.

Specifically, I am gravely concerned about the proposed expansion of the Department of Housing and Urban Development's—HUD—Federal Housing Administration—FHA—contained in this bill. The proposed creation of a new FHA program called the HOPE for Homeowners loan program would allow certain at-risk borrowers to refinance their mortgages and authorize FHA to guarantee up to $300 billion in new loans. The program would allow lenders and borrowers to refinance voluntarily their mortgage loans into a new FHA-insured loan at a significantly reduced loan level with lenders agreeing to write off these reductions as losses.

According to the Congressional Budget Office's review of the HOPE for Homeowners loan program, about 400,000 loans would voluntarily participate in this program, which would require about $68 billion in loan commitment authority. CBO projects that about 2.2 million borrowers of subprime and alt-A loans will face foreclosure proceedings during the next three years. Based on a comparison of these numbers, the expected reach of this program will be significantly limited in assisting of homeowners who are expected to face foreclosure. While I would like to keep as many homeowners in their homes as possible, this strategy is more likely to result in a huge bailout for lenders while protecting a very limited number of homeowners. In particular, CBO estimates that under this program, ''mortgage holders would have an incentive to direct their highest-risk loans to the program.'' For a modest write-off, lenders who were, in a number of cases, either fraudulent or negligent in their treatment of borrowers, will be able to clear out many of their problem loans. At the same time, CBO estimates that the cumulative default rate for the HOPE program would be 35 percent—meaning that one out of every three loans refinanced would fail. Frankly, creating a new Federal program that takes on the worst of the worst subprime loans, which will hurt FHA is extremely troubling.

The Senate bill pays for to the new FHA HOPE program from GSE assessments. This offset potentially avoids the need for funds from the Treasury to cover the losses as required under the Federal Credit Reform Act. However, whether the costs for the HOPE program would be paid by proceeds from the GSEs or from direct appropriations, it does not change the nature of this program—it is a bailout.

As a former member of the Senate Banking Committee and current longtime member of the Senate Appropriations subcommittee with jurisdiction over FHA, I have held a strong and long-time interest on housing and finance issues. A major lesson learned from my work on both the authorizing and appropriating committees is that FHA is significantly limited in managing and implementing its loan activities due to longstanding management and resource challenges. Let me emphasize that point. FHA is significantly limited in managing and implementing its loan activities due to long standing management and resource challenges. They do not have the people and the people are not adequate to the task in too many cases. FHA's challenges have been well-documented by the HUD Inspector General and Government Accountability Office for several years, which has been heard through numerous congressional hearings. All my colleagues who wish access to that information can have it.

It also is troubling to me that we are burdening FHA at a time when they are playing a growing role in assisting distressed homeowners. I have heard that FHA's market share has grown tremendously from about 2 percent to as high as 8 percent. To add 400,000 of the worst of the worst new loans to FHA's portfolio at this time is potentially creating a perfect storm for failure. Any collapse in FHA will be borne by the American taxpayer and future appropriations bills, potentially at the expense of other housing programs.

It is my belief that the FHA HOPE proposal takes the Government and the taxpayers down a dangerous and risky path, which may worsen the housing problem for borrowers it aims to address. Further, when taking into account the longstanding management and financial challenges of FHA, the expectations being created by the new FHA HOPE program are unrealistic.

AMENDMENT NO. 4985 TO AMENDMENT NO. 4983

For those reasons I offer an amendment, No. 4985, to strike title IV of division A, which establishes the HOPE program. I recognize this program is a part of a delicate compromise, but it is too troubling and risky for the American taxpayer. Therefore, I call up amendment No. 4985.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 4985 to amendment No. 4983.

Mr. BOND. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike provisions relating to the HOPE for Homeowners Program)

Strike title IV of division A.

Mr. BOND. Mr. President, I unanimous consent to set that amendment

aside so I may offer another amendment.

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

AMENDMENT NO. 4987 TO AMENDMENT NO. 4983

Mr. BOND. The next amendment I offer, No. 4987, was designed to protect potential home buyers with additional mortgage loan disclosure requirements. I explained and discussed this amendment with the two leaders of the Banking Committee when we had the previous measure on the floor. I think the disclosure requirements were widely agreed to on both sides of the aisle, but due to the procedural situation at the time it was not accepted. This amendment would protect consumers considering complicated and potentially unaffordable mortgage loan terms by requiring a clear and simple disclosure of payments and interest rates for adjustable rate loans with so-called teaser rates. These teaser loans, with interest rates and payments that jump up to unaffordable levels, played a large role in our current subprime mortgage crisis.

Many potential borrowers either did not understand what they were getting into or were falsely assured everything would be OK.

As part of bringing relief to families and neighborhoods suffering through the housing crisis, I wish to ensure we do not face another crisis in the future because we did not correct the problem.

I have spent a good bit of time in Missouri, talking with homeowners facing foreclosure. The local government agencies, mayors, councilmen, aldermen, the advocacy groups, and the very effective counseling programs such as NeighborWorks and others who are assisting homeowners and are working on counseling those in foreclosure, but they also came back and unanimously said we have to have better information for the potential buyer before they get into it. Making sure potential buyers know the costs and do not fall into a trap that can lead to a disaster for them and serious impacts on the communities is very important.

If you have ever taken out a mortgage loan to buy or refinance a home or get a home equity line of credit, you are confronted with piles and piles of paperwork and legal jargon. I have had the pleasure of getting three new loans in the last 5 years from a local banker who doesn't do subprime. Each time I have gone through the disclosure requirements on closing. There is a stack of paper, several inches thick, that is written in legal jargon.

I used to be a lawyer. While I can read those documents, I can assure you they are not easy to understand for somebody who is not an expert in the area. I assume I am similar to most homeowners who cannot read through all the legal gobbledygook and wouldn't find it particularly edifying if they did.

When low-income homeowners who have fallen into problems responded to my question about why they didn't ask questions, they were met with: ''Don't worry about that,'' or ''We'll fix that later.'' I can assure you, those things do not get fixed quietly after you sign the papers.

Congress passed the original Truth in Lending Act and applied it to mortgage loans. We knew then most people do not take the time or have the ability to read and understand the fine print of mortgage loan documents. However, the protections in the Truth in Lending Act were written long ago and are now woefully outdated. They were written when most everyone took a 30-year fixed loan. 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 and refinancing options, quicker and easier than ever before but not fully understood.

More choices are a good thing, but uneducated consumers who do not understand the choices and therefore do not understand what they are committing to is a bad thing.

I mentioned on the floor at length the story of Willie Clay, of Kansas City, MO.

Willie Clay is a Vietnam war paratrooper living largely on disability payments. Willie lives in a working-class Kansas City neighborhood of modest ranch homes called Ruskin Heights.

Willie refinanced his mortgage in 2004 for a total of $101,000. As you can see from the size of that loan, 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 rental home.

Like so many other Americans, Willie was just looking for a little extra money to pay-off his medical bills, car loan and some credit cards. Willie agreed to a subprime adjustable rate loan with an initial fixed rate of 8.2 percent.

For several years, everything went fine for Willie. He made his payments and honored his agreement. Then last October, the initial fixed rate ended and the loan reset to a variable rate. 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 Star, ''If the rate goes 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 didn't have the education to understand it,'' Willie said, ''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 mortgage payments 50 percent higher than when he started. Willie was also trapped in his loan because of a $2,500 prepayment penalty. This is not just a family crisis. Willie's entire neighborhood suffered through this housing crisis. At one time, there were more than 500 foreclosures in his Zip Code alone.

On Willie's block, there were several empty houses. Foreclosed homes are driving property values down for everyone. It becomes a self-perpetuating downward spiral. That is why we need to help these people.

My amendment will apply to adjustable rate mortgages with an initial fixed or ''teaser'' rate. This is the kind of loan Mr. Clay had and millions of other Americans have. For these types of 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, this jump could be quite large, and the borrowers need to be aware of it.

We would also require lenders to disclose that there is no guarantee that the loan can be refinanced before the initial fixed rate expires. That caught a lot of borrowers who knew the terms of their loan could go up after the teaser rate expired, potentially to unaffordable levels. But any concern they had that they could not afford their loan in the future was put to rest by personal assurances by a broker that there would be 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 the loan standards were raised, they were caught in an impossible situation. This amendment requires a disclosure that there is no guarantee that the borrower will be able to refinance a loan before the teaser rate expires.

The amendment also requires the disclosure of any prepayment penalty, the amount, and the expiration date. This prepayment penalty caught families like the Clays, trapping them in a bad situation. 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.

That is the theme of the entire amendment. It does not block adjustable rates, it does not block initial fixed rates. It allows prepayment penalties. These advances in the mortgage business have been good for consumers, but it just requires full disclosure. Brokers and lenders did not do enough to disclose to and educate consumers.

Mr. President, I call up amendment No. 4987 to protect potential home buyers with additional requirements.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 4987 to amendment No. 4983.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment (No. 4987) is as follows:

(Purpose: To enhance mortgage loan disclosure requirements with additional safeguards for adjustable rate mortgages with an initial fixed rate and loans that contain a prepayment penalty)

On page 522, between lines 2 and 3, insert the following:

''(iii) If the loan is an adjustable rate mortgage that includes an initial fixed interest rate—

''(I) state in conspicuous type size and format the following phrase: This loan is an adjustable rate mortgage with an initial fixed interest rate. Your initial fixed interest rate is AAA with a monthly payment of BBB until CCC. After that date, the interest rate on your loan will 'reset' to an adjustable rate and both your interest rate and payment could go higher on that date and in the future. For example, if your initial fixed rate ended today, your new adjustable interest rate would be DDD and your new payment EEE. If interest rates are one percent higher than they are today or at some point in the future, your new payment would be FFF. There is no guarantee you will be able to refinance your loan to a lower interest rate and payment before your initial fixed interest rate ends.;

''(II) the blank AAA in subparagraph (I) to be filled in with the initial fixed interest rate;

''(III) the blank BBB in subparagraph (I) to be filled in with the payment amount under the initial fixed interest rate;

''(IV) the blank CCC in subparagraph (I) to be filled in with the loan reset date;

''(V) the blank DDD in subparagraph (I) to be filled in with the adjustable rate as if the initial rate expired on the date of disclosure under subparagraph (B);

''(VI) the blank EEE in subparagraph (I) to be filled in with the payment under the adjustable rate as if the initial rate expired on the date of disclosure under subparagraph (B); and

''(VII) the blank FFF in subparagraph (I) to be filled in with the payment under the adjustable rate as if index rate on which the adjustable rate was one percent higher than of the date of disclosure under subparagraph (B).

''(iv) If the loan contains a prepayment penalty—

''(I) state in conspicuous type and format the following phrase: This loan contains a prepayment penalty. If you desire to pay off this loan before GGG, you will pay a penalty of HHH.;

''(II) the blank GGG in subparagraph (I) to be filled in with the date the prepayment penalty expires; and

''(III) the blank HHH in subparagraph (I) to be filled in with the prepayment penalty amount.

Mr. BOND. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4986 TO AMENDMENT NO. 4983

Mr. BOND. This final amendment limits the responsibility of Fannie Mae and Freddie Mac for housing entities that receive funding from the Affordable Housing Trust Fund created under the bill. The amendment prohibits the trust fund to be used for soft program costs to ensure that any of these funds be used for bricks and mortar.

It is very simple. I can read the whole thing. It says:

Notwithstanding any other provision of the law, Fannie Mae and Freddie Mac shall not be responsible for any payments either directly or indirectly to other housing entities under the Affordable Housing programs unless these GSEs voluntarily provide funding. None of these funds shall be used for soft program costs, including staff costs.

In essence, it is a very simple amendment. My concern is that, regardless of what one thinks about the GSEs, it is, I believe, unprecedented for Congress to step in and say: You are a partially privately owned, shareholder-owned entity, and you shall be paying a tax that we determine to a group of other entities over which you have no control.

People may like or dislike or want to reform the GSEs. But there are a lot of other GSEs. Are we going to go around and start telling Sallie Mae, for example: You have to fund various of these education programs.

There are other quasi-governmental agencies that I think would be very much concerned if Congress started the practice of taking these entities and telling them where they have to spend their funds. This is a backdoor way of avoiding the honest and straightforward provision of either raising the money through taxes or providing other revenue of the Federal Government.

I hope my colleagues will consider all three of these amendments. I look forward to discussing them when the time is appropriate. I thank the manager for allowing me to raise these.

I call up Amendment No. 4986.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 4986 to amendment No. 4983.

Mr. BOND. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify that GSEs have no responsibility for funding housing entities under the Affordable Housing program)

Insert the following at the appropriate place:

SEC. xxx. Notwithstanding any other provision of law, Fannie Mae and Freddie Mac shall not be responsible for any payments either directly or indirectly to other Housing entities under the Affordable Housing program unless these GSEs voluntarily provide funding. None of thee funds shall be used for soft program costs, including staff costs.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Let me say, first of all, I will be very brief. I know my colleague from Iowa wants to be heard on the bill. I wish to say to Senator BOND that what we will do is try to figure out a way to handle these in order, all three of them in one or in order, or whether we will go back and forth. But we will keep him posted.

I do not how long my colleague from Iowa wants to be heard on the bill. I wish to respond to the Senator from Missouri on the issues. I presume my colleague from Alabama may want to do so as well. We will try to take them in the order the Senator offered them. We will keep him posted on how we will proceed.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, for the benefit of my colleagues, I know there is no time limit, but I don't think I am going to take more than 15 minutes and maybe less than that. It is kind of a rough guess, but I do not intend to take a lot of time.

I wish to start by thanking Chairman BAUCUS for his courtesy and hard work in the legislative effort that is part of this banking bill, the part that came out of the Finance Committee, the part of the bill that is hopefully going to help the mortgage problem through amendments to the Tax Code. Our goal in the Finance Committee was to develop a bipartisan tax package that responded to the needs of Americans and, in particular, the housing market. We have done so. I wish to take this opportunity to thank Senator DODD and Senator SHELBY because they have worked very closely with us in making sure our Finance Committee part of this bill can, in fact, be a part of the bill that is before the Senate.

Everybody knows Americans are struggling to keep their homes and, with that, their jobs. Economic conditions are very uncertain. In uncertain times, it is appropriate that Congress develop tax policy addressing the housing problem and try to bring a little more certainty to the economic lives of our citizens. After all, the housing problem is at the root of our current economic turmoil.

Last year, we responded to the call for help. Congress enacted the Mortgage Debt Relief Act of 2007, which was signed into law by the President. This law excludes from income discharges of indebtedness incurred by taxpayers to acquire homes. It also extends the tax deduction for mortgage insurance premiums.

Earlier this year, Congress acted quickly on a stimulus package that delivered additional relief to the American taxpayers. That stimulus package is just now taking effect as taxpayers have received these rebate checks, because they are necessary to give the economy a much needed boost.

Earlier this year, the Senate acted on a bipartisan tax relief package that

was based on the joint efforts of Finance Committee Democrats and Republicans—in other words, almost by unanimity, a bipartisan bill. The package before us as part of this housing bill is a blend of the Senate package and a House package passed a little while ago by the other body. We have carefully balanced this tax relief package being considered today on the floor, hopefully balanced it enough that it will not run into problems when it gets back to the House because certain House tax policy leaders have agreed to it.

It addresses the housing downturn but is limited so as to ensure that it helps the problem and does not create new problems. Too often, we in Congress have to be certain we do not do things too good, that we create more problems than we solve. We are mindful that any relief that benefits one sector of the public does so at the expense of another sector. The other sector, then, is the taxpaying population that carefully manages their family's budget, especially as it relates to housing costs because of the American dream of owning your own home.

Taxpayers bear the burden of a bailout of these risky mortgages that went south, so it is very important that we have a compassionate view that recognizes that taxpayers pay the ultimate tab. As we proceed to this bill, we need to keep in mind that very worthwhile principle. We need to address the housing downturn, but we need to show restraint and we need to limit the relief so that it eases the problem and does not simply create new problems. We need to be considerate of many Americans who work hard to save and buy homes and who will ultimately pay the price of this relief.

Once again, the Senate is stepping up to the plate. The tax relief package that is before us helps encourage home ownership but also provides targeted relief to homeowners who are looking to work out of this rough patch they are in when they face foreclosure or nearly face it.

The centerpiece of this bill is a temporary $8,000 tax credit to help first-time home buyers buy homes, including homes that are in foreclosure. There is a glut of homes on the market. The glut is depressing home values. It is important that this excess inventory is moved so that we help retain home values of others who are not in foreclosure or have been foreclosed on.

On that point, I think it is necessary for all of us to show praise and respect for the efforts of Senator ISAKSON from Georgia for doggedly pursuing this proposal. He has a very important and understanding background as a realtor and homebuilder. He helped us shape the proposal.

The bill also increases the cap for mortgage revenue bonds to give people with distressed loans additional options for refinancing. I wish to make it clear that this is not a bailout for homeowners. Instead, this is a provision which helps enable people to keep their homes and to pay their mortgages. We can thank the leadership of Senators SMITH and KERRY for this important provision.

Chairman BAUCUS has championed the nonitemizer deduction for part of the real property tax paid. It is in this bill. Senator KYL wanted assurances that State and local tax authorities would not pocket this new tax benefit with higher property tax assessments. This proposal is designed to ensure that property tax payers, not State and local governments, receive the direct benefit of this deduction.

This bill contains a set of reforms to the low-income housing credit. Senator CANTWELL led this effort.

A key additional reform benefits low- and middle-income military personnel who need housing near bases where they are stationed. Senator Pat Roberts, a former marine, looked out for our men and women in uniform. Senator ROBERTS needs a thank-you for that. With Senator ROBERTS' proposal, soldiers and their families in Fort Riley, KS, and other bases that have seen recent increases in population will have easier access to low-income housing.

This bill liberalizes the ability of the Federal Home Loan Banks to provide assistance to colleges and universities affected by the subprime mortgage crisis. The Home Loan Bank officials in my home State of Iowa suggested this proposal, and I was glad to pursue it and glad it is included.

Senator HARKIN, this Senator, and other Members from the Midwest have witnessed the terrible weather that hit our States recently.

We have seen the damage that has been done to our communities large and small, urban and rural in our home States. It is a devastating flood. Unfortunately, the damage goes on as I speak, only a little further downstream. All the hurt has not been calculated at this point. Once again, I have to thank Chairman BAUCUS for pledging to help us in the Midwest. Senator BAUCUS came to me and offered that help. That is something the people of Iowa and the Midwest appreciate. Having the chairman of a very important committee in the Senate on your side is important. We will not forget that.

In this bill, we have a proposal specifically targeted to help people who have lost their homes to the floods. The proposal is contained in the mortgage revenue bond package. It is patterned after a proposal adopted over a decade ago to deal with floods from the mid-1990s.

The proposal would waive the first-time home buyer requirement and lift the individual income limits. With this policy in effect, States such as Iowa, Wisconsin, Illinois, Indiana, Missouri, and Maine will be able to offer low-interest loans to families who have lost their homes to the flood. With the proceeds from these loans, families will be able to purchase replacement homes. The elements of the low-income housing reforms will also help disaster-devastated communities.

While I was thanking Senator BAUCUS, I suppose I ought to extend that beyond Senator BAUCUS to several other Senators. I better not name them because several have come up, and I will forget somebody. But they have come up to show their understanding of how serious it is in the Midwest and have offered their help. Some of these Senators in previous years have gone through the same destructive natural disasters the Midwest is going through at this very minute. I have informed Chairman BAUCUS and the leadership on both sides that the coalition of member States affected by these floods and tornadoes will refine more tax proposals in the future. We will aim to assist displaced persons and rebuild the businesses and communities affected. We will seek to offer them to this bill once it is open for amendment.

I spoke in recent days on the issue of revenue-raising offsets to tax relief. I rebutted the claims of Democratic lobbyists who were surprisingly cited in some press reports as credible sources for the Senate Republican conference. The Democratic lobbyists claimed that Senate Republicans would oppose all revenue-raising offsets. Some described our position in terms of ''theology.'' I corrected these assertions and pointed back to Senate floor debates on this point late last year. For some reason, those statements in the CONGRESSIONAL RECORD have been ignored, and Democratic lobbyists' views were substituted. The correct position is as I restate it now. I ask some folks to pay close attention so we don't get misunderstood.

Principle No. 1, if a revenue-raising proposal makes good policy sense, Senate Republicans will support it. Principle No. 2, the revenue raised should be used for new tax relief. Principle No. 3, the revenue raised should not be required for extending current law tax relief. I have explained the reasons behind that principle. Suffice it to say that we on this side don't believe in sliding down a slippery slope of guaranteeing higher taxes and higher spending. Spending drives current and future deficits.

This bill confirms the Senate Republican conference principles on the use of revenue-raising offsets. This bill contains new tax policy. This new tax policy is offset with revenue raisers that a bipartisan majority in the Senate consider improved tax policy. The main one would put in place a reporting regime on credit card payments to merchants. It is a Treasury tax gap proposal. The other significant revenue raiser would clarify the home sale exclusion rules for second homes, usually where vacation residences are involved. The revenue losses related to disaster assistance, however, are not offset. That accounting is consistent with the

bipartisan congressional practice on emergency spending and tax relief.

It has long been said that the American dream is to own your own home. Unfortunately, the subprime mortgage crisis has turned that dream into a nightmare for many Americans. The bipartisan tax relief provisions from the Senate Finance Committee that have been worked out in a bipartisan way—and, I believe, in a bicameral way through Senator BAUCUS—are in this bill. They aim to restore that American dream. We do it in a very responsible way.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 4984 TO AMENDMENT NO. 4983

Mrs. DOLE. I ask unanimous consent that the pending amendment be temporarily set aside so that I may call up amendment No. 4984, that it be reported by number and then set aside.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mrs. DOLE] proposes an amendment No. 4984 to amendment No. 4983.

The amendment is as follows:

(Purpose: To improve the regulation of appraisal standards)

At the appropriate place, insert the following:

SEC. ___. REGULATION OF APPRAISAL STANDARDS.

Section 1319G of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4526) is amended by adding at the end the following new subsection:

''(d) REGULATION OF APPRAISAL STANDARDS.—

''(1) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, but not later than December 31, 2008, the Director shall issue in final form a regulation that establishes appraisal standards for mortgages purchased or guaranteed by the enterprises.

''(2) CONSISTENCY.—In issuing the regulation required by this subsection, the Director shall ensure that the regulation is consistent with appraisal regulations and guidelines issued by the Federal banking agencies (as that term is defined in section 3(z) of the Federal Deposit Insurance Act) and the National Credit Union Administration, including regulations and guidelines related to the independence and accuracy of appraisals, and do not conflict with any other banking regulations.

''(3) APPLICATION.—The regulation issued pursuant to this subsection shall supersede the terms of any agreement relating to appraisal standards entered into by the Director or the enterprises prior to or after the issuance of the regulation required by this subsection in final form, to the extent that any such agreement is inconsistent with the regulation. The Director shall have the authority to make determinations, at the Director's discretion and in response to requests for such determinations, as to whether any such agreements are, or have become, inconsistent with applicable regulations, and any terms of any such prior agreement that are consistent with the regulation shall not be effective until 1 year following the date of enactment of the issuance of the regulation in final form.''.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, we are going to try to work out an arrangement so people have some sense of the order in which people will be heard. We now have three Bond amendments. There is an amendment by Senator DOLE that has been offered. Obviously, we have the pending amendment of Senator REID. These are all second-degree amendments to the Reid amendment. At some point, I will want to bring closure to these amendments so we can deal with them. Senator ISAKSON may have an amendment. I would like to get to a point where we can manage those amendments, debate them, and then ask the leadership for an appropriate time to have a series of maybe three or four or five votes, depending upon what is necessary.

I yield the floor to the request for a time sequence of speakers, if I may.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, following my remarks, I ask unanimous consent that Senator CASEY be recognized to speak for 12 minutes, Senator ISAKSON be recognized to speak for 10 minutes and, following Senator ISAKSON, Senator SANDERS be recognized to speak for 15 minutes.

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

Mr. BAUCUS. Madam President, Confucius said:

The strength of a nation derives from the integrity of the home.

Today we are here to protect the strength of our Nation. We are here to help keep families in their homes.

The tax provisions in the amendment before us are meant to stabilize the housing market and boost our economy. They are designed to provide temporary, targeted, and timely tax relief for the housing market.

In 2007, 1 percent of all homes were in default. That is more than 1.2 million homes. The Nation's 2007 foreclosure rate was 2½ times what it was in 2005.

In my home State of Montana, the 2007 foreclosure rate was up almost 30 percent from 2006 and more than 50 percent from 2005.

And the number of foreclosures continues to grow. Nationwide in May, the number of homes receiving a foreclosure-related notice was up 7 percent from the month before, and up 48 percent from a year before. This means that 1 in every 483 American households received a foreclosure notice last month. That is a record high.

Behind every foreclosed property, there is a family. There is a family losing its home, and there is a family losing a piece of its future.

Our Nation's current economic weakness is largely a result of the weak housing market. More than 5 million households now owe more on their mortgage than their house is worth. That is about 1 out of every 10 home mortgages. As home prices continue to fall, these numbers will only get worse.

This amendment is a response. It would provide tax relief for homeowners, for home buyers, and for homebuilders.

It would provide an additional $11 billion of mortgage revenue bonds so that State housing agencies can immediately respond to the housing downturn. This would help homeowners avoid foreclosures, and it would increase first-time home purchases.

Mortgage revenue bonds are tax-exempt bonds issued by State and local housing finance agencies. The bonds help those agencies to provide mortgages for home buyers at below-market rates of interest.

The virtual collapse of the subprime and affordable mortgage markets has increased the demand for mortgages financed through mortgage revenue bonds. Increasing the cap on mortgage revenue bonds and providing States the option to refinance subprime mortgages can allow State housing agencies to immediately respond to homes at risk of foreclosure.

And additional mortgage revenue bonds can also help clear out the glut of homes on the market. Additional mortgage revenue bonds can lead to more first-time home purchases.

The amendment also would provide broad-based tax relief by expanding the number of people who may deduct property taxes. Currently, homeowners are allowed to deduct local real estate property taxes from their Federal tax returns only if they itemize. According to the Joint Committee on Taxation, more than 28 million taxpayers pay property taxes, but do not itemize.

This proposal would allow these 28 million taxpayers to deduct the amount of their property taxes, up to $500 for individuals and $1,000 for married filers. They could take this deduction even if they did not itemize their deductions.

This change would benefit low-income individuals. It would benefit those who have already paid off their mortgages and thus don't have that reason to itemize. It would benefit young families just starting out, and it would benefit senior citizens.

The Congressional Research Service estimates that nearly 130,000 property taxpayers could benefit in my home State of Montana alone.

Listings of distressed properties dominate the real estate market. In the first quarter of this year, one out of every four home sales was a distressed sale. The papers are full of foreclosures and vacant new homes.

As of April 2008, there were more than 456,000 newly constructed homes for sale on the market. That is more than 10 months worth of supply. And according to the National Association of Realtors, 4½ million existing homes are for sale on the market.

To help reduce the excess inventory of foreclosed, vacant, and existing homes, the amendment includes a one-time home buyer credit of $8,000.

The credit would apply to first-time home buyers. It would begin to phase

out for home buyers with incomes of $75,000 for individuals and $150,000 for joint filers. The purchase of the home would have to be on or prior to April 1, 2009. And the credit would be repaid over 15 years at zero percent interest.

The short-term nature of this credit is critical. It would help to provide immediate stimulus to put homebuilders, and the housing industry, back on track, but it would also avoid oversubsidizing the housing industry.

The amendment would also make critical improvements to the Low Income Housing Tax Credit program. This program is the engine that drives low-income rental housing in America. But it is long overdue for a tuneup.

The amendment would increase the total number of credits available by 10 percent per State. And the amendment would broaden the investor class by allowing the credit to be taken against the AMT.

The State housing finance agencies are good stewards of this Federal program, and the amendment would give these agencies more discretion to allocate credit dollars to projects that the State deems a high priority.

These tuneups would help to make this engine run more smoothly, and they would lead to an increase in affordable rental housing across the country.

The amendment would also allow taxpayers to choose to take a refund of AMT or R&D credits in lieu of bonus depreciation deductions. Companies without Federal tax liability cannot use the tax deductions. But under this amendment, they could take advantage of a refund, and they could use that funding invest in capital assets. That would create and maintain jobs.

These proposals would be fully paid for by responsible offsets. As much as possible, we should avoid increasing our national debt and our reliance on foreign creditors.

The amendment includes a House-passed proposal to close a loophole involving the sale of second homes. It would apply to houses that are used both as a principal residence and for other purposes. An example would be a principal residence that also was used as rental property.

Under current law, an owner can exclude income from the sale of that second home. The owner just needs to have lived in the home for 2 out of the last 5 years.

The proposal would limit the gain that the owner could exclude from income when the owner sells the residence. The idea behind the proposal is that a personal-income exclusion should be limited to the personal use of the residence.

A second pay-for would require information reporting on credit card transactions. It would also apply to many online transactions. Merchant banks that settle credit and debit card sales would report annual gross payments to the businesses making the sales and to the IRS. Third-party networks that facilitate electronic transactions would do the same.

In response to concerns about possible burdens this proposal could put on small e-business sellers, the proposal contains a de minimis exception. The exception excludes from the reporting requirements operations with aggregate sales of $10,000 or less a year. The exception would also exclude a volume of 200 transactions or fewer.

The proposal gives ample time to banks and others so they can program their systems and verify the information they need from sellers before issuing the information documents.

This proposal does not raise taxes on anyone. These information reports would just cause people to file more accurate returns.

The administration has included this proposal in its annual budget for the last 3 years. Earlier this year, Senator GRASSLEY and I released a bipartisan staff draft of the proposal for public comment. Working together with the House, we have taken these comments into account to develop a proposal that reflects industry practices and will improve tax compliance.

The amendment also enhances several IRS penalties. These penalties encourage the filing of timely and accurate tax and information reporting returns. These filings are the cornerstones of effective tax administration and voluntary tax compliance.

A lot of irresponsible actions led to the current housing crisis. But now a lot of responsible homeowners, home buyers, and homebuilders are caught up in the mess, and they cannot afford to wait any longer for our help.

The tax provisions in this amendment would go a long way to address the housing downturn and the economic weaknesses in our country. So I say, let's help these folks. Let's help them keep their homes and thereby help them sustain the economic strength of this Nation. And let's adopt this housing amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, I rise today to talk about the state of the American economy in the midst of our current housing crisis, and, of course, the legislation that is before the Congress today and the need for action in this Congress, in this Senate, not just for Wall Street firms but for Main Street families and small businesses.

A little over a month ago, the Senate Banking Committee held a field hearing in Philadelphia—I think the first of its kind since this Congress began and this Senate convened last year. Chairman DODD chaired the hearing, convened it, and I was with him that day.

One of the witnesses was a subprime borrower. Her name is Yajaira Cruz-Rivera. In 2005, she and her husband purchased a home. She was told by her broker she would get a fixed-rate loan. She made out a family budget, and she was told she was getting a fixed-rate payment of $925 per month. She told her broker she did not want anything with tricks in it that would change her payment, and that is what she was told she was signing.

I would like to read some of her testimony of what happened next. These are her words:

> Just 10 days later we received a letter in the mail stating that a mistake had been made at closing. The interest rate we were given was not going to be 7% but rather 10.95%. Our payments would not be $925 but rather $1200. We considered backing out then, but we had already moved into [our] home. Our children were settling in, to pack everything back up was something we could not do. We had already put so much money out. Fred and I—

Fred is her husband—

> Fred and I decided that although we would struggle, we would make it.

All of the evidence presented to the Banking Committee in hearings stretching back over a year indicates that many of the homeowners who find themselves in trouble started with a story just like Ms. Cruz-Rivera's story. This is not simply a problem in some cities.

A leading research institution in Pennsylvania, the Keystone Research Center, found nine counties in Pennsylvania where subprime mortgages make up 35 percent of all mortgages—35 percent. One of those nine is Philadelphia. The other eight counties in this Keystone Research Center survey are the following counties—Cameron, Clearfield, Fayette, Forest, Jefferson, Monroe, Venango, and Warren.

All of those counties outside of Philadelphia that I just mentioned are rural counties for the most part. So this is not just a problem in cities and urban areas. It is a major problem in rural counties in Pennsylvania and across the country.

More than 1 million homes are now in foreclosure—a new national record, unfortunately. Over 8,400 homes are entering foreclosure every day—8,400. Unless we act, an estimated 3 million homes will enter foreclosure this year, and 2 million homes will be foreclosed upon in that time.

We know the job losses: 324,000 jobs lost already this year. We know the data from the economists. One economist, Robert Shiller, has estimated that the subprime and foreclosure crisis could cost American homeowners $6 trillion in lost household wealth—a record. That is $80,000 per homeowner. At the same time, the average American family income is just $50,000 a year. We know the adverse impact it has had on student loans. There is problem after problem resulting from the foreclosure crisis.

So what do we do? We should pass the legislation on which Senator DODD has worked so hard, working with the ranking member, Senator SHELBY.

Let's quickly go through the legislation.

No. 1, government-sponsored enterprise reform legislation to give an effective regulator for the GSEs; No. 2,

the HOPE for Homeowners Act would establish a new initiative at the FHA to prevent foreclosures; No. 3, the SAFE Mortgage Licensing Act, creating a Federal registry and establishing minimum national standards for brokers and lenders; No. 4, the Foreclosure Prevention Act, providing assistance and counseling so needed in this crisis; No. 5, the Housing Assistance Tax Act of 2008, providing tax benefits for homeowners, home buyers, and homebuilders aimed at providing housing market recovery.

Unfortunately, there are some Senators in this Chamber who do not seem to see the need for action on this crisis. I want to show a chart which summarizes the principles of this basic legislation. It is very important to highlight these. There is a lot of rhetoric that is misleading.

Basic principles: Here is what happens with this legislation. No. 1, it creates new equity for homeowners. We have to do that. No. 2, there is no bailout for investors or lenders. We have heard a lot of that talk here. It is not true. This is not a bailout. This is a way to dig our economy out of a huge hole. No. 3, borrowers do not receive a windfall. They have a stake in this, and they have to sacrifice as well. It is not any kind of a windfall for borrowers. Finally, and maybe most importantly for people who are following this debate, this is not taxpayer money we are talking about.

OK. So this is a very responsible plan. I want to return to the story I started of Ms. Cruz-Rivera. She had asked for and was told, as I mentioned before, she was receiving a fixed-rate mortgage with no gimmicks and no tricks. Then, 10 days after closing, she found out her interest rate would not be 7 percent but 10.95 percent. The payment would go, as said before, from $925 to $1,200.

The story does not end there, unfortunately for her. She and her husband sat down, and they decided to tough it out, to try to work their way through this adverse news they got. Here is what she said. I am quoting her again:

> Then, in 2007, the unthinkable happened. Our rate adjusted upward and our new payment was now $1,671 a month. A home we thought we were getting for $925 a month in 2005 is costing us nearly double that today.

She is talking about her husband again. She said:

> My husband works 16 hour days, 6 days a week, but still we are not able to keep up with the payment.
>
> We explored refinancing but now our credit is damaged and on top of that we have a repayment penalty; if we do refinance we have to pay GMAC a huge fee upfront. We have been trapped into a terrible loan by greedy, predatory and fraudulent lending practices.

So that is the reality of what we are talking about. We are not talking about bailouts. We are not talking about going easy on people. We are talking about helping people who, in many cases, were deceived deliberately by players in the market who were unregulated and getting away with murder—almost literally.

People know the acronym ACORN, the Association of Community Organizations for Reform Now. They are helping people such as Ms. Cruz-Rivera. They are helping a lot of other people. We hear a lot of talk in this body and across the way in the House, the other body, about moral hazard. People talk about that issue all the time—that some people should have known better, and you can fill in the blank about that.

It is not often we hear economists talking enough about morality when it comes to this issue. In fact, the situation we find ourselves in today is a direct result of parts of this industry—not all, but parts of this industry—trying to maximize profit without any regard to any sense of morality or standards.

So I find it ironic that the greed that some of us have been talking about is not included in that definition of ''moral hazard.'' But there are solutions out there.

I will conclude with this: The city of Philadelphia recently announced a program that will specifically target borrowers who cannot afford payments on adjustable-rate mortgages and are in danger of foreclosure. Any property scheduled for sale by the city of Philadelphia right now by the local sheriff's office will be referred to officials who will in turn negotiate with lenders in an attempt to restructure the loan so the borrower can afford the monthly payments.

I commend the city and especially Mayor Nutter, the mayor of Philadelphia, for his leadership on this and many other housing issues. It is critically important we remember there is, in this nightmare for so many families, solution-oriented thinking out there in addition to the important legislation we have before us.

The time has come for the Senate to finally act—to act, not just to talk but to act on this issue—to put a floor under the housing market. It is time at long last for the Congress, and especially for the Senate, to finally act, but also in the process of acting, to help families stay in their homes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I rise, first of all, to commend Senator DODD, Senator SHELBY, Senator GRASSLEY, and Senator BAUCUS on a piece of legislation that is important, and which I will vote for.

I am going to talk for a few minutes about some suggestions for the managers of this bill to think about as we get toward a final managers' amendment at the end of this debate because there are a couple technical changes that could make a significant difference.

But, first of all, I want to make sure one thing is said. We hear a lot about bailing out lenders and lenders being bad guys. Let me tell you something. The people who originated these loans loaned money that was raised on Wall Street by investment bankers and underwritten by Moody's and Standard & Poors. Moody's and Standard & Poors underwrote securities that were bought around the world by investors, that paid a high dividend but were on very risky subprime credit. That is where the fault lies—Moody's and Standard & Poors and on the investment banking community.

As a parenthetical suggestion, I hope Wall Street is listening because what is happening in the commodities market is the same guys doing the same thing again. If you look at the rapid price of all commodities, they are going up because of a huge influx in the commodities market. The only position-limited people in the commodities market are investment bankers. They are creating paper and they are trading paper and they are getting the Yale endowment fund, the Princeton endowment fund, and teachers' pension funds going into these as if they are investments, and they are not investments. They are a hedge in commodities.

So that is just a little early warning shot. If we will look closely at this, I think we can find the culprit to the subprime may actually be a significant contributor to what is going on in commodities.

But, again, to Senator DODD, Senator SHELBY, Senator BAUCUS, and Senator GRASSLEY, thank you very much for what is basically a fine piece of legislation. I urge you to look at the effective date of the tax credit that is included. As I read the bill, it includes the original dates from 2 months ago, which means the tax credit, when it goes into effect, will end at the end of April next year, which will be less than a year. May and June are the prime buying months in real estate. What we are trying to do is induce a decline in the inventory of houses on the market. I know it was not intended, but I think the managers should take a look at that.

Secondly, I know there is a difference between the House and the Senate with regard to the effective date over the GSE regulator for Freddie and Fannie. One side wants it immediate; one side wants it in 6 months. We do not need to have this bill go down because they cannot get their act together. So I hope they will work to find common ground on the effective date. On the FHA refinance program—Senator CASEY is precisely correct. This is not a bailout for the lenders. This program allows for the refinancing of a troubled subprime loan whose payoff amount is more than the value of the house because of the decline in the marketplace. For it to be refinanced it requires the lender to take the hit between the amount owed and the market value. So the loss the lender is going to have to be recognize in a foreclosure will, in effect, have to be recognized in a refinance, but the homeowner stays in the house and the values in the neighborhood stabilize. We

are doing a good job, in my opinion, of putting an end to what is a desperate downward spiraling in the housing market which is affecting the economy because most Americans consider their equity their line of credit for their consumer spending. With that equity vanishing because of increased inventories, increased foreclosures, and increased vacant houses, we have a very big problem.

So I wish to commend Senator DODD and Senator SHELBY. Some of this is technical, but it needs to be said. Freddie Mac and Fannie Mae saved the American housing market in the early 1990s when the savings and loans collapsed. There was no liquidity in America for mortgages. Had we not created those government-sponsored entities and allowed them to securitize mortgage paper and operate to provide the liquidity in the markets, there would be no mortgages for the American people, and we would have a disaster on our hands.

I appreciate the final language addressing two of the three concerns I had with the GSEs. No. 1, I am glad the House and Senate could agree on loan limits for both conforming and nonconforming jumbo loans. If we had not done that, we would have provided liquidity for mortgages that we didn't need to finance or refinance and not enough liquidity for mortgages that are needed in the marketplace, particularly in high-cost areas around the country.

Secondly, I appreciate the provision for the ability of Fannie Mae to portfolio jumbo loans because if they couldn't do that, there would be no liquidity. But I still question whether the language in the bill as it stands now directs more securitization and less portfolio. If you have too much securitization but don't have the opportunity for liquidity to be provided by letting these entities carry that on their balance sheet, then the effect is you say you are doing something, but, in fact, you don't provide liquidity. But I do appreciate very much the managers of the bill making those changes.

Lastly, with regard to the housing tax credit, I appreciate what Senator GRASSLEY said, and I appreciate the kindness of Senator DODD in the original debate by incorporating in the Senate bill substantially the amendment that I offered on the floor when this bill first came to the Congress. I was around in the real estate business back in 1974 when America had a similar crisis to the one we have today. The Congress of the United States passed a $2,000 tax credit to buyers who bought a standing vacant house in America. Within a year, we absorbed substantially all of the standing inventory in the country and revitalized the housing market, revitalized equities and values, and we came out of what was a very substantial real estate-induced recession.

I would have preferred some of the terms that I had in my amendment over some of the terms that the House changed them to with this tax credit, but it still accomplishes its purpose. It is a tax credit of $8,000 to a first-time homebuyer with income limits of $150,000 for a couple and $75,000 for an individual to go into the marketplace and buy and occupy—not as an investor but to occupy as an owner—standing inventory, new or resale, in the United States of America. That is going to be a big help to put a little fuel and energy and inertia behind a real estate market that is stagnant.

So I thank Senator DODD, Senator SHELBY, Senator GRASSLEY, Senator BAUCUS, and particularly the Finance Committee staff who were so cooperative in working on this concept. I think we are going to see it prove to make a marked difference. If that end date of April 30 is changed in the final amendment to the end of June of next year, we will incorporate 2 more months where it can have an incentive effect. It would not affect the scoring because the scoring was done as if it was done in a 12-month calendar year.

So to Chairman DODD and to Ranking Member SHELBY and Senator BAUCUS and Senator GRASSLEY this is a very important piece of legislation. America has a serious problem. This doesn't bail anybody out, but it incentivizes buyers to come back to the marketplace. It provides liquidity to refinance loans that are underwater. It motivates, inspires, and provides liquidity in the marketplace through Freddie and Fannie that does not exist right now. Failure of the Congress to act, in my judgment, is going to cause us to have a protracted and devastating economic decline resting solely on the fact of the decline in the values of homes in America, the increase in the number of foreclosures, and the lack of liquidity in the lending market.

I encourage my colleagues to vote for this legislation. I hope the President will sign it. Again, I thank the Members of the Senate who worked so hard to provide good, substantial legislation to the housing market in the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I ask unanimous consent that following the remarks of the Senator from Vermont, that I have 7 minutes as in morning business.

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

The Senator from Vermont is recognized.

GAS PRICES

Mr. SANDERS. Madam President, every American understands that we now have a national crisis in terms of the outrageously high price that we are paying for energy. In Vermont and all over this country, workers are wondering how they can afford to fill their gas tanks. Truckers using diesel are going out of business. Senior citizens and others are worried with dread what happens to them next winter when the cost of home heating oil is off the roof. As a result of high oil and gas prices, the cost of food and other products is also rising, and our entire economy—and, in fact, the world economy—is suffering.

The question that millions of people are now asking is pretty simple. They want to know what this Congress can do now—not in 10 years or in 20 years but now—to lower the outrageously high price of oil and gas. Further, they want to know what we can do long term to make sure our country is energy independent; that we don't continue to import huge amounts of oil from the Middle East or elsewhere. They want to know what we are going to do in the midst of all of this to address the crisis of global warming and the droughts and the severe weather disturbances and the floods that we are seeing as a result of global warming.

Lastly, they want to know in the midst of all of this, long term, how do we make sure that the cost of energy is affordable. These are the issues the Congress has to address.

But let's be very clear. These issues will not be debated in an intellectual realm where we are just trading ideas. This debate is going to be clouded by the enormous power and money of special interests.

Since 1998, the oil and gas industry has spent over $600 million on lobbying—$600 million on lobbying—and since 1990, they have made over $213 million in campaign contributions. So they are extremely powerful. They have an unlimited supply of cash. They are using that power and that money to influence this debate. Anybody who doesn't understand that is very naive, indeed.

If we are serious about lowering oil and gas prices today in a significant way, it seems to me we have to address two fundamental issues. First, the reality is that the American people are getting sick and tired of paying over $4 for a gallon of gas at exactly the same time as the major oil companies are making record-breaking profits and providing their CEOs with outrageous compensation packages. Enough is enough. The greed of the oil industry apparently has no end, which is why Congress must impose a windfall profits tax and use some of that money to give back to people through rebate checks.

In the last 2 years alone, ExxonMobil has made more profits than any corporation in the history of the world, making over $40 billion last year alone. But ExxonMobil is not alone. Chevron, ConocoPhillips, Shell, and BP have also been making out like bandits. Last year, BP, for example, announced a 63-percent increase in their profits for the first quarter of this year. As a matter of fact, the five largest oil companies in this country have made over $600 billion in profits since George W. Bush has been President, while working people are paying $4, $4.20 for a gallon of gas. That is unacceptable.

What have they been doing with these huge profits? One of the things they have been doing is to make sure that the CEOs of their companies are extremely well compensated. In 2005, Lee Raymond, the former CEO of ExxonMobil, received a total retirement package of over $398 million. People in Vermont and around America are wondering how they are going to stay warm next winter. The former CEO of ExxonMobil receives a retirement package of $398 million.

In 2006, Ray Irani, the CEO of Occidental Petroleum—the largest oil producer in Texas—received over $400 million in total compensation. That is going on all over the industry: the heads of these corporations who are making record-breaking profits receiving huge compensation packages.

The situation is so absurd and the greed is so outrageous that oil company executives are not only giving themselves huge compensation packages in their lifetimes, but they have also created a situation, if you can believe it, where they have carved out huge corporate payouts to their heirs if they die while they are on the job. It never ends.

Let's be clear. Oil companies have a right to make a profit, but they do not have a right to rip off the American people.

Some of my Republican friends claim that big oil needs to keep these huge windfall profits so they can increase production and build more refineries. They are going to take this money and they are going to use it to create more oil for the benefit of the American people. That particular argument does not hold water. Big oil companies have been making windfall profits for over 7 long years, and they are not using these profits to build more refineries or to expand production. Instead, they are using this money to buy back their own stock, increase dividends to their shareholders, and, as I just mentioned, pay outrageous compensation packages to their CEOs.

Since 2005, the five largest oil companies have made $345 billion in profits, but they have spent over $250 billion out of the $345 billion buying back stock and paying dividends to their shareholders. That is where their profits are going, not investing in future oil production. Last year, ExxonMobil spent 850 percent more buying back its own stock than it did on capital expenditures in the United States.

Here is my final point on that issue: The $38 billion in windfall profits that ExxonMobil gave back to shareholders last year could have been used to reduce gas prices at the pump throughout the United States by 27 cents a gallon for the entire year.

Dealing with the greed of the oil companies is one immediate issue that we have to address. The second one deals with the growing reality that Wall Street investment banks, such as Goldman Sachs, Morgan Stanley, and J.P. Morgan Chase, and greedy hedge fund managers are driving up the price of oil in the unregulated energy futures market. There are estimates that a number of committees in the Senate have heard from different experts who testified that the price of a barrel of oil today is 25 to 50 percent higher than it should be because of excessive manipulation of oil futures markets and excessive speculation. This is an issue that must be dealt with.

Some people say: Well, we don't know anything about this. This has never happened before. Wrong. As I think most Americans understand and remember, manipulation of energy markets is nothing new. It is recent history. Everybody remembers that in 2000 and 2001, Enron successfully manipulated the energy markets on the west coast, driving up prices by 300 percent. During the midst of that controversy, they were saying: Oh, it is not us, it is supply and demand. It was them, and some of those guys are now in jail for the fraud they committed on the people of this country. That was Enron. But it is not just Enron.

In 2004, energy price manipulators moved to the propane market. That year, the CFTC found that BP artificially increased propane prices by purchasing enormous quantities of propane and withholding the fuel to drive prices higher. BP was fined $303 million for manipulating propane prices. Again, this is not a new concept; that is what they do.

In 2006, energy price manipulators moved to the natural gas market when Federal regulators discovered that the Amaranth hedge fund was responsible for artificially driving up natural gas prices. Amaranth cornered the natural gas markets by controlling as much as 75 percent of all of the natural gas futures contracts in a single month. Amaranth eventually went out of business, went bankrupt, and the price of natural gas went down. So if you are looking at Enron, BP, Amaranth, why would anybody be shocked that today there are financial institutions manipulating the oil markets as we see it?

The Commodity Futures Trading Commission has the authority and the responsibility to prevent fraud, manipulation, and excessive speculation in U.S. commodity markets. Unfortunately, this authority and responsibility has largely been abdicated through the use of over-the-counter energy derivatives that are largely unregulated and by foreign boards of trade that have received no-action letters from the CFTC to operate terminals inside the United States, trading U.S. commodities to U.S. investors free from regulatory oversight.

That is an issue we must deal with and we must deal with now. If we are serious about lowering oil and gas prices today, we have to deal with the greed of the oil companies and with the speculators. Long term, of course, we have to move this country away from foreign oil, away from fossil fuel, to energy efficiency, to sustainable energy, and the potential there is enormous. That will help us deal with greenhouse gas emissions, in terms of global warming and, in the process, we can create millions of good-paying jobs.

Let me conclude by saying that if this Congress, in the very short term, does not deal with these issues, there are going to be people who are going to go cold this winter, not only in the Northeast but all over the Northern tier of this country. That is why I am going to do my best in this bill, and/or as soon as possible, to bring forth an amendment to substantially increase funding for LIHEAP.

The National Governors Association supports over $5 billion for LIHEAP. They are exactly right because, as the price of home heating oil and other fuels explodes, we are going to simply need to substantially increase funding for LIHEAP if we are going to make sure people don't go cold this winter. I look forward to working on this issue in a bipartisan manner.

Bottom line: Short term, going after the oil companies and dealing with speculation. Long term, we need to transform our energy system away from fossil fuels to sustainable energy. We must substantially increase funding for LIHEAP.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

GAO SUSTAINS BOEING'S PROTEST

Mrs. MURRAY. Yesterday, the Government Accountability Office issued its ruling on Boeing's protest of one of the largest defense contracts in history: the Air Force's decision to choose the European company Airbus to supply the next generation of aerial refueling tankers.

In that ruling, the GAO agreed with Boeing that there were fundamental flaws in the process from the very beginning. GAO's attorneys found the Air Force made a number of significant errors that unfairly misled Boeing and favored Airbus.

They recommended that the Air Force reopen the contract, get new proposals, and make a decision that corrects the errors GAO found.

Madam President, to me, that decision was not a surprise. Air Force and Pentagon officials have told me, time and time again, that they followed the law and this contract would stand up to review.

But since the very beginning, it has been very clear that Airbus tankers did not meet the Air Force's needs—no matter what its public relations campaign has said.

Even though the Air Force claimed it had selected the cheaper plane and made no mistakes, we learned last week it had made a critical error when calculating the operating costs of the two tankers. The Air Force is now acknowledging the Airbus plane actually costs tens of millions of dollars more.

Two weeks ago, Defense Secretary Gates forced out the top two Air Force leaders—Secretary Michael Wynne and

his Chief of Staff, GEN Michael Moseley. By doing that, he expressed a serious lack of confidence in their leadership and lack of oversight. All along, the Pentagon has refused to answer even basic questions about this contract.

I, and the many others who have raised concerns about the Air Force's decision, now expect a thorough and honest response from the Pentagon to the GAO's decision.

But as I have said all along, the GAO ruling answers only one overarching question that has been raised in this process and that is whether the Air Force followed the letter of the law when it chose Airbus for the contract. That means that even if it was obvious that Airbus's plane was wrong for the war fighter and for the taxpayer, it could not push for answers.

That is Congress's job, and we in Congress, who represent the American taxpayers, have to continue to press for real answers to those hard questions. We in Congress need to know why the Air Force chose a plane that is bigger and less efficient than it asked for—one that cannot use hundreds of our runways, ramps, and hangars, and one that will cost billions of dollars more in fuel and maintenance.

We in Congress need to know whether our Government should buy a plane that even the Air Force says is less survivable, less able to keep our war fighters safe. We in Congress need to know what the effect on our economy and our national security will be if we turn this technology, which is vital to this Nation, over to a company that is owned by foreign governments.

The U.S. Trade Representative is so concerned about the subsidies Airbus receives that they have brought a case against the EU before the World Trade Organization. We need to know why in the world we would accuse Europe of unfair trade practices and then turn around and hand Airbus a major piece of our defense industry. We need to know why our Government would hand them the contract now.

In May, employers cut 49,000 jobs in the United States. It was the largest 1-month jump in unemployment in 22 years. Yet the administration, right in the middle of this, wants to send 44,000 U.S. jobs overseas, when we are hemorrhaging jobs here at home.

On the day in February that the Air Force first announced it awarded this plane to Airbus, I was out on the 767 line, in Everett, with our Boeing workers. I will never forget the shock and disappointment in their eyes. One woman came up to me and said:

I can't believe this. My son is currently flying these tankers over in Iraq, serving our country. I want to build those planes with my taxpayer dollars to make sure he is safe and we know what is in that plane.

Yesterday's GAO study proved she was right and she is vindicated. We now have the right process to move forward on this and make a good decision not only for that mom but for American taxpayers and for America's security for the future.

For months now, I have been saying this process was flawed. I have been saying we should not hand over billions of dollars and thousands of jobs and that Boeing should build those tankers. The GAO's decision backed up all my concerns. The process was flawed. Now we need to know why. We should not be buying more expensive planes built in France. That seems obvious. With a level playing field, Boeing builds the best tankers at the best price.

By reevaluating this deal with the proper criteria that GAO outlined, I am confident the Air Force will, in the end, agree with me and award this contract to Boeing—I hope in short order. I hope our airmen and airwomen will soon have the best possible plane to carry out their missions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, let me begin briefly by thanking our colleagues who have come and spoken on the bill already this morning. I thank Senator BOB CASEY, of Pennsylvania, a member of Senator SHELBY's and my committee, the Banking Committee, for his remarks. I also thank JUDD GREGG, of New Hampshire, who, while not a member of the committee, has followed our work very closely and has been intimately involved with the committee over the last number of months as we were developing the Homeowners Act, an idea he brought to the table. He brings a good historical perspective—going back to the Resolution Trust Corporation and dealing with another housing crisis and how well that idea worked; and while we are not exactly duplicating it, he has knowledge of how that worked and an understanding of the basic idea behind the bill that we have authored over the last several months, which is very helpful.

I know Senator SHELBY and I are grateful, as are other members of the committee, for having a nonmember of the committee understand the issue as well as he does. His support of what we are trying to do is very helpful.

I thank Senator BAUCUS and Senator GRASSLEY as well. Senator SHELBY and I are not dealing with the tax-writing provisions of this bill and they have been helpful and cooperative and, obviously, their ideas are a strong complement to what we are trying to achieve—with mortgage revenue bonds and tax incentives for those who acquire foreclosed properties, and the like, are very helpful. They have disregarded earlier provisions included in the tax proposals and, candidly, I think those ideas being kept out of this bill is healthy. I don't dwell on it. Frankly, I think their appraisal of the various ideas is very constructive. We thank the tax-writing committee, the Finance Committee, which has done a good job in complementing what we are trying to do.

Senator JOHNNY ISAKSON, of Georgia, deserves a great deal of credit. He brought up the idea of trying to create some incentives for those who might purchase foreclosed properties. In his previous life, he worked in this area, and he has a firm knowledge of it. So his cooperation on that, as well as other aspects of the bill, his enforcement and support of this legislation and his intention to back it is a further indication of the effort we have made on a bipartisan basis to make this a good bill, not just because it has bipartisan support, but I think that is indicative of the kind of effort that has been made that brings us to this moment.

I note that in this morning's local newspaper, the Washington Post, the leading headline is, ''DC Region's Foreclosure Rate Soars.'' It says that although communities have felt the effects of the housing crisis for months, the report reveals that foreclosures in the Washington region have been increasing at a surprisingly quick pace, outstripping those of most metropolitan areas. It points out that while foreclosures were practically nonexistent in Washington 18 months ago, it is now very prevalent and way above the national average.

I point that out because that is unique here. It makes a point. As I showed earlier this morning, with the graph we put up, we have the numbers now for May on the foreclosure rates. Over 8,400 people are going to foreclosure every single day in America. That number was below 8,000, in the mid-7,500 area, only a few weeks ago.

For those who would suggest that we ought to wait this out, or see what happens down the road, explain that to the 8,000 families today who may lose their homes, the 8,000 tomorrow and the 8,000 the following day and the day after that and all next week, as we grapple with this bill, where as many as 50,000 or 60,000 families will be adversely affected while we debate whether this is a perfect bill. My patience is thin. We have worked so hard on this. So for those who suggest it is a bailout for a lender—I have heard a lot of arguments, and when you have people losing homes every day, neighborhoods being destroyed because of it, including financial aid for students, municipal finance, commercial lending, and the global implications and trying to put a bill together that will bring some confidence back to the marketplace, and to suggest this is a bailout for some bank—it is anything but that. In fact, it is quite the opposite. Senator SHELBY and I have had 50 hearings since last March on this subject matter—almost exclusively on this subject matter—and we have had these individuals before our committees explaining to us why they were giving out adjustable rate mortgages to people on fixed incomes, knowing very well these people could never, ever pay the final fully indexed price of those properties. Yet they did it, day in and day out, knowing full well what the implications would be.

The very companies they claim are being bailed out are exactly the ones that were engaging in that, and the last thing we are doing is providing any kind of support and assistance for them. We are trying to see to it that we restore some semblance of confidence in this area and we are planning to keep as many people in their homes as we can.

Have we written a miracle? Absolutely not. Will this work? I hope so. Do I have an assurance it will? No. All I know is it is our best judgment, based on the wonderful, competent people who don't bring an ideological perspective to this—from the American Heritage Foundation to the Consumer Federation of America and groups in between. They have said this is the best idea we could come up with to address this issue. They would also be the ones to tell you there is no assurance it is going to work. It is a voluntary program. We don't mandate anything here; we are just creating the opportunity.

I say to my colleagues that history is somewhat of a teacher in all of this. Back in the last period when we had a housing crisis of this magnitude, back in the 1920s and 1930s, another Congress did it differently. In that case, the Federal Government actually purchased distressed mortgages. Senator SHELBY and I are not suggesting anything such as that. We are talking about an insurance program. It is a voluntary program that creates a new, temporary program. It ends in a few years. It is merely an effort to step in here and try to make a difference in all of this.

I will go back over some of the specifics of this—the HOPE for Homeowners Act—as well as the issue dealing with the affordable housing provision and how we managed to do this without a tax increase. We have a wonderful symmetry of liquidity being strengthened, a regulator being imposed on these GSEs, and a source of revenue coming from that which can also assist in another area of needed housing.

We think this has a rather good sense of balance.

But again, I am very grateful to the Finance Committee, Senator BAUCUS and Senator GRASSLEY, and to the Members who have spoken out, both Democrats and Republicans, this morning, those who have come together and said this is a good bill deserving of our support. We hope the rest of our colleagues, as they come forward with these amendments, will be so inclined to stand with us and support this bill, and urge the White House to sign it into law.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I commend the chairman of the Banking Committee, Senator DODD, for his work on this package of legislation. It is a package. It is dealing with the reform of the government-sponsored enterprises, GSEs, which desperately need to have a strong regulator because they play such a huge role, probably the primary role by a long shot right now, in our housing industry. They need to be properly regulated because they are a government-sponsored enterprise, and that is part of the legislation I have pushed.

Senator DODD and I have worked together. He is pushing the housing legislation, but I agree with him. If there were any inkling of a bailout for anybody here, we wouldn't be a part of it in any way, and no one would in the Senate. So that is a red herring. But this will give some hope and opportunity for some people to probably save their homes who otherwise wouldn't be able to.

We need to pass this legislation now. If we could get this legislation to the President's desk, and he would sign it, which I hope he would by the 4th of July, by the end of next week, this would be a significant feat on our part. I hope we can do it.

I also want to take a moment, as Senator DODD did, and commend other Senators for their work. Senator ISAKSON knows a lot about housing. He grew up in housing. He has been very successful at it, and he brings that experience and knowledge to this body in the Senate. The housing tax credit, not to bail out anybody but to help people save their homes, was I believe originated by him. He is pushing this provision, and we commend him for helping us on this.

I commend my friend and colleague from New Hampshire, Senator JUDD GREGG, the former chairman of the Budget Committee, now the ranking member. He knows a lot about all the problems in this country. He is very insightful. He sees this legislation, overall, as a good package and a good piece of legislation.

I hope we will be able today and tomorrow to pass this legislation, if the Senate is willing, and go to the next step, because there are a lot of people who will possibly be able to save their homes because of this.

Will this save everything in America? No. But it will be a good first step and it will be profound, meaningful legislation, and so I commend it to the Senate this afternoon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 15 minutes.

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

ENERGY

Mr. CRAIG. Mr. President, over the course of the last several days I have refrained from speaking on the floor about energy. But I have watched the floor very closely as I have seen kind of an interesting duel going on. An advocate of drilling, I found it fascinating that some on the other side of the aisle were saying that if we opened our outer continental reserves and drilled them, it would simply make no difference to the current state of play in the oil market or the price of gas at the pump. I find it not only interesting that that kind of conclusion is being drawn, but I also find it phenomenally naive that kind of statement can be made.

It is my opinion, and I think the opinion of a good many, that we are in a classic supply-and-demand situation in the Nation and therefore the world's oil markets. There is alleged speculation. There is alleged manipulation. I don't know whether any of that is true, but I do know the facts of what we live with and have lived with for the last several years.

There have been many of us in Congress who said there would be a day of reckoning if we continued to consume oil at a greater rate than we were producing and refining and bringing it to the marketplace. I believe it is very possible that day of reckoning is at hand. The world market in which we acquire our oil, the world market in which gas is refined from oil, is just that—a world market. It is not a domestic market. It doesn't happen down the street, only to be supplied on that street. It happens in the Middle East, it happens in Latin America, it happens in Canada, and it happens in this country. It all comes together in a world market, and we compete at the local gas pump for the price of the world market.

Here is a perfect example of the reality in which we live as America's consumers. I do not deny—in fact, I sympathize with and I am frustrated for America's consumers who today are facing $4 and $4.45 and $4.50 gas. It is taking a huge bite out of their back pocket, and they are not ready for it. They have not been eased into it. They should not have had to even be worried about easing into it because it should not have happened. But the Congress of the United States for the last 20 years has been in a perfect and absolute state of denial.

Energy was inexpensive compared to the rest of the world, and we could put this known reserve off, we could put this off, we could worry about that tomorrow because we didn't have to worry about it today. We could be environmental purists because it was easy to do.

Here is what was happening in America. The supply through the 1970s and 1980s and 1990s was dramatically dropping, but the demand was continuing to go up at an unprecedented rate. In fact, after the oil shock of the 1970s, when we adjusted some CAFE standards and we did a few other things, our

economy took off. As our economy took off, by definition we became ever increasingly larger consumers of oil, of hydrocarbons. It is that which lubricates the economy of our Nation. If we are going to be 25 percent of the world economy, guess what, we consume 25 percent of the world's energy. But we were not producing 25 percent of the world's energy. We, by this time, had begun to develop a huge dependency on other places in the world, all while we were having this phenomenal luxury of saying you don't have to drill in ANWR or Alaska, it may have 15 or 20 billion barrels, but we don't know, we can't touch it. We don't have to drill off the coast, we don't have to worry about oil shale. We don't have to worry about anything. We can be green and talk about the environment and deny the reality of the marketplace and grow increasingly more dependent on somebody else.

Here is an interesting chart. It is a chart I found in a book I am reading now that I recommend all Senators read. It is called ''A Thousand Barrels A Second.'' Think of that. That is the title of the book, but it is a title of reality. The reality is that the world in which we consume energy and from which we buy energy today consumes 1,000 barrels of oil a second. Do the math: 86.5 million barrels of oil a day. That is what the world marketplace is, and we consume 20-plus percent of it.

Here is what was happening from the 1970s on when we were in an oil shock. We looked at ourselves, we adjusted ourselves a little bit, and we began to try to figure other ways.

Oil production from 1970 to the year 2005, as demonstrated by the dark blue—as you notice, it was going up progressively. But something else was happening that allowed for adjustments in the market. This green area was the extra capacity the market was not consuming. So when there were bumps in the market, there was extra capacity. It didn't happen to be in the United States. It predominantly was in the Middle East and with the OPEC nations, but it was extra capacity.

Here we are in 2005. What had happened? China had come into the economy. India had come into the economy. They were beginning to consume at rates we did not expect. While they were consuming and buying out of the world's markets, the world's capacity was continuing to drop as it relates to consumption.

This is not necessarily a lecture in economics, but it is a lecture in supply and demand. For any Senator to deny the reality of the marketplace is either naive or politically incorrect. The marketplace is working in a way that none of us likes today, and our constituents are feeling it in their back pockets, and they are picking up the phone and calling their Senator and saying: Do something about it.

We are trying to figure out a way to politically dance that line. There is very little we can do about it tomorrow. There is a lot we can do about it in 2 to 5 years if we let the world begin to produce again. But we have not made that choice yet.

The President is talking about it. Other people are talking about it at this moment. They are talking about going into the known reserves. But here is also a reality of what has happened. See this declining line right here? Any time you drill into an oilfield, any time you begin to lift crude oil out of that field, you begin to deplete the field. An average oilfield in the world depletes at 5 percent to 7 percent a year. That is the historic natural level that the industry will tell you—you get a depletion rate. If you are depleting at 5 percent to 7 percent a year and the world demand growth is going up at about 1.5 percent, you have a problem if you are not producing more oil to the marketplace. That is where we are today as a world consumer of oil. We are not producing the increased volume necessary to fit the growth of the marketplace. It is really quite simple. We as country are producing increasingly less.

We have 80 billion barrels of reserve out there, we think. At least we know we have 25 or 30 billion barrels of known reserve in ANWR and the Outer Continental Shelf. If we do the new geology, maybe we have 80, maybe we have 120. We don't know it, but we believe it is there. What is the value of drilling it; it is going to take 3 to 5 years? You bet it is going to take 3 to 5 years or more. The problem is today. Yes, we should have thought about it 3 to 5 years ago, but we were all running to look green, running to talk about the environment, wanting to do things we didn't want to do, but we did it because it was good politics. And we were denying the marketplace.

Here is the reality we got ourselves in. We don't control the marketplace anymore. Other nations of the world do control the marketplace. The Saudis control it, and on down the line. Eighty percent of the world's supply of oil out there is controlled by other nations, not companies—not ExxonMobil, not Chevron, not Marathon; they control way less than 10 percent of the total reserves. The rest of the world is now telling America where to go; that is, you go to the market and you buy off the market and we are not going to give you any margin. At the same time, we are denying ourselves production in the marketplace.

Here is what happened. It is a reality that all of us have to face. Oh, we said no California, Oregon, and Washington; we said no down the east coast because it was politically the right thing to do; we said no up around Florida; we said no up here in ANWR in Alaska; and we believe there may be as many as 80 billion barrels of oil. What does 80 billion barrels mean if you can develop it? It means maybe a couple of million barrels a day into the U.S. market and into the world market.

What does that mean? I believe—and I think the market believes—the true value of oil today based on today's consumption levels is maybe $85 or $90 a barrel. But that extra margin on top, that $40 of margin sitting on top that produces $130 or $140 of oil today, is speculation. It is speculation based on a futures market that says in the future, because America is not producing and the world is not producing to that decline chart, because we are not adding that extra 5 or 6 percent a year, out here in 2010 and 2015 that is going to be the real price. We have to secure that for our consumer. So we are going to bet on the future.

Mr. President, 2 billion barrels into the U.S. market, now or 5 years from now, what does it do to the price of oil today? Some futures speculators, some people who buy in the futures market say that if this country commits itself to drilling, if this country commits itself to development in the 2-year to 5-year period, the market will begin to adjust and come down. Why? Because of the belief that we are going to find it out there, we are going to add it to the pool, and we are going to develop that margin of protection, again, that the market historically had against an ever-growing market.

Is this the answer for 30 years from now? Of course, it is not. I have said and others are saying that it is a bridge to the future. It is the reality of where we are today because electric cars are not prevalent in the market. It is a reality of where we are today because hydrogen fuel cells are not in the market. But they are coming. It is a reality of where we are today because we are not producing enough ethanol, both corn-based and cellulosic. There is a huge new wave of technology coming, but it is 3 years out, it is 10 years out, it is 15 years out. What do we do in between? Do we simply turn to our consumers and say: Buck up; pay for the oil. Pay for the gas. Pay $5. There is nothing we can do about it.

Don't let your politician tell you that, because there is something we can do about it. We can bring on our known reserves. We can open them up to the market. We can let the bidding process go forward, and we can tell the world market that America is going to be producing again, in a timeframe of 3 to 5 years. As a result of that, the speculation will begin to move out of the market because there will be a sense of reality returning to what has been there through the 1970s and the 1980s and the 1990s, and that is additional supply to offset the depletion in the oilfield itself and the demand for about a 1-percent or 1.5-percent growth in the market as these new technologies begin to take hold.

Last year, Senator DORGAN and I passed a provision that we called the DOES Act which said, let's get the scientists out there, use the new geology and find out where the oil is.

Oh, no, we cannot do that. We might find it. And if we find it, we might want to drill it. And if we want to drill it, that is not green, that is not environmentally sound. Even if, as we

know, today's technologies allow us that kind of environmental protection, it was not politically popular to do.

We passed it out of the Senate. Thank you, Senators, for helping us. It was lost in a conference with the House. You see, even a year ago, Congress was in a state of denial, of denial of the reality of the marketplace, of a reality of depletion, of where we were and where we are going to go. So our consumers today are paying more than they have ever paid for energy. They are not happy, and they have every reason to be angry at a Congress that for 10 years at least, or 20, has been in a state of denial, not recognizing the reality of a market that would come home to rest on the price of oil. But it has. And it is today.

I am thinking if there are questions today whether we ought to drill in our known reserves and use all of our environmental tools to be sound, and some are still holding back at $4.50, what do you do at $5 a gallon? What do you do when the consumers' frustration turns from anger to fear? Because, you see, fear is a whole new emotion. What if they begin to fear they can no longer afford the home they have, or their food budgets, or the structure and security of their family? What happens when they still have to have energy to move to work, and it is going to cost them more than they have ever dreamed of paying in their lives? I think fear will turn politics in the direction of a marketplace, in the reality of what we can do, whether it is 2 years out or 5 years out.

So to the American consumer who is angry today, and may become fearful tomorrow, e-mail your Congressman, e-mail your Senator, call them. Tell them: Let's get this country back into production. Do it in an environmentally sound way, do it clean, do it right, but do it. Put your money into new technologies. Invest for the future, because oil is not going to be there, and the oil that will be there 10 years from now is going to be a lot more costly, because we have pumped all of the easy, we have reached all of the low-hanging fruit, and that which comes tomorrow will be more expensive because it is deeper, or it is in a sensitive area where we have to be more careful than we have been in the past.

Because we are always going to need some oil, we hope only for transportation, we can do it with electric cars, we can do it with plug-ins, we can do it with all the right kinds of things that begin to turn us away from an oil market.

For those who said Congress has not done anything in that area, we have done some things. We passed the Energy Policy Act of 2005 and the Energy Policy Act of 2007. There was not production of oil in it. Many of us tried to get it in, but we were denied because it was not ''politically green correct.'' But then again, gas was $2, and now it is $4, or it is $4.50; it may soon be $5, because the world has awakened to the reality of supply and demand and need. They are going to wrestle for it, and they will wrestle in the marketplace. Those who can pay the highest price are going to get the fuel.

But to the average consumers, middle-class Americans, that will become a great frustration, as it should. They need to make sure they have a Congress that is willing to face the reality of the moment, and say, let us produce. Let us get this country back into production. Let us look at our offshores. Let us look at ANWR. Let us look at where we know the oil is, while we work to find out if there is anymore somewhere else. Let's encourage production here at home, so that not only can we enter the market with more oil, but we can be more secure, because this is a question of security, whether it is security in the home, or whether it is security as a nation.

Politically, this Congress for the last two decades has been doing the wrong thing when it came to petroleum and energy security. We grew increasingly dependent on foreign nations, and as we did, we not only put our Nation at risk, we have now put the energy-consuming American family at risk. We should not be a part of that. We are here to facilitate the possible so the marketplace can do what it can and does very well. Right now the marketplace is squeezing and squeezing hard and competing for the last remaining oil until more oil comes in production.

Here is the last thought of a simple equation. If demand is going up 1.5 percent a year worldwide, and depletion in the existing producing fields is going down at 7 to 8 percent a year, and you are not finding and bringing anymore on line, then the price goes up as the supply goes down. But if you find a little more to add, about 5 percent more annualized, you offset the difference and price stabilizes. That is the way the market works. We do not have control of that as politicians; we can only control access to future supply. That is what we ought to be about as a Senate and as a country.

So e-mail your Senator, write your Congressman, tell them to get going. Let's get this great country of ours back into the business of production so the supply and demand in the marketplace stabilizes and the American consumer can begin to become comfortable with where we are headed in energy policy and their pocketbook.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

ENERGY

Mr. BROWN. Mr. President, the apologists for the oil industry tell us a lot of things in the Chamber. I hear people in the White House, I hear elected officials, I hear people who have been particularly friendly to the oil industry, campaign contributions, commentators in the media, who tell us a lot of things about why the price of gas has gone up, triple, basically, since President Bush has taken office; triple since the Iraq war began.

The apologists for the oil industry have ascribed no blame to Wall Street speculators. They say the oil industry itself is blameless. They say it is all about the environment, it is all about something most people do not understand.

What they say specifically when they ask a few questions, is: Wouldn't increasing offshore drilling lower gas prices? Wouldn't drilling in the Arctic Refuge lower gas prices? They say: Why can't we build more refineries in the United States? Let's for a moment talk about some of those questions they raise.

First, President Bush's own Energy Department has said that increased drilling offshore would have, in its words, ''no significant impact on gas prices until the year 2030.'' So if we began to drill offshore all the places that some of my friends across the aisle say we should drill, it would make no appreciable difference in the price of gas until 2030, if even then.

Since President Bush has been in office, the Federal Government has nearly tripled the number of permits given to big oil companies to drill for more oil. They have tripled the number of permits. Yet what has happened to gas prices? It has gone from $1.50 to over $4, from $30 a barrel at the beginning of the Iraq war to $130, $140 a barrel now. Big oil companies are not drilling for oil in 75 percent of the land the Federal Government has leased to them, both onshore and offshore.

Then they say: Wouldn't drilling in the Arctic National Wildlife Refuge lower gas prices? The President's own Energy Department, again a President of the United States who came out of the oil industry, a Vice President of the United States whose office is across the aisle here, who came out of the oil industry, the President's own Energy Department, full of oil company executives and allies and friends, said a couple of years ago: Drilling in the Arctic National Wildlife Refuge would only reduce gasoline prices by a penny per gallon, and only 20 years from now when drilling is at its peak.

Again, it is one of those arguments they make because they do not want to blame the oil industry, they do not want to blame the speculators on Wall Street who have way more to do with this price jump than anything else.

They say: Why can't we build more refineries in the United States? Well, big oil companies are reducing refinery capacity not because of the Federal Government, they are doing it to increase their profits. An internal memo from Chevron in 1995 said: If the United States petroleum industry does not reduce its refining capacity, does not cut down its refining capacity, it will never see any substantial increase in profits.

In other words, it is in the oil companies' interests to not increase refining capacity. They have the permits to do it. There are no environmental rules stopping them from doing it. They have the permits to do it. It is in their interest to keep refining capacity to refine less so with supply and demand the price goes up. Don't think they haven't thought through that.

The largest five oil refineries in the United States now control over half of domestic oil refinery capacity up from one-third only 10 years ago. This consolidation makes it easier for them to lessen supply, to withhold supplies in order to drive up prices.

If you have looked at oil prices in the last 10 or 20 years, a spike in oil prices always comes as a result of some other incident. It comes from perhaps a fire at a refinery, an outage of a pipeline, Hurricane Katrina, some international incident that causes a disruption in oil supply. That is normally over the years when we have seen a spike in oil prices, of gasoline prices at the pump when something such as that has happened.

None of that has happened in the last couple of years. But it is not one spike, it is not two, it is spike after spike after spike, prices going again from about $30 a barrel when the President took office, the oil company President, to $130, $140 today; $1.30, $1.40 at the gas pump, now up to over $5, as we know.

Pointing fingers in the end gets us nowhere, and saying someone is right, somebody is wrong. The issue is what are we going to do about this. One of the things we should do is to impose a windfall profits tax on oil companies to stop them from gouging consumers at the pump. The Bush Justice Department ought to begin looking at price-fixing issues much more aggressively than they ever have.

The Commodity Futures Trading Commission needs to be more involved in rooting out the speculators who may very well be doing Enron-type speculating to push up the price of oil.

The last time a windfall profits tax was in effect in 1981 to 1988, gas prices were reduced by 45 cents a gallon, oil prices declined by $20 a barrel, and it generated $89 billion in revenue.

Most importantly, longer term we need to transform our energy system away from fossil fuels and toward renewable energy. That is clearly the wave of the future. We need to get started sooner rather than later. We on this side of the aisle have tried to take money from the Bush energy bill, some of the subsidies and tax breaks, and use that money to go into alternative energy research and development and do all of the things we need to do.

In closing, over the past 7 years, Enron, BP, and Amaranth were caught redhanded manipulating the price of electricity, propane, and natural gas. Each time they said supply and demand was to blame. Each team the pundits were proven wrong. Excessive speculation, manipulation, and greed were the cause.

The head of OPEC said: The price has nothing to do with a shortage of oil. There is a lot of oil on the market. It is because of speculation. Bart Chilton, one of the Commissioners at the Commodity Futures Trading Commission, said speculation is driving up oil prices as much as 30 percent. We have work to do. It is clear that rather than defending the oil industry and defending Wall Street speculation, it is time this Congress took action, that the President finally decided to be on the side of the driving public and of businesses that are hurt, truckers and others who are hurt so badly by this, as food prices go up, and all of the other things that happen from high energy prices. It is time the President and the Justice Department and the Commodity Futures Trading Commission came down on the side of the public interest and began to do the right thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that at the conclusion of my remarks and potential remarks from the Democratic side that the Senator from Alabama, Mr. SESSIONS, be recognized.

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

UNANIMOUS-CONSENT REQUEST—MEDICARE 18-MONTH EXTENSION

Mr. KYL. Over the last week on our side, we have listened to some of our colleagues suggest that Republicans have obstructed action on important matters here. I want to ensure that with respect to protecting our seniors through the service of the Medicare physicians who take care of them, that we are able to meet a deadline on the statute which expires at the end of this month to ensure they continue to be paid.

One of my colleagues yesterday said Senate Republicans had refused to give Senate Democrats the opportunity to ensure quality health care for American seniors. Yet following those remarks, the minority leader propounded two unanimous consent agreements which would have permitted us to move forward to consider two bills that would preserve Medicare beneficiaries' access to care.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KYL. I am just about done propounding my request, but I am happy to yield.

Mr. DURBIN. I ask the Senator from Arizona how he voted on the motion for cloture to bring to the floor the Medicare changes which he is now supporting.

Mr. KYL. Mr. President, I am happy to respond to my colleague that our proposal is to move forward with a bipartisan approach rather than the partisan approach which, of course, I opposed. In that regard, I, therefore, suggest that we simply extend existing law, which this Senate overwhelmingly supported just 6 months ago, for another 18 months, a proposal that had been made by the chairman of the Senate Finance Committee that would allow us to solve this problem not in a partisan way but in a bipartisan way.

Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate bill which I will send to the desk. It is a clean 18-month extension of the December Medicare bill. I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Mr. President, might I conclude with a brief remark?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I wish to express disappointment. Again, we are trying to simply allow the Senate to move forward, in a bipartisan way, to resolve a problem we all need to resolve. This would extend the existing law for another 18 months, something that had been, in fact, proposed by the chairman of the Senate Finance Committee. I am disappointed we are not able to do this.

Mr. DURBIN. I ask unanimous consent to speak for 2 minutes on this issue and then yield the floor to the Senator from Alabama.

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

Mr. DURBIN. Mr. President, we are trying to bring this Medicare issue to the floor for debate. Nine Republicans joined Democrats and said: Let's do it. But it wasn't enough. We are asking to bring it forward for debate. If you have a better idea, put it on the floor and let's vote on it. But for the Republicans to consistently file these filibusters and object to bringing these measures forward to even debate them, and now it is a take it or leave it. The Senator from Arizona has filed, just like the minority leader did yesterday, this political get-well card which says: We will make a unanimous consent request so we are on the record wanting this. Get on the record and vote for bringing it to the floor for debate. Don't be afraid of a debate. Don't be afraid of an amendment. If you have a good idea, put it forward. Let's see if it wins or loses.

Seventy-seven, one after another, and this one is to stop a cut in reimbursement for doctors providing help through Medicare. These doctors need that help. That is why we wanted to bring it to the floor. I beg the Republican side, for goodness sakes, let's act like a Senate. Let's debate. Let's deliberate. Let's vote on amendments. Let's earn our pay one week.

The PRESIDING OFFICER. The Senator from Alabama.

BOEING PROTEST

Mr. SESSIONS. I wish to discuss the Government Accountability Office decision to sustain the Boeing protest of

the KC–X tanker award, which I have followed closely. The Northrop Grumman/EADS proposal would have resulted in a fabulous new construction facility in my home State and would have created thousands of jobs within the United States. I confess that I am disappointed by the decision. I do think it is important that we continue to follow this process and to recognize the appropriate roles of the different Government actors involved.

It is, of course, not the GAO's job to pick aircraft for the Air Force. GAO used to be called the Government Accounting Office. Now it is the Government Accountability Office. It is fundamentally the accounting arm of our Government. As they said themselves when they made this decision in which they found flaws in the process for making this selection:

Our decision should not be read to reflect a view as to the merits of the firms' respective aircraft. Judgments about which offeror will most successfully meet governmental needs is largely reserved for the procuring agencies, subject only to such statutory and regulatory requirements as full and open competition and fairness to potential offerors.

In other words, it is the job of the war fighters, the people who will use this aircraft, the U.S. Air Force and those who benefit from the U.S. Air Force refueling capability, it is for them to make a decision about which aircraft best meets their needs. The GAO has to make sure that all appropriate processes and procedures are followed in doing this. Both the Air Force and DOD have been unequivocal in their statements that they believe the Northrop/EADS aircraft is a superior aircraft for their needs. As Air Force Assistant Secretary Sue Payton said upon announcement of the decision:

Northrop Grumman clearly provided the best value to the government when you take a look at, in accordance with the RFP, the five factors that were important to this decision: in mission capability, in proposal risk, in the area of past performance, in cost price, and in something we call an integrated fleet aerial refueling rating.

They had a complex but serious evaluation procedure that they utilized. Last Tuesday, Pentagon spokesman Geoffrey Morrell said the selection of the Northrop KC–45 ''provided our war fighters with the most capable aircraft and the taxpayer [with] the most cost-effective solution to this very real need of replacing the tanker fleet.''

The GAO found procedural flaws, according to their analysis, but they have not overturned this fundamental conclusion, the evaluation made by the Air Force personnel. The people who actually have to fly tankers and those who utilize them to refuel at high altitudes and high speeds over the Atlantic, over the Middle East, or wherever in the world, still favored and chose the KC–45.

Still, it is important for the Air Force to consider the GAO's objections and to take them into account. They have 60 days to do so. However, the GAO also acknowledged it is the Air Force's decision about what final action they are to take. They have not, as some suggested, been ordered to start over again.

My colleague, Senator CANTWELL, whom I recognize represents the State of Washington where this work would be done if Boeing were the winner, had this to say:

The Air Force will have no choice but to rebid this project.

That is not true. That is not an accurate statement, frankly. We need to be sure about how we think about this as we go forward. Even more inaccurately, some of our colleagues have suggested that the GAO's decision means the award should be given to Boeing. Senator BROWNBACK's press release, my good friend from Kansas, who would love to get some of the work in his home State, said that as a result of yesterday's announcement:

This contract should be overturned and awarded to Boeing.

That is not right. They didn't order that at all. There is no basis for that whatsoever.

Congressman NORM DICKS, of Washington, who until recently was telling people he didn't care what the GAO had to say, issued a press release yesterday touting the GAO decision and declaring as a result of it:

I believe the Air Force should set aside the agreement it improperly reached with EADS/Northrop Grumman and we should proceed expeditiously to build the best aircraft—the Boeing KC–767—here at home.

''At home'' meaning in his home State of Washington, not in my home State of Alabama.

That is a misreading completely of the GAO's decision and demonstrates a misunderstanding of GAO's role. They analyzed the process. They found some errors, they said. They said nothing about giving any award to the other competitor, Boeing. The military still adheres to its belief, as they noted, as to the superior aircraft.

Some of my colleagues also seem to misunderstand Congress's role in this, or at least to interpret their responsibility to the American military differently than I do. Senator MURRAY announced yesterday:

It is Congress's job to determine whether major defense purchases meet the needs of our war fighters and deserve taxpayer funding.

I tell you, I am a lawyer. I know our Presiding Officer is. Schoolteachers, accountants, veterinarians are not equipped or able, nor do we have the responsibility and the intense interest, to make these kind of decisions that the U.S. Air Force does. They have a long history of aircraft purchasing and managing. They know something about what it is like to refuel in the air, why an aircraft that can fly further and carry far more fuel may be a superior aircraft to one that does not. This is not a political decision to be made by people who spend a few hours looking at it and think they now are capable to reverse the decision made by the one agency in our Government that will have to live with the result. I believe it is the brave men and women of the Air Force who fly these planes and depend on them who should be making the decisions about their needs and what they think is best. We need to protect that. If they change their mind after this, so be it. But I hope and believe strongly this Congress should encourage the Air Force to consider the objections raised by GAO, to fairly evaluate them, and then to select, without political influence, the best aircraft for the men and women in uniform. That is the way we will serve our country. To politicize this process would be dead wrong, and I object to it. There has been too much of it.

Great progress was made when some of my colleagues including Senator MCCAIN objected when the Appropriations Committee slipped language into an appropriations bill that leased 100 aircraft, $23 billion, sole source from Boeing. There had been no hearings. It was a sole-source contract for about $235 million per aircraft to just lease 100 of these aircraft. As a result of these questions that were raised, eventually, one of the top procurement officials, a civilian in the Air Force, went to jail. Members of the leadership of Boeing resigned and investigations were conducted. It was quite a scandal. It was wrong, and it was corrupt. When that was discovered, people went to jail. So what did Congress do then? Congress, in my committee, the Armed Services Committee, had hearings about it. We discussed it. It was raised in the Airland Subcommittee, a subcommittee of which I was a member and that I at one point chaired. We directed and required that the Air Force conduct a competitive bid process for this contract. No more sole-source. You pick the best aircraft in the world to serve our men and women. That is what we directed—no ifs, ands, or buts, no qualifications. Not one amendment was offered to object. Everybody knew at the time there were two major aircraft-producing companies—only two—that could compete: Boeing and the Northrop Grumman-EADS team. So we ordered a bid.

We have all kinds of joint operations—the Joint Strike Fighter, where parts come from European and American sources. We and our European allies have come together to make the Joint Strike Fighter.

So we said we are going to bid this. The question came up during the debate: Well, is this just a joke? Is this just a game? Is it going to be a real, fair bid? Will everybody get a fair chance?

I remember I asked them: Is this going to be a political decision? Aren't you required to do it on the merits? They assured me they would do it on the merits.

As part of the bidding process, the Air Force produced and released a request for proposal. It is a detailed

statement of what the Air Force is looking for. They request the bidders—in this case, there were just two—to respond to that request for proposal. They also allowed the bidders an opportunity to make suggestions and criticisms about the proposal. Otherwise, it would go out as proposed by the Air Force.

The Boeing team made no official or formal objections, no written complaints about the details of that proposal. They did not request certain WTO provisions that might tilt the scales away from what is the best aircraft or not the best aircraft. They agreed to proceed under that process.

The Air Force believed they had the most open process in their history of any major contract of this kind. They were required to follow their procedures, and it is easy to make a mistake. So maybe they made some mistakes. Maybe they have a perfectly good explanation for some of the criticism GAO has raised. But that is where we are today. They found some procedural flaws. But I have to tell you, the GAO did not say it was time for a bunch of politicians, a bunch of lawyers, accountants, prosecutors, schoolteachers, to start picking which is the best plane available to the Air Force. We should not be substituting our judgments for those of the military.

So I am sorry we did not get a firm confirmation on this process. I fully acknowledge the Air Force will need to review the complaints that have been made. I hope they will move forward with the process quickly because it is a critical need. This Nation is really 8 or 9 years behind our timeline to get started with producing the aircraft. It is the No. 1 procurement priority for the U.S. Air Force. Many of the planes are 50 years old. I saw one being refurbished with a serial number of 1960 not long ago. The cost of operating these aircraft is rising.

I hope we can work through this process and make sure each bidder has a fair opportunity to bid. It is critically important that the Air Force treat all bidders fairly, that politics not interfere with the process, and that they select the best aircraft for the military.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to get back to the issue before us, the housing crisis. I thank Senators DODD and SHELBY for working so hard to reach compromise.

Here is where we are. I believe if you look at this recession many of our States are in—and there is an argument as to whether we are in this recession nationally—we know where it is coming from. The housing crisis is certainly a root cause. The speculation in the futures market, in oil, is definitely a root cause. We need to address both of those issues. That is why on this side of the aisle we had a very good package of bills to go after the speculators, to go after the manipulators of gas prices.

We will keep coming back until our colleagues recognize they can talk about drilling off the coast in pristine areas all they want—the truth is, the American people will see through that. Even if we were to do it—and I think it would be a disaster for our economy because those areas are dependent on a pristine coast—you are not going to see any impact on gas prices until 2030.

So what we need to do on the gas-price front is to confront the people who are speculating. We have heard numbers of up to about a third of the price of a barrel of oil being associated with the speculation. I also signed on to a letter. I thank Senator FRANK LAUTENBERG for his leadership. Eleven of us signed it, saying to the President that he should file a complaint with the World Trade Organization against OPEC for withholding supply. So there is a lot we can do. The President today could call for a quick investigation through the FTC, the Federal Trade Commission, on collusion and so on. But that is not happening. So at least we are, today, doing something very important, which is coming together, hopefully, to pass a bill that will deal with this housing crisis.

Look, I know I have talked to Senators DODD and SHELBY. In my State, we have a big problem. I am going to show you a little later with a chart where we are with foreclosures. So, of course, I would have liked to have seen even a stronger bill. But I know how hard it was for Senators DODD and SHELBY. Each had his own ideas of what had to be done. They came together, and I support what they have done.

I stood before the Senate about 2 months ago when we took up an earlier version of the bill, and I spoke about how California had more than triple the number of foreclosure filings in 2007 than in 2006. I am very sad to report that the situation is even worse today. I want to share with you what we see.

Foreclosure filings in California have skyrocketed over the last 41 months, rising from under 6,000 in January 2005 to 72,000 foreclosure filings in May—the highest monthly number yet and nearly double the number of a year ago. Last month alone, 1 in every 183 California households received a foreclosure filing—a rate that was 2.6 times the national average. Imagine, 1 in every 183 California households received a foreclosure filing—2.6 times the national average. As you can see—and this will go to the next chart; and I say to Senator DODD, I hope you have a minute to check this out—7 of the top 10 and 11 of the top 20 metropolitan areas with the highest foreclosure activity in the country are in California. This is where we are in California. Mr. President, 11 of the top 20 metropolitan areas with the most foreclosure filings in May are in my State. You see Stockton is No. 1, Merced is No. 3, and Modesto is No. 4—and it goes on.

This bill takes some important steps to address the crisis. It provides funds to purchase and maintain foreclosed homes, to prevent the cycle of blight from further lowering home values. It provides $4 billion for neighborhood stabilization through community development block grants for localities.

As a former county supervisor—that goes back a ways, but I well remember that the health of the neighborhoods depended on the homeowners. When the homeowners disappear because they cannot sell their home or they foreclosed on a home, the whole neighborhood begins to wither. This is a problem. So I believe this $4 billion that will go to revitalize our neighborhoods and stabilize them is very important.

It provides $150 million in additional funding for housing counselors. I held many open meetings throughout my State on this crisis, and the crying need was for housing counselors because somebody has to find out with whom they have their mortgage. Maybe it has changed four times. Maybe the mortgage was securitized. They do not have anyone to contact. We need these counselors to be on their side.

That funding in this bill will help as many as 250,000 more families work with their mortgage servicer or lender to find a way to keep their home. I know when you get people around the table who really know what is happening, we can solve a lot of these problems.

Third, the bill creates the HOPE for Homeowners Act, which authorizes $300 billion in FHA-backed loans to help families stay in their homes—at no cost to American taxpayers because of the way this will work.

These are all vital steps.

My big concern goes to the issue of the Nation's high-cost areas, of which California is one. We see there is a permanent increase in the loan limits for Fannie, Freddie, and FHA, but they are not as high as what was in the stimulus package. Although it is $625,000—it is a step in the right direction—we really should go back to the $729,000 we had under the economic stimulus package.

The loan limit for participation in the HOPE for Homeowners Program is set at $550,000. Given the concentration of foreclosures in high-cost areas, a higher loan limit for this program is essential.

I know this was an issue for Senator SHELBY, but I want to point out that in his State, I think the average price of a home is about $130,000—the average median home price—$130,000. That is way under other areas, particularly areas such as Florida, California, and Nevada.

Mr. President, I ask unanimous consent to have printed in the RECORD the States that would benefit from the higher loan limit.

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

STATES BENEFITING FROM HIGHER LOAN LIMITS

Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho.

Massachussetts, Maryland, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Nevada, Ohio, Oregon.

Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, Washington, West Virginia, Wyoming.

Mrs. BOXER. Mr. President, there are 28 States here. Believe me when I say, if we stick with the lower limits, a lot of people are not going to get the benefit. We are talking really about 97 million Americans who would be adversely impacted by the fact that we did not have a higher limit here. In California, 21 million people—more than half the State's population—live in 1 of 14 counties that have a median price so high, they do qualify for the higher $729,000 loan limits.

So I say to my friend, Senator SHELBY, please remember that borrowers in his State will have access to affordable mortgages, for loans well over 300 percent above the median home price. So Senator SHELBY's State is taken care of. But the States on this list, including California, Connecticut, Florida, Georgia, Hawaii, and Massachusetts—I could read this list—they are going to be in trouble with these lower limits.

Again, my State has 11 of the top 20 metropolitan areas in the country with the most foreclosure filings. Going back to this chart, I want to show Senator DODD what has happened here. We just keep going up in foreclosures. Now 1 in every 183 households has received a foreclosure notice in California. This is very serious. That is just in May.

This is why I am so pleased, I say to Senator DODD, you and Senator SHELBY were able to get as far as you did get. And you did get pretty far. You are doing some very important work here.

The dream of home ownership exists in every corner of America. I will tell my colleagues, I grew up in a family who never owned a home. We didn't own a home when I was growing up. We couldn't do it. But when I got married and I was able to save the money and get my first home, it was a moment I will never forget, the first day in that home, and I owned it for 40 years. I literally kissed the walls when I moved in. I raised my kids there. That home provided the stability for our family, and it provided the wherewithal for us to be able to get funds, refinance the house, fix it up. It grew along with our family. It was a wonderful investment for us. I want that for all Americans.

I don't want to help people who speculated. This bill doesn't do that. This has to be a home owner. I don't want to help people who thought they would make a quick buck. That is not what this bill is about. This bill is about preserving home ownership, helping communities.

I have to say, I know there is a lot of politics that is being played. This is a political year. But we have to set aside our partisan differences. There are Republicans who are having trouble staying in their homes, and there are Democrats who are having trouble staying in their homes. So we need to set aside our differences.

In this bill we also help with the low-income housing tax credit. So the changes in this bill are long overdue, and they are critically needed now. So no bill is perfect for any one of us. Each of us would have written it better for our own State. I indicated why it needs to be made stronger for my State. But am I going to support it? Yes, I am, because certainly it is moving in the right direction.

I thank Senator DODD again for the work he has put into this bill. We need it so badly in our State. I know how hard it was for him. I am happy to yield to him for a question.

Mr. DODD. I wish to thank our colleague from California. She is absolutely correct. Arizona, Nevada, Florida—there are States that are being affected, but no State is paying the price as much as California. It is the epicenter of this problem for many reasons.

Earlier this morning, I highlighted the growing problem, as the Senator from California has done with her charts. We are now averaging on a daily basis, I say to my colleague from California, 8,427 foreclosure filings in the country every single day. That is up almost—somewhere in the area of 1,000 more than it was 2 months ago when it was up to 7,500 or in that range. Now we are getting close to 9,000 every day for foreclosure filings.

The estimates are that when you get the resets that will be occurring on these adjustable rate mortgages coming in July or shortly after July, we will face another tidal wave of foreclosures coming. So the Senator's numbers, as bad as they are today, will be worse, quite candidly. So every day we wait, every day there is a delay, it is going to cost us dearly.

I can't guarantee our bill is going to solve every problem. All I can tell my colleagues is what we have done is listen to very good people. We have held 50 different hearings over the last number of months listening to people from the American Heritage Foundation, the Consumer Federation of America, and they all have come to this conclusion. So when people start telling me this is written for some special interest, believe me, if you have been to the 50 hearings and listened to people talk about this idea—one that we actually tried once before; a very similar idea back in the early part of the 20th century during the Great Depression is the last time we had a crisis such as this and it worked, and it made a difference in the lives of people and families.

I listened to the Senator's personal story, which is very moving. But what a difference there is today in our country that we have been able to make housing and home ownership available to so many more people and to watch it happen, and now watch this fall apart and what it does to neighborhoods and families and communities. There is nothing more stabilizing than the idea of having an equity interest in where you live.

So this is an issue that has far broader implications than just housing, but it is at the heart of who we are and the dreams that people have in this country. So it is very important we get this done. I thank the Senator immensely for her comments, as well as the data which she is supplying to reinforce this bill.

Mrs. BOXER. Mr. President, this list of 20 States—and I see my friend from Florida is going to speak—of course, is included in here. These are the States. It is 28 States—27 plus DC, to be exact—where we have very high-cost housing. We are very grateful that Senator SHELBY agreed to go over $600,000. Believe me, we need a little more boost. But we have to do this. We have to get it done.

I guess the reason I wanted to speak today is to not only thank Senator DODD and Senator SHELBY for bridging the partisan divide, but to say we cannot play politics with this subject matter. This isn't about some ideological issue; this is about people being thrown out of their castles—their home—and thrown into the moat, and it is about communities that then begin to wither. It is about local governments that begin to struggle. It is about crime rates that begin to go up. It is about dreams that are dashed and consumer confidence that goes down the tubes at a time when we are fighting off a broad recession and unemployment.

So I just hope—I don't know where this will lead. We haven't had much success in the past couple of weeks getting anything done around here. But I am hopeful that because all of us are hit by this that we will set aside the politics in this political year, we will leave it at the door, and for a few shining moments come together and get this thing going because I have read this bill. Would I have written it better? Yes. Would Senator DODD have changed it? Yes. Would Senator MARTINEZ? Absolutely. All of us would have done it our way. Senator SALAZAR would have done it his way.

We, Senator DODD and Senator SHELBY, have done some important things in this bill, and some things that are very straightforward. What impresses me the most is that they did build on the success of a program that America used years ago and wound up not costing any money. We actually make some money for the taxpayers. So this is a tried-and-true idea, and we need to try it again, just getting those counselors out there to sit down with the parties and find a person to talk to.

I was just saying while Senator DODD was in the cloakroom that I had five hearings myself around the State, and my staff did, and one of the biggest problems was that some people couldn't find out who to talk to. So when you have a counselor who has

that expertise, one out of two times, they told us, they solved the problem. So thank you again. I will be supporting this bill.

I would just say to my colleagues who aren't here, but to any within the sound of my voice, any amendments that will further this and make this a better bill, great. But if they are nasty, ''let's try to score political points'' amendments, I hope we will all have the courage to say no to those.

I yield the floor.

Mr. DODD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by our colleague from Florida, Senator MARTINEZ, Senator SCHUMER be recognized.

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

The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I wish to thank the Senator from California for her comments and concern. I wish to add my thanks on behalf of my constituents in the State of Florida to Chairman DODD and to Senator SHELBY for being the architects of this very fine bill that attempts to put a floor on what is a downward spiral that we are seeing of home prices and ever-increasing foreclosures.

The National Association of Homebuilders tells us that every week another 47,000 homeowners are going into foreclosure. That is a tragic figure, as the Senator from California was saying. I can recall during the past decade when each and every day we could see increasing numbers of Americans who were becoming homeowners, increasing percentages, particularly among minority families—African American and Hispanic families—who were tasting and grasping that dream of home ownership, and now we are seeing that dream erode and dissipate. If we can do something, if we can respond, then we must.

This bill attempts to do that in a very measured way—in an imperfect way, but in a way that I think moves us forward and allows the American homeowner to begin to feel a sense that they are getting a floor under them, and it allows the housing economy, which is so important to a State such as Florida—we begin to feel as if we are getting a little footing going.

There are some tragic stories of how we got here. There are a number of things that have happened in the lending world that highlight the problem. In one situation, a gentleman from Ruskin, FL, was approved for a $280,000 home despite the fact that he was making $12.50 an hour with a lumber company in Bradenton. Without his knowledge, the mortgage originator listed his annual income at $60,000 a year in order for him to qualify for the loan. Five months later, after moving into his new home, he defaulted on his subprime mortgage, depleted his savings, and now has a black mark on his credit and no home. His story is just one of many.

These stories are all over the country. There may be some parts of America that are untouched by this crisis, but I will tell my colleagues that Florida has been hit, and Florida has been hit hard. That is why I am so grateful this bill is finally on the Senate floor and that we are moving forward to act on it.

I agree with the Senator from California. We need to put partisanship aside and ideology aside. This is about getting something good done for the American people. If someone thinks they can make the bill better, that is why we have an open amendment process with amendments that are germane to housing, and that is how we should keep it. Let's hear your ideas.

Knowingly filling in false information is a crime, and it brings to light some of the flaws that we have had in our financial system, in our mortgage system. So this bill represents a good-faith, bipartisan effort to address this ongoing crisis.

There is help for America's struggling homeowners, there is reform of major Federal programs, and there are new ideas to help ensure that we don't find ourselves in a similar situation somewhere in the future. So I wish to thank Senator DODD, Senator SHELBY, as well as Senator BAUCUS and Senator GRASSLEY for working together on a package that I hope will have strong bipartisan support from the Members of the Senate.

One of the most important provisions to me in this package is regulatory reform of the government-sponsored enterprises. These are little-known entities—I came to know them in depth while I was at HUD—Fannie Mae and Freddie Mac and the Federal Home Loan Banks. They play an immense and critical role in our Nation's housing finance industry. They have to be strengthened. They have to be safeguarded. They are a treasure.

One of the questions that I always would be asked when visiting with foreign dignitaries as HUD Secretary was, How do you set up the government-sponsored enterprises? How can we replicate them in our country? So they are a national treasure, but all is not well.

It is important to note that when they have reached the point where they are financing more than 80 percent of all mortgages in the United States, which is up from 40 percent a year ago, and when we see that from time to time there has been some trouble in these entities, it is time for us to have a stronger and more forceful regulator.

GSEs have been a key to the stability and the liquidity of the mortgage market, but they are stretched. Both Fannie and Freddie continue to have financial and operational issues that heighten the need for strengthened oversight. As GSEs take on more risk, as Congress has allowed them to do, we have an obligation—and by the way, I believe it was appropriate to do that, but now we have an obligation since we did that to ensure they continue to fulfill their public mission in a safe and sound manner. GSEs have an obligation of more than $6 trillion in debt and securities. If their risks are not managed properly, or if market movements turn dramatically against them, the Federal Government could face a very serious situation. So we owe it to the American taxpayer—our constituents—who would be on the line in the event of a failure, to enact meaningful, comprehensive reform legislation.

A strengthened regulator is in everyone's best interests: The administration, the Congress, Wall Street, investors worldwide, and, most importantly, the American home buyer. I believe by strengthening this regulator that we will create a greater level of confidence in investors at a time when more capital and more liquidity is needed in these troubled financial times.

The importance of Fannie Mae and Freddie Mac in the housing financial system is simply undeniable. Real reform is necessary to ensure that the public understands these two companies can continue to make low-cost mortgage financing available to low- and moderate-income families. But we also have to do more than help temper the current situation. We have to ensure we don't find ourselves back here facing the same issues again in the future that we are facing today.

That is why Senator DODD and Senator FEINSTEIN and I have worked hard on an amendment which was accepted in committee—the Safe Mortgage Licensing Act—that addresses the loose patchwork of State regulation of residential mortgage loan originators. Our amendment is included in the provisions of title V, which is included in this package. It would help eliminate bad actors from the mortgage business.

I should say most mortgage brokers are decent, honorable people trying to do a good job each and every day, but there have been some bad players and bad actors in this arena. The act would create a national registry database and require brokers and lenders to meet minimum national standards which ensure that they are professional, competent, and trustworthy. Strong licensing standards for mortgage brokers and lenders are an important part of protecting consumers and restoring confidence in the marketplace.

There is another important component of this package, and that is the reform of the Federal Housing Administration, or the FHA. Congress created FHA in 1934 to help spur the housing market and increase home ownership. It was in another time when we were in a troubled financial situation.

It was after the Great Depression. It was one of the vehicles that moved America, particularly after the Second World War, into an ownership society. Instead of governmental loans or subsidies, borrowers purchased FHA mortgage insurance. Since the insurance mitigates a lender's risk, a lender can offer competitive mortgage terms to

borrowers who may have thin or imperfect credit, or little cash on hand.

Over the past 72 years, FHA has been a mortgage industry leader, helping over 34 million Americans become homeowners at no cost to the taxpayers.

I should add, in my own family, as an immigrant family, when my parents had only been here a little over 2 years, we grasped the American dream and owned our first home in America. It was insured and financed with an FHA-insured loan. I had no idea what it was at that time. All I knew was that it was an FHA loan that allowed us, with a very small downpayment, to get a 30-year fixed mortgage so we could begin to live the American dream. That is the historic role FHA has played throughout our Nation's history since 1934. It can play that role again today.

Prior to the FHA program, home buyers were required to have downpayments of as much as 50 percent of the purchase price. That is still true in many parts of the world today. In those places where ownership is still a distant dream, that is what it takes.

Financing consisted of 5-year interest-only mortgages. FHA made the low downpayment, 30-year fixed rate, self-amortizing loan the standard product in the United States. Unfortunately, in recent years, while the mortgage industry adapted to changes in the marketplace, FHA stayed the same, leaving a large number of home buyers with no option but higher cost, higher risk mortgages.

I remember when I was at HUD, each and every statistic we would get would show an ever-dwindling market share for FHA of all the mortgages being originated. For many minority and low-income first-time home buyers, the private market provided access to mortgage financing, but too often at excessive costs. We know today that the dream of home ownership has turned into a nightmare for too many Americans.

I have no doubt that many of the individuals in financial trouble today could have received lower cost loans with the help of the FHA, especially if the program had the flexibility to change with the marketplace.

The FHA reform provision included in this package will make much needed programmatic improvements, allow FHA to insure larger loans, and give FHA more pricing flexibility. These reforms will empower FHA to reach more families needing help—first-time home buyers, minorities, and those with low and moderate income.

With this legislation, we have built an even better program that complements conventional mortgage products and allows FHA to continue to serve hard-working, creditworthy Americans. This housing bill will go a long way in helping those suffering in the short term, and ensure our housing economy regains its strength in the long term.

Some of the detractors have said this FHA program will be some sort of a bailout to one mortgage company or another. The fact is this is a program here to help individuals. We should not get distracted with side issues. The fact is this program is inclined to help those families while, at the same time, working with the financial institutions. What we have today is—if we could create a situation where the home buyer could refinance, and where the bank doesn't have to go through with foreclosure—the bank doesn't want a house, they want a payment. They don't want to foreclose on the homeowner. If we could do all of this by using FHA, wouldn't that be a good thing? And then the bonus or the dessert on top of that good deal is the fact that we can now do this by utilizing the resources of Fannie Mae and Freddie Mac as a backup, creating this fund that will be there to help home buyers in the future. Today, in this moment, it is going to be there to safeguard and backstop the FHA program, to ensure that the taxpayers are not on the hook, but that homeowners are given a second chance to have a mortgage they can now afford, with the financial institutions taking a haircut. They will be taking a loss. This is no bailout. They will take a loss. Then the home buyer will have a mortgage that is more in keeping with today's market prices. This is a win-win situation that I am delighted we have been able to see come through in this housing bill.

I conclude by extending my thanks to Chairman DODD and Ranking Member SHELBY. I particularly thank the chairman for his courtesies throughout the process in that I have been given an opportunity to make an impact on a couple of issues relating to mortgage brokers, and so forth. I look forward to being of help in any way I can in the process of making this bill become a reality.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I return that compliment. To have a former Secretary of HUD as a member of the Banking Committee is a pretty good asset. When we talk about these issues, to have someone who ran that agency and knows these programs as intimately as Senator MEL MARTINEZ has been a great asset for the committee in developing this product. I will say this publicly. I am deeply grateful to him. Senator SHELBY is, as well, as are all of the members of the committee.

We have had an active and involved committee. The 21 members of the committee have been deeply engaged in this debate over the last year and a half, or more, as we have had some 50 hearings—most of which have been related to the subject matter—to gather the best information and advice we could get in developing the product we have here. The Senator from Florida has been a key element in doing that.

Mr. MARTINEZ. Mr. President, I thank the chairman. I have heard in recent days that this bill hasn't been seen, read, and that somehow there is mystery surrounding this bill. It has been through the committee process. There have been a number of hearings, as the chairman has discussed, on each of the components of this bill. We have had great testimony from all of the financial minds in this country. It is a bill that passed committee with a bipartisan vote of 19 to 2. There is no real mystery here. I realize minor changes have been made in the last couple of days. This is an open process. I hope we are not sidetracked with side issues having nothing to do with what is at stake—America's families who are hurting.

Mr. DODD. Mr. President, Senator SCHUMER was, by consent, supposed to follow Senator MARTINEZ, but the Senator had to attend another meeting. Let me ask my colleague, how long is my colleague from New Hampshire going to be?

Mr. SUNUNU. Four minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 4999 TO AMENDMENT NO. 4983

Mr. SUNUNU. Mr. President, I rise to offer an amendment. I ask unanimous consent that the pending amendment be set aside and that my amendment No. 4999 be called up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SUNUNU] proposes an amendment numbered 4999 to amendment No. 4983.

The amendment is as follows:

(Purpose: To amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan)

At the end of Division B, insert the following:

TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

SEC. 2701. SHORT TITLE.

This title may be cited as the ''Small Public Housing Authorities Paperwork Reduction Act''.

SEC. 2702. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN QUALIFIED PUBLIC HOUSING AGENCIES.

(a) IN GENERAL.—Section 5A(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended by adding at the end the following:

''(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

''(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a 'public housing agency' shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this sub-section.

''(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from

the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting 'the public housing program of the agency' for 'the public housing agency plan'.

''(C) DEFINITION.—For purposes of this section, the term 'qualified public housing agency' means a public housing agency that meets the following requirements:

''(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 750 or fewer.

''(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency.''.

(b) RESIDENT PARTICIPATION.—Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (e), by inserting after paragraph (3) the following:

''(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under sub section (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

''(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting 'the functions described in the second sentence of paragraph (4)(A)' for 'the functions described in paragraph (2)'.

''(f) PUBLIC HEARINGS.—'' and

(2) in subsection (f) (as so designated by the amendment made by paragraph (1)), by adding at the end the following:

''(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

''(i) to discuss any changes to the goals, objectives, and policies of the agency; and

''(ii) to invite public comment regarding such changes.

(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

''(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

''(ii) publish a notice informing the public that—

''(I) the information is available as required under clause (i); and

''(II) a public hearing under subparagraph (A) will be conducted.''.

Mr. SUNUNU. Mr. President, my amendment deals with affordable housing. This is a very large and complex piece of legislation. I know the members of the Banking Committee and the chairman and ranking member worked hard on this legislation. It deals with a number of government-sponsored enterprises that the Senator from Florida spoke about—the housing trust fund, tax credits to try to deal with housing inventories, and the affordability of housing.

I offer this amendment that addresses affordable housing in a slightly different venue, and that is the affordable housing supported and provided by housing authorities all over America.

My amendment reaches out to those housing authorities to help them do their job better, by reducing the amount of paperwork they have to deal with in doing their job of providing affordable and safe housing to people across America. We look especially at the smallest of the housing authorities, the ones that don't have enormous staff, or support groups, or an employment base to help deal with all of the Federal regulations we put on them.

This amendment says to the smallest housing authorities in the country, those with 750 or fewer housing units or vouchers that they manage, if you do a good job and are among the highest performers, not troubled, get the job done, perform well, and pass all of the HUD audits, you won't have to be required to submit a formal plan every single year. You still have to provide a 5-year plan, and you still have to meet all of the civil rights laws in compliance under HUD. But we take away that administrative burden of having to put together a plan every single year. That makes a difference and enables them to focus on their mission, reduce costs and their overhead, but at the same time leaves in place the core requirements that they continue to fulfill that mission effectively and comply with all of the requirements of HUD.

This is something that is strongly supported by the National Association of Housing and Redevelopment Officials. I worked closely with them in crafting this language, and I worked closely with the staff on the Banking Committee in crafting this language. They provided a good number of recommendations and suggestions.

Unfortunately, we have not had many vehicles dealing with housing to come before the Senate. That is why I think it is especially appropriate that we try to address this and take care of it now, before the Senate is consumed by other issues in the months ahead. We have a great opportunity to take a common sense step that is supported by housing authorities across the country.

I ask my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, yesterday I was here on the floor and I shared with my colleagues news about work that Senator VOINOVICH and I and others have done to reduce the diesel emissions that come from the approximately 11 million diesel engines across the country, causing tens of thousands of premature deaths from asthma and cancer and other diseases because of those emissions. I talked about how a number of us working together, Democrats and Republicans, in the Senate and in the House, cobbled together legislation that would have a positive affect in reducing the health threats from these emissions.

Today we bring up for consideration another piece of legislation. It is not designed to save lives, but it is designed to make the quality of life better for people in this country, to make sure people who might otherwise not have a decent place to live, might lose their home in which they now live, or they might have a chance to retain that home, or maybe to obtain a home they never otherwise would have had.

One of the things I like especially about this legislation is it was developed in the same bipartisan way that Senator VOINOVICH and I worked on the Diesel Emission Reductions Act. We have legislation here that the chairman of the committee, Senator SHELBY, their staffs, and our staffs have worked on for months to bring to fruition. Also, it involves the great and important input of the administration, the Federal Reserve, and other bank regulators.

If you go back about 2 months ago, in April of this year, the Senate passed what we call the Foreclosure Prevention Act of 2008. At the time, I spoke on the floor about how that legislation was, as I described it, the third act of a four-act play that would hopefully begin to bring economic recovery following this mortgage meltdown.

From time to time in this country, our economy goes through a bubble of one sort or the other. Before another one happens, we have to go maybe 10 years. We experienced the telecom bubble during which the market soared, and not for any good reason—maybe irrational exuberance. Eventually, the values plummeted down to something more reasonable. We went through the housing bubble, where the housing has gone up, and it is hard to explain it as anything but irrational exuberance. That bubble has now collapsed, and we are looking for the bottom and for the market to stabilize property values. We are trying to make sure we get to the bottom quickly, that we maintain the banking system, that we help neighborhoods where there are foreclosed homes, which creates a blight in the community, and to try to ensure that people in an upside-down mortgage situation, where the cost of the mortgage is higher than the value of the home, don't walk away from their homes and create a further blight in their communities.

I have a couple of charts I want to show, you if I may. This refers to the four-act play. Act I stars the Federal Reserve, Ben Bernanke and the folks he works with. Act II, the stimulus package we took up and debated here earlier this year; act III, the Foreclosure Prevention Act that we passed about 2 months ago here in the Senate by a very wide margin; and act IV is legislation that has been reported out of the Banking Committee, I want to say by about an 18-to-2 vote a month or so ago, under the leadership of Senators DODD and SHELBY. Among other things, that provides for a strong, independent regulator for Fannie Mae and Freddie Mac, which are heavily involved in making it possible for people to become homeowners, and also addresses the issue we are having now where the mortgage of a home is greater than the value of the home for which the mortgage is held. So that is the four-act play, and I want to maybe talk about each of those and a couple of them in more detail.

I have been around for a while. In talking about act I, I have never seen the Federal Reserve do the kinds of extraordinary things they have done this year to help us avoid a recession, or if we are to have one, to make sure it is shallow: dramatic moves in reducing the Fed's fund rate; encouraging or taking away the stigma for financial institutions, commercial banks, as well as noncommercial banks, investment banks, to use the discount window; serving as the marriage maker, if you will, between JPMorgan Chase and Bear Stearns as it was about to go down to ensure it didn't fail—just a whole series of extraordinary things—swapping out mortgage-backed securities that banks are holding that are highly illiquid and exchanging in place highly liquid U.S. Treasuries. Those are all things the Fed has done. We have seen them do one or two of those during the course of an economic cycle, but to see all four or five steps within a span of a couple of months is extraordinary, and I give them high marks for what they have done in act I.

Act II was the action taken by the Congress to pass the economic stimulus package earlier this year. While the economic stimulus package was not perfect, probably not the one the Presiding Officer or I would have designed, it was, to its credit, targeted, it was timely, and it is temporary. Right now, it is helping to bolster our economy, and we expect it to add maybe 1 to 1½ percentage points to our gross domestic product.

Act III was the Foreclosure Prevention Act that we passed back in April by an overwhelming majority. I think it passed something like 84 to 12. That bill included a number of important provisions, including making sure more counselors are available to help folks who are sliding into a tough spot, maybe thinking about walking away from their homes, going into foreclosure and losing their homes. We said: We are going to make sure, by allocating $100 million, there are enough trained counselors out there to truly respond to people who need help. So that was part of that legislation. In that legislation, we also helped local communities deal with properties that were foreclosed on or abandoned.

We took the Federal Housing Administration, FHA, which has been around for 75 years, and we made it relevant, if you will, for the 21st century. If you go back 5 or 6 years, something like 15 to 20 percent of mortgages in this country were FHA guaranteed. FHA was created to help first-time home buyers become homeowners and to help folks who had marginal credit strength become homeowners as well. In the last year or so, we didn't have 15 or 20 percent of the mortgages being FHA guaranteed or insured mortgages but maybe 5 percent. What has happened in recent years is people who would maybe at one time have used FHA to become a homeowner instead ended up relying on these exotic adjustable rate mortgages—maybe no downpayment, low interest, or teaser rates to begin with and which balloon up to much higher rates which are hard to get out of, and they then get stuck there and it is difficult to refinance out of. We want to make sure people don't buy their homes with those kinds of financing vehicles and they go back to the plain-vanilla or FHA insured mortgages, 30-year fixed-rate mortgages in many instances. The legislation we passed 2 months ago does just that for the FHA.

Act IV is our effort that is currently underway here today to permanently overhaul the regulation of our government-sponsored enterprises, Fannie Mae and Freddie Mac, which are heavily involved—and I will explain in a minute just how they are heavily involved—in making it possible for people to own their homes. At the same time, we want to help homeowners be able to refinance into affordable FHA mortgages as they are running into difficulties in their own lives.

I think the bill that is before us today, the Housing Economic Recovery Act, truly is a comprehensive effort to address our Nation's housing problems.

For many years, unscrupulous lenders paid no attention—I shouldn't say for many years—in recent years, unscrupulous lenders have paid little or no attention to a potential homeowner's credit history for making their mortgage loans. Home buyers—both knowingly and unknowingly—were given mortgages they could never realistically expect to repay. One might ask why. The answer in part lies in the fact that the financial sector has become increasingly complicated. Today, a mortgage is made, really, in the blink of an eye. The mortgage is bundled with others and sliced into tiny pieces known as ''tranches.'' Wall Street readily buys these mortgages, bundles them together as mortgage-backed securities, and sells them to investors around the world. As long as home prices continued to rise, there was very little risk to the lender, and for years home prices have continued to rise—until now.

In the past, homeowners could always refinance their home and sell it for a profit and pay off their debt. When home prices began to lag, though, a vicious cycle began to emerge, and many of these so-called subprime customers have defaulted on their loans, and homes prices, as we know, have fallen drastically over the last year in many places around the country, eliminating the option to sell for a profit. As a result, the financial institutions and investors are losing billions of dollars and the private secondary mortgage market is in shambles.

Communities are also hurt by home foreclosures. Houses that have been abandoned attract crime and further drive down the home values in their neighborhoods. Homeowners trying to refinance are now finding themselves in an upside-down situation where they owe more than their house is worth. Foreclosure is now more than possible, it is probable for a lot of those homeowners. We have seen hundreds of thousands of people in this country in recent months literally just walk away from their homes. In fact, there is a company called Just Walk Away, designed to actually help people walk away from their home and leave it in foreclosure.

In February of this year, the Senate Banking Committee held a hearing on the state of our Nation's economy, and there were a number of witnesses there—Secretary Paulson, Federal Reserve Chairman Bernanke, and Securities and Exchange Commissioner Cox. All gave testimony on the problems facing our economy because of this housing crisis.

At that hearing, I asked Treasury Secretary Paulson to list the administration's top legislative priorities for dealing with the housing crisis, and the Secretary's response was unequivocal. He was very clear and very direct in his response, and this chart really summarizes it.

He said, first of all, the administration wants housing authorities around the country to be able to issue tax- exempt revenue bonds, not just for first-time home buyers or for multifamily housing but to issue tax-exempt revenue bonds to raise money to help people in desperate situations refinance out of a subprime mortgage and get into something that is better suited for them.

The second thing he said is: We want FHA to be modernized and streamlined and brought into the 21st century so it is relevant again and can help people with questionable credit or maybe people who are fist-time home buyers.

The last thing he said is: We need to overhaul the way we regulate Fannie Mae and Freddie Mac, with a strong, independent regulator, much as our banks have strong, independent regulators. We need that kind of regulator

at Fannie Mae and Freddie Mac and for the Federal Home Loan Banks.

The next thing I wish to do, if I can, is to look at this chart.

One of the other elements of the legislation we passed back on April 10, which was bundled together with the legislation I just described from the last chart, was to move FHA into the 21st century and provide $150 million for mortgage counseling.

We have probably seen on television commercials that say: Having trouble on your home, facing foreclosure, whatever, or facing bankruptcy? Call this number. You always wonder: Is that the number of a scoundrel, somebody unscrupulous, or somebody who will really help the person who is in distress? We are providing through this legislation about $150 million for someone to actually be there to help when the phone rings. At the other end of the line will be someone who is a trained housing counselor who can answer questions and help a person avoid foreclosure and possibly losing their home.

Finally, we provide in this legislation something like $4 billion for CDBG, community development block grants, so that State and local governments, city governments, can help take properties in foreclosure that are really decaying in a neighborhood and damaging the value of the whole community—we want counties and cities to actually buy those properties, fix them up, and get them sold and back into the marketplace so they can get a homeowner in that home.

The last thing I wish to mention is that this housing package we are passing goes even further and creates a new voluntary program within FHA to help those folks who are in an upside-down mortgage situation where they owe more than the house is worth. What our legislation calls for is something we call HOPE for Homeowners, where a number of people are asked to take a financial haircut—not a real haircut but a financial haircut—where homeowners are willing to take a little financial haircut and the lenders and investors as well voluntarily take a financial haircut. In return, the homeowner agrees to stay in the home and then share the appreciation in value, when the value of the home rebounds, with the FHA.

This program is not intended to bail out investors or borrowers. Let me be clear: The Federal Government should not be in the business of rewarding bad behavior. We don't want to do that, and this legislation does not do that. The goal of this program, the HOPE for Homeowners Program, is to help families who can stay in their homes to stay in their homes rather than give up and walk away. We are not going to get rich doing this, but hopefully they will still have a roof over their heads and a little bit of equity in the home they have purchased.

The last thing I want to mention is in terms of regulation of Fannie Mae and Freddie Mac and the Federal Home Loan Banks. They are involved in raising trillions of dollars to finance home mortgages—trillions of dollars. We have strong, independent regulators of financial institutions, thrifts, credit unions, and large bank holding companies, and for the most part they are not nearly as large as Fannie Mae and Freddie Mac, and Fannie Mae and Freddie Mac don't have a strong and independent regulator. They need one, and with this legislation, they are going to get one. The new regulator will have the power to establish capital standards to manage the portfolio of these entities—these behemoths—to review and approve, subject to notice and comment, new product offerings.

For the last few years, I have worked tirelessly with many of my colleagues, including CHUCK SCHUMER—who is sitting right behind me—Senator MEL MARTINEZ, and others, to establish a new world-class regulator for the housing GSEs. We have come close a couple of times, but each time we had to let a few differences stand in the way of our progress. Today, we actually made progress and put in place a strong, independent regulator as we face an uncertain future.

The last thing I wish to mention—and I know I said that once before, but the last thing I especially like about what we do, in addition to providing a strong, independent regulator for Fannie Mae and Freddie Mac, is we require them to establish and to begin contributing into an affordable housing fund.

Some of you know that we have these 12 Federal Home Loan Banks around the country. They raise money that can be used by banks in housing and business to help finance housing construction and purchases. Every one of the Federal Home Loan Banks has a requirement under the law to commit to donate 10 percent of their net income into an affordable housing fund. That filters back into the community, and it leverages a lot more money to help first-time home buyers and multifamily housing. Fannie Mae and Freddie Mac don't have that requirement to contribute to a housing fund. With this legislation we are passing this week, Fannie Mae and Freddie Mac will have that requirement. The amount of money that it will generate in a year, probably a couple years down the road, a half billion dollars a year—twice as much as is generated by the affordable housing fund by the Federal Home Loan Banks. That will be a wonderful tool for us to use in our communities.

I think that is pretty much what I wanted to say. I know my friend Senator SCHUMER is behind me and anxious to say his piece too. So I will just close by saying that with respect to the cost of the bill, I am concerned about paying for things, making sure if something is worth doing, we pay for it. The tax provisions in this bill are not completely offset. Mostly they are, but they are not completely offset. I think there is a shortfall of about $2 billion. We are supposed to be living under the pay-go rules we adopted and put in place in the Senate last year—emphasis on ''supposed to.'' In a tax package such as this one, where the intent was to pay for the new home-buyer credits and other matters, we should have stuck to our principles and found the necessary offsets to pay for these tax breaks or simply scaled them back. Unfortunately, we fell short in that regard. Certainly I don't blame the chairman, who knows what we ought to do and need to do, as do I. That is simply not the jurisdiction of our committee. In the whole package, I suppose that is the one disappointment I have, and my hope is we will come back and fix that later.

Overall, though, this is great legislation. This is great legislation. This will mean real progress in a responsible way, and our chairman deserves great credit, as does Senator SHELBY and our staffs.

I say to my friend Senator DODD that I spoke to the majority staff, the Democratic staff, yesterday in the cloakroom. I sit on the Commerce Committee, among other committees, and we have great staff there, especially at the committee level, and I want to say that this year our majority staff and I think our minority staff have really showed what they are made of, and we will all benefit from that as a nation. So my hat is off to you, our leader, and to our the staffs.

Mr. President, to reiterate, in April, the United States Senate passed the Foreclosure Prevention Act of 2008. At that time, I spoke right here on the Senate floor about how that legislation was the third act in a four-act play that will begin to bring economic recovery following the mortgage meltdown.

Act I was the actions taken by the Federal Reserve to keep interest rates low and provide liquidity to the markets.

Act II was the action taken by Congress earlier this year to pass the economic stimulus package. While our economic stimulus package was not perfect, it was targeted, timely and temporary, and right now is helping to bolster our economy.

Act III was the Foreclosure Prevention Act of 2008 that just passed in April by an overwhelming majority of 84 to 12. This bill included important provisions to provide counseling to Americans facing foreclosure; to help local communities deal with properties in their neighborhoods that are abandoned or foreclosed; and to reform the Federal Housing Administration so that more Americans have access to affordable, safe, government-backed loans.

Act IV is our effort currently underway here to permanently reform the regulator of the government sponsored enterprises—Fannie Mae and Freddie Mac—and to create a program that will help homeowners refinance into a safe, affordable FHA mortgage.

The bill that is before us today, the Housing and Economic Recovery Act, is truly a comprehensive effort to address our nation's housing problems.

For many years, unscrupulous lenders paid no attention to a potential homeowner's credit history when making their mortgage loans. Homebuyers—both knowingly and unknowingly—were given mortgages they could never repay.

Why?

The answer, in part, lies in the fact that the financial sector has become increasingly complicated. Today, a mortgage loan is made in the blink of an eye. The mortgage is bundled up with others and sliced up into tiny pieces—known as tranches. Wall Street readily buys these mortgages, bundles them together as mortgage backed securities and sells them to investors around the world.

As home prices continued to rise, there was very little risk to the lender. The homeowner could always refinance their home or sell for a profit, paying off the debt.

When home prices began to lag, however, a vicious cycle began to emerge. Most of these so-called subprime customers have defaulted on their loans and home prices have fallen drastically over the past year, eliminating the option to sell for profit. As a result, financial institutions and investors are losing billions of dollars and the private, secondary mortgage market is in shambles.

Communities are also hurt by home foreclosures. Houses that have been abandoned attract crime and further drive down the home values in the neighborhood. Homeowners trying to refinance now find themselves ''upside down''—owing more than the home is worth. Foreclosure is now more than possible, it is probable for many homeowners.

In fact, there are companies that now specialize in teaching homeowners how to just walk away from their home.

In February of this year, the Senate Banking Committee held a hearing on the state of the Nation's economy. Treasury Secretary Paulson, Federal Reserve Chairman Bernanke and Securities and Exchange Commissioner Cox gave testimony on the problems facing our economy because of the housing crisis.

At that hearing, I asked Secretary Paulson to list the administration's top legislative priorities for dealing with this housing crisis. The Secretary's response was unequivocal:

Congress must allow communities to issue more mortgage revenue bonds, modernize the Federal Housing Administration and give the government sponsored enterprises a new regulator.

I am pleased that this bill before us today addresses each and every one of the administration's priorities.

First of all, we would allow the issuance of an additional $10 billion in mortgage revenue bonds to be used not only for first-time homebuyers and low-income housing, but also to help homeowners refinance out of a subprime mortgage.

This bill also contains the FHA modernization provision, passed in the Foreclosure Prevention Act, earlier this year.

This bill brings the FHA into the 21st century by expanding the maximum FHA loan limit from $360,000 to as much as $625,000 in high-cost areas. This bill also streamlines and automates the process to apply for an FHA loan, making it easier for American families to have access to safe government guaranteed loans.

Along with these steps, the bill includes $150 million for housing counselors across the country, and almost $4 billion in community development block grants to go to communities hardest hit by the foreclosure crisis.

The Housing and Economic Recovery Act goes even further to create a new voluntary program within FHA to help homeowners in ''upside down'' mortgages to refinance into a safe, affordable FHA mortgage.

Under the new Hope for Homeowners program, lenders agree to take a loss and allow a homeowner to refinance into a new loan. In return, the homeowner agrees to share any future appreciation with the FHA.

This program is not intended to help bail out investors or borrowers. Let me be clear: The Federal Government should not be in the business of rewarding bad behavior.

The goal of this program is to help families who can stay in their homes, remain in their homes rather than give up and walk away.

The Housing and Economic Recovery Act also provides assistance to the secondary mortgage market by reforming the regulator for the government sponsored enterprises—often called GSEs—which are made up of Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.

Today, Fannie Mae and Freddie Mac are regulated for safety and soundness by the Office of Federal Housing Enterprise Oversight. The Department of Housing and Urban Development is the mission regulator.

Since its creation, the Office of Federal Housing Enterprise Oversight has lacked the same regulatory powers and authorities of the other banking regulators. This bill provides the new regulator with all of the tools needed to ensure that the enterprises and the Federal Home Loan Banks operate in a safe and sound manner that is consistent with their statutory mission.

The new regulator will have the power to: establish capital standards; manage the portfolio; review and approve—subject to notice and comment—new product offerings.

For the last few years, I have worked tirelessly to establish a new world class regulator for the housing GSEs. We have come close several times, but each time we would let a few differences stand in the way of progress.

In addition to creating a new world class regulator, this bill also creates an affordable housing trust fund. This fund will generate hundreds of millions of dollars each year to be used to create safe and affordable housing for those most in need.

The Federal Home Loan Banks already set aside 10 percent of their profits to go to affordable housing. Fannie Mae and Freddie Mac will now also contribute a small amount of each new business deal to create this new trust fund.

Both Senator DODD and Senator SHELBY have done a very good job reaching a compromise on this bill. I know it is not easy. And like most compromises, this one is not exactly perfect.

If I could, I would just like to take a minute or two to express some concerns I have about the final product. First is an issue many of us have raised, and that applies to the enactment date in the bill for the new GSE regulator. Under this legislation, the director of the Office of Federal Housing Enterprise Oversight would have all the supervisory powers immediately after the bill is signed into law.

Under the GSE bill the House passed, we would allow 6 months before the new regulatory agency is created. To me, a 6-month cooling off period, in order to give the new agency time to transition, makes sense.

Also, it can be argued that there is a bias against the GSEs holding mortgages on their portfolio. While we want to make sure that the GSEs are not taking on undue risk, we should also be mindful that current market conditions require the GSEs to take a more active role in ensuring liquidity in the market. Today, they can only do that by purchasing mortgages and holding them in their portfolios.

Another concern that I have is the cost of this bill. The tax provisions in this bill are not completely offset and there is a shortfall of approximately $2.4 billion. We are supposed to be living under pay-go principles in the Senate. Emphasis on ''supposed to be.'' On a tax package such as this one, where the intent was there to pay for the new homebuyer credit and other matters, we should have stuck to our principles and found the necessary offsets to pay for these tax breaks or simply scale them back. Unfortunately, we fell short.

Having said all that, I believe that, overall, this legislation will help to bring stability to our economy and make the changes to our regulatory structure to ensure a healthy housing sector for the future. I have worked hard for years on elements in this final housing legislation and I am hopeful they will become law soon.

Mr. DODD. Madam President, before he leaves the floor—I will recognize Senator KOHL and Senator SCHUMER. Senator SCHUMER is on the floor. We heard from Senator MARTINEZ and others.

This doesn't happen miraculously. Senator CARPER has been deeply involved and committed to these issues for a long time. There was a while when I couldn't see him without ''GSE'' being the first thing out of his mouth.

I thank him for his persistence over the months when we developed this final product, and I thank him immensely for his work.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Wisconsin is recognized.

AMENDMENT NO. 4988 TO AMENDMENT NO. 4983

(Purpose: To protect the property and security of homeowners who are subject to foreclosure proceedings)

Mr. KOHL. Madam President, I ask unanimous consent to set the pending amendment aside and call up amendment No. 4988.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] for himself, Mrs. LINCOLN, Ms. MIKULSKI and Ms. COLLINS, proposes an amendment numbered 4988 to amendment No. 4983.

Mr. KOHL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. KOHL. Madam President, today I rise to briefly discuss my amendment No. 4988, which is cosponsored by Senators COLLINS, LINCOLN and MIKULSKI.

In February, I held a revealing hearing in the Aging Committee that uncovered the ways scam artists prey on homeowners in financial and emotional distress. These scams are a consequence of the mortgage crisis that is plaguing our country—and my amendment attacks this growing problem.

For most people, their home is their greatest asset. When a homeowner falls behind in their mortgage payments, it is a great emotional strain. Scam artists prey on an owner's desperation and give them a false sense of security, claiming they can help ''save their home.'' The types of scams vary, but the end result is that the homeowner is left in a more desperate situation than before.

There are three types of prevalent scams. The first is ''phantom help,'' where the ''rescuer'' claims that they will call the homeowner's lender and renegotiate the loan for a fee. Often the homeowner will pay the fee—but the ''rescuer'' will abandon the homeowner without any intervention. The second is a ''rent-to-own'' scheme which is set up to fail. A homeowner will sign over the title of the house and make monthly payments to the scammer in order to help rebuild their credit. However, the monthly payments are extremely high and often result in the homeowner violating the contract and being evicted. Finally, a homeowner may be tricked into unknowingly signing over the title of their house and power of attorney to the scammer and the scammer will then sell the house to a third party. The scam artist might give the homeowner a small amount of money, but often only a fraction of the actual selling price.

As you can see, these scams are well crafted and extremely complicated. Catie Doyle, the chief attorney for Legal Aid Society of Milwaukee, testified before the Special Committee on Aging, describing the difficulties and problems lawyers are facing when trying to help victims of these scams. One major problem she pointed out was that lawyers have to piece together both State and Federal laws to untangle these scams.

The amendment I am offering will remedy Ms. Doyle's concerns. While there are some States that have foreclosure rescue scam laws or are in the process of enacting them, many homeowners still go unprotected from these predators. This legislation will require that all contracts between a foreclosure consultant and a homeowner be in writing and fully disclose the nature of the services and the exact cost. Additionally, the bill prohibits upfront fees from being collected and prohibits a ''consultant'' from obtaining the power of attorney from a homeowner.

I have a letter of support from a variety of consumer groups including the Center of Responsible Lending, Consumer Federation of America, National Community Reinvestment Coalition, the National Fair Housing Council, National Consumer Law Center and the National Council of La Raza.

The foreclosure crisis is devastating homeowners and communities across the country. Most communities across the country are experiencing both the primary and secondary effects. It is important that we address fraud at the front end of the lending process, as well as for those who face foreclosure. I hope that we can work together to move this amendment forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Madam President, I rise in support of this much-needed legislation. I find it difficult to believe that with our economic crisis, the President issued a veto threat today. I would like to explain why the bill is good, why it is needed; there are some changes I would like to see made; and then talk a little bit about the President's veto threat.

First, I commend Senator DODD and Senator SHELBY for working so long and hard on this bill. This is not an easy bill, particularly when you have so many different concerns and considerations. I know how hard the chairman worked on this bill. I know how hard Senator SHELBY did. They were wide apart in what they believed in. They came together in the middle with a compromise that is a very good step forward.

There are parts of this bill that are extremely important. The foreclosure counseling—this is something I have been championing for a long time. We need counselors. For about half of those who are about to go into foreclosure, or will be delayed in their payments, a mortgage counselor could be the difference between them saving their home and losing it; between the neighborhood going down the drain or staying decent; even between our economy going into a deep recession or on the edges of one—the way it is now.

We need these counselors. They are not expensive. They do a world of good. They take the place of the banker who used to be on the scene when banks held mortgages. The CDBG money is extremely important. We have communities in Queens and Long Island and particularly in upstate, places such as Buffalo and Rochester and Syracuse, where neighborhoods have a tough go. You get a few foreclosed homes that are abandoned and then vandals come in and rip out the plumbing and the electric parts. Then drug dealers come in and make these a haven for crime. One foreclosed home can have the whole neighborhood go down the drain.

In the suburbs, a foreclosed home may not have those consequences, but it certainly can mean a difference in the values of the home on the surrounding block or the surrounding area going up or going down. For so many Americans, their home is their little piece of the rock; it is all they have. They put all their sweat equity in it. For no fault of their own, because somebody else lost their home on their street or in their neighborhood, they should not have to lose value. CDBG will help deal with that.

We also have in this bill mortgage revenue bonds. I am very proud of the way these have been crafted. It is $11 billion to refinance subprime loans for struggling borrowers. There is a recycling provision. It is very important to my State, where we use our mortgage revenue bonds very quickly because there is so much need.

The HOPE for Homeowners Act—again, it is not going to save everybody. But for the people who are underwater but not so deeply underwater, this is a lifesaver. It basically says to them: You can refinance your mortgage at a lower rate. It says to the mortgagor, you are going to get repaid, not everything but at least most of what you put in. It is not a panacea. In my point of view, it would be a lot better to have the bankruptcy provision here as a club to get the lenders into these, to use these provisions. But it sure does a lot more good than not doing anything at all.

Of course, there is FHA modernization, which we have been seeking for a long time—GSE modernization and reform which creates, for the first time, a world-class regulator. We are going to need Fannie and Freddie in future years. We have to have them both be safe and sound and flexible. They

should not be just private government agencies and only do the same thing banks do but with the Government imprimatur. On the other hand, they cannot, because the Government is behind them, do anything they want, be reckless or lose their capital.

The reform creates the right balance. I am proud of the reform. It raises capital requirements, it puts a regulator in who can go in and look over their shoulder—which they need. But at the same time, by and large, it preserves the flexibility that Fannie and Freddie need to fill the hole between the private sector and what the Government does—and they do it well.

In addition, we are going to need Fannie and Freddie to be strong because right now they finance about 80 percent of the mortgages in this country. We are going to need them to be strong to help us get out of this crisis. To veto this bill when we need them so badly is almost—it edges toward irresponsibility.

Finally, the Affordable Housing Fund—to help those who cannot on their own achieve the dream of owning a home but who struggle so mightily to get there. My colleague from Rhode Island, JACK REED, has done a masterful job, persistent, knowing when, and cut his deal at just the right time.

It is a good bill. I have two concerns where I agree with the House, frankly. I say to my good colleague from Alabama, who I know has differences on these, that the House—and many of us on this side of the aisle—are of a different mind than he. I hope we can compromise this quickly.

First, the effective date. It is unheralded, when you have a major change in the law with a new regulator, to say the effective date is immediate. You need time. More important, I am worried that because this regulator, while he is great on safety and soundness, doesn't like Fannie and Freddie very much and will go too far in the regulations and tie Fannie and Freddie's hands for a very long time way on into the future, with unintended consequences of which we are not aware. To give the new powers to the new agency overnight, with no time to establish itself or prepare, particularly when you have someone who would be in charge who does not—at least share my views on how Fannie and Freddie ought to function, is a bad idea.

I hope when we meet with the House—I have spoken with Chairman FRANK and he agrees with our side—I hope he, Senator SHELBY, will realize how strongly some of us feel.

Second is the idea of Fannie being able to securitize. There is language on the portfolio regulation that could unnecessarily restrict the portfolio business of the GSEs by creating a bias toward securitization. If Fannie and Freddie want to hold some of these mortgages, they should—particularly now, when the securities market is either nonexistent or weak and fragile and in some places hard to find. I hope we can address this issue as well. I do not understand why we would not allow Fannie and Freddie to hold mortgages; why we put such an impetus on them to securitize when the security market is weak.

If this provision stays in the bill as is—there is a debate. I know some believe it has more flexibility in it than I do. But, if—if, if, if—I am right, it could actually handcuff Fannie and Freddie in their role of rescuing us out of this housing crisis at a time when they are very much needed.

AMENDMENT NO. 4984

Finally, I wish to take a moment to address an amendment filed by my colleague from North Carolina. While I respect her intentions, I oppose the Dole amendment, which would unravel the strong agreement the New York attorney general reached with the GSEs on appraisal standards. Inflated appraisals are one of the prime causes of the housing crisis. To allow banks to own appraisers without anyone looking over their shoulder is a built-in conflict of interest. We should not do that. I hope we will not.

Finally, on the President's veto message—this President is further and further removed from the economic realities of this Nation. To veto this bill at a time when housing is at the nub of our economic crisis—at a time when housing prices are declining, at a time when foreclosures are increasing—makes no sense whatsoever. It seems the President is on a different economic planet than most Americans because, even if you do not hold a mortgage, even if you fully paid your mortgage, you are being hurt by this economy where foreclosures are rampant and housing prices plummet. The ripple is outward—people buy less, people vacation less, people have less money and feel less free with it. The vise of high energy prices and declining home values cripples our economy.

Here we have a bill passed 19 to 2 out of the Banking Committee, broad bipartisan support, and out of the blue the President issues a veto threat. What is going on here? Which economy is he looking at? It is appalling. In his veto message, there is language and there are things that contradict what his own Secretary of Treasury has said about portfolio loan limits.

I think the veto message indicates the ambivalence within the administration because it is not as strident and even as forthright as many are. But, unfortunately, the ideologues won out. The ideologues say: No government involvement. Let everyone learn their lesson even if the economy, people's savings, their whole lives, and their home goes down the drain.

What kind of thing is that? Maybe that was the predominant thinking in 1893 but certainly not in the America of 2008.

I say to my colleagues, if they want to know one of the reasons the President is so unpopular and why so many Americans think the country is headed in the wrong direction, it is because he threatens to veto a modest bipartisan piece of legislation such as the one Senator DODD and Senator SHELBY have put together.

It defies understanding. I have always believed when ideologues run the show on the far right or far left, we lose. In this case, with this veto message, it feels as though the ideologues have started running the show, and homeowners, neighborhoods, communities, and our country's economy will suffer from that wrongly held belief.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Madam President, let me begin by saying that I am delighted we are on the floor of the Senate today addressing this question of housing. I congratulate the chairman, Senator DODD, on a long effort over several months to be able to try to get the response the Senate ought to be providing to what is an obvious crisis in the country.

I think a lot of people in the country have to be scratching their heads and wondering where the Congress has been on this matter, where Washington has been, and where the administration has been. I know it is particularly frustrating to the chairman and to many of us. Way back in January, I recall going to the White House for a meeting on the question of a stimulus package and saying to the President: Mr. President, the obvious crisis is in housing, and you cannot address it and stem the hemorrhaging with respect to the American economy unless you deal with the cause, which is the subprime crisis.

I remember Secretary Paulson was there, Vice President CHENEY, and others. Heads nodded in a kind of consent. Then the President proceeded to go to the State of the Union Message and call in his State of the Union Message for the mortgage revenue bond proposal.

Still, here we are now in June, and we do not have an adequate response at the Federal level to the housing crisis from the Congress. We have had some responses by lowering interest rates. But, the fact is, you pick up the paper and see there were record levels of mortgages in foreclosure in the Washington area and in other parts of the country. As we all know, when that happens to a community, it is not just a few houses, it is not just the families directly impacted by virtue of foreclosures, it is the entire community. When a street has a group of foreclosures on it, the housing values all around start to go down. The local pharmacy gets hurt, the gas station gets hurt, the 7-Eleven gets hurt, the police wind up having to patrol more because they have more homes that are then on the market. The real estate market becomes glutted.

So the downstream implications are gigantic. In Boston, Mayor Menino and

I sponsored an afternoon in Roxbury where families were invited to come in. We finally got them to be able to sit down with a human being. They had been telephoning and going through 10 or 15, ''push 5,'' ''push 3,'' ''push 2,''. A consecutive series of pushing buttons and they were exasperated because they could not talk to someone to get answers for their individual situations.

So we got the 10 biggest lenders to come in and sat them down with these people over the course of a day. During the time that I was there, I actually had people come up to me with huge smiles on their faces and saying: Thank you. I just cut a new deal. I am staying in my home. They were able to go from a 13-percent interest rate—think of that, 13 percent. I would like to know what CEO of a company in America was paying 13 percent on a mortgage, or 9 percent on a mortgage. But here were these hard-working Americans paying $5,000 a month for their home, who had put money back into their home. The equity loan they took on their home, in too many cases sort of pushed on them, they put into rewiring or roofing, putting a new boiler in, raising the equity in their home. Then all of a sudden their interest rates started to go up, often by circumstances beyond their control. One woman I met and talked to held down two jobs and was buying her mortgage on the basis of the two jobs that she held down. But then she got sick and she was not able to hold onto the two jobs. Because she got sick all of a sudden, she was threatened with foreclosure.

She offered to buy the home at the rate they were going to sell the home after it was foreclosed on. She could afford to do that and could afford to pay for the mortgage at a discounted rate. They refused to sell it to her. They refused to allow her to stay in it.

Extraordinary circumstances of stubbornness or bullheadedness—I do not know what principle was being applied. But in the process, a lot of average folks are getting squeezed and hurt, I mean seriously hurt, as a result.

Equally important, it has continued the process of depressing the market and driving it downward. So I am glad we are here. I hope we can get it done because it is long overdue, long overdue. But we cannot allow the acute crisis in foreclosures to also cloud the other opportunities that are presented in this bill.

GSE reform, the FHA reform, the Foreclosure Protection Act, there is a provision in here for veterans, which I have sponsored. I think all of those are important components of this bill. But there is also another part of the housing crisis, and it is being addressed in this legislation; that is, the ongoing and deepening shortage of affordable rental housing in our country.

So I was very pleased the National Affordable Housing Trust Fund was included in the Housing and Economic Recovery Act, and that would produce about 1.5 million affordable rental housing units for our poorest families over the next decade.

As the original author of this legislation, I know what it is going to be able to do. I had the privilege of serving on the Banking Committee and serving as chairman of the Housing Subcommittee. I worked with some of the staff who are still here—Jonathan Miller and others—who helped pull this together in an effort to create a trust fund that will help us provide funding.

That is why I strongly oppose the Bond amendment to make contributions to the trust fund by Fannie Mae and Freddie Mac voluntary. I think the Bond amendment to make these contributions voluntary is the wrong amendment and would have a very damaging impact on our ability to be able to deal with rental housing and the rental housing crisis.

Let me explain why. Fannie Mae and Freddie Mac already have requirements to assist low- and moderate-income families to obtain critical housing. What we do in this bill is take excess funding that is produced in housing. It is not often you have a program that is producing excess funding, and then there is still need in that particular sector. So you can actually take the excess and put it back into that sector to address the need. We create that excess through GSEs. What we do is take the excess and put it into a revolving fund to produce rental housing. In September of 2000, I first introduced this legislation. Last year, along with Senator SNOWE, on a bipartisan basis, we again introduced the National Affordable Housing Trust Fund to address the very question of a severe shortage of housing by establishing a rental housing production program. We now have 23 bipartisan cosponsors.

Similar legislation passed the House of Representatives last year with a bipartisan vote of 264 to 148. With the work of Senator JACK REED on the Banking Committee, of Chairman DODD, and of Ranking Member SHELBY, they have helped to bring this bill to the Senate floor at this critical moment by including it in the Housing and Economic Recovery Act.

Frankly, it does not make sense in terms of our economic interests, our housing crisis interests, our family interests, to now suddenly make voluntary something that has the ability to be able to address such a critical need.

The Affordable Housing Trust Fund would create a production program that will ensure 1.5 million new rental units are built over the next 10 years for extremely low-income families and working families.

The goal is obviously to create long-term, affordable, mixed-income developments in the areas with the greatest opportunities for those low-income families. It has been endorsed by more than 5,700 community organizations led by the National Low-Income Housing Coalition, including the National Association of Realtors, the National Association of Home Builders, the Children's Defense Fund, the U.S. Conference of Mayors, the National Coalition for Homeless, and many others.

The funding from the trust fund can be used for construction, rehabilitation, acquisition, preservation incentives, and operating assistance to ease the affordable housing crisis. Funds can also be used for downpayment and for closing costs assistance by first time home buyers.

Since 2006, the American housing construction industry has shed 457,000 jobs. The construction of fewer homes means fewer new kitchens, fewer new basements for manufacturers to place their appliances and other products. The loss of manufacturing jobs follows from those fewer purchases and placements of appliances.

Job losses combine with slumping home sales to depress consumer confidence, and that causes a slowdown in spending, and then you ultimately shrink the economy.

This is not a small impact. Passing the trust fund will help create thousands of jobs in housing construction across the Nation, and it will help to turn our country around. This is what a real stimulus package ought to do, create jobs for the long term not pass out checks that burn up in the short term. It will help signal to businesses across the Nation to produce jobs that are critical to our economic security.

So voting for the Bond amendment will, in fact, reduce our ability to address the current crisis in the economy and reduce the creation of new jobs. Because of the lack of affordable housing, an awful lot of families are forced to live in substandard living conditions. Do you know what that does? That puts a lot of children at risk in America. Children living in substandard housing are more likely to experience violence, hunger, lead poisoning, or to suffer from asthma. They are then more likely to have difficulties learning and more likely to fall behind in school. Our Nation's children depend on access to affordable rental housing.

One other thing people don't often think about, if you don't have affordable housing or you have insecurity in your housing, you also have a downstream impact on schools. Because kids who have to move from home to home are kids who are more likely to get yanked out of a school. Classes are disrupted and the school is then disrupted. We have a much longer term interest, in terms of our workforce development as well as the stability of our communities, to make certain that we have affordable housing available. The trust fund will produce 1.5 million units of affordable housing to provide children in America with a better quality of life. The Bond amendment would make that entirely voluntary. If it is voluntary, it is not going to happen today for low-income families.

Long-term changes in the housing market have dramatically limited the

availability of affordable rental housing across the country. It has severely increased the cost of rental housing that remains. In 2005, a record 37.3 million households paid more than 30 percent of their income on housing costs, according to the Nation's Housing 2007 Report from the Joint Center on Housing Studies at Harvard University. Approximately 17 million families paid more than half of their income, 50 percent of their income, on housing costs. The trust fund would produce rental housing and help lower the cost of housing. This is especially important for families, those 17 million and 37 million families with high housing expenditures. Adopting the Bond amendment will mean that many more children and their families will live in substandard housing or will become homeless. They are children who are ultimately less likely to do well in school, if they even stay in school. I believe that is unacceptable.

I hope colleagues will oppose the Bond amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I will try and propound a unanimous consent request one more time.

I ask unanimous consent that at or about 4:30 p.m., the Senate proceed to vote in relation to the following amendments in the order listed, and that prior to each vote there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote in the sequence, the vote time for the second vote be 10 minutes, with no intervening amendments in order: Bond amendment No. 4986 and the Bond amendment No. 4985. Further, that time be allocated as follows: Senator DOLE has requested 5 minutes to talk about a proposal she is offering; Senator BOND for 10 minutes; Senator SHELBY for 10 minutes; and myself for 15 minutes.

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

Mr. DODD. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina is recognized.

AMENDMENT NO. 4984

Mrs. DOLE. Madam President, on March 3, 2008, Fannie Mae and Freddie Mac signed agreements with the attorney general of New York to adopt a Home Valuation Protection Code, which was crafted by the attorney general's office and approved by OFHEO, in consultation with the enterprises and other market entities. The code establishes requirements governing appraisal selection, solicitation, compensation, conflicts of interest and corporate independence, among other things.

The code's concept of appraiser independence and accuracy should be endorsed because these concepts are important to a safe and sound process that is properly structured, regardless of whether lenders use third-party, affiliated, or in-house staff appraisers. However, the code leans heavily towards inconsistent and potentially counterproductive regulation of the lending industry. Lenders would essentially be required to be regulated by the New York attorney general or suffer serious impairment of liquidity. In addition, the role of the New York attorney general in promulgating the code is misplaced and an attempted exercise of one State's regulatory authority over federally and other State-regulated lenders.

My amendment would require the Director of OFHEO to issue a regulation establishing appraisal standards for mortgages purchased or guaranteed by Fannie Mae and Freddie Mac. It would ensure that mortgages purchased or secured by Fannie Mae and Freddie Mac are collateralized by properties subject to fair and accurate appraisals, which is necessary to maintain the integrity of the mortgage process, improve the safety and soundness of the enterprises, and reduce the potential for mortgage fraud. Additionally, this amendment will also ensure the establishment of a common set of appraisal standards governing mortgage lenders that are federally supervised and regulated. This includes requiring the process controls necessary to ensure independence, avoid improper influences, and avoid overvaluation.

In May, when the Banking Committee approved this bill we are now discussing, I agreed to discuss this amendment and asked that Chairman DODD and Ranking Member SHELBY to work to include this important provision once our committee product reached the Senate floor. At the time, I appreciated how both the chairman and ranking member made favorable remarks as to the intentions of my amendment and a willingness to work with me on this, and I hope that they will now honor this commitment.

I understand the managers are working on a time certain to vote on my amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to both sides.

The Senator from Missouri is recognized.

AMENDMENT NO. 4986, AS MODIFIED

Mr. BOND. Madam President, to clarify, amendment No. 4986 relates to the affordable housing trust fund. I have a minor modification. I have asked both sides if they would accept it. I ask unanimous consent to so modify the amendment, and I send the modification to the desk.

The PRESIDING OFFICER. To which amendment is the proposed modification?

Mr. BOND. Amendment No. 4986.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. DODD. Reserving the right to object, I haven't had a chance to look at it. I would have to take a minute to look at what he is proposing.

Mr. BOND. Madam President, then I will withdraw my request until my colleague has had an opportunity to look at it.

The PRESIDING OFFICER. The modification is withdrawn.

Mr. BOND. Let me explain briefly that we added one sentence to a two-sentence amendment saying, in essence, that it will not affect the GSEs, existing affordable housing programs. Those are programs already in effect. There was some question about whether they would be affected. The amendment makes clear what was implied. I expect that one will find no change in it. In any event, that is not the point. The point is to remove the tax the Banking Committee provided, which is a tax on GSEs which, without any input or other involvement, would pay support for a whole range of groups. There are many groups, such as ACORN and others who build low-income housing. Who knows, it might even be Habitat for Humanity. But they would be able to use these funds to provide soft costs to support the programs and other related costs.

Fannie Mae and Freddie Mac should be able to continue to use their existing affordable housing program that they administer, that they were set up to do, and not have their funds taken away to fund another program over which they have no control, no responsibility. There is absolutely no reason to tax these entities to support housing groups which may or may not be responsible or capable of administering good housing programs. There will also be additional economic risks to Fannie and Freddie, depending on the use of these funds and the quality of the groups which receive these funds.

More critical is the unprecedented approach that requires the GSEs to pay a tax for something for which they have no responsibility.

Let me be clear, the GSEs have a mission. They have a very important mission. When we initially talked about this program, we talked about giving them more authority to go in and help in these situations. Statements made on the other side that we are going to cut off all funding and all assistance to homeowners in distress are absolutely irresponsible and totally without basis. We provided and I believe this body adopted some good ideas—I will speak about those in a minute—in previous bills on how we deal with the housing crisis. But right now what we are saying is, let's stop this.

This is saying to the GSEs, you may have some excess left over after you have carried out your affordable housing mission. We want to come in and take it away from you and spend it someplace else. Let's be clear, this is not saying to the entities that we want you to do your mission. We are saying we are going to take away money that you put into your mission. We are saying, forget your mission. We are going to take some of your revenue raised in

part from capital markets where private sector shareholders have their retirement funds, their annuities, or their investments in those companies, hoping and expecting to share in the revenue. That may be pension funds, retirement funds, endowment funds that are counting on getting some of that revenue. Oh, excuse me, even though the GSE has carried out the mission that we asked of it and generated some ''excess'' revenue that might be distributed to those people who put up capital in the GSEs, we are going to take it away.

How long before this body decides to go to other GSEs, such as Sallie Mae, and say: We have a better idea. We are going to take any revenue you make and we are going to put it someplace else? Or to utilities and say: You are regulated, and you may have some excess money left over that you wish to return to your shareholders, but since you are regulated, since you have a government franchise to provide utility service, we are going to take some of your revenue and put it elsewhere? To me that is an unconscionable grab. It offers a precedent that is very dangerous for this body, to be taking funds from one entity and transferring it to another entity by fiat. It is discriminatory, and it has the potential to have a significant impact on the people who have put their money into these funds.

I ask again if my colleagues have had an opportunity to review the modification as sent forward?

The PRESIDING OFFICER. Is there objection to the modification?

Mr. DODD. Are you going to resubmit the modification?

The PRESIDING OFFICER. It is at the desk.

Mr. DODD. Reserving the right to object, as I understand what my colleague from Missouri is suggesting is that the existing affordable housing program under the GSE, that whatever language is there that would have affected that is taken out by this modification.

Mr. BOND. That is correct. There is no intent to correct that.

Mr. DODD. But the modification corrects that.

Mr. BOND. That is the purpose of the modification.

Mr. DODD. The underlying amendment would object to the proposed addition to the affordable housing program authored by Senator REID in the bill. That still is the substance of the amendment?

Mr. BOND. That is correct.

Mr. DODD. I have no objection to the modification.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

Insert the following at the appropriate place:

SEC. xxx.Notwithstanding any other provision of law, Fannie Mae and Freddie Mac shall not be responsible or any payments either directly or indirectly to other Housing entities under the Affordable Housing program unless these GSEs voluntarily provide funding. The GSEs will continue to administer their affordable housing program. None of these funds in the bill shall be used for soft program costs, including staff costs.

Mr. BOND. I thank the Chair and yield the floor.

Mr. DODD. Madam President, let me take a few minutes, if I may, because I have yet to really address these two amendments and also the one I know our colleague from North Carolina is going to propose or is in the process of proposing.

AMENDMENT NO. 4985

Madam President, let me deal, first of all, with the HOPE for Homeowners Program. I raised earlier this morning—and I will do it again, if necessary—that 8,427 people as of today will file for foreclosure. That number was for every day in the month of May. That is in excess of the numbers back in April and even back in March. But they are growing. So every single day we delay moving on this, we have, on average, again, some 8,000 to 9,000 people in our country who are entering the foreclosure process and losing their homes, and 1.5 million people have already. We have been told and warned by those who acknowledge and follow these issues that this is a crisis that is not shrinking; it is growing. It is growing by the hour, let alone by the day.

The HOPE for Homeowners Act that Senator SHELBY and I and 17 others of our committee have fashioned together—very similar to what the other body has done—is designed specifically to offer some relief to these people facing foreclosure. Both lenders and borrowers will take what is called a ''haircut.'' It will be painful. It will not be easy. It is voluntary. It is temporary. But it offers some hope that we can put the brakes on this ever-escalating problem of foreclosures in our country.

It is not only affecting homeowners, which is obviously bad enough, it is affecting commercial loans, student loans, municipal finance. The global implications are obvious to anyone who has paid any attention to the issue. So this idea, which is central to this bill, is critical.

The amendment offered by the Senator from Missouri would eliminate this program altogether, despite all the recommendations from the American Enterprise Institute, the Consumer Federation of America, other lending institutions, the Federal Reserve members. In fact, the present Chairman of the Federal Reserve, while not endorsing the bill, has called for this kind of action.

Quite simply, we are living through one of the worst housing market crises since the Great Depression. Almost 1 in every 11 homes with a mortgage in this country is in default or foreclosure as of the end of March. This is the highest level since the Mortgage Bankers Association began collecting data in 1979. Foreclosure rates have grown and grown at record levels for some time, and last year about 1.5 million, as I have said, have already gone into that status.

This foreclosure crisis hurts everyone, as we all know. As Federal Reserve Chairman Ben Bernanke recently stated:

[H]igh rates of delinquency and foreclosure can have substantial spillover effects on the housing market, the financial markets, and the broader economy. Therefore, doing what we can to avoid preventable foreclosures is not just in the interest of lenders and borrowers. It is in everybody's interest.

The HOPE for Homeowners Program is built on a concept raised by Chairman Bernanke:

The best solution may be a write down of principal or other permanent modification of the loan by the servicer, perhaps combined with a refinancing by the Federal Housing Administration or another lender.

That is also from Chairman Bernanke, the Chairman of the Federal Reserve Bank.

Mark Zandi of Moody's Economy.com recently wrote:

Unless policymakers soon become more creative and aggressive, the risks are rising that the current recession will be more severe and the ultimate recovery more disappointing than anyone currently anticipates.

The evidence is overwhelming. The recommendations come from across the political spectrum. This is absolutely critical at this pivotal moment on this economic issue. Senator KERRY earlier talked about that at the heart of our economic crisis is the housing crisis, and the heart of the housing crisis is the foreclosure crisis. Were the Bond amendment to be adopted, the very bipartisan effort we have spent months working on to achieve here would be lost.

I urge my colleagues, as they have heard from our colleagues—Senator GREGG of New Hampshire, Senator MARTINEZ, Senator ISAKSON; and on our side, Senator BOXER, Senator SCHUMER, and Senator CASEY; and, obviously, Senator SHELBY and myself—across the spectrum here—we recognize this idea may not solve every problem, but if we can keep 400,000 to 500,000 people in their homes, that is a step forward in the right direction to help Americans facing these kinds of crises. I urge my colleagues, at the appropriate moment, when this matter is before us, to say, respectfully, to my friend from Missouri that we reject this amendment and will keep this very critical element of this very important housing bill.

AMENDMENT NO. 4986, AS MODIFIED

Madam President, the second proposal by Senator BOND also, in my view, should be rejected. We have modified the amendment, so any possible inference he would be striking the existing program has been taken out of this bill. I applaud him for that, and I thank him for that. But the problem still persists.

As Senator KERRY of Massachusetts just pointed out, this problem with affordable housing is growing. It is staggering in its proportions. Over 3.5 million people in our country, including

1.3 million children, experience homelessness each year. For most of these families, all that is needed is affordable housing.

The gap between rental costs and wages of low-income people is significant. To give you some idea as to the housing assistance necessary for many working Americans, a person has to earn over $17 an hour just to afford the average fair market rental without forgoing other basic needs. That is three times the current minimum wage.

There are 7.4 million disabled Americans on SSI. SSI benefits are lower than the average fair market rent. Rental costs are more than 100 percent of their SSI benefits. Without housing assistance, these people who are disabled in our country cannot afford housing. That is a fact.

The Joint Center for Housing Studies of Harvard University found in their report, ''The State of the Nation's Housing 2007,'' that in just 1 year, the number of severely cost-burdened households—those that pay more than half of their income toward rent—jumps by 2.1 million to a total of 17 million. This is one in seven U.S. households in the country affected.

The data goes on and on. This is a very important element of this matter: affordable, decent shelter.

Harry Truman, in a bipartisan effort, in the late 1940s—60 years ago—called upon Americans. John Sparkman of Alabama was ''Mr. Housing'' back in the 1950s and 1960s. This was never a partisan issue: decent, affordable shelter for Americans—all Americans.

We heard our colleagues today: Senator MARTINEZ talking about his family getting that first home when they arrived in this country. Senator BOXER grew up her entire life never owning their own home, and she was able to buy one as a young mother, and they stayed there for 40 years to raise their family.

Madam President, 17 million people in our country today deserve decent shelter. You should not have to strip every bit of income you have to try to afford it. So what JACK REED has put together here is decency—common decency. In our moment of difficulty, if we cannot do something to provide affordable shelter and to ask that funding flow come out of these government-sponsored enterprises, which have been so lucrative, for them to share in that wealth, to make it possible for working families in this country to have a decent place to live—I do not think that is too much to ask in this hour of need.

We heard our colleagues across the spectrum politically support this program, and having a vote of 19 to 2 in our committee, with Democrats and Republicans coming together at a moment such as this to say: We hear you. We care about what you are going through. We have designed a program not by increasing taxes but by asking existing institutions to share, to see to it all Americans can enjoy that affordable and decent shelter they deserve as Americans.

I ask my colleagues to reject that amendment as well.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I regret that I, too, must oppose the amendment offered by the Senator from Missouri, amendment No. 4986. Senator BOND's amendment would specifically undermine the goal of protecting the American taxpayer from the costs of the HOPE Program.

I have often said—and I will repeat once again—that we should do whatever we can to help people stay in their homes short of sticking taxpayers with the tab.

The Banking Committee has worked long and hard for months on this issue and has found a way to accommodate a wide range of goals and concerns with this legislation.

The affordable housing fund and the funding mechanism—which is important here—for the HOPE Program are two of the most critical elements that allowed us to reach a bipartisan agreement. Eliminating either one of these now would simply unwind the entire bill, would destroy the whole bill, and neither I nor Senator DODD nor a lot of our colleagues on both sides of the aisle can support that.

Therefore, I urge my colleagues to join us in opposing the first Bond amendment.

AMENDMENT NO. 4985

Madam President, I would like to speak for a minute on the Bond amendment No. 4985, the second amendment.

While I am sympathetic to and share many of Senator BOND's concerns regarding FHA's longtime management problems and resource constraints, I cannot support this amendment.

The proposed HOPE for Homeowners Program establishes a new board to oversee the implementation of this program. Included on this board, in addition to HUD, are the FDIC, the Federal Reserve, and the Treasury Department. It is our intention that the expertise and experience of this board will compensate for FHA's longstanding management problems.

Additionally, the bill would provide—this is important—at no cost to the taxpayer, funding for additional resources, particularly in the form of increased staff, to manage and implement the proposed HOPE Program.

While I agree with Senator BOND that depending solely on existing FHA resources, the HOPE Program would be unworkable, I believe the increased resources and board oversight provided in this legislation sufficiently address those concerns.

I encourage my colleagues to oppose this second Bond amendment, too.

Mr. SANDERS addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Vermont?

Mr. DODD. Madam President, I will address my colleague from Vermont through the Chair. As I understand it, we have heard from the Members who want to be heard on the amendments. Unless there is an objection, I know my colleague wants to take a few minutes to propose an amendment; is that correct?

Mr. SANDERS. Madam President, I want to set aside the pending amendment and send an amendment to the desk.

Mr. DODD. The only danger is, of course, we would have to get back on the matter before us to vote on the underlying amendments that we agreed, by unanimous consent, to do at or about 4:30.

Mr. SANDERS. I will be very brief. I do not need more than 2 or 3 minutes.

Mr. DODD. There is an objection being voiced.

Mr. SANDERS. Then I would like to talk about the amendment.

Mr. DODD. I say to my colleague, we will have a couple votes fairly quickly, and then I will be here to entertain my colleague's proposal.

Mr. SANDERS. At which time I will be able to offer the amendment?

Mr. DODD. Yes.

Mr. ISAKSON. Madam President, will my colleague from Connecticut yield?

Mr. DODD. I will be happy to yield to my colleague from Georgia.

Mr. ISAKSON. The amendment we discussed earlier when I made my remarks regarding the effective dates on the tax credit is here. I do not think there is an objection. At some point in time, can I be recognized to call it up?

Mr. DODD. Certainly. I will again make the same recommendation I have made to our colleague from Vermont. If the Senator from Georgia will wait a few minutes, we will be glad to take—in fact, I invite, as my colleague from Alabama does, any other amendments besides those we have heard about here that people want to raise. We are anxious to do business. We are going to have a couple votes, but obviously there may be some other thoughts people have on the subject matter. Certainly, I will be here to entertain that amendment.

Mr. ISAKSON. I thank the Senator.

Mr. DODD. Madam President, again, I do not know if other Members wish to be heard on the pending matters; that is, the two Bond amendments, which are the subject of the pending votes.

Does my colleague from Vermont wish to be heard on the pending amendments?

Mr. SANDERS. Yes. I wish to raise an issue. And it is my intention at the appropriate time to offer an amendment which I hope we can get a vote on because this is an amendment of huge consequence; that is, with the price of heating fuel soaring, if we do not significantly expand LIHEAP funding, there are going to be people who will go cold, people who will die this winter.

We have heard about a number of national emergencies out there. I am certainly sensitive to the crisis taking place in Iowa and as to the remnants of Hurricane Katrina in Louisiana. But I want Members of this body to understand that if we do not substantially

increase LIHEAP funding, there will be people in the northern tier of this country who will go cold this winter because they cannot afford to pay the outrageously high prices of home heating fuels that they are going to be asked to pay.

At the appropriate time, I will bring forth an amendment to increase funding by $2.53 billion for fiscal year 2008. Madam President, the Northeast Coalition of Governors has made that request and that is the number I am going to be bringing forth.

I wish to have printed in the RECORD the letter that was written by the Coalition of Northeastern Governors which is demanding that we have at least $5.1 billion—which is what, as I understand, the authorized level is—that that be, in fact, appropriated.

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

COALITION OF
NORTHEASTERN GOVERNORS,
Washington, DC, June 18, 2008.

Hon. DAVID OBEY,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.
Hon. JERRY LEWIS
Ranking Member, Committee on Appropriations, House of Representatives, Washington, DC.
Hon. JAMES WALSH,
Ranking Member, Subcommittee on Labor, Health and Human Services, and Education, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN OBEY, RANKING MEMBER LEWIS AND RANKING MEMBER WALSH: As the Subcommittee begins consideration of the FY2009 Labor, Health and Human Services, and Education appropriations bill, the Coalition of Northeastern Governors (CONEG) urges you to support funding the Low-Income Home Energy Assistance Program (LIHEAP) at the $5.1 billion level authorized by the Energy Policy Act of 2005. We recognize the considerable fiscal challenges that face the Appropriations Committee this year and we deeply appreciate the Subcommittee's continued, strong support for the LIHEAP program. However, increased LIHEAP funds are urgently needed in the face of continually rising energy prices (particularly for delivered fuels) and the increasing number of households in arrears to energy utilities. Funding the LIHEAP block grant program at the $5.1 billion level, and providing it in a manner that will ensure additional funding to all states, will help restore some of the purchasing power of the program and enable states across the nation to provide meaningful assistance to citizens struggling to pay unaffordable home energy bills.

The low-income households targeted by the LIHEAP program are hit particularly hard by soaring energy prices, especially home energy prices. An increasing number of households are in arrears to energy utilities. For the households who depend upon delivered fuels such as heating oil and propane, the outlook is particularly troubling since they lack the benefit any utility assistance program. These households are concentrated in the Northeast, where almost 32 percent of LIHEAP recipient households rely upon delivered fuels, compared to 12 percent nationally or approximately 4 percent in many warm weather states. Even before the price of crude oil reached its recent record level, EIA estimated hat households heating primarily with home heating oil will pay approximately $2,000 to heat their homes this year. Without an adequate LIHEAP benefit that can meet the minimum livery requirement, these households face the prospect that a dealer will not make a delivery or will require a surcharge, further reducing the purchasing power of LIHEAP assistance.

The demand for this highly effective program continues to increase even as the purchasing power of the LIHEAP dollar plummets, and the average LIHEAP benefit decreases. If federal funding remains level or declines as home energy prices continue to rise, states face the difficult decision of serving fewer households or reducing the level of already stretched benefits. States in the Northeast have already incorporated various administrative cost-savings to deliver the maximum program dollars to households in need. In spite of these efforts to stretch federal and state LIHEAP funds, the need for the program is far too great.

Increased, predictable and timely federal funding is vital for LIHEAP to assist the nation's vulnerable, low-income households faced with exorbitant home energy bills. With an appropriation at the $5.1 billion authorized level, distributed to ensure that additional funding is provided to all states, the program can offer meaningful assistance to more households in need, lessen the need for emergency crisis relief, and make optimum use of leveraging and other cost-effective programs.

On behalf of all the CONEG Governors, we urge you to support funding for LIHEAP at the $5.1 billion level in the FY2009 Labor, Health and Human Services, and Education appropriations bill.

Regards,

JIM DOUGLAS,
Chair, Governor of Vermont.
DAVID A. PATERSON,
Vice-Chair, Governor of New York.
JOHN LYNCH,
Lead Governor for LIHEAP, Governor of New Hampshire.

Mr. SANDERS. So at the appropriate time, I will be down here to offer—I wish to check with my colleague from Connecticut. Is there going to be any problem with me getting a vote on this amendment?

Mr. DODD. Well, there could be. I can't say that is not going to be the case. But getting a vote, that is certainly a possibility. Let me talk with others and see what the intention would be.

Mr. SANDERS. OK. I think this vote is long overdue, and it is something the American people want to see.

Mr. DODD. Madam President, let me inquire, as I understand, the Senator from Missouri has 8 additional minutes remaining on the UC?

The PRESIDING OFFICER. That is correct.

The Senator from Alabama has 10 minutes remaining, and the Senator from Connecticut has 3 minutes remaining.

The Senator from Missouri is recognized.

Mr. BOND. Madam President, I ask unanimous consent to add the Senator from Wyoming, Senator BARRASSO, as a cosponsor of the amendment No. 4985.

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

Mr. BOND. Madam President, to begin, I think I should make some general comments about my concern and about my ability to work with the distinguished chairman of the committee on affordable housing programs. We have worked a long time on these programs together, and he and I, together, pushed for $180 million for counseling for families facing foreclosure. We have gotten that passed. I have been out and talked with the people who are victims, the people who are helping them, the local officials, and that is working.

Based on what I learned from talking to the people who are suffering from this foreclosure epidemic and from the real problems in the subprime market caused by predatory lending, which the Senator from Maryland, Ms. MIKULSKI, and I tried to get HUD to stop a few years ago, we came up with a solution. That solution I offered on the floor: the Security Against Foreclosure and Education Act, the SAFE Act, most of which was incorporated in the housing bill we passed in April. I believe those things went at this problem in the right way. We understand there is a problem.

What I am saying is I fear that taxing GSEs or taking money, expropriating money from GSEs and setting up this HOPE Now Program is a false hope because FHA can't manage it, and they are likely to have a tremendous impact, No. 1, potentially on the housing budget coming out of the taxpayers' pockets. We don't have enough money to pay for all the things we need to do for public and assisted housing.

The SAFE Act said reform FHASecure so it could work for somebody who had missed a payment or two, lower the GSE's capital requirement so they could lower this capital housing program; also, provide $10 billion of authorization for State housing finance agencies to raise additional funds to refinance these mortgages which are in default. That, I believe, is the best way to do it. That is why I am very much concerned that we are going down the wrong road, trying to put a burden on the FHA to do something they are not up to. I am afraid the HOPE Program is a false hope for 130,000 families who will enter the program and then default and face foreclosure.

The hope is the FHA will somehow be able to dispose properly of those 130,000 homes while they are trying to manage their portfolio. Experience shows that will not work. No matter what kind of board you set up, FHA cannot take on all those additional responsibilities. This program is far more likely to result in a huge bailout for lenders, while protecting a very limited number of homeowners.

The Congressional Budget Office—hear this: the Congressional Budget Office estimates that under this program, mortgage holders would have an incentive to direct their highest risk loans to the program. They estimate the cumulative default rate of the HOPE Program would be 35 percent—one out of three—worst of the worst loans and

FHA would get them. Where would they get them? From companies that have been a part of the problem.

According to the Wall Street Journal, Countrywide issued $167 billion—Countrywide Financial, $167 billion. They had 11 percent of the subprime market and now, according to the Wall Street Journal, they have $30 billion of it, either in their own foreclosures or for those they have offered a guarantee. So there is $30 billion of bad loans on which Countrywide is at risk, and this program could be used to refinance all those programs.

If a lender or a holder was facing foreclosure and knew he had to go to foreclosure, it calculates the cost of foreclosure and takes some of that off the value of the home and refinances that value and hands it off to FHA, and FHA gets stuck—gets stuck with it. The FHA has shown they cannot manage and implement the existing loan activities. You can read the lengthy IG reports, the GAO reports. Anybody who has looked at the FHA said they can't handle the job now. They have expanded from 2 percent to 6 percent of the market, and they can't even handle that additional level now.

The head of the FHA said this could be a tremendous burden on his agency and potentially on the taxpayers. If FHA is ultimately held at risk for these, they could be in a position where money that would otherwise go to support Section 8 vouchers or public housing operating or capital subsidies would have to be diverted to FHA to pay back the worst of the worst loans—according to CBO—the worst of the worst loans that would be pawned off on the FHA.

Nobody cares more than I about dealing with and providing as much help as possible to those people who are unfortunately facing foreclosure, perhaps because of lack of information or even misinformation that was given them about the loans into which they entered and the change in the market which caught them unaware, such as the situation I discussed earlier today of Mr. Willie Clay, the Vietnam veteran who found his mortgage rate readjusting 50 percent higher, which would throw him out of the house. He had an 8.2 percent rate and it was going to go up to over 12 percent. He needs help. These people need help. But bailing—let us bail out the people who are in trouble through the housing—State housing finance agencies or FHASecure; don't have FHA set up to take the fall with the worst of the worst loans from lenders, some of whom may have been ones who put us in the problem.

I urge the support of my two amendments and I yield the floor and reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Madam President, I know Senator SHELBY had some time remaining. I don't know if he intends to use it. He may not.

Mr. SHELBY. Madam President, what is the pending business?

The PRESIDING OFFICER. The Democratic side has 2 minutes remaining and the Republican side has 5 minutes remaining.

Mr. SHELBY. I yield 1 minute, at this point, to the Senator from Georgia, Mr. ISAKSON.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, I wish to use this minute to set aside the pending amendment and call up——

Mr. DODD. I would have to object. There is an objection being raised.

Mr. ISAKSON. Then, since I have had my say, I wish to defer my 1 minute to Senator CORKER without calling up an amendment.

Mr. SHELBY. Madam President, I will yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. CORKER. Madam President, I feel as though I have a very generous allotment, and I appreciate that. I wish to speak on the Isakson amendment.

JOHNNY ISAKSON, from Georgia, has tremendous experience in the area of housing, and I think he brought to this body a great proposal that is part of the bill we are now debating and that is the $8,000 first-time home buyer credit. One of the flaws in the bill today, as it sits, is the fact that this credit begins on April 1, so people who have already bought loans would be participating. I think the purpose of this amendment that he so wisely crafted and has brought forward was actually to stimulate new home buyer housing, not to reward people who have already taken action. So his amendment that I am supporting and cosponsoring would actually establish as the date of enactment the time that that 1-year time clock would begin. It only makes sense that the purpose of this provision in the bill, this compromise bill, is to stimulate home buying, not to reward people who have already done so.

I hope the manager of the amendment might accept this amendment. If not, I hope we will be able to call this amendment up in the very near future after this vote.

Mr. DODD. Madam President, I have 2 minutes or 3 minutes remaining, and I yield to my colleague, the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Madam President, I come to speak against the proposal by Senator BOND which would significantly—in fact, catastrophically—undercut the affordable housing program we have included in this legislation, with the support of Chairman DODD and Ranking Member SHELBY.

This legislation is necessary. Even before we had a foreclosure crisis, hundreds of thousands of Americans—millions—did not have decent, affordable housing. So this is not something that is a temporary fix to the mortgage crisis; this is long-term solution aimed at addressing a long-term problem of not having enough affordable housing in this country. It is absolutely necessary.

The Bond amendment would essentially say: Well, yes, you can have a housing trust fund, but we are not going to fund it because the funding mechanism comes from Fannie Mae and Freddie Mac. Oh, by the way, you can create a home ownership protection program, but the first 3 years of affordable housing trust fund monies won't be available to help pay for it, which was how we dealt with the objection of Senator SHELBY and many others that we not use public funds to help with the foreclosure problem.

This is a way in which we can accommodate many objectives: helping people facing foreclosure without using public funds and in the long term creating a permanent, affordable housing trust fund. There is no place in this country—none of my colleagues have places—where the constituents are not coming up and saying we need help with affordable housing. The rent is going up. We can't afford it. We are on the street. Please help us. That problem will not expire when this foreclosure crisis is over.

Let me also say I think it is entirely appropriate that Fannie Mae and Freddie Mac participate. They were chartered originally as quasi public entities. They have—we have given them and we continue to give them—affordable housing responsibilities. That is part of their mission, part of their mandate. Some would say: Well, listen, if that is the case, let them decide what they want to do. We spent years creating this affordable housing program. One of the criticisms of this program was that if you gave Fannie and Freddie control of the money or required them to spend in a certain way, it would become politicized. They would pick winners and losers not based upon needs in certain parts of the country but based on political advantage. That was a criticism that was advanced most strenuously by my Republican colleagues. So we have created an affordable housing program, part of which is lodged at Treasury and part of which is lodged at HUD.

If the Bond amendment is adopted, we are giving up the last chance we have for an affordable housing trust fund in this country, the last major chance. I urge opposition.

Mr. SHELBY. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. SHELBY. I yield back the remainder of my time.

AMENDMENT NO. 4986, AS MODIFIED

The PRESIDING OFFICER. All time is yielded back.

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the Bond amendment No. 4986, as modified.

The clerk will call the roll.

Mrs. MCCASKILL (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Kansas (Mr. ROBERTS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''no.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 11, nays 77, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—11

Barrasso	Coburn	Grassley
Bond	DeMint	Inhofe
Bunning	Ensign	Vitter
Burr	Enzi	

NAYS—77

Akaka	Durbin	Nelson (FL)
Allard	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Graham	Reed
Bennett	Gregg	Reid
Biden	Hagel	Rockefeller
Bingaman	Hatch	Salazar
Boxer	Hutchison	Sanders
Brown	Inouye	Schumer
Byrd	Isakson	Sessions
Cantwell	Johnson	Shelby
Cardin	Kerry	Smith
Carper	Klobuchar	Snowe
Casey	Kohl	Specter
Chambliss	Landrieu	Stabenow
Cochran	Lautenberg	Stevens
Coleman	Leahy	Sununu
Collins	Levin	Tester
Conrad	Lincoln	Thune
Corker	Lugar	Voinovich
Cornyn	Martinez	Warner
Craig	McConnell	Webb
Crapo	Menendez	Whitehouse
Dodd	Mikulski	Wicker
Dole	Murkowski	Wyden
Dorgan	Murray	

ANSWERED ''PRESENT''—1

McCaskill

NOT VOTING—11

Alexander	Harkin	McCain
Brownback	Kennedy	Obama
Clinton	Kyl	Roberts
Domenici	Lieberman	

The amendment (No. 4986), as modified, was rejected.

Mr. DODD. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4985

The PRESIDING OFFICER. Under the previous order, there is 2 minutes each, evenly divided.

The Senator from Connecticut.

Mr. DODD. Madam President, let me briefly say to my colleagues that this is the second Bond amendment. This amendment would eliminate the HOPE for Homeowners Act, almost the centerpiece of this legislation. This is an idea that was recommended to us by a broad spectrum of people on the economic agenda here dealing with the issue of how we keep people in their homes. This idea has been endorsed by the American Enterprise Institute, the Consumer Federation of America, and many other groups and organizations that have suggested this idea could possibly keep as many as 400,000 to 500,000 people in their homes.

Every day in the month of May, 8,427 people filed for foreclosure. Every single day. Every day, over 8,000 people are filing for foreclosure in our country. Every day that goes on and we fail to take a step to do what we can to see that we can keep people in their homes and get our economy back on its feet, a day is lost and it endangers our economy even further.

The Bond amendment strips this bill, the HOPE for Homeowners Act, which we passed 19 to 2 out of the Banking Committee. We have had extensive hearings on it. It is a bipartisan proposal that we hope will make a difference in our country. What better step could we take this evening than to reject this amendment and endorse the idea that we are going to do everything we can to keep homeowners in their home?

I will make a point of order, Madam President, after Senator BOND has spoken.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, a couple of months ago, we passed a good bill to say we would authorize $10 million for State housing finance agencies to help refinance homes where the owners were facing foreclosure. A good approach. This is a disastrous approach. CBO has said that the lenders—the people, some of whom made some of the bad loans in the first place—will dump the worst of their worst loans on FHA.

Last week, FHA, floundering under existing portfolio losses, announced $4.6 billion in losses, 22 percent of their reserves, raising questions about their ability to maintain solvency. FHA can't do it. Thirty-five percent of the loans under the HOPE for Homeowners have been bad. The defaults would hurt the FHA. This provision would allow lenders such as Countrywide Financial, which had 11 percent of the subprime market, and according to the papers has $30 billion of the worst loans, to dump those on the FHA.

I urge support of the amendment.

Mr. DODD. Madam President, I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008. This is the pay-go point of order.

Mr. BOND. Madam President, I move to waive the applicable points of order of the Congressional Budget Act with respect to the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act in relation to the Bond amendment No. 4985. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. BROWNBACK), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Kansas (Mr. ROBERTS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''no.''

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 21, nays 69, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—21

Allard	Craig	Inhofe
Barrasso	Crapo	McConnell
Bond	DeMint	Murkowski
Bunning	Ensign	Sessions
Burr	Enzi	Stevens
Coburn	Grassley	Thune
Cornyn	Hutchison	Vitter

NAYS—69

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Bennett	Graham	Pryor
Biden	Gregg	Reed
Bingaman	Hagel	Reid
Boxer	Hatch	Rockefeller
Brown	Inouye	Salazar
Byrd	Isakson	Sanders
Cantwell	Johnson	Schumer
Cardin	Kerry	Shelby
Carper	Klobuchar	Smith
Casey	Kohl	Snowe
Chambliss	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Coleman	Leahy	Sununu
Collins	Levin	Tester
Conrad	Lincoln	Voinovich
Corker	Lugar	Warner
Dodd	Martinez	Webb
Dole	McCaskill	Whitehouse
Domenici	Menendez	Wicker
Dorgan	Mikulski	Wyden

NOT VOTING—10

Alexander	Kennedy	Obama
Brownback	Kyl	Roberts
Clinton	Lieberman	
Harkin	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 21, the nays are 69.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, my good friend, the Senator from Iowa, Senator GRASSLEY, asked if he could speak for 2 or 3 minutes on an unrelated matter.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I ask permission to speak for 3 minutes as in morning business.

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

IOWA FLOODS

Mr. GRASSLEY. I come to the floor today to give my colleagues an update on the devastating floods in Iowa, but you can also say a lot of the Midwest. The President is seeing the floods for the first time today. I appreciate Senator HARKIN being there with him.

Senator HARKIN and I are working closely together to make sure every base is covered in Iowa. We traveled throughout Iowa last weekend. We are meeting regularly to sort through everything that needs to happen. Today, we are covered, with him in Iowa with the President and me in the Senate to work for disaster recovery provisions in this very housing bill. The President has already named 55 of our 99 counties as Federal disaster areas.

More need to be named. I think he will see today the need to continue these declarations. During our tours through several communities last week, and hopefully again this weekend, we were pleased to see a great deal of coordination between FEMA, SBA, and our local officials. It sounded as though they were all talking with one voice, which is comforting to Iowans looking for guidance and support and, particularly, it looks a lot different than during Katrina, when it seemed like that was not particularly the case.

Today, many people are starting to get back in their homes and businesses. North of Iowa City, receding waters are bringing further heartache as residents salvage what they can and then throw away what was destroyed by the floodwaters. Those are the lucky ones. There are many who are determining whether they can salvage the house let alone what is inside.

Small communities downriver, such as Oakville and Columbus Junction, are completely submerged. Farms lost everything, including equipment, crops, livestock. The cities of Burlington and Keokuk are holding their breath to get through without devastation such as we have seen in Iowa City and Cedar Rapids.

Despite all this, Iowans continue to show their resiliency and heart. I was on C–SPAN's call-in program called ''Washington Journal'' earlier this week. People from all over the country called to say how proud they were of the way people in the Midwest, and particularly they were referring to Iowans, were pulling together and working to get through this disaster.

Of course, Senator HARKIN and I could not agree more. Volunteers continue to be at the forefront of our efforts. Local churches have made heroic efforts. The Salvation Army and Red Cross have been in Iowa since the beginning. I cannot say enough about the local officials, including law enforcement, fire departments, and the Iowa National Guard.

I would like to extend my thank-yous to all my colleagues who have come forth showing their support. I think I can speak for both Senator HARKIN and myself in saying we have had people in private coming up to us on the Senate floor. Having that happen is very gratifying.

Many of you have had similar events occurring in your own States and understand the pain we feel once again in Iowa. Our constituents are going to need the Federal Government's help. Senator HARKIN and I have been meeting often and have also put together a coalition of Midwest Senators whose States were also hit.

I thank all my colleagues for giving our constituents the help they need as we continue down this road.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if I may, I yield 4 minutes to my colleague from Virginia.

Mr. WARNER. Mr. President, I do not tend to object. May I have 4 minutes following Senator WEBB?

Mr. DODD. No objection.

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

GI BILL

Mr. WEBB. Mr. President, I wish to speak actually in conjunction with the senior Senator. It is fine with me if he wants to follow me for 4 minutes. I wish to speak for a bit about the announcement from the White House today to the effect that the President has agreed he will not veto the GI bill we have worked on so hard for the last 17 months; that he is willing to accept this legislation.

I wish to say how grateful I am to all the veterans groups that over the last 17 months worked so hard to get the right bill. This bill will be reported back to us, I am told, in the exact form we sent it over, with the vote of 75 to 22 not long ago.

There was another provision Senator WARNER and I had worked on as a separate amendment regarding transferability that will be put in this bill in a slightly different form.

But there was some mischaracterization in terms of how the White House portrayed this transferability provision. I think it goes to the heart of some work Senator WARNER has done over many years, and I think it deserves to be clarified in this body.

The announcement by the White House was to the effect that this transferability provision would be a new provision. In fact, Senator WARNER and a number of Senators on our side of the aisle enacted this as law 6 years ago. We have heard from people on the other side, from the administration, from people in the Pentagon, that there was a priority 1 item out of the Pentagon.

But it has been in law, at the discretion of service Secretaries for 6 years. So we are willing to accept this provision as it comes over.

We are enormously grateful the President said he will not veto this bill because, quite frankly, it has been almost 7 years since 9/11. The operational tempo of the people who have been serving has gone up. They deserve a wartime GI bill. They are going to get it. I wish to express, again, my appreciation to all the members of this body—we had 58 sponsors, including 11 from the Republican party—and to all the veterans groups who helped make this possible.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to congratulate my colleague, Senator WEBB. He and I have known each other for a very long time. When I was Secretary of the Navy, he was a young captain, just back from Vietnam, serving on my staff.

When he came to the Senate, he indicated his top priority was to get a revision of the existing framework of laws governing the GI bill because he felt very strongly, based on his long and heroic service to this country in uniform that we owed this generation everything that previous generations had received by virtue of educational benefits.

I said several times on this floor, acknowledging with the greatest humility and thankfulness in my heart for two periods of military service I had of no great significance, but, nevertheless, enabled me to have a GI bill from a short service at the end of World War II and for service during the Korean war.

One GI bill got me a bachelor's degree, the second a law degree. I felt, just as Senator WEBB, this generation deserves no less than that. But his fortitude, his determination, his perseverance has led to this legislation. I wished to acknowledge that and the support we received in this body and the support we received from the various organizations, veterans organizations all across America.

I will cite some historic memorabilia on this subject. In May of 2001, I was the only Republican on the Armed Services Committee to join a number of other Democrats on the committee in cosponsoring the bill by Max Cleland of Georgia. Those of us who knew Max Cleland remembered that he came to the floor of the Senate, despite his serious wounds he had received and disability from that conflict, as the hardest fighting Senator for veterans and military people.

I was proud to join him. But nothing happened to that bill. It lost its way. So then, in 2002, as chairman of the committee, I went back and picked up on what this legislation had laid as the

foundation. In the fiscal year 2002 National Defense Act, subtitle E, section 654, is the historical precedent for transferability.

So I wish to thank the members of the Armed Services Committee who have worked this issue for many years. When it came time to have Senator WEBB's bill go in, we talked about transferability, but we recognized it was already law.

In the course of the deliberations on his bill, it seemed to me important that we update the 2002 law, which we did. I put in an amendment, amendment No. 4800, on May 20, 2008, which brought transferability in the old statute up to date.

Subsequently, we have not had any official cooperation of support from the Department of Defense, but unofficially there was some advice that came to us. We incorporated that advice, and that advice now reshaped my amendment on May 20. That, hopefully, will become the law of the land when that bill comes from the House to the Senate floor. I certainly urge all colleagues to join in that.

But again, I say to Senator WEBB, I salute him for his work on this legislation, his long and hard service to the country. This will stand as a hallmark for his initiative. I was pleased to join him along the way. I think all of us in this Chamber thank him for the leadership he has given.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I wish to add my voice to one of my dearest friends in this body, Senator JOHN WARNER, and to JIM WEBB, who did a great job of this. All of us are grateful for the tremendous work they have done. Needless to say, millions of veterans deeply appreciate their commitment to this. I am not surprised that these two Virginians will be leading the charge in this. I thank them.

Mr. WARNER. Mr. President, if I can add a word. When the Armed Services Committee passed, in 2002, the legislation initiating transferability, it was against the wishes of the Department of Defense. But, nevertheless, our committee, as it has many times, stood its ground and put it into law.

It was not utilized by the Department of Defense, except in one or two cases by the Department of the Army. The other military departments did not use it. So the concept of transferability has been around for a long time. It is not brand new as indicated by some interpretation of this press release from the White House today.

It has been around a long time, and it received no support from the Bush administration in 2002, when it went on the lawbooks. It was not utilized by the departments. So, today, they announced, from the White House, it is rather interesting, the sentence reads:

The President is pleased that Congress answered his call to ensure that military families soon will be able to transfer their unused education benefits to their spouse or children.

That has been the law of the land, in one form or another. That has been the effort of this Congress. That has been the effort of this Armed Services Committee, of which I am proud to be a member for many years, 6 or 7 total.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I wish to give my thanks to our colleagues. Well done.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we have a unanimous consent request that we are going to make when I get the paper.

I ask unanimous consent that the Bunning motion to refer now be in order with respect to the House message regarding H.R. 3221; that there be 30 minutes for debate with respect to the motion; that the time be equally divided and controlled in the usual form; that no amendments be in order to the motion; that the motion be subject to an affirmative 60-vote threshold; that it achieves that threshold, that it be agreed to and the motion to reconsider by laid on the table; that if it does not achieve that threshold, that it be withdrawn and there be no further motions to refer in order during the pendency of this House message.

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

The Senator from Kentucky.

MOTION TO REFER

Mr. BUNNING. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] moves to refer the message from the House on H.R. 3221 to the Committee on Banking, Housing, and Urban Affairs of the Senate with instructions to assess the potential financial benefits the legislation could provide to Countrywide Financial Corporation and other lenders, as well as mortgages originated by Countrywide Financial Corporation and other lenders that are held by third parties.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I make this motion to refer the House message on the housing bill to the Banking Committee so the Senate can have all the facts about who will benefit from this legislation before we go forward. As anyone who has looked at the 631 pages of the substitute text can tell, this is a very serious piece of legislation. Hundreds of billions of dollars are on the line under the various parts of this bill. One part of this bill alone is a $300 billion refinancing program for problem mortgages. That part of the bill will open the door of the FHA to borrowers who have defaulted on their mortgages. I question the wisdom of that program. But for the moment, I want to focus on who will benefit rather than the losses the taxpayers will face.

The supporters of this bill say borrowers will benefit and lenders must take a loss on the loan before it can be refinanced. But that is not the whole truth. Lenders are already facing losses on these loans, so moving a loan into the program puts an end to the bleeding, and the FHA assumes the risk of all future losses. What that means is the lenders and others who hold mortgages are going to dump their worst $300 billion of mortgages on the FHA, without requiring so much as a thank-you to the taxpayers. If we are going to give such a large gift to the big banks and the investment houses, we should at least know to whom we are sending it.

Some of the lenders who are blamed for creating this housing crisis stand to benefit the most. For example, I read in the morning Wall Street Journal that one lender, Countrywide Financial, could benefit to the tune of $25 billion. That is a large gift from Congress to a private company, especially one that has been identified by some as the leader of the mortgage madness and has written more than 10 percent of the total of the most risky loans.

Does that make sense to anybody? Does that make sense to my fellow Senators? I don't think so.

Some may question that $25 billion figure. The truth is, no one in this Senate knows what the real number is. That is my point. The American people deserve to know who is going to benefit from this bill before we pass it. That is why I make this motion to refer the bill to the Banking Committee so that the committee can assess which banks and lenders will benefit and by how much. I make this motion with the full knowledge that it is going to take 59 fellow Senators to realize that the 631 pages of this substitute have just appeared before us yesterday. I continue to press my motion.

I now yield to my good friend from South Carolina, Senator DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I thank the Senator from Kentucky. I appreciate his willingness to offer this motion and bring some of our concerns to the attention of the Senate. I would like to make clear that it is not our intent to question the integrity of any Member of the Senate. But I believe every American has the right, given the situation surrounding this bill, to question the judgment of any Senator who votes for it at this time.

I know Senator SHELBY, the ranking member, has worked for years on part of this bill that is very important, and that we all support, GSE reform, getting a Federal regulator who can help keep some accountability in a system that has gotten out of control. I know if that was the only part of this bill that was being offered, he would be proud to support it. But we also know politics is the art of compromise, and we had to put a package together, I assume, that was needed in order to get the real reform through.

I think the package that came together is clearly problematic. A cloud

surrounds this bill. We have seen it in the media all over the country, questioning the amount of money we spend, who benefits from it, and the fact that we are potentially unloading hundreds of billions of dollars of bad loans on to the American taxpayers' shoulders.

I appreciate Senator SHELBY and his work, but I have to object to this bill. The purpose of referring it back to the committee is not to stop the bill indefinitely but to get a careful review of who benefits from this bill. I have received different reports since it began.

First, I heard that Countrywide, one of the lenders involved that has had so many allegations against it, could potentially get $2.5 billion. Then the Wall Street Journal says it is $25 billion. As we look at this, the bill is designed to essentially encourage a lot of these mortgage companies to unload their riskiest loans on to the taxpayer. We are told, because they have to accept some reduction in the value of that loan, that they are going to be discouraged from doing it. In fact, we know if you take the riskiest loans, the Congressional Budget Office has already told us that 35 percent of these loans will default again. In other words, we basically know that 35 percent of these loans are going to fall back on the shoulders of the American taxpayer because this bill includes a guarantee.

We also know some of the voluntary programs, such as the Hope Now Program facilitated by the administration, are working. They have prevented over 1.5 million foreclosures. We need to do things like that that would help avoid foreclosures, help people stay in their homes. But this bill has come together in such a way as to raise questions all over the country that we need to answer before we move ahead.

Again, I thank the Senator from Kentucky for his willingness to stand for this. I encourage those who even support the bill to accept that we need to say: Wait a minute; let's look at this again. Let's look at the concerns that are being expressed all over the country. Then, let's take up the bill again at the right time.

I thank the Senator from Kentucky and yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I reiterate the fact that since we have the 631-page substitute, we have had no CBO scoring on this bill. It would only make sense to me to refer it back to the Committee on Banking so that CBO can work their magic and come up with the numbers so we know who is benefiting and who is not benefiting from the many pages in this bill.

I ask for the yeas and nays and yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Alabama.

Mr. SHELBY. Mr. President, within the hour, the Senate rejected two amendments offered by the Senator from Missouri. The first one, which would basically gut this program, the vote was 77 to 11. The second Bond amendment was also rejected, 69 to 21. That indicates that there is a lot of bipartisan support for this bill on which we have worked for years in the Banking Committee. The current Presiding Officer knows these issues well. He represents the State of Florida and knows about housing. He knows about mortgages and, as an attorney at one time, I am sure he dealt in that area.

In this bill there is no special treatment, I say to my good friends—and I have a lot of respect for Senators BUNNING and DEMINT—no special treatment for any lender or homeowner. All lenders will have to take a significant loss, more than a little haircut, if they choose to participate. This is a voluntary program. All homeowners will have to share any equity gains. This is not a bailout, I assure my colleagues. The Presiding Officer knows I wouldn't support a bailout.

I voted against the stimulus bill that was here earlier in the year, as some of my colleagues did. But there are some good things in this bill, and I want to talk a few minutes about them. While the legislation would authorize FHA to provide up to $300 billion in loan guarantees under the new program over the 2009–2011 period, CBO, the Congressional Budget Office, estimates that FHA would use only $68 billion of that—that is a lot of money still—loan commitment authority through 2011 to implement the program. CBO estimates that enacting this legislation would increase direct spending by $729 million over the 2009–2018 period. That amount includes $684 million for the estimated subsidy cost of loan guarantees and $45 million in administrative costs.

Taxpayers will not bear these costs. Maybe that was the original proposal, but in the Banking Committee, we worked out a formula to let the GSEs, the affordable housing program, do this for 3 years because we didn't want the taxpayers doing this. Taxpayers will not bear these costs. During the 2009–2011 period, a portion of the GSEs' assessments would be used to pay the cost of this new program. These assessments would be used to reimburse the Treasury for the cost of the whole program up to an estimated $960 million total for those years.

Use of the new loan program is contingent upon the voluntary participation of both lenders and borrowers. As a result, demand for this program to refinance qualifying mortgages would depend on how many lenders and borrowers would perceive the new program as their best option in the marketplace.

It is important to note that mortgage lenders and borrowers will give up something in order to take advantage of this program. The current mortgage holder, whoever it is, must agree to a loan refinancing program that brings the loan-to-value ratio on the new FHA-insured loan to no greater than 90 percent of the property's current appraised value, not what it was at one time. In addition to forgiving a portion of the debt on the existing loan, the current mortgage holder will have to pay 3 percent of the original insured loan amount to FHA. The existing mortgage holder might also cover some portion of the origination fees for the new loan. In effect, the existing mortgage holder would take at least a 13-percent writedown—it might be 50 percent; we don't know—of the existing mortgage. That probably, in a lot of cases, would be better than foreclosure. What I am driving at is, we are not worried about the lenders. I am not. I am worried about the homeowners. I know the Presiding Officer is. The amount could be higher depending on the amount of the origination fee paid and the ability of the borrower to pay a mortgage. Thus, the current mortgage holder will receive no more than 87 percent of the property's current value, after the 3-percent premium is taken into account. I know this is complicated, but this is the way mortgages work.

Borrowers will have to agree to the equity-sharing provisions required under this program and determine whether forgoing some future profits on their homes is an acceptable arrangement. This is a voluntary program.

CBO, again, estimates that fewer than 40 percent of the 1.1 million—at this time—eligible loans would be refinanced under the new program. But if they are, it is going to help a lot of people who are deserving. Following a reduction in the principal amount of those loans to make them affordable, CBO further estimates that approximately 400,000 loans would be guaranteed under this legislation, with an average loan amount of $170,000. This 40-percent participation reflects the number of expected foreclosures, the impact of second liens, administrative challenges, and anticipated participation by mortgage holders and borrowers.

Many borrowers who would otherwise be eligible for this program will not participate because servicers will not be able to contact some borrowers, as we know. Even with the assistance of this program, some borrowers will not be able to avoid foreclosure because they have experienced a significant event, such as job loss, illness, divorce, or death. In other words, they would not qualify.

The average subsidy rate for those guarantees would be 1 percent. This estimated subsidy rate assumes that the cumulative claims rate—that is, the default—for the program would be about 35 percent and that recoveries on defaulted mortgages would be about 60 percent of the outstanding loan amount.

Mr. President, I want to say again, in this legislation there is no special treatment for any lender or homeowner. This is a voluntary program. All lenders—all lenders—will take a significant loss. There is no mention of any bank, mortgage broker, mortgage banker, or anybody else—Countrywide or anybody—in this bill. If there were, I would not support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I yield to the Senator from New York, Mr. SCHUMER.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I rise against this motion for several reasons.

First, on the specific issue, I do not think there has been a Member of this Chamber who has been more of a scourge against Countrywide than the senior Senator from New York. I do not like their practices. I do not like what they have done. I have criticized them publicly repeatedly. I have even asked Bank of America to make sure Countrywide employees—high-ups—are not hired when the company takes over. So I do not like Countrywide. I think many of us in this Chamber may not, given what we know they have done.

But I do not know of a single special interest provision, as my good friend from Alabama has stated, in this bill that applies to Countrywide. It is a general proposal supported by wide numbers of people on all sides—on the lending side, on the borrower side. Many of the groups that represent the poorest people in America support these provisions. So did my colleagues. Of the 10 Republican members of the Banking Committee, 8 supported this bill.

Furthermore, this bill is not one of those that are concocted in the dark of night and put on the floor 3 hours later. The provisions in the bill have been public for weeks. Not a single one of my colleagues has come up and is able to point to any special interest provision that names any specific lender, that benefits them differently than all the other lenders around.

If there is something we ought to do about Countrywide, we can hold hearings. If there is something we ought to do about the practices Countrywide and other lenders used, we should reform them. The chairman of this committee has been in the lead in trying to make those kinds of reforms. I know because a lot of the legislation he did we worked on together.

So there is no reason to believe—there is not a scintilla of evidence—there is a special interest provision here. We all know what is going on here. We ought to resist it on both sides of the aisle. I want to particularly salute my colleague from Alabama for standing up and saying that.

The second thing I want to say is this: This is beyond petty politics. We have a nation heading into recession. Thousands of people lose their homes every single day. Will the provisions of this bill—introduced by Senators DODD and SHELBY and supported by the Banking Committee, 19 to 2—will they save every one of them? Absolutely not. Will they save a good number of them? You bet.

Will they bring back devastated neighborhoods that have foreclosure signs on all the houses? And innocent homeowners who happen to have a house next to them, who paid their mortgages off 10 years ago and are suffering today because the value of their homes is going down, will this bill help them? You bet it will, with the CDBG provisions.

Will this bill enable Fannie and Freddie—which we are going to need in the next few years more than ever because they back or securitize or hold 80 percent of the new mortgages in this country; it is the only way to get the housing business back on its feet; and this bill wisely strengthens the regulation of Fannie and Freddie and strengthens their capital requirements but at the same time enables them to move forward at a time when we need them more than ever before—will this bill do that? You bet.

Should we be holding this bill up now when we desperately need it, when not a single provision—not a single provision—in this bill can be pointed to as narrow, special interest, or favoring any single institution or individual?

The argument is conclusive. It is not a close one. This is not one of those—by the way, one other reason. We finally have a bipartisan bill on something important. It does not happen very much these days, to the regret of most of us here, whether we be Republican or Democrat. We finally have one because of the hard work of the senior Senator from Connecticut and the senior Senator from Alabama.

Therefore, I urge that this motion be defeated and that we move on and pass this bill tonight so we can get to the business of fixing the housing crisis and, furthermore, trying to make sure the recession we have is as shallow as possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I would like permission to speak briefly in rebuttal for 2 minutes.

The PRESIDING OFFICER. The Senator has 5 minutes 22 seconds remaining.

Mr. BUNNING. Mr. President, I want everybody to see this bill—631 pages. This is the substitute bill out of the Banking Committee. This bill never came through the Banking Committee. This is a substitute bill. No one saw this bill until 5 p.m. last night—631 pages.

My good friend from New York has made many good points about the bill that we did discuss in the Banking Committee, and you know about it. But this is a brandnew substitute that has new provisions, and no one has had a chance to go through them.

I am saying that this bill ought to be sent back to the Banking Committee and examined to make sure all those wonderful things the Senator from New York has said are true. That is the reason for my motion to refer.

I yield all of my time back.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield time to my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

There is 1 minute 40 seconds remaining.

Mr. REED. Mr. President, the CBO has scored the Banking portion of this bill so that not a penny of taxpayer dollars will be spent. This is not a bailout by taxpayers dollars. Second, the bill in no way benefits lenders. Lenders have to take a haircut, as Senator SHELBY pointed out very clearly. Also, this bill is really an amalgamation of provisions, many of which have passed the Senate before, that have been discussed extensively in the Banking Committee. That are the result of numerous hearings.

This is not the case where we have created something completely new, completely out of whole cloth. There might be changes, but I think it is quite easy for committee staffs and individual Members to deal with these changes and if there are objections, to make amendments.

This motion is to kill this bill. As Senator SCHUMER pointed out, what we are losing here is help for hundreds of thousands of homeowners—not financial institutions. What we are losing here is a stronger regulatory structure to govern Fannie and Freddie. I have sat on the committee for years listening to people say: We have to get regulatory reform, GSA reform. We cannot let these institutions—Fannie and Freddie—operate without strengthened oversight. That is precisely what this legislation does.

So this legislation is about helping homeowners, regulating Fannie and Freddie, and has nothing to do with bailing out companies.

Countrywide is mentioned in this motion to recommit. Countrywide was trading a year ago at $38.89. It closed today at $4.83. It is subject to an acquisition by Bank of America. The market has penalized Countrywide. Bank of America will acquire it. By the time this legislation is effective, Countrywide very well might not exist as an entity in the country.

The PRESIDING OFFICER. All time has expired.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, give me the time situation on this half-hour motion?

The PRESIDING OFFICER. All time has expired.

Mr. REID. Mr. President, I will use leader time.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. REID. Thank you very much, Mr. President.

Mr. President, this is an extremely important piece of legislation. There is not a place in America that has not felt the burden of the subprime lending crisis. It has spilled over into everything we do in America today.

In Nevada, where we have had a boom for 20 years, that boom is not there now. People were buying homes because we had such growth coming into the community. We have 5,000 to 10,000 people moving to Las Vegas even now. But this has hurt the entire economy of my State.

We have already passed 75 percent of this legislation overwhelmingly. This is a good piece of legislation. Twenty-five percent—an important part of this legislation—has been worked on for 2 months, at least, in great detail by two of the most experienced Senators we have—Senators who know how to deal with the House because they both served in the House, Senators who have been chairmen of committees in the past and now.

Senators BUNNING and DEMINT have a right to offer this—and that is why we are here—but I think they are headed in the wrong direction. I ask my colleagues to understand that everything in this bill is transparent. There is nothing that is not transparent in nature.

We have to also understand that, for example, one of the programs this motion attempts, perhaps, to suggest—and others would have to make a better determination than I—but suggest that the HOPE for Homeowners Program created in this bill through the bipartisan work of Senators DODD and SHELBY is a taxpayer-paid bailout to lenders. One of the people who have been involved in this provision of the bill for a long period of time has been the Secretary of the Treasury, who, by the way, is a breath of fresh air for the administration. I have great respect for Secretary Paulson. So there could be nothing further from the truth that this is a taxpayer-paid bailout.

First, according to the Congressional Budget Office, the HOPE for Homeowners Program will actually result in a net gain for taxpayers of a quarter of a billion dollars—$250 million.

Second, lenders aren't getting bailed out under this program; lenders must choose to participate. The program is voluntary. Secretary Paulson has talked to me personally about this. He likes it because it is voluntary.

Third, lenders who voluntarily participate in this program will have to take a loss. These lenders will have to agree to accept a new loan at a reduced principal amount to replace an existing loan they have made to a borrower. So if lenders participate, they will lose money, belying the notion that this program is a bailout.

Some of our friends in the Senate claim this motion is not intended to question the integrity of colleagues, and I hope they are right. Whether that is true or not, regrettably, the effect of this motion is to delay the Senate in providing relief to American families, a struggling housing market, and our economy.

As he knows, Senator BUNNING is somebody whom I admire greatly because the fact is, I wanted to be a baseball player, not a Senator. I have great respect and admiration for him. Every chance I get—and I think I get on his nerves a lot of times because I continually ask him about his ball games and who was his favorite catcher and all that kind of stuff. So the fact that I oppose this motion doesn't take away from my respect for the Senator from Kentucky, a member of the Baseball Hall of Fame.

I disagree with Senator DEMINT quite often, but I know his heart is in the right place. He is trying to do the right thing. I just think this motion should be overwhelmingly defeated. It would be good for this bill. It would be good for the country, and I believe it would be good for the Senate.

Mr. ISAKSON. Mr. President, is the distinguished majority leader finished?

Mr. REID. Yes, sir.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, as a member of the Ethics Committee and in consideration for what may or may not happen, I am going to vote ''present'' so there will be no prejudice in any way, one way or another, in any decision that might have to later be made regarding the mortgage business and Countrywide in particular.

MOTION TO REFER

The PRESIDING OFFICER. The question is on agreeing to the motion to refer.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mrs. BOXER (when her name was called). Present.

Mr. CORNYN (when his name was called). Present.

Mr. ISAKSON (when his name was called). Present.

Mr. PRYOR (when his name was called). Present.

Mr. SALAZAR (when his name was called). Present.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. CONRAD), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. OBAMA), and the Senator from Virginia (Mr. WEBB) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Kansas (Mr. ROBERTS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''no.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 11, nays 70, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—11

Allard	Coburn	McConnell
Bond	DeMint	Thune
Bunning	Ensign	Vitter
Burr	Inhofe	

NAYS—70

Akaka	Enzi	Murray
Barrasso	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Graham	Reed
Bennett	Grassley	Reid
Biden	Hagel	Rockefeller
Bingaman	Hatch	Sanders
Brown	Hutchison	Schumer
Cantwell	Inouye	Sessions
Cardin	Johnson	Shelby
Carper	Kerry	Smith
Casey	Klobuchar	Snowe
Chambliss	Kohl	Specter
Cochran	Landrieu	Stabenow
Coleman	Lautenberg	Stevens
Collins	Leahy	Sununu
Corker	Levin	Tester
Craig	Lincoln	Voinovich
Crapo	Lugar	Warner
Dodd	Martinez	Whitehouse
Dole	McCaskill	Wicker
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

ANSWERED ''PRESENT''—5

Boxer	Isakson	Salazar
Cornyn	Pryor	

NOT VOTING—14

Alexander	Gregg	McCain
Brownback	Harkin	Obama
Byrd	Kennedy	Roberts
Clinton	Kyl	Webb
Conrad	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 11, the nays are 70, 5 announced present. Under the previous order requiring 60 votes for the adoption of this motion, the motion is withdrawn.

Mr. REID. Mr. President, that is the last vote for tonight. In the morning, we don't have any votes lined up. We are going to see what, in fact, we can do. It appears at this time that it is going to be difficult to have votes tomorrow, even though the managers want to do that.

Everybody should be on notice that we will be in session tomorrow and on this bill. I frankly don't think there will be any votes because there are procedural hurdles we ran into this afternoon that will make it difficult to do more amendments.

Do the managers disagree with anything I have said?

Mr. DODD. Mr. President, I thank the leader. Senator SHELBY and I are prepared to be here even for a little longer this evening, for those who might want to talk on the bill, or they can tell us what they may want to offer. So we will be around.

Mr. REID. Mr. President, I also remind everybody that it is obvious we are going to have a lot of work to do next week. We are going to have to have a vote Tuesday morning. It has been longstanding that there will be no votes on Monday. There will be business conducted here on Monday, but we are going to have a vote on Tuesday before the caucuses, and maybe more than one vote before the caucuses.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MENENDEZ. Mr. President, I have a parliamentary inquiry. Is time controlled by the manager of the bill at this point?

Mr. DODD. Mr. President, there is no time agreement, so it is a matter of recognition.

Mr. MENENDEZ. Mr. President, I rise to speak on the bill in general.

Let me first congratulate and recognize Chairman DODD for the incredible job he has done, along with the ranking member of the committee, Senator SHELBY, in bringing to the floor this much needed effort for so many Americans, as well as the country in general. So far, by the nature of the bipartisan votes we have seen, we are moving forward in the right direction.

The crisis in the housing market in this country continues to get worse. One in 11 American mortgages is past due or in foreclosure. That is a devastating number, and it is still rising—rising fast, as unemployment spikes and home prices fall.

American families are losing their most valuable assets, bedrocks in their lives, pillars that support their communities. And when those pillars fall, communities come crashing down. All in all, we have experienced the worst quarter for American homeowners in nearly three decades, and it only stands to get worse.

In my home State of New Jersey, over the next 2 years we expect more than 57,000 homes to be lost to foreclosure. That means 57,000 families who will have to hand over the keys to their homes. Families will be forced to say goodbye to the place where they are nurtured and comforted, the place where they live through the good and the bad, the place they come home to every night. In the words of families who know what it feels like to lose their home, they feel like they have lost everything.

Nationwide, the number of foreclosures that is going to happen if we don't act is unfathomable. With almost 8,500 foreclosure filings each day—and additional resets coming in July—what I said a year ago this past March, that we were going to have a tsunami of foreclosures—though some in the administration said that was an overexaggeration—well, we have not even seen the crest of that tsunami. Unfortunately, that storm is only going to get worse. So we have come together to take a stand for homeowners; not just for those facing foreclosure, but for their neighbors on their streets, their entire communities, and for generations of home buyers in the future. Today, Senators on both sides of the aisle have come together to support legislation to help suffering homeowners and to set the housing market back on an even keel.

This Chamber has come to understand this crisis is truly a threat to all of us, to all our communities. Whether you live in the North, the South, the East, or the West, whether it is a city in Ohio watching crime rates go up after a string of foreclosures, an entire county in Florida experiencing an economic drought after its residents move away, or a single family in New Jersey in danger of being forced out onto the street, everyone stands to lose from those foreclosures.

Lenders report losing tens of thousands of dollars on each foreclosure, and neighbors see the value of their homes dropping pretty dramatically. When we see that 49,000 Americans lost their jobs a month ago, when we see weak earnings reports from businesses, wild swings in the stock market, and the collapse of a major firm on Wall Street, we can see this housing crisis is truly shaking the entire economy to its core.

I am hopeful that this coming week finally there will be a glimmer of hope for homeowners who have been left to fight the battle alone. It is clear that Members on both sides of the aisle know it is time to act, and it is clear what our goal has to be: Helping families keep their homes.

This Housing and Economic Recovery Act we have before us takes some important steps to that end. It strengthens and modernizes the regulation of the housing government-sponsored enterprises—Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. It modernizes the Federal Housing Administration and creates the HOPE for Homeowners program, which will prevent over 400,000 foreclosures.

The bill also contains language that I championed to improve financial education and housing counseling. I believe this is an important step forward for improving financial education and arming homeowners with the tools to protect themselves.

Because of Senator JACK REED, this bill includes an affordable housing fund to create affordable housing for millions of American families.

The bill also contains a new tax deduction for property taxes, relief that could be provided to many across the country but nearly half a million people in my home State of New Jersey. The bottom line is this bill takes real steps to help American homeowners, and these steps are much needed.

Having said that, as always, no legislation is perfect. I do have some concerns. I certainly believe the establishment of a strong regulator for government-sponsored enterprises is long overdue, and there is no better time than now. But I have some significant concerns relative to the effective date of the bill. Currently it does not provide for an orderly transition period. GSE regulatory reform would combine the regulatory powers and staff of three separate executive branch agencies to create a new GSE supervisor with far-reaching powers over our Nation's housing finance system. I believe we cannot make these changes at the flip of a switch. We need time to get the transition right.

The House-passed GSE bill would do this by establishing a uniform effective date of 6 months after enactment of this legislation. I think that is a transition period that would ensure an orderly transition to a new GSE regulatory regime.

The bill also includes a separate provision that would limit the ability of the GSE to create liquid markets for high-cost areas, as well as for other typical portfolio products, such as multifamily lending and refinancing families out of subprime loans they cannot afford, by creating an arbitrary bias toward securitization in the portfolio language of the bill.

As we move forward, I urge the Senate to think more broadly about the importance of the GSEs and the role they play in times of crisis and generally in the days ahead.

I would also like to have seen a higher GSE and FHA loan limit included in the final bill. In March, when the Banking Committee held its first hearing to address the subprime crisis, I spoke about the need to raise the FHA loan limit in order to give borrowers more options. Right now, in New Jersey, 12 of the 21 counties are at the FHA and GSE ceiling. Under this bill today, those 12 counties would have their ceiling lowered, and almost all the other counties in New Jersey would see some reduction as well. By lowering the number, I think we are restricting our economic recovery and our ability to provide individuals with better, more affordable options.

While I believe those are concerns, let me reiterate that none of these provisions causes me to question my support for this bill. Chairman DODD has said numerous times that had he written this bill on his own, without the necessity of the negotiation the Senate is well known for, he would have drafted it differently himself. I certainly commend him for his efforts, as I understand the art of the possible, and I hope we can address some of these concerns as we move forward.

At the end of the day, this bill will help struggling homeowners and will have positive ripple effects on the rest of our country. Having a foreclosed home sit abandoned in a community doesn't benefit anyone. It decreases surrounding home values and it can attract crime and vandalism. The bottom line is that foreclosure destabilizes neighborhoods. The funds in this bill allow communities to stop that spiral before it starts.

I am also proud to have supported a provision in this bill to provide funding for counseling in order to reach and help families at risk of losing their homes. Many Americans are sitting around their kitchen tables looking through their mortgage bills, their finances, and their bank notices, and they simply don't know where to turn. These counselors could offer them real solutions and options to help them avoid receiving the foreclosure notice. The bill puts forward $150 million to make sure counseling reaches those who need it the most.

Some argue that stepping in to help our communities recover from the housing crisis would somehow be a blow to the concept of personal responsibility, because some homeowners made bad choices in signing up for a subprime mortgage. Don't get me wrong, personal responsibility is important, and that is why we need greater support for homeowner education, and for foreclosure counseling and financial literacy, so that anyone thinking about buying a home will be able to understand the terms of their mortgage, even the fine print, and have the tools to protect themselves. But personal responsibility isn't just important for homeowners. As I said at the start of this crisis, every participant in the life of a loan needs to step up and take real responsibility and action. Blaming the homeowner alone is not right, it is not fair, and it is economically disastrous. Every broker, lender, realtor, appraiser, regulator, credit rating agency, and investing firm had a role in this storm, and I will not let the blame fall to only the homeowners.

As we in this Congress are debating how best to help homeowners, how best to end the housing crisis, and how best to get our economy back on track, we have to see the bigger picture. There is a lot at stake, no matter who we are, whether we have a subprime mortgage or not. When the house next to ours gets boarded up, it affects the value of our property, too, and how safe we feel walking around our neighborhood at night. When a neighbor of ours has to declare bankruptcy and is forever saddled with debt they cannot pay, they shop less at stores and purchase fewer of the services our community offers, and that hurts our community's bottom line.

Martin Luther King, Jr., reminded us that ''we are all tied into a single garment of destiny,'' that ''we cannot walk alone.'' This is a crisis we are all in together. There is no reason why we can't all work together to end it. That is why I am proud of the effort of Chairman DODD and Ranking Member SHELBY, and I am proud to support this bill. I hope next week we will pass it, move it on to the House, and get some real relief not only for American families, and not only to preserve the concept of home, but also to be able to deal with the very core of what is the economic challenge presently before the Nation and what will be our challenge if we do not act in the days ahead.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that 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.

WEST VIRGINIA DAY, 2008

Mr. BYRD. Mr. President, certain dates on the calendar carry special meaning. These are great and glorious days that are given to devoted reverence and are a cause for recognition and adoration. Thanksgiving, the Fourth of July, and New Year's Eve are a few dates that come immediately to mind. Another one that comes to mind is June 20—the day we celebrate as West Virginia Day.

Friday will be June 20. All over the world, it will be June 20, which means that all over the world, it will be West Virginia Day. And what a great and glorious day it will be.

It was on June 20, 1863, that West Virginia became the 35th State of the Union. The State proudly adopted as its motto the phrase, ''Montani semper liberi,'' which means, ''Mountaineers are always free.''

This was a most appropriate motto for a State born in the middle of the greatest struggle for freedom and liberty in American history—the Civil War. And West Virginians have always strived to live up to our State motto.

West Virginia workers were in the forefront of the historic labor struggles in the late 19th and early 20th centuries that sought an end to the exploitation and oppression of American workers that had accompanied the Industrial Revolution. In 1877, the Nation's first general strike began among the railroad workers and citizens of Martinsburg, WV, after the railroad tycoons repeatedly lowered wages.

Seeking to end the industrial autocracy that had engulfed the State with the opening of the coal fields in the 1880s, West Virginia coal miners engaged in a series of conflicts now recognized as the West Virginia Mine Wars, including the Paint Creek-Cabin Creek Strike, the Battle of Matewan, and the Miners' March on Logan. These struggles, writes coal-field historian David Corbin, must be viewed in the same perspective as Americans see Lexington and Gettysburg, not just as isolated incidents in the tragic spilling of blood but ''as symbolic moment[s] in a larger, broader and continuing historical struggle . . . the struggle for freedom and liberty.''

In his book, ''The West Virginia Mine Wars: An Anthology'', Corbin compared the West Virginia miners' struggle for unionization to the civil rights movement of the 1960s. ''Both movements,'' he writes, ''are stories of oppressed, exploited people fighting for dignity, self-respect, human rights and freedom.''

This analogy to the civil rights movement is a good one because West Virginia has also played an important role in the quest of African Americans for liberty and equality. For one thing, West Virginia has been the site of some of the important events in African-American history. Prior to the Civil War, John Brown's Raid on Harpers Ferry prefigured West Virginia's breakaway from the slaveholding Confederacy into full statehood. Harpers Ferry later served as the setting for the second meeting of the Niagara Movement, a meeting that led to the formation of the NAACP.

Individual West Virginians have played important roles in this historic struggle. Author and abolitionist Martin Delany, with Frederick Douglass, edited the North Star newspaper, the leading abolitionist newspaper in the country. J.R.Clifford, along with his colleague, W.E.B. DuBois, was one of the founders of the Niagara Movement in 1905. Rev. Leon Sullivan was a civil rights activist who wrote the Sullivan Principles, a code of conduct for U.S. businesses operating in South Africa under apartheid.

Carter G. Woodson, Booker T. Washington, and John Warren Davis were all famous African-American educators who occupy important places in American history and culture and played important roles in furthering the development of our free society.

Furthermore, West Virginians have played an important role in the American movement toward religious freedom. The most noticeable example of this effort came in the historic 1960 Democratic Party Presidential primary—the political contest that paved the way for America's first Catholic President. In 1960, West Virginia was an overwhelmingly Protestant State, and religion became the ''burning issue'' of the contest because, if Senator John F. Kennedy, who was Catholic, defeated his only opponent, Senator Hubert Humphrey, who was a

Protestant, it would show that religion was no longer a defeating handicap in a Presidential contest. Kennedy won that primary by a substantial margin, and, as a result, as Kennedy stated the day after winning the primary, the religious issue was ''buried . . . in the soil of West Virginia.''

Mr. President, I am proud of my State. I love its beauty, its culture, and its history. Foremost, I have always appreciated its kind, good, and generous people and the way they have retained what I call the ''old values''—faith in God, love of country, family, honesty, decency, and integrity. And a leading value of the people of West Virginia, as I have tried to show, has been our motto, ''Mountaineers are always free.''

Happy birthday West Virginia.

May God always bless you, and keep you free.

FLOODING IN ILLINOIS

Mr. DURBIN. Mr. President, President Bush is in Iowa today to see firsthand some of the devastation that more than a week of severe flooding has inflicted on that State.

It is the President's first visit to the Midwest since the floods began more than a week ago.

Midwesterners appreciate the President's visit to our region. These floods are happening in our States, but they are a national disaster.

The President's visit to Iowa today gives us some reassurance that the Federal Government will help our region through this crisis.

As the President visits Iowa today, I hope he looks across the river to my State of Illinois.

Floods don't stop at State lines.

The floodwaters are receding now in Iowa; they are rising in Illinois. Levees are breaking and farmland and towns along our side of the Mississippi are being swallowed up by the river now.

The damage in Iowa has been staggering and heartbreaking , and we pray for our neighbors' safety and well-being.

But the entire Midwest is reeling from weeks of flooding and tornadoes—from Minnesota to Kansas and everywhere in between; Wisconsin, Iowa, Missouri, and, of course, Illinois.

We know from the great flood that devastated the Midwest in 1993 and, more recently, from Hurricane Katrina, that the losses from this chain of weather-related disasters will be more than our States and citizens alone can shoulder.

We also know that, in times of crisis, Americans have always come together to help those in need. We are counting on that American tradition of cooperation now.

My colleagues and I whose States have borne the brunt of these floods appreciate greatly the support and offers of cooperation we have received from Senator LANDRIEU and others whose States have also suffered major natural disasters.

I hope that President Bush and others are equally committed to rebuilding the Midwest, not just through disaster relief but by strengthening levees, rebuilding houses, providing loans to small businesses, or helping farmers who have lost an entire season of crops.

As we speak, the floodwaters are still rising—in Iowa in Missouri, and in my State of Illinois—breaking levees, leaving people without running water, and leaving whole towns submerged.

Yesterday, two more levees broke on the Illinois-Iowa border near Quincy, flooding thousands of acres of farmland and forcing people to leave their homes. That brings the total number of broken levees in Illinois to nine as a result of the flooding.

In Galesburg, residents are on boil order and are in danger of losing their access to running water.

In Lawrenceville, where the floodwaters from earlier storms are finally receding, over 10,000 people have been without running water for more than a week. We will not forget our neighbors on the east side of the State, where it all began earlier this month.

Over 500 homes have been affected in Machesney Park, a small community in Winnebago County without a public works department and without trucks or any other equipment to help with the clean-up efforts.

My heart goes out to everyone affected by the floods, especially those who have watched their homes and livelihoods disappear under muddy waters.

But as the waters keep rising, the people of Illinois continue to humble and inspire me.

Illinoisans continue to work day and night to prepare for the worst. In cities and towns all along the Mississippi, people have spent the last week filling sandbags and fortifying levees. This is difficult work, often backbreaking, but as hard as it's been on the body, it hasn't broken people's spirits.

Day after day they have shown up—residents, volunteers, emergency workers, members of the Illinois National Guard. It is not easy to stand your ground in the face of a force as powerful as the Mississippi, but these folks have done just that. Their resolve and determination show an amazing spirit at work. It is something Senator OBAMA and I had a chance to see for ourselves when we were in Quincy and Grafton last week. It is a sight to behold.

I also commend FEMA and the Army Corps of Engineers. They are doing what needs to be done to help these communities prepare for the worst. A number of State of Illinois departments and agencies are working 24/7 to ensure communities have the resources to fight the flood waters. This is truly a team effort.

Right now we are in a race against time and nature. The worst is still to come.

The river is still swelling and is projected to crest for many of the communities farther south in the coming days.

When the floodwaters recede, we will need to roll up our sleeves and begin the long, hard process of rebuilding.

Senator OBAMA and I will be working with the Illinois congressional delegation and our Senate colleagues to ensure that the people in the Midwest will not face this formidable task of rebuilding alone.

My thoughts and prayers are with everyone on the ground.

TRIBUTE TO CLARENCE L. MILLER

Mr. MCCONNELL. Mr. President, I rise today to honor a well-respected Kentuckian, Mr. Clarence L. Miller. Throughout his life, Mr. Miller has contributed immensely to our Commonwealth and Nation.

Recently the Sentinel-News in Shelbyville, Kentucky, published a story about Mr. Miller. The story summarizes the extraordinary life he led, while paying tribute to him as a remarkable Kentuckian. Throughout his career as a public servant, Mr. Miller has worked hard to give back to the State and Nation that he loves so dearly.

I ask my colleagues to join me in honoring Clarence L. Miller as a true patriot and Kentuckian whose legacy will forever be remembered, and I further ask unanimous consent that the full article be included in the RECORD.

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

[From the Sentinel-News, April 30, 2008]

CLARENCE L. MILLER: FARMER, ADMINISTRATOR, DIPLOMAT, RACONTEUR

(By BG Ron Van Stockum)

I called on Clarence Miller recently to add my appreciation to that of his many other friends for his generosity in donating his farm to Shelbyville. In our informal conversation it became apparent that his story needed to be recorded and reported.

Accordingly, a few days later, my son Reggie invited him to Allen Dale where he taped as oral history an extended audio/visual interview. My column today will constitute an abbreviated story of Clarence Miller's life, providing information additional to that contained in Gayle Deaton's excellent article in an issue of last year's Sentinel-News.

Clarence Miller was born in Louisville in 1912. His father, Pleasant Green Miller, always called ''P. Green'' (1871–1968), born in Estill County, was employed as a federal whisky inspector or ''whiskey gauger.'' His responsibilities, within the Department of the Treasury, included the recording of whiskey production and assuring that the distillers paid the proper federal tax on alcohol. With the onset of World War I, distillation was dramatically curtailed in order to preserve grain. His job disestablished, he took his family to Florida where he set out a citrus grove.

EIGHTEENTH AMENDMENT: PROHIBITION (1920–33)

Before the production of whisky could be fully restored, National Prohibition was established by means of the Eighteenth Amendment, with Kentucky being the third state to ratify it. Ratification was certified on 29 January 1919 and on 28 October the Volstead Act was passed, defining ''intoxicating

beverage'' as one containing greater than one-half of one percent alcohol. This act went into effect on 29 January 1920, along with the Eighteenth Amendment. President Hoover called Prohibition a ''noble experiment,'' but others used stronger words. Clarence described the effect of Prohibition on the distilleries as ''confiscatory.'' They held millions of gallons of whiskey in storage, but, except for a controlled trickle for ''medicinal'' purposes, were not allowed to sell it.

Even moderate imbibers needed to adjust. While I do not recall alcohol being served by my parents in Seattle, Washington, I do remember my mother sending me out on the lawn to pick dandelions for wine. The process she used is unknown, but it is possible today to learn all that is necessary by ''googling'' ''dandelion wine.''

P. Green Miller and many other federal agents, were called back to the Treasury Department to enforce the new law. In view of its unpopularity, affecting so many special interests and tastes, this was a formidable task. In 1923, he became Division Chief for Enforcement of Prohibition for the states of Kentucky and Tennessee, with offices in Louisville and Memphis. Later, he spent a good deal of time on the east coast, in New York, Baltimore and Boston, trying to eliminate, or at least minimize, the illegal smuggling by high-speed cutters, called ''rum runners,'' which picked up whisky from vessels lying beyond the territorial limits. He also was involved in the attempt to break up the illegal activities of the most powerful and infamous of all bootleggers, Al Capone, who operated out of Chicago.

REPEAL OF PROHIBITION—TWENTY-FIRST AMENDMENT (1933)

On 23 March 1933, President Franklin D. Roosevelt, after signing into law an amendment to the Volstead Act, allowing the manufacture and sale of ''3.2 beer'' and light wines, is reported to have remarked ''Now let's all have a beer.'' The Eighteenth Amendment, itself, was repealed later with ratification of the Twenty-first amendment on 5 December 1933. P. Green Miller returned to farming.

YOUNG CLARENCE L. MILLER

Meanwhile, on 1 January 1925, when Clarence was 12 years old, the Miller family purchased Red Orchard Farm and established residence there, although Clarence's father was still spending most of his time elsewhere discharging his enforcement responsibilities. The farm, originally 119 acres, now constitutes 130 acres. Clarence helped his mother with the farm, entering Shelbyville High School where he graduated with the class of 1932. A schoolmate of his was Ben McMakin, the subject of one of last year's columns, who died as a Marine prisoner of war in 1945. ''Ben was president of our class one year, and I the next.'' He then spent two years at University of Kentucky with the intent of studying law, but instead returned to Shelbyville.

MOVING UP IN AGRICULTURE

Here, he was employed with the Agriculture Adjustment Administration (AAA), later called the Commodity Stabilization Service (CSS). He started literally from the ground up, measuring tobacco plantings to assure compliance with the regulations. In 1947 he married his high school sweetheart, Katherine Barrickman, always called ''Toddy.'' The daughter of a prominent Shelbyville lawyer and County Attorney, she was an accomplished competitive golfer, being local women's champion for 13 straight years. In 1953 Clarence became chairman of the state CSS and a year later went to Washington DC as national Director of the Tobacco Division of the same agency. In 1956, he became Associate Administrator of the national CSS. In 1959 and 1960, the final two years of the Eisenhower administration, he served as Assistant Secretary of Agriculture for Marketing and Foreign Agriculture, working directly under Secretary Ezra Taft Benson, Agricultural Attaché in Madrid.

From 1961 to 1969 he was back in Shelbyville, operating his farm and occupying a position in public relations with the Kentucky Farm Bureau. In 1970 he was appointed under the Nixon administration as Agricultural Attaché in Spain, serving until 1976, initially under his good friend, Ambassador Robert C. Hill. It was during this period that several of his friends from Shelbyville were his guests at the Embassy in Madrid. I remember my fellow tennis player, the late Guy Lea, one of his guests, remarking about Clarence's hospitality when he and his wife visited Spain.

WORLD TRAVELER

Despite undergoing double artery by-pass surgery and replacement of the aortic valve in 1998, the following year he took a trip to Singapore. There are few countries he has not visited. He has traveled around the world, rounded both Africa and South America by ship, and visited Greenland and Antarctica. Nevertheless, he has never lost touch with his home town and his lifetime of public service to his community and to his country has culminated in the most altruistic act of all: the gift to his home town of Red Orchard Farm.

Note: It is encouraging to report that Clarence Miller continues to be hale and hearty, strong of voice, forceful in expression and vitally concerned about public affairs. He looks back upon his long life with a feeling of accomplishment: ''It has been my good fortune to have been in the right place at the right time with the right credentials.''

CAPTURE ARREST AND TRANSPORT CHARGED FUGITIVES ACT OF 2008

Mr. DURBIN. Mr. President, I rise today to discuss legislation I recently introduced called the Capture Arrest and Transport Charged—CATCH—Fugitives Act of 2008. I am pleased that Senator DOLE has joined me as a cosponsor of this bill.

The CATCH Fugitives Act addresses three important problems that undercut State and local efforts to catch fugitives. First, State and local law enforcement authorities have insufficient resources for identifying and arresting fugitives. Second, even when fugitives are arrested, they may not be prosecuted because of the high cost of extradition. Third, when fugitives flee across State lines, they frequently escape detection because law enforcement officers lack complete information about warrants issued in other States. Fewer than half of all outstanding felony warrants have been entered into the nationwide database that alerts other law enforcement officials that a person is wanted.

The act addresses these three problems by providing assistance to State and local law enforcement agencies through the U.S. Marshals Service to help them identify fugitives and transport them from one State to another for prosecution. It also creates grant programs that will encourage States to share information about warrants with each other and help them pay for the cost of additional extraditions.

This legislation is supported by Illinois Attorney General Lisa Madigan, Cook County State's Attorney Richard A. Devine, Cook County Sheriff Thomas Dart, City of Chicago Police Superintendent Jody P. Weis, Peoria State's Attorney Kevin Lyons, the Illinois Association of Chiefs of Police, and the Illinois Sheriffs' Association.

Nationwide, there are an estimated 2.8 million to 3.2 million outstanding warrants for the arrest of persons charged with felony crimes, and the number is growing. Fugitives often commit additional crimes while they are at-large. However, searching for and apprehending them is costly. Increasing the resources available for conducting fugitive investigations would increase the number of fugitives who are arrested, brought to trial for previous crimes, and prevented from committing new crimes.

The Marshals Service plays an integral role in the apprehension of fugitives and has a long history of providing assistance and expertise to other law enforcement agencies in support of fugitive investigations. Pursuant to the Presidential Threat Protection Act of 2000, the Marshals Service created its Regional Fugitive Task Force program. The task forces combine the efforts and resources of Federal, State, and local law enforcement agencies as they work to locate and apprehend fugitives. Between 2002 and 2006, the Marshals Service established task forces in six regions of the country. Since their inception, these six task forces have arrested approximately 90,000 Federal and State felony fugitives, contributing to a significant increase in the number of fugitive arrests in those regions. The Marshals Service has developed a plan to establish 12 additional task forces—enough to serve the rest of the country—but since 2006 it has not received the resources needed to implement this plan.

The CATCH Fugitives act increases the authorization for the Regional Fugitive Task Force program from $10 million under current law to $50 million for each of fiscal years 2009–2012 and $25 million for each of fiscal years 2013–2015, in order to fully fund the existing task forces and add new ones that serve the remaining parts of the country.

In addition to strengthening fugitive-hunting capacity in general, the act also tackles the problem of capturing out-of-State fugitives and extraditing them for prosecution. Since 1967, the Federal Bureau of Investigation has operated the National Crime Information Center, NCIC, which administers a database containing criminal history information from the Federal Government and the States, including outstanding arrest warrants. The NCIC database is designed to allow a law enforcement officer who stops a person in one State to be made aware of any outstanding warrants for that person

issued in another State. The database contains approximately 1.3 million felony and misdemeanor warrants, but it is missing more than half of the Nation's 2.8 million to 3.2 million felony warrants, including hundreds of thousands of warrants for the arrest of the people accused of committing violent crimes.

A State's failure to enter all of its warrants into the NCIC database enables fugitives to escape arrest even when they are stopped by an officer in another State. Many such fugitives go on to commit additional crimes. In addition, they pose a danger to the officers who encounter them but have no knowledge of their pending charges and record of fleeing law enforcement authorities.

Let me give an example from an investigative series of articles that appeared in the St. Louis Post-Dispatch earlier this year. On March 21, 2001, Eloy Williams was charged with the rape of a college student in Florida. Florida authorities issued a warrant for his arrest but did not enter it into the NCIC database. On July 16, 2001, Williams skipped a hearing in Florida on a cocaine trafficking charge. Florida authorities issued a warrant for his arrest for failure to appear on that charge but again did not enter the warrant into the NCIC database. On April 11, 2002, Williams was stopped by a police officer in Decatur, GA. The officer found no record of the Florida warrants in the NCIC system and Williams was released the next day. On July 25, 2002, Williams was arrested in Decatur for speeding. Again, the police officer found no record of his Florida warrants so Williams was released the next day. On October 9, 2002, Williams raped and robbed a 14-year-old girl while she was walking home from school. In May and June of 2003, Williams raped four women in the Decatur and Lithonia, GA, areas. On June 12, 2003, officers finally tracked Williams down and arrested him. He confessed to all six of these rapes. The five rapes committed between October 2002 and June 2003 could have been prevented if the outstanding Florida warrants had been entered into the NCIC system. The officers who stopped Williams in April and July of 2002 would have learned of the warrants and made him available to Florida for extradition. If extradited, he would not have been in a position to commit those five rapes.

Improving the completeness of the warrant records in the NCIC database would enable law enforcement officers to identify and arrest a larger number of fugitives and would improve the safety of our officers. However, the challenge does not end there. Even if a fugitive is arrested, extraditing that fugitive back to the State that issued the warrant can be costly. Law enforcement agencies often lack the resources to pay for the cost of transporting fugitives. They frequently choose to forego prosecution, allowing fugitives to evade justice and commit new crimes. Reducing the cost of extradition would increase the number of prosecutions.

Let me give you another example from the St. Louis Post-Dispatch series. In the fall of 1999, Virginia law enforcement authorities issued two felony warrants for the arrest of Felipe Fowlkes. Fowlkes had a record of criminal convictions that spanned two decades and included convictions for crimes ranging from burglary to sexual misconduct. In April 2000, Fowlkes learned of the warrants and turned himself in to the local police in Schenectady, NY. The Virginia authorities, however, refused to retrieve him for prosecution. Three weeks later, Fowlkes attempted to rob a woman and was arrested. He was convicted and sentenced to prison time. In July 2003, 6 weeks after his release, Fowlkes attempted to sexually assault a woman. Hours later on the same day, he lured a 15-year-old girl behind a school and raped her. The 2000 attempted robbery and 2003 rape might have been prevented if the Virginia authorities had extradited Fowlkes in 2000.

The CATCH Fugitives Act has three provisions that address the twin challenges of identifying fugitives who have crossed State lines and extraditing them for prosecution. First, it includes a major grant program that offers States and local governments significant funding for extraditions, but builds in strong incentives to improve the entry of warrants into the NCIC database. It authorizes $50 million in grants to States for each of fiscal years 2009–2015 to help cover the costs of extraditing additional numbers of fugitives from one State to another, but it conditions eligibility for grants on improved performance in entering warrant records into NCIC. Any State or unit of local government is eligible for an extradition grant during the first 3 years after enactment. However, a State or unit of local government would lose its eligibility if after 3 years it is still transmitting less than 50 percent of its warrants to NCIC; after 5 years it is transmitting less than 70 percent of its warrants to NCIC; or after 7 years it is transmitting less than 90 percent of its warrants to NCIC.

Second, to help States and local governments improve their performance in submitting warrants to NCIC, the CATCH Fugitives Act authorizes $10 million for each of fiscal years 2009–2013 for grants to State and local governments to improve their capacity, infrastructure and processes for transmitting warrants to NCIC.

Third, in order to help States and local governments further reduce the cost of extraditing fugitives between States, the Act directs the Marshals Service to expand its Justice Prisoner and Alien Transportation Service, JPATS—currently used for transporting detainees and inmates—and make it available for fugitive transports requested by States and local governments that participate in a Regional Fugitive Task Force. The act authorizes $2 million for each of fiscal years 2009–2015 for this purpose.

In summary, the CATCH Fugitives Act addresses serious problems that interfere with law enforcement efforts to bring fugitives to justice. It increases fugitive-hunting capacity nationwide. It provides resources and incentives for States to make information about outstanding warrants available to other States so that law enforcement agencies in one State can recognize when a fugitive from another State is in their grasp. And, it provides assistance that will reduce the cost of extraditing such fugitives from one State to another for prosecution. I urge my colleagues to support this important bipartisan legislation.

SYMQUEST

Mr. LEAHY. Mr. President, the Burlington Free Press recently printed an article about SymQuest Group Inc. in South Burlington. It was especially interesting to me, as I know the cofounders, Larry Sudbay and Pat Robins, very well.

In the article, Mr. Sudbay was said to make their success and the honors they have won seem very easy. One would have to know Larry Sudbay to realize that what he makes seem easy can be a Herculean task for most people.

The other cofounder is Pat Robins of Burlington. I was privileged to not only be a classmate of Pat's at St. Michael's College, but to have the further privilege of maintaining our friendship for the past 50 years.

Vermont is a small State with much to make us proud. People like Larry Subday and Pat Robins make our State even better.

I ask unanimous consent that the article from the Free Press be printed in the RECORD.

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

[From the Burlington Free Press, June 2, 2008]

PEOPLE, PAPER AND PIXELS PROPEL SYMQUEST

(By Joel Banner Baird)

SOUTH BURLINGTON.—Behind thick glass, like a motionless aquarium in the company's lobby, the SymQuest Group Inc. server room might hold the visitor's interest for a minute or two, tops.

Even CEO and co-founder Larry Sudbay can be easily distracted from the racks of hardware and colorful cabling—especially when one of his 152 employees walks by.

In this hardware-and-software company, everyone seems to be on a first-name basis; people are the moving parts at SymQuest. On May 21, Gov. Jim Douglas honored the 12-year-old company as the recipient of this year's winner of Vermont's top business accolade: the Deane C. Davis Award, citing SymQuest for its outstanding commitments to work environment and community—and for its vitality.

Last week, Sudbay, 51, made it sound simple.

He described the privately held, office systems management firm's steady, double-digit growth as ''fun momentum.''

In a nutshell, he said, his goal in management ''is to allow our employees to thrive, and to create raving fans.''

The company's 3,000 customers must be right: Sudbay predicts this fiscal year's sales to more than quadruple the $9 million SymQuest earned in 1997.

There's still room for expansion at the company's 40,000–square-feet headquarters on Community Drive. But a cautionary history looms, as well: SymQuest is housed in the footprint of now-extinct computer giant Digital Equipment Corp.

Sudbay and SymQuest co-founder Pat Robins sidestepped the fragile dot-com bubble of the past decade by integrating computer systems development with the lower-tech standbys of office work flow: copiers and printers.

''The Jetsons meet the Flintstones here,'' Sudbay quipped.

Approximately 20 percent of the company's revenues come from toner shipments and service contracts, he added.

SymQuest continually researches ways to better bridge the gap between pixels and paper.

Sudbay returns again and again to a fundamental question: how does information—often an intangible product—move through a business? And how is it thwarted?

His engineers, sales reps and technicians came up with a winning strategy: maximize customers' uptime with secure, off-site monitoring, matched with prompt, people-to-people service.

Rob Bromee, who directs SymQuest's support center, said the company's proprietary ''Sentinel'' devices allow his team to diagnose and even predict failures on clients' computers and networks.

''This is not just patch management,'' he said. ''We're listening. We like to go back upstream from the problem, to see what's causing it.''

Remote monitoring now extends to printers and copiers, as well. SymQuest can read meters and gauge maintenance needs; customers receive toner shipments days before they're needed.

In theory, a company in Bangkok could choose to delegate its IT management to SymQuest. For Sudbay, a 1979 graduate of University of Vermont, the vision remains in New England: Regional is beautiful.

''Keeping everyone within two hours is our goal,'' he said. ''Local is too small; regional provides us with the economy of scale for purchasing similar to big Web and Wall Street companies.

''This isn't India,'' he continued. ''We're based in the same time zone as our customers. If they need a physical presence, we're able to put our capes on.''

Sudbay said a tighter network of offices also allows employees to develop ties to their communities. Plaques on the walls at the South Burlington headquarters laud volunteers and charity fundraisers; firefighters, Little League coaches and Penguin Plungers.

The Deane C. Davis Award also cited SymQuest's direct outreach of cyber-expertise.

In February, following a competitive grant process, SymQuest awarded a ''$25,000 Office Makeover'' to a drug treatment and youth center near its Plattsburgh office. Another makeover is under way to upgrade networking at a mental illness center in Keene, N.H.

Neighborliness, Sudbay said, is essential to good business.

''Simply put, we're looking for mutually profitable, long-term relationships with customers,'' he said. ''The old adage where good guys finish last? Well, it's bogus. Good things happen to good people.''

REMEMBERING TIM RUSSERT

Mr. DODD. Mr. President, it is with great sadness that I rise today to remember Tim Russert—a remarkable individual, a journalist, a former staff member in this body, a dedicated husband, and above all else, a father. And I would like to add my voice to the chorus of those who have sung his praises these sad past several days.

Tim Russert was a force in American politics—and a force for integrity in our media. For 17 years, millions of Americans have looked to Tim on Sunday mornings for his insight into our political process. From his days serving as an aide to our former colleague from New York, Senator Moynihan, through every minute of his remarkable tenure at NBC, Tim never lost his enthusiasm for vibrant but respectful political discourse. It was in so many ways his lifeblood.

Like few others, Tim understood the role politics played not just in the media—but in our daily lives. He saw politics for what it was—not a fight among partisans, but rather the medium in which the diversity of views and values in our society are arbitrated to a national conclusion.

In that sense, under Tim's stewardship, ''Meet the Press'' became the premier forum for showcasing the fundamentally decent side of politics that is almost entirely lost today—where people of very different views, backgrounds and perspectives, could come together to debate their differences respectfully and constructively.

Indeed, one saw that in Tim's approach to matters of faith—where his own views and values were very formidable indeed. A year ago, Senator BROWNBACK and I shared the stage with Tim at Boston College, where we each talked about our shared Catholic faith and the role the Church played in our lives, shaping our politics and our society. With all the controversy around faith in politics over the last several years, some wondered about the fireworks that could have ensued.

But what Tim, a practicing Catholic, wanted was not two Senators delivering sermons, if you will—about how to ''use'' faith as a political weapon. Rather, as someone who once said that the nuns in Catholic school, ''taught me to read and write, but also how to tell right from wrong,'' Tim wanted us to talk about our formative experiences as Catholics. He wanted to engage us in a robust conversation about all that we shared—even in areas we vigorously disagreed with one another.

To be sure, in that sense, Tim was very much doing God's work each and every Sunday morning.

I was a guest on ''Meet the Press'' many, many times over Tim's years hosting the program. He was without question the most tenacious questioner I have ever known. Never once did I feel like Tim let me off easy. Never once did I feel he was being unfair or trying to score points. Every time I was on, most recently just a few weeks ago, he pressed me, pushed me, poked and prodded me as he did thousands of guests.

We were all the same in his eyes—no matter how many years we had been in public life, no matter how accomplished we were. He simply wanted to get at the truth—and if you didn't give it to him, Tim made sure that the whole world would know.

Certainly, there are many guests over the years who ''bombed'' on ''Meet the Press.'' One of the things I loved about Tim was that while he might let you embarrass yourself on national television, he would never embarrass you.

Part of that was his fundamental decency—but so, too, was it the special appreciation Tim had for his guests, having been on the other side himself, walking these very halls on behalf of our departed colleague from New York. Tim understood as well as anyone what those of us in public life did for a living—and I wish more in his profession were afforded his perspective.

Of course, Tim appreciated nothing more than family. Every time I saw Tim, he always wanted to know how your family was doing. Indeed, for all of his famously aggressive journalistic acumen, it is impossible to not mention the other side of that gregarious personality—the warmth and generosity. When I was on ''Meet the Press'' last year, Tim took the time after our interview to jump around and dance with my two young daughters. The twinkle in his eye was unmistakable when you talked family with Tim.

Lastly, I want to say a word about one of Tim's greatest legacies, and that is fatherhood—his contributions to what being a father means in America. His call to our responsibilities as fathers and the difference an active, involved, caring father can make in a child's life will be one of Tim's most significant legacies.

My colleagues know I have spoken many times on this floor about what my father meant to me—how more than anything or anyone else, it was my father's example that compelled me into public service.

Tim and I shared that bond, I think. Indeed, we both wrote books about our fathers—I having published long lost letters from my father as a prosecutor in the Nuremberg Trials, Tim writing two books, including one about the lessons he learned from his father, ''Big Russ'' in Buffalo.

At a time when some debate the condition of the American family, Tim's meditations on fatherhood—on the wisdom and character passed down by his father—struck a deep, resonant chord.

It was one of the saddest ironies of all that his next broadcast would have been on Father's Day. But perhaps it was meant to be that way—remembering Tim on a day in which we were all celebrating our fathers.

Jackie and I send our deepest sympathies to Maureen, Luke, Big Russ, and the rest of the Russert family. Our thoughts and prayers are with them—Tim will be dearly missed.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, earlier this week, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, now numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy—prices@crapo.senate.gov to the RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have printed in the RECORD today's letters.

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

Let us see if our representatives truly represent us or not. Or are they giving in to the environmental lobbyists? I believe the question of drilling here at home for oil and natural gas should be put on a nationwide ballot and then Congress should push forward with the outcome of that result. Are we really living in a democracy or not? I believe the majority of Americans approve of drilling here for oil and natural gas. If our representatives truly represented us, that would have been happening by now.

STEVEN.

DEAR SENATOR CRAPO: The only way to stop the rise in oil prices is to start drilling in our own country. The special interest environmental groups run Congress to the detriment of the American people and the economy.

We can't drill off the coast of Florida, but the Chinese can; and everybody knows how careful the Chinese are when it comes to the environment. We have huge supplies of natural gas and oil right here in our own country but a few so-called environmental whack jobs are being allowed to destroy our economy and our country.

Sincerely,

GEORGE.

I do not have an energy story. I simply want to thank Mr. Crapo and ALL of the folks that help him in the everyday part of the legislature business.

Sincerely,

PEGGY, Meridian.

DEAR MR. CRAPO, I am a resident of Coeur d'Alene, Idaho; taxpayer and voter. Can you please explain to me why the Republican Congress did nothing to confront this issue 4 years ago when they controlled all three branches of the government? You knew then that there was an energy crisis and that it would get worse. yet no proactive legislation was passed to confront the issue or to increase production. . . . why?

Unsigned.

Hello Senator and thanks for your efforts. You asked that I share my story on how the high gas prices have affected my life. I am sure my story is not nearly as poor as some may be. I am thankful to have a stay-at-home eBay job. However, even I wonder how others do it when once a week I pay $50 towards a gas tank full to operate my car and I do not even hardly go anywhere! I used to pay this much all month, now I pay it once a week. My wages are not going up. I have an energy-efficient mini-van.

It has mostly affected my family, however, because my 5 children, 7 years and younger, can no longer feel free to visit their dying grandmother and grandfather, just 3.5 hours away. It used to cost just $20 in gas for a visit there and back, not a big deal. Now it costs $60. Instead of doing this a couple times a month for $30–40, I can now only do it once every 1.5–2 months for $60. Grandma and Grandpa do not come visit us anymore but maybe once every 6 months. They used to come once a month. Our fun outings into the country for enjoyment and to get away from the hectic busy pace of our lives. They simply do not happen anymore. I take the stroller down the bike path. Boring and depressing.

It is depressing to see such price gouging and why? Is it because of the war? Cannot the government regulate price gougers in such a time of war and economic depression with the housing slump and all? It would be nice to see someone step up to bat. Other families who drive to work every day feel it the most. It makes for all our friends to have sad moods.

Thanks for your time.

MARIANNE.

My family and I are low middle income and, with the price of fuel/groceries, we have had to choose our fuel to get to work or food. Both my husband and I have been eating less to ensure that our children are well fed, among other cuts in our life. I am extremely worried that if it continues we just won't be able to pay our bills too. We need to be utilizing our own resources within our country! Thanks, Jennifer

This makes good sense to consider for all our ''Political Leaders'' [to watch this video] . . . let's get something positive going. http://www.youtube.com/watch?v=ZPch2k63uj4

DAN, Post Falls.

I watched part of a program on PBS where communities are pooling together and buying wind mills to power their towns, and the people in the communities profited from the projects through little or no cost for power. Why can't we get something started like that in Idaho? If for no other reason, it would give the wind a reason to stop blowing.

We could invest the city/county/tax money in wind farm projects—use money to make and save money for the communities. If we could keep the shyster politicians away from the cash.

Another energy idea would be to allow the carburetors for automobiles to be revised for better gas mileage. That would be a very simple solution. If an 80,000 pound semi and trailer can get 8 miles per gallon, a car should be able to get at least 100. That would substantially reduce the amount of fuel consumed.

KATHY, Twin Falls.

DEAR SENATOR CRAPO, I am the Executive Director of the Eastern Idaho Community Action Partnership in Idaho Falls which serves 9 eastern Idaho counties. One of our programs is the LIHEAP program which provides one time help with energy bills. The program concluded at the end of March. There is a component of LIHEAP called LIHEAP Crisis that provides limited help outside of the normal Energy Assistance schedule. Since the end of March, we have received requests for help from families we have never seen before. Families must meet the same income criterion that is required for the standard LIHEAP program. What this tells us is that families have been able to make due until now, but because of high fuel costs and higher grocery prices, they are now not able to meet all of their obligations. We are also seeing more requests for food boxes than in previous years.

I hope this is helpful for you.

RUSS, Idaho Falls.

I sell heavy equipment and these fuel prices are doing more than pinching family budgets, although they are doing that too. Almost every day I have a contractor tell of a job that got put on hold or cancelled due to the high price of moving dirt. Most of the increase in excavating prices is directly related to diesel. These fuel prices are putting people out of work.

What can we do to get Congress off their butts and start drilling oil wells and refining it?

Why are we wasting natural gas making electricity, instead of promoting nuclear and hydro?

Why are we not pushing diesel? It is cleaner and far more efficient than gasoline.

BRENT, Rigby.

MR. CRAPO, thanks for your email update on the failure of congress to act concerning higher energy prices. You are all pandering to the environmental wackos. I'm ticked that the Chinese can drill for oil just off our coast lines but we cannot. We need congress to allow oil companies to drill on federal land, especially up in Alaska. We have plenty of our own oil, let's use it and quit depending so much on foreign sources! Yes conservation is good, but we really need increased domestic supply to drive down costs. And we need lower costs NOW before our economy is run into the ground. I can't even afford to fly out of Twin Falls right now because airlines are raising their prices so high, so I have to drive to Boise to catch lower cost flights; I fly a lot for business purposes. But then I have to pay much more in gas to drive from Twin to Boise, so I really do not save all that much . . . but every little bit helps. My vote this Fall, and from here on out will be for whoever will work the hardest on this issue of increasing domestic supply of oil.

RON, KIMBERLY.

MR. CRAPO, I am responding to your request for some more individual perspective on the brunt of the energy crisis. With the cost of gasoline up 40% it directly impacts my pocketbook, not just in driving costs, but everything that I do. The cost of electricity, the cost of food, shipping, everything has gone up. As a small business owner, and employer here in the state of Idaho, it significantly affects me, and my employees. We need to take every step we can to make our country energy independent, relying on people that hate us, and our way of life, for energy is suicide. If it takes opening up areas for exploration of oil, and natural gas I'm for it! Give oil companies incentives and tax breaks for finding, and refining more product. Stop the stranglehold these out of touch clowns have on our nation! Make us once more the strongest nation in the world! We do not need to be the strongest by subjugating other nations, just by being the only nation that can stand on its own!

Thank you for your time,

DANIEL, Boise.

DEAR SENATOR CRAPO: You asked how the energy crisis is affecting me personally. My truck is a 1994 Chevy with 140 thousand miles on it. I was going to buy a new one to replace it. Since the increase in costs for gas and diesel, I can not afford it now so I will just

continue to repair what I have and drive it less. So this discussion affects many businesses in my area.

(1) I will not be spending money at the dealers to buy it.

(2) I will not be spending interest at my credit union for the loan.

(3) I will not be spending money at the insurance company for the added insurance.

(4) I will not be spending money at the parts houses for improved add-ons to the vehicle (tinted windows, bed liner, etc).

(5) I am not going to be taking a driving vacation this year, cost too much.

(6) I do not think I'll be going on an airplane either cost for tickets is increasing.

(7) I wanted to go over to Europe, Italy this year because I have never been there, but now the cost Euro cost is 1.5 times greater so that will not happen.

Think of the places in the U.S. you have to spend money to get there. Congress does not realize that this is getting worse every day, a recession is already here and if it continues it will be a depression. The oil is not going to go down. The World can only make 85 million barrels per day. The World wants 86.5 million barrels per day. The world is now out bidding the U.S. for oil supplies. The U.S. has to pay the price to by oil for what the world market sets it at. (Econ 101—supply vs. demand). The U.S. makes 5 million barrels per day—the U.S. uses 21 million barrels per day so we need 16 million barrels per day for imports. These are facts FACTS——does congress get these FACTS!!!! We either get more of our own oil or we continue to pay and pay even more. Please tell them over and over again, THIS PROBLEM IS NOT GOING TO GO AWAY IT WILL ONLY GET WORSE! Please tell your democratic friends to do something and not put there head in the sand.

Thanks for asking.

JOHN, Boise.

I am a young mother in Meridian, Idaho. I am one of those few who can honestly say that I LOVE my in-laws. We love to be together as a family. Each year we have a family reunion and do crazy things like make movies, or invent games. These things create memories for generations. This year our family reunion was going to be in late July at the Oregon Coast. Sadly, we recently cancelled our family reunion due to GAS PRICES. It would have cost over $700 per family just to drive to the Oregon Coast. Since our family consists of 5 collective young families—it was just too high of an expense for many of us. $700 in gas is just absurd! We are so disappointed! We have been looking forward to this vacation for over a year! There was no way back in August of 2007 that we could have predicted the rise in gas prices. What was feasible then is impossible now. All because of the rise in gas prices. Our family believes in being self sufficient and I believe that America should start being the independent nation we claim to be. Let's use our own oil to create our own gas to put into our own cars so that we can take care of our own families. Thank you for the opportunity to share.

CAMI, Meridian.

SENATOR CRAPO: Rising energy costs are driving up the costs of virtually everything and rapidly deteriorating the American standard of living. We are having to cut costs wherever possible to compensate because our wages are not going up equally with energy costs. I am so very frustrated with the US Congress. They are inept! They argue instead of taking action. Whenever a good bill comes up they tag it with riders full of wasteful spending. I never thought I'd see a day when the USA was so close to a real depression. Our economy and dollar are heading down the tubes and nothing is done. Of course it is the fault of years of bad government for ruining our economy and it is only going to get worse. I have no faith in the majority of the idiots running this country. It is like no one has any basic common sense or fiscal management skills. It makes me sick!

TOM.

Our young married couples are really feeling the pinch of gas costs. Since travel is necessary in southeastern Idaho, we are left with no choice but to pay. We have felt the need to help our married kids pay for gas, which cuts into other budget items, such as food, medicines etc. Our students really feel the pinch since tuition costs have also risen.

We strongly support lessening our dependence as a nation, by updating refineries, and drilling. Thank you.

CURTIS, Driggs.

SOMALIA

Mr. FEINGOLD. Mr. President, although Somalia's 9 million people have suffered from violence, natural disasters, and lawlessness for decades, the humanitarian and human rights crisis they face seems to keep getting worse. On Monday, the United Nation's humanitarian coordinator for the Horn of Africa announced that due to fighting between rival militias, successive droughts, sharply rising food prices, and a collapse of the Somali currency, more than 3.5 million Somalis will need emergency food relief in the next 3 months.

On June 9, the United Nations' Special Representative for Somalia, Mr. Ahmedou Ould Abdallah, announced the first piece of good news from Somalia in a long time. With support from the U.S.'s own Special Envoy for Somalia, Ambassador John Yates—as well as representatives from the UK, Djibouti, Saudi Arabia, the African Union, the League of Arab States, the Organization of Islamic Conference, and the European Union—Mr. Abdallah succeeded in brokering an agreement between Somalia's internationally recognized Transitional Federal Government, T.F.G., and a faction of the opposition Alliance for the Re-Liberation of Somalia, A.R.S.

We cannot be naïve, however, because there have been numerous such agreements in the past in which ceasefires, political cooperation, and efforts to promote peace, justice, reconstruction, and reconciliation were promised. The outcome could be different this time, if the international community commits the political and material resources necessary to see it through. External actors were a critical driver behind the peace talks in Djibouti and the resulting agreement, which ends with a call for international support that was echoed in the signing statements of the two rival political leaders. At the same time, we must recognize that extremist groups like al Shabaab have not accepted this peace deal and intend to continue fighting. They should not be allowed to derail the recently signed agreement. Indeed, by bringing the ARS into the institutional fold and consolidating a legitimate peace, the international community is more likely to see al Shabaab marginalized and rendered ineffective. This is not to say the road forward will be smooth, but taking steps to encourage existing divisions between the ARS and al Shabaab may create a path for ARS moderates to press for dismantling al Shabaab.

Mr. President, Mr. Abdallah should be commended for this achievement, but more than back-patting is in order. His success as a mediator—and indeed, the leverage and credibility of the United States and those who share our vision of a stable, peaceful Somalia—rests upon the steps taken in the next days and weeks to facilitate the implementation of this agreement. Immediate, adequate, and coordinated action is needed to ensure that this most recent agreement does not meet the fate of its predecessors, with potentially more devastating consequences.

Last month, this body passed a resolution I introduced, which called on Somalia's rival factions to recommit to an inclusive political dialogue and pledged international support for sustainable peace and security in Somalia and across the Horn of Africa. Mr. Abdallah and others have done their part. Now it is time for the international community to make good on our word.

NOMINATION OF HARVEY JOHNSON

Mr. WYDEN. Mr. President, on April 18, I announced my intention to object to any unanimous-consent request for the Senate to take up the nomination of Harvey E. Johnson who has been nominated by President Bush to serve as Deputy Administrator of the Federal Emergency Management Agency. I did so because, prior to his confirmation as Secretary of the Department of Homeland Security, Michael Chertoff told me in my office that if confirmed he would move expeditiously to implement the National Emergency Technology Guard—NET Guard—program. Unfortunately, Secretary Chertoff had failed to honor that pledge.

However, I am pleased to say that this morning the Department of Homeland Security has finally issued a solicitation for applications for a NET Guard pilot program, effectively beginning the implementation process. It is years late, but at last the Department is moving forward with this critical program.

In light of this action, I will no longer object to any unanimous-consent request for the Senate to take up Mr. Johnson's nomination. I will, however, continue to closely monitor DHS's actions on NET Guard.

I ask unanimous consent that a copy of the Department of Homeland Security's press release announcing the pilot program be printed in the RECORD.

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

FEMA ANNOUNCES SOLICITATION TO PILOT CITIZEN CORPS NATIONAL EMERGENCY TECHNOLOGY GUARD (NET GUARD) PROGRAM

WASHINGTON.—The Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced today $320,000 is available in Fiscal Year (FY) 2008 to pilot, test, and develop tools for a potential new Citizen Corps (CC) National Emergency Technology Guard (NET GUARD) Program. NET Guard teams will be comprised of volunteers with information technology (IT) and communications expertise to assist States and localities in responding to and recovering from incidents that cause significant damage or destruction to IT and communications infrastructure. Teams will be a local asset, managed at the local level, and deployed in response to a request from local or State authorities.

This competitive pilot program will award funds to four jurisdictions. To be eligible to apply, local government applicants must be located in one of the 2008 DHS Urban Area Security Initiatives jurisdictions and must have a Citizen Corps Council and programs supported by emergency management. Additional eligibility criteria are included in the solicitation announcement. Beginning June 18, 2008, eligible government entities may apply through the Grants.gov portal, accessible on the Internet at http://www.grants.gov. Applications can be received no later than 11:59 PM EST July 2, 2008.

Citizen Corps is FEMA's grassroots comprehensive strategy to actively involve the full community in preparing and building resilience through participation with emergency management in planning, prevention, mitigation, response and recovery.

NATIONAL HISTORY DAY

Mr. ALEXANDER. Mr. President, this week high school students from all across the Nation have come together to celebrate National History Day at the University of Maryland. I would like to commend these students, their parents, and their teachers for demonstrating such interest to the study of history. History education is the foundation of a quality education, and ensuring that we have passionate and dedicated students of history is an important accomplishment of the competitions and events at the University of Maryland this week.

The National History Day program delivers yearlong programs dedicated to improving the teaching and learning of history across our country. Over 1.5 million students, teachers and parents, participate in the instructional and research projects each year. Since 1994, millions of Americans from all across the country have improved their knowledge of history through participation in this creative program.

We know that there is a need for better teaching and learning of history. The 2006 National Assessment of Educational Progress, NAEP, U.S. History report card shows that 82 percent of 4th graders, 83 percent of 8th graders, and 77 percent of high school seniors scored below proficient in historical knowledge. These results are similar to results for the past decade in NAEP assessments, and it concerns me greatly.

As an advocate for putting American history and civics back into its rightful place in our school curriculum, I chose to do my maiden speech on the education of our children and the principles that unite us as Americans. Along with several other distinguished cosponsors, I introduced the American History and Civics Act in 2003 to create Presidential and Congressional Academies for Teachers of American History and Civics—and was pleased when that legislation was signed into law.

I have had some experience with such academies when I was Governor of Tennessee. In 1984, we began creating Governor's Schools for students and teachers. Eventually there were eight Governor's Schools helping thousands of Tennessee teachers improve their skills and inspiring outstanding students to learn more about core curriculum subjects. When the school year began, students and teachers brought with them a new enthusiasm for learning and teaching that directly impacted their peers. Governor's Schools were one of the most effective and popular educational initiatives in our state, and I am pleased that we have been able to use that as a model for the Nation.

I applaud the organizers National History Day for recognizing the importance of educating today's youth of the many great feats that were accomplished, the struggles that were overcome, and the events that took place to make this country what it is today. I also congratulate all of the students, teachers, and parents who participate in it—and in particular wanted to congratulate the following Tennessee students participating in this event:

Emilee Frazier—Chuckey Doak Middle School, Afton, TN; Katie Adams—Chuckey Doak Middle School, Afton, TN; Gary Moats—Polk County High School, Benton, TN; Nick Ramsey—Polk County High School, Benton, TN; Matthew Vandevander—Polk County High School, Benton, TN; Anthony Joslin—Polk County High School, Benton, TN; Jon Rivers—Tyner Academy, Chattanooga, TN; Manish Jethva—Tyner Academy, Chattanooga, TN; Jacquelyn Benford—Tyner Academy, Chattanooga, TN; Markcus Kitchens—Tyner Academy, Chattanooga, TN; Walker Thompson—St. George's Middle School, Collierville, TN; Ryan Grover—St. George's Middle School, Collierville, TN; Mason McGough—St. George's Middle School, Collierville, TN; Andrew McBride—St. George's Middle School, Collierville, TN; Nikki Martinez—St. Benedict at Auburndale, Cordova, TN; Anna Cabe—St. Benedict at Auburndale, Cordova, TN; Mary Barczak—St. Benedict at Auburndale, Cordova, TN; Andrew Grayson—Fred Page Middle School, Franklin, TN; Adam Anderson—Fred Page Middle School, Franklin, TN; and Olivia Smith—Fred Page Middle School, Knoxville, TN.

Dylan Rasnick—Fred Page Middle School, Knoxville, TN; Katherine Ballew—Fred Page Middle School, Knoxville, TN; Willis Walker—Fred Page Middle School, Knoxville, TN; Erin Stapleton—Fred Page Middle School, Knoxville, TN; William Coe—Greenway School, Knoxville, TN; Sophie Yates—Greenway School, Knoxville, TN; Shannon Gleason—Knoxville Catholic High School, Knoxville, TN; Hannah Armendarez—Knoxville Catholic High School, Knoxville, TN; Xrista Christopoulos—St. John Neumann School, Knoxville, TN; Alexander Grimm—St. John Neuman School, Knoxville, TN; Claire Northern—St. John Neuman School, Knoxville, TN; C.C. Hermes—St. John Neuman School, Knoxville, TN; Sarah Gallagher—Lebanon High School, Lebanon, TN; Jennifer Melroy—Lenoir City High School, Lenoir City, TN; Rachel Collins—Fort Loudoun Middle School, Loudon, TN; Sarah Aldy—St. Agnes Academy-St. Dominic School, Memphis, TN; Ali Delgado—St. Agnes Academy-St. Dominic School, Memphis, TN; Alex Arcamuzi—White Station High School, Memphis, TN; Sahaj Singh—White Station High School, Memphis, TN; Bhavna Kansal—White Station High School, Memphis, TN.

Melissa Swauncy—White Station High School, Memphis, TN; Breanna Morrow—Mosheim Elementary, Mosheim, TN; Brittany Loveall—Mosheim Elementary, Mosheim, TN; Melissa Kinser—Mosheim Elementary, Mosheim, TN; Melody Zurawski—Martin Luther King Jr. Magnet-Pearl High School, Nashville, TN; Quidra Cothran—Martin Luther King Jr. Magnet-Pearl High School, Nashville, TN; Kayla Garrett—Martin Luther King Jr. Magnet-Pearl High School, Nashville, TN; Amber Jackson—Martin Luther King Jr. Magnet-Pearl High School, Nashville, TN; London Colbert—Martin Luther King Jr. Magnet-Pearl High School, Nashville, TN; Sonali Mahendran Meigs Magnet Middle School, Nashville, TN; Vivian Hughbanks—Stone House School, Signal Mountain, TN; Grace Hughbanks—Stone House School, Signal Mountain, TN; and Caitlyn Sudkamp—Walden Home School, Signal Mountain, TN.

143RD CELEBRATION OF JUNETEENTH

Mr. CARDIN. Mr. President, today marks the 143rd anniversary of Juneteenth, a day on which our Nation celebrates the complete abolition of slavery in the United States.

On June 19 of each year, we mark a turning point in American history. On January 1, 1863, President Lincoln issued the Emancipation Proclamation, freeing slaves in the Confederate states. However, it was not until June 19, 1865, a full 2½ years later, that Union General Gordon Granger and 2,000 Federal troops arrived in Galveston, TX, to take possession of the State and enforce the emancipation decreed by President Lincoln. Tragically, slaves in Texas were not freed until that date. Juneteenth celebrations began in Texas the following year and have continued ever since.

Now, in communities across the country, Juneteenth is a day for Americans to reflect upon a tragic period that divided our Nation and prevented realization of the Declaration of Independence's introductory words, ''(W)e hold these truths to be self-evident, that all men are created equal . . . ''

For Marylanders, Juneteenth is a time to contemplate our own State's history. Slave labor helped spur Maryland's growth from the State's conception in 1664 until 1864 when slavery was abolished with the ratification of a new

State constitution. Two hundred years of subjugation and oppression, of bondage and tyranny, serve as a reminder to all of us now of the importance of freedom and equality.

Although Maryland was a slave State, it did not secede from the Union. Marylanders' contributions to the Union cause and the abolitionist movement did much to secure the abolition of slavery. Harriet Tubman, who was born Araminta Ross in Dorchester County, freed countless slaves from bondage and was the first woman to lead an armed assault in the Civil War. Frederick Douglass, who was born Frederick Augustus Bailey in Talbot County, escaped slavery and went on to become one of the foremost leaders of the abolitionist movement. These heroic Marylanders dedicated their lives to the emancipation of all slaves and the empowerment of African Americans.

Earlier this year, we commemorated the 40th anniversary of the death of Martin Luther King, Jr. His legacy remains with us as we continue to pursue equality and justice wherever disparities exist, whether in the economic, educational, housing, or health care arenas. It is our duty to eradicate discrimination in all its insidious forms. Our concerted efforts will be necessary to wipe out racial intolerance, and the strength of the Nation depends on the success of these efforts.

Today, on this 143rd anniversary of the first Juneteenth, another historic event will take place. The first African-American woman to represent Maryland in the U.S. Congress, DONNA EDWARDS, will be sworn in this afternoon. It is my honor, on this historic day, to call upon my colleagues to join me in celebrating Juneteenth and those who made this day possible.

ADDITIONAL STATEMENTS

TRIBUTE TO JUNE SALANDER

● Mr. LEAHY. Mr. President, I wish to pay tribute to June Salander of Rutland, VT. On June 28, 2008, June will celebrate her 100th birthday.

June Salander has led a remarkable life. Like many Jewish immigrants, she came to the United States via Ellis Island in 1920 after a journey from Ros, Poland, making the trip with her mother, brother, and sister. Family and a supportive Jewish community were always positioned as cornerstones of June's upbringing. In 1941 she married her husband Lew Salander and moved to Rutland, VT, where she has remained an active community member ever since. A strong believer in the idea that it takes a village to raise a child, June has lent her time volunteering at the Rutland Hospital and teaching Hebrew school classes. June has remained an active citizen into her golden years, earning her real estate license at the age of 62 and taking up tennis at the impressive age of 73. Her commitment to education and community outreach expands to the home with June's famous cooking. June warms the homes and lives of others with her legendary apple strudel which she has shared through cooking lessons. She continues to inspire with her dedication to continual learning and improvement.

June Salander inspires with her energy and enthusiasm within the religious community as well. The Rutland Jewish Center has remained an integral part of her social and cultural life. June's daughter, Menasha, accurately describes the center as June's living room, kitchen, dining room, and backyard. Deeply rooted community involvement remains a core value, and to further uphold and solidify the Jewish tradition, June was Bat Mitzvahed at the extraordinary age of 89. It is believed that June is the oldest Rutland resident to complete the significant ceremony. Her commitment to observing Judaism and keeping tradition alive through education is a landmark of encouragement and pride for the Jewish community. I congratulate June Salander as she reaches yet another remarkable milestone, her 100th birthday. The message she has instilled in others through a lifetime of active citizenship is commendable. I am confident that June's spiritually fulfilling and publicly active life will continue to inspire others for years to come.

On a personal note, my wife Marcelle and I have cherished her friendship for a third of a century, as we did that of her wonderful husband.●

CELEBRATING WAHIAWA ELEMENTARY SCHOOL'S CENTENNIAL

● Mr. AKAKA. Mr. President, I take this opportunity to congratulate the Wahiawa community as it marks the centennial of Wahiawa Elementary School. Located in central Oahu, Wahiawa is home to one of Hawaii's first pineapple plantations. As the industry grew, so did Wahiawa and the needs of its residents.

Wahiawa Elementary opened in 1908, on Lehua Street with one teacher, Mrs. H.C. Brown, and 56 students. In 1924, Wahiawa Elementary expanded to six classrooms, only to be closed during World War II. In 1950, Wahiawa Elementary reopened with a new building and a new location on Glenn Street.

Today, Wahiawa Elementary has an enrollment of approximately 500 and includes a center for medically fragile students, a teacher training center for students with autism, and a preschool. Wahiawa Elementary students have a 95 percent attendance rate.

For 100 years, Wahiawa Elementary has been a focal point for Wahiawa, providing a strong foundation for the community's children and families. There are now several other elementary schools in the Wahiawa area due to dramatic population growth on the island of Oahu, but Wahiawa Elementary remains a special place. In understanding what this elementary school represents to its community, the school's motto is fitting: Ku lokahi ka 'ohana 'o Wahiawa! Stand in unison the family of Wahiawa!●

IN HONOR OF ALFREDO NÚÑEZ

● Mr. KERRY. Mr. President, I would like to take a moment to celebrate the life and work of a dedicated educator. This month, Alfredo Núñez will retire as principal of the Agassiz Elementary School of Jamaica Plain, MA, and as he prepares to do so I am proud to join with his colleagues, friends, and family in celebrating more than 30 years of service to Boston Public Schools.

Born in Caracas, Venezuela, Núñez immigrated to the United States in 1963. He attended high school in Jersey City, NJ, and subsequently moved to New Brunswick, NJ, where he graduated from Rutgers University.

Following graduation, he moved to Boston where he became a U.S. citizen and obtained his master's degree from Boston University in bilingual education. Núñez then became a fifth grade teacher at the Agassiz, where he has worked ever since. One of the largest elementary schools in Boston, with over 800 students and 100-plus faculty and staff members, the Agassiz is a diverse and dynamic school with a large bilingual student population. Núñez relished the opportunity to not only teach but also to learn from the thousands of students, parents, and teachers he has worked with over the years.

During his tenure as principal, the Agassiz has garnered numerous awards and accolades for its drive to achieve excellence in education. Núñez has encouraged partnerships with institutes of higher education such as the University of Massachusetts and Harvard University, as well as art and cultural institutions like the Boston Ballet, to try to expand his students' horizons. He has also worked to grow parent participation within the school to foster a more community oriented approach to learning.

I am proud to pay tribute to the service of Alfredo Núñez to the Agassiz and to the children of Boston. I wish Alfredo the very best as he looks back on so many achievements and contributions to the community and begins this new chapter in life.●

HONORING J.R. SIMPLOT

● Mr. CRAIG. Mr. President, in 1923, a 14-year-old boy dropped out of school in Declo, ID, and began working as a potato sorter. He eventually became a potato and hog farmer, a forester, a miner, an entrepreneur, an industrialist, an investor, a billionaire, and today—he is a legend.

John Richard Simplot was born in Dubuque, IA, in 1909—but his family moved to Idaho when he was young, and Idaho remained his home. At an early age, J.R. knew school was not for him, so he dropped out and began

working in the fields. He saved up and was able to buy 40 acres of land and several hogs. He planted potatoes and fed his hogs with a homemade feed recipe that allowed him to use his own spuds and meat from wild horses. That saved him some money on feed; moreover, as luck would have it, a harsh winter depleted the grain stock, and come market time, J.R.'s fat, home-fed hogs stood out against everyone else's skinny pigs, and the young man reaped the rewards.

He expanded his hog business, and by the time he sold it, he owned roughly 500 hogs. He took his earnings and put them into horses, farm machinery, and seed potatoes. From there, he rented some land and began to build what would later become his empire.

In 1928, at the ripe old age of 19, Simplot learned of a machine that had been built in eastern Idaho. It was an electrically driven potato sorter. J.R. saw potential and found a partner, and together they spent $254 on the new piece of equipment, which enabled them to sort not only their own crops but the crops of other farmers as well—for a price.

A dispute between J.R. and his partner forced them to decide who would keep the machine. J.R. said ''I'll flip you for it,'' and wouldn't you know it—he won the coin toss. He was off on his own.

Winning the toss was luck, but the rest of his success throughout the years can only be attributed to his devotion to hard work and his incredible resourcefulness. For years the young Simplot built hog pens, dug potato cellars, tilled soil, hauled sacks of potatoes, and did countless other tasks.

It was after the Great Depression, though, when Simplot's chance came to make a name for himself in the potato business. The Bureau of Reclamation was created, and projects like dams and canals began along the Snake River in Idaho. The projects would bring more water to the valley, which would lead to more farms, more crops, and more opportunity to diversify within agriculture. By 1940, J.R. had 33 potato warehouses and had also gotten into the business of onions and onion-drying.

When the United States entered World War II, there were only five companies that could dehydrate vegetables, and no one could dehydrate potatoes at least not until J.R. Simplot found a way. He began producing dry potatoes for U.S. troops and by 1945 was producing an average of 33 million pounds of dried potatoes a year. That was one-third of the U.S. military's consumption during the war.

As his success in potatoes expanded, his ability to save money by producing his own raw materials grew. In 1943, he didn't have enough boxes to ship out his dry potatoes, so he started his own box plant. When that company needed more lumber, he bought a lumber company. And when his supply for fertilizer for his potatoes was cut off, he developed his own. He went to the Fort Hall Indian Reservation looking for phosphate rock for his new fertilizer and ended up tapping into the largest phosphate mine in the West. He leased the land and built a fertilizer plant.

In 1945, J.R. Simplot became a cattleman when he built a small feedlot for the purpose of getting rid of the potato waste coming from his processing plants. Peelings and sprouts were mixed with alfalfa and barley to make feed for cattle, and yet another Simplot business flourished.

A huge discovery in the 1950s propelled the empire forward even further when Simplot discovered a way to freeze potatoes—and the frozen french fry was born. It was the 1960s when J.R. went into business with a man by the name of Ray Kroc. Kroc was a fast food operator who had begun a chain. That chain was McDonald's, and soon the Simplot Company became the largest supplier of frozen french fries to the fast food giant.

By the late 1960's, J.R. Simplot grew more potatoes, owned more cattle and land, and employed more people than anyone else in Idaho. He was the largest processor, drier, and freezer of potatoes in the world and owned processing plants, fertilizer plants, mining operations, and other enterprises in 36 States, Canada, and overseas—making him the largest industrialist in Idaho and one of the largest in the world.

But he continued to get into new businesses. Using his potatoes, he began producing ethanol in the 1970s, and with the manure from his cattle operations, he began fueling methane gas plants in the 1980s. At the same time, he invested in a small computer chip company that is today Micron Technology.

He left his footprint on Idaho perhaps more than anyone else in history. Dubbed ''Mr. Spud,'' he provided countless jobs for Idahoans in so many areas. He seemed to have his hand in everything that is Idaho, and everything he touched seemed to succeed.

But that is not the reason I admired the man. Even with all his success, J.R. Simplot had his failures. The difference between many people and Jack, though, was his never-ending drive and determination to get up and do something again, and to do it better. It was his persistence in wrangling successes from failures that made J.R. the kind of man everyone should admire.

He wasn't just a brilliant business man. He loved Idaho, and in fact, a few years ago, signed his home over to the State of Idaho to use as the new Governor's mansion. He also loved his fellow Idahoans. And although he never received a formal education, he always believed in getting one and therefore gave millions of dollars to universities and students in Idaho. He was also a major supporter of the arts.

Recently, at the young age of 99, J.R. Simplot passed away at his home in Boise. He had risen that Sunday morning, walked into his kitchen and insisted to his wife Esther that he was going to go to the office. That was the kind of man J.R. Simplot was. Even at the age of 99, even with billions of dollars, his last thought was that he needed to go to work.

I am going to miss my friend Jack, and my sincere condolences go out to Esther and his family. But it is important for the record to show that his passing has significance well beyond his immediate community in Boise. J.R. Simplot should be celebrated for the tremendous impact he had, not only on Idaho's history but on U.S. history. That impact, and his legend, will live on.●

100TH ANNIVERSARY OF RUTGERS UNIVERSITY

● Mr. LAUTENBERG. Mr. President, today I congratulate Rutgers University-Newark in honor of their 100th anniversary. From its roots as the New Jersey Law School, Rutgers-Newark has evolved into a premier urban research university with a tradition of outstanding scholarship and diversity.

Students from across New Jersey, the United States, and from all over the world come to Rutgers-Newark to work and study with a world-class faculty. Its global student body has earned it the designation by U.S. News and World Report as the most diverse national university in the United States for 11 consecutive years.

As Rutgers-Newark has grown, so has their commitment to the local community and the entire State of New Jersey. The expansion of Rutgers-Newark has added to the growing redevelopment of Newark. With the celebration of its first 100 years in Newark, plans abound for expanded development of the university and its connections and commitment to the great city of Newark.

The faculty, students and alumni of Rutgers-Newark have much to be proud of after a century of outstanding educational achievement. Rutgers-Newark is still dedicated to maintaining the highest standards of research and scholarship, educational opportunity, urban mission, and diversity. I applaud Rutgers-Newark for their ''Century of Reaching Higher'' and wish the university continued growth and success for many years to come.●

REMEMBERING JOHN W. KEYS

● Mr. CRAPO. Mr. President, unfortunately, a tragic accident is the occasion of my remarks today. On May 30, recently retired Commissioner of the Bureau of Reclamation, John W. Keys, was killed, along with his passenger, when his plane crashed in Canyonlands National Park in Utah. John worked for the Bureau of Reclamation for close to 40 years, serving in most all regions including in Boise as regional director of the Pacific Northwest region. In

2001, President George W. Bush appointed him Commissioner of the Bureau, where he served for 5 years until his retirement in April 2006.

John believed in the adapting mission of the Bureau of Reclamation. He joined the Bureau at the time in its history when the final projects it oversees today were being authorized. During his tenure, the Bureau went from constructing water projects in the West to maintaining and improving facilities and processes. John was well-known for his efforts to facilitate collaborative management and solutions to challenges. He was a man of solutions and integrity, and he cared deeply about people and our natural resources. Idaho benefited from John's leadership as he worked with the State legislature, interest groups, the Tribes and irrigation districts on solving some of the thorny issues that have arisen with Endangered Species Act requirements in the Columbia River system for species such as salmon and bull trout.

In January, 2006, John spoke about the mission of the Bureau:

Our mission has evolved from the construction of dams to management and maintenance. As water management has evolved, Reclamation has transformed into a more comprehensive water management agency. Today, much of our focus is on improving the safety, security, and efficiency of the facilities we already have, as well as meeting environmental obligations. The challenges we face today in maintaining and improving the system are as formidable as those challenges that we surmounted during Reclamation's construction heyday. One priority is security . . . We feel more prepared and, therefore, more secure against terrorism, than ever.

A lot is changing, but some things remain constant. Since I was appointed Commissioner in 2001, my main priority has been carrying out Reclamation's core mission: deliver water, generate power, do the things it takes to get that done, and plan for the future. I'm interested not just in the next few years, but in setting up the framework that will enable Reclamation to succeed many years into the future.

John left a tremendous legacy at work and in his family. He devoted his time in retirement to his family and his volunteer efforts with Angel Flight and other humanitarian efforts. He was a remarkable man who did remarkable things for the country and region he cared about so deeply. My thoughts and prayers are with his family and friends at this very difficult time.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, 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.)

MESSAGE FROM THE HOUSE

At 2:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1333. An act to direct the Comptroller General of the United States to conduct a study on the use of Civil Air Patrol personnel and resources to support homeland security missions, and for other purposes.

H.R. 2631. An act to strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes.

H.R. 2964. An act to amend the Lacey Act Amendments of 1981 to treat nonhuman primates as prohibited wildlife species under that Act, to make corrections in the provisions relating to captive wildlife offenses under that Act, and for other purposes.

H.R. 3702. An act to direct the Secretary of Agriculture to convey certain land in the Beaverhead-Deerlodge National Forest, Montana, to Jefferson County, Montana, for use as a cemetery.

H.R. 4179. An act to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.

H.R. 4749. An act to amend the Homeland Security Act of 2002 to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes.

H.R. 5680. An act to amend certain laws relating to Native Americans, and for other purposes.

H.R. 5909. An act to amend the Aviation and Transportation Security Act to prohibit advance notice to certain individuals, including security screeners, of covert testing of security screening procedures for the purposes of enhancing transportation security at airports, and for other purposes.

H.R. 5982. An act to direct the Secretary of Homeland Security, for purposes of transportation security, to conduct a study on how airports can transition to uniform, standards-based, and interoperable biometric identifier systems for airport workers with unescorted access to secure or sterile areas of an airport, and for other purposes.

H.R. 6276. An act to repeal section 9(k) of the United States Housing Act of 1937.

MEASURES REFERRED

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

H.R. 1333. An Act to direct the Comptroller General of the United States to conduct a study on the use of Civil Air Patrol personnel and resources to support homeland security missions, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2631. An Act to strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4179. An Act to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4749. An act to amend the Homeland Security Act of 2002 to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5680. An Act to amend certain laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

H.R. 5909. An act to amend the Aviation and Transportation Security Act to prohibit advance notice to certain individuals, including security screeners, of covert testing of security screening procedures for the purpose of enhancing transportation security at airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5982. An act to direct the Secretary of Homeland Security, for purposes of transportation security, to conduct a study on how airports can transition to uniform, standards-based, and interoperable biometric identifier systems for airport workers with unescorted access to secure or sterile areas of an airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 6276. An act to repeal section 9(k) of the United States Housing Act of 1937; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3702. An act to direct the Secretary of Agriculture to convey certain land in the Beaverhead-Deerlodge National Forest, Montana, to Jefferson County, Montana, for use as a cemetery.

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–6687. A communication from the Administrator, Dairy Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dairy Product Mandatory Reporting'' (Docket No. DA–06–07) received on June 17, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6688. A communication from the Deputy Under Secretary of Defense, transmitting, pursuant to law, a report relative to surcharges for fiscal years 2005 and 2006; to the Committee on Armed Services.

EC–6689. A communication from the Deputy Under Secretary of Defense, transmitting, pursuant to law, a report relative to the Department's purchases from foreign entities in Fiscal Year 2007; to the Committee on Armed Services.

EC–6690. A communication from Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (73 FR 31944) received on June 18, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6691. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Deposit Insurance Requirements After Certain Conversions; Definition of 'Corporate Reorganization'; Optional Conversions; Additional Grounds for Disapproval of Changes in Control; and Disclosure of Certain Supervisory Information'' (RIN3064–AD25) received on June 18, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6692. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Appendix A to 31 CFR Chapter V'' received on June 18, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6693. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule Regulatory Amendment to Modify Requirements for Individual Fishing Quota Program On-line Access Security'' (RIN0648–AV71) received on June 13, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6694. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Correction to the 2008 Summer Flounder, Scup, and Black Sea Bass Recreational Management Measures'' (RIN0648–AV41) received on June 13, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6695. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, its FAIR Act 2007 Commercial Activities Inventory, FAIR Act 2007 Inherently Government Inventory, and FAIR Act Inventory Executive Summary; to the Committee on Commerce, Science, and Transportation.

EC–6696. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report from the Army Corps of Engineers on the Chicago Underflow Plan; to the Committee on Environment and Public Works.

EC–6697. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Disposition of Investment in the United States Real Property'' (Rev. Rul. 2008–31) received on June 13, 2008; to the Committee on Finance.

EC–6698. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Definition of 'Outside Director' Under Internal Revenue Code 162(m)'' (Revenue Ruling 2008–32) received on June 13, 2008; to the Committee on Finance.

EC–6699. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Hearing Aids; Technical Data Amendments'' (Docket No. FDA–2008–N–0148) received on June 13, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6700. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, a report on the Department of Labor's 2007 FAIR Act Inventory of Inherently Governmental Activities and Inventory of Commercial Activities; to the Committee on Health, Education, Labor, and Pensions.

EC–6701. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2007, through March 31, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–6702. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report entitled ''Fiscal Year 2007 Accounting of Drug Control Funds''; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–395. A collection of petitions forwarded by the Benefit Security Coalition relative to establishing a more equitable method of computing cost of living adjustments for Social Security benefits; to the Committee on Finance.

POM–396. A resolution adopted by the House of Representatives of the State of Michigan urging Congress to enact legislation to reform the No Child Left Behind Act; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 268

Whereas, the No Child Left Behind Act (NCLB) is an ambitious effort by the Federal Government to ensure that all States improve K–12 education opportunities. While standards, accountability, and benchmarks are key features of this landmark 2002 legislation, the goal of making sure all of our children receive a quality education must not be forgotten. The current reauthorization process for NCLB is an opportunity to reform the act to ensure that no child is left behind in this Federal, State, and school partnership; and

Whereas, NCLB needs to be amended in a number of areas to fulfill its admirable goal. First, while schools are being identified for failing to meet standards, Congress has not met its promises for funding levels to allow schools to correct identified inadequacies. Further, a whole range of initiatives that expand early education, before- and after-school programs, summer school options, and family support, would enhance the ability of our schools to educate all of our children to their full potential; and

Whereas, schools also need flexibility in a whole range of areas. Special education implementation, teacher subject area competency, school benchmarks, and student cohort definitions must not be imposed from Washington, D.C. Local educators and State legislatures must be allowed to refine these aspects of NCLB to reflect local conditions and needs. Flexibility and more sophisticated measurements will keep the focus on educating children and not meeting unrealistic and rigid standards; and

Whereas, the entire sanctions concept must be revised. It may be comforting to think that NCLB sanctions ''schools'' when they do not meet NCLB-established standards, but in reality we sanction children in those schools by withholding or effectively diverting resources from those schools. The first response must be to target additional resources to correct recognized deficiencies; and

Whereas, to support effective intervention in failing schools, develop proper standards that promote education of all children, and ensure relevant definitions and procedures that reflect real conditions, NCLB must be amended to ensure that the act's assumptions and standards are based on sound research in student achievement and effective teaching; and

Whereas, the reauthorization of the No Child Left Behind Act is an opportunity to refine the admirable goals of the act based on five years of experience in implementing the 2002 initiative. We have much to do before ''no child left behind'' is more than just a goal: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the United States Congress to enact legislation to reform the No Child Left Behind Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–397. A resolution adopted by the Senate of the State of Michigan urging Congress to enact the Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 155

Whereas, among the most effective approaches to reducing juvenile delinquency and criminal street gang activity are those preventing children from turning to crime in the first place, encouraging early childhood home visitation, parental love and education, quality schooling, and proven youth and family development initiatives; and

Whereas, there are many alternatives to incarcerating youth that have been proven to be more effective in reducing crime and violence at the national, state, local, and tribal levels. Failure to provide for such effective alternatives is a pervasive problem that leads to increased youth, and later adult, crime and violence; and

Whereas, research funded by the U.S. Department of Justice indicates that gang membership is short-lived among adolescents—with very few youth remaining gang-involved through their adolescent years, and therefore, allowing ongoing opportunities for intervention; and

Whereas, over-reliance on incarceration and confinement of youth, particularly in the early stages of delinquent behavior and for nonviolent delinquent behavior, has been shown to increase long-term crime risks; and

Whereas, the Youth PROMISE Act will provide resources to enable communities with the greatest concentration of juvenile delinquency and criminal street gang activity to come together to assess unmet needs and implement research-based prevention and intervention approaches to promote youth success and community safety; and

Whereas, the Youth PROMISE Act creates a PROMISE Advisory panel, which will help the Office of Juvenile Justice and Delinquency Prevention select PROMISE communities. It will also develop standards for the evaluation of juvenile delinquency and criminal street gang activity prevention and street gang activity prevention and intervention needs and resources in each designated geographic area in order to facilitate the strategic geographic allocation of resources provided under the act; and

Whereas, the Youth PROMISE Act establishes grants to enable local and tribal communities, via PROMISE Coordinating Councils, to conduct an objective assessment regarding juvenile delinquency and criminal street gang activity, resource needs, and community strengths necessary to effectively address juvenile delinquency and criminal street gang activity. Based upon the assessment, the PROMISE Councils will develop plans that include a broad array of

prevention and intervention programs which are responsive to the specifics of the community, account for the cultural and linguistic requirements of the community, and utilize approaches that have been shown effective in reducing the likelihood of a young person becoming involved in or continuing delinquent conduct or criminal street gang activity. Upon completion of the plan, the PROMISE Councils may then apply for federal funds to assist with implementation. The act also provides for national evaluations of PROMISE programs and activities, and

Whereas, the Youth PROMISE Act requires that local units of government or Indian tribes receiving grants shall provide from nonfederal funds, in cash or in-kind, 25 percent of the costs of the activities carried out with such grants; and

Wheereas, the Youth PROMISE Act establishes a National Center for Proven Practices Research, which will collect and disseminate research to PROMISE Councils and to the public (including via an Internet website), as well as other information regarding evidence-based promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention. The act also provides the opportunity for regional research partners to assist with developing their assessments and plans; and

Whereas, the Youth PROMISE Act provides for the hiring and training of Youth-Oriented Policing officers to implement strategic activities to minimize youth crime and victimization and reduce the long-tern involvement of juveniles in illicit activities, juvenile delinquency, and criminal street gang activity. The act also establishes a Center for Youth-Oriented Policing, which will be responsible for identification, development, and dissemination to law enforcement agencies the best practices for Youth-Oriented Policing techniques and technologies; and

Whereas, the Youth PROMISE Act provides additional improvements to current laws affecting juvenile delinquency and criminal street gang activity, including support for youth victim and witness protection programs and extended and increased authorizations for the juvenile Accountability Block Grant program: Now, therefore, be it

Resolved by the Senate, That we memorialize the United States Congress to support through enactment the Youth PROMISE Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–398. A resolution adopted by the House of Representatives of the State of Hawaii urging the President of the United States to include the Republic of Korea in the Visa Waiver Program; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 86

Whereas, there are nearly two million Americans of Korean heritage and descent who live in the United States, including forty thousand Hawaii residents, and January 13, 2003 marked the centennial of the first arrival of Koreans in the United States; and

Whereas, the United States and the Republic of Korea have a long history of friendship, and continue to strengthen alliances and business partnerships; and

Whereas, the Republic of Korea has been a trusted ally for over fifty years, is a major trading partner of the United States, and is the thirteenth largest economy in the world; and

Whereas, visitors from the Republic of Korea to the United States reached as high as 500,000 in 1999, inclusive of the 40,000 visitors to Hawaii that same year; and

Whereas, the Visa Waiver Program was established in 1986 with the objective of promoting better relations with United States allies, eliminating unnecessary barriers to travel, and stimulating the tourism industry; and

Whereas, the Visa Waiver Program enables nationals of twenty-seven countries to travel to the United States for tourism or business for stays of ninety days or less without obtaining a visa; the Republic of Korea is not a participant in the Visa Waiver Program; and

Whereas, due to increased security prompted by the terrorist acts of September 11, 2001, it has become much more difficult for the citizens of the Republic of Korea, especially those living outside the capital city of Seoul, to obtain visitor visas that allow travel to the United States; and

Whereas, under Implementing Recommendations of the 9/11 Commission Act of 2007, the United States Congress revised requirements for countries to become eligible for the Visa Waiver Program, enabling South Korea to be eligible for consideration, provided it meets the new security requirements specified in the Act; and

Whereas, in a letter to the Secretary of State dated July 7, 2006, United States Senators Daniel K. Inouye and Daniel K. Akaka, along with several other senators, expressed strong support for including South Korea into the Visa Waiver Program and noted that South Korea has repealed its visa requirement for United States citizens traveling to the Republic of Korea for thirty days or less and that South Korea enjoys a visa-free status with sixty-six other nations; and

Whereas, including South Korea in the Visa Waiver Program would result in economic benefits to the United States estimated to be $350,000,000 in actualized tourism revenues for every 100,000 tourists increase in South Korean visitors and tourists, based on visitors and tourists to the United States from South Korea spending of nearly $2,200,000,000 in 2004; and

Whereas, while the Republic of Korea is doing its part to facilitate the processing of travel requirements for its citizens, the United States should also encourage visitors from the Republic of Korea, especially as Hawaii continues to be one of the premier destinations in the world and tourism remains the backbone of Hawaii's economy: Now, therefore, be it

Resolved by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, That the President of the United States, the Secretary of State, and the Secretary of Homeland Security are urged to take all steps necessary to include the Republic of Korea in the Visa Waiver Program; and be it further

Resolved, That the members of Hawaii's congressional delegation are urged to support the inclusion of the Republic of Korea in the Visa Waiver Program; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Secretary of State, the Secretary for Homeland Security, President of the United States Senate, the Speaker of the United States House of Representatives, the members of Hawaii's congressional delegation, and the Governor.

POM–399. A joint resolution adopted by the House of Representatives of the State of Arizona urging Congress to authorize the placement in Statuary Hall of a statue of Senator Barry Goldwater; to the Committee on Rules and Administration.

HOUSE JOINT RESOLUTION 2001

Whereas, in 1864, Congress established the National Statuary Hall in the Old Hall of the House of Representatives in the United States Capitol and authorized each state to contribute to the Hall two statues that represent important historical figures of that state; and

Whereas, Arizona currently has statues on display in Statuary Hall of John Campbell Greenway, which was donated in 1930, and Father Eusebio Kino, which was added later in 1965. These are two acclaimed and distinguished individuals of great importance in Arizona's history; and

Whereas, John C. Greenway was born in Huntsville, Alabama, on July 6, 1872, and attended Yale University where he was a star athlete. After school, he went to work for U.S. Steel, where he worked his way up to a management role. He joined the Rough Riders in the Spanish American War, and was a leader of the charge up San Juan Hill. After the war, Greenway helped U.S. Steel open the Western Mesabi Range. In 1910, Greenway moved from Minnesota to Arizona to manage the copper mines at Bisbee. Seeing the potential of the copper deposits at Ajo, he developed a method of extracting low grade ore. Greenway planned and built the city of Ajo. The mine was highly successful, and over three billion pounds of copper were shipped from Ajo. Greenway also served as a regent for the University of Arizona. John C. Greenway died on January 19, 1926. His death at the age of 54 was mourned across the country; and

Whereas, legislation enacted by Congress in 2000 authorized any state to request the Joint Committee on the Library of Congress to approve the replacement of a statue the state has provided for display in Statuary Hall under certain conditions; and

Whereas, the state of Arizona will celebrate its centennial on February 14, 2012, it is appropriate at this time to consider honoring a distinguished Arizonan who has played a significant role in our state's history since statehood by placing his statue in Statuary Hall, namely Senator Barry Goldwater, This action in no way seeks to diminish the positive contributions of the two Arizonans already honored in Statuary Hall, and every effort will be made to ensure that their legacy is preserved in our great state; and

Whereas, it is appropriate that we honor John C. Greenway's legacy by placing his statue prominently and permanently in the Arizona State Capitol building as part of the centennial; and

Whereas, Barry Morris Goldwater was born in Phoenix on New Year's Day, 1909, three years before Arizona was admitted to the Union. He attended the University of Arizona and took over his family's. mercantile business after his father's death in 1930. He transformed his passion for flying into service in the Army Air Corps during World War II, and on his return to Arizona following the war he helped organize the Arizona Air National Guard. Remaining in the reserves after the war, he retired with the rank of Major General; and

Whereas, Goldwater entered politics in 1949 when he was elected as a Phoenix city councilman. He first won a United States Senate seat in 1952, when he defeated then Senate majority leader Ernest McFarland. In 1964 Senator Goldwater was the Republican nominee for president. Although defeated in that race, Goldwater became an icon for conservatism, starting a movement which many believe led to the election of Ronald Reagan as president in 1980; and

Whereas, Senator Goldwater was reelected to the Senate in 1968 where he served until his retirement in 1987. During his time in the Senate, Goldwater served as Chairman of the Senate Intelligence Committee and Chairman of the Senate Armed Services Committee; and

Whereas, Barry Goldwater was a quintessential westerner and a man of great personal charm. His reputation for personal integrity was unblemished. Throughout his life, Barry Goldwater had a love affair with the state of Arizona and her people. He extensively explored areas throughout the state, including the Grand Canyon and the Colorado River, and he loved to photograph the people and landscapes of Arizona. He was a dear friend to the members of the Arizona's Native American tribes. He served both rural and urban constituents with equal passion, and his many years of faithful service to this state earned him the fitting' nickname ''Mr. Arizona''; and

Whereas, the legacy of Senator Barry Goldwater since his death in 1998 has been a source of inspiration to many, and the placement of a statue in his likeness in Statuary Hall would be a well-deserved and lasting testament to Barry Goldwater's tremendous impact on both our state and nation: Now therefore be it

Resolved by the Legislature. of the State of Arizona:

1. That the Members of the Forty-eighth Legislature and the Governor of the State of Arizona respectfully request that the Congress of the United States return the statue of John Campbell Greenway earlier presented by the State of Arizona for placement in Statuary Hall and accept in return, for placement in 'Statuary Hall, a statue of Senator Barry. Goldwater.

2. That the Members of the Forty-eighth Legislature and the Governor of the State of Arizona direct the Arizona Historical Advisory Commission to organize a solicitation for monies for the creation of a statue of Senator Barry Goldwater; to use the monies to acquire a statue for placement in Statuary Hall in the Capitol of this nation; to select and contract with a gifted and experienced sculptor to create a suitable statue of Senator Barry Goldwater; and to make the statue available for placement in Statuary Hall.

3. That the Members of the Forty-eighth Legislature and the Governor of the State of Arizona direct that the costs of the creation of the statue of Senator Barry Goldwater, as well as the costs of transporting the statue to Washington, D.C. and any incidental costs, be borne by the State of Arizona through the use of private monies.

4. That the Secretary of State transmit copies of this Resolution to the President of the United States Senate. the Speaker of the United States House of Representatives, each Member of Congress from the State of Arizona, each Member of the Joint Committee on the Library of Congress and each Member of the Arizona Historical Advisory Commission.

POM–400. A resolution adopted by the House of Representatives of the State of Michigan urging Congress to pass the Post-9/11 Veterans Educational Assistance Act; to the Committee on Veterans' Affairs.

HOUSE RESOLUTION NO. 372

Whereas, In 1944, the Congress of the United States passed, and President Roosevelt signed, the Servicemen's Readjustment Act, known to most people as the GI Bill of Rights. Since its establishment, the GI Bill has created educational opportunities for millions of veterans; and

Whereas, Since the terrorist attacks of September 11, 2001, members of the United States military have been asked to perform heroic tasks in the name of freedom. These selfless volunteers have performed with remarkable valor, and it is incumbent on citizens of the United States to honor their service in any way possible; and

Whereas, The cost of attending college has increased greatly in recent years, and as a result the benefits provided by the G1 Bill are no longer sufficient to cover the average cost of tuition; and

Whereas, Since 1944, Congress has periodically updated the GI Bill to reflect the changing needs of our soldiers and the military as a whole. However, despite the changes of the past decades, it has been 24 years since the law was significantly reformed; and

Whereas, Improving and updating the GI bill would create an additional incentive for individuals considering enlistment, which is vital given the all-volunteer nature of our military; and

Whereas, Two pieces of legislation currently before Congress, S. 22 and H. R. 2702, would update the GI Bill to reflect the current realities facing our servicemembers. These bills, known as the Post 9/11 Veterans Educational Assistance Act, would increase the amount of aid available to these students, and would otherwise remove obstacles to obtaining a college education. While not perfect, these bills represent a significant improvement over the current system; and

Whereas, Those who would complain about the costs of such a program seem to forget the staggering price we ask of these men and women. Likewise, those who complain that these bills would create an incentive to leave the military underestimate the dedication and devotion of our troops: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact, and the President of the United States to sign, S. 22 and H. R. 2702; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2008'' (Rept. No. 110–392).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2009'' (Rept. No. 110–393).

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. REID (for Mr. KENNEDY (for himself and Mr. KERRY)):

S. 3158. A bill to extend the authority for the Cape Cod National Seashore Advisory Commission; to the Committee on Energy and Natural Resources.

By Mr. COBURN (for himself, Mr. MCCAIN, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ENSIGN, Mr. DEMINT, Mr. CHAMBLISS, Mr. INHOFE, Mr. CRAPO, Mr. ENZI, Mr. ALLARD, Mr. GRAHAM, Mr. BURR, Mrs. DOLE, Mr. SUNUNU, Mr. THUNE, Mr. VITTER, Mr. BROWNBACK, Mr. BARRASSO, Mr. WICKER, Mr. SESSIONS, and Mr. GRASSLEY):

S. 3159. A bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. STEVENS, Ms. CANTWELL, Ms. SNOWE, and Mr. KERRY):

S. 3160. A bill to reauthorize and amend the National Sea Grant College Program Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MARTINEZ:

S. 3161. A bill to name the Department of Veterans Affairs spinal cord injury center in Tampa, Florida, as the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center''; to the Committee on Veterans' Affairs.

By Mr. VOINOVICH:

S. 3162. A bill to amend the Internal Revenue Code of 1986 to provide relief to improve the competitiveness of United States corporations and small businesses, to eliminate tax incentives to move jobs and profits overseas, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. CASEY):

S. 3163. A bill to provide for a Federal employees program to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MARTINEZ (for himself and Mr. CORNYN):

S. 3164. A bill to amend tile XVIII of the Social Security Act to reduce fraud under the Medicare program; to the Committee on Finance.

By Mr. SCHUMER:

S. 3165. A bill to develop a plan to share military and special use airspace along the eastern seaboard with commercial air traffic, to provide adequate resources for the FAA New York Integration Office, to establish an Aviation Traveler Task Force, and to design a notification system to alert passengers of potential service disruptions; to the Committee on Commerce, Science, and Transportation.

By Mr. SESSIONS (for himself, Mr. DURBIN, Mr. COBURN, and Mr. CORNYN):

S. 3166. A bill to amend the Immigration and Nationality Act to impose criminal penalties on individuals who assist aliens who have engaged in genocide, torture, or extrajudicial killings to enter the United States; to the Committee on the Judiciary.

By Mr. BURR (for himself, Mr. WICKER, Mr. CRAIG, and Mr. VITTER):

S. 3167. A bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 3168. A bill to authorize United States participation in the replenishment of resources of the International Development Association, and for other purposes; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 3169. A bill to authorize United States participation in, and appropriations for the United States contribution to, the eleventh replenishment of the resources of the African Development Fund; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mr. DODD, and Mr. KERRY):

S. 3170. A bill to amend the Energy Policy and Conservation Act to modify the conditions for the release of products from the Northeast Home Heating Oil Reserve Account, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BARRASSO:

S. 3171. A bill to amend the Internal Revenue Code of 1986 to exclude certain tax-exempt financing of energy transportation infrastructure from the private business use tests, and for other purposes; to the Committee on Finance.

By Mr. VITTER:

S. 3172. A bill to provide conditions for funds made available for certain projects located in the State of Louisiana, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KERRY (for himself, Mr. KENNEDY, Mr. REED, Mr. LIEBERMAN, Mr. DODD, Mr. SUNUNU, Mr. LEAHY, Mr. WHITEHOUSE, and Mr. GREGG):

S. Res. 596. A resolution congratulating the Boston Celtics on winning the 2008 National Basketball Association Championships; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 613

At the request of Mr. LUGAR, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 613, a bill to enhance the overseas stabilization and reconstruction capabilities of the United States Government, and for other purposes.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 809

At the request of Mr. SUNUNU, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 809, a bill to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan.

S. 901

At the request of Mr. ALEXANDER, his name was added as a cosponsor of S. 901, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 901, supra.

S. 1003

At the request of Ms. STABENOW, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1003, a bill to amend title XVIII of the Social Security Act to improve access to emergency medical services and the quality and efficiency of care furnished in emergency departments of hospitals and critical access hospitals by establishing a bipartisan commission to examine factors that affect the effective delivery of such services, by providing for additional payments for certain physician services furnished in such emergency departments, and by establishing a Centers for Medicare & Medicaid Services Working Group, and for other purposes.

S. 1311

At the request of Mr. KERRY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1311, a bill to permanently prohibit oil and gas leasing in the North Aleutian Basin Planning Area, and for other purposes.

S. 1410

At the request of Mr. COLEMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1410, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1661

At the request of Mr. DORGAN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 2279

At the request of Mr. BIDEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2279, a bill to combat international violence against women and girls.

S. 2504

At the request of Mr. NELSON of Florida, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2510

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mrs. MCCASKILL) 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. 2559

At the request of Mr. DODD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2559, a bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability.

S. 2883

At the request of Mr. ROCKEFELLER, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 2883, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 2907

At the request of Mr. INOUYE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2907, a bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

S. 2920

At the request of Mr. KERRY, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2920, a bill to reauthorize and improve the financing and entrepreneurial development programs of the Small Business Administration, and for other purposes.

S. 2932

At the request of Mrs. MURRAY, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2932, a bill to amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

S. 3038

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 3038, a bill to amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

S. 3130

At the request of Mr. DURBIN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3130, a bill to provide energy price relief by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes.

S. 3133

At the request of Mr. DODD, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 3133, a bill to direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore land that is subject to a lease for production of oil or natural gas under which production is not occurring, to authorize use of the fee for energy efficiency and renewable energy projects, and for other purposes.

S. 3140

At the request of Mr. WEBB, the name of the Senator from Missouri (Mrs.

MCCASKILL) was added as a cosponsor of S. 3140, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 3144

At the request of Mr. BAUCUS, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 3144, a bill to amend part B of title XVIII of the Social Security Act to delay and reform the Medicare competitive acquisition program for purchase of durable medical equipment, prosthetics, orthotics, and supplies.

S.J. RES. 41

At the request of Mr. MCCONNELL, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S.J. Res. 41, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. RES. 440

At the request of Mr. BROWN, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Colorado (Mr. SALAZAR), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from North Dakota (Mr. CONRAD) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. Res. 440, a resolution recognizing soil as an essential natural resource, and soils professionals as playing a critical role in managing our Nation's soil resources.

S. RES. 584

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 584, a resolution recognizing the historical significance of Juneteenth Independence Day and expressing the sense of the Senate that history should be regarded as a means for understanding the past and solving the challenges of the future.

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Res. 584, supra.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the names of the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. DORGAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Arkansas (Mr. PRYOR), the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 4979 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself, Mr. STEVENS, Ms. CANTWELL, Ms. SNOWE, and Mr. KERRY):

S. 3160. A bill to reauthorize and amend the National Sea Grant College Program Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. 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 order to be printed in the RECORD, as follows:

S. 3160

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 ''National Sea Grant College Program Amendments Act of 2008''.

SEC. 2. REFERENCES

Except as otherwise expressly provided therein, 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 National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 202(a) (33 U.S.C. 1121(a)) is amended—

(1) by striking subparagraphs (D) and (E) of paragraph (1) and inserting the following:

''(D) encourage the development of preparation, forecast, analysis, mitigation, response, and recovery systems for coastal hazards;

''(E) understand global environmental processes and their impacts on ocean, coastal, and Great Lakes resources; and'';

(2) by striking ''program of research, education,'' in paragraph (2) and inserting ''program of integrated research, education, extension,''; and

(3) by striking paragraph (6) and inserting the following:

''(6) The National Oceanic and Atmospheric Administration, through the national sea grant college program, offers the most suitable locus and means for such commitment and engagement through the promotion of activities that will result in greater such understanding, assessment, development, management, and conservation of ocean, coastal, and Great Lakes resources. The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions, including strong collaborations between Administration scientists and research and outreach personnel at academic institutions.''.

(b) PURPOSE.—Section 202(c) (33 U.S.C. 1121(c)) is amended by striking ''to promote research, education, training, and advisory service activities'' and inserting ''to promote integrated research, education, training, and extension services and activities''.

(c) TERMINOLOGY.—Subsections (a) and (b) of section 202 (15 U.S.C. 1121(a) and (b)) are amended by striking ''utilization,'' each place it appears and inserting ''management,''.

SEC. 4. DEFINITIONS.

Section 203 (33 U.S.C. 1122) is amended—

(1) in paragraph (4) by striking ''utilization,'' and inserting ''management,'';

(2) in paragraph (11) by striking ''advisory services'' and inserting ''extension services'';

(3) in each of paragraphs (12) and (13) by striking ''(33 U.S.C. 1126)''; and

(4) by adding at the end the following:

''(17) The term 'regional research and information plan' means a plan developed by one or more sea grant colleges or sea grant institutes that identifies regional priorities.''.

SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) PROGRAM ELEMENTS.—Section 204(b) (33 U.S.C. 1123(b)) is amended—

(1) by amending in paragraph (1) to read as follows:

''(1) sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs and regional and national projects conducted among such programs;'';

(2) by amending paragraph (2) to read as follows:

''(2) administration of the national sea grant college program and this title by the national sea grant office and the Administration;''; and

(3) by amending paragraph (4) to read as follows:

''(4) any regional or national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed in consultation with the Board and with the approval of the sea grant colleges and the sea grant institutes.''.

(b) TECHNICAL CORRECTION.—Section 204(c)(2) (33 U.S.C. 1123(c)(2)) is amended by striking ''Within 6 months of the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, the'' and inserting ''The''.

(c) FUNCTIONS OF DIRECTOR OF NATIONAL SEA GRANT COLLEGE PROGRAM.—Section 204(d) (33 U.S.C. 1123(d)) is amended—

(1) in paragraph (2)(A), by striking ''long range'';

(2) in paragraph (3)(A)—

(A) by striking ''(A)(i) evaluate'' and inserting ''(A) evaluate and assess'';

(B) by striking ''activities; and'' and inserting ''activities;''; and

(C) by striking clause (ii); and

(3) in paragraph (3)(B)—

(A) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following:

''(ii) encourage collaborations among sea grant colleges and sea grant institutes to address regional and national priorities established under subsection (c)(1);''; and

(B) in clause (iii) (as so redesignated) by striking ''encourage'' and inserting ''ensure''.

SEC. 6. PROGRAM OR PROJECT GRANTS AND CONTRACTS.

Section 205 (33 U.S.C. 1124) is amended—

(1) by striking ''States or regions.'' in subsection (a)(2) and inserting ''States, regions, or the Nation.''; and

(2) by striking the matter following paragraph (3) in subsection (b) and inserting the following:

''The total amount that may be provided for grants under this subsection and subsection 208(b) during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year under section 212.''.

SEC. 7. EXTENSION SERVICES BY SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207(a) (33 U.S.C. 1126(a)) is amended in each of paragraphs (2)(B) and (3)(B) by striking ''advisory services'' and inserting ''extension services''.

SEC. 8. FELLOWSHIPS.

Section 208(a) (33 U.S.C. 1127) is amended—

(1) by striking ''Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter,'' in subsection (a) and inserting ''Every 2 years,''; and

(2) by striking ''year.'' in subsection (b) and inserting ''year and is not subject to Federal cost share requirements''.

SEC. 9. NATIONAL SEA GRANT ADVISORY BOARD.

(a) REDESIGNATION OF SEA GRANT REVIEW PANEL AS BOARD.—

(1) REDESIGNATION.—The sea grant review panel established by section 209 of the National Sea Grant College Program Act (33 U.S.C. 1128), as in effect before the date of the enactment of this Act, is redesignated as the National Sea Grant Advisory Board.

(2) MEMBERSHIP NOT AFFECTED.—An individual serving as a member of the sea grant review panel immediately before the enactment of this Act may continue to serve as a member of the National Sea Grant Advisory Board until the expiration of such member's term under section 209(c) of such Act (33 U.S.C. 1128(c).

(3) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to such sea grant review panel is deemed to be a reference to the National Sea Grant Advisory Board.

(4) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 209 (33 U.S.C. 1128) is amended by striking so much as precedes subsection (b) and inserting the following:

''SEC. 209. NATIONAL SEA GRANT ADVISORY BOARD.

''(a) ESTABLISHMENT.—There shall be an independent committee to be known as the National Sea Grant Advisory Board.''.

(B) DEFINITION.—Section 203(9) (33 U.S.C. 1122(9)) is amended to read as follows:

''(9) The term 'Board' means the National Sea Grant Advisory Board established under section 209.'';

(C) OTHER PROVISIONS.—The following provisions are each amended by striking ''panel'' each place it appears and inserting ''Board'':

(i) Section 204 (33 U.S.C. 1123).

(ii) Section 207 (33 U.S.C. 1126).

(iii) Section 209 (33 U.S.C. 1128).

(b) DUTIES.—Section 209(b) (33 U.S.C. 1128(b)) is amended to read as follows:

''(b) DUTIES.—

''(1) IN GENERAL.—The Board shall advise the Secretary and the Director concerning—

''(A) strategies for utilizing the sea grant college program to address the Nation's highest priorities regarding the understanding, assessment, development, management, and conservation of ocean, coastal, and Great Lakes resources;

''(B) the designation of sea grant colleges and sea grant institutes; and

''(C) such other matters as the Secretary refers to the Board for review and advice.

''(2) BIENNIAL REPORT.—The Board shall report to the Congress every two years on the state of the national sea grant college program. The Board shall indicate in each such report the progress made toward meeting the priorities identified in the strategic plan in effect under section 204(c). The Secretary shall make available to the Board such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties under this title.''.

(c) MEMBERSHIP, TERMS, AND POWERS.—Section 209(c)(1) (33 U.S.C. 1128(c)(1)) is amended—

(1) by inserting ''coastal management,'' after ''resources management,''; and

(2) by striking ''utilization,'' and inserting ''management,''.

(d) EXTENSION OF TERM.—Section 209(c)(2) (33 U.S.C. 1128(c)(2)) is amended to read as follows:

''(2) The term of office of a voting member of the Board shall be 4 years. The Director may extend the term of office of a voting member of the Board once by up to 1 year.''.

(e) ESTABLISHMENT OF SUBCOMMITTEES.—Section 209(c) (33 U.S.C. 1128(c)) is amended by adding at the end the following:

''(8) The Board may establish such subcommittees as are reasonably necessary to carry out its duties under subsection (b). Such subcommittees may include individuals who are not Board members.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) is amended—

(1) by striking subsection (a)(1) and inserting the following: ''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

''(A) $100,000,000 for fiscal year 2009;

''(B) $105,000,000 for fiscal year 2010;

''(C) $110,000,000 for fiscal year 2011;

''(D) $115,000,000 for fiscal year 2012;

''(E) $120,000,000 for fiscal year 2013; and

''(F) $125,000,000 for fiscal year 2014.'';

(2) in subsection (a)(2)—

(A) by striking ''biology and control of zebra mussels and other important aquatic'' in subparagraph (A) and inserting ''biology, prevention, and control of aquatic''; and

(B) by striking ''blooms, including Pfiesteria piscicida; and'' in subparagraph (C) and inserting ''blooms; and'';

(3) in subsection (c)(1) by striking ''rating under section 204(d)(3)(A)'' and inserting ''performance assessments'';

(4) by striking subsection (c)(2) and inserting the following:

''(2) regional or national strategic investments authorized under section 204(b)(4);''.

SEC. 11. REPEAL OF ANNUAL COORDINATION REPORT REQUIREMENT.

Section 9 of the National Sea Grant College Program Act Amendments of 2002 (33 U.S.C. 857-20) is repealed.

By Mr. VOINOVICH:

S. 3162. A bill to amend the Internal Revenue Code of 1986 to provide relief to improve the competitiveness of United States corporations and small businesses, to eliminate tax incentives to move jobs and profits overseas, and for other purposes; to the Committee on Finance.

MR. VOINOVICH. Mr. President, when the Senate reconvenes in January 2009 for the 111th Congress, we will have an historic opportunity, through fundamental tax reform, to transform the U.S. economy in a manner that will make our nation stronger and more prosperous for generations. A number of factors make the 111th Congress the occasion for a perfect storm for the Tax Code. At the beginning of the next Congress, a new President will take office and will be looking to enact major tax changes. At the end, the 2001 and 2003 tax relief will expire, resulting in an unprecedented tax increase on the American people. And in between, the reach of the deeply flawed alternative minimum tax—or AMT—will threaten to hit tens of millions of middle-class Americans unless Congress enacts major tax legislation. Finally, the competitive pressures of a global economy will force us to change our uncompetitive and inefficient methods of business taxation, including one of the highest corporate marginal rates in the world.

I am not proposing today a comprehensive tax reform bill that would touch every part of the Tax Code, but I am introducing legislation that addresses one large piece of tax reform, in the hopes of starting a conversation that will inform policymakers as we develop a more comprehensive reform in the next couple of years. Today, I am introducing the Manufacturing, Assembling, Development, and Export in the USA—or MADE in the USA—Tax Act. The purpose of my legislation is to provide tax relief to improve the competitiveness of U.S. corporations and small businesses and to eliminate incentives that favor foreign competition and encourage companies to move jobs and profits overseas.

A number of factors contribute to a company's decision about where to locate activity and jobs, including wages, workforce skills, transportation costs, and local regulations. But there is no doubt that taxes are an important factor. Recent economic research concludes that in a global economy, workers bear the brunt of higher corporate tax rates, through lower wages and fewer jobs. Therefore, it is imperative that we have a Tax Code that makes the United States an attractive place to locate production, research, and other activity. While the MADE in the USA Tax Act would not address the ''wage pull'' that sends jobs to places like China and India, it would deal with the ''tax push'' that encourages jobs to leave the United States.

The MADE in the USA Tax Act would eliminate tax breaks that encourage companies to move jobs overseas or that benefit foreign competitors and then use that revenue to cut tax rates on large and small businesses that invest and create jobs in the United States. The centerpiece of the legislation is a one-fifth reduction in the Federal corporate rate, to 28 percent from 35 percent. Of the 30 member countries of the Organization for Economic Cooperation and Development—which includes the major industrialized nations of North America, Europe, and Asia—the United States has the second highest combined Federal-State corporate tax rate at 39.3 percent, lower only than Japan's rate of 39.5 percent. The average is 27.6 percent, and Ireland has the lowest rate at 12.5 percent.

Even Communist China, our biggest economic rival in the 21st century, recently cut its corporate tax rate to 25 percent. It will be that much harder to compete with China for jobs and investment when businesses operating in the United States have to pay a tax rate 15 percent higher than they would have to pay in China.

In fact, a constituent of mine from Norwalk, OH, Tom Secor, who owns his

own small business, came to my office and told a story about a business trip he made to China. He said that he saw an editorial in a Chinese newspaper that was discussing all the concerns that Americans have with Chinese competition. The conclusion of the editorial was that the Americans could solve most of their problems with Chinese competition if they would just reform their own Tax Code. Imagine that: even Communist China knows that the United States needs tax reform to stay competitive, but for some reason we refuse to learn that lesson ourselves.

In addition to slashing the corporate rate on U.S. production, my legislation would also take steps to make small businesses more competitive and simplify the tax rules for individuals operating in the global economy. Specifically, my legislation would increase the domestic activities deduction for partnerships, S corporations, and sole proprietorships to 12 percent from 9 percent; make permanent the 2003 expansion in small business expensing; simplify the international tax rules for Americans working abroad by repealing complex and punitive rules enacted in 2006; and repeal the burdensome 3 percent withholding requirement for contractors, also enacted in 2006.

These tax reforms, which will help create high-paying jobs in the United States, will be paid for by repealing a number of existing tax breaks that favor foreign competition and that encourage companies to move jobs and profits overseas. Among those tax breaks I would eliminate are tax shelters that allow foreign competitors to hide their U.S. income offshore, creating an unlevel playing field for domestic businesses such as small manufacturers and domestic insurance companies; tax credits for moving our Nation's technological innovation—such as patents, copyrights, and ''know-how''—overseas, along with the high-wage manufacturing jobs that accompany that intellectual property; tax loopholes that encourage U.S. corporations to reincorporate as foreign corporations; a tax exemption for executives of offshore hedge funds if the executives put their money in certain deferred compensation plans; and tax breaks for foreign oil and gas production.

Reducing the tax rates on corporate and small business income should lead to job creation and wage increases for American workers. Paying for these tax cuts by eliminating tax breaks for foreign production and offshore tax shelters means we can accomplish these goals in a fiscally responsible manner. My legislation is intended to be revenue neutral, as I believe that we can enact progrowth tax policy without increasing the national debt.

In 1984, President Ronald Reagan declared to the American people that the Tax Code was fundamentally unfair and that he was going to reform it. President Reagan held his belief in the unjustness of the Tax Code deep in his heart. He knew that hundreds of targeted tax subsidies for the benefit of powerful interests forced average Americans to pay higher marginal rates and reduced economic growth. He saw tax reform not as a retreat from his 1981 tax relief agenda but, rather, as a logical continuation and enhancement of that agenda. The Tax Reform Act of 1986 was the culmination of the quest he began in 1981 to create a Tax Code with low marginal rates that raised the necessary revenue to fund the government with the least possible interference in our free market economy.

We must enact fundamental tax reform to help make the Tax Code simple, fair, transparent, and economically efficient. According to the President's Advisory Panel on Federal Tax Reform, headed by former Senators Connie Mack and John Breaux, only 13 percent of taxpayers file without the help of either a tax preparer or computer software. Since enacting the Tax Reform Act of 1986—legislation intended to simplify the filing process for taxpayers—over 15,000 provisions have been added to the Internal Revenue Code.

It is not just a matter of saving taxpayers time and effort. This is about saving taxpayers real money. The Tax Foundation has estimated that comprehensive tax reform could save Americans as much as $265 billion in compliance costs associated with preparing their returns. Now, that would be a real tax reduction that wouldn't cost the Treasury one dime.

I have been working on tax reform for years. In 2003, I attached an amendment to the Jobs and Growth Tax Relief Reconciliation Act that would have created a blue ribbon commission to study fundamental tax reform. The amendment was adopted by voice vote but later was removed in conference.

In the autumn of 2004, I offered my tax reform commission amendment again, this time to the American Jobs Creation Act. The Senate again adopted my amendment. During conference negotiations, the White House contacted me and requested that I withdraw my amendment because the President was preparing to take a leadership role by appointing his own tax reform panel. I enthusiastically agreed to defer to his leadership, and I withdrew my amendment. It seemed to me that the tax reform bandwagon was finally starting to roll.

In January 2005, President Bush announced the creation of an all-star panel, led by former Senators Connie Mack and John Breaux, and that panel spent most of the year engaging the American public to develop proposals to make our Tax Code simpler, fairer, and more conducive to economic growth. In November 2005, the panel issued its final report. While not perfect in anyone's mind, the panel's two plans provided a starting point for developing tax reform legislation that would represent a huge improvement over the current system. The panel's proposals belong as a key part of the national discussion on fundamental tax reform.

Some of my colleagues will suggest that we can just increase marginal rates to raise the revenue we need. But in a competitive global economy, I can't understand why we would choose such a self-defeating approach. Higher marginal rates on an already-broken tax system would only discourage economic ingenuity and reduce U.S. competitiveness.

Tinkering with the current Tax Code won't get it done. Tinkering is what got us into this mess in the first place. It is time to rip the Tax Code out by its roots and replace it with something that works. We must create a new tax system that is conducive to job creation and economic growth. We should start by addressing one of the biggest problems with the current code: it rewards moving production activity—and the good-paying jobs that accompany such activity—overseas. It taxes domestic production heavily but taxes foreign production lightly. It imposes the second highest corporate tax rate in the developed world but collects one of the smallest amounts of corporate tax as a share of the economy. Such a system sounds absolutely perverse, but that is what we have in the United States. The MADE in the USA Tax Act is intended to fix that.

I know there is bipartisan support in this Chamber to move forward on fundamental tax reform. It probably won't happen this year, but that doesn't mean that we shouldn't get started right away. We need to start setting the table so that a new President and a new Congress can hit the ground running in 2009 and enact comprehensive tax reform that makes the code simple, fair, and progrowth. I hope my colleagues will take a close look at the MADE in the USA Tax Act and join me in trying to make it a key part of our future efforts.

By Mr. MARTINEZ (for himself and Mr. CORNYN):

S. 3164. A bill to amend tile XVIII of the Social Security Act to reduce fraud under the Medicare program; to the Committee on Finance.

Mr. CORNYN. Mr. President, ''the first important rule of fraud control is: What you see is not the problem. It is what we don't see that really does the damage, and the efficacy of control systems depends upon how well they uncover, and then suppress, the invisible bulk of the problem.'' Such are the words of the preeminent expert on health care fraud, Harvard, Kennedy School of Government Professor, Malcolm Sparrow.

Just last week, the Washington Post ran a front-page article, which I would ask to be entered into the record, ''Medical Fraud a Growing Problem: Medicare Pays Most Claims Without Review.'' The story detailed how one

woman, defrauded the Government out of $105 million using just a laptop while sitting in her Mediterranean-style townhouse.

While the lottery's slogan is ''All you need is a dollar and dream.'' This woman discovered something better. Maybe Medicare should adopt the slogan ''All you need is a Provider Number and a dream.''

Quite simply, Medicare is not sophisticated enough to address the fraud that runs rampant through it. Every year, Medicare's anemic fraud controls let slip by an array of schemes that cost the Medicare program and taxpayers $60 billion, if not more. That is 20 percent of all Medicare spending.

Often, as pointed out by the *Washington Post* article, Medicare pays claims with little or no review as to why or where the checks are going or to whom. One phantom company, comprising nothing more than two rented mailboxes and a phone number was paid $2.1 million over a 6 month period. In another case, the owner of the fraudulent company was an unemployed tow truck operator who used the identities of dozens of dead patients. Again, ''All you need is a Provider Number and a dream.''

Medicare fraud is not limited to one segment of the health care sector. There are numerous examples of fraud conducted by physicians, dentists, health systems, laboratories, teaching hospitals, patients, and billing specialists to name a few. While I would agree that most of these groups are operating on the straight and narrow, the truth remains that the losses associated with Medicare fraud are helping drive the program to bankruptcy.

Unfortunately, conducting Medicare fraud has such a low risk of getting caught and less severe punishment yet high reward that it has even attracted organized crime. Again, ''All you need is a Provider Number and a dream.''

Usually, the only way Medicare is able to recoup a small portion of the annual $60 billion in losses is by expending more resources on investigations and law enforcement activities through the Office of Inspector General and Department of Justice. While these agencies have done a commendable job in combating fraud, to a large extent it is good money chasing bad.

Sometimes systems are set-up to fail. In this case, the Medicare fraud prevention program is not only set-up to fail, it is nearly non-existent.

We need to go from ''pay and chase'' to ''detect and prevent.'' Medicare needs to be mobile and it needs to be focused on preventing criminals from ever getting paid in the first place. Medicare needs a system that will continually, as Malcolm Sparrow said: ''uncover, and then suppress.''

Today, I am proud to join Senator MARTINEZ in what I hope is the first in a line of necessary common sense solutions to this problem. The Seniors and Taxpayers Obligation Protection Act or STOP Act, will protect honest taxpayers, seniors, and providers, by strengthening the Medicare program itself.

To prevent fraud, the STOP Act employs lessons from the private sector and moves Medicare into the 21st century. For example, Medicare may be the only program, company, or industry left in the country that still thinks it is a good idea to use social security numbers for identification. In a time where a stolen social security number is a stolen identity, Medicare has not stopped printing it on identification cards that are sent through the mail.

Even worse, when seniors report that their social security number is being used fraudulently to bill for services in Medicare that they didn't receive, Medicare has no ability to stop paying claims on that social security number or provide the senior with a new number. Medicare has ignored the warnings of the Government Accountability Office and the pleas of groups like AARP and Consumers Union to change this practice. Passage of the STOP Act will mean Medicare can ignore it no longer.

The STOP Act requires physicians in high risk areas to review the claims they submitted, similar to how you or I would review our credit card statement at the end of the month to ensure there are no mistaken or fraudulent charges.

It implements prepayment fraud detection methods, such as site visits, data analysis, and integrity reviews, so that a guy with a mailbox can no longer rely on ''All you need is a Supplier Number and a Dream.''

It ensures providers are billing for only those services for which they are qualified.

It tracks the usage of durable medical equipment and it conducts a study on the implementation prospects of real-time claims analysis technology.

Yes, many acts of fraud may be invisible, but it doesn't make them undetectable, and it certainly doesn't mean that we should just turn a blind eye. I hope my colleagues and members of the health sector will join Senator MARTINEZ and me in stepping up to the task of being part of the solution. Our seniors, our providers, and our taxpayers deserve better accountability from Medicare.

By Mr. BURR (for himself, Mr. WICKER, Mr. CRAIG, and Mr. VITTER):

S. 3167. A bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes; to the Committee on Veterans' Affairs.

Mr. BURR. Mr. President, I rise today to introduce legislation that would end an arbitrary process through which our own Government takes away the Second Amendment rights of American veterans.

As most of my colleagues know, the Brady Handgun Violence Prevention Act prohibits the sale of firearms to those who have been ''adjudicated as a mental defective.''

The Government maintains a database on these individuals called the National Instant Criminal Background Check System, or ''NICS.'' The Brady Law and the NICS database aims to prevent those who may pose a danger to society or themselves from purchasing a firearm.

Gun shop owners use NICS to screen customers before selling a firearm. Needless to say, it is a serious matter to have one's name on the NICS. Every American should expect a rigorous and fair process before their right to bear arms is taken away.

Unfortunately, when it comes to certain veterans, surviving spouses, and children, the process is neither rigorous nor fair.

Since 1999, VA has sent the names of 116,000 of its beneficiaries to the FBI for inclusion on the NICS.

None of these names were sent to the FBI because they were determined to be a danger to themselves or others. They were listed in NICS because they could not manage their financial affairs. We should not take away a Constitutional right because someone can't balance a checkbook or pay their bills on time.

This practice is arbitrary, unfair, and applies a double standard.

VA's review process for assigning a fiduciary is meant to determine one's financial responsibility in managing VA-provided disability compensation, pension, and other benefits. For example, a veteran may be assigned a fiduciary if they have credit problems.

The VA focuses on whether or not benefits paid by VA will be spent in the manner in which they were intended. Nothing involved with VA's appointment of a fiduciary even gets at the question of whether an individual is a danger to themselves or others, or whether the person should own a firearm.

Yet that is exactly what happens if VA appoints a fiduciary. Over 116,000 individuals have been listed in NICS since 1999 because they were appointed a fiduciary. This includes veterans, surviving spouses, and even children.

This process is not only arbitrary, it is unfair. Taking away a Constitutional right is a serious action and veterans should be afforded due process under the law. At the very least, we should expect such decisions to be made by a competent judicial authority and not by civilian government employees.

The current practice is also a double standard. Only VA beneficiaries fall under these guidelines. The Social Security Administration assigns fiduciaries to help beneficiaries, yet the Social Security Administration does not send their names to the NICS.

Why are we singling out those who fought for this country and those who sacrificed while their spouse or parent served?

My legislation would end this arbitrary and unfair practice that strips the finest men and women of this country of their right to bear arms. This legislation would require a judicial authority to determine that an individual is a danger to themselves or others before their Second Amendment rights are taken away.

I am not here to ask that we put guns in the hands of dangerous people. I am here to ask that we treat our veterans fairly and we take the rights of our veterans seriously.

No matter where my colleagues fall on the gun issue, I hope we can all agree that we need a process that is consistent and fair. Our veterans took an oath to uphold the Constitution. They deserve to enjoy the rights they fought so hard to protect.

By Ms. SNOWE (for herself, Mr. DODD, and Mr. KERRY):

S. 3170. A bill to amend the Energy Policy and Conservation Act to modify the conditions for the release of products from the Northeast Home Heating Oil Reserve Account, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, I rise today to speak on a bill I am introducing with my colleague, Senator SNOWE, to amend the Northeast Home Heating Oil Reserve program. I want to thank Senator SNOWE for her tremendous leadership on the problem this bill is designed to address, which is a critically important issue for our region that we have worked together on for many years. That issue is the skyrocketing price of heating oil, which millions of families in the Northeast are dependent on to heat their homes through our long, cold winters.

According to the Department of Energy's Energy Information Agency, EIA, 6.2 million of the 8 million households in the U.S. that use heating oil to heat their homes are in the Northeast, or approximately 78 percent. As crude oil and gasoline prices have risen higher and higher, the cost of heating oil has risen as well. Currently, heating oil is far and away the costliest method of heating homes, costing families an average of nearly $2000 per year, and much more in the coldest areas. Overall, heating a home with heating oil costs twice the national average of all fuels combined, yet most families in the Northeast have little choice. Even in some of our region's cities, there are no natural gas lines or other sources of home heating available to residents.

This dependence on heating oil is stretching many families' budgets to the breaking point. Where once low and moderate income families could struggle through the winter, soaring heating oil prices are forcing people to choose between heating their homes, driving their cars to and from work, and putting food on the table for their families. The EIA estimated that this year, it will cost $1,962 to heat a home with oil, a 33 percent increase from last year and a 117 percent increase since 2004. In just 4 short years, the cost of heating a home with oil has gone up more than $1000 dollars! Many families and seniors living on fixed incomes simply cannot bear this burden.

That is why Senator SNOWE and I are proposing a price trigger to provide for oil to be released from the Northeast Home Heating Oil Reserve. This is a 2-million barrel reserve I originally worked to create in 2000, along with my colleague from Maine and other Senators from the Northeast, to protect the residents of the region from severe price shocks to the heating oil market. Given the record heating oil prices we are experiencing today, we believe it would be reasonable to use this reserve to try to cushion those dependent on heating oil to get through the winter. From November through March, the Secretary of Energy would conduct a survey to determine the price of a gallon of heating oil on the first of each month. If the price meets or exceeds $4 per gallon, this would trigger an immediate release of 20 percent of the Northeast Home Heating Oil Reserve. This oil would then be sold on the open market to lower the price of heating oil in the region.

The revenue raised by the sale would then be devoted to the Weatherization Assistance Program to help low income heating oil customers increase the energy efficiency of their homes. Experience has shown that properly weatherizing homes can increase their energy efficiency by 20–30 percent, reducing energy consumption and lowering monthly utility bills. However, most low and middle income families cannot afford the upfront investment necessary to reap these benefits. The Weatherization Assistance Program is an enormously successful program designed to help families make that initial investment.

This bill will not solve our Nation's energy crisis, nor will this alone solve the problem of high heating oil prices in the Northeast. As the Senator from Maine well knows, we need to devote far more money to programs like the Low Income Home Energy Assistance Program, and we need to take a serious look at restructuring our Nation's comprehensive energy policy. But this legislation is a very good first step toward easing the pain so many residents of the Northeast and my State of Connecticut are feeling. I urge my colleagues to support us in this effort.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 596—CONGRATULATING THE BOSTON CELTICS ON WINNING THE 2008 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIPS

Mr. KERRY (for himself, Mr. KENNEDY, Mr. REED, Mr. LIEBERMAN, Mr. DODD, Mr. SUNUNU, Mr. LEAHY, Mr. WHITEHOUSE, and Mr. GREGG) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas on June 17, 2008, the Boston Celtics won the 2008 National Basketball Association Championship (referred to in this preamble as the ''2008 Championship'') in 6 games over the Los Angeles Lakers;

Whereas the 2008 Championship was the 17th world championship won by the Celtics, the most in the history of the National Basketball Association (referred to in this preamble as the ''NBA'');

Whereas the 2008 Championship marked the culmination of the greatest single season turnaround in the history of the NBA, as the Celtics improved from a record of 24–58 during the 2007–2008 season to a league-best 66–16 mark during the 2007–2008 campaign;

Whereas the 2008 Celtics NBA Championship team, like all great Celtics champions of the past, epitomized team work, selflessness, character, effort, camaraderie, toughness, and determination;

Whereas the 2008 Celtics honored the rich legacy of their franchise, which was—

(1) established by a legion of all-time greats, including Bill Russell, Larry Bird, John Havlicek, Bob Cousy, Tom Heinsohn, K.C. Jones, Sam Jones, Jo Jo White, Dave Cowens, Kevin McHale, Robert Parish, Dennis Johnson, and Tom ''Satch'' Sanders; and

(2) masterminded by one of the legendary coaches of all sports, Arnold ''red'' Auerbach;

Whereas Celtics managing partner Wyc Grousbeck and the entire Celtics ownership group never wavered from paying the price to raise ''Banner #17'' to the Garden rafters;

Whereas the 2008 Celtics were brought together by a former Celtics player, Danny Ainge, whose off-season acquisitions of NBA All-Stars Kevin Garnett and Ray Allen earned him the 2008 NBA Executive of the Year Award;

Whereas the Celtics were led by Doc Rivers, who—

(1) oversaw the smooth integration of new superstars and untested young players into the Celtics lineup; and

(2) assembled, and ensured the execution of, a masterful NBA Finals game plan;

Whereas the Celtics featured a 21st Century ''Big Three'' comprised of Paul Pierce, Kevin Garnett, and Ray Allen, 3 veteran players who worked together and never allowed their personal ambition or pursuit of individual statistics to interfere with the goal of the team to win a championship;

Whereas a group of talented young players contributed pivotal roles in the march of the Celtics to the 2008 Championship, including point guard Rajon Rondo, center Kendrick Perkins, forward Leon Powe, guard Tony Allen, and forward Glen ''Big Baby'' Davis;

Whereas the valuable bench of the Celtics was stocked with veteran role players who made significant contributions during the season, including forward James Posey, guard Eddie House, guard Sam Cassell, forward P.J. Brown, forward Brian Scalabrine, and center Scott Pollard;

Whereas the 2008 Celtics team demonstrated remarkable poise and gained invaluable playoff experience in defeating the Atlanta Hawks, the Cleveland Cavaliers, and the Detroit Pistons in hard-fought series during which every possession counted at both the offensive and defensive ends of the floor;

Whereas, after 26 playoff games, the Celtics ultimately secured the 17th NBA Championship of the franchise in one of the most dominating performances in NBA history, a 39-point rout of the Lakers in front of a raucous Garden crowd; and

Whereas the Celtics fans in the State of Massachusetts, in New England, and throughout the world never gave up hope that the franchise would someday return to glory and give a new generation of Celtics fans the opportunity to celebrate a championship: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Boston Celtics for winning the 2008 National Basketball Association Championship, including the players, head coach, coaches, support staff, and team owners and executives whose ability, hard work, dedication, and spirit made the season possible; and

(B) the Los Angeles Lakers for their success during the 2008 season and winning the National Basketball Association Western Conference Championship; and

(2) directs the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) the 2008 Boston Celtics team;

(B) Celtics head coach Doc Rivers;

(C) Celtics general manager Danny Ainge; and

(D) Celtics managing partner Wyc Grousbeck.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4983. Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment 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.

SA 4984. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra.

SA 4985. Mr. BOND (for himself and Mr. BARRASSO) proposed an amendment to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra.

SA 4986. Mr. BOND proposed an amendment to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra.

SA 4987. Mr. BOND proposed an amendment to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra.

SA 4988. Mr. KOHL (for himself, Mrs. LINCOLN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra.

SA 4989. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4990. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4991. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4992. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4993. Mr. MENENDEZ (for himself, Mrs. MURRAY, and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4994. Mr. BROWN 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 4995. Mr. BROWN 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 4996. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4997. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4998. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4999. Mr. SUNUNU (for himself and Ms. SNOWE) proposed an amendment to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra.

SA 5000. 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 5001. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5002. Mr. CRAPO (for himself and Mr. ENZI) 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 5003. 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 5004. Mr. NELSON, of Florida (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5005. Mr. ISAKSON (for himself and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5006. Mr. VITTER (for himself and Ms. LANDRIEU) 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 5007. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5008. Mr. CHAMBLISS (for himself and Mr. CORKER) 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 5009. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5010. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5011. Mr. BOND 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 5012. Mr. KERRY (for Mr. KENNEDY (for himself and Mr. KERRY)) submitted an amendment intended to be proposed by Mr. KERRY to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5013. Mr. TESTER (for himself and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5014. Mr. DODD (for Mr. INOUYE (for himself and Mr. STEVENS)) proposed an amendment to the bill S. 2607, to make a technical correction to section 3009 of the Deficit Reduction Act of 2005.

SA 5015. Mr. DODD (for himself and Mr. SHELBY) proposed an amendment to the bill S. 2159, to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration.

SA 5016. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 5017. 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 5018. 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 5019. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 4983. Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) proposed an amendment 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; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Housing and Economic Recovery Act of 2008''.

(b) TABLE OF CONTENT.—The table of contents for this Act is as follows:

DIVISION A—HOUSING FINANCE REFORM

SEC. 1001. SHORT TITLE.

This division may be cited as the ''Federal Housing Finance Regulatory Reform Act of 2008''.

SEC. 1002. 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) by redesignating paragraphs (16) through (19) as paragraphs (21) through (24), respectively;

(3) by striking paragraphs (13) through (15) and inserting the following:

''(19) OFFICE OF FINANCE.—The term 'Office of Finance' means the Office of Finance of the Federal Home Loan Bank System (or any successor thereto).

''(20) 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.'';

(4) by redesignating paragraphs (11) and (12) as paragraphs (17) and (18), respectively;

(5) by redesignating paragraph (7) as paragraph (12);

(6) by redesignating paragraphs (8) through (10) as paragraphs (14) through (16), respectively;

(7) 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 Finance Agency'';

(8) by redesignating paragraph (6) as paragraph (10);

(9) by redesignating paragraphs (2) through (4) as paragraphs (5) through (7), respectively;

(10) 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, 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—

''(I) 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.'';

(11) by inserting after paragraph (1) the following:

''(2) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency established under section 1311.

''(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 Finance Oversight Board established under section 1313A.'';

(12) by inserting after paragraph (10), as redesignated by this section, 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;

''(D) any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity; and

''(E) the Office of Finance.'';

(13) by inserting after paragraph (12), as redesignated by this section, the following:

''(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.''; and

(14) by adding at the end the following:

''(25) 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 ACT.—As used in this Act, unless otherwise specified—

(1) the term ''Agency'' means the Federal Housing Finance Agency;

(2) the term ''Director'' means the Director of the Agency; and

(3) the terms ''enterprise'', ''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 Act.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

SEC. 1101. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE 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 FINANCE AGENCY.

''(a) ESTABLISHMENT.—There is established the Federal Housing Finance 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 OFFICE OF FINANCE.—The Director shall have general regulatory authority over each regulated entity and the Office of Finance, 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 5 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 Finance 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 enterprises, and with respect to oversight of the housing finance and community and economic development mission of the Federal Home Loan Banks, as the Director shall prescribe.

''(3) CONSIDERATIONS.—In exercising such functions, powers, and duties, the Deputy Director for Housing Mission and Goals shall consider the differences between the enterprises and the Federal Home Loan Banks, including those described in section 1313(f).

''(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 or designation of such individual as Director or Deputy Director, as applicable.''.

SEC. 1102. DUTIES AND AUTHORITIES OF THE 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; and

''(v) the activities of each regulated entity and the manner in which such regulated entity is operated are consistent with the public interest.

''(2) SCOPE OF AUTHORITY.—The authority of the Director shall include the authority—

''(A) to review and, if warranted based on the principal 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 principal 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 Finance Agency''.

SEC. 1103. FEDERAL HOUSING FINANCE OVERSIGHT 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 FINANCE OVERSIGHT BOARD.

''(a) IN GENERAL.—There is established the Federal Housing Finance Oversight 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. 1104. 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, transmit, or publish any report or obtain any information required by the Director under this section, section 309(k) of the Federal National Mortgage Association Charter Act, section 307(c) of the Federal Home Loan Mortgage Corporation Act, or section 20 of the Federal Home Loan Bank 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) FIRST TIER.—

''(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) SECOND TIER.—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) THIRD TIER.—A violation described in paragraph (1) shall be subject to a penalty of not more than $1,000,000 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. 1105. EXAMINERS AND ACCOUNTANTS; AUTHORITY TO CONTRACT FOR REVIEWS OF REGULATED ENTITIES; OMBUDSMAN.

(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)—

(A) by inserting ''of a regulated entity'' after ''under this section''; and

(B) by striking ''to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness'' and inserting ''or appropriate'';

(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. App.) is amended—

(1) in paragraph (1), by inserting ''; the Director of the Federal Housing Finance Agency'' after ''Social Security Administration''; and

(2) in paragraph (2), by inserting '', the Federal Housing Finance 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—

(1) in the section heading, by striking ''**ENTERPRISES BY RATING ORGANIZATION**'' and inserting ''**REGULATED ENTITIES**''; and

(2) by striking ''enterprises'' and inserting ''regulated entities''.

(e) OFFICE OF THE OMBUDSMAN.—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:

''(i) OMBUDSMAN.—The Director shall establish, by regulation, an Office of the Ombudsman within the Agency, which shall be responsible for considering complaints and appeals, from any regulated entity and any person that has a business relationship with a regulated entity, regarding any matter relating to the regulation and supervision of such regulated entity by the Agency. The regulation issued by the Director under this subsection shall specify the authority and duties of the Office of the Ombudsman.''.

SEC. 1106. 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 (including administrative costs) and expenses of the Agency, including—

''(1) the expenses of any examinations under section 1317 of this Act and under section 20 of the Federal Home Loan Bank Act;

''(2) the expenses of obtaining any reviews and credit assessments under section 1319;

''(3) such amounts in excess of actual expenses for any given year as deemed necessary by the Director to maintain a working capital fund in accordance with subsection (e); and

''(4) the windup of the affairs of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board under title III of the Federal Housing Finance Regulatory Reform Act of 2008.'';

(2) in subsection (b)—

(A) by realigning the margins of paragraph (2) two ems from the left, so as to align the left margin of such paragraph with the left margins of paragraph (1);

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following:

''(2) SEPARATE TREATMENT OF FEDERAL HOME LOAN BANK AND ENTERPRISE ASSESSMENTS.—Assessments collected from the enterprises shall not exceed the amounts sufficient to provide for the costs and expenses described in subsection (a) relating to the enterprises. Assessments collected from the Federal Home Loan Banks shall not exceed the amounts sufficient to provide for the costs and expenses described in subsection (a) relating to the Federal Home Loan Banks.'';

(3) by striking subsection (c) and inserting the following:

''(c) INCREASED COSTS OF REGULATION.—

''(1) INCREASE FOR INADEQUATE CAPITALIZATION.—The semiannual payments made pursuant to subsection (b) by any regulated entity that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the regulated entity.

''(2) ADJUSTMENT FOR ENFORCEMENT ACTIVITIES.—The Director may adjust the amounts of any semiannual payments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by a regulated entity, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under this Act for a regulated entity are borne only by such regulated entity.

''(3) ADDITIONAL ASSESSMENT FOR DEFICIENCIES.—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 this Act 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 regulated 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.'';

(4) in subsection (d), by striking ''If'' and inserting ''Except with respect to amounts collected pursuant to subsection (a)(3), if''; and

(5) by striking subsections (e) through (g) and inserting the following:

''(e) WORKING CAPITAL FUND.—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 assessment collected from such regulated entity that is attributable to subsection (a)(3) and is in excess of the amount the Director deems necessary to maintain a working capital fund.

''(f) TREATMENT OF ASSESSMENTS.—

''(1) DEPOSIT.—Amounts received by the Director from assessments under this section may be deposited by the Director in the manner provided in section 5234 of the Revised Statutes of the United States (12 U.S.C. 192) for monies deposited by the Comptroller of the Currency.

''(2) NOT GOVERNMENT FUNDS.—The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

''(3) NO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

''(4) USE OF FUNDS.—The Director may use any amounts received by the Director from assessments under this section for compensation of the Director and other employees of the Agency and for all other expenses of the Director and the Agency.

''(5) AVAILABILITY OF OVERSIGHT FUND AMOUNTS.—Notwithstanding any other provision of law, any amounts remaining in the Federal Housing Enterprises Oversight Fund established under this section (as in effect before the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, and any amounts remaining from assessments on the Federal Home Loan Banks pursuant to section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)), shall, upon such effective date, be treated for purposes of this subsection as amounts received from assessments under this section.

''(6) TREASURY INVESTMENTS.—

''(A) AUTHORITY.—The Director may request the Secretary of the Treasury to invest such portions of amounts received by the Director from assessments paid under this section that, in the Director's discretion, are not required to meet the current working needs of the Agency.

''(B) GOVERNMENT OBLIGATIONS.—Pursuant to a request under subparagraph (A), the Secretary of the Treasury shall invest such amounts in Government obligations guaranteed as to principal and interest by the United States with maturities suitable to

the needs of the Agency and bearing interest at a rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

''(g) BUDGET AND FINANCIAL MANAGEMENT.—

''(1) FINANCIAL OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the Director's financial operating plans and forecasts, as prepared by the Director in the ordinary course of the Agency's operations, and copies of the quarterly reports of the Agency's financial condition and results of operations, as prepared by the Director in the ordinary course of the Agency's operations.

''(2) FINANCIAL STATEMENTS.—The Agency shall prepare annually a statement of—

''(A) assets and liabilities and surplus or deficit;

''(B) income and expenses; and

''(C) sources and application of funds.

''(3) FINANCIAL MANAGEMENT SYSTEMS.—The Agency shall implement and maintain financial management systems that—

''(A) comply substantially with Federal financial management systems requirements and applicable Federal accounting standards; and

''(B) use a general ledger system that accounts for activity at the transaction level.

''(4) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Agency, using the standards established in section 3512(c) of title 31, United States Code.

''(5) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in paragraph (1) or any jurisdiction or oversight over the affairs or operations of the Agency.

''(h) AUDIT OF AGENCY.—

''(1) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Agency in accordance with the United States generally accepted government auditing standards as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Agency are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Agency pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Agency shall remain in possession and custody of the Agency. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

''(2) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Agency, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Agency at the time submitted to the Congress.

''(3) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Agency shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.''.

SEC. 1107. 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, 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. 1108. 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 Act, the following new section:

''SEC. 1313B. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.

''(a) STANDARDS.—The Director shall establish standards, by regulation 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;

''(9) management of credit and counterparty risk, including systems to identify concentrations of credit risk and prudential limits to restrict exposure of the regulated entity to a single counterparty or groups of related counterparties;

''(10) maintenance of adequate records, in accordance with consistent accounting policies and practices that enable the Director to evaluate the financial condition of the regulated entity; and

''(11) such other operational and management standards as the Director determines to be appropriate.

''(b) FAILURE TO MEET STANDARDS.—

''(1) PLAN REQUIREMENT.—

''(A) IN GENERAL.—If the Director determines that a regulated entity fails to meet any standard established under subsection (a)—

''(i) if such standard is established by regulation, the Director shall require the regulated entity to submit an acceptable plan to the Director within the time allowed under subparagraph (C); and

''(ii) if such standard is established by guideline, the Director may require the regulated entity to submit a plan described in clause (i).

''(B) CONTENTS.—Any plan required under subparagraph (A) shall specify the actions that the regulated entity will take to correct the deficiency. If the regulated entity is undercapitalized, the plan may be a part of the capital restoration plan for the regulated entity under section 1369C.

''(C) DEADLINES FOR SUBMISSION AND REVIEW.—The Director shall by regulation establish deadlines that—

''(i) provide the regulated entities with reasonable time to submit plans required under subparagraph (A), and generally require a regulated entity to submit a plan not later than 30 days after the Director determines that the entity fails to meet any standard established under subsection (a); and

''(ii) require the Director to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

''(2) REQUIRED ORDER UPON FAILURE TO SUBMIT OR IMPLEMENT PLAN.—If a regulated entity fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the Director, the following shall apply:

''(A) REQUIRED CORRECTION OF DEFICIENCY.—The Director shall, by order, require the regulated entity to correct the deficiency.

''(B) OTHER AUTHORITY.—The Director may, by order, take one or more of the following actions until the deficiency is corrected:

''(i) Prohibit the regulated entity from permitting its average total assets (as such term is defined in section 1316(b)) during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the entity may increase from one calendar quarter to another.

''(ii) Require the regulated entity—

''(I) in the case of an enterprise, to increase its ratio of core capital to assets.

''(II) in the case of a Federal Home Loan Bank, to increase its ratio of total capital (as such term is defined in section 6(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(5)) to assets.

''(iii) Require the regulated entity to take any other action that the Director determines will better carry out the purposes of this section than any of the actions described in this subparagraph.

''(3) MANDATORY RESTRICTIONS.—In complying with paragraph (2), the Director shall take one or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

''(A) the Director determines that the regulated entity fails to meet any standard prescribed under subsection (a);

''(B) the regulated entity has not corrected the deficiency; and

''(C) during the 18-month period before the date on which the regulated entity first failed to meet the standard, the entity underwent extraordinary growth, as defined by the Director.

''(c) OTHER ENFORCEMENT AUTHORITY NOT AFFECTED.—The authority of the Director under this section is in addition to any other authority of the Director.''.

SEC. 1109. REVIEW OF AND AUTHORITY OVER ENTERPRISE ASSETS AND LIABILITIES.

(a) IN GENERAL.—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 Regulated Entities, Special Enforcement Powers, and Reviews of Assets and Liabilities'';

and

(2) by adding at the end the following new section:

''SEC. 1369E. REVIEWS OF ENTERPRISE ASSETS AND LIABILITIES.

''(a) IN GENERAL.—The Director shall, by regulation, establish criteria governing the portfolio holdings of the enterprises, to ensure that the holdings are backed by sufficient capital and consistent with the mission and the safe and sound operations of the enterprises. In establishing such criteria, the Director shall consider the ability of the enterprises to provide a liquid secondary market through securitization activities, the portfolio holdings in relation to the overall mortgage market, and adherence to the standards specified in section 1313B.

''(b) TEMPORARY ADJUSTMENTS.—The Director may, by order, make temporary adjustments to the established standards for an enterprise or both enterprises, such as during times of economic distress or market disruption.

''(c) AUTHORITY TO REQUIRE DISPOSITION OR ACQUISITION.—The Director shall monitor the portfolio of each enterprise. Pursuant to subsection (a) and notwithstanding the capital classifications of the enterprises, the Director may, by order, require an enterprise, under such terms and conditions as the Director determines to be appropriate, to dispose of or acquire any asset, if the Director determines that such action is consistent with the purposes of this Act or any of the authorizing statutes.''.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date of this Act, the Director shall issue regulations pursuant to section 1369E(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by subsection (a) of this section) establishing the portfolio holdings standards under such section.

SEC. 1110. RISK-BASED CAPITAL REQUIREMENTS.

(a) IN GENERAL.—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 FOR REGULATED ENTITIES.

''(a) IN GENERAL.—

''(1) ENTERPRISES.—The Director shall, by regulation, establish risk-based capital requirements for the enterprises to ensure that the enterprises operate in a safe and sound manner, maintaining sufficient capital and reserves to support the risks that arise in the operations and management of the enterprises.

''(2) FEDERAL HOME LOAN BANKS.—The Director shall establish risk-based capital standards under section 6 of the Federal Home Loan Bank Act for the Federal Home Loan Banks.

''(b) NO LIMITATION.—Nothing in this section shall limit the authority of the Director to require other reports or undertakings, or take other action, in furtherance of the responsibilities of the Director under this Act.''.

(b) FEDERAL HOME LOAN BANKS RISK-BASED CAPITAL.—Section 6(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) RISK-BASED CAPITAL STANDARDS.—The Director shall, by regulation, establish risk-based capital standards for the Federal Home Loan Banks to ensure that the Federal Home Loan Banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal Home Loans Banks.''; and

(2) in subparagraph (B), by striking ''(A)(ii)'' and inserting ''(A)''.

SEC. 1111. MINIMUM CAPITAL LEVELS.

Section 1362 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4612) is amended—

(1) in subsection (a), by striking ''IN GENERAL'' and inserting ''ENTERPRISES''; and

(2) by striking subsection (b) and inserting the following:

''(b) FEDERAL HOME LOAN BANKS.—For purposes of this subtitle, the minimum capital level for each Federal Home Loan Bank shall be the minimum capital required to be maintained to comply with the leverage requirement for the bank established under section 6(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(2)).

''(c) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—Notwithstanding subsections (a) and (b) and notwithstanding the capital classifications of the regulated entities, the Director may, by regulations issued under section 1319G, establish a minimum capital level for the enterprises, for the Federal Home Loan Banks, or for both the enterprises and the banks, that is higher than the level specified in subsection (a) for the enterprises or the level specified in subsection (b) for the Federal Home Loan Banks, to the extent needed to ensure that the regulated entities operate in a safe and sound manner.

''(d) AUTHORITY TO REQUIRE TEMPORARY INCREASE.—

''(1) IN GENERAL.—Notwithstanding subsections (a) and (b) and any minimum capital level established pursuant to subsection (c), the Director may, by order, increase the minimum capital level for a regulated entity on a temporary basis, when the Director determines that such an increase is necessary and consistent with the prudential regulation and the safe and sound operations of a regulated entity.

''(2) RESCISSION.—The Director shall rescind any temporary minimum capital level established under paragraph (1) when the Director determines that the circumstances or facts no longer justify the temporary minimum capital level.

''(3) REGULATIONS REQUIRED.—The Director shall issue regulations establishing—

''(A) standards for the imposition of a temporary increase in minimum capital under paragraph (1);

''(B) the standards and procedures that the Director will use to make the determination referred to in paragraph (2); and

''(C) a reasonable time frame for periodic review of any temporary increase in minimum capital for the purpose of making the determination referred to in paragraph (2).

''(e) AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL AND RESERVE REQUIREMENTS FOR PARTICULAR PURPOSES.—The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any product or activity of a regulated entity, as the Director considers appropriate to ensure that the regulated entity operates in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of the regulated entity.

''(f) PERIODIC REVIEW.—The Director shall periodically review the amount of core capital maintained by the enterprises, the amount of capital retained by the Federal Home Loan Banks, and the minimum capital levels established for such regulated entities pursuant to this section.''.

SEC. 1112. REGISTRATION UNDER THE SECURITIES LAWS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

''SEC. 38. FEDERAL NATIONAL MORTGAGE ASSOCIATION, FEDERAL HOME LOAN MORTGAGE CORPORATION, FEDERAL HOME LOAN BANKS.

''(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION.—No class of equity securities of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation shall be treated as an exempted security for purposes of section 12, 13, 14, or 16.

''(b) FEDERAL HOME LOAN BANKS.—

''(1) REGISTRATION.—Each Federal Home Loan Bank shall register a class of its common stock under section 12(g), not later than 120 days after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, and shall thereafter maintain such registration and be treated for purposes of this title as an 'issuer', the securities of which are required to be registered under section 12, regardless of the number of members holding such stock at any given time.

''(2) STANDARDS RELATING TO AUDIT COMMITTEES.—Each Federal Home Loan Bank shall comply with the rules issued by the Commission under section 10A(m).

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) FEDERAL HOME LOAN BANK; MEMBER.—The terms 'Federal Home Loan Bank' and 'member', have the same meanings as in section 2 of the Federal Home Loan Bank Act.

''(2) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The term 'Federal National Mortgage Association' means the corporation created by the Federal National Mortgage Association Charter Act.

''(3) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The term 'Federal Home Loan Mortgage Corporation' means the corporation created by the Federal Home Loan Mortgage Corporation Act.''.

SEC. 1113. PROHIBITION AND WITHHOLDING OF EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518) is amended—

(1) in the section heading, by striking ''**OF EXCESSIVE**'' and inserting ''**AND WITHHOLDING OF EXECUTIVE**'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) FACTORS.—In making any determination under subsection (a), the Director may take into consideration any factors the Director considers relevant, including any wrongdoing on the part of the executive officer, and such wrongdoing shall include any fraudulent act or omission, breach of trust or fiduciary duty, violation of law, rule, regulation, order, or written agreement, and insider abuse with respect to the regulated entity. The approval of an agreement or contract pursuant to section 309(d)(3)(B) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)(3)(B)) or section 303(h)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)(2)) shall not preclude the Director from making any subsequent determination under subsection (a).

''(c) WITHHOLDING OF COMPENSATION.—In carrying out subsection (a), the Director may require a regulated entity to withhold any payment, transfer, or disbursement of compensation to an executive officer, or to place such compensation in an escrow account, during the review of the reasonableness and comparability of compensation.''.

(b) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended by adding at the end the following new paragraph:

''(4) Notwithstanding any other provision of this section, the corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).''.

(2) FREDDIE MAC.—Section 303(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)) is amended by adding at the end the following new paragraph:

''(4) Notwithstanding any other provision of this section, the Corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).''.

(3) FEDERAL HOME LOAN BANKS.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended by adding at the end the following new subsection:

''(l) WITHHOLDING OF COMPENSATION.—Notwithstanding any other provision of this section, a Federal Home Loan Bank shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).''.

SEC. 1114. 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:

''(e) AUTHORITY TO REGULATE OR PROHIBIT CERTAIN FORMS OF BENEFITS TO AFFILIATED PARTIES.—

''(1) GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.—The Director may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

''(2) FACTORS TO BE TAKEN INTO ACCOUNT.—The Director shall prescribe, by regulation, the factors to be considered by the Director 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 Director);

''(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 effect 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 Director determines that the regulated entity is in a troubled condition (as defined in the regulations of the Director).

''(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 Director 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 Director.

''(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. 1115. 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, in good faith, makes a report pursuant to subsection (a), and any entity-affiliated party, that, in good faith, 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. 1121. TRANSFER OF PROGRAM APPROVAL AND HOUSING GOAL OVERSIGHT.

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 the heading for the part and inserting the following:

''PART 2—ADDITIONAL AUTHORITIES OF THE DIRECTOR'';

and

(2) by striking sections 1321 and 1322.

SEC. 1122. ASSUMPTION BY THE DIRECTOR OF CERTAIN 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, 1326, 1327, 1328, and 1336; and

(2) by striking sections 1338 and 1349 (12 U.S.C. 4562 note and 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. 1123. REVIEW OF ENTERPRISE PRODUCTS.

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 by inserting before section 1323 the following:

''SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS.

''(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 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 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; and

''(4) the product is consistent with the safety and soundness of the enterprise or 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), then the enterprise may offer the product.

''(C) TEMPORARY APPROVAL.—The Director may, subject to the rules of the Director, provide for temporary approval of the offering of a product without a public comment period, if the Director finds that the existence of exigent circumstances makes such delay contrary to the public interest.

''(d) CONDITIONAL APPROVAL.—If the Director approves the offering of any product by an enterprise, the Director may establish terms, conditions, or limitations with respect to such product with which the enterprise must comply in order to offer such product.

''(e) EXCLUSIONS.—

''(1) IN GENERAL.—The requirements of subsections (a) through (d) do not apply with respect to—

''(A) the automated loan underwriting system of an enterprise in existence as of the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, including any upgrade to the technology, operating system, or software to operate the underwriting system;

''(B) 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

''(C) any other activity that is substantially similar, as determined by rule of the Director to—

''(i) the activities described in subparagraphs (A) and (B); and

''(ii) other activities that have been approved by the Director in accordance with this section.

''(2) EXPEDITED REVIEW.—

''(A) ENTERPRISE NOTICE.—For any new activity that an enterprise considers not to be a product, the enterprise shall provide written notice to the Director of such activity, and may not commence such activity until the date of receipt of a notice under subparagraph (B) or the expiration of the period described in subparagraph (C). The Director shall establish, by regulation, the form and content of such written notice.

''(B) DIRECTOR DETERMINATION.—Not later than 15 days after the date of receipt of a notice under subparagraph (A), the Director shall determine whether such activity is a product subject to approval under this section. The Director shall, immediately upon so determining, notify the enterprise.

''(C) FAILURE TO ACT.—If the Director fails to determine whether such activity is a product within the 15-day period described in subparagraph (B), the enterprise may commence the new activity in accordance with subparagraph (A).

''(f) NO LIMITATION.—Nothing in this section may be construed 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 an enterprise.''.

SEC. 1124. CONFORMING LOAN LIMITS.

(a) FANNIE MAE.—

(1) GENERAL LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking the 7th and 8th sentences and inserting the following new sentences: ''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, and $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 of Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4th-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541)). If the change in such house price index during the most recent 12-month or 4th-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines.''.

(2) HIGH-COST AREA LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by adding after the period at the end the following: ''Such foregoing limitations shall also be increased with respect to properties of a particular size located in any area for which the median price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such foregoing limitation for such size residence or the amount that is equal to the median price in such area for such size residence.''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) of this subsection shall take effect upon the expiration of the date described in section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110–185).

(b) FREDDIE MAC.—

(1) GENERAL LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking the 6th and 7th sentences and inserting the following new sentences: ''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, and $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 of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, 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 Finance Agency (pursuant to section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541)). If the change in such house price index during the most recent 12-month or 4th-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines.''.

(2) HIGH-COST AREA LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by adding after the period at the end the following: ''Such foregoing limitations shall also be increased with respect to properties of a particular size located in any area for which the median price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such foregoing limitation for such size residence or the amount that is equal to the median price in such area for such size residence.''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) of this subsection shall take effect upon the expiration of the date described in section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110–185).

(c) SENSE OF CONGRESS.—It is the sense of the Congress that the securitization of mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation plays an important role in providing liquidity to the United States housing markets. Therefore, the Congress encourages the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to securitize mortgages acquired under the increased conforming loan limits established under this Act.

(d) HOUSING PRICE INDEX.—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 by inserting after section 1321 (as added by section 1123 of this Act) the following new section:

''SEC. 1322. HOUSING PRICE INDEX.

''The Director shall establish and maintain a method of assessing the national average 1-family house price for use for adjusting the conforming loan limitations of the enterprises. In establishing such method, the Director shall take into consideration the monthly survey of all major lenders conducted by the Federal Housing Finance Agency to determine the national average 1-family house price, the House Price Index maintained by the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development before the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, any appropriate house price indexes of the Bureau of the Census of the Department of Commerce, and any other indexes or measures that the Director considers appropriate.''.

SEC. 1125. ANNUAL HOUSING REPORT.

(a) REPEAL.—Section 1324 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4544) is hereby repealed.

(b) ANNUAL HOUSING REPORT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting after section 1323 the following:

''SEC. 1324. ANNUAL HOUSING REPORT.

''(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 Director 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;

''(iv) each enterprise received credit towards achieving each of its goals resulting from a transaction or activity pursuant to section 1331(b)(2); and

''(v) 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 and nontraditional loans;

''(5) compare the characteristics of subprime and nontraditional loans both purchased and securitized by each enterprise to other loans purchased and securitized by each enterprise; and

''(6) compare the characteristics of high-cost loans purchased and securitized, where such securities are not held on portfolio to loans purchased and securitized, where such securities are either retained on portfolio or repurchased by the enterprise, including such characteristics as—

''(A) the purchase price of the property that secures the mortgage;

''(B) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

''(C) the terms of the mortgage;

''(D) the creditworthiness of the borrower; and

''(E) any other relevant data, as determined by the Director.

''(c) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—To assist the Director in analyzing the matters described in subsection (b), the Director 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 Director 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 and nontraditional mortgages that are eligible for purchase by the enterprises and the characteristics of borrowers under such mortgages, including the creditworthiness of such borrowers and determination whether such borrowers would qualify for prime lending; and

''(C) such other matters as the Director determines to be appropriate.

''(3) PUBLIC AVAILABILITY.—The Director shall make any data collected by the Director in connection with the conduct of a monthly survey available to the public in a timely manner, provided that the Director 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. 1126. PUBLIC USE DATABASE.

Section 1323 of the Federal Housing Enterprises Financial Safety and Soundness 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 Director''; 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. 1127. REPORTING OF MORTGAGE DATA.

Section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4546) 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 INFORMATION.—Subject to privacy considerations, as described in section 304(j) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(j)), 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—

''(1) the same data from the enterprises that is required of insured depository institutions under the Home Mortgage Disclosure Act of 1975; and

''(2) information collected by the Director under section 1324(b)(6).''.

SEC. 1128. REVISION OF HOUSING GOALS.

(a) REPEAL.—Sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 through 4564) are hereby repealed.

(b) HOUSING GOAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting before section 1335 the following:

''SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.

''(a) IN GENERAL.—The Director shall, by regulation, establish effective for the first calendar year that begins after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, and each year thereafter, annual housing goals, as described under this subpart, with respect to the mortgage purchases by the enterprises.

''(b) SPECIAL COUNTING REQUIREMENTS.—

''(1) IN GENERAL.—The Director 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 Director 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 Director shall require the enterprises to disclose appropriate information to allow the Director 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 ON DISPARITIES.—Upon a finding by the Director that a pattern of disparities in interest rates exists pursuant to the information provided by an enterprise under paragraph (1), the Director 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) forward the report prepared under subparagraph (A) to any other appropriate regulatory or enforcement agency.

''(3) IDENTITY OF INDIVIDUALS NOT DISCLOSED.—In carrying out this subsection, the Director 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 Director 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.—

''(1) REVIEW.—The Director shall review the appropriateness of each goal established pursuant to this subpart at least once during each year to assure that given current market conditions that each such goal is feasible.

''(2) PETITION TO REDUCE.—An enterprise may petition the Director 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 Director 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(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

''(c) DETERMINATION.—

''(1) 30-DAY PERIOD.—If an enterprise submits a petition for reduction to the Director under subsection (a)(2), the Director shall make a determination regarding any proposed reduction within 30 days of receipt of the petition.

''(2) EXTENSION.—The Director may extend the period described in paragraph (1) for a single additional 15-day period, but only if the Director requests additional information from the enterprise.

''SEC. 1332. SINGLE-FAMILY HOUSING GOALS.

''(a) ESTABLISHMENT OF GOALS.—

''(1) IN GENERAL.—The Director 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 mortgage purchases of the enterprise.

''(b) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Director 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 the 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 Director shall establish annual targets for each goal described in subsection (a).

''(2) CONSIDERATIONS.—In establishing annual targets under paragraph (1), the Director 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 mortgage credit available;

''(E) recent information submitted in compliance with the Home Mortgage Disclosure Act of 1975 and such other reliable mortgage data as may be available;

''(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.

''(3) HIGH-COST LOANS AND INAPPROPRIATE LENDING PRACTICES.—In establishing annual targets under paragraph (1), the Director shall not consider segments of the market determined to be unacceptable or contrary to good lending practices pursuant to section 1331(b)(2).

''(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 Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise and the public 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 Director shall consider a mortgagor's income to be the income of the mortgagor at the time of origination of the mortgage.

''(f) CONSIDERATION OF PROPERTIES WITH RENTAL UNITS.—Mortgages financing 1-to-4 unit owner-occupied properties shall count toward the achievement of the single-family housing goal under this section, if such properties otherwise meet the requirements under this section notwithstanding the use of 1 or more units for rental purposes.

''SEC. 1333. SINGLE-FAMILY HOUSING REFINANCE GOALS.

''(a) PREPAYMENT OF EXISTING LOANS.—

''(1) IN GENERAL.—The Director 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 Director 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 Director shall establish annual targets for each goal described in subsection (a).

''(2) CONSIDERATIONS.—In establishing annual targets under paragraph (1), the Director 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 mortgage credit available;

''(E) recent information submitted in compliance with the Home Mortgage Disclosure Act of 1975 and such other reliable mortgage data as may be available;

''(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 Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise and the public 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 Director 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 Director shall establish, by regulation, by unit, dollar volume, or percentage of multifamily activity, as determined by the Director, an annual goal for the purchase by each enterprise of—

''(A) mortgages that finance dwelling units affordable to very low-income families; and

''(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 Director shall establish, within the housing goal established under this section, 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 Director), or with mortgages of up to $5,000,000 (as adjusted by the Director).

''(3) FACTORS.—The Director shall establish the goal and additional requirements under this section taking into consideration—

''(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, including the size of the small multifamily mortgage market;

''(D) the most recent information available for the Residential Survey published by the Census Bureau, and such other reliable 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 Director 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 projects that otherwise qualify under such goal and that are financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, but only if such bonds—

''(1) are secured by a guarantee of the enterprise; or

''(2) are not investment grade and are purchased by the enterprise.

''(c) USE OF TENANT RENT LEVEL.—

''(1) IN GENERAL.—The Director shall monitor the performance of each enterprise in meeting the goal established under this section and shall evaluate such performance (for purposes of section 1336) based on whether the rent levels are 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 Director 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 described under subsection (a) for a year only if the multifamily mortgage purchases of the enterprise meet or exceed the goal for the year established under subsection (a).

''(e) CONSIDERATION OF UNITS IN SINGLE-FAMILY RENTAL HOUSING.—In establishing the goal under this section, the Director may take into consideration the number of housing units financed by any mortgage purchased by an enterprise on single-family rental housing that is not owner-occupied.

''(f) REMOVING CREDIT.—The Director shall subtract from the units or mortgages counted toward the goal established under this section in a current year any units or mortgages credited toward such goal in a prior year if an enterprise requires a lender to repurchase, or reimburse for losses, or indemnify the enterprise against potential losses on such units or mortgages.

''(g) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (d) regarding compliance of an enterprise for a year with the housing goal established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the goal for the year under subsection (a).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise and the public an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.''.

(c) CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness 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''; and

(2) in section 1336(a)(1) (12 U.S.C. 4566(a)(1)), by striking ''sections 1332, 1333, and 1334,'' and inserting ''this subpart''.

(d) DEFINITIONS.—Section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502) is amended—

(1) by striking paragraph (24), as so designated by section 1002 of this Act, and inserting the following:

''(24) VERY LOW-INCOME.—

''(A) IN GENERAL.—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; and

''(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 Director.

''(B) RULE OF CONSTRUCTION.—For purposes of section 1338 and 1339, 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 Director.''; and

(2) by adding at the end the following:

''(26) 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 applicable 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.

''(27) 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 Director.

''(28) 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.

''(29) MINORITY CENSUS TRACT.—The term 'minority census tract' means a census tract that has a minority population of at least 30 percent and a median family income of less than 100 percent of the area family median income.

''(30) 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 Director 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.

''(31) 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 Director 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. 1129. 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) 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 so 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 increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets by purchasing or securitizing mortgage investments.

''(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 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;

''(vi) the programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), but only permanent supportive housing projects subsidized under such programs; and

''(vii) the rural rental housing program under section 515 of the Housing Act of 1949.

''(C) RURAL AND OTHER UNDERSERVED MARKETS.—The enterprise 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 Director identifies as lacking adequate credit through conventional lending sources. Such underserved markets may be identified by borrower type, market segment, or geographic area.''; and

(5) by adding at the end the following new subsection:

''(c) EVALUATION AND REPORTING OF COMPLIANCE.—

''(1) IN GENERAL.—Not later than 6 months after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, the Director shall establish 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. Using such method, the Director shall, for each year, evaluate such compliance and rate the performance of each enterprise as to 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).

''(2) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty referred to in paragraph (1), 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.

''(3) MANUFACTURED HOUSING MARKET.—In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(2), the Director may consider loans secured by both real and personal property.''.

(b) ENFORCEMENT.—Subsection (a) of section 1336 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 of such subsection, as amended by the preceding provisions of this subtitle, the following new paragraph:

''(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—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 this subpart are enforceable. Such duty 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. 1130. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—Section 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4566) is amended 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 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 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 15 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 cease and desist orders under section 1341, and ordering civil money penalties under section 1345, the Director may—

''(A) seek other actions when an enterprise fails to meet a goal; and

''(B) exercise appropriate enforcement authority available to the Director under this Act.''.

(b) CONFORMING AMENDMENT.—The heading for subpart C of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended to read as follows:

''Subpart C—Enforcement''.

(c) CEASE AND DESIST PROCEEDINGS.—

(1) REPEAL.—Section 1341 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4581) is hereby repealed.

(2) CEASE AND DESIST PROCEEDINGS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting before section 1342 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 or otherwise, as provided in this subpart.''.

(d) CIVIL MONEY PENALTIES.—

(1) REPEAL.—Section 1345 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4585) is hereby repealed.

(2) CIVIL MONEY PENALTIES.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting after section 1344 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 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 use any civil money penalties collected under this section to help fund the Housing Trust Fund established under section 1338.''.

(e) DIRECTOR AUTHORITY.—

(1) AUTHORITY TO BRING A CIVIL ACTION.—Section 1344(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4584) is amended by striking ''The Secretary may request the Attorney General of the United States to bring a civil action'' and inserting ''The Director may bring a civil action''.

(2) SUBPOENA ENFORCEMENT.—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''.

(3) CONFORMING AMENDMENTS.—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—

(A) section 1342 (12 U.S.C. 4582);

(B) section 1343 (12 U.S.C. 4583);

(C) section 1346 (12 U.S.C. 4586);

(D) section 1347 (12 U.S.C. 4587); and

(E) section 1348 (12 U.S.C. 4588).

SEC. 1131. AFFORDABLE HOUSING PROGRAMS.

(a) REPEAL.—Section 1337 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4567) is hereby repealed.

(b) ANNUAL HOUSING REPORT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 1301 et seq.) 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 the 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 Housing Trust Fund 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 Housing Trust Fund 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 Director shall temporarily suspend allocations under subsection (a) by an enterprise upon a finding by the Director 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 Director 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.

''(e) REQUIRED AMOUNT FOR HOPE RESERVE FUND.—Of the aggregate amount allocated under subsection (a), 25 percent shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

''(f) LIMITATION.—No funds under this title may be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, for purposes of this section, public use shall not be construed to include economic development that primarily benefits any private entity.

''SEC. 1338. HOUSING TRUST FUND.

''(a) ESTABLISHMENT AND PURPOSE.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall establish and manage a Housing Trust Fund, which shall be funded with amounts allocated by the enterprises under section 1337 and any amounts as are or may be appropriated, transferred, or credited to such Housing Trust Fund under any other provisions of law. The purpose of the Housing Trust Fund 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) ALLOCATIONS FOR HOPE BOND PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c), to help address the mortgage crisis, of the amounts allocated pursuant to clauses (i) and (ii) of section 1337(a)(1)(B) and clauses (i) and (ii) of section 1337(a)(2)(B) in excess of amounts described in section 1337(e)—

''(A) 100 percent of such excess shall be used to reimburse the Treasury for payments made pursuant to section 257(w)(1)(C) of the National Housing Act in calendar year 2009;

''(B) 50 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2010; and

''(C) 25 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2011.

''(2) EXCESS FUNDS.—At the termination of the HOPE for Homeowners Program established under section 257 of the National Housing Act, if amounts used to reimburse the Treasury under paragraph (1) exceed the total net cost to the Government of the HOPE for Homeowners Program, such amounts shall be used for their original purpose, as described in paragraphs (1)(B) and (2)(B) of section 1337(a).

''(3) TREASURY FUND.—The amounts referred to in subparagraphs (A) through (C) of paragraph (1) shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

''(c) ALLOCATION FOR HOUSING TRUST FUND IN FISCAL YEAR 2010 AND SUBSEQUENT YEARS.—

''(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall distribute the amounts allocated for the Housing Trust Fund 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 shall, by regulation, establish a formula within 12 months of the date of enactment of the Federal Housing Finance 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 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 2009, the Secretary shall make a 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 a 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 HOUSING TRUST 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 not less than 75 percent of such grant amounts shall be used for the benefit only of extremely low-income families and not more than 25 percent for the benefit only of very low-income families; and

''(B) the production, preservation, and rehabilitation of housing for homeownership, including such forms as down payment 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 independent financial education and counseling from an eligible organization that meets the requirements of section 132 of the Federal Housing Finance Regulatory Reform Act of 2008.

''(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 down payments, 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 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), 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 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, including home ownership counseling, 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 Director may not consider any grant amounts used under this section for eligible activities under paragraph (7). The Director 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 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 grant amounts which were not used in accordance with this section;

''(ii) require the State or State designated entity to repay the Secretary any amount of the grant which was 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 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 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 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 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 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 Finance 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 Director of the Office of Management and Budget, the Secretary shall obtain and provide such information regarding any such grants, assistance, and awards as the Director of the Office of Management and Budget considers necessary to comply with the requirements of such Act, as applicable, pursuant to the preceding sentence.

''SEC. 1339. CAPITAL MAGNET FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Capital Magnet Fund, which shall be a special account within the Community Development Financial Institutions Fund.

''(b) DEPOSITS TO TRUST FUND.—The Capital Magnet Fund shall consist of—

''(1) any amounts transferred to the Fund pursuant to section 1337; and

''(2) any amounts as are or may be appropriated, transferred, or credited to such Fund under any other provisions of law.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Capital Magnet Fund shall be available to the Secretary of the Treasury to carry out a competitive grant program to attract private capital for and increase investment in—

''(1) the development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and

''(2) economic development activities or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area.

''(d) FEDERAL ASSISTANCE.—All assistance provided using amounts in the Capital Magnet Fund shall be considered to be Federal financial assistance.

''(e) ELIGIBLE GRANTEES.—A grant under this section may be made, pursuant to such requirements as the Secretary of the Treasury shall establish for experience and success in attracting private financing and carrying out the types of activities proposed under the application of the grantee, only to—

''(1) a Treasury certified community development financial institution; or

''(2) a nonprofit organization having as 1 of its principal purposes the development or management of affordable housing.

''(f) ELIGIBLE USES.—Grant amounts awarded from the Capital Magnet Fund pursuant to this section may be used for the purposes described in paragraphs (1) and (2) of subsection (c), including for the following uses:

''(1) To provide loan loss reserves.

''(2) To capitalize a revolving loan fund.

''(3) To capitalize an affordable housing fund.

''(4) To capitalize a fund to support activities described in subsection (c)(2).

''(5) For risk-sharing loans.

''(g) APPLICATIONS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall provide, in a competitive application process established by regulation, for eligible grantees under subsection (e) to submit applications for Capital Magnet Fund grants to the Secretary at such time and in such manner as the Secretary shall determine.

''(2) CONTENT OF APPLICATION.—The application required under paragraph (1) shall include a detailed description of—

''(A) the types of affordable housing, economic, and community revitalization projects that support or sustain residents of an affordable housing project funded by a grant under this section for which such grant amounts would be used, including the proposed use of eligible grants as authorized under this section;

''(B) the types, sources, and amounts of other funding for such projects; and

''(C) the expected time frame of any grant used for such project.

''(h) GRANT LIMITATION.—

''(1) IN GENERAL.—Any 1 eligible grantee and its subsidiaries and affiliates may not be awarded more than 15 percent of the aggregate funds available for grants during any year from the Capital Magnet Fund.

''(2) GEOGRAPHIC DIVERSITY.—

''(A) GOAL.—The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and underserved rural areas in every State.

''(B) DIVERSITY DEFINED.—For purposes of this paragraph, geographic diversity includes those areas that meet objective criteria of economic distress developed by the Secretary of the Treasury, which may include—

''(i) the percentage of low-income families or the extent of poverty;

''(ii) the rate of unemployment or underemployment;

''(iii) extent of blight and disinvestment;

''(iv) projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or

''(v) any other criteria designated by the Secretary of the Treasury.

''(3) LEVERAGE OF FUNDS.—Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.

''(4) COMMITMENT FOR USE DEADLINE.—Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation. The Secretary of the Treasury shall recapture into the Capital Magnet Fund any amounts not so used or committed for use and allocate such amounts in the first year after such recapture.

''(5) LOBBYING RESTRICTIONS.—No assistance or amounts made available under this section may be expended by an eligible grantee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement as such terms are defined in section 1352 of title 31, United States Code.

''(6) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining the compliance of the enterprises with the housing goals under this section and the duty to serve underserved markets under section 1335, the Director of the Federal Housing Finance Agency may not consider any Capital Magnet Fund amounts used under this section for eligible activities under subsection (f). The Director of the Federal Housing Finance Agency 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 Capital Magnet Fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

''(7) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

''(A) TRACKING OF FUNDS.—The Secretary of the Treasury shall—

''(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from the Capital Magnet Fund 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 grantee and the Capital Magnet Fund, regarding assistance

from the Capital Magnet Fund, which shall include—

''(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the grant 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 grant administration and compliance.

''(B) MISUSE OF FUNDS.—If the Secretary of the Treasury determines, after reasonable notice and opportunity for hearing, that a grantee 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 grantee by an amount equal to the amount of Capital Magnet Fund grant amounts which were not used in accordance with this section;

''(ii) require the grantee to repay the Secretary any amount of the Capital Magnet Fund grant amounts which were not used in accordance with this section;

''(iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or

''(iv) terminate any assistance under this section to the grantee.

''(i) PERIODIC REPORTS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall submit a report, on a periodic basis, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the activities to be funded under this section.

''(2) REPORTS AVAILABLE TO PUBLIC.—The Secretary of the Treasury shall make the reports required under paragraph (1) publicly available.

''(j) REGULATIONS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) authority for the Secretary to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

''(B) a requirement that the Secretary ensure that the allocation of each enterprise is audited not less than annually to ensure compliance with this section; and

''(C) requirements for a process for application to, and selection by, the Secretary for activities to be funded with amounts from the Capital Magnet Fund, which shall provide that—

''(i) funds be fairly distributed to urban, suburban, and rural areas; and

''(ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—

''(I) the ability to use such funds to generate additional investments;

''(II) affordable housing need (taking into account the distinct needs of different regions of the country); and

''(III) ability to obligate amounts and undertake activities so funded in a timely manner.''.

SEC. 1132. FINANCIAL EDUCATION AND COUNSELING.

(a) GOALS.—Financial education and counseling under this section shall have the goal of—

(1) increasing the financial knowledge and decision making capabilities of prospective homebuyers;

(2) assisting prospective homebuyers to develop monthly budgets, build personal savings, finance or plan for major purchases, reduce their debt, improve their financial stability, and set and reach their financial goals;

(3) helping prospective homebuyers to improve their credit scores by understanding the relationship between their credit histories and their credit scores; and

(4) educating prospective homebuyers about the options available to build savings for short- and long-term goals.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the ''Secretary'') shall make grants to eligible organizations to enable such organizations to provide a range of financial education and counseling services to prospective homebuyers.

(2) SELECTION.—The Secretary shall select eligible organizations to receive assistance under this section based on their experience and ability to provide financial education and counseling services that result in documented positive behavioral changes.

(c) ELIGIBLE ORGANIZATIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''eligible organization'' means an organization that is—

(A) certified in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)); or

(B) certified by the Office of Financial Education of the Department of the Treasury for purposes of this section, in accordance with paragraph (2).

(2) OFE CERTIFICATION.—To be certified by the Office of Financial Education for purposes of this section, an eligible organization shall be—

(A) a housing counseling agency certified by the Secretary of Housing and Urban Development under section 106(e) of the Housing and Urban Development Act of 1968;

(B) a State, local, or tribal government agency;

(C) a community development financial institution (as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)) or a credit union; or

(D) any collaborative effort of entities described in any of subparagraphs (A) through (C).

(d) AUTHORITY FOR PILOT PROJECTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall authorize not more than 5 pilot project grants to eligible organizations under subsection (c) in order to—

(A) carry out the services under this section; and

(B) provide such other services that will improve the financial stability and economic condition of low- and moderate-income and low-wealth individuals.

(2) GOAL.—The goal of the pilot project grants under this subsection is to—

(A) identify successful methods resulting in positive behavioral change for financial empowerment; and

(B) establish program models for organizations to carry out effective counseling services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section and for the provision of additional financial educational services.

(f) STUDY AND REPORT ON EFFECTIVENESS AND IMPACT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the effectiveness and impact of the grant program established under this section. Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of such study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) CONTENT OF STUDY.—The study required under paragraph (1) shall include an evaluation of the following:

(A) The effectiveness of the grant program established under this section in improving the financial situation of homeowners and prospective homebuyers served by the grant program.

(B) The extent to which financial education and counseling services have resulted in positive behavioral changes.

(C) The effectiveness and quality of the eligible organizations providing financial education and counseling services under the grant program.

(g) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to implement and administer the grant program authorized by this section.

SEC. 1133. TRANSFER AND RIGHTS OF CERTAIN HUD EMPLOYEES.

(a) TRANSFER.—Each employee of the Department of Housing and Urban Development whose position responsibilities primarily involve the establishment and enforcement of the housing goals under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 et seq.) shall be transferred to the Federal Housing Finance Agency for employment, not later than the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, 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 Federal Housing Finance Regulatory Reform Act of 2008, 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 described under subsection (a) 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 Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on such effective date, 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 Finance Agency.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Department of Housing and Urban Development 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.

Subtitle C—Prompt Corrective Action

SEC. 1141. CRITICAL CAPITAL LEVELS.

(a) IN GENERAL.—Section 1363 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4613) is amended—

(1) by striking ''For'' and inserting ''(a) ENTERPRISES.—FOR''; and

(2) by adding at the end the following new subsection:

''(b) FEDERAL HOME LOAN BANKS.—

''(1) IN GENERAL.—For purposes of this subtitle, the critical capital level for each Federal Home Loan Bank shall be such amount of capital as the Director shall, by regulation, require.

''(2) CONSIDERATION OF OTHER CRITICAL CAPITAL LEVELS.—In establishing the critical capital level under paragraph (1) for the Federal Home Loan Banks, the Director shall take due consideration of the critical capital level established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises.''.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of enactment of this Act, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by this section) establishing the critical capital level under such section.

SEC. 1142. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—Section 1364 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4614) is amended—

(1) in the heading for subsection (a) by striking ''In General'' and inserting ''Enterprises'';

(2) in subsection (c)—

(A) by striking ''subsection (b)'' and inserting ''subsection (c)'';

(B) by striking ''enterprises'' and inserting ''regulated entities''; and

(C) by striking the last sentence;

(3) by redesignating subsections (c) (as so amended by paragraph (2) of this subsection) and (d) as subsections (d) and (f), respectively;

(4) by striking subsection (b) and inserting the following:

''(b) FEDERAL HOME LOAN BANKS.—

''(1) ESTABLISHMENT AND CRITERIA.—For purposes of this subtitle, the Director shall, by regulation—

''(A) establish the capital classifications specified under paragraph (2) for the Federal Home Loan Banks;

''(B) establish criteria for each such capital classification based on the amount and types of capital held by a bank and the risk-based, minimum, and critical capital levels for the banks and taking due consideration of the capital classifications established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises; and

''(C) shall classify the Federal Home Loan Banks according to such capital classifications.

''(2) CLASSIFICATIONS.—The capital classifications specified under this paragraph are—

''(A) adequately capitalized;

''(B) undercapitalized;

''(C) significantly undercapitalized; and

''(D) critically undercapitalized.

''(c) 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 the regulated entity is engaging in conduct that could result in a rapid depletion of core or total capital or the value of collateral pledged as security has decreased significantly or that the value of the property subject to any mortgage held by the regulated entity (or securitized in the case of an enterprise) has decreased significantly;

''(B) after notice and an opportunity for hearing, the Director determines that the regulated entity is in an unsafe or unsound condition; or

''(C) pursuant to section 1371(b), the Director deems the regulated entity to be 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 classify 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

(5) by inserting after subsection (d) (as so redesignated by paragraph (3) of this subsection), the following new subsection:

''(e) 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 the extent appropriate or applicable, 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 entity.''.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of enactment of this Act, the Director of the Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by this section), relating to capital classifications for the Federal Home Loan Banks.

SEC. 1143. 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. 1144. 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. 1145. 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 60 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 60 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, Federal Home Loan 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 the 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 clause (ii) 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 clause (i) 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 a regulated entity for the benefit of any person other than the regulated entity shall not be available to satisfy the claims of creditors generally, except that nothing in this clause shall be construed to expand or otherwise affect the authority of any regulated entity.

''(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 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; 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.

''(15) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

''(A) any extension of credit from any Federal Home Loan Bank or Federal Reserve Bank to any regulated entity; or

''(B) any security interest in the assets of the regulated entity securing any such extension of credit.

''(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.

''(D) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

''(12) 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. 1151. 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.—

''(1) AUTHORITY OF DIRECTOR.—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 Office of Finance, 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 Office of Finance 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.

''(2) LIMITATION.—The Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) of section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)).

''(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a regulated entity receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, 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''; and

(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. 1152. 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. 1153. 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 Office of Finance 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 Office of Finance, 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 Office of Finance;

''(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 Office of Finance.

''(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 Office of Finance, or prohibited from participating in the conduct of the affairs of a regulated entity or the Office of Finance, 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 Office of Finance.

''(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 Office of Finance, 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 Office of Finance 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 the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 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 ''1313B , 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. 1154. ENFORCEMENT AND JURISDICTION.

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 new subsection:

''(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 or order issued under this subtitle or subtitle B, 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 or order.''; and

(2) in subsection (b), by striking ''or 1376'' and inserting ''1313B, 1376, or 1377''.

SEC. 1155. 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 entity-affiliated party. The Director shall not impose a civil penalty in accordance with this section on any regulated entity or any entity-affiliated party for any violation that is addressed under section 1345(a).'';

(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; or

''(D) violates any written agreement between the regulated entity and the Director.

''(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. 1156. 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.) is amended by inserting after section 1377, as added by this Act, 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 Act)—

(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 Act), by striking ''an enterprise'' and inserting ''a regulated entity'';

(3) in section 1379B(c) (as so designated by this Act), by striking ''enterprise'' and inserting ''regulated entity''; and

(4) in section 1379D (as so designated by this Act), by striking ''enterprise'' and inserting ''regulated entity''.

SEC. 1157. 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 Act, is amended—

(1) by striking ''2-year'' and inserting ''6-year'';

(2) by striking ''a director or executive officer of an enterprise'' and inserting ''an entity-affiliated party'';

(3) by striking ''director or officer'' each place that term appears and inserting ''entity-affiliated party''; and

(4) by striking ''enterprise.'' and inserting ''regulated entity.''.

SEC. 1158. SUBPOENA AUTHORITY.

(a) IN GENERAL.—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 ''subtitle'' 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. 1161. 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 Act, 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 Finance 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 subsection (d) and redesignating subsection (e) as subsection (d); and

(E) by striking subsection (f);

(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 such 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 Finance Agency''; and

(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 Finance 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 Finance 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 Finance Agency''; and

(ii) in paragraph (2), by striking ''Secretary'' each place that term appears and inserting ''Director of the Federal Housing Finance Agency''; and

(C) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Federal Housing Finance 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 Finance 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)(2), 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 Finance 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 Finance 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 Finance Agency'';

(ii) in paragraph (2), by striking ''the Secretary'' each place that term appears and inserting ''the Director of the Federal Housing Finance Agency''; and

(iii) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Federal Housing Finance 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 Finance Agency''.

(e) AMENDMENTS 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 Finance 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) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 5313, 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 Finance Agency.''; and

(2) in section 3132(a)(1)—

(A) in subparagraph (B), by striking '',, and'' and inserting '', and'';

(B) in subparagraph (D)—

(i) by striking ''the Federal Housing Finance Board'';

(ii) by striking ''the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''the Federal Housing Finance Agency''; and

(iii) by striking ''or or'' at the end;

(C) in subparagraph (E), as added by section 8(d)(1)(B)(iii) of Public Law 107-123, by adding ''or'' at the end; and

(D) by redesignating subparagraph (E), as added by section 10702(c)(1)(C) of Public Law 107-171, as subparagraph (F).

(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 Finance 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) Federal Housing Finance Agency.''.

SEC. 1162. 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 1163 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 ''18 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 1163 occurs.

SEC. 1163. 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. 1201. RECOGNITION OF DISTINCTIONS BETWEEN THE ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.

Section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4513) is amended by adding at the end the following:

''(f) RECOGNITION OF DISTINCTIONS BETWEEN THE ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.—Prior to promulgating any regulation or taking any other formal or informal agency action of general applicability relating to the Federal Home Loan Banks, including the issuance of an advisory document or examination guidance, the Director shall consider the differences between the Federal Home Loan Banks and the enterprises with respect to—

''(1) the Banks'—

''(A) cooperative ownership structure;

''(B) the mission of providing liquidity to members;

''(C) affordable housing and community development mission;

''(D) capital structure; and

''(E) joint and several liability; and

''(2) any other differences that the Director considers appropriate.''.

SEC. 1202. 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 ⅖ 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) IN GENERAL.—Each independent director that is not a public interest director under clause (ii) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

''(ii) PUBLIC INTEREST.—Not fewer than 2 of the independent directors shall have more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

''(iii) 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, officer, or employee of any member of a Bank, or of any person that receives advances from a 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, after consultation with the Advisory Council of the Bank, by the board of directors of the Bank; and

''(ii) shall be elected 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 paragraph (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)—

(A) by striking ''elective'' each place that term appears and inserting ''member'', except—

(i) in the second sentence, the second place that term appears; and

(ii) each place that term appears in the fifth sentence; and

(B) in the second sentence—

(i) by inserting ''(A) except as provided in clause (B) of this sentence,'' before ''if at any time''; and

(ii) by inserting before the period at the end the following: '', and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks'';

(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 Finance 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 ''Subject to paragraph (2), each'' and inserting ''Each''; and

(B) by striking paragraph (2) and inserting the following:

''(2) ANNUAL REPORT.—The Director shall include, in the annual report submitted to the Congress pursuant to section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, information regarding the compensation and expenses paid by the Federal Home Loan Banks to the directors on the boards of directors of the Banks.''; 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. 1203. 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 Finance Agency.

''(12) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency, established under section 1311 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.''.

SEC. 1204. 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 Act, is amended—

(1) by striking sections 2A and 2B (12 U.S.C. 1422a, 1422b);

(2) by striking section 18 (12 U.S.C. 1438) and inserting the following:

''SEC. 18. ADMINISTRATIVE PROVISIONS.

''(a) ACQUISITION AUTHORITY.—The Director of the Office of Thrift Supervision, utilizing the services of the Administrator of General Services (hereinafter referred to as the 'Administrator'), and subject to any limitation hereon which may hereafter be imposed in appropriation Acts, is hereby authorized—

''(1) to acquire, in the name of the United States, real property in the District of Columbia, for the purposes set forth in this section;

''(2) to construct, develop, furnish, and equip such buildings thereon and such facilities as in its judgment may be appropriate to provide, to such extent as the Director of the Office of Thrift Supervision may deem advisable, suitable and adequate quarters and facilities for the Director of the Office of Thrift Supervision and the agencies under its administration or supervision;

''(3) to enlarge, remodel, or reconstruct any of the same; and

''(4) to make or enter into contracts for any of the foregoing.

''(b) ADVANCES.—The Director of the Office of Thrift Supervision may require of the respective banks, and they shall make to the Director of the Office of Thrift Supervision, such advances of funds for the purposes set out in subsection (a) as in the sole judgment of the Director of the Office of Thrift Supervision may from time to time be advisable. Such advances shall be apportioned by the Director of the Office of Thrift Supervision among the banks in proportion to the total assets of the respective banks, determined in such manner and as of such times as the Director of the Office of Thrift Supervision may prescribe. Each such advance shall bear interest at the rate of 4 ½ per centum per annum from the date of the advance and shall be repaid by the Director of the Office of Thrift Supervision in such installments and over such period, not longer than twenty-five years from the making of the advance, as the Director of the Office of Thrift Supervision may determine. Payments of interest and principal upon such advances shall be made from receipts of the Director of the Office of Thrift Supervision or from other sources which may from time to time be available to the Director of the Office of Thrift Supervision. The obligation of the Director of the Office of Thrift Supervision to

make any such payment shall not be regarded as an obligation of the United States. To such extent as the Director of the Office of Thrift Supervision may prescribe any such obligation shall be regarded as a legal investment for the purposes of subsections (g) and (h) of section 11 and for the purposes of section 16.

''(c) PLANS AND DESIGNS.—The plans and designs for such buildings and facilities and for any such enlargement, remodeling, or reconstruction shall, to such extent as the chairperson of the Director of the Office of Thrift Supervision may request, be subject to the approval of the Director.

''(d) CUSTODY, MANAGEMENT AND CONTROL.—Upon the making of arrangements mutually agreeable to the Director of the Office of Thrift Supervision and the Administrator, which arrangements may be modified from time to time by mutual agreement between them and may include but shall not be limited to the making of payments by the Director of the Office of Thrift Supervision and such agencies to the Administrator and by the Administrator to the Director of the Office of Thrift Supervision, the custody, management, and control of such buildings and facilities and of such real property shall be vested in the Administrator in accordance therewith. Until the making of such arrangements, such custody, management, and control, including the assignment and allotment and the reassignment and reallotment of building and other space, shall be vested in the Director of the Office of Thrift Supervision.

''(e) PROCEEDS.—Any proceeds (including advances) received by the Director of the Office of Thrift Supervision in connection with this subsection, and any proceeds from the sale or other disposition of real or other property acquired by the Director of the Office of Thrift Supervision under this section, shall be considered as receipts of the Director of the Office of Thrift Supervision, and obligations and expenditures of the Director of the Office of Thrift Supervision and such agencies in connection with this section shall not be considered as administrative expenses. As used in this section, the term 'property' shall include interests in property.

''(f) BUDGET PROGRAM.—

''(1) IN GENERAL.—With respect to its functions under this section, the Director of the Office of Thrift Supervision shall—

''(A) annually prepare and submit a budget program as provided in title I of the Government Corporation Control Act with regard to wholly owned Government corporations, and for purposes of this paragraph, the terms 'wholly owned Government corporations' and 'Government corporations', wherever used in such title, shall include the Director of the Office of Thrift Supervision; and

''(B) maintain an integral set of accounts which shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions, as provided in such title, and no other settlement or adjustment shall be required with respect to transactions under this section or with respect to claims, demands, or accounts by or against any person arising thereunder.

''(2) MISCELLANEOUS PROVISIONS.—The first budget program shall be for the first full fiscal year beginning on or after the date of enactment of this subsection. Except as otherwise provided in this section or by the Director of the Office of Thrift Supervision, the provisions of this section and the functions thereby or thereunder subsisting shall be applicable and exercisable notwithstanding and without regard to the Act of June 20, 1938 (D.C. Code, secs. 5–413—5–428), except that the proviso of section 16 thereof shall apply to any building constructed under this section, and section 306 of the Act of July 30, 1947 (61 Stat. 584), or any other provision of law relating to the construction, alteration, repair, or furnishing of public or other buildings or structures or the obtaining of sites therefor, but any person or body in whom any such function is vested may provide for delegation or redelegation of the exercise of such function.

''(g) LIMITATION.—No obligation shall be incurred and no expenditure, except in liquidation of obligation, shall be made pursuant to paragraphs (1) and (2) of subsection (a), if the total amount of all obligations incurred pursuant thereto would thereupon exceed $13,200,000, or such greater amount as may be provided in an appropriations Act or other law.''.

(3) in section 11 (12 U.S.C. 1431)—

(A) in subsection (b)—

(i) in the first sentence—

(I) by striking ''The Board'' and inserting ''The Office of Finance, as agent for the Banks,''; and

(II) by striking ''the Board'' and inserting ''such Office''; and

(ii) in the second and fourth sentences, by striking ''the Board'' each place such term appears and inserting ''the Office of Finance'';

(B) in subsection (c)—

(i) by striking ''the Board'' the first place such term appears and inserting ''the Office of Finance, as agent for the Banks,''; and

(ii) by striking ''the Board'' the second place such term appears and inserting ''such Office''; and

(C) in subsection (f)—

(i) by striking the 2 commas after ''permit'' and inserting ''or''; and

(ii) by striking the comma after ''require'';

(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 inserting ''or the Director'' after ''the Board'';

(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. 1205. HOUSING GOALS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 10b the following new section:

''SEC. 10C. HOUSING GOALS.

''(a) IN GENERAL.—The Director shall establish housing goals with respect to the purchase of mortgages, if any, by the Federal Home Loan Banks. Such goals shall be consistent with the goals established under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(b) CONSIDERATIONS.—In establishing the goals required by subsection (a), the Director shall consider the unique mission and ownership structure of the Federal Home Loan Banks.

''(c) TRANSITION PERIOD.—To facilitate an orderly transition, the Director shall establish interim target goals for purposes of this section for each of the 2 calendar years following the date of enactment of this section.

''(d) MONITORING AND ENFORCEMENT OF GOALS.—The requirements of section 1336 of the Federal Housing Enterprises Safety and Soundness Act of 1992, shall apply to this section, in the same manner and to the same extent as that section applies to the Federal housing enterprises.

''(e) ANNUAL REPORT.—The Director shall annually report to Congress on the performance of the Banks in meeting the goals established under this section.''.

SEC. 1206. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

Section 4(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)(1)) is amended—

(1) by inserting after ''savings bank,'' the following: ''community development financial institution,''; and

(2) in subparagraph (B), by inserting after ''United States,'' the following: ''or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994.''.

SEC. 1207. SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act is amended by inserting after section 20 (12 U.S.C. 1440) the following new section:

''SEC. 20A. SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.

''(a) INFORMATION ON FINANCIAL CONDITION.—In order to enable each Federal Home Loan Bank to evaluate the financial condition of one or more of the other Federal Home Loan Banks individually and the Federal Home Loan Bank System (including any risks associated with the issuance or repayment of consolidated Federal Home Loan Bank bonds and debentures or other borrowings and the joint and several liabilities of the Banks incurred due to such borrowings), as well as to comply with any of its obligations under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Director shall make available to the Banks such reports, records, or other information as may be available, relating to the condition of any Federal Home Loan Bank.

''(b) SHARING OF INFORMATION.—

''(1) IN GENERAL.—The Director shall promulgate regulations to facilitate the sharing of information made available under subsection (a) directly among the Federal Home Loan Banks.

''(2) LIMITATION.—Notwithstanding paragraph (1), a Federal Home Loan Bank responding to a request from another Bank or from the Director for information pursuant to this section may request that the Director determine that such information is proprietary and that the public interest requires that such information not be shared.

''(c) LIMITATION.—Nothing in this section shall affect the obligations of any Federal Home Loan Bank under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the regulations issued by the Securities and Exchange Commission thereunder.''.

SEC. 1208. EXCLUSION FROM CERTAIN REQUIREMENTS.

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), and 14(c) of the Securities Exchange Act of 1934, and related Commission regulations;

(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;

(3) section 17A of the Securities Exchange Act of 1934, and related Commission regulations, with respect to the transfer of the securities of a Federal Home Loan Bank; and

(4) the Trust Indenture Act of 1939.

(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, except to the extent provided in section 38 of that Act.

(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 (other than a Federal Home Loan Bank effecting transactions for members of the Federal Home Loan Bank System) that effects transactions in the capital stock or other obligations of a Federal Home Loan Bank, for the account of others or for that person's own account, as applicable, is a broker or dealer, as those terms are defined in paragraphs (4) and (5), respectively, of section 3(a) of the Securities Exchange Act of 1934, but 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) IN GENERAL.—The Commission shall promulgate such rules and regulations as may be necessary or appropriate in the public interest or in furtherance of this section and the exemptions provided in this section.

(2) CONSIDERATIONS.—In issuing 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. 1209. VOLUNTARY 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) VOLUNTARY 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), including the procedures for Bank member approval.''.

SEC. 1210. 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. 1211. COMMUNITY FINANCIAL INSTITUTION MEMBERS.

(a) TOTAL ASSET REQUIREMENT.—Paragraph (10) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(10)), as so redesignated by section 201(3) of this Act, is amended by striking ''$500,000,000'' each place such term appears and inserting ''$1,000,000,000''.

(b) USE OF ADVANCES FOR COMMUNITY DEVELOPMENT ACTIVITIES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in paragraph (2)(B)—

(A) by striking ''and''; and

(B) by inserting '', and community development activities'' before the period at the end;

(2) in paragraph (3)(E), by inserting ''or community development activities'' after ''agriculture,''; and

(3) in paragraph (6)—

(A) by striking ''and''; and

(B) by inserting '', and 'community development activities'' before ''shall''.

SEC. 1212. PUBLIC USE DATA BASE; REPORTS TO CONGRESS.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(1) in subsection (j)(12)—

(A) by striking subparagraph (C) and inserting the following:

''(C) REPORTS.—The Director shall annually report 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 collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.''; and

(B) by adding at the end the following:

''(D) SUBMISSION TO CONGRESS.—The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008.''; and

(2) by adding at the end the following:

''(k) PUBLIC USE DATABASE.—

''(1) DATA.—Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

''(A) data consistent with that reported under section 1323 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

''(B) data elements required to be reported under the Home Mortgage Disclosure Act of 1975; and

''(C) any other data elements that the Director considers appropriate.

''(2) PUBLIC USE DATABASE.—

''(A) IN GENERAL.—The Director shall make available to the public, in a form that is useful to the public (including forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

''(B) PROPRIETARY INFORMATION.—Notwithstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.''.

SEC. 1213. SEMIANNUAL REPORTS.

Section 21B of the Federal Home Loan Bank Act is amended in subsection (f)(2)(C), by adding at the end the following:

''(v) SEMIANNUAL REPORTS.—The Director shall report semiannually 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 projected date for the completion of contributions required by this section.''.

SEC. 1214. LIQUIDATION OR REORGANIZATION OF A FEDERAL HOME LOAN BANK.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended by adding at the end the following: ''At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.''.

SEC. 1215. STUDY AND REPORT TO CONGRESS ON SECURITIZATION OF ACQUIRED MEMBER ASSETS.

(a) STUDY.—The Director shall conduct a study on securitization of home mortgage loans purchased or to be purchased from member financial institutions under the Acquired Member Assets programs. In conducting the study, the Director shall establish a process for the formal submission of comments.

(b) ELEMENTS.—The study shall encompass—

(1) the benefits and risks associated with securitization of Acquired Member Assets;

(2) the potential impact of securitization upon liquidity in the mortgage and broader credit markets;

(3) the ability of the Federal Home Loan Bank or Banks in question to manage the risks associated with such a program;

(4) the impact of such a program on the existing activities of the Banks, including their mortgage portfolios and advances; and

(5) the joint and several liability of the Banks and the cooperative structure of the Federal Home Loan Bank System.

(c) CONSULTATIONS.—In conducting the study under this section, the Director shall consult with the Federal Home Loan Banks, the Banks' fiscal agent, representatives of the mortgage lending industry, practitioners in the structured finance field, and other experts as needed.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director shall submit a report to Congress on the results of the study conducted under subsection (a), including policy recommendations based on the analysis of the Director of the feasibility of mortgage-backed securities issuance by a Federal Home Loan Bank or Banks and the risks and benefits associated with such program or programs.

(e) DEFINITIONS.—As used in this section, the terms ''member'', ''Bank'', and ''Federal Home Loan Bank'' have the same meanings as in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422).

SEC. 1216. TECHNICAL AND CONFORMING AMENDMENTS.

(a) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1113(o) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(o)) is amended—

(1) by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''; and

(2) by striking ''Federal Housing Finance Board's'' and inserting ''Federal Housing Finance Agency's''.

(b) RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4716(e)) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(c) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by striking ''Federal Housing Finance Board'' each place such term appears in each of sections 212, 657, 1006, and 1014, and inserting ''Federal Housing Finance Agency''.

(d) MAHRA ACT OF 1997.—Section 517(b)(4) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(e) TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(f) ACCESS TO LOCAL TV ACT OF 2000.—Section 1004(d)(2)(D)(iii) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103(d)(2)(D)(iii)) is amended by striking ''Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(g) FIRREA.—Section 1216 of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989 (12 U.S.C. 1833e) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) the Federal Housing Finance Agency;'';

(2) in subsection (b), by striking ''Federal National Mortgage Association'' and inserting ''Federal Home Loan Banks, the Federal National Mortgage Association,''; and

(3) in subsection (c), by striking ''Finance Board'' and inserting ''Finance Agency''.

SEC. 1217. STUDY ON FEDERAL HOME LOAN BANK ADVANCES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House or Representatives on the extent to which loans and securities used as collateral to support Federal Home Loan Bank advances are consistent with the interagency guidance on nontraditional mortgage products.

(b) REQUIRED CONTENT.—The study required under subsection (a) shall—

(1) consider and recommend any additional regulations, guidance, advisory bulletins, or other administrative actions necessary to ensure that the Federal Home Loan Banks are not supporting loans with predatory characteristics; and

(2) include an opportunity for the public to comment on any recommendations made under paragraph (1).

SEC. 1218. 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.''.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Subtitle A—OFHEO

SEC. 1301. 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 1303; 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 1303.

(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 Act 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) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Office of Federal Housing Enterprise Oversight, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(f) 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; or

(iv) 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 Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance 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. 1302. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

(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 Act; and

(2) is in effect on the effective date of the abolishment under section 1301(a).

SEC. 1303. 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 1301(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 1301(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 1301(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 Finance 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. 1304. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of its abolishment under section 1301(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Agency.

Subtitle B—Federal Housing Finance Board

SEC. 1311. 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 1313; 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 1313.

(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 Act or any amendment made by this Act 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) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Board, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(f) 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 Act 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. 1312. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

(a) IN GENERAL.—All regulations, orders, determinations, and resolutions described under subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, 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, determination, or resolution 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 Act; and

(2) is in effect on the effective date of the abolishment under section 1311(a).

SEC. 1313. 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 1311(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 EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted 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 position excepted from

the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character.

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1311(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 1311(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. 1314. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of the abolishment under section 1311(a), all property of the Board shall transfer to the Agency.

TITLE IV—HOPE FOR HOMEOWNERS

SEC. 1401. SHORT TITLE.

This title may be cited as the ''HOPE for Homeowners Act of 2008''.

SEC. 1402. ESTABLISHMENT OF HOPE FOR HOMEOWNERS PROGRAM.

(a) ESTABLISHMENT.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following:

''SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.

''(a) ESTABLISHMENT.—There is established in the Federal Housing Administration a HOPE for Homeowners Program.

''(b) PURPOSE.—The purpose of the HOPE for Homeowners Program is—

''(1) to create an FHA program, participation in which is voluntary on the part of homeowners and existing loan holders to insure refinanced loans for distressed borrowers to support long-term, sustainable homeownership;

''(2) to allow homeowners to avoid foreclosure by reducing the principle balance outstanding, and interest rate charged, on their mortgages;

''(3) to help stabilize and provide confidence in mortgage markets by bringing transparency to the value of assets based on mortgage assets;

''(4) to target mortgage assistance under this section to homeowners for their principal residence;

''(5) to enhance the administrative capacity of the FHA to carry out its expanded role under the HOPE for Homeowners Program;

''(6) to ensure the HOPE for Homeowners Program remains in effect only for as long as is necessary to provide stability to the housing market; and

''(7) to provide servicers of delinquent mortgages with additional methods and approaches to avoid foreclosure.

''(c) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM REQUIREMENTS.—

''(1) DUTIES OF THE BOARD.—In order to carry out the purposes of the HOPE for Homeowners Program, the Board shall—

''(A) establish requirements and standards for the program; and

''(B) prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards.

''(2) DUTIES OF THE SECRETARY.—In carrying out any of the program requirements or standards established under paragraph (1), the Secretary may issue such interim guidance and mortgagee letters as the Secretary determines necessary or appropriate.

''(d) INSURANCE OF MORTGAGES.—The Secretary is authorized upon application of a mortgagee to make commitments to insure or to insure any eligible mortgage that has been refinanced in a manner meeting the requirements under subsection (e).

''(e) REQUIREMENTS OF INSURED MORTGAGES.—To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

''(1) LACK OF CAPACITY TO PAY EXISTING MORTGAGE.—

''(A) BORROWER CERTIFICATION.—

''(i) IN GENERAL.—The mortgagor shall provide certification to the Secretary that the mortgagor has not intentionally defaulted on the mortgage or any other debt, and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.

''(ii) PENALTIES.—

''(I) FALSE STATEMENT.—Any certification filed pursuant to clause (i) shall contain an acknowledgment that any willful false statement made in such certification is punishable under section 1001, of title 18, United States Code, by fine or imprisonment of not more than 5 years, or both.

''(II) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Federal Housing Administration any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made in the certifications and documentation required under this subparagraph, subject to the discretion of the Secretary.

''(B) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of March 1, 2008, the mortgagor shall have had a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Board determines appropriate).

''(2) DETERMINATION OF PRINCIPAL OBLIGATION AMOUNT.—The principal obligation amount of the refinanced eligible mortgage to be insured shall—

''(A) be determined by the reasonable ability of the mortgagor to make his or her mortgage payments, as such ability is determined by the Secretary pursuant to section 203(b)(4) or by any other underwriting standards established by the Board; and

''(B) not exceed 90 percent of the appraised value of the property to which such mortgage relates.

''(3) REQUIRED WAIVER OF PREPAYMENT PENALTIES AND FEES.—All penalties for prepayment or refinancing of the eligible mortgage, and all fees and penalties related to default or delinquency on the eligible mortgage, shall be waived or forgiven.

''(4) EXTINGUISHMENT OF SUBORDINATE LIENS.—

''(A) REQUIRED AGREEMENT.—All holders of outstanding mortgage liens on the property to which the eligible mortgage relates shall agree to accept the proceeds of the insured loan as payment in full of all indebtedness under the eligible mortgage, and all encumbrances related to such eligible mortgage shall be removed. The Secretary may take such actions, subject to standards established by the Board under subparagraph (B), as may be necessary and appropriate to facilitate coordination and agreement between the holders of the existing senior mortgage and any existing subordinate mortgages, taking into consideration the subordinate lien status of such subordinate mortgages.

''(B) SHARED APPRECIATION.—

''(i) IN GENERAL.—The Board shall establish standards and policies that will allow for the payment to the holder of any existing subordinate mortgage of a portion of any future appreciation in the property secured by such eligible mortgage that is owed to the Secretary pursuant to subsection (k).

''(ii) FACTORS.—In establishing the standards and policies required under clause (i), the Board shall take into consideration—

''(I) the status of any subordinate mortgage;

''(II) the outstanding principal balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages;

''(III) the extent to which the current appraised value of the property securing a subordinate mortgage is less than the outstanding principal balance and accrued interest on any other liens that are senior to such subordinate mortgage; and

''(IV) such other factors as the Board determines to be appropriate.

''(C) VOLUNTARY PROGRAM.—This paragraph may not be construed to require any holder of any existing mortgage to participate in the program under this section generally, or with respect to any particular loan.

''(5) TERM OF MORTGAGE.—The refinanced eligible mortgage to be insured shall—

''(A) bear interest at a single rate that is fixed for the entire term of the mortgage; and

''(B) have a maturity of not less than 30 years from the date of the beginning of amortization of such refinanced eligible mortgage.

''(6) MAXIMUM LOAN AMOUNT.—The principal obligation amount of the eligible mortgage to be insured shall not exceed 132 percent of the dollar amount limitation in effect for 2007 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a property of the applicable size.

''(7) PROHIBITION ON SECOND LIENS.—A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section.

''(8) APPRAISALS.—Any appraisal conducted in connection with a mortgage insured under this section shall—

''(A) be based on the current value of the property;

''(B) be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.);

''(C) be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice;

''(D) be wholly consistent with the appraisal standards, practices, and procedures under section 202(e) of this Act that apply to all loans insured under this Act; and

''(E) comply with the requirements of subsection (g) of this section (relating to appraisal independence).

''(9) DOCUMENTATION AND VERIFICATION OF INCOME.—In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee under the mortgage shall document and verify the income of the mortgagor by procuring an Internal Revenue Service transcript of the income tax returns of the mortgagor for the 2 most recent years for which the filing deadline for such years has passed and by any other method, in accordance with procedures and standards that the Board or the Secretary shall establish.

''(10) MORTGAGE FRAUD.—The mortgagor shall not have been convicted under any provision of Federal or State law for fraud, including mortgage fraud.

''(11) PRIMARY RESIDENCE.—The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest.

''(f) STUDY OF AUCTION OR BULK REFINANCE PROGRAM.—

''(1) STUDY.—The Board shall conduct a study of the need for and efficacy of an auction or bulk refinancing mechanism to facilitate refinancing of existing residential mortgages that are at risk for foreclosure into mortgages insured under this section. The study shall identify and examine various options for mechanisms under which lenders and servicers of such mortgages may make bids for forward commitments for such insurance in an expedited manner.

''(2) CONTENT.—

''(A) ANALYSIS.—The study required under paragraph (1) shall analyze—

''(i) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under this section;

''(ii) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;

''(iii) whether the use of an auction or bulk refinance program is necessary to stabilize the housing market and reduce the impact of turmoil in that market on the economy of the United States;

''(iv) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and

''(v) and any other factors that the Board considers relevant.

''(B) DETERMINATIONS.—To the extent that the Board finds that a facility of the type described in subparagraph (A) is feasible and useful, the study shall—

''(i) determine and identify any additional authority or resources needed to establish and operate such a mechanism;

''(ii) determine whether there is a need for additional authority with respect to the loan underwriting criteria established in this section or with respect to eligibility of participating borrowers, lenders, or holders of liens;

''(iii) determine whether such underwriting criteria should be established on the basis of individual loans, in the aggregate, or otherwise to facilitate the goal of refinancing borrowers at risk of foreclosure into viable loans insured under this section.

''(3) REPORT.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this section, the Board shall submit a report regarding the results of the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include a detailed description of the analysis required under paragraph (2)(A) and of the determinations made pursuant to paragraph (2)(B), and shall include any other findings and recommendations of the Board pursuant to the study, including identifying various options for mechanisms described in paragraph (1).

''(g) APPRAISAL INDEPENDENCE.—

''(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

''(2) CIVIL MONETARY PENALTIES.—The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 536(a) of this Act.

''(h) STANDARDS TO PROTECT AGAINST ADVERSE SELECTION.—

''(1) IN GENERAL.—The Board shall, by rule or order, establish standards and policies to require the underwriter of the insured loan to provide such representations and warranties as the Board considers necessary or appropriate to enforce compliance with all underwriting and appraisal standards of the HOPE for Homeowners Program.

''(2) EXCLUSION FOR VIOLATIONS.—The Board shall prohibit the Secretary from paying insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1), or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage.

''(3) OTHER AUTHORITY.—The Board may establish such other standards or policies as necessary to protect against adverse selection, including requiring loans identified by the Secretary as higher risk loans to demonstrate payment performance for a reasonable period of time prior to being insured under the program.

''(i) PREMIUMS.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

''(1) at the time of insurance, a single premium payment in an amount equal to 3 percent of the amount of the original insured principal obligation of the refinanced eligible mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness that existed on the eligible mortgage prior to refinancing; and

''(2) in addition to the premium required under paragraph (1), an annual premium in an amount equal to 1.5 percent of the amount of the remaining insured principal balance of the mortgage.

''(j) ORIGINATION FEES AND INTEREST RATE.—The Board shall establish—

''(1) a reasonable limitation on origination fees for refinanced eligible mortgages insured under this section; and

''(2) procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

''(k) EQUITY AND APPRECIATION.—

''(1) FIVE-YEAR PHASE-IN FOR EQUITY AS A RESULT OF SALE OR REFINANCING.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of such sale or refinancing:

''(A) If such sale or refinancing occurs during the period that begins on the date that such mortgage is insured and ends 1 year after such date of insurance, the Secretary shall be entitled to 100 percent of such equity.

''(B) If such sale or refinancing occurs during the period that begins 1 year after such date of insurance and ends 2 years after such date of insurance, the Secretary shall be entitled to 90 percent of such equity and the mortgagor shall be entitled to 10 percent of such equity.

''(C) If such sale or refinancing occurs during the period that begins 2 years after such date of insurance and ends 3 years after such date of insurance, the Secretary shall be entitled to 80 percent of such equity and the mortgagor shall be entitled to 20 percent of such equity.

''(D) If such sale or refinancing occurs during the period that begins 3 years after such date of insurance and ends 4 years after such date of insurance, the Secretary shall be entitled to 70 percent of such equity and the mortgagor shall be entitled to 30 percent of such equity.

''(E) If such sale or refinancing occurs during the period that begins 4 years after such date of insurance and ends 5 years after such date of insurance, the Secretary shall be entitled to 60 percent of such equity and the mortgagor shall be entitled to 40 percent of such equity.

''(F) If such sale or refinancing occurs during any period that begins 5 years after such date of insurance, the Secretary shall be entitled to 50 percent of such equity and the mortgagor shall be entitled to 50 percent of such equity.

''(2) APPRECIATION IN VALUE.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, each be entitled to 50 percent of any appreciation in value of the appraised value of such property that has occurred since the date that such mortgage was insured under this section.

''(l) ESTABLISHMENT OF HOPE FUND.—

''(1) IN GENERAL.—There is established in the Federal Housing Administration a revolving fund to be known as the Home Ownership Preservation Entity Fund, which shall be used by the Board for carrying out the mortgage insurance obligations under this section.

''(2) MANAGEMENT OF FUND.—The HOPE Fund shall be administered and managed by the Secretary, who shall establish reasonable and prudent criteria for the management and operation of any amounts in the HOPE Fund.

''(m) LIMITATION ON AGGREGATE INSURANCE AUTHORITY.—The aggregate original principal obligation of all mortgages insured under this section may not exceed $300,000,000,000.

''(n) REPORTS BY THE BOARD.—The Board shall submit monthly reports to the Congress identifying the progress of the HOPE for Homeowners Program, which shall contain the following information for each month:

''(1) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.

''(2) The aggregate principal obligation of new mortgages insured under this section.

''(3) The average amount by which the principle balance outstanding on mortgages insured this section was reduced.

''(4) The amount of premiums collected for insurance of mortgages under this section.

''(5) The claim and loss rates for mortgages insured under this section.

''(6) Any other information that the Board considers appropriate.

''(o) REQUIRED OUTREACH EFFORTS.—The Secretary shall carry out outreach efforts to ensure that homeowners, lenders, and the general public are aware of the opportunities for assistance available under this section.

''(p) ENHANCEMENT OF FHA CAPACITY.—Under the direction of the Board, the Secretary shall take such actions as may be necessary to—

''(1) contract for the establishment of underwriting criteria, automated underwriting systems, pricing standards, and other factors relating to eligibility for mortgages insured under this section;

''(2) contract for independent quality reviews of underwriting, including appraisal reviews and fraud detection, of mortgages insured under this section or pools of such mortgages; and

''(3) increase personnel of the Department as necessary to process or monitor the processing of mortgages insured under this section.

''(q) GNMA COMMITMENT AUTHORITY.—

''(1) GUARANTEES.—The Secretary shall take such actions as may be necessary to ensure that securities based on and backed by a trust or pool composed of mortgages insured under this section are available to be guaranteed by the Government National Mortgage Association as to the timely payment of principal and interest.

''(2) GUARANTEE AUTHORITY.—To carry out the purposes of section 306 of the National Housing Act (12 U.S.C. 1721), the Government National Mortgage Association may enter into new commitments to issue guarantees of securities based on or backed by mortgages insured under this section, not exceeding $300,000,000,000. The amount of authority provided under the preceding sentence to enter into new commitments to issue guarantees is in addition to any amount of authority to make new commitments to issue guarantees that is provided to the Association under any other provision of law.

''(r) SUNSET.—The Secretary may not enter into any new commitment to insure any refinanced eligible mortgage, or newly insure any refinanced eligible mortgage pursuant to this section before October 1, 2008 or after September 30, 2011.

''(s) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) APPROVED FINANCIAL INSTITUTION OR MORTGAGEE.—The term 'approved financial institution or mortgagee' means a financial institution or mortgagee approved by the Secretary under section 203 as responsible and able to service mortgages responsibly.

''(2) BOARD.—The term 'Board' means the Board of Directors of the HOPE for Homeowners Program. The Board shall be composed of the Secretary, the Secretary of the Treasury, the Chairperson of the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

''(3) ELIGIBLE MORTGAGE.—The term 'eligible mortgage' means a mortgage—

''(A) the mortgagor of which—

''(i) occupies such property as his or her principal residence; and

''(ii) cannot, subject to subsection (e)(1)(B) and such other standards established by the Board, afford his or her mortgage payments; and

''(B) originated on or before January 1, 2008.

''(4) EXISTING SENIOR MORTGAGE.—The term 'existing senior mortgage' means, with respect to a mortgage insured under this section, the existing mortgage that has superior priority.

''(5) EXISTING SUBORDINATE MORTGAGE.—The term 'existing subordinate mortgage' means, with respect to a mortgage insured under this section, an existing mortgage that has subordinate priority to the existing senior mortgage.

''(6) HOPE FOR HOMEOWNERS PROGRAM.—The term 'HOPE for Homeowners Program' means the program established under this section.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development, except where specifically provided otherwise.

''(t) REQUIREMENTS RELATED TO THE BOARD.—

''(1) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—

''(A) FEDERAL EMPLOYEES.—A member of the Board who is an officer or employee of the Federal Government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Board.

''(B) TRAVEL EXPENSES.—Members of the Board shall be entitled to receive travel expenses, including per diem in lieu of subsistence, equivalent to those set forth in subchapter I of chapter 57 of title 5, United States Code.

''(2) BYLAWS.—The Board may prescribe, amend, and repeal such bylaws as may be necessary for carrying out the functions of the Board.

''(3) QUORUM.—A majority of the Board shall constitute a quorum.

''(4) STAFF; EXPERTS AND CONSULTANTS.—

''(A) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Board, any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(B) EXPERTS AND CONSULTANTS.—The Board shall procure the services of experts and consultants as the Board considers appropriate.

''(u) RULE OF CONSTRUCTION RELATED TO VOLUNTARY NATURE OF THE PROGRAM.—This section shall not be construed to require that any approved financial institution or mortgagee participate in any activity authorized under this section, including any activity related to the refinancing of an eligible mortgage.

''(v) RULE OF CONSTRUCTION RELATED TO INSURANCE OF MORTGAGES.—Except as otherwise provided for in this section or by action of the Board, the provisions and requirements of section 203(b) shall apply with respect to the insurance of any eligible mortgage under this section.

''(w) HOPE BONDS.—

''(1) ISSUANCE AND REPAYMENT OF BONDS.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661d(b)), the Secretary of the Treasury shall—

''(A) subject to such terms and conditions as the Secretary of the Treasury deems necessary, issue Federal credit instruments, to be known as 'HOPE Bonds', that are callable at the discretion of the Secretary of the Treasury and do not, in the aggregate, exceed the amount specified in subsection (m);

''(B) provide the subsidy amounts necessary for loan guarantees under the HOPE for Homeowners Program, not to exceed the amount specified in subsection (m), in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), except as provided in this paragraph; and

''(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs.

''(2) REIMBURSEMENTS TO TREASURY.—Funds received pursuant to section 1338(b) of the Federal Housing Enterprises Regulatory Reform Act of 1992 shall be used to reimburse the Secretary of the Treasury for amounts borrowed under paragraph (1).

''(3) USE OF RESERVE FUND.—If the net cost to the Federal Government for the HOPE for Homeowners Program exceeds the amount of funds received under paragraph (2), remaining debts of the HOPE for Homeowners Program shall be paid from amounts deposited into the fund established by the Secretary under section 1337(e) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, remaining amounts in such fund to be used to reduce the National debt.

''(4) REDUCTION OF NATIONAL DEBT.—Amounts collected under the HOPE for Homeowners Program in accordance with subsections (i) and (k) in excess of the net cost to the Federal Government for such Program shall be used to reduce the National debt.''.

SEC. 1403. FIDUCIARY DUTY OF SERVICERS OF POOLED RESIDENTIAL 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. FIDUCIARY DUTY OF SERVICERS OF POOLED RESIDENTIAL MORTGAGES.

''(a) IN GENERAL.—Except as may be established in any investment contract between a servicer of pooled residential mortgages and an investor, a servicer of pooled residential mortgages—

''(1) owes any duty to maximize the net present value of the pooled mortgages in an investment to all investors and parties having a direct or indirect interest in such investment, not to any individual party or group of parties; and

''(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification or workout plan, including any modification or refinancing undertaken pursuant to the HOPE for Homeowners Act of 2008, for a residential mortgage or a class of residential mortgages that constitute a part or all of the pooled mortgages in such investment, provided that any mortgage so modified meets the following criteria:

''(A) Default on the payment of such mortgage has occurred or is reasonably foreseeable.

''(B) The property securing such mortgage is occupied by the mortgagor of such mortgage.

''(C) The anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure.

''(b) DEFINITION.—As used in this section, the term 'servicer' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).''.

SEC. 1404. REVISED STANDARDS FOR FHA APPRAISERS.

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following:

''(5) ADDITIONAL APPRAISER STANDARDS.—Beginning on the date of enactment of the

Federal Housing Finance Regulatory Reform Act of 2008, any appraiser chosen or approved to conduct appraisals for mortgages under this title shall—

''(A) be certified—

''(i) by the State in which the property to be appraised is located; or

''(ii) by a nationally recognized professional appraisal organization; and

''(B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection.''.

TITLE V—S.A.F.E. MORTGAGE LICENSING ACT

SEC. 1501. 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''.

SEC. 1502. 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.

(10) Facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

SEC. 1503. 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;

(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; and

(iv) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code.

(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 1509.

(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—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; 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—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(C) is licensed by a State or by the Secretary under section 1508 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. 1504. 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 annually—

(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.

(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.

SEC. 1505. 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 not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court—

(A) during the 7-year period preceding the date of the application for licensing and registration; or

(B) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

(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 net worth or surety bond requirement, as required by the State pursuant to section 1508(d)(6).

(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 the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(A) ethics;

(B) Federal law and regulation pertaining to mortgage origination;

(C) State law and regulation pertaining to mortgage origination;

(D) 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 at least 30 days after the preceding test.

(C) SUBSEQUENT RETESTS.—After failing 3 consecutive tests, an individual shall wait at least 6 months 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. 1506. 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. 1507. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL AGENCIES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, and together with the Farm Credit Administration, develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, 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 enactment of this title.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator under this subsection, the appropriate Federal banking agency and the Farm Credit Administration 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, and the Farm Credit Administration 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, and the Farm Credit Administration 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 1504(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. 1508. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.

(a) BACKUP 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 1505 and 1506 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 1505 and 1506 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.

(4) The State loan originator supervisory authority has a process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.

(5) The State loan originator supervisory authority has established a mechanism to assess civil money penalties for individuals acting as mortgage originators in their State without a valid license or registration.

(6) The State loan originator supervisory authority has established minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator.

(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 1505 and 1506 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. 1509. 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. 1510. FEES.

The Federal banking agencies, the Farm Credit Admininstration, 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. 1511. 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. 1512. 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 1509, 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. 1513. 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 1509, 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. 1514. 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 1508; 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 1508 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 1508 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 1508, 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 1508 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 1508, 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 a licensing system established by the Secretary under section 1508, 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. 1515. STATE EXAMINATION AUTHORITY.

In addition to any authority allowed under State law a State licensing agency shall have the authority to conduct investigations and examinations as follows:

(1) For the purposes of investigating violations or complaints arising under this title, or for the purposes of examination, the State licensing agency may review, investigate, or examine any loan originator licensed or required to be licensed under this title, as often as necessary in order to carry out the purposes of this title.

(2) Each such loan originator shall make available upon request to the State licensing agency the books and records relating to the operations of such originator. The State licensing agency may have access to such books and records and interview the officers, principals, loan originators, employees, independent contractors, agents, and customers of the licensee concerning their business.

(3) The authority of this section shall remain in effect, whether such a loan originator acts or claims to act under any licensing or registration law of such State, or claims to act without such authority.

(4) No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

SEC. 1516. 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, streamlining communication between all stakeholders involved in residential mortgage loan origination and processing, and establishing performance based bonding requirements for mortgage originators or institutions that employ such brokers.

(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. 1517. 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.

TITLE VI—MISCELLANEOUS

SEC. 1601. STUDY AND REPORTS 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) REPORTS 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. 1602. STUDY AND REPORT ON DEFAULT RISK EVALUATION.

(a) STUDY.—The Director shall conduct a study of ways to improve the overall default risk evaluation used with respect to residential mortgage loans. Particular attention shall be paid to the development and utilization of processes and technologies that provide a means to standardize the measurement of risk.

(b) REPORT.—The Director shall submit a report on the study conducted under this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 1 year after the date of enactment of this Act.

SEC. 1603. CONVERSION OF HUD CONTRACTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, at the request of an owner of a multifamily housing project that exceeds 5,000 units to which a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 (''Act'') (42 U.S.C. 1437f) and a Rental Assistance Payment contract is subject, convert such contracts to a contract for project-based rental assistance under section 8 of the Act.

(b) INITIAL RENEWAL.—

(1) At the request of an owner under subsection (a) made no later than 90 days prior to a conversion, the Secretary may, to the extent sufficient amounts are made available in appropriation Acts and notwithstanding any other law, treat the contemplated resulting contract as if such contract were eligible for initial renewal under section 524(a) of the MultiFamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) (''MAHRA'') (42 U.S.C. 1437f note).

(2) A request by an owner pursuant to paragraph (1) shall be upon such terms and conditions as the Secretary may require.

(c) RESULTING CONTRACT.—The resulting contract shall—

(1) be subject to section 524(a) of MAHRA (42 U.S.C. 1437f note);

(2) be considered for all purposes a contract that has been renewed under section 524(a) of MAHRA (42 U.S.C. 1437f note) for a term not to exceed 20 years;

(3) be subsequently renewable at the request of an owner, under any renewal option for which the project is eligible under MAHRA (42 U.S.C. 1437f note);

(4) contain provisions limiting distributions, as the Secretary determines appropriate, not to exceed 10 percent of the initial investment of the owner;

(5) be subject to the availability of sufficient amounts in appropriation Acts; and

(6) be subject to such other terms and conditions as the Secretary considers appropriate.

(d) INCOME TARGETING.—To the extent that assisted dwelling units, subject to the resulting contract under subsection (a), serve low-income families, as defined in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall be considered to be in compliance with all income targeting requirements under the Act (42 U.S.C. 1437 et seq.).

(e) TENANT ELIGIBILITY.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of conversion of a contract under this section, subject to the resulting contract under subsection (a), shall be considered to meet the applicable requirements for income eligibility and occupancy.

(f) DEFINITIONS.—As used in this section—

(1) the term ''Secretary'' means the Secretary of Housing and Urban Development;

(2) the term ''conversion'' means the action under which a contract for project-based rental assistance under section 8 of the Act and a Rental Assistance Payment contract become a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) pursuant to subsection (a);

(3) the term ''resulting contract'' means the new contract after a conversion pursuant to subsection (a); and

(4) the term ''assisted dwelling unit'' means a dwelling unit in a multifamily housing project that exceeds 5,000 units that, on the date of conversion of a contract under this section, is subject to a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) or a Rental Assistance Payment contract.

SEC. 1604. BRIDGE DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(2)—

(A) in subsection (F), by striking ''as receiver'' and all that follows through clause (ii) and inserting the following: ''as receiver, with respect to any insured depository institution, organize a new depository institution under subsection (m) or a bridge depository institution under subsection (n).'';

(B) in subparagraph (G), by striking ''new bank or a bridge bank'' and inserting ''new depository institution or a bridge depository institution'';

(2) in subsection (e)(10)(C), by striking ''bridge bank'' each place that term appears and inserting ''bridge depository institution'';

(3) in subsection (m)—

(A) in the subsection heading, by striking ''BANKS'' and inserting ''DEPOSITORY INSTITUTIONS'';

(B) by striking ''new bank'' each place that term appears and inserting ''new depository institution'';

(C) by striking ''such bank'' each place that term appears and inserting ''such depository institution'';

(D) in paragraph (1), by inserting ''or Federal savings association'' after ''national bank'';

(E) in paragraph (6), by striking ''only bank'' and inserting ''only depository institution'';

(F) in paragraph (9), by inserting ''or the Director of the Office of Thrift Supervision, as appropriate'' after ''Comptroller of the Currency'';

(G) in paragraph (15), by striking '', but in no event'' and all that follows through ''located'';

(H) in paragraph (16)—

(i) by inserting ''or the Director of the Office of Thrift Supervision, as appropriate,'' after ''Comptroller of the Currency'' each place that term appears;

(ii) by striking ''the bank'' each place that term appears and inserting ''the depository institution'';

(iii) by inserting ''or Federal savings association'' after ''national bank'' each place that term appears;

(iv) by inserting ''or Federal savings associations'' after ''national banks''; and

(v) by striking ''Such bank'' and inserting ''Such depository institution''; and

(I) in paragraph (18), by inserting ''or the Director of the Office of Thrift Supervision, as appropriate,'' after ''Comptroller of the Currency'' each place that term appears;

(4) in subsection (n)—

(A) in the subsection heading, by striking ''BANKS'' and inserting ''DEPOSITORY INSTITUTIONS'';

(B) by striking ''bridge bank'' each place that term appears and inserting ''bridge depository institution'';

(C) by striking ''bridge banks'' each place that term appears (other than in paragraph (1)(A)) and inserting ''bridge depository institutions'';

(D) by striking ''bridge bank's'' each place that term appears and inserting ''bridge depository institutions'';

(E) by striking ''insured bank'' each place that term appears and inserting ''insured depository institution'';

(F) by striking ''insured banks'' each place that term appears and inserting ''insured depository institutions'';

(G) by striking ''such bank'' each place that term appears (other than in paragraph (4)(J)) and inserting ''such depository institution'';

(H) by striking ''the bank'' each place that term appears and inserting ''the depository institution'';

(I) in paragraph (1)(A)—

(i) by inserting '', with respect to 1 or more insured banks, or the Director of the Office of Thrift Supervision, with respect to 1 or more insured savings associations,'' after ''Comptroller of the Currency'';

(ii) by inserting ''or Federal savings associations, as appropriate,'' after ''national banks'';

(iii) by inserting ''or Federal savings associations, as applicable,'' after ''banking associations''; and

(iv) by striking ''as bridge banks'' and inserting ''as 'bridge depository institutions' '';

(J) in paragraph (1)(B)—

(i) by striking ''bank or banks'' each place that term appears and inserting ''depository institution or institutions'';

(ii) by striking ''of a bank''; and

(iii) by striking ''of that bank'';

(K) in paragraph (1)(E), by inserting before the period '', in the case of 1 or more insured banks, and as a Federal savings association, in the case of 1 or more insured savings associations'';

(L) in paragraph (2)—

(i) in subparagraph by inserting ''or Federal savings association'' after ''national bank'' each place that term appears; and

(ii) by inserting ''or the Director of the Office of Thrift Supervision'' after ''Comptroller of the Currency'';

(M) in paragraph (4)—

(i) in subparagraph (C), by striking ''under section 5138 of the Revised Statutes or any other'' and inserting ''under any'';

(ii) by inserting ''and the Director of the Office of Thrift Supervision, as appropriate,'' after ''Comptroller of the Currency'' each place that term appears;

(iii) in subparagraph (D), by striking ''bank's'' and inserting ''depository institution's''; and

(iv) in subparagraph (F), by inserting before the period ''or Federal home loan bank'';

(N) in paragraph (8)—

(i) in subparagraph (A), by striking ''the banks'' and inserting ''the depository institutions'';

(ii) in subparagraph (B), by striking ''bank's'' and inserting ''depository institution's'';

(O) in paragraph (11), by inserting ''or a Federal savings association, as the case may be,'' after ''national bank'' each place that term appears;

(P) in paragraph (12)—

(i) by inserting ''or the Director of the Office of Thrift Supervision, as appropriate,'' after ''Comptroller of the Currency'' each place that term appears; and

(ii) by inserting ''or Federal savings associations, as appropriate'' after ''national banks''; and

(Q) in paragraph (13), by striking ''single bank'' and inserting ''single depository institution''.

(b) OTHER CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3 (12 U.S.C. 1813), by striking subsection (i) and inserting the following:

''(i) NEW DEPOSITORY INSTITUTION AND BRIDGE DEPOSITORY INSTITUTION DEFINED.—

''(1) NEW DEPOSITORY INSTITUTION.—The term 'new depository institution' means a new national bank or Federal savings association, other than a bridge depository institution, organized by the Corporation in accordance with section 11(m).

''(2) BRIDGE DEPOSITORY INSTITUTION.—The term 'bridge depository institution' means a new national bank or Federal savings association organized by the Corporation in accordance with section 11(n).'';

(B) in section 10(d)(5)(B) (12 U.S.C. 1820(d)(5)(B)), by striking ''bridge bank'' and inserting ''bridge depository institution'';

(C) in section 12 (12 U.S.C. 1822), by striking ''new bank'' each place that term appears and inserting ''new depository institution''; and

(D) in section 38(j)(2) (12 U.S.C. 1831o(j)(2)), by striking ''bridge bank'' and inserting ''bridge depository institution''.

(2) FEDERAL CREDIT UNION ACT.—Section 207(c)(10)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(C)(i)) is amended by striking ''bridge bank'' and inserting ''bridge depository institution''.

(3) TITLE 11.—Section 783 of title 11, United States Code, is amended by striking ''bridge bank'' and inserting ''bridge depository institution''.

(4) TITLE 26.—Section 414(l)(2)(G) of the Internal Revenue Code of 1986, is amended by striking ''bridge bank'' and inserting ''bridge depository institution''.

SEC. 1605. 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.

DIVISION B—FORECLOSURE PREVENTION

SECTION 2001. SHORT TITLE.

This division may be cited as the ''Foreclosure Prevention Act of 2008''.

SEC. 2002. EMERGENCY DESIGNATION.

For purposes of Senate enforcement, all provisions of this division are 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.

TITLE I—FHA MODERNIZATION ACT OF 2008

SEC. 2101. SHORT TITLE.

This title may be cited as the ''FHA Modernization Act of 2008''.

Subtitle A—Building American Homeownership

SEC. 2111. SHORT TITLE.

This subtitle may be cited as the ''Building American Homeownership Act of 2008''.

SEC. 2112. MAXIMUM PRINCIPAL LOAN OBLIGATION.

(a) IN GENERAL.—Paragraph (2) of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by amending subparagraphs (A) and (B) to read as follows:

''(A) not to exceed the lesser of—

''(i) in the case of a 1-family residence, 110 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

''(ii) 150 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of applicable size,

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation determined under such section 305(a)(2) for a residence of the applicable size; and

''(B) not to exceed 100 percent of the appraised value of the property.''; and

(2) in the matter following subparagraph (B), by striking the second sentence (relating to a definition of ''average closing cost'') and all that follows through ''section 3103A(d) of title 38, United States Code.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the expiration of the date described in section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110–185).

SEC. 2113. CASH INVESTMENT REQUIREMENT AND PROHIBITION OF SELLER-FUNDED DOWN PAYMENT ASSISTANCE.

Paragraph (9) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended to read as follows:

''(9) CASH INVESTMENT REQUIREMENT.—

''(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

''(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

''(i) such lien shall be subordinate to the mortgage; and

''(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property.

''(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

''(i) The seller or any other person or entity that financially benefits from the transaction.

''(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).''.

SEC. 2114. MORTGAGE INSURANCE PREMIUMS.

Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''or of the General Insurance Fund'' and all that follows through ''section 234(c),,''; and

(2) in subparagraph (A)—

(A) by striking ''2.25 percent'' and inserting ''3 percent''; and

(B) by striking ''2.0 percent'' and inserting ''2.75 percent''.

SEC. 2115. REHABILITATION LOANS.

Subsection (k) of section 203 of the National Housing Act (12 U.S.C. 1709(k)) is amended—

(1) in paragraph (1), by striking ''on'' and all that follows through ''1978''; and

(2) in paragraph (5)—

(A) by striking ''General Insurance Fund'' the first place it appears and inserting ''Mutual Mortgage Insurance Fund''; and

(B) in the second sentence, by striking the comma and all that follows through ''General Insurance Fund''.

SEC. 2116. DISCRETIONARY ACTION.

The National Housing Act is amended—

(1) in subsection (e) of section 202 (12 U.S.C. 1708(e))—

(A) in paragraph (3)(B), by striking ''section 202(e) of the National Housing Act'' and inserting ''this subsection''; and

(B) by redesignating such subsection as subsection (f);

(2) by striking paragraph (4) of section 203(s) (12 U.S.C. 1709(s)(4)) and inserting the following new paragraph:

''(4) the Secretary of Agriculture;''; and

(3) by transferring subsection (s) of section 203 (as amended by paragraph (2) of this section) to section 202, inserting such subsection after subsection (d) of section 202, and redesignating such subsection as subsection (e).

SEC. 2117. INSURANCE OF CONDOMINIUMS.

(a) IN GENERAL.—Section 234 of the National Housing Act (12 U.S.C. 1715y) is amended—

(1) in subsection (c), in the first sentence—

(A) by striking ''and'' before ''(2)''; and

(B) by inserting before the period at the end the following: '', and (3) the project has a blanket mortgage insured by the Secretary under subsection (d)''; and

(2) in subsection (g), by striking '', except that'' and all that follows and inserting a period.

(b) DEFINITION OF MORTGAGE.—Section 201(a) of the National Housing Act (12 U.S.C. 1707(a)) is amended—

(1) before ''a first mortgage'' insert ''(A)'';

(2) by striking ''or on a leasehold (1)'' and inserting ''(B) a first mortgage on a leasehold on real estate (i)'';

(3) by striking ''or (2)'' and inserting '', or (ii)''; and

(4) by inserting before the semicolon the following: '', or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project''.

(c) DEFINITION OF REAL ESTATE.—Section 201 of the National Housing Act (12 U.S.C. 1707) is amended by adding at the end the following new subsection:

''(g) The term 'real estate' means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this title, that such land or property be treated as real estate for purposes of State taxation.''.

SEC. 2118. MUTUAL MORTGAGE INSURANCE FUND.

(a) IN GENERAL.—Subsection (a) of section 202 of the National Housing Act (12 U.S.C. 1708(a)) is amended to read as follows:

''(a) MUTUAL MORTGAGE INSURANCE FUND.—

''(1) ESTABLISHMENT.—Subject to the provisions of the Federal Credit Reform Act of 1990, there is hereby created a Mutual Mortgage Insurance Fund (in this title referred to as the 'Fund'), which shall be used by the Secretary to carry out the provisions of this title with respect to mortgages insured under section 203. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

''(2) LIMIT ON LOAN GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

''(3) FIDUCIARY RESPONSIBILITY.—The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

''(4) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. 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.

''(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

''(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

''(B) the types of loans insured, categorized by risk;

''(C) any significant changes between actual and projected claim and prepayment activity;

''(D) projected versus actual loss rates; and

''(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following the enactment of the Building American Homeownership Act of 2008, whichever is later.

''(6) ADJUSTMENT OF PREMIUMS.—If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this title as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

''(7) OPERATIONAL GOALS.—The operational goals for the Fund are—

''(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after the date of enactment of the Building American Homeownership Act of 2008; and

''(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this title is designed to serve.''.

(b) OBLIGATIONS OF FUND.—The National Housing Act is amended as follows:

(1) HOMEOWNERSHIP VOUCHER PROGRAM MORTGAGES.—In section 203(v) (12 U.S.C. 1709(v))—

(A) by striking ''Notwithstanding section 202 of this title, the'' and inserting ''The''; and

(B) by striking ''General Insurance Fund'' the first place such term appears and all that follows through the end of the subsection and inserting ''Mutual Mortgage Insurance Fund.''.

(2) HOME EQUITY CONVERSION MORTGAGES.—Section 255(i)(2)(A) of the National Housing Act (12 U.S.C. 1715z–20(i)(2)(A)) is amended by striking ''General Insurance Fund'' and inserting ''Mutual Mortgage Insurance Fund''.

(c) CONFORMING AMENDMENTS.—The National Housing Act is amended—

(1) in section 205 (12 U.S.C. 1711), by striking subsections (g) and (h); and

(2) in section 519(e) (12 U.S.C. 1735c(e)), by striking ''203(b)'' and all that follows through ''203(i)'' and inserting ''203, except as determined by the Secretary''.

SEC. 2119. HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) HAWAIIAN HOME LANDS.—Section 247(c) of the National Housing Act (12 U.S.C. 1715z–12(c)) is amended—

(1) by striking ''General Insurance Fund established in section 519'' and inserting ''Mutual Mortgage Insurance Fund''; and

(2) in the second sentence, by striking ''(1) all references'' and all that follows through ''and (2)''.

(b) INDIAN RESERVATIONS.—Section 248(f) of the National Housing Act (12 U.S.C. 1715z–13(f)) is amended—

(1) by striking ''General Insurance Fund'' the first place it appears through ''519'' and inserting ''Mutual Mortgage Insurance Fund''; and

(2) in the second sentence, by striking ''(1) all references'' and all that follows through ''and (2)''.

SEC. 2120. CONFORMING AND TECHNICAL AMENDMENTS.

(a) REPEALS.—The following provisions of the National Housing Act are repealed:

(1) Subsection (i) of section 203 (12 U.S.C. 1709(i)).

(2) Subsection (o) of section 203 (12 U.S.C. 1709(o)).

(3) Subsection (p) of section 203 (12 U.S.C. 1709(p)).

(4) Subsection (q) of section 203 (12 U.S.C. 1709(q)).

(5) Section 222 (12 U.S.C. 1715m).

(6) Section 237 (12 U.S.C. 1715z–2).

(7) Section 245 (12 U.S.C. 1715z–10).

(b) DEFINITION OF AREA.—Section 203(u)(2)(A) of the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is amended by striking ''shall'' and all that follows and inserting ''means a metropolitan statistical area as established by the Office of Management and Budget;''.

(c) DEFINITION OF STATE.—Section 201(d) of the National Housing Act (12 U.S.C. 1707(d)) is amended by striking ''the Trust Territory of the Pacific Islands'' and inserting ''the Commonwealth of the Northern Mariana Islands''.

SEC. 2121. INSURANCE OF MORTGAGES.

Subsection (n)(2) of section 203 of the National Housing Act (12 U.S.C. 1709(n)(2)) is amended—

(1) in subparagraph (A), by inserting ''or subordinate mortgage or'' before ''lien given''; and

(2) in subparagraph (C), by inserting ''or subordinate mortgage or'' before ''lien''.

SEC. 2122. 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 Building American Homeownership Act of 2008. 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) by striking subsection (l);

(7) by redesignating subsection (m) as subsection (l);

(8) 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

(9) 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 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 insurance under subsection (c).

''(p) 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.''.

(d) STUDY REGARDING PROGRAM COSTS AND CREDIT AVAILABILITY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the costs and availability of credit under the home equity conversion mortgages for elderly homeowners program under section 255 of the National Housing Act (12 U.S.C. 1715z–20) (in this subsection referred to as the ''program'').

(2) PURPOSE.—The purpose of the study required under paragraph (1) is to help Congress analyze and determine the effects of limiting the amounts of the costs or fees under the program from the amounts charged under the program as of the date of the enactment of this title.

(3) CONTENT OF REPORT.—The study required under paragraph (1) should focus on—

(A) the cost to mortgagors of participating in the program;

(B) the financial soundness of the program;

(C) the availability of credit under the program; and

(D) the costs to elderly homeowners participating in the program, including—

(i) mortgage insurance premiums charged under the program;

(ii) up-front fees charged under the program; and

(iii) margin rates charged under the program.

(4) TIMING OF REPORT.—Not later than 12 months after the date of the enactment of this title, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives setting forth the results and conclusions of the study required under paragraph (1).

SEC. 2123. ENERGY EFFICIENT MORTGAGES PROGRAM.

Section 106(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 12712 note) is amended—

(1) by amending subparagraph (C) to read as follows:

''(C) COSTS OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

''(i) 5 percent of the property value (not to exceed 5 percent of the limit established under section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A); or

''(ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act.''; and

(2) by adding at the end the following:

''(D) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Development under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.''.

SEC. 2124. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.

(a) ESTABLISHMENT.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

''SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.

''(a) ESTABLISHMENT.—The Secretary shall carry out a pilot program to establish, and make available to mortgagees, an automated process for providing alternative credit rating information for mortgagors and prospective mortgagors under mortgages on 1- to 4-family residences to be insured under this title who have insufficient credit histories for determining their creditworthiness. Such alternative credit rating information may include rent, utilities, and insurance payment histories, and such other information as the Secretary considers appropriate.

''(b) SCOPE.—The Secretary may carry out the pilot program under this section on a limited basis or scope, and may consider limiting the program to first-time homebuyers.

''(c) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to the automated process established under this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary under this title during the preceding fiscal year.

''(d) SUNSET.—After the expiration of the 5-year period beginning on the date of the enactment of the Building American Homeownership Act of 2008, the Secretary may not enter into any new commitment to insure any mortgage, or newly insure any mortgage, pursuant to the automated process established under this section.''.

(b) GAO REPORT.—Not later than the expiration of the two-year period beginning on the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Congress a report identifying the number of additional mortgagors

served using the automated process established pursuant to section 257 of the National Housing Act (as added by the amendment made by subsection (a) of this section) and the impact of such process and the insurance of mortgages pursuant to such process on the safety and soundness of the insurance funds under the National Housing Act of which such mortgages are obligations.

SEC. 2125. HOMEOWNERSHIP PRESERVATION.

The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

(1) develop and implement a plan to improve the Federal Housing Administration's loss mitigation process; and

(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 2126. USE OF FHA SAVINGS FOR IMPROVEMENTS IN FHA TECHNOLOGIES, PROCEDURES, PROCESSES, PROGRAM PERFORMANCE, STAFFING, AND SALARIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2009 through 2013, $25,000,000, from negative credit subsidy for the mortgage insurance programs under title II of the National Housing Act, to the Secretary of Housing and Urban Development for increasing funding for the purpose of improving technology, processes, program performance, eliminating fraud, and for providing appropriate staffing in connection with the mortgage insurance programs under title II of the National Housing Act.

(b) CERTIFICATION.—The authorization under subsection (a) shall not be effective for a fiscal year unless the Secretary of Housing and Urban Development has, by rulemaking in accordance with section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section), made a determination that—

(1) premiums being, or to be, charged during such fiscal year for mortgage insurance under title II of the National Housing Act are established at the minimum amount sufficient to—

(A) comply with the requirements of section 205(f) of such Act (relating to required capital ratio for the Mutual Mortgage Insurance Fund); and

(B) ensure the safety and soundness of the other mortgage insurance funds under such Act; and

(2) any negative credit subsidy for such fiscal year resulting from such mortgage insurance programs adequately ensures the efficient delivery and availability of such programs.

(c) STUDY AND REPORT.—The Secretary of Housing and Urban Development shall conduct a study to obtain recommendations from participants in the private residential (both single family and multifamily) mortgage lending business and the secondary market for such mortgages on how best to update and upgrade processes and technologies for the mortgage insurance programs under title II of the National Housing Act so that the procedures for originating, insuring, and servicing of such mortgages conform with those customarily used by secondary market purchasers of residential mortgage loans. Not later than the expiration of the 12-month period beginning on the date of the enactment of this title, the Secretary shall submit a report to the Congress describing the progress made and to be made toward updating and upgrading such processes and technology, and providing appropriate staffing for such mortgage insurance programs.

SEC. 2127. POST-PURCHASE HOUSING COUNSELING ELIGIBILITY IMPROVEMENTS.

Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:

(1) in subparagraph (C)—

(A) in clause (i), by striking ''; or'' and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(iii) a significant reduction in the income of the household due to divorce or death; or

''(iv) a significant increase in basic expenses of the homeowner or an immediate family member of the homeowner (including the spouse, child, or parent for whom the homeowner provides substantial care or financial assistance) due to—

''(I) an unexpected or significant increase in medical expenses;

''(II) a divorce;

''(III) unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

''(IV) a large property-tax increase; or'';

(2) by striking the matter that follows subparagraph (C); and

(3) by adding at the end the following:

''(D) the Secretary of Housing and Urban Development determines that the annual income of the homeowner is no greater than the annual income established by the Secretary as being of low- or moderate-income.''.

SEC. 2128. PRE-PURCHASE HOMEOWNERSHIP COUNSELING DEMONSTRATION.

(a) ESTABLISHMENT OF PROGRAM.—For the period beginning on the date of enactment of this title and ending on the date that is 3 years after such date of enactment, the Secretary of Housing and Urban Development shall establish and conduct a demonstration program to test the effectiveness of alternative forms of pre-purchase homeownership counseling for eligible homebuyers.

(b) FORMS OF COUNSELING.—The Secretary of Housing and Urban Development shall provide to eligible homebuyers pre-purchase homeownership counseling under this section in the form of—

(1) telephone counseling;

(2) individualized in-person counseling;

(3) web-based counseling;

(4) counseling classes; or

(5) any other form or type of counseling that the Secretary may, in his discretion, determine appropriate.

(c) SIZE OF PROGRAM.—The Secretary shall make available the pre-purchase homeownership counseling described in subsection (b) to not more than 3,000 eligible homebuyers in any given year.

(d) INCENTIVE TO PARTICIPATE.—The Secretary of Housing and Urban Development may provide incentives to eligible homebuyers to participate in the demonstration program established under subsection (a). Such incentives may include the reduction of any insurance premium charges owed by the eligible homebuyer to the Secretary.

(e) ELIGIBLE HOMEBUYER DEFINED.—For purposes of this section an ''eligible homebuyer'' means a first-time homebuyer who has been approved for a home loan with a loan-to-value ratio between 97 percent and 98.5 percent.

(f) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative—

(1) on an annual basis, on the progress and results of the demonstration program established under subsection (a); and

(2) for the period beginning on the date of enactment of this title and ending on the date that is 5 years after such date of enactment, on the payment history and delinquency rates of eligible homebuyers who participated in the demonstration program.

SEC. 2129. FRAUD PREVENTION.

Section 1014 of title 18, United States Code, is amended in the first sentence—

(1) by inserting ''the Federal Housing Administration,'' before ''the Farm Credit Administration''; and

(2) by striking ''commitment, or loan'' and inserting ''commitment, loan, or insurance agreement or application for insurance or a guarantee''.

SEC. 2130. LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES.

(a) IN GENERAL.—Notwithstanding any other provision of law, including any provision of this title and any amendment made by this title—

(1) for the period beginning on the date of the enactment of this title and ending on October 1, 2009, the premiums charged for mortgage insurance under multifamily housing programs under the National Housing Act may not be increased above the premium amounts in effect under such program on October 1, 2006, unless the Secretary of Housing and Urban Development determines that, absent such increase, insurance of additional mortgages under such program would, under the Federal Credit Reform Act of 1990, require the appropriation of new budget authority to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) of such insurance; and

(2) a premium increase pursuant to paragraph (1) may be made only if not less than 30 days prior to such increase taking effect, the Secretary of Housing and Urban Development—

(A) notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such increase; and

(B) publishes notice of such increase in the Federal Register.

(b) WAIVER.—The Secretary of Housing and Urban Development may waive the 30-day notice requirement under subsection (a)(2), if the Secretary determines that waiting 30-days before increasing premiums would cause substantial damage to the solvency of multifamily housing programs under the National Housing Act.

SEC. 2131. SAVINGS PROVISION.

Any mortgage insured under title II of the National Housing Act before the date of enactment of this subtitle shall continue to be governed by the laws, regulations, orders, and terms and conditions to which it was subject on the day before the date of the enactment of this subtitle.

SEC. 2132. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this subtitle. The notice shall take effect upon issuance.

SEC. 2133. MORATORIUM ON IMPLEMENTATION OF RISK-BASED PREMIUMS.

(a) IN GENERAL.—During the 12-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development shall not enact, execute, or take any action to make effective the planned implementation of risk-based premiums, which are designed for mortgage lenders to offer borrowers an FHA-insured product that provides a range of mortgage insurance premium pricing, based on the risk that the insurance contract represents, as

such planned implementation was set forth in the Notice published in the Federal Register on May 13, 2008 (Vol. 73, No. 93, Pages 27703 through 27711)(effective July 14, 2008).

(b) INSURANCE OF MORTGAGES UNDER THE NATIONAL HOUSING ACT.—During the 12-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development shall not enact, execute, or take any action to make effective the implementation of any other new risk-based premium product related to the insurance of any mortgage on a single family residence under title II of the National Housing Act, where the premium price for such new product is based in whole or in part on a borrower's Decision Credit Score, as that term is defined in the Notice described under subsection (a), or any successor thereto.

Subtitle B—Manufactured Housing Loan Modernization

SEC. 2141. SHORT TITLE.

This subtitle may be cited as the ''FHA Manufactured Housing Loan Modernization Act of 2008''.

SEC. 2142. PURPOSES.

The purposes of this subtitle are—

(1) to provide adequate funding for FHA-insured manufactured housing loans for low- and moderate-income homebuyers during all economic cycles in the manufactured housing industry;

(2) to modernize the FHA title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets; and

(3) to adjust the low loan limits for title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation.

SEC. 2143. EXCEPTION TO LIMITATION ON FINANCIAL INSTITUTION PORTFOLIO.

The second sentence of section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking ''In no case'' and inserting ''Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case''; and

(2) by striking '': *Provided*, That with'' and inserting ''. With''.

SEC. 2144. INSURANCE BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), is amended by adding at the end the following new paragraph:

''(8) INSURANCE BENEFITS FOR MANUFACTURED HOUSING LOANS.—Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this title after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008 by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall only apply to loans that are registered or endorsed for insurance after the date of the enactment of this title.

SEC. 2145. MAXIMUM LOAN LIMITS.

(a) DOLLAR AMOUNTS.—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking ''$17,500'' and inserting ''$25,090'';

(2) in subparagraph (C) by striking ''$48,600'' and inserting ''$69,678'';

(3) in subparagraph (D) by striking ''$64,800'' and inserting ''$92,904'';

(4) in subparagraph (E) by striking ''$16,200'' and inserting ''$23,226''; and

(5) by realigning subparagraphs (C), (D), and (E) 2 ems to the left so that the left margins of such subparagraphs are aligned with the margins of subparagraphs (A) and (B).

(b) ANNUAL INDEXING.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

''(9) ANNUAL INDEXING OF MANUFACTURED HOUSING LOANS.—The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than 1 year after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008.''

(c) TECHNICAL AND CONFORMING CHANGES.—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking ''No'' and inserting ''Except as provided in the last sentence of this paragraph, no''; and

(2) by adding after and below subparagraph (G) the following:

''The Secretary shall, by regulation, annually increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) (as such limitations may have been previously adjusted under this sentence) in accordance with the index established pursuant to paragraph (9).''.

SEC. 2146. INSURANCE PREMIUMS.

Subsection (f) of section 2 of the National Housing Act (12 U.S.C. 1703(f)) is amended—

(1) by inserting ''(1) PREMIUM CHARGES.—'' after ''(f)''; and

(2) by adding at the end the following new paragraph:

''(2) MANUFACTURED HOME LOANS.—Notwithstanding paragraph (1), in the case of a loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the premium charge for the insurance granted under this section shall be paid by the borrower under the loan or advance of credit, as follows:

''(A) At the time of the making of the loan, advance of credit, or purchase, a single premium payment in an amount not to exceed 2.25 percent of the amount of the original insured principal obligation.

''(B) In addition to the premium under subparagraph (A), annual premium payments during the term of the loan, advance, or obligation purchased in an amount not exceeding 1.0 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

''(C) Premium charges under this paragraph shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section for insurance of loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place such a home (or both), as determined based upon risk to the Federal Government under existing underwriting requirements.

''(D) The Secretary may increase the limitations on premium payments to percentages above those set forth in subparagraphs (A) and (B), but only if necessary, and not in excess of the minimum increase necessary, to maintain a negative credit subsidy as described in subparagraph (C).''.

SEC. 2147. TECHNICAL CORRECTIONS.

(a) DATES.—Subsection (a) of section 2 of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking ''on and after July 1, 1939,'' each place such term appears; and

(2) by striking ''made after the effective date of the Housing Act of 1954''.

(b) AUTHORITY OF SECRETARY.—Subsection (c) of section 2 of the National Housing Act (12 U.S.C. 1703(c)) is amended to read as follows:

''(c) HANDLING AND DISPOSAL OF PROPERTY.—

''(1) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary may—

''(A) deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or private sale, or otherwise dispose of, for cash or credit in the Secretary's discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary, in connection with the payment of insurance heretofore or hereafter granted under this title, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and

''(B) pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this title.

''(2) ADVERTISEMENTS FOR PROPOSALS.—Section 3709 of the Revised Statutes shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $25,000.

''(3) DELEGATION OF AUTHORITY.—The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this title may be exercised by an officer appointed by the Secretary without the execution of any express delegation of power or power of attorney. Nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in the Secretary's discretion, to any officer or agent the Secretary may appoint.''.

SEC. 2148. REVISION OF UNDERWRITING CRITERIA.

(a) IN GENERAL.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

''(10) FINANCIAL SOUNDNESS OF MANUFACTURED HOUSING PROGRAM.—The Secretary shall establish such underwriting criteria for loans and advances of credit in connection with a manufactured home or a lot on which to place a manufactured home (or both), including such loans and advances represented by obligations purchased by financial institutions, as may be necessary to ensure that the program under this title for insurance for financial institutions against losses from

such loans, advances of credit, and purchases is financially sound.''.

(b) TIMING.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this title, the Secretary of Housing and Urban Development shall revise the existing underwriting criteria for the program referred to in paragraph (10) of section 2(b) of the National Housing Act (as added by subsection (a) of this section) in accordance with the requirements of such paragraph.

SEC. 2149. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.

Title I of the National Housing Act is amended by adding at the end of section 9 the following new section:

''SEC. 10. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.

''(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

''(b) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to determine the manner and extent to which the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'federally related mortgage loan' as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

''(2) the term 'real estate settlement service' as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

''(d) UNFAIR AND DECEPTIVE PRACTICES.—In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this title, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.''.

SEC. 2150. LEASEHOLD REQUIREMENTS.

Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

''(11) LEASEHOLD REQUIREMENTS.—No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it, made for the purposes of financing a manufactured home which is intended to be situated in a manufactured home community pursuant to a lease, unless such lease—

''(A) expires not less than 3 years after the origination date of the obligation;

''(B) is renewable upon the expiration of the original 3 year term by successive 1 year terms; and

''(C) requires the lessor to provide the lessee written notice of termination of the lease not less than 180 days prior to the expiration of the current lease term in the event the lessee is required to move due to the closing of the manufactured home community, and further provides that failure to provide such notice to the mortgagor in a timely manner will cause the lease term, at its expiration, to automatically renew for an additional 1 year term.''.

TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

SEC. 2201. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the term ''maximum guaranty amount'' shall mean an amount equal to 25 percent of the higher of—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.

SEC. 2202. COUNSELING ON MORTGAGE FORECLOSURES FOR MEMBERS OF THE ARMED FORCES RETURNING FROM SERVICE ABROAD.

(a) IN GENERAL.—The Secretary of Defense shall develop and implement a program to advise members of the Armed Forces (including members of the National Guard and Reserve) who are returning from service on active duty abroad (including service in Operation Iraqi Freedom and Operation Enduring Freedom) on actions to be taken by such members to prevent or forestall mortgage foreclosures.

(b) ELEMENTS.—The program required by subsection (a) shall include the following:

(1) Credit counseling.

(2) Home mortgage counseling.

(3) Such other counseling and information as the Secretary considers appropriate for purposes of the program.

(c) TIMING OF PROVISION OF COUNSELING.—Counseling and other information under the program required by subsection (a) shall be provided to a member of the Armed Forces covered by the program as soon as practicable after the return of the member from service as described in subsection (a).

SEC. 2203. ENHANCEMENT OF PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURES.

(a) EXTENSION OF PERIOD OF PROTECTIONS AGAINST MORTGAGE FORECLOSURES.—

(1) EXTENSION OF PROTECTION PERIOD.—Subsection (c) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533) is amended by striking ''90 days'' and inserting ''9 months''.

(2) EXTENSION OF STAY OF PROCEEDINGS PERIOD.—Subsection (b) of such section is amended by striking ''90 days'' and inserting ''9 months''.

(b) TREATMENT OF MORTGAGES AS OBLIGATIONS SUBJECT TO INTEREST RATE LIMITATION.—Section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527) is amended—

(1) in subsection (a)(1), by striking ''in excess of 6 percent'' the second place it appears and all that follows and inserting ''in excess of 6 percent—

''(A) during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or

''(B) during the period of military service, in the case of any other obligation or liability.''; and

(2) by striking subsection (d) and inserting the following new subsection:

''(d) DEFINITIONS.—In this section:

''(1) INTEREST.—The term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

''(2) OBLIGATION OR LIABILITY.—The term 'obligation or liability' includes an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage.''.

(c) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SUNSET.—The amendments made by subsection (a) shall expire on December 31, 2010. Effective January 1, 2011, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act, as in effect on the day before the date of the enactment of this Act, are hereby revived.

TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

SEC. 2301. EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.

(a) DIRECT APPROPRIATIONS.—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, $4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed upon homes and residential properties.

(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

(1) IN GENERAL.—The amounts appropriated or otherwise made available to States and units of general local government 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'').

(2) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this section.

(3) CRITERIA.—The funding formula required under paragraph (1) 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.

(4) DISTRIBUTION.—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Any State or unit of general local government that receives amounts pursuant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.

(2) PRIORITY.—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(A) with the greatest percentage of home foreclosures;

(B) with the highest percentage of homes financed by a subprime mortgage related loan; and

(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

(3) ELIGIBLE USES.—Amounts made available under this section may be used to—

(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

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

(D) demolish blighted structures; and

(E) redevelop demolished or vacant properties.

(d) LIMITATIONS.—

(1) ON PURCHASES.—Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

(2) SALE OF HOMES.—If an abandoned or foreclosed upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

(3) REINVESTMENT OF PROFITS.—

(A) PROFITS FROM SALES, RENTALS, AND REDEVELOPMENT.—

(i) 5-YEAR REINVESTMENT PERIOD.—During the 5-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 5-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, unless the Secretary approves a request to use the funds for purposes under this Act.

(II) OTHER AMOUNTS.—Upon the expiration of the 5-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.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(2) NO MATCH.—No matching funds shall be required in order for a State or unit of general local government to receive any amounts under this section.

(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—

(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 (except for those related to fair housing, nondiscrimination, labor standards, and the environment) in accordance with the terms of this section and for the sole purpose of expediting the use of such funds.

(2) NOTICE.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 business days before such exercise of authority is to occur.

(3) LOW AND MODERATE INCOME REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

(i) all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

(B) RECURRENT REQUIREMENT.—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

(g) PERIODIC AUDITS.—In consultation with the Secretary of Housing and Urban Development, the Comptroller General of the United States shall conduct periodic audits to ensure that funds appropriated, made available, or otherwise distributed under this section are being used in a manner consistent with the criteria provided in this section.

SEC. 2302. 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 section 2301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

SEC. 2303. 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 2301 to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided,* That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities.

SEC. 2304. LIMITATION ON DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—None of the funds made available under this title or title IV 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 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.

SEC. 2305. COUNSELING INTERMEDIARIES.

Notwithstanding any other provision of this Act, the amount appropriated under section 2301(a) of this Act shall be $3,920,000,000 and the amount appropriated under section 2401 of this Act shall be $180,000,000: *Provided,* That of amounts appropriated under such section 2401 $30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the ''NRC'') to make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys to assist homeowners who have legal issues directly related to the homeowner's foreclosure, delinquency or short sale. Such attorneys shall be capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure and who have legal issues that cannot be handled by counselors already employed by such intermediaries: *Provided,* 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: *Provided further,* That no funds provided under this Act shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation.

TITLE IV—HOUSING COUNSELING RESOURCES

SEC. 2401. HOUSING COUNSELING RESOURCES.

There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, for an additional amount for the ''Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation'' $100,000,000, to remain available until September 30, 2008, for foreclosure mitigation activities under the terms and conditions contained in the second undesignated paragraph (beginning with the phrase ''For an additional amount'') under the heading ''Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation'' of Public Law 110–161.

SEC. 2402. CREDIT COUNSELING.

(a) IN GENERAL.—Entities approved by the Neighborhood Reinvestment Corporation or the Secretary and State housing finance entities receiving funds under this title shall work to identify and coordinate with nonprofit organizations operating national or statewide toll-free foreclosure prevention hotlines, including those that—

(1) serve as a consumer referral source and data repository for borrowers experiencing some form of delinquency or foreclosure;

(2) connect callers with local housing counseling agencies approved by the Neighborhood Reinvestment Corporation or the Secretary to assist with working out a positive resolution to their mortgage delinquency or foreclosure; or

(3) facilitate or offer free assistance to help homeowners to understand their options, negotiate solutions, and find the best resolution for their particular circumstances.

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

SEC. 2501. SHORT TITLE.

This title may be cited as the ''Mortgage Disclosure Improvement Act of 2008''.

SEC. 2502. ENHANCED MORTGAGE LOAN DISCLOSURES.

(a) TRUTH IN LENDING ACT DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

(1) by inserting ''(A)'' before ''In the'';

(2) by striking ''a residential mortgage transaction, as defined in section 103(w)'' and inserting ''any extension of credit that is secured by the dwelling of a consumer'';

(3) by striking ''before the credit is extended, or'';

(4) by inserting '', which shall be at least 7 business days before consummation of the transaction'' after ''written application'';

(5) by striking '', whichever is earlier''; and

(6) by striking ''If the'' and all that follows through the end of the paragraph and inserting the following:

''(B) In the case of an extension of credit that is secured by the dwelling of a consumer, the disclosures provided under subparagraph (A), shall be in addition to the other disclosures required by subsection (a), and shall—

''(i) state in conspicuous type size and format, the following: 'You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'; and

''(ii) be provided in the form of final disclosures at the time of consummation of the transaction, in the form and manner prescribed by this section.

''(C) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this subsection shall do the following:

''(i) Label the payment schedule as follows: 'Payment Schedule: Payments Will Vary Based on Interest Rate Changes'.

''(ii) State in conspicuous type size and format examples of adjustments to the regular required payment on the extension of credit based on the change in the interest rates specified by the contract for such extension of credit. Among the examples required to be provided under this clause is an example that reflects the maximum payment amount of the regular required payments on the extension of credit, based on the maximum interest rate allowed under the contract, in accordance with the rules of the Board. Prior to issuing any rules pursuant to this clause, the Board shall conduct consumer testing to determine the appropriate format for providing the disclosures required under this subparagraph to consumers so that such disclosures can be easily understood.

''(D) In any case in which the disclosure statement under subparagraph (A) contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.

''(E) The consumer shall receive the disclosures required under this paragraph before paying any fee to the creditor or other person in connection with the consumer's application for an extension of credit that is secured by the dwelling of a consumer. If the disclosures are mailed to the consumer, the consumer is considered to have received them 3 business days after they are mailed. A creditor or other person may impose a fee for obtaining the consumer's credit report before the consumer has received the disclosures under this paragraph, provided the fee is bona fide and reasonable in amount.

''(F) WAIVER OF TIMELINESS OF DISCLOSURES.—To expedite consummation of a transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may waive or modify the timing requirements for disclosures under subparagraph (A), provided that—

''(i) the term 'bona fide personal emergency' may be further defined in regulations issued by the Board;

''(ii) the consumer provides to the creditor a dated, written statement describing the emergency and specifically waiving or modifying those timing requirements, which statement shall bear the signature of all consumers entitled to receive the disclosures required by this paragraph; and

''(iii) the creditor provides to the consumers at or before the time of such waiver or modification, the final disclosures required by paragraph (1).

''(G) The requirements of subparagraphs (B), (C), (D) and (E) shall not apply to extensions of credit relating to plans described in section 101(53D) of title 11, United States Code.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking ''not less than $200 or greater than $2,000'' and inserting ''not less than $400 or greater than $4,000''; and

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

(A) by inserting ''or section 128(b)(2)(C)(ii),'' after ''128(a),''; and

(B) by inserting ''or section 128(b)(2)(C)(ii)'' before the period.

(c) EFFECTIVE DATES.—

(1) GENERAL DISCLOSURES.—Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective 12 months after the date of enactment of this Act.

(2) VARIABLE INTEREST RATES.—Subparagraph (C) of section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by subsection (a) of this section, shall become effective on the earlier of—

(A) the compliance date established by the Board for such purpose, by regulation; or

(B) 30 months after the date of enactment of this Act.

SEC. 2503. COMMUNITY DEVELOPMENT INVESTMENT AUTHORITY FOR DEPOSITORY INSTITUTIONS.

(a) 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) 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) 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''.

TITLE VI—VETERANS HOUSING MATTERS

SEC. 2601. 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. 2602. 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 title 38, United States Code, is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) LIMITATIONS ON ASSISTANCE.—Section 2102 of title 38, United States Code, 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 title 38, United States Code, 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 title 38, United States Code, is amended by striking ''veterans'' both places it appears and inserting ''individuals''.

(5) CONSTRUCTION OF BENEFITS.—Section 2104 of title 38, United States Code, 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 title 38, United States Code, 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 title 38, United States Code, 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 title 38, United States Code, 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. 2603. 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. 2604. 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. 2605. 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. 2606. 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 2602(a) of this Act) who have disabilities that are not described in such subsections.

SEC. 2607. 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 2602(a) of this Act), who reside with family members on a permanent basis.

SEC. 2608. DEFINITION OF ANNUAL INCOME FOR PURPOSES OF SECTION 8 AND OTHER PUBLIC HOUSING PROGRAMS.

Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(3)(b)(4)) is amended by inserting ''or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts'' before ''may not be considered''.

SEC. 2609. PAYMENT OF TRANSPORTATION OF BAGGAGE AND HOUSEHOLD EFFECTS FOR MEMBERS OF THE ARMED FORCES WHO RELOCATE DUE TO FORECLOSURE OF LEASED HOUSING.

Section 406 of title 37, United States Code, is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following new subsection (k):

''(k) A member of the armed forces who relocates from leased or rental housing by reason of the foreclosure of such housing is entitled to transportation of baggage and household effects under subsection (b)(1) in the same manner, and subject to the same conditions and limitations, as similarly circumstanced members entitled to transportation of baggage and household effects under that subsection.''.

DIVISION C—TAX-RELATED PROVISIONS

SECTION 3000. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the ''Housing Assistance Tax Act of 2008''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division 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.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART I—LOW-INCOME HOUSING TAX CREDIT

SEC. 3001. TEMPORARY INCREASE IN VOLUME CAP FOR LOW-INCOME HOUSING TAX CREDIT.

Paragraph (3) of section 42(h) is amended by adding at the end the following new subparagraph:

''(I) INCREASE IN STATE HOUSING CREDIT CEILING FOR 2008 AND 2009.—In the case of calendar years 2008 and 2009—

''(i) the dollar amount in effect under subparagraph (C)(ii)(I) for such calendar year (after any increase under subparagraph (H)) shall be increased by $0.20, and

''(ii) the dollar amount in effect under subparagraph (C)(ii)(II) for such calendar year (after any increase under subparagraph (H)) shall be increased by an amount equal to 10 percent of such dollar amount (rounded to the next lowest multiple of $5,000).''.

SEC. 3002. DETERMINATION OF CREDIT RATE.

(a) TEMPORARY MINIMUM CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.—Subsection (b) of section 42 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) TEMPORARY MINIMUM CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.—In the case of any new building—

''(A) which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and

''(B) which is not federally subsidized for the taxable year,

the applicable percentage shall not be less than 9 percent.''.

(b) MODIFICATIONS TO DEFINITION OF FEDERALLY SUBSIDIZED BUILDING.—

(1) IN GENERAL.—Subparagraph (A) of section 42(i)(2) is amended by striking '', or any below market Federal loan,''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 42(i)(2) is amended—

(i) by striking ''BALANCE OF LOAN OR'' in the heading thereof,

(ii) by striking ''loan or'' in the matter preceding clause (i), and

(iii) by striking ''subsection (d)—'' and all that follows and inserting ''subsection (d) the proceeds of such obligation.''.

(B) Subparagraph (C) of section 42(i)(2) is amended—

(i) by striking ''or below market Federal loan'' in the matter preceding clause (i),

(ii) in clause (i)—

(I) by striking ''or loan (when issued or made)'' and inserting ''(when issued)'', and

(II) by striking ''the proceeds of such obligation or loan'' and inserting ''the proceeds of such obligation'', and

(iii) by striking '', and such loan is repaid,'' in clause (ii).

(C) Paragraph (2) of section 42(i) is amended by striking subparagraphs (D) and (E).

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to buildings placed in service after the date of the enactment of this Act.

SEC. 3003. MODIFICATIONS TO DEFINITION OF ELIGIBLE BASIS.

(a) INCREASE IN CREDIT FOR CERTAIN STATE DESIGNATED BUILDINGS.—Subparagraph (C) of section 42(d)(5) (relating to increase in credit for buildings in high cost areas), before redesignation under subsection (g), is amended by adding at the end the following new clause:

''(v) BUILDINGS DESIGNATED BY STATE HOUSING CREDIT AGENCY.—Any building which is designated by the State housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project shall be treated for purposes of this subparagraph as located in a difficult development area which is designated for purposes of this subparagraph. The preceding sentence shall not apply to any building if paragraph (1) of subsection (h) does not apply to any portion of the eligible basis of such building by reason of paragraph (4) of such subsection.''.

(b) MODIFICATION TO REHABILITATION REQUIREMENTS.—

(1) IN GENERAL.—Clause (ii) of section 42(e)(3)(A) is amended—

(A) by striking ''10 percent'' in subclause (I) and inserting ''20 percent'', and

(B) by striking ''$3,000'' in subclause (II) and inserting ''$6,000''.

(2) INFLATION ADJUSTMENT.—Paragraph (3) of section 42(e) is amended by adding at the end the following new subparagraph:

''(D) INFLATION ADJUSTMENT.—In the case of any expenditures which are treated under paragraph (4) as placed in service during any calendar year after 2009, the $6,000 amount in subparagraph (A)(ii)(II) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase under the preceding sentence which is not a multiple of $100 shall be rounded to the nearest multiple of $100.''.

(3) CONFORMING AMENDMENT.—Subclause (II) of section 42(f)(5)(B)(ii) is amended by striking ''if subsection (e)(3)(A)(ii)(II)'' and all that follows and inserting ''if the dollar amount in effect under subsection (e)(3)(A)(ii)(II) were two-thirds of such amount.''.

(c) INCREASE IN ALLOWABLE COMMUNITY SERVICE FACILITY SPACE FOR SMALL PROJECTS.—Clause (ii) of section 42(d)(4)(C) (relating to limitation) is amended by striking ''10 percent of the eligible basis of the qualified low-income housing project of which it is a part. For purposes of'' and inserting ''the sum of—

''(I) 25 percent of so much of the eligible basis of the qualified low-income housing project of which it is a part as does not exceed $15,000,000, plus

''(II) 10 percent of so much of the eligible basis of such project as is not taken into account under subclause (I).

For purposes of''.

(d) CLARIFICATION OF TREATMENT OF FEDERAL GRANTS.—Subparagraph (A) of section 42(d)(5) is amended to read as follows:

''(A) FEDERAL GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING ELIGIBLE BASIS.—The eligible basis of a building shall not include any costs financed with the proceeds of a Federally funded grant.''.

(e) SIMPLIFICATION OF RELATED PARTY RULES.—Clause (iii) of section 42(d)(2)(D), before redesignation under subsection (g)(2), is amended—

(1) by striking all that precedes subclause (II),

(2) by redesignating subclause (II) as clause (iii) and moving such clause two ems to the left, and

(3) by striking the last sentence thereof.

(f) EXCEPTION TO 10-YEAR NONACQUISITION PERIOD FOR EXISTING BUILDINGS APPLICABLE TO FEDERALLY- OR STATE-ASSISTED BUILDINGS.—Paragraph (6) of section 42(d) is amended to read as follows:

''(6) CREDIT ALLOWABLE FOR CERTAIN BUILDINGS ACQUIRED DURING 10-YEAR PERIOD DESCRIBED IN PARAGRAPH (2)(B)(ii).—

''(A) IN GENERAL.—Paragraph (2)(B)(ii) shall not apply to any Federally- or State-assisted building.

''(B) BUILDINGS ACQUIRED FROM INSURED DEPOSITORY INSTITUTIONS IN DEFAULT.—On application by the taxpayer, the Secretary may waive paragraph (2)(B)(ii) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution.

''(C) FEDERALLY- OR STATE-ASSISTED BUILDING.—For purposes of this paragraph—

''(i) FEDERALLY-ASSISTED BUILDING.—The term 'Federally-assisted building' means any building which is substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, or section 515 of the Housing Act of 1949 (as such Acts are in effect on the date of the enactment of the Tax Reform Act of 1986).

''(ii) STATE-ASSISTED BUILDING.—The term 'State-assisted building' means any building which is substantially assisted, financed, or operated under any State law similar in purposes to any of the laws referred to in clause (i).''.

(g) REPEAL OF DEADWOOD.—

(1) Clause (ii) of section 42(d)(2)(B) is amended by striking ''the later of—'' and all that follows and inserting ''the date the building was last placed in service,''.

(2) Subparagraph (D) of section 42(d)(2) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(3) Paragraph (5) of section 42(d) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the amendments made by this subsection shall apply to buildings placed in service after the date of the enactment of this Act.

(2) REHABILITATION REQUIREMENTS.—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply with respect to housing credit dollar amounts allocated after the date of the enactment of this Act.

(B) BUILDINGS NOT SUBJECT TO ALLOCATION LIMITS.—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, the amendments made by subsection (b) shall apply to buildings placed in service after the date of the enactment of this Act.

SEC. 3004. OTHER SIMPLIFICATION AND REFORM OF LOW-INCOME HOUSING TAX INCENTIVES.

(a) REPEAL PROHIBITION ON MODERATE REHABILITATION ASSISTANCE.—Paragraph (2) of section 42(c) (defining qualified low-income building) is amended by striking the flush sentence at the end.

(b) MODIFICATION OF TIME LIMIT FOR INCURRING 10 PERCENT OF PROJECT'S COST.—Clause (ii) of section 42(h)(1)(E) is amended by striking ''(as of the later of the date which is 6 months after the date that the allocation was made or the close of the calendar year in which the allocation is made)'' and inserting ''(as of the date which is 1 year after the date that the allocation was made)''.

(c) REPEAL OF BONDING REQUIREMENT ON DISPOSITION OF BUILDING.—Paragraph (6) of section 42(j) (relating to no recapture on disposition of building (or interest therein) where bond posted) is amended to read as follows:

''(6) NO RECAPTURE ON DISPOSITION OF BUILDING WHICH CONTINUES IN QUALIFIED USE.—

''(A) IN GENERAL.—The increase in tax under this subsection shall not apply solely by reason of the disposition of a building (or an interest therein) if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

''(B) STATUTE OF LIMITATIONS.—If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this subsection for such taxable or any subsequent taxable year, then—

''(i) the statutory period for the assessment of any deficiency with respect to such increase in tax shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of such reduction in qualified basis, and

''(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.''.

(d) ENERGY EFFICIENCY AND HISTORIC NATURE TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—Subparagraph (C) of section 42(m)(1) (relating to plans for allocation of credit among projects) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting a comma, and by adding at the end the following new clauses:

''(ix) the energy efficiency of the project, and

''(x) the historic nature of the project.''.

(e) CONTINUED ELIGIBILITY FOR STUDENTS WHO RECEIVED FOSTER CARE ASSISTANCE.—Clause (i) of section 42(i)(3)(D) is amended by striking ''or'' at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

''(II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or''.

(f) TREATMENT OF RURAL PROJECTS.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF RURAL PROJECTS.—For purposes of this section, in the case of any project for residential rental property located in a rural area (as defined in section 520 of the Housing Act of 1949), any income limitation measured by reference to area median gross income shall be measured by reference to the greater of area median gross income or national non-metropolitan median income. The preceding sentence shall not apply with respect to any building if paragraph (1) of section 42(h) does not apply by reason of paragraph (4) thereof to any portion of the credit determined under this section with respect to such building.''.

(g) CLARIFICATION OF GENERAL PUBLIC USE REQUIREMENT.—Subsection (c) of section 42 is amended by adding at the end the following new paragraph:

''(3) CLARIFICATION OF GENERAL PUBLIC USE REQUIREMENT.—

''(A) IN GENERAL.—A building which meets the requirements of subparagraph (B) shall not fail to be treated as a qualified low-income building solely because occupancy in such building is restricted to individuals who have special needs, share a common occupation or common interests, or are members of a specified group based on Federal, State, or local programs or requirements.

''(B) BASIC PUBLIC USE REQUIREMENTS.—A building meets the requirements of this subparagraph if—

''(i) such building is used consistent with housing policy governing non-discrimination as evidenced by rules and regulations of the Department of Housing and Urban Development,

''(ii) occupancy in such building is not restricted on the basis of membership in a social organization or on the basis of employment by specific employers, and

''(iii) such building is not part of a hospital, nursing home, sanitarium, lifecare facility, trailer park, or intermediate care facility for the mentally or physically handicapped.''.

(h) GAO STUDY REGARDING MODIFICATIONS TO LOW-INCOME HOUSING TAX CREDIT.—Not later than December 31, 2012, the Comptroller General of the United States shall submit to Congress a report which analyzes the implementation of the modifications made by this subtitle to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986. Such report shall include an analysis of the distribution of credit allocations before and after the effective date of such modifications.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to buildings placed in service after the date of the enactment of this Act.

(2) REPEAL OF BONDING REQUIREMENT ON DISPOSITION OF BUILDING.—The amendment made by subsection (c) shall apply to—

(A) interests in buildings disposed after the date of the enactment of this Act, and

(B) interests in buildings disposed of on or before such date if—

(i) it is reasonably expected that such building will continue to be operated as a qualified low-income building (within the meaning of section 42 of the Internal Revenue Code of 1986) for the remaining compliance period (within the meaning of such section) with respect to such building, and

(ii) the taxpayer elects the application of this subparagraph with respect to such disposition.

(3) ENERGY EFFICIENCY AND HISTORIC NATURE TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—The amendments made by subsection (d) shall apply to allocations made after December 31, 2008.

(4) CONTINUED ELIGIBILITY FOR STUDENTS WHO RECEIVED FOSTER CARE ASSISTANCE.—The amendments made by subsection (e) shall apply to determinations made after the date of the enactment of this Act.

(5) TREATMENT OF RURAL PROJECTS.—The amendment made by subsection (f) shall apply to determinations made after the date of the enactment of this Act.

(6) CLARIFICATION OF GENERAL PUBLIC USE REQUIREMENT.—The amendment made by subsection (g) shall apply to buildings placed in service before, on, or after the date of the enactment of this Act.

SEC. 3005. TREATMENT OF MILITARY BASIC PAY.

(a) IN GENERAL.—Subparagraph (B) of section 142(d)(2) (relating to income of individuals; area median gross income) is amended—

(1) by striking ''The income'' and inserting the following:

''(i) IN GENERAL.—The income'', and

(2) by adding at the end the following:

''(ii) SPECIAL RULE RELATING TO BASIC HOUSING ALLOWANCES.—For purposes of determining income under this subparagraph, payments under section 403 of title 37, United States Code, as a basic pay allowance for housing shall be disregarded with respect to any qualified building.

''(iii) QUALIFIED BUILDING.—For purposes of clause (ii), the term 'qualified building' means any building located—

''(I) in any county in which is located a qualified military installation to which the number of members of the Armed Forces of the United States assigned to units based out of such qualified military installation, as of June 1, 2008, has increased by not less than 20 percent, as compared to such number on December 31, 2005, or

''(II) in any county adjacent to a county described in subclause (I).

''(iv) QUALIFIED MILITARY INSTALLATION.—For purposes of clause (iii), the term 'qualified military installation' means any military installation or facility the number of members of the Armed Forces of the United States assigned to which, as of June 1, 2008, is not less than 1,000.''.

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

(1) determinations made after the date of the enactment of this Act and before January 1, 2012, in the case of any qualified building (as defined in section 142(d)(2)(B)(iii) of the Internal Revenue Code of 1986)—

(A) with respect to which housing credit dollar amounts have been allocated before the date of the enactment of this Act, or

(B) with respect to buildings placed in service before such date of enactment, to the extent paragraph (1) of section 42(h) of such Code does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued before such date of enactment, and

(2) determinations made after the date of enactment of this Act, in the case of qualified buildings (as so defined)—

(A) with respect to which housing credit dollar amounts are allocated after the date of the enactment of this Act and before January 1, 2012, or

(B) with respect to which buildings placed in service after the date of enactment of this Act and before January 1, 2012, to the extent paragraph (1) of section 42(h) of such Code does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date of enactment and before January 1, 2012.

PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

SEC. 3007. RECYCLING OF TAX-EXEMPT DEBT FOR FINANCING RESIDENTIAL RENTAL PROJECTS.

(a) IN GENERAL.—Subsection (i) of section 146 (relating to treatment of refunding issues) is amended by adding at the end the following new paragraph:

''(6) TREATMENT OF CERTAIN RESIDENTIAL RENTAL PROJECT BONDS AS REFUNDING BONDS IRRESPECTIVE OF OBLIGOR.—

''(A) IN GENERAL.—If, during the 6-month period beginning on the date of a repayment of a loan financed by an issue 95 percent or more of the net proceeds of which are used to provide projects described in section 142(d), such repayment is used to provide a new loan for any project so described, any bond which is issued to refinance such issue shall be treated as a refunding issue to the extent the principal amount of such refunding issue does not exceed the principal amount of the bonds refunded.

''(B) LIMITATIONS.—Subparagraph (A) shall apply to only one refunding of the original issue and only if—

''(i) the refunding issue is issued not later than 4 years after the date on which the original issue was issued,

''(ii) the latest maturity date of any bond of the refunding issue is not later than 34 years after the date on which the refunded bond was issued, and

''(iii) the refunding issue is approved in accordance with section 147(f) before the issuance of the refunding issue.''.

(b) LOW-INCOME HOUSING CREDIT.—Clause (ii) of section 42(h)(4)(A) is amended by inserting ''or such financing is refunded as described in section 146(i)(6)'' before the period at the end.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments of loans received after the date of the enactment of this Act.

SEC. 3008. COORDINATION OF CERTAIN RULES APPLICABLE TO LOW-INCOME HOUSING CREDIT AND QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS.

(a) DETERMINATION OF NEXT AVAILABLE UNIT.—Paragraph (3) of section 142(d) (relating to current income determinations) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROJECTS WITH RESPECT TO WHICH AFFORDABLE HOUSING CREDIT IS ALLOWED.—In the case of a project with respect to which credit is allowed under section 42, the second sentence of subparagraph (B) shall be applied by substituting 'building (within the meaning of section 42)' for 'project'.''.

(b) STUDENTS.—Paragraph (2) of section 142(d) (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

''(C) STUDENTS.—Rules similar to the rules of 42(i)(3)(D) shall apply for purposes of this subsection.''.

(c) SINGLE-ROOM OCCUPANCY UNITS.—Paragraph (2) of section 142(d) (relating to definitions and special rules), as amended by subsection (b), is amended by adding at the end the following new subparagraph:

''(D) SINGLE-ROOM OCCUPANCY UNITS.—A unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit (within the meaning of section 42).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations of the status of qualified residential rental projects for periods beginning after the date of the enactment of this Act, with respect to bonds issued before, on, or after such date.

PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

SEC. 3009. HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 142(d), as amended by section 3008, is amended by adding at the end the following new subparagraph:

''(E) HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.—

''(i) IN GENERAL.—Any determination of area median gross income under subparagraph (B) with respect to any project for any calendar year after 2008 shall not be less than the area median gross income determined under such subparagraph with respect to such project for the calendar year preceding the calendar year for which such determination is made.

''(ii) SPECIAL RULE FOR CERTAIN CENSUS CHANGES.—In the case of a HUD hold harmless impacted project, the area median gross income with respect to such project for any calendar year after 2008 (hereafter in this clause referred to as the current calendar year) shall be the greater of the amount determined without regard to this clause or the sum of—

''(I) the area median gross income determined under the HUD hold harmless policy with respect to such project for calendar year 2008, plus

''(II) any increase in the area median gross income determined under subparagraph (B) (determined without regard to the HUD hold harmless policy and this subparagraph) with respect to such project for the current calendar year over the area median gross income (as so determined) with respect to such project for calendar year 2008.

''(iii) HUD HOLD HARMLESS POLICY.—The term 'HUD hold harmless policy' means the regulations under which a policy similar to the rules of clause (i) applied to prevent a change in the method of determining area median gross income from resulting in a reduction in the area median gross income determined with respect to certain projects in calendar years 2007 and 2008.

''(iv) HUD HOLD HARMLESS IMPACTED PROJECT.—The term 'HUD hold harmless impacted project' means any project with respect to which area median gross income was determined under subparagraph (B) for calendar year 2007 or 2008 if such determination would have been less but for the HUD hold harmless policy.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations of area median gross income for calendar years after 2008.

SEC. 3010. EXCEPTION TO ANNUAL CURRENT INCOME DETERMINATION REQUIREMENT WHERE DETERMINATION NOT RELEVANT.

(a) IN GENERAL.—Subparagraph (A) of section 142(d)(3) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply with respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit.''.

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

Subtitle B—Single Family Housing

SEC. 3011. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. FIRST-TIME HOMEBUYER CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the United States during a taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 10 percent of the purchase price of the residence.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the credit allowed under subsection (a) shall not exceed $8,000.

''(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting '$4,000' for '$8,000'.

''(C) OTHER INDIVIDUALS.—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $8,000.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so allowable as—

''(i) the excess (if any) of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $75,000 ($150,000 in the case of a joint return), bears to

''(ii) $20,000.

''(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(c) DEFINITIONS.—For purposes of this section—

''(1) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence to which this section applies.

''(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(3) PURCHASE.—

''(A) IN GENERAL.—The term 'purchase' means any acquisition, but only if—

''(i) the property is not acquired from a person related to the person acquiring it, and

''(ii) the basis of the property in the hands of the person acquiring it is not determined—

''(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(II) under section 1014(a) (relating to property acquired from a decedent).

''(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated

as purchased by the taxpayer on the date the taxpayer first occupies such residence.

''(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date such residence is purchased.

''(5) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267(b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants).

''(d) EXCEPTIONS.—No credit under subsection (a) shall be allowed to any taxpayer for any taxable year with respect to the purchase of a residence if—

''(1) a credit under section 1400C (relating to first-time homebuyer in the District of Columbia) is allowable to the taxpayer (or the taxpayer's spouse) for such taxable year or any prior taxable year,

''(2) the residence is financed by the proceeds of a qualified mortgage issue the interest on which is exempt from tax under section 103,

''(3) the taxpayer is a nonresident alien, or

''(4) the taxpayer disposes of such residence (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the close of such taxable year.

''(e) REPORTING.—If the Secretary requires information reporting under section 6045 by a person described in subsection (e)(2) thereof to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e) shall not apply.

''(f) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, if a credit under subsection (a) is allowed to a taxpayer, the tax imposed by this chapter shall be increased by 6⅔ percent of the amount of such credit for each taxable year in the recapture period.

''(2) ACCELERATION OF RECAPTURE.—If a taxpayer disposes of the principal residence with respect to which a credit was allowed under subsection (a) (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the end of the recapture period—

''(A) the tax imposed by this chapter for the taxable year of such disposition or cessation, shall be increased by the excess of the amount of the credit allowed over the amounts of tax imposed by paragraph (1) for preceding taxable years, and

''(B) paragraph (1) shall not apply with respect to such credit for such taxable year or any subsequent taxable year.

''(3) LIMITATION BASED ON GAIN.—In the case of the sale of the principal residence to a person who is not related to the taxpayer, the increase in tax determined under paragraph (2) shall not exceed the amount of gain (if any) on such sale. Solely for purposes of the preceding sentence, the adjusted basis of such residence shall be reduced by the amount of the credit allowed under subsection (a) to the extent not previously recaptured under paragraph (1).

''(4) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraphs (1) and (2) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (2) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence during the 2-year period beginning on the date of the disposition or cessation referred to in paragraph (2). Paragraph (2) shall apply to such new principal residence during the recapture period in the same manner as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (2) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraphs (1) and (2) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(5) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(6) RECAPTURE PERIOD.—For purposes of this subsection, the term 'recapture period' means the 15 taxable years beginning with the second taxable year following the taxable year in which the purchase of the principal residence for which a credit is allowed under subsection (a) was made.

''(g) APPLICATION OF SECTION.—This section shall only apply to a principal residence purchased by the taxpayer on or after April 9, 2008, and before April 1, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 26(b)(2) is amended by striking ''and'' at the end of subparagraph (U), by striking the period and inserting '', and'' and the end of subparagraph (V), and by inserting after subparagraph (V) the following new subparagraph:

''(W) section 36(f) (relating to recapture of homebuyer credit).''.

(2) Section 6211(b)(4)(A) is amended by striking ''34,'' and all that follows through ''6428'' and inserting ''34, 35, 36, 53(e), and 6428''.

(3) Section 1324(b)(2) of title 31, United States Code, is amended by inserting '', 36,'' after ''section 35''.

(4) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by redesignating the item relating to section 36 as an item relating to section 37 and by inserting before such item the following new item:

''Sec. 36. First-time homebuyer credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased on or after April 9, 2008, in taxable years ending on or after such date.

SEC. 3012. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.

(a) IN GENERAL.—Section 63(c)(1) (defining standard deduction) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) in the case of any taxable year beginning in 2008, the real property tax deduction.''.

(b) DEFINITION.—Section 63(c) is amended by adding at the end the following new paragraph:

''(8) REAL PROPERTY TAX DEDUCTION.—

''(A) IN GENERAL.—For purposes of paragraph (1), the real property tax deduction is the lesser of—

''(i) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or

''(ii) $500 ($1,000 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.

''(B) EXCEPTION.—The real property tax deduction shall not be allowed in the case of a taxpayer living in a jurisdiction in which the rate of tax for all residential real property taxes is increased, net of any tax rebates, through rate increases or the repeal or reduction of otherwise applicable deductions, credits, or offsets, at any time after the date of the enactment of this paragraph and before December 31, 2008. This subparagraph shall not apply in the case of a jurisdiction in which the rate of tax for all residential real property taxes is increased pursuant to an equalization policy in effect before the date of the enactment of this paragraph or as a result of any votes of the residents of such jurisdiction to increase funding for preschool, primary, secondary, or higher education.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Subtitle C—General Provisions

SEC. 3021. TEMPORARY LIBERALIZATION OF TAX-EXEMPT HOUSING BOND RULES.

(a) TEMPORARY INCREASE IN VOLUME CAP.—

(1) IN GENERAL.—Subsection (d) of section 146 is amended by adding at the end the following new paragraph:

''(5) INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2008.—

''(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 $11,000,000,000 multiplied by a fraction—

''(i) the numerator of which is the State ceiling applicable to the State for calendar year 2008, determined without regard to this paragraph, and

''(ii) the denominator of which is the sum of the State ceilings determined under clause (i) for all States.

''(B) SET ASIDE.—

''(i) IN GENERAL.—Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified housing issues.

''(ii) QUALIFIED HOUSING ISSUE.—For purposes of this paragraph, the term 'qualified housing issue' means—

''(I) an issue described in section 142(a)(7) (relating to qualified residential rental projects), or

''(II) a qualified mortgage issue (determined by substituting '12-month period' for '42-month period' each place it appears in section 143(a)(2)(D)(i)).''.

(2) CARRYFORWARD OF UNUSED LIMITATIONS.—Subsection (f) of section 146 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR INCREASED VOLUME CAP UNDER SUBSECTION (d)(5).—No amount which is attributable to the increase under subsection (d)(5) may be used—

''(A) for any issue other than a qualified housing issue (as defined in subsection (d)(5)), or

''(B) to issue any bond after calendar year 2010.''.

(b) TEMPORARY RULE FOR USE OF QUALIFIED MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING LOANS.—

(1) IN GENERAL.—Section 143(k) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULES FOR SUBPRIME REFINANCINGS.—

''(A) IN GENERAL.—Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

''(B) SPECIAL RULES.—In applying subparagraph (A) to any refinancing—

''(i) subsection (a)(2)(D)(i) shall be applied by substituting '12-month period' for '42-month period' each place it appears,

''(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

''(iii) subsection (e) (relating to purchase price requirement) shall be applied by using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

''(C) QUALIFIED SUBPRIME LOAN.—The term 'qualified subprime loan' means an adjustable rate single-family residential mortgage loan made after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.

''(D) TERMINATION.—This paragraph shall not apply to any bonds issued after December 31, 2010.''.

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

SEC. 3022. REPEAL OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT HOUSING BONDS, LOW-INCOME HOUSING TAX CREDIT, AND REHABILITATION CREDIT.

(a) TAX-EXEMPT INTEREST ON CERTAIN HOUSING BONDS EXEMPTED FROM ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (C) of section 57(a)(5) (relating to specified private activity bonds) is amended by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively, and by inserting after clause (ii) the following new clause:

''(iii) EXCEPTION FOR CERTAIN HOUSING BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after the date of the enactment of this clause if such bond is—

''(I) an exempt facility bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)),

''(II) a qualified mortgage bond (as defined in section 143(a)), or

''(III) a qualified veterans' mortgage bond (as defined in section 143(b)).

The preceding sentence shall not apply to any refunding bond unless such preceding sentence applied to the refunded bond (or in the case of a series of refundings, the original bond).''.

(2) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iii) TAX EXEMPT INTEREST ON CERTAIN HOUSING BONDS.—Clause (i) shall not apply in the case of any interest on a bond to which section 57(a)(5)(C)(iii) applies.''.

(b) ALLOWANCE OF LOW-INCOME HOUSING CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v) and inserting after clause (i) the following new clause:

''(ii) the credit determined under section 42 to the extent attributable to buildings placed in service after December 31, 2007,''.

(c) ALLOWANCE OF REHABILITATION CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4), as amended by subsection (b), is amended by striking ''and'' at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 47 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007, and''.

(d) EFFECTIVE DATE.—

(1) HOUSING BONDS.—The amendments made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) LOW INCOME HOUSING CREDIT.—The amendments made by subsection (b) shall apply to credits determined under section 42 of the Internal Revenue Code of 1986 to the extent attributable to buildings placed in service after December 31, 2007.

(3) REHABILITATION CREDIT.—The amendments made by subsection (c) shall apply to credits determined under section 47 of the Internal Revenue Code of 1986 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007.

SEC. 3023. BONDS GUARANTEED BY FEDERAL HOME LOAN BANKS ELIGIBLE FOR TREATMENT AS TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 149(b)(3) (relating to exceptions for certain insurance programs) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'' and by adding at the end the following new clause:

''(iv) subject to subparagraph (E), any guarantee by a Federal home loan bank made in connection with the original issuance of a bond during the period beginning on the date of the enactment of this clause and ending on December 31, 2010 (or a renewal or extension of a guarantee so made).''.

(b) SAFETY AND SOUNDNESS REQUIREMENTS.—Paragraph (3) of section 149(b) is amended by adding at the end the following new subparagraph:

''(E) SAFETY AND SOUNDNESS REQUIREMENTS FOR FEDERAL HOME LOAN BANKS.—Clause (iv) of subparagraph (A) shall not apply to any guarantee by a Federal home loan bank unless such bank meets safety and soundness collateral requirements for such guarantees which are at least as stringent as such requirements which apply under regulations applicable to such guarantees by Federal home loan banks as in effect on April 9, 2008.''.

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

SEC. 3024. MODIFICATION OF RULES PERTAINING TO FIRPTA NONFOREIGN AFFIDAVITS.

(a) IN GENERAL.—Subsection (b) of section 1445 (relating to exemptions) is amended by adding at the end the following:

''(9) ALTERNATIVE PROCEDURE FOR FURNISHING NONFOREIGN AFFIDAVIT.—For purposes of paragraphs (2) and (7)—

''(A) IN GENERAL.—Paragraph (2) shall be treated as applying to a transaction if, in connection with a disposition of a United States real property interest—

''(i) the affidavit specified in paragraph (2) is furnished to a qualified substitute, and

''(ii) the qualified substitute furnishes a statement to the transferee stating, under penalty of perjury, that the qualified substitute has such affidavit in his possession.

''(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph.''.

(b) QUALIFIED SUBSTITUTE.—Subsection (f) of section 1445 (relating to definitions) is amended by adding at the end the following new paragraph:

''(6) QUALIFIED SUBSTITUTE.—The term 'qualified substitute' means, with respect to a disposition of a United States real property interest—

''(A) the person (including any attorney or title company) responsible for closing the transaction, other than the transferor's agent, and

''(B) the transferee's agent.''.

(c) EXEMPTION NOT TO APPLY IF KNOWLEDGE OR NOTICE THAT AFFIDAVIT OR STATEMENT IS FALSE.—

(1) IN GENERAL.—Paragraph (7) of section 1445(b) (relating to special rules for paragraphs (2) and (3)) is amended to read as follows:

''(7) SPECIAL RULES FOR PARAGRAPHS (2), (3), AND (9).—Paragraph (2), (3), or (9) (as the case may be) shall not apply to any disposition—

''(A) if—

''(i) the transferee or qualified substitute has actual knowledge that the affidavit referred to in such paragraph, or the statement referred to in paragraph (9)(A)(ii), is false, or

''(ii) the transferee or qualified substitute receives a notice (as described in subsection (d)) from a transferor's agent, transferee's agent, or qualified substitute that such affidavit or statement is false, or

''(B) if the Secretary by regulations requires the transferee or qualified substitute to furnish a copy of such affidavit or statement to the Secretary and the transferee or qualified substitute fails to furnish a copy of such affidavit or statement to the Secretary at such time and in such manner as required by such regulations.''.

(2) LIABILITY.—

(A) NOTICE.—Paragraph (1) of section 1445(d) (relating to notice of false affidavit; foreign corporations) is amended to read as follows:

''(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN CORPORATIONS.—If—

''(A) the transferor furnishes the transferee or qualified substitute an affidavit described in paragraph (2) of subsection (b) or a domestic corporation furnishes the transferee an affidavit described in paragraph (3) of subsection (b), and

''(B) in the case of—

''(i) any transferor's agent—

''(I) such agent has actual knowledge that such affidavit is false, or

''(II) in the case of an affidavit described in subsection (b)(2) furnished by a corporation, such corporation is a foreign corporation, or

''(ii) any transferee's agent or qualified substitute, such agent or substitute has actual knowledge that such affidavit is false,

such agent or qualified substitute shall so notify the transferee at such time and in such manner as the Secretary shall require by regulations.''.

(B) FAILURE TO FURNISH NOTICE.—Paragraph (2) of section 1445(d) (relating to failure to furnish notice) is amended to read as follows:

''(2) FAILURE TO FURNISH NOTICE.—

''(A) IN GENERAL.—If any transferor's agent, transferee's agent, or qualified substitute is required by paragraph (1) to furnish notice, but fails to furnish such notice at such time or times and in such manner as may be required by regulations, such agent or substitute shall have the same duty to deduct and withhold that the transferee would have had if such agent or substitute had complied with paragraph (1).

''(B) LIABILITY LIMITED TO AMOUNT OF COMPENSATION.—An agent's or substitute's liability under subparagraph (A) shall be limited to the amount of compensation the agent or substitute derives from the transaction.''.

(C) CONFORMING AMENDMENT.—The heading for section 1445(d) is amended by striking ''OR TRANSFEREE'S AGENTS'' and inserting '', TRANSFEREE'S AGENTS, OR QUALIFIED SUBSTITUTES''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions of United States real property interests after the date of the enactment of this Act.

SEC. 3025. MODIFICATION OF DEFINITION OF TAX-EXEMPT USE PROPERTY FOR PURPOSES OF THE REHABILITATION CREDIT.

(a) IN GENERAL.—Subclause (I) of section 47(c)(2)(B)(v) is amended by striking ''section 168(h)'' and inserting ''section 168(h), except that '50 percent' shall be substituted for '35 percent' in paragraph (1)(B)(iii) thereof''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures properly taken into account for periods after December 31, 2007.

SEC. 3026. EXTENSION OF SPECIAL RULE FOR MORTGAGE REVENUE BONDS FOR RESIDENCES LOCATED IN DISASTER AREAS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended—

(1) by striking ''December 31, 1996'' and inserting ''May 1, 2008'', and

(2) by striking ''January 1, 1999'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after May 1, 2008.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

SEC. 3031. REVISIONS TO REIT INCOME TESTS.

(a) FOREIGN CURRENCY GAINS NOT GROSS INCOME IN APPLYING REIT INCOME TESTS.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

''(n) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—

''(1) IN GENERAL.—For purposes of this part—

''(A) passive foreign exchange gain for any taxable year shall not constitute gross income for purposes of subsection (c)(2), and

''(B) real estate foreign exchange gain for any taxable year shall not constitute gross income for purposes of subsection (c)(3).

''(2) REAL ESTATE FOREIGN EXCHANGE GAIN.—For purposes of this subsection, the term 'real estate foreign exchange gain' means—

''(A) foreign currency gain (as defined in section 988(b)(1)) which is attributable to—

''(i) any item of income or gain described in subsection (c)(3),

''(ii) the acquisition or ownership of obligations secured by mortgages on real property or on interests in real property (other than foreign currency gain attributable to any item of income or gain described in clause (i)), or

''(iii) becoming or being the obligor under obligations secured by mortgages on real property or on interests in real property (other than foreign currency gain attributable to any item of income or gain described in clause (i)),

''(B) section 987 gain attributable to a qualified business unit (as defined by section 989) of the real estate investment trust, but only if such qualified business unit meets the requirements under—

''(i) subsection (c)(3) for the taxable year, and

''(ii) subsection (c)(4)(A) at the close of each quarter that the real estate investment trust has directly or indirectly held the qualified business unit, and

''(C) any other foreign currency gain as determined by the Secretary.

''(3) PASSIVE FOREIGN EXCHANGE GAIN.—For purposes of this subsection, the term 'passive foreign exchange gain' means—

''(A) real estate foreign exchange gain,

''(B) foreign currency gain (as defined in section 988(b)(1)) which is not described in subparagraph (A) and which is attributable to—

''(i) any item of income or gain described in subsection (c)(2),

''(ii) the acquisition or ownership of obligations (other than foreign currency gain attributable to any item of income or gain described in clause (i)), or

''(iii) becoming or being the obligor under obligations (other than foreign currency gain attributable to any item of income or gain described in clause (i)), and

''(C) any other foreign currency gain as determined by the Secretary.

''(4) EXCEPTION FOR INCOME FROM SUBSTANTIAL AND REGULAR TRADING.—Notwithstanding this subsection or any other provision of this part, any section 988 gain derived by a corporation, trust, or association from engaging in substantial and regular trading or dealing in securities (as defined in section 475(c)(2)) shall constitute gross income which does not qualify under paragraph (2) or (3) of subsection (c). This paragraph shall not apply to income which does not constitute gross income by reason of subsection (c)(5)(G).''.

(b) ADDITION TO REIT HEDGING RULE.—Subparagraph (G) of section 856(c)(5) is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent as determined by the Secretary—

''(i) any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not constitute gross income under paragraphs (2) and (3) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

''(ii) any income of a real estate investment trust from a transaction entered into by the trust primarily to manage risk of currency fluctuations with respect to any item of income or gain described in paragraph (2) or (3) (or any property which generates such income or gain), including gain from the termination of such a transaction, shall not constitute gross income under paragraphs (2) and (3), but only if such transaction is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may prescribe).''.

(c) AUTHORITY TO EXCLUDE ITEMS OF INCOME FROM REIT INCOME TESTS.—Section 856(c)(5), as amended by the Heartland, Habitat, Harvest, and Horticulture Act of 2008, is amended by adding at the end the following new subparagraph:

''(J) SECRETARIAL AUTHORITY TO EXCLUDE OTHER ITEMS OF INCOME.—To the extent necessary to carry out the purposes of this part, the Secretary is authorized to determine, solely for purposes of this part, whether any item of income or gain which—

''(i) does not otherwise qualify under paragraph (2) or (3) may be considered as not constituting gross income, or

''(ii) otherwise constitutes gross income not qualifying under paragraph (2) or (3) may be considered as gross income which qualifies under paragraph (2) or (3).''.

SEC. 3032. REVISIONS TO REIT ASSET TESTS.

(a) CLARIFICATION OF VALUATION TEST.—The first sentence in the matter following section 856(c)(4)(B)(iii)(III) is amended by inserting ''(including a discrepancy caused solely by the change in the foreign currency exchange rate used to value a foreign asset)'' after ''such requirements''.

(b) CLARIFICATION OF PERMISSIBLE ASSET CATEGORY.—Section 856(c)(5), as amended by section 3031(c), is amended by adding at the end the following new subparagraph:

''(K) CASH.—If the real estate investment trust or its qualified business unit (as defined in section 989) uses any foreign currency as its functional currency (as defined in section 985(b)), the term 'cash' includes such foreign currency but only to the extent such foreign currency—

''(i) is held for use in the normal course of the activities of the trust or qualified business unit which give rise to items of income or gain described in paragraph (2) or (3) of subsection (c) or are directly related to acquiring or holding assets described in subsection (c)(4), and

''(ii) is not held in connection with an activity described in subsection (n)(4).''.

SEC. 3033. CONFORMING FOREIGN CURRENCY REVISIONS.

(a) NET INCOME FROM FORECLOSURE PROPERTY.—Clause (i) of section 857(b)(4)(B) is amended to read as follows:

''(i) gain (including any foreign currency gain, as defined in section 988(b)(1)) from the sale or other disposition of foreclosure property described in section 1221(a)(1) and the gross income for the taxable year derived from foreclosure property (as defined in section 856(e)), but only to the extent such gross income is not described in (or, in the case of foreign currency gain, not attributable to gross income described in) section 856(c)(3) other than subparagraph (F) thereof, over''.

(b) NET INCOME FROM PROHIBITED TRANSACTIONS.—Clause (i) of section 857(b)(6)(B) is amended to read as follows:

''(i) the term 'net income derived from prohibited transactions' means the excess of the gain (including any foreign currency gain, as defined in section 988(b)(1)) from prohibited transactions over the deductions (including any foreign currency loss, as defined in section 988(b)(2)) allowed by this chapter which are directly connected with prohibited transactions;''.

Subtitle B—Taxable REIT Subsidiaries

SEC. 3041. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.

Section 856(c)(4)(B)(ii) is amended—

(1) by striking ''20 percent'' and inserting ''25 percent'', and

(2) by striking ''REIT subsidiaries'' and all that follows, and inserting ''REIT subsidiaries,''.

Subtitle C—Dealer Sales

SEC. 3051. HOLDING PERIOD UNDER SAFE HARBOR.

Section 857(b)(6) (relating to income from prohibited transactions) is amended—

(1) by striking ''4 years'' in subparagraphs (C)(i), (C)(iv), and (D)(i) and inserting ''2 years'',

(2) by striking ''4-year period'' in subparagraphs (C)(ii), (D)(ii), and (D)(iii) and inserting ''2-year period'', and

(3) by striking ''real estate asset''and all that follows through ''if'' in the matter preceding clause (i) of subparagraphs (C) and (D), respectively, and inserting ''real estate asset (as defined in section 856(c)(5)(B)) and which is described in section 1221(a)(1) if''.

SEC. 3052. DETERMINING VALUE OF SALES UNDER SAFE HARBOR.

Section 857(b)(6) is amended—

(1) by striking the semicolon at the end of subparagraph (C)(iii) and inserting '', or (III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year;'', and

(2) by adding ''or'' at the end of subclause (II) of subparagraph (D)(iv) and by adding at the end of such subparagraph the following new subclause:

''(III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year,''.

Subtitle D—Health Care REITs

SEC. 3061. CONFORMITY FOR HEALTH CARE FACILITIES.

(a) RELATED PARTY RENTALS.—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

''(B) EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility (as defined in paragraph (9)(D)) or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor. For purposes of this section, a taxable REIT subsidiary is not considered to be operating or managing a qualified health care property or qualified lodging facility solely because it—

''(i) directly or indirectly possesses a license, permit, or similar instrument enabling it to do so, or

''(ii) employs individuals working at such facility or property located outside the United States, but only if an eligible independent contractor is responsible for the daily supervision and direction of such individuals on behalf of the taxable REIT subsidiary pursuant to a management agreement or similar service contract.''.

(b) ELIGIBLE INDEPENDENT CONTRACTOR.—Subparagraphs (A) and (B) of section 856(d)(9) (relating to eligible independent contractor) are amended to read as follows:

''(A) IN GENERAL.—The term 'eligible independent contractor' means, with respect to any qualified lodging facility or qualified health care property (as defined in subsection (e)(6)(D)(i)), any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate such qualified lodging facility or qualified health care property, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities or qualified health care properties, respectively, for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

''(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility or qualified health care property (as so defined) by reason of the following:

''(i) The taxable REIT subsidiary bears the expenses for the operation of such qualified lodging facility or qualified health care property pursuant to the management agreement or other similar service contract.

''(ii) The taxable REIT subsidiary receives the revenues from the operation of such qualified lodging facility or qualified health care property, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

''(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

''(I) January 1, 1999, or

''(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility or qualified health care property.''.

(c) TAXABLE REIT SUBSIDIARIES.—The last sentence of section 856(l)(3) is amended—

(1) by inserting ''or a health care facility'' after ''a lodging facility'', and

(2) by inserting ''or health care facility'' after ''such lodging facility''.

Subtitle E—Effective Dates

SEC. 3071. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REIT INCOME TESTS.—

(1) The amendments made by section 3031(a) and (c) shall apply to gains and items of income recognized after the date of the enactment of this Act.

(2) The amendment made by section 3031(b) shall apply to transactions entered into after the date of the enactment of this Act.

(c) CONFORMING FOREIGN CURRENCY REVISIONS.—

(1) The amendment made by section 3033(a) shall apply to gains recognized after the date of the enactment of this Act.

(2) The amendment made by section 3033(b) shall apply to gains and deductions recognized after the date of the enactment of this Act.

(d) DEALER SALES.—The amendments made by subtitle C shall apply to sales made after the date of the enactment of this Act.

TITLE III—REVENUE PROVISIONS

Subtitle A—General Provisions

SEC. 3081. ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.

(a) IN GENERAL.—Section 168(k) is amended by adding at the end the following new paragraph:

''(4) ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.—

''(A) IN GENERAL.—If a corporation elects to have this paragraph apply—

''(i) no additional depreciation shall be allowed under paragraph (1) for any eligible qualified property placed in service during any taxable year to which paragraph (1) would otherwise apply,

''(ii) the applicable depreciation method used under this section with respect to such eligible qualified property shall be the straight line method rather than the method that would otherwise be used, and

''(iii) the limitations described in subparagraph (B) for such taxable year shall be increased by an aggregate amount not in excess of the bonus depreciation amount for such taxable year.

''(B) LIMITATIONS TO BE INCREASED.—The limitations described in this subparagraph are—

''(i) the limitation under section 38(c), and

''(ii) the limitation under section 53(c).

''(C) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The bonus depreciation amount for any applicable taxable year is an amount equal to the product of 20 percent and the excess (if any) of—

''(I) the aggregate amount of depreciation which would be determined under this section for property placed in service during the taxable year if no election under this paragraph were made, over

''(II) the aggregate amount of depreciation allowable under this section for property placed in service during the taxable year.

In the case of property which is a passenger aircraft, the amount determined under subclause (I) shall be calculated without regard to the written binding contract limitation under paragraph (2)(A)(iii)(I).

''(ii) MAXIMUM AMOUNT.—The bonus depreciation amount for any applicable taxable year shall not exceed the applicable limitation under clause (iii), reduced (but not below zero) by the bonus depreciation amount for any preceding taxable year.

''(iii) APPLICABLE LIMITATION.—For purposes of clause (ii), the term 'applicable limitation' means, with respect to any eligible taxpayer, the lesser of—

''(I) $30,000,000, or

''(II) 6 percent of the sum of the amounts determined with respect to the taxpayer under clauses (ii) and (iii) of subparagraph (E).

''(iv) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated as 1 taxpayer for purposes of applying the limitation under this subparagraph and determining the applicable limitation under clause (iii).

''(D) ELIGIBLE QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'eligible qualified property' means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this clause—

''(i) 'March 31, 2008' shall be substituted for 'December 31, 2007' each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof,

''(ii) only adjusted basis attributable to manufacture, construction, or production after March 31, 2008, and before January 1, 2009, shall be taken into account under subparagraph (B)(ii) thereof, and

''(iii) in the case of property which is a passenger aircraft, the written binding contract limitation under subparagraph (A)(iii)(I) thereof shall not apply.

''(E) ALLOCATION OF BONUS DEPRECIATION AMOUNTS.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount which is to be allocated to each of the limitations described in subparagraph (B).

''(ii) BUSINESS CREDIT LIMITATION.—The portion of the bonus depreciation amount allocated to the limitation described in subparagraph (B)(i) shall not exceed an amount equal to the portion of the credit allowable under section 38 for the taxable year which is allocable to business credit carryforwards to such taxable year which are—

''(I) from taxable years beginning before January 1, 2006, and

''(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

''(iii) ALTERNATIVE MINIMUM TAX CREDIT LIMITATION.—The portion of the bonus depreciation amount allocated to the limitation described in subparagraph (B)(ii) shall not exceed an amount equal to the portion of the minimum tax credit allowable under section 53 for the taxable year which is allocable to the adjusted minimum tax imposed for taxable years beginning before January 1, 2006. For purposes of the preceding sentence, credits shall be treated as allowed on a first-in, first-out basis.

''(F) CREDIT REFUNDABLE.—Any aggregate increases in the credits allowed under section 38 or 53 by reason of this paragraph shall, for purposes of this title, be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A.

''(G) OTHER RULES.—

''(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (E)) may be revoked only with the consent of the Secretary.

''(ii) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Notwithstanding this paragraph, paragraph (2)(G) shall apply with respect to the deduction computed under this section (after application of this paragraph) with respect to property placed in service during any applicable taxable year.''.

(b) APPLICATION TO CERTAIN AUTOMOTIVE PARTNERSHIPS.—

(1) IN GENERAL.—If an applicable partnership elects the application of this subsection—

(A) the partnership shall be treated as having made a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any applicable taxable year of the partnership in the amount determined under paragraph (3),

(B) in the case of any eligible qualified property placed in service by the partnership during any applicable taxable year—

(i) section 168(k) of such Code shall not apply in determining the amount of the deduction allowable to the partnership or any partner with respect to such property under section 168 of such Code,

(ii) the applicable depreciation method used by the partnership or any partner under such section with respect to such property shall be the straight line method rather than the method that would otherwise be used,

(C) no election may be made under section 168(k)(4) of such Code with respect to the partnership, and

(D) the amount of the credit determined under section 41 of such Code for any applicable taxable year with respect to the partnership shall be reduced by the amount of the deemed payment under subparagraph (A) for the taxable year.

(2) TREATMENT OF DEEMED PAYMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986, the Secretary of the Treasury or his delegate shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the applicable partnership or any partner but shall refund such payment to the applicable partnership.

(B) NO INTEREST.—The payment described in paragraph (1) shall not be taken into account in determining any amount of interest under such Code.

(3) AMOUNT OF DEEMED PAYMENT.—The amount determined under this paragraph for any applicable taxable year shall be the least of the following:

(A) The amount which would be determined for the taxable year under section 168(k)(4)(C)(i) of the Internal Revenue Code of 1986 (as added by the amendments made by this section) if an election under such section were in effect with respect to the partnership.

(B) The amount of the credit determined under section 41 of such Code for the taxable year with respect to the partnership.

(C) $30,000,000, reduced by the amount of any payment under this subsection for any preceding taxable year.

(4) DEFINITIONS.—For purposes of this subsection—

(A) APPLICABLE PARTNERSHIP.—The term ''applicable partnership'' means a domestic partnership that—

(i) was formed effective on August 3, 2007, and

(ii) will produce in excess of 675,000 automobiles during the period beginning on January 1, 2008, and ending on June 30, 2008.

(B) APPLICABLE TAXABLE YEAR.—The term ''applicable taxable year'' means any taxable year during which eligible qualified property is placed in service.

(C) ELIGIBLE QUALIFIED PROPERTY.—The term ''eligible qualified property'' has the meaning given such term by section 168(k)(4)(D) of the Internal Revenue Code of 1986 (as added by the amendments made by this section).

(c) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, as amended by this Act, is amended—

(1) by inserting ''168(k)(4)(F),'' after ''36,'', and

(2) by inserting '', or due under section 3081(b)(2) of the Housing Assistance Tax Act of 2008'' before the period at the end.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 31, 2008.

SEC. 3082. CERTAIN GO ZONE INCENTIVES.

(a) USE OF AMENDED INCOME TAX RETURNS TO TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-RELATED CASUALTY LOSS GRANTS BY DISALLOWING PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986, if a taxpayer claims a deduction for any taxable year with respect to a casualty loss to a principal residence (within the meaning of section 121 of such Code) resulting from Hurricane Katrina, Hurricane Rita, or Hurricane Wilma and in a subsequent taxable year receives a grant under Public Law 109–148, 109–234, or 110–116 as reimbursement for such loss, such taxpayer may elect to file an amended income tax return for the taxable year in which such deduction was allowed (and for any taxable year to which such deduction is carried) and reduce (but not below zero) the amount of such deduction by the amount of such reimbursement.

(2) TIME OF FILING AMENDED RETURN.—Paragraph (1) shall apply with respect to any grant only if any amended income tax returns with respect to such grant are filed not later than the later of—

(A) the due date for filing the tax return for the taxable year in which the taxpayer receives such grant, or

(B) the date which is 1 year after the date of the enactment of this Act.

(3) WAIVER OF PENALTIES AND INTEREST.—Any underpayment of tax resulting from the reduction under paragraph (1) of the amount otherwise allowable as a deduction shall not be subject to any penalty or interest under such Code if such tax is paid not later than 1 year after the filing of the amended return to which such reduction relates.

(b) WAIVER OF DEADLINE ON CONSTRUCTION OF GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.—

(1) IN GENERAL.—Subparagraph (B) of section 1400N(d)(3) is amended to read as follows:

''(B) without regard to 'and before January 1, 2009' in clause (i) thereof, and''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(c) INCLUSION OF CERTAIN COUNTIES IN GULF OPPORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—Subsection (a) of section 1400N is amended by adding at the end the following new paragraph:

''(8) INCLUSION OF CERTAIN COUNTIES.—For purposes of this subsection, the Gulf Opportunity Zone includes Colbert County, Alabama and Dallas County, Alabama.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 to which it relates.

Subtitle B—Revenue Offsets

SEC. 3091. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

''SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.

''(a) IN GENERAL.—Each payment settlement entity shall make a return for each calendar year setting forth—

''(1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable transactions are made, and

''(2) the gross amount of the reportable transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

''(b) PAYMENT SETTLEMENT ENTITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'payment settlement entity' means—

''(A) in the case of a payment card transaction, the merchant acquiring bank, and

''(B) in the case of a third party network transaction, the third party settlement organization.

''(2) MERCHANT ACQUIRING BANK.—The term 'merchant acquiring bank' means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

''(3) THIRD PARTY SETTLEMENT ORGANIZATION.—The term 'third party settlement organization' means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.

''(4) SPECIAL RULES RELATED TO INTERMEDIARIES.—For purposes of this section—

''(A) AGGREGATED PAYEES.—In any case where reportable transactions of more than one participating payee are settled through an intermediary—

''(i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and

''(ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.

''(B) ELECTRONIC PAYMENT FACILITATORS.—In any case where an electronic payment facilitator or other third party makes payments in settlement of reportable transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

''(c) REPORTABLE TRANSACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction' means any payment card transaction and any third party network transaction.

''(2) PAYMENT CARD TRANSACTION.—The term 'payment card transaction' means any transaction in which a payment card is accepted as payment.

''(3) THIRD PARTY NETWORK TRANSACTION.—The term 'third party network transaction' means any transaction which is settled through a third party payment network.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) PARTICIPATING PAYEE.—

''(A) IN GENERAL.—The term 'participating payee' means—

''(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

''(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

''(B) EXCLUSION OF FOREIGN PERSONS.—To the extent provided by the Secretary in regulations or other guidance, such term shall not include any foreign person.

''(C) INCLUSION OF GOVERNMENTAL UNITS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

''(2) PAYMENT CARD.—The term 'payment card' means any card which is issued pursuant to an agreement or arrangement which provides for—

''(A) one or more issuers of such cards,

''(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

''(C) standards and mechanisms for settling the transactions between the merchant acquiring banks and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this section in the same manner as accepting such payment card as payment.

''(3) THIRD PARTY PAYMENT NETWORK.—The term 'third party payment network' means any agreement or arrangement—

''(A) which involves the establishment of accounts with a central organization for the purpose of settling transactions between persons who establish such accounts,

''(B) which provides for standards and mechanisms for settling such transactions,

''(C) which involves a substantial number of persons unrelated to such central organization who provide goods or services and who have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement, and

''(D) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

''(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third party settlement organization shall not be required to report any information under subsection (a) with respect to third party network transactions of any participating payee if the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions does not exceed $10,000 and the aggregate number of such transactions does not exceed 200.

''(f) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the gross amount of payments made to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(g) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.''.

(b) PENALTY FOR FAILURE TO FILE.—

(1) RETURN.—Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking ''or'' at the end of clause (xx),

(B) by redesignating the clause (xix) that follows clause (xx) as clause (xxi),

(C) by striking ''and'' at the end of clause (xxi), as redesignated by subparagraph (B) and inserting ''or'', and

(D) by adding at the end the following:

''(xxii) section 6050W (relating to returns to payments made in settlement of payment card transactions), and''.

(2) STATEMENT.—Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (BB), by striking the period at the end of the subparagraph (CC) and inserting '', or'', and by inserting after subparagraph (CC) the following:

''(DD) section 6050W(c) (relating to returns relating to payments made in settlement of payment card transactions).''.

(c) APPLICATION OF BACKUP WITHHOLDING.—Paragraph (3) of section 3406(b) is amended by striking ''or'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', or'', and by adding at the end the following new subparagraph:

''(F) section 6050W (relating to returns relating to payments made in settlement of payment card transactions).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following:

''Sec. 6050W. Returns relating to payments made in settlement of payment card transactions.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2010.

(2) APPLICATION OF BACKUP WITHHOLDING.—The amendment made by subsection (c) shall apply to amounts paid after December 31, 2011.

SEC. 3092. GAIN FROM SALE OF PRINCIPAL RESIDENCE ALLOCATED TO NONQUALIFIED USE NOT EXCLUDED FROM INCOME.

(a) IN GENERAL.—Subsection (b) of section 121 of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION OF GAIN ALLOCATED TO NONQUALIFIED USE.—

''(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale or exchange of property as is allocated to periods of nonqualified use.

''(B) GAIN ALLOCATED TO PERIODS OF NONQUALIFIED USE.—For purposes of subparagraph (A), gain shall be allocated to periods of nonqualified use based on the ratio which—

''(i) the aggregate periods of nonqualified use during the period such property was owned by the taxpayer, bears to

''(ii) the period such property was owned by the taxpayer.

''(C) PERIOD OF NONQUALIFIED USE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'period of nonqualified use' means any period (other than the portion of any period preceding January 1, 2009) during which the property is not used as the principal residence of the taxpayer or the taxpayer's spouse or former spouse.

''(ii) EXCEPTIONS.—The term 'period of nonqualified use' does not include—

''(I) any portion of the 5-year period described in subsection (a) which is after the last date that such property is used as the principal residence of the taxpayer or the taxpayer's spouse,

''(II) any period (not to exceed an aggregate period of 10 years) during which the taxpayer or the taxpayer's spouse is serving on qualified official extended duty (as defined in subsection (d)(9)(C)) described in clause (i), (ii), or (iii) of subsection (d)(9)(A), and

''(III) any other period of temporary absence (not to exceed an aggregate period of 2 years) due to change of employment, health conditions, or such other unforeseen circumstances as may be specified by the Secretary.

''(D) COORDINATION WITH RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—For purposes of this paragraph—

''(i) subparagraph (A) shall be applied after the application of subsection (d)(6), and

''(ii) subparagraph (B) shall be applied without regard to any gain to which subsection (d)(6) applies.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales and exchanges after December 31, 2008.

SEC. 3093. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$50''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$500,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$75''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721are each amended by striking ''$150,000'' and inserting ''$1,000,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$100,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$250,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.—

(1) IN GENERAL.—Subsection (a) of section 6722 is amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a) and (c)(2)(A) of section 6722 are each amended by striking ''$100,000'' and inserting ''$500,000''.

(3) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (1) of section 6722(c) is amended by striking ''$100'' and inserting ''$250''.

(g) FAILURE TO COMPLY WITH OTHER INFORMATION REPORTING REQUIREMENTS.—Section 6723 is amended—

(1) by striking ''$50'' and inserting ''$100'', and

(2) by striking ''$100,000'' and inserting ''$500,000''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2009.

SEC. 3094. INCREASE IN PENALTY FOR FAILURE TO FILE S CORPORATION RETURNS.

(a) IN GENERAL.—Paragraph (1) of section 6699(b) (relating to amount per month) is amended by striking ''$85'' and inserting ''$100''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for the filing of which (including extensions) is after the date of the enactment of this Act.

SEC. 3095. INCREASE IN PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS.

(a) INCREASE IN PENALTY AMOUNT.—Paragraph (1) of section 6698(b) (relating to amount per month) is amended by striking ''$85'' and inserting ''$100''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for the filing of which (including extensions) is after the date of the enactment of this Act.

SEC. 3096. INCREASE IN MINIMUM PENALTY ON FAILURE TO FILE A RETURN OF TAX.

(a) IN GENERAL.—Subsection (a) of section 6651, as amended by section 303(a) of the Heroes Earnings Assistance and Relief Tax Act of 2008, is amended by striking ''$135'' in the last sentence and inserting ''$225''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for the filing of which (including extensions) is after the date of the enactment of this Act.

SA 4984. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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; as follows:

At the appropriate place, insert the following:

SEC. ___. REGULATION OF APPRAISAL STANDARDS.

Section 1319G of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4526) is amended by adding at the end the following new subsection:

''(d) REGULATION OF APPRAISAL STANDARDS.—

''(1) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, but not later than December 31, 2008, the Director shall issue in final form a regulation that establishes appraisal standards for mortgages purchased or guaranteed by the enterprises.

''(2) CONSISTENCY.—In issuing the regulation required by this subsection, the Director shall ensure that the regulation is consistent with appraisal regulations and guidelines issued by the Federal banking agencies (as that term is defined in section 3(z) of the Federal Deposit Insurance Act) and the National Credit Union Administration, including regulations and guidelines related to the independence and accuracy of appraisals, and do not conflict with any other banking regulations.

''(3) APPLICATION.—The regulation issued pursuant to this subsection shall supersede the terms of any agreement relating to appraisal standards entered into by the Director or the enterprises prior to or after the issuance of the regulation required by this subsection in final form, to the extent that any such agreement is inconsistent with the regulation. The Director shall have the authority to make determinations, at the Director's discretion and in response to requests for such determinations, as to whether any such agreements are, or have become, inconsistent with applicable regulations, and any terms of any such prior agreement that are consistent with the regulation shall not be effective until 1 year following the date of enactment of the issuance of the regulation in final form.''.

SA 4985. Mr. BOND (for himself and Mr. BARRASSO) proposed an amendment to amendment SA 4983 proposed by Mr. REID (for 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; as follows:

Strike title IV of division A.

SA 4986. Mr. BOND proposed an amendment to amendment SA 4983 proposed by Mr. REID (for 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; as follows:

Insert the following at the appropriate place:

SEC. xxx. Notwithstanding any other provision of law, Fannie Mae and Freddie Mac shall not be responsible for any payments either directly or indirectly to other Housing entities under the Affordable Housing program unless these GSEs voluntarily provide funding. None of these funds shall be used for soft program costs, including staff costs.

SA 4987. Mr. BOND proposed an amendment to amendment SA 4983 proposed by Mr. REID (for 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; as follows:

On page 522, between lines 2 and 3, insert the following:

''(iii) If the loan is an adjustable rate mortgage that includes an initial fixed interest rate—

''(I) state in conspicuous type size and format the following phrase: This loan is an adjustable rate mortgage with an initial fixed interest rate. Your initial fixed interest rate is AAA with a monthly payment of BBB until CCC. After that date, the interest rate on your loan will 'reset' to an adjustable rate and both your interest rate and payment could go higher on that date and in the future. For example, if your initial fixed rate ended today, your new adjustable interest rate would be DDD and your new payment EEE. If interest rates are one percent higher than they are today or at some point in the future, your new payment would be FFF. There is no guarantee you will be able to refinance your loan to a lower interest rate and payment before your initial fixed interest rate ends.;

''(II) the blank AAA in subparagraph (I) to be filled in with the initial fixed interest rate;

''(III) the blank BBB in subparagraph (I) to be filled in with the payment amount under the initial fixed interest rate;

''(IV) the blank CCC in subparagraph (I) to be filled in with the loan reset date;

''(V) the blank DDD in subparagraph (I) to be filled in with the adjustable rate as if the initial rate expired on the date of disclosure under subparagraph (B);

''(VI) the blank EEE in subparagraph (I) to be filled in with the payment under the adjustable rate as if the initial rate expired on the date of disclosure under subparagraph (B); and

''(VII) the blank FFF in subparagraph (I) to be filled in with the payment under the adjustable rate

''(iv) If the loan contains a prepayment penalty—

''(I) state in conspicuous type and format the following phrase: This loan contains a prepayment penalty. If you desire to pay off this loan before GGG, you will pay a penalty of HHH.;

''(II) the blank GGG in subparagraph (I) to be filled in with the date the prepayment penalty expires; and

''(III) the blank HHH in subparagraph (I) to be filled in with the prepayment penalty amount.

SA 4988. Mr. KOHL (for himself, Mrs. LINCOLN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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; as follows:

At the end of division B, insert the following:

TITLE VII—FORECLOSURE RESCUE FRAUD PROTECTION

SEC. 2701. SHORT TITLE.

This title may be cited as the ''Foreclosure Rescue Fraud Act of 2008''.

SEC. 2702. 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 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;

(iii) a housing counseling agency approved by the Secretary;

(iv) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(v) a Federal credit union or a State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)); or

(vi) an insurance company organized under the laws of any 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. 2703. 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.—Notwithstanding any other provision of law, 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. 2704. 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 and successor telephone numbers and Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Housing Counseling Line and Tips for Avoiding Foreclosure website, respectively).

SEC. 2705. CIVIL LIABILITY.

(a) LIABILITY ESTABLISHED.—Any foreclosure consultant who fails to comply with any provision of section 2703 or 2704 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. 2706. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of a prohibition described in section 2703 or a failure to comply with any provision of section 2703 or 2704 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 2703 and 2704 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 2703 or 2704, 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 2705 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 2703 or 2704, 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 2703 or 2704 that is alleged in that complaint.

SEC. 2707. 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 4989. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 564, beginning at line 7, strike through page 572, line 22, and insert the following:

SEC. 3011. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to so much of the purchase price of the residence as does not exceed $7,000.

''(2) ALLOCATION OF CREDIT AMOUNT.—The amount of the credit allowed under paragraph (1) shall be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after June 30, 2008, and

''(B) before July 1, 2009.

''(2) 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 any 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) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other qualified principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

''(c) QUALIFIED PRINCIPAL RESIDENCE.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified principal residence' means an eligible single-family residence that is purchased to be the principal residence of the purchaser.

''(2) ELIGIBLE SINGLE-FAMILY RESIDENCE.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'eligible single-family residence' means a single-family structure that is—

''(i) a new previously unoccupied residence for which a building permit is issued and construction begins on or before September 1, 2007,

''(ii) an owner-occupied residence with respect to which the owner's acquisition indebtedness (as defined in section 163(h)(3)(B), determined without regard to clause (ii) thereof) is in default on or before July 1, 2008, or

''(iii) a residence with respect to which a foreclosure event has taken place and which is owned by the mortgagor or the mortgagor's agent.

''(B) CERTIFICATION.—In the case of an eligible single-family residence described in subparagraph (A)(i), 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.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$3,500' for '$7,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $7,000.

''(2) PURCHASE.—In defining the purchase of a qualified principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.''.

(b) CONFORMING AMENDMENT.—Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 25E(f).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

SA 4990. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 Division B, insert the following:

TITLE VII—ENSURING ASSISTANCE IS PROVIDED ONLY TO DESERVING HOMEOWNERS

SEC. 2701. 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 3021(b) of this Act.

(3) Any tax credit related to first-time homebuyers allowable under section 36 of the Internal Revenue Code of 1986, as added by section 3011 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.—Housing assistance may 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.

(c) REQUIRED DOCUMENTATION.—In order to prove to the head of a Federal agency administering any housing assistance that a homeowner has not violated the prohibitions described in subsection (b), such a homeowner shall provide documentation sufficient to the satisfaction of such agency head that demonstrates that the homeowner did not make any—

(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 4991. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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:

TITLE _____—ENERGY EFFICIENT MORTGAGES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Energy Efficient Mortgages Act of 2008''.

SEC. ___02. DEFINITION.

As used in this title, the term ''energy efficient mortgage'' means a mortgage loan under which the income of the borrower, for purposes of qualification for such loan, is considered to be increased by not less than $1 for each $1 of savings projected to be realized by the borrower as a result of cost-effective energy saving construction or improvements for the home for which the loan is made.

SEC. ___03. ADDITIONAL CREDIT FOR FANNIE MAE AND FREDDIE MAC HOUSING GOALS FOR ENERGY EFFICIENT MORTGAGES.

Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (2), by inserting '', except as provided in paragraph (4),'' after ''which''; and

(2) by adding at the end the following new paragraph:

''(5) ADDITIONAL CREDIT.—

''(A) AMOUNT.—

''(i) IN GENERAL.—In assigning credit toward achievement under this section of the housing goals for mortgage purchase activities of the enterprises, the Director shall assign not less than 125 percent credit, for purchases of mortgages that—

''(I) comply with the requirements of such goals; and

''(II) are energy efficient mortgages, as such term is defined under section _____02 of the Energy Efficient Mortgages Act of 2008.

''(ii) EXTENT OF CREDIT.—Any additional credit assigned under clause (i) shall be given based on the extent to which the housing supported with such purchases is energy efficient.

''(B) TREATMENT OF ADDITIONAL CREDIT.—The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.''.

SEC. ___04. AUTHORITY OF HOUSING-RELATED GOVERNMENT-SPONSORED ENTERPRISES WITH RESPECT TO ENERGY EFFICIENT MORTGAGES AND REPORTING.

(a) FANNIE MAE PURCHASE AUTHORITY.—The Federal National Mortgage Association Charter Act is amended—

(1) in section 302(b) (12 U.S.C. 1717(b)), by adding at the end the following new paragraph:

''(7) The mortgages specified in this subsection that the corporation is authorized to purchase, sell, service, lend on the security of, and otherwise deal in, shall include any such mortgages that are energy efficient mortgages (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008).''; and

(2) in section 309 (12 U.S.C. 1723a)—

(A) in subsection (m)—

(i) in paragraph (1)—

(I) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(II) by inserting after subparagraph (C) the following new subparagraph:

''(D) whether a particular mortgage purchased is an energy efficient mortgage (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008);''; and

(ii) in paragraph (2)(D), by inserting before the closing parenthesis the following: '', and whether the mortgage is an energy efficient mortgage (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008)''; and

(B) in subsection (n)(2)(C), by inserting before the semicolon the following: ''and the extent to which the mortgages on single family and multifamily housing purchased by the corporation are energy efficient mortgages (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008)''.

(b) FREDDIE MAC PURCHASE AUTHORITY.—The Federal Home Loan Mortgage Corporation Act is amended—

(1) in section 305(a) (12 U.S.C. 1454), by adding at the end the following new paragraph:

''(6) The mortgages specified in this subsection that the Corporation is authorized to purchase, sell, service, lend on the security of, and otherwise deal in, shall include any such mortgages that are energy efficient mortgages (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008).''; and

(2) in section 307 (12 U.S.C. 1456)—

(A) in subsection (e)—

(i) in paragraph (1)—

(I) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(II) by inserting after subparagraph (C) the following new subparagraph:

''(D) whether a particular mortgage purchased is an energy efficient mortgage (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008);''; and

(ii) in paragraph (2)(D), by inserting before the closing parenthesis the following: '', and whether the mortgage is an energy efficient mortgage (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008)''; and

(B) in subsection (f)(2)(C), by inserting before the semicolon the following: ''and the extent to which the mortgages on single family and multifamily housing purchased by the Corporation are energy efficient mortgages (as such term is defined in section _____02 of the Energy Efficient Mortgages Act of 2008)''.

SEC. ___05. RECOMMENDATIONS TO ELIMINATE BARRIERS TO USE OF ENERGY EFFICIENT MORTGAGES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Secretary of Housing and Urban Development, in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall consult with the residential mortgage industry and States to develop recommendations to eliminate the barriers that exist to increasing the availability, use, and purchase of energy efficient mortgages, including such barriers as—

(1) the lack of reliable and accessible information on such mortgages, including estimated energy savings and other benefits of energy efficient housing;

(2) the confusion regarding underwriting requirements and differences among various energy efficient mortgage programs;

(3) the complex and time consuming process of securing such mortgages;

(4) the lack of publicly available research on the default risk of such mortgages; and

(5) the availability of certified or accredited home energy rating services.

(b) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall submit a report to Congress that—

(1) summarizes the recommendations developed under subsection (a); and

(2) includes any recommendations for statutory, regulatory, or administrative changes the Secretary deems necessary to institute such recommendations.

SEC. ___06. ENERGY EFFICIENT MORTGAGES OUTREACH CAMPAIGN.

(a) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation and coordination with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and State Energy and Housing Finance Directors, shall carry out an education and outreach campaign to inform and educate consumers, home builders, residential lenders, and other real estate professionals on the availability, benefits, and advantages of—

(1) improved energy efficiency in housing; and

(2) energy efficient mortgages.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the education and outreach campaign described under subsection (a).

SA 4992. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 in title II of division A, insert the following:

SEC. 12___. FEDERAL HOME LOAN BANK COLLATERAL.

Section 10(a)(3)(D) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)(3)(D)) is amended by inserting '', and other collateral, subject to such regulation, order, and direction as the Agency may prescribe,'' before ''if such collateral''.

SA 4993. Mr. MENENDEZ (for himself, Mrs. MURRAY, and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 an the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HOMELESS ASSISTANCE.

(a) APPROPRIATIONS.—Section 726 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11435) is amended by striking ''$70,000,000'' and all that follows and inserting ''$100,000,000 for fiscal year 2009 and such sums as may be necessary for each subsequent fiscal year.''.

(b) EMERGENCY ASSISTANCE.—Section 722 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432) is amended by adding at the end the following:

''(h) SPECIAL RULE FOR EMERGENCY ASSISTANCE.—

''(1) EMERGENCY ASSISTANCE.—

''(A) RESERVATION OF AMOUNTS.—Subject to paragraph (4) and notwithstanding any other provision of this title, the Secretary shall use funds appropriated under section 726 for fiscal year 2009, but not to exceed $30,000,000, for the purposes of providing emergency assistance through grants.

''(B) GENERAL AUTHORITY.—The Secretary shall use the funds to make grants to State educational agencies under paragraph (2), to enable the agencies to make subgrants to local educational agencies under paragraph (3), to provide activities described in section 723(d) for individuals referred to in subparagraph (C).

''(C) ELIGIBLE INDIVIDUALS.—Funds made available under this subsection shall be used to provide such activities for eligible individuals, consisting of homeless children and youths, and their families, who have become homeless due to home foreclosure, including children and youths, and their families, who became homeless when lenders foreclosed on properties rented by the families.

''(2) GRANTS TO STATE EDUCATIONAL AGENCIES.—

''(A) DISBURSEMENT.—The Secretary shall make grants with funds provided under paragraph (1)(A) to State educational agencies based on need, consistent with the number of eligible individuals described in paragraph (1)(C) in the States involved, as determined by the Secretary.

''(B) ASSURANCE.—To be eligible to receive a grant under this paragraph, a State educational agency shall provide an assurance to the Secretary that the State educational agency, and each local educational agency receiving a subgrant from the State educational agency under this subsection, shall ensure that the activities carried out under this subsection are consistent with the activities described in section 723(d).

''(3) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—A State educational agency that receives a grant under paragraph (2) shall use the funds made available through the grant to make subgrants to local educational agencies. The State educational agency shall make the subgrants to local educational agencies based on need, consistent with the number of eligible individuals described in paragraph (1)(C) in the areas served by the local educational agencies, as determined by the State educational agency.

''(4) RESTRICTION.—The Secretary—

''(A) shall determine the amount (if any) by which the funds appropriated under section 726 for fiscal year 2009 exceed $70,000,000; and

''(B) may only use funds from that amount to carry out this subsection.''.

SA 4994. Mr. BROWN 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. ___. TREATMENT OF NATIONAL COOPERATIVE BANK SUBSIDIARY AS CDFI.

Section 211 of the National Consumer Cooperative Bank Act (12 U.S.C. 3051) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) TREATMENT AS CDFI.—Notwithstanding any other provision of law, the nonprofit corporation established under this section shall be deemed to be a community development financial institution for purposes of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.).''.

SA 4995. Mr. BROWN 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 455, between lines 14 and 15, insert the following:

SEC. 1606. TRANSFER OF CERTAIN RENTAL ASSISTANCE CONTRACTS.

(a) TRANSFER.—Subject to subsection (c) and notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, at the request of the owner, transfer or authorize the transfer, of the contracts, restrictions, and debt described in subsection (b)—

(1) on the housing that is owned or managed by Community Properties of Ohio Management Services LLC or an affiliate of Ohio Capital Corporation for Housing and located in Franklin County, Ohio, to other properties located in Franklin County, Ohio; and

(2) on the housing that is owned or managed by The Model Group, Inc., and located in Hamilton County, Ohio, to other properties located in Hamilton County, Ohio.

(b) CONTRACTS, RESTRICTIONS, AND DEBT COVERED.—The contracts, restrictions, and debt described in this subsection are as follows:

(1) All or a portion of a project-based rental assistance housing assistance payments contract under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) Existing Federal use restrictions, including without limitation use agreements, regulatory agreements, and accommodation agreements.

(3) Any subordinate debt held by the Secretary or assigned and any mortgages securing such debt, all related loan and security documentation and obligations, and reserve and escrow balances.

(c) RETENTION OF SAME NUMBER OF UNITS AND AMOUNTS OF ASSISTANCE.—Any transfer pursuant to subsection (a) shall result in—

(1) a total number of dwelling units (including units retained by the owners and units transferred) covered by assistance described in subsection (b)(1) after the transfer remaining the same as such number assisted before the transfer, with such increases or

decreases in unit sizes as may be contained in a plan approved by a local planning or development commission or department; and

(2) no reduction in the total amount of the housing assistance payments under contracts described in subsection (b)(1).

SA 4996. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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. ——. ENFORCEMENT OF MORTGAGE LOAN RULES.

(a) PURPOSE.—The purpose of this section is to enhance enforcement of the mortgage loan rules under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and to prevent harm to consumers and mortgage markets from detrimental practices relating to subprime or nontraditional mortgage loans.

(b) RULEMAKING REQUIRED.—Within 90 days after the date of enactment of this Act, the Federal Trade Commission shall initiate a rulemaking proceeding with respect to subprime mortgage loans 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. Any violation of a rule prescribed under this subsection shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. Violation of the rule is punishable by a civil penalty to the same extent as if it were a violation of a rule promulgated under that Act.

(c) 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 section 128 of the Truth in Lending Act (15 U.S.C. 1638), any other provision of the Truth in Lending Act, or any subprime mortgage lending rule or nontraditional mortgage loan rule promulgated by the Federal Trade Commission to obtain penalties and relief provided under such Act or rule 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 such Act or rule.

(2) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (b) 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 court; and

(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 the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code; and

(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.

(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 law or 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 4997. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 missions, 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 510, strike lines 1 through 5, and insert the following:

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

(D) demolish blighted structures;

(E) 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

(F) redevelop demolished or vacant properties.

SA 4998. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 455, between lines 14 and 15, insert the following:

SEC. 1606. PRESERVATION AND PROVISION OF PROJECT-BASED HOUSING FOR AFFORDABLE HOUSING UNITS DAMAGED OR DESTROYED BY HURRICANES KATRINA OR RITA.

(a) OWNER PROPOSALS FOR REUSE OR RESITING OF AFFORDABLE UNITS.—Pursuant to section 215 of title II of division K of Public Law 110-161 (121 Stat. 2433), the Secretary of Housing and Urban Development shall, not later than October 1, 2009, promptly review and approve—

(1) any feasible proposal made by the owner of a covered assisted multifamily housing project submitted to the Secretary that provides for the rehabilitation of such project and the resumption of use of the project-based assistance under the contract for such project; or

(2) the transfer, subject to the conditions established under section 215(b) of title II of division K of Public Law 110-161, of the contract for such covered assisted multifamily housing project, or in the case of a covered assisted multifamily housing project with an interest reduction payments contract, of the remaining budget authority under the contract, to a receiving project or projects.

(b) DEFINITIONS.—For purposes of this section—

(1) the term ''covered assisted multifamily housing project'' means housing that—

(A) meets one of the conditions established in section 215(c)(2) of title II of division K of Public Law 110-161;

(B) was damaged or destroyed by Hurricane Katrina or Hurricane Rita of 2005; and

(C) is located in an area in the State of Louisiana, Alabama, or Mississippi that was the subject of a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in response to Hurricane Katrina or Hurricane Rita of 2005;

(2) the term ''project-based assistance'' has the same meaning as in section 215(c)(3) of title II of division K of Public Law 110-161; and

(3) the term ''receiving project or projects'' has the same meaning as in section 215(c)(4) of title II of division K of Public Law 110-161.

SA 4999. Mr. SUNUNU (for himself and Ms. SNOWE) proposed an amendment to amendment SA 4983 proposed by Mr. REID (for 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; as follows:

At the end of Division B, insert the following:

TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

SEC. 2701. SHORT TITLE.

This title may be cited as the ''Small Public Housing Authorities Paperwork Reduction Act''.

SEC. 2702. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN QUALIFIED PUBLIC HOUSING AGENCIES.

(a) IN GENERAL.—Section 5A(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended by adding at the end the following:

''(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

''(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

''(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a 'public housing agency' shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

''(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting 'the public housing program of the agency' for 'the public housing agency plan'.

''(C) DEFINITION.—For purposes of this section, the term 'qualified public housing agency' means a public housing agency that meets the following requirements:

''(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 750 or fewer.

''(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency.''.

(b) RESIDENT PARTICIPATION.—Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (e), by inserting after paragraph (3) the following:

''(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

''(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting 'the functions described in the second sentence of paragraph (4)(A)' for 'the functions described in paragraph (2)'.

''(f) PUBLIC HEARINGS.—''; and

(2) in subsection (f) (as so designated by the amendment made by paragraph (1)), by adding at the end the following:

''(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

''(i) to discuss any changes to the goals, objectives, and policies of the agency; and

''(ii) to invite public comment regarding such changes.

''(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

''(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

''(ii) publish a notice informing the public that—

''(I) the information is available as required under clause (i); and

''(II) a public hearing under subparagraph (A) will be conducted.''.

SA 5000. 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 of Division B, insert the following:

TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

SEC. 2701. SHORT TITLE.

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SEC. 2702. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN QUALIFIED PUBLIC HOUSING AGENCIES.

(a) IN GENERAL.—Section 5A(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended by adding at the end the following:

''(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

''(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

''(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a 'public housing agency' shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

''(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting 'the public housing program of the agency' for 'the public housing agency plan'.

''(C) DEFINITION.—For purposes of this section, the term 'qualified public housing agency' means a public housing agency that meets the following requirements:

''(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 750 or fewer.

''(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency.''.

(b) RESIDENT PARTICIPATION.—Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (e), by inserting after paragraph (3) the following:

''(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

''(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting 'the functions described in the second sentence of paragraph (4)(A)' for 'the functions described in paragraph (2)'.

''(f) PUBLIC HEARINGS.—''; and

(2) in subsection (f) (as so designated by the amendment made by paragraph (1)), by adding at the end the following:

''(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

''(i) to discuss any changes to the goals, objectives, and policies of the agency; and

''(ii) to invite public comment regarding such changes.

''(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

''(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection

by the public at the principal office of the public housing agency during normal business hours; and

''(ii) publish a notice informing the public that—

''(I) the information is available as required under clause (i); and

''(II) a public hearing under subparagraph (A) will be conducted.''.

SA 5001. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 571, beginning at line 20, strike through line 23 and insert the following:

''(g) APPLICATION OF SECTION.—This section shall only apply to a principal residence purchased by the taxpayer during the period beginning on the date of the enactment of this Act and ending on the date that is 1 year after such date.''.

SA 5002. Mr. CRAPO (for himself and Mr. ENZI) 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 393, line 19, strike ''$300,000,000,000'' and insert ''$68,000,000,000''

SA 5003. 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:

On page 471, strike lines 19 through 24, and insert the following:

(5) in subsection (g)—

(A) by striking the first sentence; and

(B) 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'';

On page 471, line 25, strike ''(6)'' and insert ''(7)''.

On page 472, line 1, strike ''(7)'' and insert ''(8)''.

On page 472, line 3, strike ''(8)'' and insert ''(9)''.

On page 472, line 13, strike ''(9)'' and insert ''(10)''.

SA 5004. Mr. NELSON of Florida (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 588, between lines 14 and 15, insert the following:

SEC. ___. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR FORECLOSURE RECOVERY RELIEF FOR INDIVIDUALS WITH MORTGAGES ON THEIR PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified foreclosure recovery distribution.

(b) LIMITATIONS.—

(1) IN GENERAL.—For purposes of this section, in the case of an individual who is an eligible taxpayer, the aggregate amount of distributions received by the individual which may be treated as qualified foreclosure recovery distributions for any taxable year shall not exceed the lesser of—

(A) the individual's qualified mortgage expenditures for the taxable year, or

(B) the excess (if any) of—

(i) $25,000, over

(ii) the aggregate amounts treated as qualified foreclosure recovery distributions received by such individual for all prior taxable years.

(2) ELIGIBLE TAXPAYER.—The term ''eligible taxpayer'' means, with respect to any taxable year, a taxpayer—

(A) with adjusted gross income for the taxable year not in excess of $55,000 ($110,000 in the case of a joint return under section 6013), and

(B) who provides certification to the Secretary of participation in any government or mortgage industry-sponsored refinancing plan during such taxable year.

(3) TREATMENT OF PLAN DISTRIBUTIONS.—

(A) IN GENERAL.—If a distribution to an individual would (without regard to paragraph (1) or (2)) be a qualified foreclosure recovery distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified foreclosure recovery distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $25,000.

(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term ''controlled group'' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

(c) AMOUNT DISTRIBUTED MAY BE REPAID.—

(1) IN GENERAL.—Any individual who receives a qualified foreclosure recovery distribution may, at any time during the 2-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of the Internal Revenue Code of 1986, as the case may be.

(2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified foreclosure recovery distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified foreclosure recovery distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(3) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified foreclosure recovery distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified foreclosure recovery distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) APPLICATION TO ELIGIBLE RETIREMENT PLANS.—

(A) IN GENERAL.—Nothing in this section shall be treated as requiring an eligible retirement plan to accept any contributions described in this subsection.

(B) QUALIFICATION.—An eligible retirement plan shall not be treated as violating any requirement of Federal law solely by reason of the acceptance of contributions described in this subparagraph.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED FORECLOSURE RECOVERY DISTRIBUTION.—The term ''qualified foreclosure recovery distribution'' means any distribution to an individual from an eligible retirement plan which is made—

(A) on or after the date of the enactment of this Act and before January 1, 2010, and

(B) during a taxable year during which the individual has qualifying mortgage expenditures.

(2) QUALIFYING MORTGAGE EXPENDITURES.—

(A) IN GENERAL.—The term ''qualifying mortgage expenditures'' means any of the following expenditures:

(i) Payment of principal or interest on an applicable mortgage.

(ii) Payment of costs paid or incurred in refinancing, or modifying the terms of, an applicable mortgage.

(B) APPLICABLE MORTGAGE.—The term ''applicable mortgage'' means a mortgage which—

(i) was entered into after December 31, 2002, and before the date of the enactment of this Act, and

(ii) constitutes a security interest in the principal residence of the mortgagor.

(C) JOINT FILERS.—In the case of married individuals filing a joint return under section 6013 of the Internal Revenue Code of 1986, the qualifying mortgage expenditures of the taxpayer may be allocated between the spouses in such manner as they elect.

(3) ELIGIBLE RETIREMENT PLAN.—The term ''eligible retirement plan'' shall have the meaning given such term by section 402(c)(8)(B) of such Code.

(4) PRINCIPAL RESIDENCE.—The term ''principal residence'' has the same meaning as when used in section 121 of such Code.

(e) INCOME INCLUSION SPREAD OVER 2-YEAR PERIOD FOR QUALIFIED FORECLOSURE RECOVERY DISTRIBUTIONS.—

(1) IN GENERAL.—In the case of any qualified foreclosure recovery distribution, unless the taxpayer elects not to have this subsection apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 2-taxable year period beginning with such taxable year.

(2) SPECIAL RULE.—For purposes of paragraph (1), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of the Internal Revenue Code of 1986 shall apply.

(f) SPECIAL RULES.—

(1) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of the Internal Revenue Code of 1986, qualified foreclosure recovery distributions shall not be treated as eligible rollover distributions.

(2) QUALIFIED FORECLOSURE RECOVERY DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of such Code, a qualified foreclosure recovery distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

(3) SUBSTANTIALLY EQUAL PERIODIC PAYMENTS.—A qualified foreclosure recovery distribution—

(A) shall be disregarded in determining whether a payment is a part of a series of substantially equal periodic payments under section 72(t)(2)(A)(iv) of such Code, and

(B) shall not constitute a change in substantially equal periodic payments under section 72(t)(4) of such Code.

(g) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to the provisions of this section, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2010, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

(B) CONDITIONS.—This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date the legislative or regulatory amendment described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, any later effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

SA 5005. Mr. ISAKSON (for himself and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 571, beginning at line 20, strike through line 23 and insert the following:

''(g) APPLICATION OF SECTION.—This section shall only apply to a principal residence purchased by the taxpayer during the period beginning on the date of the enactment of this Act and ending on the date that is 1 year after such date.''.

SA 5006. Mr. VITTER (for himself and Ms. LANDRIEU) 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. ___. LIMIT ON CREDIT DELIVERY AND ADVERSE MARKET FEES.

(a) IN GENERAL.—During the 1-year period beginning on the date of enactment of this Act, the enterprises may not engage in the practice of charging or otherwise collecting adverse credit delivery or adverse market fees, based on a borrower's credit score, for any mortgage purchased, otherwise guaranteed, or securitized by an enterprise in any State that has experienced an average foreclosure rate that is lower than the national average.

(b) DEFINITIONS.—As used in this section—

(1) the term ''adverse credit delivery fee'' means a post-settlement fee that is contingent upon a purchaser's credit score and loan-to-value ratio; and

(2) the term ''adverse market fees'' means a post-settlement fee that is contingent upon the condition of the real estate market in a particular county, parish, or State.

SA 5007. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 subtitle B of title I of division C, insert the following:

SEC. 3013. DEDUCTION FOR POINTS ON HOME MORTGAGE REFINANCING ALLOWED IN YEAR PAID.

(a) DEDUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 461(g) (relating to prepaid interest) is amended—

(A) by striking ''This subsection'' and inserting the following:

''(A) IN GENERAL.—This subsection'', and

(B) by adding at the end the following new subparagraph:

''(B) EXCEPTION FOR CERTAIN REFINANCINGS.—

''(i) IN GENERAL.—This subsection shall not apply to points paid—

''(I) in respect of indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the subparagraph (A), and

''(II) before January 1, 2011.

''(ii) LIMITATION.—Clause (i) shall apply only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the sum of—

''(I) the amount of the refinanced indebtedness, plus

''(II) the lesser of $10,000 or the points paid in respect of the indebtedness resulting from the refinancing to the extent that the indebtedness resulting from the refinancing does not exceed the refinanced indebtedness.

''(iii) ADJUSTMENT FOR INFLATION.—In the case of any calendar year beginning after 2008, the $10,000 amount under clause (ii)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next nearest multiple of $100.''.

(2) CONFORMING AMENDMENT.—The heading of paragraph (2) of section 461(g) is amended by striking ''EXCEPTION'' and inserting ''EXCEPTIONS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid in taxable years beginning after December 31, 2007.

(b) OFFSET.—There is hereby rescinded 100 percent of budget authority provided for the appropriations in titles III and IV of division B.

SA 5008. Mr. CHAMBLISS (for himself and Mr. CORKER) 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 407, strike lines 17 through 25, and insert the following:

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.—For purposes of this section, an individual shall be considered to be an employee of a depository institution or a majority-owned depository institution, regardless of how his or her compensation is reported, if the—

(i) individual acts as a loan originator only for that institution;

(ii) institution takes supervisory and financial responsibility for the individual's regulated activities on behalf of the institution; and

(iii) individual's activities are subject to oversight and regulation by a Federal banking agency.

SA 5009. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 623, line 5, strike through line 12 and insert the following:

EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2011.

(2) APPLICATION OF BACKUP WITHHOLDING.—The amendment made by subsection (c) shall apply to amounts paid after December 31, 2012.

SA 5010. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 615, line 4, strike through page 623, line 12.

SA 5011. Mr. BOND 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:

Insert the following at the appropriate place:

SEC. . PROHIBITION OF SELLER-FUNDED DOWNPAYMENT ASSISTANCE.

(a) IN GENERAL.—Paragraph (9) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by adding at the end the following: ''In no case shall the funds required by this paragraph consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale: (A) the seller or any other person or entity that financially benefits from the transaction; or (B) any third party or entity that is reimbursed, directly or indirectly by any of the parties described in subparagraph (A) of this paragraph.'';

(b) SANCTIONS.—Section 1014 of title 18, United States Code, is amended in the first sentence—(1) by inserting ''the Federal Housing Administration,'' before ''the Farm Credit Administration''; and

(2) by striking ''commitment, or loan'' and inserting ''commitment, loan, insurance agreement or application for insurance or a guarantee''.

SA 5012. Mr. KERRY (for Mr. KENNEDY (for himself and Mr. KERRY)) submitted an amendment intended to be proposed by Mr. KERRY 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. _____. ELIGIBILITY OF CERTAIN PROJECTS FOR ENHANCED VOUCHER ASSISTANCE.

Notwithstanding any other provision of law—

(1) the property known as The Heritage Apartments (FHA No. 023-44804), in Malden, Massachusetts, shall be considered eligible low-income housing for purposes of the eligibility of residents of the property for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)), pursuant to paragraph (2)(A) of section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)(2)(A));

(2) such residents shall receive enhanced rental housing vouchers upon the prepayment of the mortgage loan for the property under section 236 of the National Housing Act (12 U.S.C. 1715z–1); and

(3) the Secretary shall approve such prepayment and subsequent transfer of the property without any further condition, except that the property shall be restricted for occupancy, until the original maturity date of the prepaid mortgage loan, only by families with incomes not exceeding 80 percent of the adjusted median income for the area in which the property is located, as published by the Secretary.

Amounts for the enhanced vouchers pursuant to this section shall be provided under amounts appropriated for tenant-based rental assistance otherwise authorized under section 8(t) of the United States Housing Act of 1937.

SA 5013. Mr. TESTER (for himself and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 in title II of Division A, insert the following:

SEC. 12__. INVESTMENT AUTHORITY TO SUPPORT RURAL INFRASTRUCTURE.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end the following:

''(1) MISSION INVESTMENTS FOR RURAL INFRASTRUCTURE.—In furtherance of its mission under section 5, each Federal Home Loan Bank is authorized to purchase investment grade securities from nonmember cooperative lenders that have received financing from the Federal Financing Bank and that possess demonstrated experience in making loans to rural cooperatives. Such securities shall be secured investments collateralized by loans of the cooperative lender. The purchase of such securities shall be at the sole discretion of the Bank, consistent with such regulations, restrictions, and limitations as may be prescribed by the Board.''.

SA 5014. Mr. DODD (for Mr. INOUYE (for himself and Mr. STEVENS)) proposed an amendment to the bill S. 2607, to make a technical correction to section 3009 of the Deficit Reduction Act of 2005; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Transition Assistance Act''.

SEC. 2. DTV TRANSITION.

(a) IN GENERAL.—Section 3008(a) of the Digital Television Transition and Public Safety Act of 2005 is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Assistant Secretary''; and

(2) by adding at the end thereof the following:

''(2) USE OF FUNDS.—As soon as practicable after the date of enactment of the DTV Transition Assistance Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines

that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.''.

(b) FISCAL YEARS TO WHICH APPLICABLE.—Section 3009(a) of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended—

(1) by striking ''fiscal year 2009'' and inserting ''fiscal years 2009 through 2012''; and

(2) by striking ''no earlier than October 1, 2010'' and inserting ''on or after February 18, 2009''.

SA 5015. Mr. DODD (for himself and Mr. SHELBY) proposed an amendment to the bill S. 2159, to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration; as follows:

On page 16, strike lines 8 through 11 and insert the following:

''(c) PERIOD FOR ISSUANCE.—Notwithstanding any other provision of law, including section 7(d), the Secretary—

''(1) may accept orders for the coins authorized under this Act during the period beginning on January 1, 2008 and ending on December 31, 2008; and

''(2) may mint and issue such coins required to fulfill such orders during the period beginning on January 1, 2008 and ending on December 31, 2009.

''(d) EXCEPTION TO PROGRAM LIMITATION.—Notwithstanding any other provision of law, the minting or issuance of coins under this Act in 2009 does not—

''(1) preclude the Secretary from including a surcharge on the issuance of any other commemorative coin minted or issued in 2009; and

''(2) be counted against the annual 2 commemorative coin program minting and issuance limitation under section 5112(m)(1) of title 31, United States Code.

''(e) ISSUANCE OF GOLD COINS.—Each gold coin''.

SA 5016. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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. _____. CASE MANAGEMENT AND HOUSING TRANSITION FUNDING.

(a) AVAILABILITY OF AMOUNTS.—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, to the State of Louisiana, $5,000,000, to be used by the State for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—Upon the expiration of the 2-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of the program carried out under this section to determine the effectiveness and limitations of, and potential improvements for, such program.

(2) TIMING OF REPORT.—Not later than 180 days after the expiration of the 2-year period described in paragraph (1), the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Financial Services and the Committee on Transportation and Infrastructure of the House of Representatives regarding the results of the study.

(3) REQUIRED CONTENT.—The report required under paragraph (2) shall include a forensic audit that examines the effectiveness of internal controls to prevent waste, fraud, and abuse within the program.

SA 5017. 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 588, strike lines 9 through 12, and insert:

(1) by striking ''2 years'' and inserting ''5 years'',

(2) by striking ''December 31, 1996'' and inserting ''August 1, 2005'', and

(3) by striking ''January 1, 1999'' and inserting ''January 1, 2010''.

SA 5018. 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 27, strike lines 4 through 9, and insert the following:

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 10 percent of the purchase price of a residence—

''(1) in the case of an individual who is a first-time homebuyer of a principal residence in the United States during a taxable year, or

''(2) in the case of an individual who—

''(A) is a homebuyer of a principal residence in the United States that is damaged or destroyed as a result of a natural disaster and that has been sold or transferred to a State or an agency or political subdivision thereof as a result of such damage or destruction, and

''(B) submits a certification by the State or by the appropriate agency or subdivision thereof that such residence meets the requirements of subparagraph (A).''.

SA 5019. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for 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 385, between lines 8 and 9, insert the following:

''(12) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—A mortgagor shall not be eligible for insurance under this section, if the adjusted gross income reported by the mortgagor exceeds $75,000 or in the case of mortgagors filing jointly $150,000.

''(B) DEFINITION.—For purposes of this paragraph, the term 'adjusted gross income' has the same meaning given that term in section 62 of the Internal Revenue Code of 1986.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, June 19, 2008, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Two Years after the MINER Act: How Safe is Mining Today?'' on Thursday, June 19, 2008, at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, June 19, at 9:30 a.m. in room 562 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 19, 2008, at 2:15 p.m.

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

SECURITIES, INSURANCE, AND INVESTMENT SUBCOMMITTEE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs Securities, Insurance, and Investment Subcommittee be authorized to meet during the session of the Senate on June 19, 2008, at 2:30 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 19, 2008, at 2:30 p.m.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on Thursday, June 19, 2008, at 2 p.m. to conduct a hearing entitled, ''Management Challenges Facing the Federal Protective Service: What is at Risk?''

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

PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that three members of my staff, Seth Olson, Charles von Althann, and Eitan Goldstein, be granted the privilege of the floor during today's session.

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

Mr. GRASSLEY. I ask unanimous consent that Tom Edwards, Jordan August, and Bobby Schena of my staff be granted the privileges of the floor for the duration of the 110th Congress.

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

THE DEFICIT REDUCTION TECHNICAL CORRECTION ACT OF 2005

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 774, S. 2607.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2607) to make technical corrections to section 3009 of the Deficit Reduction Act of 2005.

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. I ask unanimous consent that an Inouye substitute amendment which is at the desk be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5014) was agreed to, as follows:

AMENDMENT NO. 5014

(Purpose: To provide for additional consumer outreach and education concerning the digital television transition, and for other purposes.)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Transition Assistance Act''.

SEC. 2. DTV TRANSITION.

(a) IN GENERAL.—Section 3008(a) of the Digital Television Transition and Public Safety Act of 2005 is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Assistant Secretary''; and

(2) by adding at the end thereof the following:

''(2) USE OF FUNDS.—As soon as practicable after the date of enactment of the DTV Transition Assistance Act, the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.''.

(b) FISCAL YEARS TO WHICH APPLICABLE.—Section 3009(a) of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended—

(1) by striking ''fiscal year 2009'' and inserting ''fiscal years 2009 through 2012''; and

(2) by striking ''no earlier than October 1, 2010'' and inserting ''on or after February 18, 2009''.

The bill (S. 2607), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

REQUIRING THE SECRETARY OF THE TREASURY TO MINT COINS

Mr. DODD. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 2159 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2159) to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration.

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. I ask unanimous consent that a Dodd-Shelby amendment which is at the desk be agreed to, the bill, as amended, be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5015) was agreed to, as follows:

(Purpose: To extend the period during which the coins may be minted and issued)

On page 16, strike lines 8 through 11 and insert the following:

''(c) PERIOD FOR ISSUANCE.—Notwithstanding any other provision of law, including section 7(d), the Secretary—

''(1) may accept orders for the coins authorized under this Act during the period beginning on January 1, 2008 and ending on December 31, 2008; and

''(2) may mint and issue such coins required to fulfill such orders during the period beginning on January 1, 2008 and ending on December 31, 2009.

''(d) EXCEPTION TO PROGRAM LIMITATION.—Notwithstanding any other provision of law, the minting or issuance of coins under this Act in 2009 does not—

''(1) preclude the Secretary from including a surcharge on the issuance of any other commemorative coin minted or issued in 2009; and

''(2) be counted against the annual 2 commemorative coin program minting and issuance limitation under section 5112(m)(1) of title 31, United States Code.

''(e) ISSUANCE OF GOLD COINS.—Each gold coin''.

The bill (S. 2159), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2159

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 ''NASA 50th Anniversary Commemorative Coin Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the National Aeronautics and Space Administration began operation on October 1, 1958, with about 8,000 employees and an annual budget of $100,000,000;

(2) over the next 50 years, the National Aeronautics and Space Administration has been involved in many defining events which have shaped the course of human history and

demonstrated to the world the character of the people of the United States;

(3) among the many firsts by the National Aeronautics and Space Administration are that—

(A) on December 6, 1958, the United States launched Pioneer 3, the first United States satellite to ascend to an altitude of 63,580 miles;

(B) on March 3, 1959, the United States sent Pioneer 4 to the Moon, successfully making the first United States lunar flyby;

(C) on April 1, 1960, the United States launched TIROS 1, the first successful meteorological satellite, observing Earth's weather;

(D) on May 5, 1961, Freedom 7, carrying Astronaut Alan B. Shepard, Jr., was the first American space flight involving human beings;

(E) on February 20, 1962, John Glenn became the first American to circle the Earth, making 3 orbits in his Friendship 7 Mercury spacecraft;

(F) on December 14, 1962, Mariner 2 became the first spacecraft to commit a successful planetary flyby (Venus);

(G) on April 6, 1965, the United States launched Intelsat I (also known as Early Bird 1), the first commercial satellite (communications), into geostationary orbit;

(H) on June 3 through 7, 1965, the second piloted Gemini mission, Gemini IV, stayed aloft for 4 days, and astronaut Edward H. White II performed the first EVA or ''spacewalk'' by an American;

(I) on June 2, 1966, Surveyor 1 became the first American spacecraft to soft-land on the Moon;

(J) on May 31, 1971, the United States launched Mariner 9, the first mission to orbit another planet (Mars) beginning November 13, 1971;

(K) on April 12, 1981, the National Aeronautics and Space Administration launched the Space Shuttle Columbia on the first flight of the Space Transportation System (STS–1).

(L) on June 18, 1983, the National Aeronautics and Space Administration launched Space Shuttle Challenger (STS–7) carrying 3 mission specialists, including Sally K. Ride, the first woman astronaut;

(M) in another historic mission, 2 months later, the National Aeronautics and Space Administration launched STS–8 carrying the first black American astronaut, Guion S. Bluford; and

(N) on July 23, 1999, the Space Shuttle Columbia's 26th flight was led by Air Force Col. Eileen Collins, the first woman to command a Shuttle mission;

(4) on April 9, 1959, the National Aeronautics and Space Administration unveiled the Mercury astronaut corps, 7 men with ''the right stuff'': John H. Glenn, Jr., Walter M. Schirra, Jr., Alan B. Shepard, Jr., M. Scott Carpenter, L. Gordon Cooper, Virgil I. ''Gus'' Grissom, and Donald K. ''Deke'' Slayton;

(5) on May 25, 1961, President John F. Kennedy, reflecting the highest aspirations of the American people, proclaimed: ''I believe this Nation should commit itself to achieving the goal, before this decade is out, of landing a man on the Moon and returning him safely to Earth. No single space project in this period will be more impressive to mankind, or more important in the long-range exploration of space; and none will be so difficult or expensive to accomplish.'';

(6) on September 19, 1961, the National Aeronautics and Space Administration announced that the National Aeronautics and Space Administration center dedicated to human space flight would be built in Houston, Texas;

(7) on February 17, 1973, the Manned Spacecraft Center in Houston was renamed the Lyndon B. Johnson Space Center;

(8) on December 21, 1968, Apollo 8 took off atop a Saturn V booster from the Kennedy Space Center for a historic mission to orbit the Moon;

(9) as Apollo 8 traveled outward, the crew focused a portable television camera on Earth and for the first time humanity saw its home from afar, a tiny, lovely, and fragile ''blue marble'' hanging in the blackness of space;

(10) this transmission and viewing of Earth from a distance was an enormously significant accomplishment and united the Nation at a time when American society was in crisis over Vietnam, race relations, urban problems, and a host of other difficulties;

(11) on July 20, 1969, Apollo 11 astronauts Neil A. Armstrong and Edwin E. Aldrin made the first lunar landing mission while Michael Collins orbited overhead in the Apollo command module;

(12) Armstrong set foot on the surface of the Moon, telling the millions of listeners that it was ''one small step for a man, one giant leap for mankind'', and Aldrin soon followed and planted an American flag, but omitted claiming the land for the United States, as had routinely been done during European exploration of the Americas;

(13) the 2 Moon walkers left behind an American flag and a plaque bearing the inscription: ''Here Men From The Planet Earth First Set Foot Upon the Moon. Jul. 1969 A.D. We Came in Peace for All Mankind.'';

(14) on April 24, 1990, the Hubble Space Telescope was launched into space aboard the STS–31 mission of the Space Shuttle Discovery, and since then, the Hubble has revolutionized astronomy, while expanding our knowledge of the universe and inspiring millions of scientists, students, and members of the public with its unprecedented deep and clear images of space;

(15) on July 4, 1997, the Mars Pathfinder landed on Mars and on January 29, 1998, an International Space Station agreement among 15 countries met in Washington, DC, to sign agreements to establish the framework for cooperation among the partners on the design, development, operation, and utilization of the Space Station;

(16) the National Aeronautics and Space Administration's stunning achievements over the last 50 years have been won for all mankind at great cost and sacrifice; in the quest to explore the universe, many National Aeronautics and Space Administration employees have lost their lives, including the crews of Apollo 1, the Space Shuttle Challenger, and the Space Shuttle Columbia;

(17) the success of the United States space exploration program in the 20th Century augurs well for its continued leadership in the 21st Century, such leadership being attributable to the remarkable and indispensable partnership between the National Aeronautics and Space Administration and its 10 space and research centers, including—

(A) from small spacecraft to supercomputers, science missions and payloads to thermal protection systems, information technology to aerospace, the Ames Research Center in California's Silicon Valley, which provides products, technologies, and services that enable NASA missions and expand human knowledge.

(B) the Dryden Flight Research Center, the leading center for innovative flight research;

(C) the Glenn Research Center, which develops power, propulsion, and communication technologies for space flight systems and aeronautics research;

(D) the Goddard Space Flight Center, which specializes in research to expand knowledge on the Earth and its environment, the solar system, and the universe through observations from space;

(E) the Jet Propulsion Laboratory, the leading center for robotic exploration of the Solar System;

(F) the Johnson Space Center, which manages the development, testing, production, and delivery of all United States human spacecraft and all human spacecraft-related functions;

(G) the Kennedy Space Center, the gateway to the Universe and world leader in preparing and launching missions around the Earth and beyond;

(H) the Langley Research Center, which continues to forge new frontiers in aviation and space research for aerospace, atmospheric sciences, and technology commercialization to improve the way the world lives;

(I) the Marshall Space Flight Center, a world leader in developing space transportation and propulsion systems that accelerate exploration and scientific discovery, including the Michoud Assembly Facility, which has been a world-class facility since 1961 for fabrication of large space structures, including the Saturn V and the Space Shuttle External Tank, and which will have a critical role in the Constellation program, including manufacturing major pieces of the Orion crew capsule, the Ares I upper stage, and the Ares V core stage; and

(J) the Stennis Space Center, which is responsible for rocket propulsion testing and for partnering with industry to develop and implement remote sensing technology;

(18) the United States should pay tribute to the National Aeronautics and Space Administration, and to its successful partnerships with the space and research centers, by minting and issuing a commemorative silver dollar coin; and

(19) the surcharge proceeds from the sale of a commemorative coin would generate valuable funding for the National Aeronautics and Space Administration Families Assistance Fund, for the purposes of providing need-based financial assistance to the families of any National Aeronautics and Space Administration personnel who lose their lives as a result of injuries suffered in the performance of their official duties, and for other worthy and important purposes.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins:

(1) $50 GOLD COINS.—Not more than 50,000 $50 gold coins, which shall—

(A) weigh 33.931 grams;

(B) have a diameter of 32.7 millimeters; and

(C) contain 1 troy ounce of fine gold.

(2) $1 SILVER COINS.—Not more than 300,000 $1 coins of each of the 9 designs specified in section 4(a)(3)(B), which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) MINTAGE LEVEL LIMIT.—Notwithstanding the mintage level limit described under section 5112(m)(2)(A)(ii) of title 31, United States Code, the Secretary may mint

and issue not more than 300,000 of each of the 9 $1 coins authorized to be minted under this Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the 50 years of exemplary and unparalleled achievements of the National Aeronautics and Space Administration.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2008''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum'', and such other inscriptions as the Secretary may determine to be appropriate for the designs of the coins.

(3) COIN IMAGES.—

(A) $50 COINS.—

(i) OBVERSE.—The obverse of the $50 coins issued under this Act shall bear an image of the sun.

(ii) REVERSE.—The reverse of the $50 coins issued under this Act shall bear a design emblematic of the sacrifice of the United States astronauts who lost their lives in the line of duty over the course of the space program.

(iii) HIGH RELIEF.—The design and inscriptions on the obverse and reverse of the $50 coins issued under this Act shall be in high relief.

(B) $1 COINS.—

(i) OBVERSE.—The obverse of the $1 coins issued under this Act shall bear 9 different designs, each of which shall consist of an image of 1 of the 9 planets of the solar system, including Earth.

(ii) REVERSE.—The reverse of the $1 coins issued under this Act shall bear different designs, each of which shall be emblematic of the contributions of the research and space centers, subject to the following requirements:

(I) EARTH COIN.—The reverse of the $1 coins issued under this Act which bear an image of the Earth on the obverse shall bear images emblematic of, and honoring, the discoveries and missions of the National Aeronautics and Space Administration, the Mercury, Gemini, and Space Shuttle missions and other manned Earth-orbiting missions, and the Apollo missions to the Moon.

(II) JUPITER COIN.—The reverse of the $1 coins issued under this Act which bear an image of the planet Jupiter on the obverse shall include a scientifically accurate depiction of the Galilean moon Europa and depict both a past and future mission to Europa.

(III) SATURN COIN.—The reverse of the $1 coins issued under this Act which bear an image of the planet Saturn on the obverse shall include a scientifically accurate depiction of the moon Titan and depict both a past and a future mission to Titan.

(IV) PLUTO (AND OTHER DWARF PLANETS) COIN.—The reverse of the $1 coins issued under this Act which bear an image of the planet Pluto on the obverse shall include a design that is emblematic of telescopic exploration of deep space by the National Aeronautics and Space Administration and the ongoing search for Earth-like planets orbiting other stars.

(4) REALISTIC AND SCIENTIFICALLY ACCURATE DEPICTIONS.—The images for the designs of coins issued under this Act shall be selected on the basis of the realism and scientific accuracy of the images and on the extent to which the images are reminiscent of the dramatic and beautiful artwork on coins of the so-called ''Golden Age of Coinage'' in the United States, at the beginning of the Twentieth Century, with the participation of such noted sculptors and medallic artists as James Earle Fraser, Augustus Saint-Gaudens, Victor David Brenner, Adolph A. Weinman, Charles E. Barber, and George T. Morgan.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Administrator of the National Aeronautics and Space Administration and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in proof quality only.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—Notwithstanding any other provision of law, including section 7(d), the Secretary—

(1) may accept orders for the coins authorized under this Act during the period beginning on January 1, 2008 and ending on December 31, 2008; and

(2) may mint and issue such coins required to fulfill such orders during the period beginning on January 1, 2008 and ending on December 31, 2009.

(d) EXCEPTION TO PROGRAM LIMITATION.—Notwithstanding any other provision of law, the minting or issuance of coins under this Act in 2009 does not—

(1) preclude the Secretary from including a surcharge on the issuance of any other commemorative coin minted or issued in 2009; and

(2) be counted against the annual 2 commemorative coin program minting and issuance limitation under section 5112(m)(1) of title 31, United States Code.

(e) ISSUANCE OF GOLD COINS.—Each gold coin minted under this Act may be issued only as part of a complete set with 1 of each of the 9 $1 coins minted under this Act.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(c) PRESENTATION.—In addition to the issuance of coins under this Act in such other methods of presentation as the Secretary determines to be appropriate, the Secretary shall provide, as a sale option, a presentation case which displays the $50 gold coin in the center, surrounded by the $1 silver coins in elliptical orbits. All such presentation cases shall bear a plaque with appropriate inscriptions that include the names and dates of the spacecraft missions on which United States astronauts lost their lives over the course of the space program and the names of such astronauts.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of $50 per coin for the $50 coin.

(2) A surcharge of $10 per coin for the $1 coin.

(3) A surcharge of $1 per coin for any bronze duplicate minted under section 8.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly distributed as follows:

(1) The first $4,000,000 available for distribution under this section, to the NASA Family Assistance Fund, for the purpose of providing need-based financial assistance to the families of NASA personnel who lose their lives as a result of injuries suffered in the performance of their official duties.

(2) Of amounts available for distribution after the payment under paragraph (1), ½ of the next $1,000,000 to each of the following:

(A) The Dr. Ronald E. McNair Educational (D.R.E.M.E.) Science Literacy Foundation for the purposes of improving and strengthening the process of teaching and learning science, math, and technology at all educational levels, elementary through college through the promotion of innovative educational programs.

(B) The Challenger Center for Space Science Education, for the purposes of creating positive learning experiences using space science as a theme that raise student expectations of success, fostering a long-term interest in mathematics, science, and technology, and motivating students to pursue careers in these fields.

(3) The remainder of the amounts available for distribution after the payments under paragraphs (1) and (2), to the Secretary of the Smithsonian Institution for the preservation, maintenance, and display of space artifacts at the National Air and Space Museum (including the Steven F. Udvar-Hazy Center).

(c) AUDITS.—The NASA Family Assistance Fund, the Dr. Ronald E. McNair Educational Science Literacy Foundation, the Challenger Center for Space Science Education, and the Secretary of the Smithsonian Institution shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of enactment of this Act). The Secretary may issue guidance to carry out this subsection.

SEC. 8. BRONZE DUPLICATES.

The Secretary may strike and sell bronze duplicates of the $50 gold coins authorized under this Act, at a price determined by the Secretary to be appropriate. Such duplicates shall not be considered to be United States coins and shall not be legal tender.

Mr. DODD. Mr. President, I note this is a coin bill that was authored by Senator NELSON of Florida commemorating the 50th anniversary of the establishment of NASA, a historic moment. I commend Senator NELSON for his efforts.

ORDERS FOR FRIDAY, JUNE 20, 2008

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow, Friday, June 20; that following the prayer

and pledge, the Journal of proceedings be approved to date and the Senate resume consideration of the House message to accompany H.R. 3221, the housing legislation.

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

PROGRAM

Mr. DODD. As previously announced, there will be no votes tomorrow or Monday. Senators should be prepared to vote Tuesday morning.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DODD. If there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 7:04 p.m., recessed until Friday, June 20, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

RICHARD G. OLSON, JR., OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

DEPARTMENT OF LABOR

BRENT R. ORRELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE EMILY STOVER DEROCCO.

NATIONAL INSTITUTE FOR LITERACY

DIANE BARONE, OF NEVADA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING JANUARY 30, 2011, VICE DONALD D. DESHLER, TERM EXPIRED.

MARY E. CURTIS, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2011, VICE CARMEL BORDERS, TERM EXPIRING.

DEPARTMENT OF JUSTICE

J. PATRICK ROWAN, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE KENNETH L. WAINSTEIN.

GREGORY G. GARRE, OF MARYLAND, TO BE SOLICITOR GENERAL OF THE UNITED STATES, VICE PAUL D. CLEMENT, RESIGNED.

THE JUDICIARY

MICHAEL O'NEILL, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE GLADYS KESSLER, RETIRED.

JEFFREY ADAM ROSEN, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE THOMAS F. HOGAN, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

FRANK J. HALE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DOUGLAS K. DUNBAR

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

KENNETH L. BEALE, JR.
THOMAS H. BROUILLARD

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS 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

LENARD M. KERR
MASAKI G. KUWANA, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

RALF C. BEILHARDT
ROBERT E. BESSEY
SCOTT W. BROWN
JERRY M. CARBONE
LISA A. FRANKLIN
WILLIAM J. GREENWOOD
HERMANN F. HINZE
CHRISTENSEN HSU
MEHTAB HUSAIN
THONDIQUE T. MCGHEE
RICHARD V. RITTER
JEAN C. SENECAL
JAMES M. SUTTON
JOHN T. THOMPSON
RICHARD L. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

MICHAEL P. ABEL
MICHAEL C. ALBRECHT
CRAIG J. AMNOTT
MARIA E. ARCILA
HAYS L. ARNOLD
EDWARD H. BAILEY
HANS E. BAKKEN
LEE J. BARTON
ROBERT E. BENJAMIN
MICHAEL J. BENSON
GREGORY M. BERNSTEIN
RICHARD A. BICKEL, JR.
DANIELLE N. BIRD
ERIC M. BLUMAN
STEPHEN A. BRASSELL
LORANEE E. BRAUN
JOHN P. BRIDE, JR.
SCOTT E. BRIETZKE
RICHARD O. BURNEY
ARTHUR L. CAMPBELL III
JOHN R. CHANCE
CHARLES J. CHITWOOD
BRYAN L. CHRISTENSEN
DAVID W. COLE
MICHAEL A. COLE
GEORGE R. COLLINS
JOHN D. COMPLETO
CHRISTOPHER R. COTE
PETER J. CUENCA
PAUL J. CUNNINGHAM
GREGORY G. DAMMANN
COLIN Y. DANIELS
JASMINE T. DANIELS
KURT G. DAVIS
RUSSELL O. DAVIS
JEFFREY A. DEAN
SHAD H. DEERING
KENT J. DEZEE
CHARLES S. DIETRICH III
MICHAEL W. ELLIS
ANDREW FLETCHER
ANTHONY M. FOLEY
TODD FUNKHOUSER
PHILIP J. GENTLESK
JAMES J. GERACCI
LYNN M. GIARRIZZO
MELISSA L. GIVENS
RAYMOND G. GOOD
ERIC J. GOURLEY
JOSEPH D. GRAMLING
BRET A. GUIDRY
CHAD A. HALEY
FREDERICK B. HARRIS
DONALD L. HELMAN, JR.
JEFFREY V. HILL
SEAN A. HOLLONBECK
DEAN H. HOMMER
CHRISTOPHER L. HUTSON
DANIEL J. IRIZARRY
JOHNSON ISAAC
LINDA G. JACKSON
AARON L. JACOB
CHRISTOPHER G. JARVIS
JEREMY S. JOHNSON
ADAM B. KANIS
DWIGHT C. KELLICUT
MATTHEW J. KELLY
SEUNG W. KIM
KURT G. KINNEY
MARY M. KLOTE
JEFFREY K. KLOTZ
KURTIS L. KOWALSKI
GREGORY T. LANG
CHRISTOPHER L. LANGE
JENNIFER T. LANGE
GEORGE B. LANTZ
BRENT L. LECHNER
RONALD LEHMAN
ERIC N. LEONG
CHRISTINE F. LETTIERI
WILLIAM D. LEUSINK
ROMEO N. LIM
JOSEPH K. LLANOS
JAMES B. LUCAS II
PEDRO F. LUCERO
RICHARD S. LUCIDI
ROBERT F. MALSBY III
MARK W. MANOSO
JOHN G. MARKLEY
CHRISTOPHER R. MARTIN
GREGORY J. MARTIN
LARRY J. MCCORD
IAN K. MCLEOD
LEAH P. MCMANN
MICHAEL J. MINES
SEAN P. MONTGOMERY
JEFFREY S. MORGAN
STEPHEN M. MORRIS
JEANNIE M. MUIR
SEAN W. MULVANEY
NERIS M. NIEVESROBBINS
TIMOTHY C. NUNEZ
RONALD P. OBERFOELL
ROBERT J. OCONNELL
MICHAEL E. PARKER
TARAK H. PATEL
JEREMY G. PERKINS
DAVID N. PRESSMAN
AMIR M. RABII
THOMAS J. RICHARD
ACEVEDO F. ROBLES
INGER L. ROSNER
ROBERT K. RUSSELL
DAVID S. SACHAR
SCOTT A. SALMON
CHRISTOPHER K. SANBORN
DEAN A. SEEHUSEN
RENEE M. SIEGMANN
CASTANEDA A. SIEROCKA
JONATHAN K. SMITH
KAREN E. SMITH
RICHARD R. SMITH
HARLAN L. SOUTH
SCOTT R. STEELE
PHILIP S. SUH
ANTHONY SULLIVAN
KEITH D. SUMEY
ROBERT D. SWIFT
TIMOTHY S. TALBOT
BRIGILDA C. TENEZA
SEAN F. THOMAS
JOHN E. THORDSEN, JR.
LEROY J. TROMBETTA
JOSEPH C. TURBYVILLE
MARISOL VEGADERUCK
RODNEY A. VILLANUEVA
GEORGE E. VONHILSHEIMER
JEFFREY A. VOS
KIRK H. WAIBEL
BRUCE K. WEATHERS
KIMBERLY A. WENNER
KENNETH R. WEST
CHRISTOPHER E. WHITE
MYREON WILLIAMS
BRADLEY K. WOODS
JUSTIN T. WOODSON
JOHNNIE WRIGHT, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DAVID R. BROWN
HERBERT L. GRIFFIN, JR.
BRIAN J. C. HALEY
DEAN L. HOELZ
DWIGHT A. HORN
GEORGE J. MENDES
VINSON W. MILLER
JEFFREY S. MILNE
DAVID D. SCHILLING
STEPHEN J. SHAW
STEVEN L. SOUDERS
WILLIAM D. STALLARD
LOFTEN C. THORNTON
ANDREW A. WADE
DARRELL J. WESLEY
TIMOTHY R. WHITE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

BRADLEY A. APPLEMAN
ARTHUR R. BLUM
JOSEPH A. BOVERI
ROBERT C. DETOLVE
TODD C. HUNTLEY
SCOTT G. JOHNSON
PETER R. KOEBLER
JAMES E. LANDIS
MARGARET A. LARREA
JAMES A. LINK
JAMES M. LUCCI
GATHA L. MANNS
RICHARD J. MCGUIRE
JONATHAN G. ODOM
ROBERT J. PASSERELLO
JON D. PEPPETTI
WARREN A. RECORD
PETER M. RODNITE
JOSEPH ROMERO
JENNIFER L. ROPER
TIMOTHY D. STONE
ANDREA E. TAPLIN
FLORENCIO J. YUZON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SUE A. ADAMSON
FARIA BELMARES
BRADLEY A. BRISCOE
MARNIE S. BUCHANAN
VIRGINIA L. BUTLER
PAUL M. CORNETT
JOHN N. CRANE
ROBERT D. FETHERSTON
KAREN R. FOLLIN
DENISE M. GECHAS
KELLY R. HAMON
PATRICIA C. HASEN
ROBERT J. HAWKINS
CONSTANCE E. HYMAS
EILEEN M. KNOBLE
LAURA J. LEDYARD
TAMARA K. MAEDER
CHRISTOPHER R. MANNION
DAVID S. MARKELL
DANIEL F. MCKENDRY
XANTHE R. MIEDEMA
RAMONA L. NIXON
DEBBIE OHARE
ANDREA C. PETROVANIE
KATRINA O. PRINGLE
LANA R. ROWELL
ESTHER C. VOSSLER
NANCY V. WILSONJACKSON
JULIE L. WORKING

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

MARK R. BOONE
LARRY C. BURTON
LEWIS T. CARPENTER
DAVID F. CHACON
ALLISON A. CRAIN
JOSEPH N. DEHOOGH
LOUIS H. DELAGARZA
DON C. ELLZEY
JAY GEISTKEMPER
GEORGE M. GUISE
GEORGE P. HAIG
STEVEN P. HERNANDEZ
JEFF B. JORDEN
GRACE L. KEY
TARAS J. KONRAD
MARK A. LARUSSO
JAMES K. LE
DAVID A. LEAL
KEITH L. MAYBERRY
LAURA S. MCFARLAND
PATRICK E. MCGROARTY
MARTHA J. MICHAELSON
CARRIE M. MUEHLENPFORT
JOSE G. PEDROZA
SHARON A. RAGHUBAR
SANDRA H. RAY
KOICHI SAITO
DENNIS G. SAMPSON
BUFFY STORM
GARY J. WALKER
JOHN C. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CHRISTOPHER G. ADAMS
JOHN R. ANDERSON
MATTHEW J. ANDERSON
RICHARD D. ANDERSON III
ROBERT J. BALLISTER, JR.
KEITH W. BARTON
JAMES B. BLANTON
DONALD R. BRUS
FRANK C. CERVASIO
SCOTT O. CLOYD
THERON C. COLBERT
ROMEO L. COLEMAN
ROLAND V. J. DEGUZMAN
WILLIAM S. FINLAYSON
CHRISTOPHER J. GALLAGHER
WENDY M. HALSEY
KEVIN K. JUNTUNEN
JEFFREY J. KILIAN
PETER J. MACULAN
MICHAEL L. OBERMILLER
SCOTT P. RAYMOND
MIKHAEL H. SER
WILLIAM A. SIEMER
LATANYA E. SIMMS
WILLIAM J. SIMPKINS
MICHAEL A. THORNTON
ROD W. TRIBBLE
MATTHEW P. TUCKER
VICTOR V. VELASCO
BRIAN L. WEINSTEIN
JIMMY WEST
NICOLAS D. I. YAMODIS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ALAN L. ADAMS
BARRY D. ADAMS
ARTHUR C. ANTHONY
WILLIAM C. ASHBY
FELIX A. BIGBY
TRUPTI N. BRAHMBHATT
STEPHEN P. BROMBEREK
DEBORAH L. CARR
MICHAEL D. CASSADY
KENNETH E. CHRISTOPHER
ROSANNE Y. CONWAY
GREGORY W. COOK
MICHAEL F. CRIQUI
THOMAS P. DELUCIA
DOUGLAS W. FLETCHER
KEITH R. GIVENS
RUTH E. GOLDBERG
RICHARD A. GRAHAM
DAVID F. HOEL
WILLIAM D. HOLDER
DENISE N. HOLDRIDGE
MARY M. HUPP
KEVIN M. JACKSON
JOHN P. KENDRICK
MARK G. LIEB
ALLEN R. LUMANOG
MICHAEL G. LUTTE
DAVID M. MARTIN
RICHARD L. MCCARTHY
SCOTT A. MCKENZIE
CHAD A. MITCHELL
SARAH M. NEILL
KELLEY A. NEWMAN
CHRISTOPHER J. ODONNELL
JAMES E. PATREY
JOE T. PATTERSON III
ELENA M. PREZIOSO
DOUGLAS E. PUTTHOFF
CYRUS N. RAD
TIMOTHY R. RICHARDSON
SHAWN A. RICKLEFS
SHARON J. ROBERTS
JERRY N. SANDERS, JR.
CONNIE L. SCOTT
JASON E. SPENCER
JASON S. SPILLMAN
GEORGE STEFFIAN
RAYMOND D. STIFF
MARK A. SWEARNGIN
ERIC R. TIMMENS
SHANE A. VATH
EDWARD G. VONBERG
MARION J. WILLIAMS
GERARD J. WOELKERS
DEBRA L. YNIGUEZ
GEORGES E. YOUNES

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CRAIG L. ABRAHAM
KRISTIN ACQUAVELLA
BRIAN J. ANDERSON
RODNEY D. BLEVINS
GEORGE E. BRESNIHAN
CHAD E. BUERMELE
CHAD B. BURKE
JOHN A. CARDILLO
JAMES CHEATHAM
KEVIN E. CHESHURE
TODD R. CHIPMAN
WILLIAM H. CLARKE
GEORGE W. DANIEL
ANDREW R. DARNELL
SCOTT A. DAVIS
BRENT L. DESSING
KIRK B. DIAL
NATHAN C. DUFFY
BRADLEY E. EMERSON
JOSEPH C. ESPINO
JAMES G. FABBY
ELISABETH G. FARRELL
KENNETH A. FAULKNER, SR.
TERREL J. FISHER
JUSTIN K. FRANCIS
NATASHA A. GAMMON
JAMES R. S. GAYTON
TRAVIS N. GOODWIN
DOUGLAS W. HAROLD
PAUL A. HASLAM
MICHAEL E. HAVENS
JAMES G. HENDRICKSON, JR.
TRENT C. KALP
PATRICK E. KOEHLER
JADON LINCOLN
JOHN S. LUGO
JEFFERSON E. MCCOLLUM
SPENCER A. MOSELEY
SHAWN B. NORWOOD
COLIN J. OBRIEN
DARREL E. OLSOWSKI
RICHARD A. PAQUETTE
JAMEAU PRYOR
NICKOLAS L. RAPLEY
CHAD R. RIDDER
CHRISTOPHER M. RODRIGUES
JOSE L. SANCHEZ
THOMAS A. SCOTT
TERRENCE SIMMONS
EDWARD L. STEVENSON
PAMELA S. THEORGOOD
JAMES T. THOMAS
JAY S. TUCKER
JOSHUA L. TUCKER
ELNORA E. WINN
ROBERT R. WINTERS
CHRISTOPHER M. WISE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CALLIOPE E. ALLEN
HERNAN O. ALTAMAR
PAUL B. ALVORD
MICHAEL R. ANCONA
STEPHEN P. ARLES
RODNEY A. ARMAND
CHAD M. BAASEN
ROBERT V. BARTHEL
STEPHEN J. BELL
JASON H. BENNETT
LYNELLE M. BOAMAH
RODERICK C. BORGIE
BRIAN N. BOWES
DAVID A. BOYD
BRIAN M. BRAITHWAITE
DANIEL R. BREAZEALE
DOUGLAS E. BROWN
KEVIN J. BROWN
HAN Q. BUI
RACHEL A. BURKE
LUTHER I. CARTER
JAMES A. CAVINESS
RAMON F. CESTERO
JACKY P. CHENG
JAMES W. CHRISTOPHER
PERRIN C. CLARK
JOHN A. COOLEY
RICHARD G. COURTNEY
DAVID M. CRAWFORD
JOSEPH E. CUMMINGS
RUCHIRA S. D. DENSERT
ANDREA B. DONALTY
COLLEEN A. DORRANCE
FRANK M. DOSSANTOS
JAMES E. DUNCAN
MICHAEL E. EPPERLY
REGINALD S. EWING III
MAUREEN E. FARRELL
JEFFREY H. FEINBERG
MICHAEL E. FENTON
MARK E. FLEMING
DAVID P. GALLUS
KATERINA M. GALLUS
AMY R. GAVRIL
SANJIV J. GHOGALE
MICHAEL S. GIBSON
HERMANN F. GONZALEZ
SEAN E. GORETZKE
GREGORY H. GORMAN
FRANK T. GRASSI
DONALD J. GREEN
FRANCISCO J. GUTIERREZ
TIMOTHY W. HAEGEN
GREGORY J. HALL
MATTHEW P. HANNON
SUSAN D. HARVEY
DOUGLAS G. HAWK
DAVID W. HAYNES
DAVID Y. HEALY, JR.
TUAN N. HOANG
JAMES S. HOUSTON
JOHN P. HOWARD
ROBERT T. HOWARD
CHRISTOPHER M. HULTS
SCOTT L. ITZKOWITZ
TERENCE E. JOHNSON
MICHAEL KASELIS
MICHAEL P. KEITH
STEWART M. KERR
STEVEN M. KRISS
MICHAEL A. KUHN
ANAND R. KUMAR
EDWARD W. LAMBERT III
BRIAN D. LAWENDA
EDITH R. LEDERMAN
JAMES O. LESPERANCE
HENRY LIN
DAVID C. LOPRESTI
JEFFREY H. MCCLELLEN
EDWIN T. MCGROARTY
MARGUERITE MCGUIGANSHUSTER
JAMES M. MCKEE
ROBERT N. MCLAY
HUGH K. MCSWAIN IV
DANIEL C. MIELNICKI
EDWARD F. MILES
ERIC S. MITCHELL
GREGG J. MONTALTO
PRASHANTH S. NAVARAN
KESHAV R. NAYAK
GEORGE A. NEWTON
WILLIAM P. OMEARA
KENNETH J. ORTIZ
BRET N. PASIUK
SAYJAL J. PATEL
JONATHAN P. PEARL
GEOFFREY A. PECHINSKY
DENISE L. PEET
JOSEPH F. PENTA
MICHELLE M. PERELLO
ROBERT J. PETERSON
THEODORE C. PRATT
LESLIE H. RASSNER
JAMES J. REEVES
CAROLYN C. RICE
GEORGE M. RICE
MARK S. RIDDLE
DENNIS J. RIVET
CARLOS J. RODRIGUEZ
TIMOTHY B. ROONEY
DAVID C. ROSKA
JOHN R. ROTRUCK
JOHN P. H. RUE
SHAWN D. SAFFORD
TIMOTHY E. SAYLES

KATHERINE I. SCHEXNEIDER
ANDREW W. SCHIEMEL
DANIEL F. SEIDENSTICKER
RICHARD P. SERIANNI
ROBERT P. SHAFER
INGRID V. SHELDON
DANIEL L. SHERWOOD
DANNY T. SHIAU
JEANETTE F. SHIMKUS
DEVIN M. SHOQUIST
ROBERT SILK
PATRICK S. SIPE
JOHN H. SMITH, JR.
SUNG W. SONG
ERIC T. STEDJELARSEN
JAMES E. STEPENOSKY
JEFFERY A. STONE
ROBERT G. STRANGE, JR.
JOSEPH E. STRAUSS
CHRISTOPHER D. STREETER
KENNETH A. TERHAAR
KARIN E. THOMAS
KIMBERLY P. TOONE
MARK D. TRAVIS
ARVIN W. TRIPPENSEE
MICHAEL S. VALADE
ROBERT T. VANHOOK
LORI L. VANSCOY
RHONDA A. WALLACE
WILLIAM C. WALLACE
SAM O. WANKO
SONYA N. WATERS
DAVID E. WEBSTER
MICHAEL W. WENTWORTH
JAMES C. WEST
TIMOTHY J. WHITMAN
DAVID R. WHITTAKER
RONALD M. WILLIAMS
CRAIG M. WOMELDORPH
JOHN D. YORK
PATRICK E. YOUNG