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Senate

The Senate met at 10 a.m. and was called to order by the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

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

Let us pray.

Almighty and everlasting God, who made humanity to be one, we bow in reverence before Your glorious presence, praying that heaven's unity may fill our lives.

Lord, use justice, understanding, and cooperation to empower our lawmakers to make bipartisan progress, enabling our Nation to meet the challenges of our time. Bring to fulfillment the ancient prophet's dream: ''How good and pleasant it is for people to dwell together in unity.'' Lord, make our Senators vividly conscious that beyond the appraisal of constituents there falls upon their decisions and actions the searching light of Your judgment. Save them from weak and expedient choices as You use them to heal and bind to build and bless.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN NELSON 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, July 15, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for up to 1 hour, with Senators allowed to speak therein for up to 10 minutes each. The Republicans will control the first 30 minutes, the majority the second 30 minutes.

Following morning business, the Senate will resume consideration of S. 2731, the Global AIDS bill, at which time there will be a motion to table the DeMint amendment No. 5078 regarding funding limitations.

Therefore, Senators should expect a rollcall vote sometime shortly after 11 o'clock this morning. The Senate will recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucuses to meet.

Senators should expect a busy day, with rollcall votes in relation to the Global AIDS bill throughout the day. As a reminder, there is an event for all Senators at the National Archives tonight from 6:30 p.m. to 8 p.m.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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.

RECOGNITION OF THE MINORITY LEADER

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

GAS PRICE REDUCTION ACT

Mr. MCCONNELL. Mr. President, as we stand here, Americans are suffering from the most dramatic oil shock in memory. A single barrel of crude oil costs almost three times today what it did a year and a half ago. This is a crisis that demands our full attention. Yet, until now, Democrats on Capitol Hill have responded as if high gas prices were a mere distraction. Their proposals have been the legislative equivalent of a fly swatter, when the American people are clamoring for the heavy artillery.

Part of the reason for this timid approach by our friends on the other side, as anyone can see, is the upcoming election. They have made no secret of the fact that they do not want to consider real legislation until Inauguration Day, when they hope their candidate will take the White House.

We need to realize Americans are more concerned, at the moment, about paying for groceries and filling their tanks with gas than they are about the political calendar. Americans are not thinking about next January, they are thinking about today. They expect their elected representatives in Washington to take serious steps now to lower the price of gas.

The proposal the Democratic leader outlined on gas prices last week falls laughably short. It has all the marks of a political exercise nervously cobbled

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

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together in the face of constituent pressure and none of the elements of a serious plan that would actually lower the price of gas or reduce our dependance on the Middle East. The Democrats will have to do better than this if Americans want to see their gas prices go down.

Here is their plan. First, they propose curbing speculation. Democrats want us to forget that no reputable economist thinks speculators alone are the reason for the spike in gas prices or that a recent report by the 27-nation International Energy Agency chided politicians who blame speculators alone as searching for a scapegoat instead of looking for real answers.

Naming speculators alone is not a serious proposal for lowering the price of gas. We do need more cops on the beat at the CFTC, but if Democrats think the answer to $4-plus-a-gallon gasoline is curbing speculation alone, then they are obviously asking the wrong question.

Second, their plans call on the President to release 10 percent of the oil contained in the Strategic Petroleum Reserve. It is encouraging to see our friends on the other side acknowledging that increasing supply has an effect on price. But at best, this is a polite nod in the direction of supply; it is nibbling around the edges. Again, it is very timid.

Even if we were to tap 10 percent of the Strategic Petroleum Reserve, as they suggest, that would only allow for the release of 70 million barrels at a time, when Americans are using more than 20 million barrels of oil a day.

Let me say that again. Even if we were to tap 10 percent of the Strategic Petroleum Reserve, as is suggested by our friends on the other side of the aisle, that would only allow the release of 70 million barrels, and we use 20 million barrels a day now. In other words, this is a 3-day solution. It should go without saying that a 3-day supply of oil is not a serious proposal for lowering the price of gas.

Next, the Democratic plans for high gas prices call for increasing production on 68 million acres already leased to oil companies. This is the so-called ''use it or lose it'' provision that says scolding energy companies for not producing fast enough will magically cause gas prices to go down.

Let me remind my friends that this is why we call it ''exploration.'' Those who do it should be encouraged, not threatened. The fact is, the Secretary of the Interior already has this authority to revoke a lease if it is not being used according to the original terms of that lease.

Democrats do not mention this at their press conferences, nor do they mention that many of these leases are simply unproductive, nor do they mention that the Federal Government has declared 85 percent of offshore land and 62 percent of known offshore oil reserves completely off limits to new exploration. Nor do the Democrats mention that, because of them, 100 percent of Western oil shale is off limits, despite the fact that experts estimate the Western States that have oil shale deposits are literally floating on a sea of oil roughly three times the size of Saudi Arabian oil reserves. In other words, ''use it or lose it'' is already the law of our land. ''Use it or lose it'' is not a serious proposal for lowering the price of gas.

Finally, the Democratic plan says we should stop exporting oil that is produced domestically. Well, that is an interesting idea. Last year, America exported only 10 million barrels of crude oil overseas—that is half of what we use in a day—including sales to Puerto Rico. Today alone, America will use more than 20 million barrels of oil. This is a half-day solution to a year-long problem. It is, in other words, a joke.

The crisis is real. Americans are suffering from high gas prices. They deserve better from their elected leaders in Washington than half-day or 3-day solutions and bad jokes. They deserve a year-round solution.

Americans deserve a solution that says if prices are going to go down, supply needs to go up. They deserve a plan that lifts the ban on offshore exploration and oil shale development, even as we continue to promote conservation.

Americans know this crisis is not only a demand problem; it is a supply and demand problem. Until more of our friends on the other side acknowledge this, record-high prices will persist.

Now, some of our friends are beginning to acknowledge the undeniable. As of today, ten Democrats have expressed at least some level of willingness to explore offshore. They are acknowledging a groundswell of public opinion, even among self-described liberals, in favor of more domestic supply.

Republicans have a proposal that was designed specifically to attract their support and the support of any other Member of the Senate who actually is interested in achieving a result. It promotes energy-efficient vehicles such as plug-in electric cars and trucks. It addresses supply and demand by lifting the ban on Western oil shale development and opening exploration far from the shore of States that want it.

Ours is a serious proposal that directly addresses the price of gas at the pump. It is not a gimmick. It is not a half-day Band-Aid on a year-round problem. It is a solution. It is what the American people are demanding of us.

High gas prices are a serious problem and demand to be taken seriously. It is time our friends on the other side put partisan differences and timid, peripheral half-measures aside and get serious about this urgent situation. The American people expect and deserve it.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with the time equally divided between the two leaders or their designees and with Senators permitted to speak therein for up to 10 minutes each and with the Republicans controlling the first 30 minutes.

The Senator from Georgia is recognized.

ENERGY

Mr. ISAKSON. I wish to commend the Republican leader on his remarks. I wish to follow up on those remarks on what is the crisis of the day in the United States of America, which is that the Congress of the United States has chosen, all of us—I am not pointing fingers at anyone—to argue about partisan politics over energy while the American people are paying numbers they have never had before in their lives. The future of oil is only looking higher and higher and higher.

Quite frankly, in the United States of America, the Congress of the United States is sitting on a ham sandwich starving to death.

This is a problem we have solutions for, if we will put our partisan differences aside and develop a comprehensive mandatory plan to address the supply and demand on petroleum. Yesterday the President removed the executive order prohibiting offshore drilling. That is absolutely something we ought to do. We need to be exploring our domestic resources to reduce our dependence on foreign imports. It is good for America not only because it is our energy, it is good because it is in the geopolitical interests of the United States. Every barrel of oil we are dependent on from the Middle East is a geopolitical problem, not just an arithmetic problem or a cost-of-oil problem. We should be exploring every resource we have. Some Members of the Senate have come together to realize there are things we can do and things we can't. We should be focusing on the things we can do. For the purposes of my remarks, I want to outline all of those things that are doable today.

No. 1 is offshore exploration with the States and their general assemblies and Governors having the authority to authorize it. We know we have significant offshore resources in terms of both natural gas and petroleum.

Second, we ought to reenergize the nuclear energy business. It is absolutely ridiculous that the most industrialized country in the world, the country that brought nuclear power and nuclear electric generation to reality, now sits on the sidelines while the rest of the world generates safe, carbon-free, inexpensive energy on a daily basis. In the Nation of France, 87 percent of their energy is generated for electricity by nuclear energy. It emits

zero carbon. The French use the MOX system to recycle their spent fuel rods and use them a second time, reducing nuclear waste by 90 percent and getting the maximum use out of the uranium to generate energy.

Synthetic fuels. It is absolutely important that we work as hard as we can to have the tax credit, tax incentive, and depreciation necessary to incentivize companies to rapidly develop synthetic fuels that do not depend on petroleum. Our military has proven this can be done. It is a matter of Congress directing tax policy and research and development to see to it that we do it.

Wind and solar. There are those who say that won't solve our problem. Well, they won't, but they will help. In those States, 40 of them where wind energy actually will produce a significant amount of energy for the grid, we ought to be incentivizing it through tax credits, rapid depreciation, and other procedures that the Congress has the power to do today. Renewable sources of energy, ethanol, both cellulose and corn based, are essential. It has its place. It won't solve the problem, but it will help.

It is very important for us to understand that if this Congress decided to adopt a comprehensive policy to increase the supply of resources for energy, the cost of petroleum would begin coming down immediately, because those who speculate on the future would understand the United States has finally had enough. We are going to develop our resources. We are going to incentivize the private sector, and we will get the job done. This country has accomplished amazing things in difficult times. These are difficult times, but we know what the solutions are, and we know where they lie. They lie domestically with our own production of petroleum. They lie in research and development and ingenuity, and they lie in a Tax Code that needs to incentivize the development of energy.

I wish to share a story that opened my eyes to the importance of exploring our own resources. I am ranking member of the Subcommittee on Africa. Earlier this year I traveled to Djibouti and to Equatorial Guinea. I saw a good example that the people of the United States ought to know about. Equatorial Guinea 10 years ago was the poorest nation in Africa and the poorest nation in the world. Today, it is the seventh fastest growing economy in the world. They came to America and asked American oil companies to come and explore in the Gulf of Guinea to see if they had any gas or any oil. Marathon Oil went over there, along with other smaller companies from Texas, and found gas in the Gulf of Guinea. Ten years later, when you go to Equatorial Guinea and the island of Malbo, and you go to the Marathon plant that liquefies natural gas for shipment around the world to places such as the United States, Russia, wherever it might be needed, you see tanker after tanker after tanker anchored in the Gulf of Guinea, loading up $25 million, the value of a tanker full of liquefied natural gas, to go around the world.

Equatorial Guinea has gone from a country that could not feed itself or take care of its people to a country building hospitals, universities, schools, highways, building the prosperity of their people, all because they had the willingness to explore. From an environmental standpoint, there has been no environmental impact. We know and have learned that we can drill offshore safely and securely and proved we can withstand even the most dangerous of hurricanes as happened in Katrina. There is no excuse for the United States not to be exploring offshore and be exploring today, no reason whatsoever we should not be reenergizing nuclear energy, no reason we should not be working on renewable sources of energy such as wind and solar, no reason we shouldn't expedite the development of synthetic fuels, coal liquefaction, and clean coal technology. America has every resource we need to be energy free, from coal to petroleum. All we to have do is have the political will and common sense to make it happen.

I call on my colleagues, Republicans and Democrats, to put their elephants and donkeys in the barn and look at the needs of the American people, understand if we leave this year without a comprehensive declaration for energy policy and energy independence, we have done a disservice to the people of the United States, and we will not have fulfilled our constitutional responsibility. It is time to get out of the chair, get off the ham sandwich, and understand that we have everything we need here to begin an end to high gas prices, high oil prices, and dependence on the Middle East for foreign oil.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank my colleague from Georgia. That was such a good summary of where we are, and we do need to put aside partisanship. We do need to acknowledge that a lot of things have changed and those changes require this Government to make some decisions that can help us deal with the crisis we are facing. I am not a negative person. I believe we will work our way through this. But I am going to say some things that are honest and discouraging and worrisome about where we are today as a nation. The surging price for energy is a crisis that is moving our economy into a recession, and it is absolutely savaging the family budget. Record prices that we are facing today have a real impact on small businesses and family budgets across my State. My home county was rated the No. 1 county in America for the percentage of money spent on oil and gas, because it is a rural area, a poorer area, and people drive a long way to work. A larger percentage of their wealth is spent on buying fuel than any other county in America. So it is personal to me.

The average price of regular unleaded gasoline climbed to $4.10 a gallon as of yesterday. One year ago it was $2.84, and 2 years ago, it was $2.62. As a result, the typical American family with two automobiles driving an average of 24,000 miles a year is paying approximately $1,260 more per year for the same amount of fuel, according to the Energy Information Agency. That amounts to $105 a month of disposable after tax, after house payment, after retirement, after Social Security, after insurance, the little after tax money that people take care of their families on, $105 more a month coming out of that to pay for the increase in gasoline over the past year.

I hear we are now going to soon be having a LIHEAP bill which would be a bill, I suppose, as it usually is, to increase funding for people who have to buy heating oil and heating in the winter. The Government will subsidize that energy for those people, give them more money so they can buy more of the product. That is the policy we are having from our Democratic leadership. Has anybody thought maybe we should encourage people to use solar energy or geothermal or wind to heat their homes? We know the reason why that is not being suggested. That is, it is not ready yet in mass production. In many areas of the country, it is not feasible. Solar energy is four times as expensive as nonsolar energy. That is why people can't afford the current rates. They certainly can't pay four times as much. I say that to ask, what are we going to do now? That is the question. What is ready to help us deal with this crisis now?

Last week the Energy Information Administration and the Cambridge Research Associates reported that the price of natural gas surged to more than $12 per million Btus. That is up from $8.94 in February. That is a one-third increase in a few months in natural gas prices. Of course, this represents an enormous economic hit to the American family, businesses that have to be competitive in the world marketplace, and the economy. Congress cannot go home until we take some action that addresses these issues. According to T. Boone Pickens—you may have seen his ads, an old oil man now into the wind business and favors utilization of natural gas for automobiles, which I think has real possibilities; it is much cleaner than gasoline—we are on track to spend this year $700 billion in American wealth overseas to purchase 60 percent of the oil we utilize in this country. This represents one of the greatest threats to our economy we have ever faced. When the price of oil goes up, the stock market goes down. That is almost a daily occurrence. This is because virtually every industry is affected by high oil prices.

In addition, this export of our national wealth decreases the value of

the dollar. When the dollar falls, the balance of trade deficit increases, which is increasing steadily, which further erodes the economy. Companies forced to spend more to purchase the same amount of energy a year or so ago are not able now to expand their businesses and create new jobs. In addition, electricity is going up; 20 percent of our electricity is generated by natural gas. Those prices have been surging. According to the Cato Institute, the price of residential electricity has doubled over the past 5 years, from an average of $5.43 per kilowatt hour in 2003 to $10.31 per kilowatt hour this year. A key factor is the cost of natural gas and other sources of energy.

High energy costs also drive energy-intensive businesses overseas where prices are lower. If we had passed this cap-and-trade bill that, fortunately, was blocked and pulled down after it failed to gain the necessary support, it would have driven up electric bills by as much as $100 a month for families and driven up the price of gasoline by another $1.50 per gallon according to the EPA.

Let me give an example. According to Dow Chemical Company, for every $1 increase in natural gas prices, that adds $3.7 billion in cost to the chemical industry. This will lead chemical companies to outsource their operations overseas where their feedstocks, their energy, their natural gas is cheaper. From 2003 to 2005 alone, rising natural gas prices have forced Dow to shift its production overseas, leaving the company to close 27 facilities and eliminate approximately 15 percent of its workforce.

Let me read you the latest from a Forbes magazine article on Dow and what they have done to adjust to this surge in energy prices that are some of the highest in the world, and there are a lot of lower priced areas for natural gas around the world. They are shifting their commodity lower margin business ''into joint ventures with partners in emerging markets like the Middle East, China, Russia, and Brazil. Dow contributes the technical know-how for producing plastics and chemicals, while its partners provide low-cost feedstocks''—basically natural gas—''and access to new markets. Dow ends up with lower capital expenditures and less risk.''

Well, that is jobs. That is American jobs that are going abroad, directly as a result of an increase in natural gas prices.

So I was very pleased that yesterday President Bush took an important step to address this initiative by lifting the moratorium on oil and gas exploration in the Outer Continental Shelf. With this action, the President has removed an important obstacle to reducing our dependence on foreign sources of oil, and particularly natural gas, because there is a great deal of natural gas offshore.

While the eastern Gulf of Mexico would remain off limits to exploration until 2022, this decision could potentially allow access to significant oil and natural gas reserves right here at home at a time when global supply is struggling to keep up with demand.

In 2005, this Congress directed the Department of the Interior to study the oil and gas reserves in the OCS. The study found that 8.5 billion barrels of oil and 29.3 trillion cubic feet of natural gas are currently known to exist off our Nation's shores. In addition, the study estimated that approximately 86 billion barrels of oil and 420 trillion cubic feet of natural gas also exists in these waters.

Now, we utilize 7 billion barrels of oil a year, and approximately 4 billion of that is imported. Eighty-six billion barrels of oil lie offshore, and we have a lot of reserves onshore. If we produce that, how many years is that? Four into eighty-six? Mr. President, 25 years, 20 years of zero imports if we were to do this.

So the American Petroleum Institute reports that producing all our domestic reserves we have will provide enough oil to power 60 million cars for 60 years and enough natural gas to heat 60 million homes for 160 years. Yet these estimates are based on old data. Exploration for oil and gas reserves in the Outer Continental Shelf has not occurred since the early 1980s. Technological advances have made it possible to explore for reserves in areas previously ignored due to scientific limitations. The scientific advancement also reduces the number of dry holes. They can tell better what the prospects are when you drill a well and not drill as many dry holes. When deepwater wells cost over $1 billion, better technology is important.

By acting now to increase supply, we can be sure to reduce the price of crude oil and natural gas. This is the most reliable way to end the largest wealth transfer in history, keeping our money here at home in our economy, creating jobs here, creating taxpayers here, and improving our economy.

Let me add, parenthetically, I am not for a carbon economy. I want us to move beyond a carbon economy. But I would wish to say that 10, 15, 30 years from now we are still going to be dependent on fossil fuels. We do not have the option right now.

So I see the production of more fossil fuels at home not only as keeping American wealth at home but as a bridge to a new energy world in which we have wind and solar and biofuels, especially cellulosic ethanol that I am seeing in my home State of Alabama from wood products—I believe that has real potential—geothermal, clean coal, and nuclear power with plug-in hybrid automobiles where you plug in your car at night using clean nuclear power, with no CO_2 emitted, and run your car back and forth to work, never using a drop of oil. All those things are in the works and will happen, but it does not mean we should not be productive at home.

So even with the President's decision yesterday, Congress must still take action to remove the congressional moratorium on oil and gas exploration in 85 percent of the Outer Continental Shelf. Every day Congress refuses to act is another day Americans are forced to pay higher prices at the pump.

I urge the majority leader to bring legislation to the floor that we can work on, in a bipartisan way, to lift this ban so the Senate can pass good legislation before the August recess and bring relief to the taxpayer. I cannot imagine we would fail to do that. There are a lot of things we can do right now that will not impact the environment in any negative way but will produce more energy at home and help our economy create jobs and wealth at home. I believe we can do this, and I am hopeful that will occur.

Mr. President, I see my colleague from Texas, Senator CORNYN, in the Chamber.

I am pleased to yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, might I ask how much time remains in morning business on our side?

The ACTING PRESIDENT pro tempore. There is 8 minutes 10 seconds.

Mr. CORNYN. I thank the Acting President pro tempore.

Mr. President, I wish to join my colleague from Alabama, my friend, Senator SESSIONS, in talking about the item that is at the top of everyone's agenda in America; that is, high gas prices.

But, first, I wish to say that in 2006, much to my chagrin, the Democratic Party won control of both Houses of Congress. I say that because it is more fun being in the majority than it is being in the minority. But with becoming the majority and Senator REID having become the majority leader, he has the complete power to schedule legislative action on the floor of the Senate. With that power comes responsibility. I wish to point out a few areas where I do not think we are living up to the responsibility that the American people would have us live up to.

There is good news. The good news is, it took only 145 days for us to pass the reauthorization of the Foreign Intelligence Surveillance Act. The problem was, in those 145 days, our intelligence officials were hampered in their ability to listen in on conversations between terrorists. Thank goodness, at least so far as we know in the public domain, that has not resulted in other attacks against Americans. But the fact remains, it took 145 days to get that done, and it should not have.

It has been 602 days since the Colombia Free Trade Agreement has been pending. Now, why is that important? Well, in my State, we sell about $2.3 billion worth of agricultural products and manufactured items to Colombia. Because we have not acted on the Colombia Free Trade Agreement, they bear a tariff which makes those more

expensive than they should be. Correspondingly, when Colombian items are sold to American markets because of another agreement, they do not have any tariff at all. So this is a burden, a millstone around the neck of American manufacturers and farmers that is unnecessary and unfair. It has been 602 days since that matter has been pending without any action by the Democratic leadership in the House and the Senate.

Then, yesterday, we had a forum on judicial nominees. There have been 747 days during which some nominees, who have been nominated to the Federal bench by President Bush, have waited for a simple up-or-down vote on the Senate floor.

To the point of my main remarks: It has been 813 days since Speaker PELOSI, when she was running, hoping she would become speaker, in the 2006 election—that her party would have the majority in the House and she would be elected Speaker—it has been 813 days since she said Democrats, if elected, would have a commonsense plan to bring down the price of gasoline at the pump.

Well, what has happened since that time, in 813 days?

As to gasoline, which I am sure seemed too high then—on January 4, 2007, it was $2.33 a gallon. And there are some people today who are pining for the good old days when gasoline was $2.33 a gallon because the average price of a gallon of gas today is $4.11 a gallon. There is no indication at all it is going to go down. Every indication is it is going to go up.

I wonder how long it is going to take the distinguished majority leader, Senator REID, to recognize the American people are hurting and the impact these high energy prices are having on not only the lifestyle, not only the daily routine but the ability of the American people to do the bare essentials they need to do in order to provide for their family and in order to get their children to school and in order for them to get to work. How long will this go on? Will it take $5-a-gallon gas? Will it take $10-a-gallon gas? How long will it take before the majority leader will allow us to vote on a balanced plan that will allow us to deal with this crisis?

Already, if you compound the price of energy, including gasoline, along with the other burdens Congress has imposed on the American working family, things such as Federal taxes—it takes 74 days of every year for people to pay their Federal taxes; another 39 days for them to pay their State and local taxes; another 60 days to pay for housing; health care, about 50 days; food, 35 days; and transportation, 29 days.

So even in things such as food, we have seen because of the price of energy—of course, there is the diesel and the gasoline our farmers use in order to bring their crops in and actually produce them—the price of food continues to go up. A large part of that is because of the price of energy, the price of diesel, the price of gasoline.

The squeeze continues on the American people.

So what is the solution? Well, I have seen the majority leader wants to bring a bill to the floor that deals with speculation. Of course, that deals with the way oil is bought on the futures trading platform, the commodity futures trading system, which allows people to guess basically what the price of oil will be in the future and to bid at that price. Of course, for every willing buyer, there is a willing seller willing to buy it.

Of course, we do need to police the commodity futures trading system to make sure there is not abuse, that there is complete transparency. We need to make sure we have more people, more analysts—more cops on the beat, so to speak—to make sure they have the personnel to be able to do their job. But it is shortsighted and, frankly, naive to think Congress can continue to suspend the laws of supply and demand. So just dealing with that narrow component of the problem is not enough. Is that part of an overall balanced energy package? Yes, it is. But it is not enough by itself.

We have to deal with this by finding more and using less. What do I mean by that? Well, using less means we need to be more efficient. We need to be less wasteful. We need to conserve energy. America consumes about 20 percent of the oil produced worldwide every day. We need to find ways to be more efficient. That is why I think our manufacturing sector, whether it is producing plug-in hybrid vehicles in 2010, which eventually, hopefully, will provide an alternative, or the CAFE standards, the corporate fuel efficiency standards Congress has passed—those help. But it is not enough because you cannot conserve your way into energy independence or energy self-sufficiency.

So how about ''the find more'' part? Well, the fact is, there is about 85 million barrels of oil consumed globally every day—85 million barrels globally every day. So even if America were to use less, that does not mean China and India are going to use less. In fact, they are not going to use less. They are going to use more because their economies are getting bigger, their people are becoming more prosperous. They want to buy cars. They want the same sort of things Americans have come to expect as commonplace. They want more, and they are going to consume more, because they know energy drives their economy. In particular, in countries such as China, you are going to see they are growing at 10 percent gross domestic product a year, and it is because they are building two coal-powered plants every week and they are consuming more energy. So we are going to have to produce more energy while we use less in order to just allow us to transition to using renewable fuels and the research we need to do on things such as clean coal technology. We are going to need some time to transition into more energy independence and a clean energy future. That is only going to come by producing more oil here at home.

Of course, this is a national security issue because we buy a lot of our oil from dangerous regions of the world, such as the Middle East, or from our enemies, such as Hugo Chavez in Venezuela. So why does it not make sense for us to rely less on them—people who don't necessarily wish us well—and rely more on ourselves while at the same time create more jobs right here at home, here in America?

I know attitudes are changing. We look at things such as the Rasmussen poll, which shows now that 67 percent of all of the respondents say we ought to produce more American natural resources right here at home. I know there are folks on the other side of the aisle, such as our distinguished Presiding Officer, who are trying to work to find a bipartisan solution, and we need to do that. Frankly, we should not leave here in August without addressing this issue and doing it in a meaningful way. By that, I don't mean just trying to go after the speculation part. We need to deal with all of this in a balanced sort of way that will allow us to give the American people some relief at a time when they need some relief because of the squeeze that continues to be put upon the average working family when it comes to high energy costs, which, in turn, ripples into high food costs.

Hopefully, we will be successful in weathering this financial crisis we have seen because of the subprime mortgage market and the housing crisis, but unless we do something about high energy prices, we are going to end up in a technical recession. I have no doubt about that. So we can weather those—and I hope we do—and still find ourselves in the ditch from an economic standpoint if we don't do something about high energy costs. Frankly, now that the President has lifted his Executive order banning offshore exploration and development, the only thing that remains to be done now is for Congress to get out of the way and to be part of the solution rather than part of the problem.

I wish our side of the aisle could do it. We can't because we are not in the majority. Only the majority leader has the power to call this up and allow debate and a vote on a commonsense energy plan that will allow us to find more and use less. I am asking them again today, as a number of us have, to please, please listen to what the American people are telling us. They are telling us that they are hurting, that their costs are going through the roof, whether it is food prices or just the price of filling up their cars at the gas station. Really, it is the U.S. Congress that is part of the problem. We need to be part of the solution. We need to listen to them and do what we can to help make their lives just a little bit better.

I yield the floor.

The ACTING PRESIDENT pro tempore. The time under the control of the minority has expired.

The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I ask unanimous consent to speak for a few moments as in morning business on my amendment that will be voted on at 11.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

PEPFAR

Mr. DEMINT. Mr. President, I wish to take a few minutes to speak on the rather large foreign aid bill we are addressing this week in the Senate. I have already expressed my concern, and I will do it again.

As the Senator from Texas was just talking about, we have a serious energy problem in our country today. Americans are hurting, and it is probably not a very good time to be talking about sending billions of American dollars around the world, despite how good the cause may be. Nevertheless, we are going to be voting on various amendments related to what we call PEPFAR, which began as an aid to Africa bill, and that is one of the issues I wish to address this morning.

The PEPFAR Program that the President started in 2003, which I supported, took $15 billion over 5 years and focused it on the AIDS epidemic in Africa. Other countries were allowed to participate. The primary focus was on AIDS and malaria. There has been some success, so the President would like to reauthorize that program.

Unfortunately, as it has worked its way through Congress, it has gone from a $15 billion expenditure to a $50 billion expenditure, sending more money overseas than we spend ourselves on research for AIDS in America or breast cancer or juvenile diabetes and the problems we have here. We are sending the money overseas.

This bill does not go according to its label anymore. This is no longer an aid to Africa bill. It expands across three more continents, including China and other countries that might be better off financially than we are at this point.

I proposed an amendment to limit the scope of the PEPFAR bill to its original intent, which included Africa and other authorized countries in the original bill, so that we can focus these dollars in a way that would allow them to work rather than allow them to create a global fund that spreads the money so thin that we are no longer effective in any area.

The vote at 11 also includes a very important amendment that is attached to the amendment to keep the focus on the countries in the original bill. This amendment would prohibit PEPFAR funds from going to organizations that are involved with forced abortions and forced sterilization in countries such as China. Again, countries such as China don't need our money, particularly at a time when they are actually much better off financially than we are. American taxpayers should not be forced to send their money to organizations in China that force abortions.

We may have people who stand up and say this is not going to happen, but $2 billion in the first year of this program is designated to the U.N. Global Fund. It is indicated that such sums that would be spent over the next 4 years would be allocated to it, which means it is likely that there is going to be $10 billion over 5 years that goes to the U.N. Global Fund. All one has to do is go to the Global Fund Web site, go to China, and see that there is over $70 million in grants that has gone to the organization in China that actually enforces the one-child policy, enforces the forced abortion policy in China. The law of the land here in this country is that we don't use taxpayer dollars for forced abortions anywhere in the world. Actually, the PEPFAR bill itself prohibits those funds. Yet there is a loophole in that as funds from PEPFAR go to the U.N. Global Fund, they will go to organizations such as we have in China that are involved in forced abortions.

Some of my colleagues will say this is unnecessary; it is already the law. If it is, I hope they will go along with this amendment and support it and not vote to table it this morning. This is a very real and serious problem. The U.N. Global Fund is very well known for supporting organizations in China and elsewhere that promote forced abortions and forced sterilization on women. This is not only an abortion issue; it is a human rights issue that we all need to stand up and support.

So as we head to 11 o'clock, I wish to remind my colleagues again, because sometimes we confuse so many things together here that people don't know what we are voting on. The majority leader has moved to table my amendment—the amendment that says we can't add three new continents to this bill—because he knows that attached to it is this amendment that would prohibit funds from being used for forced abortions. The whole reason for the big debacle we had here in the Senate last Friday where people were brought back late is because the majority leader would not allow me to offer this amendment that would prohibit taxpayer dollars from being used for forced abortions in China and other places in the world.

So this is a very important vote at 11 o'clock. My colleagues need to know that if they vote to table my amendment, they are voting to do two things. First, they are voting to divert funds from this Africa fund and other countries that were authorized in the first bill—the countries that are suffering from widespread epidemics—they will be voting to divert these funds to countries where there are very isolated problems. The money will ultimately be spread around the world to organizations that waste this money instead of focusing it where we can really make a difference. Also, voting to table this amendment means you are supporting using PEPFAR funds, which are supposed to be for AIDS in Africa, you are supporting using those funds to promote forced abortions and forced sterilization in China and in other countries.

So I want my colleagues to be clear. I am not sure how the majority leader and others will present this motion to table, but the reason they are attempting to table it is because they want to stop the amendment that would not allow these funds to be used through the U.N. Global Fund to organizations in China that promote forced abortion. So I urge my colleagues to vote no—to vote no to table this amendment on these amendments so they can receive a fair vote in the Senate.

With that, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AERIAL REFUELING

Mrs. MURRAY. Madam President, I have come to the floor this morning to raise a very important concern. As all of my colleagues are aware, our Nation's aerial refueling tanker fleet is aging and badly in need of repair and replacement. We are in the process of selecting a new plane right now that can serve our military for 40 years or even more. Those tankers are the backbone of our global military. They are stationed today throughout the world, and they refuel aircraft from every branch of the Armed Forces. I think everyone would agree, especially in a time of war, that as we work to replace that fleet, there is nothing more important than buying the best planes for our men and women and for our taxpayers.

Last month, in its decision sustaining Boeing's protest of the competition, the Government Accountability Office found that the Air Force made significant errors when it evaluated the bids by Boeing and the European company Airbus. The GAO found that the competition was skewed toward Airbus even though Airbus failed to meet even basic requirements of that contract.

I was pleased last week when the Pentagon announced that it would rebid the contest and take over the selection process. I had hoped it would ensure that we finally hold a fair and transparent competition and get this contract right. But instead of a fair do-over, I am concerned that it appears

that the Pentagon may be planning to change the rules to benefit the already chosen winner—Airbus—by awarding greater benefits to a bigger plane. That would be shocking, given the significant number of flaws found by the GAO and how important this competition is to our servicemembers. Changing the rules of the game in overtime to benefit Airbus is not the kind of transparency the American taxpayer is looking for now in this process. So I wish to spend a few moments this morning explaining why this is the wrong decision for our servicemembers and for our taxpayers, and I wish to begin by reminding my colleagues of the GAO findings.

The GAO's decision was damning. It left no doubt that the Pentagon should start over and rebid the competition. The GAO found eight separate errors, and it described the competition as ''unreasonable, improper, and misleading.''

Among its findings was that the Air Force changed direction about which criteria were more important. It did not give Boeing credit for providing a more capable plane, according to the Air Force's description of what it wanted. Yet it gave Airbus extra credit for offering amenities it did not even ask for. And the Air Force accepted Airbus's proposal even though it could not meet two of the key contract requirements.

Airbus, first of all, refused to commit to providing long-term maintenance as specified in the RFP, even after the Air Force repeatedly asked for it. Secondly, the Air Force could not prove that Airbus could even refuel all of the military's aircraft, according to procedure.

Some of my colleagues have tried to downplay the GAO's ruling. They say the GAO upheld 8 points of protest, not 25, not 100, so the results were somehow less significant. I think they ought to go back and read the GAO's report one more time because the list speaks for itself. The GAO found fundamental problems, including that the Air Force could not even prove the Airbus plane could actually refuel all of our aircraft by the books, and it determined that but for those errors, Boeing could have won.

As Daniel Gordon, the Deputy General Counsel for the GAO said last week when he was asked about this issue before the House Armed Services Committee, he said:

> We don't focus on this being seven out of 100. We focus on the seven that we found that caused us to sustain the protest.

I remind my colleagues about the GAO findings because after reading the decision, the next step should be obvious. The Pentagon should return to the original request for proposals and start this competition over. But instead, officials say they plan to change the criteria in order to benefit a larger airplane, and that is my first concern. When the right course for the Pentagon to take is so clear, I have to ask why in the world would it change the rules now, unless the Defense Department is hoping to skew the competition in favor of Airbus yet again.

My colleagues will remember that compared to Boeing 767, Airbus's A330 plane is massive. Clearly giving greater benefit to a larger plane in the middle of the game would only help Airbus at Boeing's expense, and that would be blatantly unfair. Why should the Pentagon give extra credit only to Airbus? The Air Force itself found that the Boeing tanker was more survivable or better able to keep the warfighters safe. That is a clear advantage, and I think most Americans would agree that giving our air men and women the safest plane should count for more.

I don't just object because the Pentagon's new criteria could unfairly skew this new competition. I am also very concerned that the Pentagon has lost sight of why it needs these tankers. It appears to me that by changing the rules in favor of a larger tanker, the Defense Department is pushing the military further and further away from the goals it had when it started this whole replacement process.

I am not the only one who is raising this issue. Retired Air Force GEN John Handy, who is a former leader of the Transportation and Air Mobility Commands, pointed out in a recent article that the Air Force originally asked for a midsized tanker in its RFP because that is what the military needs to carry out its mission. The Air Force, by the way, already has a larger tanker, the KC–10, which has its own role in the Air Force.

Midsized tankers are the Air Force's multitaskers. They are designed to respond to needs all over the world at a moment's notice. They have to be able to use our current hangars, our ramps, and our runways, and they must be flexible enough to allow our warfighters to refuel aircraft during combat or to haul freight and passengers and return home safely.

General Handy is one of the many experts and observers who has questioned what the Air Force was thinking when it selected the larger Airbus tanker in the first competition because compared to the 767, the A330 simply could not do the job as well.

I, too, have asked repeatedly for the Defense Department to justify that decision, and I have yet to receive any clear-cut answers—not from the White House, not from the Pentagon, and not from the Air Force. But I think General Handy has identified one possible reason. As he put it:

> Somewhere along this acquisition process, it is obvious to me that someone lost sight of the requirement.

Unfortunately, it is our servicemembers and our taxpayers who are going to end up paying the price.

The Defense Department's decision is not yet set in stone. It has not yet officially reopened this competition. The Pentagon still can make the decision to go back to the original RFP and run a fair contest, and it can ensure that our servicemembers get the best tanker possible, one that will allow them to do their jobs and get home safely.

I come to the floor today to urge the Pentagon to rethink the decision to change the selection criteria. For the sake of our servicemembers, for the sake of our taxpayers, I hope they do the right thing—start this competition over using the original RFP, and get these planes into the field where they are desperately needed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Madam President, how much time remains on our side in morning business?

The PRESIDING OFFICER. There is 15½ minutes remaining.

OIL DRILLING

Mrs. MURRAY. Madam President, I have come to the floor this morning to comment on the press conference that President Bush had just moments ago where he renewed his call for more oil drilling, saying that more drilling is the answer to spiraling prices.

I have to tell you, unfortunately for all of us who are suffering from these out-of-control prices at the pump, what I hear is the President coming out and talking real tough but offering no solutions to the real crisis in front of us.

Americans are hurting today. In my home State of Washington, we are paying $4.45 a gallon. But I cannot go home and tell my constituents that we are going to go drill off the coast of Washington State and lower their prices at the gas pump. That is not true. In fact, the President's own Department of Energy says to us that lifting the moratorium is not going to have an impact until 2030. Even then, in 2030, there is no guarantee that drilling more oil off the coast of my State or any other will solve this gas price problem in 2030.

The President says he wants to open more land for drilling to increase production. What he doesn't say is that the oil companies right now today hold 68 million acres of land, both onshore and offshore, that they could, if they wanted to, drill today.

Let me say that again. While the President wants to hand out more leases, he wants all of us to come out here and hand more leases to the oil companies, they are already sitting on 68 million acres of Federal land doing nothing to explore and produce oil on those leases. Why? Because if they put more oil out there today, prices will drop, and they are doing pretty darn good today.

I don't think we should be surprised. I don't think we should be surprised at this at all. These are the same oil companies that are making record profits, billions and billions each year, as a direct result of increasing oil and gas prices. It is no surprise they are telling us: More drilling, give us more to drill, give us more to drill, and making empty promises of lowering gas prices when that simply is not true.

Given that there are two oil men in the White House today, I don't think any of us should be surprised. I don't think any of us should be surprised that millions of barrels of oil the oil companies pull from American soil today never enter the market. It is sold, by the way, not to the United States but to markets in China and overseas. So telling us this will lower our gas prices, to me, seems pretty out of touch when we know that if we were to come out here and allow them to drill more in the areas off our coast, having a huge impact on our fishing industries and our tourism industries and other important industries in the State today, that we would never see that oil even if we allowed them to drill it because it would be sold to markets overseas. There is no requirement that it would come here to the United States anyway.

Families in my home State of Washington and across this country are pretty sick and tired of paying higher and higher prices at the pump. It is certainly impacting the economy of every small business, every family, every community. Those people deserve real solutions. They deserve solutions that are going to offer stability and controlled prices. What we are hearing from the President today is just going to give them more of the same: empty promises and failed policies.

Over the past week or so, I have heard the Republicans saying: Find more, use less. That sounds pretty good to me, but I have a good solution to that. Have the companies find that ''more oil'' in the 68 million acres they currently hold by drilling today. Then let's invest in ''using less'' by passing the energy tax credits that Republicans have filibustered, by the way, time and time again on this floor. I think it is long past time that those new investments are made in renewable energy and fast-tracking alternative energy technology so we don't continually come out here and fall into this drill, drill, drill debate that sends empty promises to people who really are hurting today.

I think we should have a policy that really works. I think we ought to look for solutions on this floor in ways that provide real solutions. But just getting into a debate that sends empty promises and listening to a President in the White House say give the oil companies lots more to drill and sending an empty promise to my home State of Washington and across this Nation, to me, is pandering at its worst.

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

Mrs. MURRAY. I will be happy to yield.

Mr. BIDEN. First of all, I agree with everything the Senator just said. But if, in fact, if I am not mistaken, all of the reserves that are estimated to exist off of your shore and ours—in Delaware they want to drill as well—if all the reserves in the entire continental United States, the Gulf of Mexico, the Pacific Ocean, the Atlantic Ocean—if they all exist, and they all meet the expectation of the best, most probable high return, we still only represent 3 percent of the total world oil reserves.

My problem is my Republican colleagues who tout themselves as being big businessmen who understand how the business world works in the market economy, it always amazes me how they fail to remember how cartels work. The cartel called OPEC controls the vast majority of the oil resources. Not one of these wells would come on before 10 years—not one. That is according to our Department of Energy. Not one for 10 years.

When they come on, what makes anybody think that the outfit that controls 60 or 70 percent of the world's oil reserves isn't going to just pump 3 percent less? Does anybody think that OPEC, knowing that we had 3 percent of the world's oil reserves, is going to continue to pump at the rate they are pumping? I promise you they will reduce the amount of oil they pump just like they always did to 3, 4, 5, 7 percent less, guaranteeing that whatever the price was will be sustained.

What I do not understand is, I do not understand our friends, including the President, who was a businessman of sorts—I don't mean that; I am not being a wise guy—who was in the business world prior to this, doesn't understand how cartels work. Is there anywhere in the President's offshore drilling where he has gotten a commitment from OPEC that they will continue to pump at the rate they are pumping now? Are you aware of any such?

Mrs. MURRAY. The Senator from Delaware raises a good point. Of course he hasn't gotten that kind of commitment from the OPEC countries. Of course he has not. They are focused on a profit, as they are doing quite well today.

The Senator is right. If we were to go ahead and use this moment in our history when we have some big decisions to make to just say: Oh, we will drill more, there is absolutely no guarantee that OPEC will not control that supply.

Mr. BIDEN. If the Senator will continue to yield for a moment, the thing I want everybody to understand is, as a guy named Yergin, who chairs the Cambridge Research Group, who advises not all but most of the major world oil companies, explained to me once, he said: You know, oil is like filling your swimming pool. If you put a hose in your swimming pool and you keep filling it and filling it, it takes a long time to raise an inch or two. It has virtually no impact on the total size cubic feet of your swimming pool or the amount of water in it. The second thing is, all the oil that goes into that swimming pool all goes into one big pool. It is all the same price.

If you notice, people pumping oil in Texas are not charging less than people pumping oil in Saudi Arabia. If you notice, people pumping oil in California are not charging less than people pumping oil in Venezuela. If you notice, when the OPEC price goes up ''American'' oilfields benefit.

I am not suggesting the American oilfields are in collusion with OPEC, but guess what. Americans think, if we pump our own oil, we will be independent. It ''ain't'' our own oil.

Mrs. MURRAY. I remind the Senator, if we were to do that, that oil would not come to America where our constituents would be able to use it.

Mr. BIDEN. The oil on the Senator's side of the country would not. One reason I voted against the Alaska pipeline is instead of going through Canada to the United States, it would go to Japan, figuratively speaking.

Mrs. MURRAY. So it goes there today.

Mr. BIDEN. I hope we start talking about basic facts. If everything we think we have under the ground that we control as the United States—on the Continental Shelf, off the Pacific Ocean, in ANWR—everything out there, we have 3 percent of the world's proven oil reserves. It doesn't give you much of a bargaining chip. It would be one thing if you say: You know, every bit of the oil we pump that we control goes to the United States, and we are only going to charge $2 a barrel. Wouldn't that be great? Or $10 or $20 or $30 or $50. But I kind of notice, those guys down in Texas charge us exactly the same price as those guys wearing robes in Saudi Arabia charge us. Isn't that kind of funny? And if you only control 3 percent of the oil reserves and pump it all, all the folks we don't like so much who control 60 or 70 percent of the reserves, they just pump 3 percent less, and the price is the same. We cannot drill our way out of this.

I thank my friend from Washington for pointing this out.

I yield the floor.

Mrs. MURRAY. I thank my friend from Delaware for joining me. We have been listening to this debate now. The President weighed in from his podium this morning. Much as we would like to hand our constituents tomorrow morning a lower gas price, we in this Senate have to be realistic about today, tomorrow, and far into the future. Even the Energy Administration Agency has said the impact on wellhead prices from opening the Pacific, Atlantic, and gulf waters to drilling ''is expected to be insignificant.''

Let's not, here on the Senate floor, talk about empty promises to our constituents at a time when they are really hurting. Let's take this opportunity

and time to make long-term investments that put our country on a path to being less dependent on oil. Those are the right investments that we ought to be making. Yes, they are hard. Yes, they are difficult. Yes, they are challenging. It is not easy to come up with compromises on them when we are all from very different parts of the Nation. But let's not just sell a bill of goods to the Nation when we are hurting.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Does the Senator yield morning business time?

Mr. BIDEN. Yes, we yield back the time in morning business.

The PRESIDING OFFICER. Morning business is closed.

TOM LANTOS AND HENRY J. HYDE UNITED STATES GLOBAL LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA REAUTHORIZATION ACT OF 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2731, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2731) to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

Pending:

DeMint amendment No. 5077, to reduce to $35,000,000,000 the amount authorized to be appropriated to combat HIV/AIDS, tuberculosis, and malaria in developing countries during the next 5 years.

DeMint amendment No. 5078, to limit the countries to which Federal financial assistance may be targeted under this Act.

DeMint amendment No. 5079 (to amendment No. 5078), to prevent certain uses of the Global Fund.

Mr. BIDEN. Mr. President, I see my friend from South Carolina is here. I ask unanimous consent there be no second-degree amendments in order to the DeMint amendment, No. 5077.

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

AMENDMENT NO. 5078

Mr. BIDEN. Mr. President, I am shortly going to move to table the DeMint amendment, No. 5078, relating to abortion. Senator DEMINT and I had a very brief conversation prior to this.

I ask unanimous consent there be 2 minutes equally divided for the Senator to make his position known.

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

Mr. BIDEN. I yield to my colleague from South Carolina.

Mr. DEMINT. Mr. President, the motion to table involves two amendments. It is important my colleagues understand what is involved. The current PEPFAR Program focuses on 15 countries with epidemics of AIDS and malaria. The current authorization allows them to work in 110 countries in which they are working now, but the focus has been part of making this program successful.

My amendment would limit the focus of the current PEPFAR bill on the Senate floor to the authorized countries in the first bill so the money is not spread all over the world to countries that do not need it as much as Africa and the others.

But the other amendment, and the reason this is being tabled, is it proposes that we do not allow PEPFAR funds to be used through the U.N. Global Fund for forced abortions and forced sterilization in China and other countries. The law of the land in this country is that our taxpayer dollars are not used for forced abortion. All this does is make sure the money in PEPFAR does not end up with programs like they have in China that force abortions.

I encourage my colleagues to vote no against tabling these amendments so we would be sure that PEPFAR funds are being used where and the way that they are intended to be used.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. The underlying amendment, first-degree amendment, which I am moving to table would limit U.S. assistance to certain countries. Right now PEPFAR is working in 120 countries, and to limit it to 15 I think is very counterproductive.

I move to table the amendment, and 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 motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Tennessee (Mr. CORKER), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 24, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—70

Akaka	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Gregg	Pryor
Bennett	Hagel	Reed
Biden	Harkin	Reid
Bingaman	Hatch	Roberts
Boxer	Hutchison	Rockefeller
Brown	Inouye	Salazar
Brownback	Johnson	Sanders
Byrd	Kerry	Schumer
Cantwell	Klobuchar	Shelby
Cardin	Kohl	Snowe
Carper	Landrieu	Specter
Casey	Leahy	Stabenow
Clinton	Levin	Stevens
Cochran	Lieberman	Sununu
Coleman	Lincoln	Tester
Collins	Lugar	Voinovich
Conrad	Martinez	Warner
Dodd	McCaskill	Webb
Dole	Menendez	Whitehouse
Domenici	Mikulski	Wyden
Dorgan	Murkowski	
Durbin	Murray	

NAYS—24

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bond	DeMint	McConnell
Bunning	Ensign	Sessions
Burr	Enzi	Smith
Chambliss	Graham	Thune
Coburn	Grassley	Vitter
Cornyn	Inhofe	Wicker

NOT VOTING—6

Alexander	Kennedy	McCain
Corker	Lautenberg	Obama

The motion was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mr. NELSON of Florida. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. I ask unanimous consent that the order for the quorum call be rescinded.

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

21ST CENTURY MANUFACTURING STRATEGY

Ms. STABENOW. Mr. President, I rise, in light of the news today by General Motors and certainly the ongoing news from American automakers and manufacturers, to express, again, concern about the fact that we have had no 21st century manufacturing policy for the last 8 years. As other countries are rushing to invest in new innovative technology, advanced battery technology, the next generation of vehicles, as Germany has announced the great battery alliance which will invest over $650 million in advanced lithium ion batteries; South Korea, by 2010, will have spent $700 million on advanced batteries and developing hybrid vehicles; China has invested over $100 million in advanced battery research and development; over the next 5 years Japan will spend about $230 million on advanced battery research and $278 million a year on hydrogen research for zero-emission fuel cell vehicles; in this country, our President's budget last year called for $22 million. We have

seen no willingness to aggressively invest in a 21st century manufacturing strategy to keep jobs in America. As a result, we have seen 3.5 million manufacturing jobs lost since this administration took office in 2001.

My home State of Michigan is proud that we make things and grow things and do it well and have, in fact, created the middle class of this country. We have lost over 250,000 manufacturing jobs—in fact, going on 300,000—since this administration took office. In fact, we now have the same number of manufacturing jobs that we had in September of 1952. I won't tell how old I was then, but I wasn't very old in 1952. Now we are back to the same number of manufacturing jobs, while every other country is rushing to invest in the future.

The Senate budget resolution included, I am proud to say, a green-collar jobs initiative which I authored to invest in battery technology. I appreciate the fact that the leader has supported that effort and the chairman of the Energy and Water Committee, Senator DORGAN, has supported the effort to increase dollars for advanced battery technology research. We also included in the Energy bill last year a retooling effort of our plans to advanced manufacturing and alternative fueled vehicles. That needs to be activated and has not yet been activated.

When I look around at what is happening in Michigan now and across the country, what is happening to the middle class, being squeezed on all sides with incomes going down and every cost conceivable going up, particularly outrageously high gas prices, then I look at our manufacturers which are impacted by those gas prices as well, impacted by unfair trade practices, where other economies, other countries close their doors to American automakers to make it more difficult to sell there while they are able to sell here, where Japan manipulates their currency, as well as China, and yet we don't see an aggressive effort to create a level playing field on trade so we can export our products, not our jobs; when I see the fact that other countries are investing in new technologies and yet our industries are expected to be doing it themselves without a partnership from their Federal Government—what we have done is placed our companies in the position of competing with other countries. My colleague from Michigan, Senator LEVIN, has said that over and over again, the fact that our companies are competing with other countries today. We need to take action now to provide a 21st century manufacturing strategy that keeps jobs here.

Part of that is also health care. When we are looking at competition coming from companies in Japan, where I am told that the cost per vehicle for health care is about $95 and here it is $1,500, we can do something about that, to be able to support our jobs and our industries here in America and keep jobs at home.

Right now we have an opportunity I hope we will take. I hope as we move forward with an additional discussion of an emergency supplemental, as we move forward and look at other emergency actions that need to take place, we will understand we need to be activating our retooling efforts to keep advanced manufacturing, the new vehicles, here, and we need to invest in the key component, which is advanced battery technology research, to make sure when our automakers are making hybrids and plug-ins they are not buying the battery from another country.

That is what is happening today. We had, a couple years ago, an announcement from Ford Motor Company about the Ford Escape hybrid, and we were very proud of the fact they created the first hybrid SUV. That is the good news. The bad news is, they could not find a battery in the United States. The battery had to be bought in Japan. We do not want to exchange foreign dependence on oil for foreign dependence on technology. We have to act now.

I call on the administration that has now put dollars into advanced battery efforts to do more. There is more that can be done under the Department of Energy. It needs to be done as quickly as possible. We are in a race, we are in an economic race, for the next generation of technology. Whoever gets there first will be creating the jobs as well as the marketplace for the future and, I believe, creating the middle class of the future as well.

We need to make sure the plants in America are retooled so the new generation of vehicles being made are not being made overseas for Americans, but they are being made here. We need to be retooling. It is critically important. We have lost 3.5 million manufacturing jobs since this administration took office—no 21st-century manufacturing strategy, no focusing on unfair trade practices, high health care costs, innovation, investment, retooling. Now, adding insult to injury with the price of gas on top of everything else, we find our manufacturers caught on all sides right now trying to make the investments for the next generation, for the future, to be competitive, but also to deal with the costs they have as a result of lack of action in this country, in order to be able to make sure we are competitive internationally.

Again, Germany, the Great Battery Alliance; South Korea; China; Japan—all focused on the future, all partnering with their industries because they understand what it means to their economy to be able to have that technology, to be able to be the first, to be able to partner with their industries to create new jobs.

That is what we need to be doing here and now. It makes me heartsick to see the daily headlines in the newspapers in Michigan as well as in many places across the country when it should not have to happen. If we had seen the administration being willing to work with us, to partner with us on the future, on jobs in America, we would not be where we are today.

I am very hopeful and confident our Democratic majority understands that, and that we are going to continue to do everything we can to be able to create the kind of economic climate in this country that will allow us to create good paying jobs, great advanced alternative fuel vehicles and products we will continue to be proud of, and will allow us to keep the middle class in this country.

I think that is the biggest task we have right now in a global economy: to fight for jobs and the middle class in this country. We need a change in partnership to help us get that done.

Thank you, Mr. President.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent that at 2:15 p.m., Senator MENENDEZ be recognized to speak for up to 15 minutes, to be followed by Senator DOMENICI for 15 minutes, and that following Senator DOMENICI's remarks, Senator KYL be recognized to offer an amendment.

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

DARFUR

Mr. DURBIN. Mr. President, most of us are aware of the genocide in Darfur. We have read about it for years. The best estimates are that 400,000 people have died as a result of the terrible tragedy in the Sudan. Another 2 million or more have been displaced.

Just this week, the International Criminal Court has named the President of Sudan as a person to be indicted for war crimes, crimes against humanity, and genocide. It is an indication of the severity of this crisis and the fact that the world is taking note.

What we also know is that other things are happening in this world that are just as devastating, and some of them are within our grasp to change.

A few years ago, I made my first trip to Africa in an effort to see the feeding programs available for people in some of the poorest places on Earth. I also wanted to take a look at the microcredit programs that elevate women and give them a chance to finally raise their families properly and to have a future.

But I found that no matter where I went in Africa, the same issue commanded my attention. That was the global AIDS crisis. It was a crisis which was just starting at that point, but the numbers were so alarming that you could see trends developing that would be devastating to communities and families and even countries.

At the time, it seemed there was nothing we could do. The drugs that were being developed in the United States were few and very expensive, and the notion of bringing those antiretroviral drugs into Africa seemed beyond our grasp. So they encouraged people in Africa, in those days, to get tested. But many of them ignored it because they knew if they were tested

positive it was a simple death sentence, and they would have to resign themselves to the obvious fate.

But things have changed, thank goodness, and they have changed for the better. Under President Bush, he described and started an initiative to deal with the global AIDS crisis. As I have said on the floor many times, I have disagreed with the President on so many things, but I certainly believe this was an inspired position which he took, that the United States would lead the world in dealing with the global AIDS crisis.

We were not only going to address HIV and AIDS, but also tuberculosis and malaria. In many countries, more people are dying from the latter two than even HIV/AIDS. The President chose 15 countries that the United States would deal with directly in the President's program. Then for the rest of the world in need, we would work with other countries in what is known as the Global Fund.

Before us today on the floor of the Senate is the President's program for dealing with global AIDS. I think it is one of the most important votes we are going to cast this year. The success of this program has brought us a long way in the last 5 or 6 years.

Mr. President, 5 or 6 years ago, only 50,000 people in Sub-Saharan Africa were receiving treatment—50,000. Today, PEPFAR and the Global Fund reach nearly 2 million people, primarily in Africa.

In the 15 PEPFAR focus countries, the program has helped prevent mother-to-child HIV transmission during nearly 12.7 million pregnancies. An HIV-positive mother nursing a child, if she is not treated properly, could transmit the disease. The treatment is very inexpensive, and a mother taking this drug before she delivers the baby can protect her child through childbirth and perhaps afterwards. We have done that now for 12.7 million pregnancies.

We have provided antiretroviral prophylaxis for well over 800,000 women who were determined to be HIV positive and prevented over 150,000 new infections of newborn children just through this program.

We have cared for more than 6.6 million people, including more than 2.7 million orphans and children.

We have provided over 33 million HIV counseling and testing sessions for men, women, and children.

From fiscal year 2004 through 2007, PEPFAR, the President's program on AIDS, supported nearly 2.6 million training and continuing education encounters for health care workers.

That is a remarkable record of progress in just 5 years. This situation on the ground in Africa has been literally transformed because of the efforts of the United States—and other countries—but the efforts of the United States through PEPFAR and the Global Fund.

The bill before us authorizes $50 billion over 5 years, including $9 billion for tuberculosis and malaria. It is a large sum of money, but put it in context. Each month, we spend $12 to $15 billion on the war in Iraq. We are talking about spending $10 billion over the course of a year to deal with the global AIDS crisis, tuberculosis, and malaria.

The bill requires the President to develop a strategy for spending that will prevent 12 million new infections, that will treat and care for at least 14 million people, including 5 million children, make sure women have universal access to prevention of mother-to-child transmission, and will build the health care capacity of the countries that are most affected.

I went to the Congo—the Democratic Republic of the Congo—with Senator BROWNBACK of Kansas a few years ago, and we visited the city of Goma. Goma is in the northeastern section of the Democratic Republic of the Congo. It is a very poor city, and it has so many—so many—challenges: hunger, disease, war, and, on top of that, a volcano.

We visited a hospital there that was packed with people, in this case with women who were seeking a surgery for obstetric fistula. They were women, because of sexual assault or a birth at a very early age, ended up with serious internal problems that required surgery, and there was nowhere to turn. They were shunned in their villages and by their families because of the problems associated with this condition.

Many of them marched and trekked hundreds of miles to get to this hospital. It is called DOCS Hospital. It is supported by the Protestant Churches of America. We saw the women waiting outside, huddled around little fires making their food, waiting for the chance for their surgery. Sometimes they waited for months, and oftentimes they needed a repeat surgery.

After the surgery, they would go into these wards with beds, and the patients were two to a single bed. There just was no place to turn. This was their only hope. Thanks to the United Nations, they had a modern surgical suite, but clearly they did not have the health capacity to deal with this obvious problem.

I asked them: How many surgeons do you have in this area of the Congo?

They said: We have one surgeon for every 1 million people.

I am proud to represent the city of Chicago. I cannot imagine the city of Chicago with three surgeons. But that is what they face in parts of Africa. The same thing is true when it comes to other professionals: doctors and nurses. Part of the problem is just not their failure to train these medical professionals, but the fact that we in the West, with our voracious appetite for medical care, are poaching the best and brightest of the medical professionals in the developing world.

Take a look around your city, go to your local hospital. I just visited a Chicago hospital over the weekend and was introduced to a number of the members of the staff. I asked two of the women where they were from, and they said Ghana. Ghana is in Africa, obviously. My guess is that the community they left needed their medical care as much if not more than the United States. But they were drawn to the United States for obvious reasons.

The surgeons I mentioned in the Congo are paid by the Government. If they are fortunate enough to be paid—and they are not always paid—they are paid $600 a month. Well, a surgeon in the United States is going to do much better than that. So the United States, England, France, and Germany recruit these medical professionals from the poorest places on Earth, and those countries, then faced with HIV/AIDS, tuberculosis, malaria, and other obvious surgical needs, don't have the professionals.

What difference does it make to us? We feel content that we have that nurse at our beck and call when we are in a hospital. We want all of our family to have the very best medical care. However, we have to accept the reality that a medical crisis halfway around the world can be visited on the United States of America within a matter of days. What used to result in a trip across the ocean in a ship where the sickly would die on the way no longer occurs. People take airplanes and in a matter of hours they are here, and they bring with them not only their foreign culture but many times their foreign diseases. So a public health crisis in some other part of the world has to be a genuine concern of ours as well.

This bill we have before us recognizes that. It takes into account the need to expand the health care capacity of some of the poorest places on Earth, including training community health workers to deliver primary health care and preventive services. It includes some provisions I have worked on earlier, and I salute the committee for adding them relative to expanding the health care capacity in Africa. I had introduced a bill with five of my colleagues—S. 805—the African Health Capacity Act, and some of the provisions are included.

I might say parenthetically that we need to find a solution to our problem in the United States, because we need nurses and doctors here as well, and the answer is pretty obvious. We need homegrown talent. This year, in my State of Illinois, we turned away 2,000 qualified nursing students. We didn't have enough classrooms or teachers or clinical opportunities. Two thousand would-be nurses were told: No, you won't be given admission to an Illinois school this year. When we consider the shortage in health care professionals, we can't afford to do that. Whether it is doctors or nurses or other health professionals, we need to be actively recruiting more in the United States so we aren't reaching out to the poorest places on Earth, poaching their talent, when they desperately need it as well.

This bill goes on to expand current programs. It funds the testing, counseling, treatment and new protocols to address drug resistance in treating tuberculosis. Our colleague, Senator SHERROD BROWN of Ohio, has been a leader in the House, and now in the Senate, on the issue of tuberculosis. Most of us pay little attention to this because it is an illness and disease that affects the poor. However, we probably noted in the news not long ago when there was a person who wasn't poor who was banned from travel because he was carrying this disease—this drug-resistant, rather, form of tuberculosis. So we understand this can affect others outside of those who are impoverished. The goal is to do more work worldwide to deal with this with testing, counseling, and treatment.

Incidentally, the treatment of tuberculosis in its most common form is inexpensive. It requires a dutiful process to make sure the person takes their medicine on a regular basis. Some countries such as India have found out how to do this and are leading the way and we should follow their example.

This bill also strengthens the role of the U.S. malaria coordinator. It increases the U.S. contribution to the Global Fund with additional safeguards and oversight, and it funds research on microbicides to help prevent the spread of HIV. It is a good bill and it covers a lot of different things.

We are at a point now where we are in a battle with many forces in this world who are trying to define the United States and tell people around the world who we are. Many of those representations are false and misleading. Unfortunately, they create enemies of the United States—people who should be our friends. I think when the United States embarks on this kind of effort—a global health effort—with tangible results in countries around the world, we demonstrate our values and our caring. That is why I think this bill is so important. I am sorry it has been held up for a number of months, but the good news is it is on the floor now and we have a chance to pass it.

This bill would require that more than half of the money appropriated for addressing local HIV/AIDS be spent on antiretroviral drug treatment and care, controlling other infections that can occur. It provides nutrition and food support and other medical care essential to HIV/AIDS treatment.

The critics of this bill say it goes too far—not just in the money spent, which I disagree with—but in what they call mission creep. They argue that nutrition and safe drinking water and empowerment of women and girls bears little relation to the fight against global AIDS. They believe you should give individuals a pill and send them on their way. Well, common sense suggests otherwise. If you visit the poorest places on Earth and have time to ask only one question, I have found that the question you should ask, if you want to know whether this country has a chance to overcome its problems, is this: How do you treat your women? If women are treated like property, slaves, or chattel, if they have no voices in decisions of the family or community, it is likely that some of the worst medical conditions and economic conditions will continue and will worsen; but if women have a role—if they are educated; if they have a voice in their communities and in their government—it makes all the difference in the world.

So in this bill, when we talk about empowering women and girls through education, training, and self-awareness, it is money well spent. These are the women who will guide that country in the future and who will be a strong voice in a family where otherwise they might be mistreated or infected without even being able to speak a word.

I also think it is obvious that handing medicine to someone who is infected isn't enough. I have been to Nairobi and Kenya. I have seen the clinic where women who are receiving these expensive antiretroviral drugs were dying before my eyes—not of HIV/AIDS, but of malnutrition. They were, with limited funds, providing for their children and not giving themselves enough to eat, so even the antiretroviral drugs weren't working.

So when this bill talks about providing basic nutrition for people around the world, particularly women, so that the drugs will work, it is common sense. The same thing for safe drinking water. If there is one thing that causes more medical problems on this Earth, it is filthy drinking water which causes people, and children especially, to get sick and die. When we talk about safe drinking water as part of this whole program in dealing with global health, it is imminently sensible; and those who argue that it goes too far, we shouldn't include it in this bill, haven't taken the time to meet the people who live under these terrible circumstances.

I hope this bill will pass and I hope it passes soon. We have been waiting for some time. Condoleezza Rice, our Secretary of State, and President Bush have asked us to move this bill forward to provide the technical and financial assistance to help countries develop their national health workforce, expand worker training and retention, build clinics and health networks.

This bill sets a target of training and retaining 140,000 professionals and paraprofessionals. If we can build that work force in the focus countries, we will have the minimum staffing levels of doctors and nurses and midwives recommended by the World Health Organization. We have to change the situation on the ground. Villages will continue to depend on donors for medicine and clinics until they develop their own health care capacity. We can start to change the situation with the technical assistance and financial aid authorized in this bill.

The best response to the global AIDS crisis is to help these countries build a more sustainable, locally driven public health system. The bill is named after two former Members of the House of Representatives: Tom Lantos of California, who recently passed away, and Henry Hyde of Illinois, both of whom supported this legislation. In their name and in their honor, we should pass it and pass it as quickly as we can.

I recall my first trip to Africa. I went to Uganda. There was a clinic there before any of the drugs had arrived where people had been diagnosed with HIV/AIDS. Some of the women at that clinic who had small children were involved in a project called the Memory Book. They would sit on the porch of this clinic while their children played on the playground. They were assembling their life story with photographs, telling about memories of their family and memories of their children when they were born and as they grew up. This memory book was going to be handed off to the child, still very young, to hold on to so that when mother was gone, having died of HIV/AIDS, there would at least be some evidence that she lived, some evidence of her love for that child.

At this same clinic in the days before antiretroviral drugs, they had a choir. It is not unusual. Almost every place you go in Africa, they sing. They sing when they greet you, they sing when you leave, they will sing in the middle of a meeting. It is beautiful. This choir at this clinic was a choir made up of men and women who had been diagnosed with HIV/AIDS and had nowhere to turn. They knew they were all doomed. They came together to sing songs they had written about their plight, and one of them—they gave me a small tape recording—is entitled ''Why Me?'' It was a song that broke your heart as you heard them sing it: Why her, why him, why you, why me—trying to figure out why this had happened to them, that they came down with this deadly disease and knew they would die.

It wasn't that long ago when I made that trip. Today, things have changed. It has changed because the United States and the caring people of this country are stepping forward. Millions of people are now alive today. Millions of children who would have been orphaned now have a chance. Is this an important thing for us to do? I think it is. I think it is important in moral terms, but it is important in political terms too, to make sure that all around the world, people understand who we are, what our values are, and that we are a caring and compassionate people.

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

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

RECESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:26 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

TOM LANTOS AND HENRY J. HYDE UNITED STATES GLOBAL LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA REAUTHORIZATION ACT OF 2008—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey, Mr. MENENDEZ, will be recognized for 15 minutes.

Following his remarks, Senator DOMENICI will be recognized for 15 minutes.

Following his remarks, Senator KYL will be recognized to offer an amendment.

The Senator from New Jersey is recognized.

OIL PRICE MYTHS

Mr. MENENDEZ. Mr. President, we are all aware of the seriousness of the oil crisis. Gas prices are more than three times what they were when President Bush took office. High prices are forcing some businesses to cut back or close and forcing some families to choose between putting a gallon of gas in the tank and putting a gallon of milk on their kitchen table.

People are demanding honest solutions to our oil crisis. But President Bush, JOHN MCCAIN, and their allies on the other side of the aisle have only decided to perpetuate myths, which is what brings me to the floor.

They have told us offshore drilling will lower gas prices tomorrow. They have told us oil companies could produce more if we hand over even more Federal land and water to them. When people spoke about the dangers of drilling, they claimed no oil was spilled after Hurricane Katrina and that drilling off the shore of one State would not affect all the other States around it.

I am here to clear up these myths before it is too late and they take a life of their own.

Myth No. 1: Drilling immediately brings down gas prices. The biggest myth, a myth that has been repeated over and over on the floor of this Chamber, is that opening our shores to drilling will somehow lower the price of gasoline. Let's get one thing straight; drilling in the Outer Continental Shelf will do nothing to bring down gas prices—not now, not ever.

While President Bush is suggesting that drilling will bring down prices at the pump, his own Energy Information Administration admits drilling will have no effect. The reason is the amount of oil involved is a drop in the bucket compared to what we use every day.

Let me put offshore production in perspective. Since April of this year, Americans have responded to extraordinarily high gas prices by using over 800,000 barrels of oil less than we did 1 year ago. That is the most significant and sudden drop in oil demand since the 1970s. Yet what have we seen since April? We have continued to see record gas prices.

In recent weeks, in response to record oil prices, Saudi Arabia has increased its production of oil by 500,000 barrels each and every day. What has been the effect on gas prices? They continue to go up.

So how does the Bush/McCain drilling plan compare to these recent events? If we open all our shores to oil production, the first drop of oil would not be seen for over a decade. Offshore oil production would peak in the year 2030 and only at 200,000 barrels a day. To put that number another way, the amount of gas we could get from offshore drilling is equivalent to a few tablespoons per car per day.

So let's look at the totality of this. If 800,000 barrels per day in reduced demand by Americans combined with an increase of 500,000 barrels per day of Saudi production—a total shift of 1.3 million barrels a day—doesn't lower gas prices, how does 200,000 in the year 2030 lower gas prices? If we have seen a shift of both a reduction in demand and an increase in that supply by 1.3 million barrels a day, and the price still goes up, how is it that 200,000 barrels in 2030 is going to do anything? It is a myth.

The second myth we hear is that if oil companies could only lease more Federal land and water, they would produce more oil. The fact of the matter is the oil industry has already leased 68 million acres of land, where they have not produced—for the most part—a single drop of oil. The oil companies clearly think there is oil there or else why would they be leasing the land? But they are not using it.

This chart is an example of where all that oil is located. I know our Republican colleagues have these little sayings, and they are going around with patches on their lapels saying ''find more, use less.'' This is what they should be telling the oil companies: Find more and use less. In fact, they are not even pursuing that which they already have access to.

To get an idea of the scale involved, here is a map showing how much territory the oil companies control in the Gulf of Mexico. The red part of the map represents unused acres. It is a huge portion of the gulf region, going completely undeveloped, which they already have leases and access to.

Here is an even more impressive map—a map of how much of the Western United States oil companies control. The black portion shows where companies are exploring and, again, the red is where they are. As you can see, the red far exceeds the black portion of the map. These oil companies control an enormous amount of land. When you add it all up, it is an area more than 12 times the size of my home State of New Jersey.

So why are oil companies asking us to hand over more land, when they have so much land that is already unused? It seems to me there is only one explanation: Oil companies aren't actually in a rush to drill in those areas, but they are in a rush to control as much Federal land as possible before their friends in the White House leave.

Let's talk about myth No. 3. In order to convince us to let this plan go through, big oil and their supporters want us to believe a third myth, which is that offshore drilling presents no threat to our environment and to the economies of States, such as New Jersey, where tourism is the second multibillion dollar part of our economy.

Many of my colleagues from the Republican side of the aisle, including Senator MCCONNELL and Senator MCCAIN, have repeatedly denied that oil spills could happen. They have denied repeatedly that Hurricanes Katrina and Rita caused any oil to spill.

The picture I have here was taken not by me but by the U.S. Coast Guard. It shows what happened after the hurricanes: a massive oil spill that was set on fire to assist in the cleanup effort, as indicated in this photo.

I don't know what my colleagues on the other side of the aisle would consider ''significant spillage,'' but I know if I saw this scene on the New Jersey shore, I would consider it a disaster.

In 2005, Hurricanes Katrina and Rita caused devastation on a massive scale. The EPA, the U.S. Minerals Management Service, the National Oceanic and Atmospheric Administration, and the Coast Guard all agree that the storms caused 700,000 gallons of oil to spill into the Gulf of Mexico and over 7 million gallons of oil to leak onshore from the infrastructure that supports offshore drilling.

When oil spills in those quantities take place, it is not isolated to a small area. Some suggest certain States may want to drill and other States may not want to drill off their coast, but the devastation spreads far and wide. When the Exxon Valdez ran aground in Alaska, the spill was 600 miles wide. The IXTOC I spill in the Gulf of Mexico traveled 600 miles. That is why the decision to drill cannot be left to a single State, because the State's actions affect all the other States in proximity to it.

An oil spill off the coast of Virginia could wash up as far away as Maine. It could devastate the coastline from South Carolina to New York.

In my home State of New Jersey, the shore generates tens of billions of dollars in revenue each year and supports about half a million jobs.

New Jersey families and businesses cannot afford the risk of a disaster on the scale of the Exxon Valdez crash or the spills after Hurricanes Katrina and Rita, with sticky crude washing up on our beaches, killing our wildlife, collapsing property values, and destroying our economy in the process.

Let's be honest. If there is drilling off our shore, it is not guaranteed that there would not be a major spill. These facts show that to be quite to the contrary. Disasters have happened before and they will happen again. The question is, Is the risk of a significant disaster worth the insignificant amount of oil that might come with the drilling? That answer is, clearly, no.

Now, to my colleagues on the other side of the aisle who say, drill more and ultimately conserve some, I say our need is to act more and talk less. Let's do something that really does something about gas prices.

If we are going to bring down gas prices, we need a better plan. First, we cannot wait until the year 2030 to get the type of relief we need in terms of offshore drilling. We need to lower gas prices now. The last time we opened lease 181 in the Gulf of Mexico, with huge amounts, ultimately, what happened? That was a year and a half, 2 years ago. Did prices go down after we opened that section of the gulf? No. They went up. We cannot wait.

The supply-and-demand equation for oil is basically the same as it was a year ago—that is what testimony before the Congress tells us by even the oil executives—and prices have skyrocketed.

We need to check the unchecked speculation on the oil trading markets, which has driven oil prices higher. We need to see to it that our commodities markets are functioning fairly, so prices come down from their artificial highs. Yes, we offer drilling. But let us drill on the 68 million acres the oil companies have already leased to bring down the price of oil, not just use it to pad their books and inflate the price of their stock.

Together with Senators FEINGOLD and DODD, I have introduced legislation that sends a simple message to oil companies about the Federal land they lease: Use it or lose it.

The bill mandates that oil companies either produce on or seek to develop their existing Federal leases or make way for someone who will. Most importantly, we need to break our dependence upon oil. Here is the bigger picture: We can only ever produce a fraction of the oil we use as a country.

The only way for us to protect ourselves from rising gas prices is to end our dependence on oil, and that means making immediate, substantial investments in renewable fuels and conservation.

We should all get behind legislation, which our colleagues are opposed to, to expand tax credits for renewable energy producers. In order to boost vehicle efficiency, we should create stronger incentives for plug-in hybrids, support advanced battery research and research into cellulosic fuels.

It is time we fully funded mass transit at the level it deserves. We can do all this in the time President Bush would have us wait for minimal oil production along our coastlines.

Let's be clear. This coastline drilling plan is not a serious proposal to help American families today. It is exploitation of pain at the pump to give yet another handout to the oil companies.

It is long past time to stop repeating the myths that lie at the bottom of it. Instead of buying into this overhyped, oversold plan, if we work together, we have the ability and ingenuity as a country to secure our energy future once and for all.

It is that aspiration that we should, in fact, pursue. It is time we decide on a plan that looks out not just for the future of the oil companies but for our future as a nation. That is why our colleagues should join us in pushing the big oil companies to pursue drilling on the 68 million acres they have, ensure that they use billions in subsidies and tax breaks they have been given to invest in renewable energy and refineries, not stock buybacks to boost their pockets, tapping into the Strategic Petroleum Reserve to immediately increase oil supplies, and hopefully by doing so lower prices and stop the market manipulation that is taking place in the marketplace. Let's get the Commodity Futures Trading Commission to pursue this vigorously.

Finally, let's aspire to be something more than just today's crisis. Let's use the ingenuity of America to break our dependence not only on foreign oil but on domestic oil as well.

We can do all of these things. We are the people on the face of the Earth who are can-do. It is time for us to begin to deal with that rather than try to pursue a course of action that will do absolutely nothing about reducing gas prices, do absolutely nothing about breaking our dependency on foreign oil, absolutely nothing in terms of our domestic economy and security.

Those are the choices before the Senate, and I trust we will make the right ones.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, I just caught some of the remarks of the distinguished Senator from New Jersey. I don't know whether I will be able to answer them today, but obviously, in the course of the next few days or weeks, I will answer every single one. Most are covered in what I will talk about today.

In the course of the United States of America and the use of crude oil and natural gas as part of the transportation base of our country for automobiles, trucks, and the like, and at the same time the natural gas that has been produced that is being used by our chemical industry, the heating and cooling of our houses, and all kinds of things, and now some for automobiles also, in the course of that, yesterday was a remarkable day. After 27 years of moratorium on offshore exploration imposed on a year-to-year basis by the Congress and 18 years placed by the President, the executive branch of Government, which is not year to year but as long as the President wants it, we had the President of the United States taking off that Executive order putting a moratorium on 85 percent of the offshore properties in the continental U.S. owned by every single American. We had the President take off the moratorium and challenge the Congress to do likewise because without lifting the moratorium, whether it is the executive branch or the legislative branch, we cannot explore for oil and gas that we own.

I regret to say that we have been so far off base in terms of deciding where we would spend our money to help determine our course, where we are going, that we have not spent the money to go out and find the inventory, to do an inventory of this huge offshore resource, including off the California shores, all the way around the Atlantic and Pacific where there must be billions of barrels of oil that are going to be developed over the years and literally trillions upon trillions of natural gas Btu's that are going to be discovered. We decided there was plenty of oil and gas in the world, so we could put a moratorium on because we were frightened of what would happen if there would be spills. We were scared of what would happen if oil might spill out of one of the pipelines.

I say to everyone, during this 27 years, more or less, of moratoria, there has been a part of the offshore that has been open. The part that has been opened is singularly marked by a huge production of crude oil and natural gas for the people of America, principally off the coast of Texas, Louisiana, and a little bit of Alabama and Mississippi. But it has yielded literally millions upon millions of barrels of crude oil for America and literally scores of natural gas, that little bit that is open.

How much is open, so we will have it straight? Mr. President, 15 percent, 1–5; 85 percent has a moratorium on it. We have not inventoried it because we didn't want to spend the money. It cost a little bit of money to inventory it. So we have a sloppily done estimate that says we have an awful lot of oil and natural gas on that 85 percent. It is estimated that there are somewhere between 17 billion and 18 billion barrels. This Senator thinks that is so low that if we were to do an inventory, I think it would be twice as much or more that the American people own and we are not doing anything with.

So, yes, indeed, it was a remarkable day when President Bush lifted that

moratorium and said to us: You do likewise. Specifically, the President was saying to us: Do something that will tell the world we are going to start producing and get that done in a way that will cause those who are in the fields of buying and selling oil and gas and producing it to understand that there is another new, huge reserve coming onboard in due course, some of it in a few years, some of it over the long haul, but that it is there and America is going to use it.

In response to the President, the majority leader of the Senate, who has been my friend for a long time, announced that he will introduce his own bill. I heard the Senator from New Jersey alluding to parts of it. Probably tomorrow, he said. His bill will focus principally on the idea that speculators are driving up the price of oil, even though speculators are only responding to the same supply-demand concerns that everyone else is. In fact, recently Warren Buffett, the great businessman, explained the spike in gas prices by saying:

> It's not speculation, it's supply and demand. We don't have excess capacity in the world anymore and that's what you are seeing in oil and gas prices.

Guy Caruso, the Administrator of the Energy Information Agency, said speculation was not driving the increase in prices.

Just today, Federal Reserve Chairman Ben Bernanke said:

> If financial speculation were pushing all prices above the level consistent with the fundamentals of supply and demand, we would expect inventories of crude oil and petroleum products to increase as supply rose and demand fell. But, in fact, available data on oil inventories shows notable declines over the past year.

These experts say that speculation is not the main reason for this surge.

What really struck me was the majority leader announced he would not allow amendments at all to his bill. Let me make sure we say this on the first day after the President raises the moratorium, and so the moratoria that are left are all dependent on Congress. Whenever Congress is ready, Congress can change them. And if Congress doesn't do something, those moratoria will all expire at the end of this fiscal year. That is the first day of October. They will expire. We will have to act to keep them on.

But here we have the majority leader announcing that he would not allow any amendments to his bill that we haven't seen yet—not a single one, said he. I can't believe the people of this country are going to buy that, that one man, instead of the Senate, one man in his capacity as majority leader can say to the Senate: Take it or leave it. Here is my bill. It hasn't been produced by any committee. It is the bill of the leader of the Senate, and it principally says: We are going after speculators, so it is not going to produce any oil, from what we can see, and he says there will be no amendments.

I really don't believe, I repeat myself, that when the American people understand that out there for use, for development in the world market of oil and gas supply sits all this offshore development potential, and here stands the majority leader of the Senate and he says: So long as you do it my way, there will be some impact, some change, but it will only be what I say and not what anybody else thinks—we have already said on our side—and we are not just a few people; we are 49 out of 100. We have already said we want to produce more oil and gas offshore and we want to share the royalties with the States so that as we go about asking California if they would like to lift the moratorium and put a 50-mile limit, they could assess with experts how many hundreds of millions of dollars that State is going to get from royalties, in exchange for which the American people are going to have oil and gas drilling off that shore. All across the country, down in the South where we have a moratorium, the same thing can happen. There can be an honest, bona fide look by the States under our proposal. But that won't happen.

The occupant of the chair is one of the most reputable and fair Senators around. He wouldn't like to see that happen. He is listening attentively: Is that what I am for as a Democrat? Is that what I am going to do, say we are running this like the U.S. House, except we don't have a committee to police the bills because it was never in our power to do it, but our majority leader is going to be the one who decides what we take up. You can't amend a bill he puts on the floor on this energy crisis, this offshore oil which is in a huge new abundance that we own that sooner or later is going to add substantially to the supply and thus have an impact on the price of oil and gas for the American people.

I don't really think the majority leader is going to be able to prevail on this issue. Understand, he is going to have to have a vote on a continuing resolution because we are not doing any appropriations bills. Come time for that continuing resolution, they have to extend all of these moratoria because those appropriations bills they are having votes on are not going to get to the floor of the Senate. So we are going to have a continuing resolution around here and have to get the votes on it, excepting that I understand right now that the majority leader wants to bring his own bill to the floor, lay it up, and not let anybody amend it.

Yesterday he talked about this: You do it my way. Why? You won't get a chance to vote. Why? Because you lose because you cannot get 51 Senators to vote with you and do nothing to liberate for use these huge, huge billions and billions of barrels of oil and natural gas in abundance.

As all of my colleagues know, I have been around here about 36 years. Some people say that can't be right, but it is, and I am about to make it the last, soon. I have had a hand in passing a lot of bills. For many years, I passed a Budget Act every year. I don't think I missed but once. I was there doing that for about 18, 20, 26 years. You all—even new Senators have seen what an ordeal that is. If I look stooped and worn out, it is because I did that for so long before I got this wonderful job trying to do something about the energy crisis. And we have done a lot. It is just that the energy crisis is pervasive. You can do a lot, and nobody knows you have done anything.

I have had a hand in passing a lot of bills, and I have seen what happens when one party decides it can dictate to the other. Unfortunately, that is what is happening now. On the most important economic issue of our time, the majority leader has decided that he alone—he and he alone—is the only person here who can make energy policy. The rest of us might as well go home. We can't offer any amendments and we would be lucky if he even let us have a good debate.

Why? The majority leader knows that one of our ideas is to allow each individual State to decide if it wants to explore for oil and gas. Eighty-five percent of the land in the continental United States is currently off limits for oil. The President lifted his 85 percent; the same number remains under moratoria from the legislature.

Republicans want to change that. I am pleased that I think some Democrats want to change that. This area is laden with billions of barrels of American oil and trillions of cubic feet of natural gas, so the majority leader knows if you were to have a vote on this subject on the floor, he may not win. He may not win. And I believe the American people will have a lot to say about who wins when they understand this issue plain and simple. The offshore has always been open to development under certain rules until you put on a moratorium and we now have one on, put on by the legislature, and it ought to be taken off. Republicans want to change it and I am pleased to say that, talking to Democrats, I also believe there are some of them who want to join us.

The majority leader knows if we were to have a vote on this subject, he may not win. I put it the other way, he may lose. And even if he does win, the American people will not like it, since the vast majority of them agree with us that America ought to be producing more oil through deep-water exploration. The American people are clamoring for it. They do it in Norway, Brazil, Great Britain, and many other nations. So Americans are asking, why not here?

I have heard all kinds of excuses as to why we should not open up the new areas. The latest one, according to the majority leader, is——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I ask for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 3 additional minutes.

Mr. DOMENICI. I have heard all the excuses I have ever heard of. I want to close with one. The other side says they are going to put in some language that says to those companies that own leases: Use it or lose it. They don't have to put that in their new law because there is already a ''use it or lose it'' provision. I say to my friend, Senator KYL, all of those companies that have leases have either a 5- or 8- or 10-year lease. In each of those leases it says: When the lease expires, if you are not producing, you lose the lease. That is: Use it or lose it. So already all the leases say by the time the lease expires—and they are not long leases. They are 5s and 8s and 10s.

If you talk about a lot of property not being used, it is because they are going through different phases of evaluating the property to get it ready for the final decision whether to drill the hole. So we are not worried about that. We contend that there is no ''use it or lose it'' necessary because it is already the law under which they serve today.

There is nobody sitting on it. It is $140-a-barrel oil. If you were to sit on that, as an oil company, you would be held responsible to your board and your stockholders for wrongdoing because you ought to get on with producing it so you don't lose it because it already is a ''use it or lose it,'' and we do not need any new rules.

The President's action yesterday places the ball firmly in our court. It is a decision we have to make soon because the existing moratoria on offshore exploration expire at the end of September. But in order to address any of these problems, the Senate must be able to function as a deliberative body. As long as we are blocked by the majority from offering amendments to virtually every bill that comes before us, we simply can't do that. It is not the right way to govern.

The American people are paying a very high price. We know it. We have to make sure the American people find out—and first, that those who disseminate the news find out that in fact this should be open for debate. Republicans will be reasonable, but we want some amendments and we want to vote on the disposition of this property which belongs to everybody. Some of it may have great quantities of natural gas and crude oil. We have to make some decisions other than: Do it my way. I, the leader, have a bill. It will be that bill or no bill.

I am sorry to say to my good friend, the leader, he was not that way before. He should go back as a leader the way he was before and not think he can do that. He does not own the Senate. He does not run the Senate in that manner. We didn't give anybody that authority and we ought to get on with an understanding and agreement in the normal way that we have always done it and see how this comes out. It will probably come out right for the American people if we do that. It will become an asset for them. It will help bring down the prices, and certainly it will take millions of dollars we would otherwise be throwing away and we will keep it for ourselves as we keep some of these oil and gas revenues.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the assistant Republican leader is recognized to offer an amendment.

Mr. KYL. I thank the Senator from New Mexico.

Mr. President, are we currently in morning business?

The PRESIDING OFFICER. The Senate is on the bill.

Under the previous order, the minority whip is recognized to offer an amendment.

AMENDMENT NO. 5082

Mr. KYL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 5082.

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

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

The amendment is as follows:

(Purpose: To limit the period during which appropriations may be made to carry out this Act and to create a point of order in the Senate against any appropriation to carry out this Act that exceeds the amount authorized for fiscal year 2013)

On page 129, strike line 21 and all that follows through ''(b)'' on page 130, line 3, and insert the following:

(a) IN GENERAL.—Section 401 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7671) is amended—

(1) in subsection (a), by striking ''$3,000,000,000 for each of the fiscal years 2004 through 2008'' and inserting the following ''—

''(1) $40,000,000,000 for the 4-year period beginning on October 1, 2008; and

''(2) $10,000,000,000 for fiscal year 2013.''; and

(2) by striking subsection (c).

(b) POINT OF ORDER AGAINST ANY APPROPRIATION THAT EXCEEDS THE AMOUNT AUTHORIZED.—

(1) POINT OF ORDER.—Subject to paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that contains an appropriation to carry out this Act or any amendment made by this Act that exceeds the amount authorized to be appropriated for such purpose under this Act or any amendment made by this Act.

(2) WAIVER AND APPEAL.—

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn.

(B) APPEAL.—An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(c)

Mr. CARDIN. Mr. President, I ask unanimous consent that Senator KYL be recognized for up to 5 minutes for debate only, and that following his remarks, Senator KLOBUCHAR be recognized to speak for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I ask unanimous consent the agreement be amended by also providing that Senator JUDD GREGG would follow Senator KLOBUCHAR.

Mr. CARDIN. That is fine.

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

Mr. KYL. Mr. President, it will only take me 5 minutes to describe this amendment. If we need to have debate about it later, we can certainly do that.

This is an amendment to the bill. The bill, recall, provides for an authorization of $50 billion over 5 years. If you divide $50 billion by 5 years, you get $10 billion a year. All my amendment does is to provide that, at least in the last year of the 5 years, the appropriation to fill the authorization would be limited to $10 billion. If it were more than that, there would be a point of order that would lie against that.

The reason for the amendment is twofold. First, the House of Representatives provides for an annual authorization of $10 billion per year for 5 years. The Senate bill doesn't break it down that way. We are open as to that. I am not trying to limit what the appropriations would be during years 1 through 4, but what I am saying is the fifth year would be $10 billion, exactly one-fifth of the amount authorized.

The second reason is this. Frequently in the reauthorization of legislation we take as the baseline the last year of appropriations. I want to make sure if we are authorizing $50 billion that when we get to the end of this, the baseline for the next year is at least not going to exceed $10 billion, which would be one-fifth of the $50 billion. It turns out under the existing program we have not limited ourselves to that degree of discipline. The existing law authorizes $15 billion over 5 years. You would think that would be $3 billion year. If you think that, you would be wrong. What the Appropriations Committee has done is to appropriate more money than that authorized. In the last year, the current year, for example, there is about $6 billion that has been appropriated as a result of which, over the 5-year period, the total amount appropriated is just under $20 billion. That is $20 billion appropriated for a $15 billion authorization.

All I am trying to do is to keep us honest here. If we are saying this is going to be a $50 billion authorization—I think that is way too much money—let's leave it at $50 billion. All my amendment does is to say in the last year, the appropriation to fulfill that would be limited to $10 billion. I think that is eminently reasonable.

To those who say, ''We are going to oppose all amendments to the bill, let's just do it the way it was written,'' I say think for a moment. You are going to make people feel a lot better about this if there is some discipline in our spending in furtherance of the authorization. There is some degree of skepticism, at least by some on my side, that Congress will restrain itself to the level of authorization.

This amendment doesn't go as far as the House in setting an amount every year, but it does at least set an amount for the last year. Theoretically, we could appropriate more than $50 billion. In the first 4 years you could appropriate $12 billion a year. This amendment doesn't prevent that. But I do want to say in the last year we confirm the discipline of limiting it to $10 billion.

That is the extent of my amendment. I hope my colleagues will approve it. We don't need a great deal of debate time, as far as I am concerned. If somebody wants to argue against it, I wish to have the last word and then have a vote on it as soon as is agreeable to the Members on the other side.

The PRESIDING OFFICER (Mr. PRYOR). The Senator yields back his time.

Under the previous order, the Senator from Minnesota, Ms. KLOBUCHAR, is recognized.

CLIMATE CHANGE

Ms. KLOBUCHAR. Mr. President, as you noted, I come from the State of Minnesota and the State of Minnesota is a State that believes in science. We brought the world everything from the Post-it note to the pacemaker. We are the home of Mayo Clinic and the University of Minnesota. We believe in science. As a former prosecutor, I also believe in evidence. What we have been hearing from this administration, time and time again, whether it is about energy policy—where they have actually done literally nothing the last 8 years when it comes to pushing us forward to where we should be when you look at the rest of the world with technology and hybrid cars and electric cars and new gas mileage standards which came out of this Congress, or whether it is about climate change, which I am about to address today—they have been living in an evidence-free zone. It is time to bring out the evidence.

The administration made headlines twice last week in its ongoing effort to do nothing about climate change. We learned there was political interference with science—political interference with the evidence and the facts. We also learned the administration will not issue the global warming regulations mandated by the Supreme Court.

I am a member of the Environment and Public Works Committee. Some of my colleagues might recall last fall when Dr. Julie Gerberding, the Director of the Center for Disease Control and Prevention, was invited to testify before our committee. She was invited to testify on how climate change could impact public health. Unfortunately, her testimony that she delivered was markedly different from what she and her staff at the CDC had prepared. The Office of Management and Budget got its hands on the speech and removed about 7 pages that discussed the impact of global warming—7 pages redacted. These pages included explanations and descriptions of the links between climate change and heat stroke, weather disasters, worsening air pollution, allergies, food and waterborne infectious diseases, mosquito and tickborne infectious diseases, and food and water scarcity. I would say those things seem very relevant to the job of the head of the CDC, and something she should be allowed to testify about when it comes to climate change.

Well, at the time there was brouhaha because someone leaked the actual testimony, a whistleblower brought it to our attention.

At the time, the White House claimed they needed to edit it because of its ''broad characterizations about climate change science that didn't align with the U.N. Intergovernmental Panel on Climate Change Report.''

Last fall, we provided a number of examples of how her testimony was, in fact, closely aligned with that report. Her testimony, in fact, included the statement that:

> The west coast of the United States is expected to experience significant strains on water supplies as regional precipitation declines and mountain snowpacks are depleted.

She went on to say:

> Forest fires are expected to increase in frequency, severity, distribution, and duration.

In fact, the IPPC has found that ''warm spells and heat waves will very likely increase the danger of wildfire.''

So they were completely consistent, and I do not have to tell anyone, you do not have to read a report on what has been going on in California in the past 2 weeks.

Global warming did not cause these fires, but it certainly intensifies the three main causes of wildfires: high temperatures, summer dryness, and long-term drought.

Minnesotans know when the wool is being pulled over their eyes. Let's face it, the Bush administration did not change Dr. Gerberding's testimony because of concerns regarding accuracy. They did not worry about if it matched with that record because it, in fact, exactly did. They did it for political reasons.

So it was no surprise to me when the news broke last week that both the Office of the Vice President and the President's Council on Environmental Quality had actually stepped in to interfere with her testimony. This revelation came to us from Mr. Jason Burnett, a former Deputy Administrator of the EPA, who informed Chairman BOXER that he had been approached by the Council on Environmental Quality staff and asked to work with the CDC to remove from the testimony any discussion of the human health consequences of climate change.

Upon reviewing the original testimony, Mr. Burnett came to the same conclusion we have reached since: The science was correct. He did not think he should alter the statement. He was not operating in an evidence-free zone. He wanted the facts out there. He wanted information out there.

I am sorry to report that even though the administration has been caught redhanded in this behavior, time and time again, it has not stopped them from continuing their interference with scientific facts. Last week we learned the Office of Management and Budget has been sitting on an e-mail from that same former Deputy Administrator of the EPA regarding the endangerment of public health or welfare from global warming.

The OMB received this e-mail, and once they realized what it contained——

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator's time has expired.

Ms. KLOBUCHAR. I ask unanimous consent for 1 additional minute.

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

Ms. KLOBUCHAR. The OMB received this e-mail. Once they realized what it contained, they first tried to make Mr. Burnett take it back, and then they actually tried to bury it.

We also learned last week of the administration's decision to leave office without taking any regulatory action to address climate change. This is wrong. The bottom line is that this White House is leaving it to the next President to show leadership, to show leadership on energy, and to show leadership on climate change.

I cannot say it more plainly than this: Our climate is changing. If we do not act to stem the tide, it will have grave and disastrous impacts on every single facet of our lives, from our health, to our economy, to our foreign policy.

It should begin with science, it should begin with evidence, it should end with science, and it should end with evidence. That is how we will come to the right policy outcome. We cannot have the wool pulled over the eyes of the American people anymore.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized.

AMENDMENT NO. 5081

Mr. GREGG. Thank you, Mr. President, I call up amendment No. 5081.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 5081.

Mr. GREGG. 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 is as follows:

(Purpose: To strike the provision requiring the development of coordinated oversight plans and to establish an independent Inspector General at the Office of the Global AIDS Coordinator)

On page 38, strike line 15 and all that follows through ''(e)'' on page 40, line 20 and insert the following:''.

(e) INSPECTOR GENERAL.—

(1) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting ''the Coordinator of United States Government Activities to Combat HIV/AIDS Globally;'' after ''Federal Deposit Insurance Corporation;''; and

(B) in paragraph (2), by inserting ''Office of the U.S. Global AIDS Coordinator,'' after ''Nuclear Regulatory Commission,''.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of the fiscal years 2009 through 2013, to carry out the duties of the Inspector General of the Office of the Global AIDS Coordinator.

(f)

Mr. CARDIN. Mr. President, I ask unanimous consent that no second-degree amendments be in order to the Gregg amendment.

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

Mr. GREGG. Mr. President, this amendment, I do not know why we are taking up this amendment at all. It is an amendment which is going to try to make funds spent under this bill be responsibly spent. It sets up an IG to review how these funds are spent.

We are taking a program which we presently spend $15 billion on and we are tripling it, we are doing more than tripling it, we are taking it to more than $50 billion. I know the taxpayers of America would hope and expect that when we take a program and radically expand it in this manner, we would expect that those dollars be spent efficiently and effectively.

Now, we put inspectors general into a lot of different programs around here. There are programs which spend less than $20 million that have inspectors general tied to them. It is only reasonable that if you are going to take a program and radically expand it, the way this program is being expanded, which will lead to significant pressure to push money out the door, and, unfortunately, that quite often leads to instances where the money is not well spent, that you should have someone looking over the shoulders of the folks who are spending the money and saying: Is this money being spent for what, first, it was intended to do, which is to help people in nations who are suffering from the plague of AIDS, specifically, and, secondly, that people who are the recipients of those dollars are handling those dollars in a way where the dollars are not being wasted or handled in a corrupt manner.

Now, one of the unfortunate factors involved in the PEPFAR Program is that many of the countries which receive PEPFAR funds are countries which have governments which are not all that committed to integrity and are not transparent at all. In fact, a corruption index by Transparency International took a look at the various countries around the world to determine which countries are basically corrupt and which are not; which have governments that function under the rule of law and which do not, and which governments end up with a large amount of patronage, waste, and fraud when they manage their funds.

This map shows that conclusion of that index. The darker the colors get on this map, the more problematic is the nation relative to the issue of transparency and integrity in their government. Well, as you look at this map, you maybe cannot see it, but there are little yellow stars on the countries which are going to be receiving most of the PEPFAR funds or are presently receiving PEPFAR funds.

Almost all those countries are nations which have serious issues on transparency and where the governments have some questions about integrity and management and waste.

So it is very reasonable that we should put in place an inspector general within the Office of the Global AIDS Coordinator to make sure these dollars, which are fairly significant—in fact, they are dramatic when you look at the increases—are being spent well. You know, American taxpayers and most Americans are extremely generous people. We as a nation are generous. There is no other nation in the world that has stepped up to the AIDS fight, especially in Africa, the way we have. I congratulate this Administration for taking the lead on that. I congratulate Senator LUGAR for being one of the leaders on this effort and Senator BIDEN.

They are reflecting, the President and the leadership of the Foreign Relations Committee are reflecting the inherent nature of the American people, which is to try to help people out who have problems. We recognize AIDS is a scourge, and it is a terrible situation, especially in these African countries.

But the American people also expect that when they are generous with their dollars, as they are being under this program, and have been under this program, that these dollars are going to be well used; they are not going to end up in the pocket of some cousin of somebody who is going to be running the program; or not end up in a Swiss bank account or not end up going for somebody's new Mercedes or, alternatively, they are not going to go into an NGO, a nongovernmental organization, which rather than being an efficient provider of care, turns out to be simply a place where a lot of money is spent on administration, instead of a lot of money being spent on trying to cure or address the problem of AIDS.

One of the ways we accomplish that, to make sure we have accurate accountability, is through the use of inspectors general. Now, some will say: Well, there is already an inspector general who can be responsible for this money. Well, those inspectors general who would logically have jurisdiction over these dollars are spread thin in their responsibility; they have a lot of other accounts to cover. It is not like this is a small account. Under this bill, this account explodes.

So we have actually set up inspectors general in other accounts which are much smaller and had no problem with that. Inspectors general do not cost a lot of money actually, and they get a pretty good return on the investment, usually, because these individuals set up small offices of people who have oversight of the dollars that are being spent. They usually end up saving enough money to easily justify their existence.

But we have an inspector general, for example, in programs such as the Smithsonian Institution, which is not very significant compared to PEPFAR; programs such as the Postal Regulatory Commission, which is almost nonexistent on a spending level compared to PEPFAR; we even have an IG for the Denali Commission, and obviously for the Library of Congress and National Archives; two organizations which I suspect do not need an inspector general because they are pretty well managed organizations, to say the least. But we put inspectors general in those positions in order to make sure the American tax dollars are efficiently, effectively, and appropriately used and that the programs that are supposed to be addressed are addressed.

Well, there is resistance, for some reason, to putting an inspector general into this program. I cannot understand it. I mean, it is just logic that you would, when you are expanding a program at this rate, do that, put an inspector general in. So I would hope there would not be opposition to this amendment, that it would be accepted, that we would take this responsible action.

If we do not, I have to ask the question: What is all this new money going to be spent on? Is there some plan we have not been informed of that is of a nature that does not want to have oversight, that does not want to have a legitimate review of the way the money is spent?

Are there groups out there thinking they are going to have this money and have the influence to basically stop before it even starts the accountability of those groups? Are there countries out there that fall into that category? It would seem there would have to be if there is resistance on the inspector general program for this proposal.

So that is why I hope it will be supported. On the side issue, which is actually not a side issue, it is an overriding issue, but it does not relate so much to the inspector general. On the spending side, this initiative in PEPFAR is a huge expansion of a program, just massive. This year we are going to go from a budget deficit last year that was $177 billion to a budget

deficit that is already projected by CBO as being well over $400 billion.

Because of the slowdown in the economy, which has slowed revenues, because of the slowdown in the economy, which is putting more pressure on us to come in and support various activities in the marketplace such as our banking industry and our housing industry, that number will probably even go up, probably well over $400 billion, we could be headed to a $450 or $500 billion deficit in 1 year, this year, 1 year, a massive expansion in the deficit which fundamentally undermines our Nation and, in the long run, it adds to our debt.

These young people down here who are pages today are going to end up picking up that bill. It is going to be passed to them. So we do have to be very responsible when we decide to expand programs in the face of the deficit because all this new spending that is going to come in on PEPFAR is either going to be borrowed or it is going to have to come from other programs.

Now, let me try to impress upon people how big this expansion is. In relation to our foreign aid account, which I have jurisdiction over, to some degree, because I am the ranking member of the Foreign Aid Committee in the Appropriations Committee. This is a pie chart that shows today's international development aid program. PEPFAR represents a fairly significant portion under today's funding level, which is at $15 billion authority. It represents about a quarter of what the foreign aid funding is.

Well, after we pass this bill or after this bill gets passed, because I am not planning to vote for it in its present profligate state, even though I support the basic program and would support a reasonable increase in it, PEPFAR is going to represent about 77 percent of all foreign aid development money.

The question becomes, what happens to all these other accounts? If I, as ranking member, and Senator LEAHY, as chairman of this committee—and maybe that will be reversed next year; it has been reversed in the past—are responsible for dividing up this development aid money, how is it going to work? We are going to receive an allocation. That is what we will get from the full Appropriations Committee after the Budget Committee acts, of which I also happen to be ranking member. I don't expect that allocation to be increased by 25 percent. There has never been a whole lot of enthusiasm for dramatically ramping up foreign assistance in this body. So I don't think we are going to see a 20- to 25-percent increase in our allocation, which is what it would cost to fully fund PEPFAR and keep that funding from impacting the other programs.

The last couple of years we have received an increase—3 percent, 5 percent, 4 percent. Let's presume we continue with that increase level. Let's presume we get the increases we have received in the last couple of years which have been bigger than most other accounts have received in the Federal Government that are not related to defense. That is still going to leave literally somewhere around $8 billion—potentially, $6 to $8 billion, by my guesstimate—we are going to have to find somewhere else, if we are going to fully fund the PEPFAR Program.

People say this is an authorization. We pass authorizations all the time. Everybody knows that is a number put out there for the political purpose of making a statement about how important the program is.

In this instance, that is probably not the case. When you are talking about funding AIDS and the fight against diseases such as malaria in Africa, there is a consensus that we need to be aggressive and participate. I fully expect this authorization will be very close, if not fully funded. So where are we going to get the money? We are going to have to take it out of other foreign aid accounts because of this threefold increase, going from a $15 billion program to a $50 billion program. That is a tripling of the program.

The accounts that are going to be impacted are pretty popular accounts. They are going to be cut. We are going to have to cut funds to Israel. We will have to cut funds to Egypt. We will have to cut educational and communications funding we are making in the Middle East and in the Arab world to try to communicate our message over the message of al-Qaida and the radical Muslim fundamentalist movement. We will have to cut the Foreign Agricultural Service, the international narcotics and Andean initiatives, the migration and refugee assistance disaster program. The USAID organization itself will be cut significantly, operations and people on the ground. Child survival and health programs will be cut. Obviously, the Millennium Challenge will be cut, and sustainable development assistance programs will have to be cut. They will simply have to be cut. You can't produce these types of funds for PEPFAR at this rate of increase without making reductions. I believe PEPFAR is a program that is a success. I believe we as a nation have done the right thing and stepped up to what was our responsibility as a nation. I certainly support a reasonable increase that is, as the administration suggested at one time, around $30, $35 billion as a 5-year number. That is a pretty big increase. That is double. But this bill goes too far; $50 billion is simply too much for this budget and for the Appropriations Committee, on which I have some responsibility, to handle, unless we will start running a surplus where we can find funds. I put out that red flag.

This is a feel-good vote. Everybody is going to vote for it. People want to make a statement. But this statement is going to have consequences. I suspect a year from now, when people insist on full funding for this over the next 5 years, people will be a little upset about the accounts that will have to be reduced into in order to accomplish that full funding. That is a red flag I am putting out.

The issue I am talking about today is whether we will put in place a process where the American taxpayer, no matter what the final dollar figure is, can have some confidence that money going into these nations, which have been identified as having fairly significant problems, for the most part, with the way they handle money, is going to be efficiently and effectively used so that we actually do care for people who have AIDS, so that we do get money out to that mother and child who suffer from these conditions.

I certainly hope Members would look favorably on this amendment, put in place an IG on an account that is fairly significant and a lot bigger than a lot of other accounts that have inspectors general and which cries out for review because it is going into areas which are not quite as stable as the National Archives. The National Archives is pretty stable. The Library of Congress is a pretty stable place. You pretty much can figure out what is going on there when money goes to those folks. But when you send money into some of these nations which are governed, in many instances, by people who are not subject to the rule of law as we are, or to transparency rules as we are, you need to think about having somebody look over the shoulder of the folks spending the money to make sure the American taxpayer gets what they pay for and that this deep commitment by Americans to compassion, especially on the issue of AIDS, leads to actual positive action rather than simply people going out and wasting taxpayers' dollars or using it in a fraudulent way.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from New Hampshire, Mr. GREGG. I would say, to begin with, I clearly agree with the oversight goals he seeks to achieve. But the underlying bill we are considering today creates a strong inspector general infrastructure for PEPFAR, and it constructs it at less cost than the proposal made by the distinguished Senator from New Hampshire.

To begin with, PEPFAR has set a high standard for results-based, accountable development programs both within our own Government and in the international community. PEPFAR has been among the most evaluated of new programs in the U.S. It has been the subject of five GAO reports already completed, with a sixth on the way, examining operations and expenditures. The inspectors general of the Department of State and USAID have so far conducted evaluations of 10 of the 15 focus countries of PEPFAR. These inspections have occurred in South Africa, Guyana, Nigeria, Tanzania, Haiti,

Uganda, Rwanda, Zambia, Ethiopia, and Kenya. The Institute of Medicine conducted a congressionally required multiyear evaluation entitled ''PEPFAR Implementation: Progress and Promise.'' Another review is required by this bill we consider presently. The inspector general of Health and Human Services is currently conducting an extensive financial audit on all PEPFAR funding received by HHS from the State Department for the fiscal years 2004 through 2008. The Peace Corps, beginning in September, will be conducting an internal management assessment on PEPFAR implementation in Ethiopia.

Clearly, officials are paying close attention to how PEPFAR money is being spent. This is particularly important given that various agencies all apportion funds through the office of the Global AIDS coordinator. It is their money, and they know they must account for it. That is why our bill calls on the Global AIDS coordinator to expend some $15 million to fund these IG efforts to ensure that they have adequate resources.

Based on a recommendation from the State Department inspector general, the U.S. Global AIDS coordinator has formally requested that the inspectors general of PEPFAR agencies submit a joint memorandum describing options, feasibility, and estimated costs of conducting a collective independent financial audit of U.S. Governmentwide PEPFAR funds.

The State Department's inspector general has confirmed that he is acting on this request and will be inviting all PEPFAR IGs to come together to develop plans by the end of July.

In addition to the additional funding of inspector general operations, the managers' bill requires the submission of an annual coordinated audit plan by the Department of State, USAID, and the Department of Health and Human Services in relation to PEPFAR, in collaboration with all PEPFAR implementing agencies and the GAO.

In this context, a stand-alone inspector general for PEPFAR, suggested by the distinguished Senator from New Hampshire in his amendment, may not be the best way to evaluate the program. I believe we now have a strong system of oversight already in the bill that recognizes the participation of many agencies in our antidisease programs. I believe we should retain that system.

I would point out that I share the distinguished Senator's views with regard to economies, but I am suggesting that the inspector general results that he anticipates can be achieved for less money. This is why I have outlined, tediously and laboriously, specifically all of the audits that have already been conducted, plus the ones now being coordinated by the Department of State. I take seriously, as I think all Senators do, the thought that these moneys must be carefully spent in whatever country they may reside. I would simply say this is why I have enumerated the 10 countries in which extensive examination has already occurred, with the five to go to be completed shortly.

Finally, clearly the Congress does have to make choices with regard to expenditures. We all take that responsibility seriously. I come, as do many Senators today, as an advocate for the PEPFAR Program, for all of the reasons we have expressed in outlining the introduction of the bill. In very quick review, they come down to the saving of hundreds of thousands of lives, the alleviation of extraordinary suffering on this Earth, and from the standpoint of our foreign policy, one of the strongest ways in which the United States has made an impact on a number of countries in which our public diplomacy or diplomacy of any sort has not been very successful in the past. We make an impact because people in those countries know that we care. We do care for the people, but we also care for the relationships and for the roles these countries play in the formulation of world peace and in preservation of a world in which we all do better.

Therefore, the PEPFAR Program does have merit and, I believe, extensive popularity not only in our country but in so many other areas of the world in which we have served. That does not obviate for a moment the need to carefully detail precisely the results that I believe we have tried to take account of, and I believe have done so with economy in the underlying bill.

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

Mr. LUGAR. Of course.

Mr. GREGG. It is my understanding that presently the inspectors general for Defense, for Labor-HHS, the State Department, and the USAID all have line responsibility for PEPFAR; is that not true?

Mr. LUGAR. That is essentially true. Each has responsibility for those programs that are a part of their jurisdiction and their funding.

Mr. GREGG. It is also my understanding that every one of those agencies which I have listed has billions—and in the case of HHS and Defense, hundreds of billions of dollars—to be sensitive to as to how they are being spent.

The only IG who I believe has done any reports of those five who theoretically have been charged with that responsibility of overlooking PEPFAR spending is, as I understand, USAID, which is using a small number of its membership to do that, and spending, I think, less than $1.5 million a year on that program.

So doesn't it make sense that we should acknowledge the fact that these very large entities—Defense, Labor-HHS, USAID, and State—probably on their radar screen of relative issues are not going to place PEPFAR very high and we should have, instead, an individual in an office which does place it right at the center of its responsibility to make sure the money is being spent well?

Mr. BIDEN. Mr. President, will the Senator yield for a——

Mr. GREGG. That was a question.

Mr. BIDEN. That was a question? Oh. I am sorry.

Mr. LUGAR. And my response, at least, would be that very clearly each of the agencies does take it seriously. But I have outlined how all are to be brought together by our Federal Government in a coordinated way. It appears to me the inspector general function occurs in this manner with the same results and for less money than the Senator's amendment would suggest, and that is that an independent effort going outside of all of this is not productive in terms of savings, either on the face of it or in terms of fraud and abuse that might be found. But that, obviously, is the nature of our debate, and I respect the Senator's opinion.

Mr. GREGG. I thank the Senator.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Although the question was not asked of me, before the Senator leaves the floor, I say to the Senator from New Hampshire, if I could point out one of the problems—this may well have been mentioned, and I apologize if it has—but essentially what the Senator is suggesting is going to require us not only to set up a new agency, but an agency that does not have any experience overseas and an inspector general who will basically start from scratch.

These are two binders full of the reports, which I hold in my hands, that have been done thus far by the present system of the three different agencies: State, Health and Human Services, and AID. They have considerable experience in going into the field overseas, knowing their way around. Part of this has to do with knowing your way around.

I used to have a friend who was a great basketball player. He wasn't the brightest candle on the table intellectually, but he had a great expression. He said: You gotta know how to know. These guys know how to know. They know where to look. They have been doing some versions of this overseas for the last 30 years in the case of State and AID.

I am not going to dare suggest this material be printed in the RECORD, but I have here two large binders full of reports of the IGs, the coordinated efforts here, mostly done through State and AID, of overseeing these programs. The last point I will make: It is overwhelmingly in their interest to see that this money is spent well because it affects so many other aspects of their ability to provide the kinds of services the 150 account provides out of the whole effort we have for development and diplomacy.

I thank the Senator from New Hampshire for being kind enough to hang around and listen. To use President

Reagan's expression, ''If it ain't broke, don't fix it''—it ain't broke. It costs more money to fix it, in my view. I believe the agencies in place, coordinating their efforts, have vastly more experience in knowing where to look and determining whether the money is being spent as intended.

Mr. President, the Global AIDS program is operated in this way: a special coordinator, Dr. Mark Dybul, sits in the Department of State, and provides policy development and guidance to the agencies in the field implementing the program.

The main agencies implementing the program in the field are the Agency for International Development and the Centers for Disease Control and Prevention, or CDC.

Ambassadors in the field, in every country where PEPFAR operates, provide overall supervision.

So there are three main agencies involved—the Department of State, the Department of Health and Human Services, and the U.S. Agency for International Development.

There are others, such as Peace Corps and the Defense Department, but these are the big three.

All three agencies—State, AID and HHS—already have an inspector general. These were created by Congress a long time ago.

In the last several years, the volume of audit and inspection reports prepared by these entities on the PEPFAR program and the President's Malaria Initiative fills these two large binders, which run hundreds and hundreds of pages in length.

The AID inspector general alone has conducted 25 audits and made nearly 100 recommendations.

The State Department inspector general has reviewed PEPFAR activities at 10 overseas posts during embassy inspections.

In the last 3 years, there have been five GAO reports, and another one is underway.

The Global AIDS coordinator, Dr. Dybul, has formally requested that the PEPFAR agency inspectors general get together on a collective financial audit.

In other words, there is already a lot of work that is being done. But in order to ensure that it continues and indeed increases, the bill before the Senate has a provision on this very point—a provision that the Senator's amendment would strike.

It requires the three inspectors general from these agencies to come up with a coordinated annual plan to review the programs under this act. And then it provides $15 million that is specifically allocated to this work, out of the $50 billion in this bill.

So we have already addressed the Senator's concern in a way that builds on an existing structure, which will save taxpayer dollars and will ensure a coordinated effort.

The Senator's amendment, by contrast, requires us to build a whole new outfit from scratch.

It calls for $10 million in annual funding, or $50 million over the life of the bill—almost as much as Dr. Dybul's own office spends to manage the entire program.

As everyone knows, these programs are implemented overseas, not only in the 15 ''focus countries,'' but dozens of other countries.

The inspector general for the Agency for International Development has several overseas offices—including two of them in sub-Saharan Africa, in South Africa and Senegal—that do the bulk of the audit work.

The State Department inspector general sends teams out to inspect every embassy every 5 years or so. During these inspections, they review aspects of the PEPFAR program.

How will this new office be able duplicate this existing infrastructure? Where will these overseas offices be located? What are the startup costs for all this?

Do we really need a special IG for every $6 billion program we create in the Government? Why do we bother to fund the permanent IGs?

Where will staff be recruited for this new IG? The community of IGs in the Government is already struggling to find competent auditors and investigators. The new IG will almost certainly end up poaching staff from existing IGs, thereby weakening those offices. Is that a result we want?

I think it makes no sense to start over, when we have existing outfits that can do the job. I oppose this amendment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. GREGG. Mr. President, I was seeking recognition.

The PRESIDING OFFICER. Forgive me. The Senator from New Hampshire.

Ms. LANDRIEU. Mr. President, I have a question. I have a question, if the Senator from New Hampshire would yield.

I understand I was put in order to speak after Senator LUGAR. Could someone clarify the order we are speaking, please, because I most certainly do not mind waiting.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

Ms. LANDRIEU. OK, Mr. President, then I will go ahead and take the floor, then. Thank you for recognizing me.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. To the Senator from Louisiana, there is no order to that effect.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. CARDIN. Would the Senator yield for a moment?

Ms. LANDRIEU. I would.

Mr. CARDIN. I think it was the intention to allow the Senator from New Hampshire to finish on his statement.

How much time does the Senator from New Hampshire need to respond?

The PRESIDING OFFICER. The Senator from New Hampshire had been recognized.

Mr. CARDIN. Yes. I think he was seeking to finish on his amendment. And then the Senator from Louisiana was supposed to follow the Senator from New Hampshire. So the proper order would be to allow the—

The PRESIDING OFFICER. The Senator from New Hampshire is recognized, and the Chair will announce the order.

Ms. LANDRIEU. Mr. President, I would be more than happy to wait. I was given some other information, and I apologize to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Well, Mr. President, I am not sure what has happened here, but I was seeking recognition. I do not believe I had lost the floor, and I think it is inappropriate that I was taken off the floor. I am not going to continue this debate at this point, and I will yield to the Senator from Louisiana and let her proceed.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

HIGH GAS PRICES

Mr. President, I wanted to come to the floor to speak, actually, on a different subject, and I am very sorry that the wires got crossed about the debate that is on the floor because I know it is very important to try to pass this bill we are speaking about before we leave this week. But there is another issue that is very important to our constituents as well. That is the issue of high gas prices in America.

I know there are many people who are concerned on this Senate floor about our foreign policy and about contributions to foreign countries. I most certainly put myself in that category. But, in my view, there is nothing more important than energy policy right now in the United States—the prices people are paying at the pump—and the debate that is going on on this floor, in committees, and behind the scenes on energy. I most certainly had a great deal of conversation with my constituents when I was home over this past weekend.

In fact, in the time I have been back, I have spoken with Democrats and Republicans who have expressed very similar concerns, that the question most asked, the topic of most interest, is not about foreign aid, it is not even about the war in Iraq, although that is a very important point. The American people are interested and focused on energy prices: our consumers, our small businesses, our manufacturers, as well as our major industries, such as airlines and domestic manufacturing.

So I think it would be important for us to spend as much time as we can on the floor debating the issues that are

most important. I hope we can resolve the previous issue. Again, I apologize if I came to the floor too prematurely. But I do want to share a few thoughts about responding to some of the things that have been said by the Senator from New Jersey and the Senator from Washington State who spoke earlier this morning, and the Senator from New Mexico who was here an hour ago talking about the Republican proposals for energy.

I think while we fumble—and I do not think that is an inappropriate word at all because that is what is happening—as we fumble with not getting our energy price right in this country, the people are paying a premium at the pump. We have to stop fumbling this ball and try to make some strategic passes to move this ball down the field.

This is election-year politics at its worst. Our energy policy has fallen victim to a partisan stalemate. I hope we can, in the next couple of weeks, move forward together to a place that can immediately start reducing the price of gasoline. I think there are steps that can be taken to get quick results, and then most certainly steps that can be taken to reduce that price over time.

I believe also there are people of good will on both sides of the aisle, Republicans and Democrats, who realize we are in a place we have not been before in quite some time. That place is an economy that is in a very fragile circumstance right now based on extraordinarily historic high energy prices.

This economy was not built, this model was not built, to sustain these high prices. There is a European model—although the pain is significant in Europe—that can sustain it because they have some pressure point relief. They have mass transit. They have more sophisticated nuclear power. They have some other technologies that we have not. They can sustain something longer than we can. But we have to act.

I have been proud to be part, in the last few weeks, of a specific discussion that has five Democratic Members and five Republican Members—the Gang of 10. I have been part of these gangs before. I guess sometimes it is not good to be part of a gang, but in this case I think these are good gangs to belong to because these are gangs of 14 and gangs of 10 who are trying to help the Senate find its way.

I do not profess to have every answer. I do not even have every question. But I do know something about energy policy as a member of the Energy Committee for 10 years. And I do know a lot about our domestic production and what we are doing and what we are not doing and what we should be doing more of because I happen to represent a State that does a tremendous amount of production.

It is time for action, not for studies; for action, not for talk. On the floor of the Senate, as we continue to debate energy policy, I hope we can do more production and more conservation.

I want to put up a chart that I think is very illustrative of our situation. I want to say unequivocally as a Democrat that I think in many instances the Democratic Party has been wrong on the issue of production. I also want to say that I think the Republican Party has been in many instances wrong in their lack of aggressiveness on conservation.

Again, I am not saying I have been right on every one of these issues. There are votes I would like to take differently. No one is perfect in this policy. But fundamentally Democrats have not supported enough domestic production, and fundamentally Republicans have not supported enough conservation and new fuels. It has gotten us into more than a jam; it has gotten us into a lot of pain and a lot of unnecessary suffering.

There is much that can be done to move us forward, which is why our group has come together—five Democrats and five Republicans—to try to move both parties to the center for some sensible center solutions.

But I want for a few minutes to start with the facts about where we are drilling offshore and where we are not because there are so many charts that are brought to this floor and they are little pieces of the country or they are one little section to try to sway people one way or another. So I thought I would bring the whole enchilada—the whole enchilada.

As shown on this map, this is it. This is Canada—all of it—and the United States of America—all 50 States. There is no fudging here. I hope the camera can get a big look at this entire map of Canada and the United States—all 50 States.

If you notice, the area in blue is all of the area of the congressionally mandated and—up until 1 o'clock yesterday—Presidentially mandated moratoria. The entire coast of the United States of America: off limits to drilling, off limits to exploration, of what might actually be there.

So if anyone comes to this floor and says they know what is underneath these blue sections, I am going to stand here until they have to admit they don't, because they do not. No one can know. I don't know; the Energy Department doesn't know because there has never been an inventory conducted on one inch of this blue space, except for the purple right here. Even though some of us have been trying literally for decades to get an inventory, which has been put in the energy bills—as my colleagues know, every 10 years or so we manage to get one; it takes a lot of pain and suffering on the Senate floor to get any kind of energy bill, but every 10 years we are lucky enough to get one—there is an inventory provision in the bill, but it gets taken out, by Democrats primarily and some Republicans, who don't want to have an inventory because they don't even want to think about domestic drilling off their shores.

Then in the last energy bill we kept the inventory provision. However, I wish to announce on this Senate floor right now—and I am sorry I don't have the language, that the inventory was conducted—the inventory was conducted, but we would not allow the use of seismic equipment.

I will be finished in a minute. I see the leader here. I am going to wrap up in 30 seconds because I know he has an important announcement to make. It would be like saying to a doctor: Go find the cancer, but you can't do a biopsy and you can't have a microscope. You cannot search for oil and gas without using seismic methods. So the fact is—and I am going to conclude, because I know the leader is here and I am going to wait until he finishes what he has to say for me to finish—but no one in America would know what is here because we have never looked. I have other chapters to this speech, but I see the leader is here so I am going to stop.

I thank the Chair.

UNANIMOUS CONSENT AGREEMENT—H.R. 6331

Mr. REID. Mr. President, I wish to express my appreciation to the distinguished Senator from Louisiana for yielding while I make this unanimous consent request.

I ask unanimous consent that when the Senate receives from the House the veto message on H.R. 6331, it be considered as read, it be printed in the RECORD and spread in full upon the Journal, held at the desk, and that the Senate consider the veto message at 5:30 p.m. today, Tuesday, July 15; that the time from 5:30 p.m. to 6 p.m. be equally divided and controlled between the leaders and their designees, with the majority leader controlling the final 10 minutes; that at 6 p.m. the Senate proceed to vote on passage of the bill, the objections of the President to the contrary notwithstanding.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for 10 minutes, and then I will be happy to yield the floor.

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

HIGH GAS PRICES

Ms. LANDRIEU. So, Mr. President, to continue, the case is and the facts are—and anybody here who wants to actually know the facts, let me repeat again: There is no one who can tell us—not an oil executive, not a bureaucrat—excuse me, not even a government official under a Republican or Democratic administration—who could say with certainty what might be here because there has simply not been enough exploration. There have been scattered seismics taken back in the 1960s and 1970s, but as a general rule.

Now, this is going to be hard for the American people to understand or believe is true, but I am saying it is true and I can give them the information.

You see these yellow and red sections right here off of our coast? This is Canada here, this is Cuba right here, and this is Canadian. This is where Canada is drilling offshore, which is actually closer to the Maine coast than we will allow drilling off of the Maine coast. This is offshore Canadian production and exploration. That is underway now off the shore, because Canada knows what the United States doesn't know, which is that offshore oil and gas drilling can be done in a responsible way that protects the pristine coastlines, that protects the environment, because our technology has so greatly improved since the 1940s. It is sort of like being stuck in the space program and saying we couldn't possibly go to space because we don't have the technology. We have developed the technology. We can go into deep areas and do it safely.

I know the Presiding Officer has not generally been a supporter of drilling off of his coast, and I am very respectful of that position, as well as many other Senators. The good news is we don't have to drill off of every coast. We have a big coastline here. We don't have to drill off of every part, but the secret or the smart approach is to try to identify maybe 10—not 100; maybe 10, maybe 5, but something more than zero—to begin looking for places to drill for oil and gas. Cuba is going to be leasing land closer to Florida for China to drill on very shortly; closer than America is going to be allowing us to drill off the coast of Florida. When Americans are paying $5 at the pump, that is going to be very hard to explain to them, how China is coming to waters closer to Florida to get oil for its people and our Congress will not allow us to get some of this oil to replenish the supply.

If anyone wants to come to the floor and debate with me that production doesn't matter, that supply and demand have no place here, then I am looking forward to that debate. I don't hold myself out to be an expert on markets, but trying to convince people that supply and demand is not operative here is like trying to explain to our voters that gravity doesn't exist. They don't buy it. They are not going to buy it. You could tell it to them 100 years long and they are not going to buy it because it is not true and they gut-check know it. It absolutely has an impact, supply and demand, and we don't have enough supply.

Now, can we absolutely drill our way out of this? The answer is no. We cannot drill our way out, but we can drill more, we can drill more safely, and we can in some places drill rather quickly—not in all places. I am going to show my colleagues where we can drill more quickly to have an impact. We must also, as we gear up to do that, put our foot on the accelerator on conservation, because we have been slow in that area. We have done a lot of studies. It is like going to the tip of the water and before you dive in, we have been dabbling our toe in the water. We have to jump in on conservation, and I think we can do it.

I see the Senator from Indiana. Let me wrap up in 1 minute.

I wish to show in Louisiana where a lot of our gas and oil is coming from. We know a lot about this because we have been drilling there for 40, 50 years. When my colleagues come to the floor—this is what I am showing, which is pretty dramatic. This is the infrastructure necessary to produce oil and gas. Each of these pink dots is an oil well; the blue represents pipelines. Quickly, in Louisiana and Texas we permit for the drilling of oil and gas. We permit for these pipelines and we do it very quickly. All day long we lay these pipelines and we drill for oil. In other States when you try to go do this, States that aren't used to this, it takes them so long because the infrastructure is not there. I understand that.

So as a result, this is the only place we are basically getting our gas—from Louisiana. Lucky for us, because a lot of it goes to the Northeast. We send a lot of our oil and gas to the Northeast. We know the prices are high there, but we are sending about as much as we can. We can send more, but it takes infrastructure. So when people say to me—and I will wrap up with this—it doesn't matter if you open drilling, you can't get the oil in 30 days or 60 days, that is true, because it takes wells, it takes pipelines, it takes trucks, it takes concrete. The oil does not jump out and into people's automobiles, but you can lay this infrastructure, you can lay these pipelines, and you can do it safely. We made a lot of mistakes doing this, and so did Texas, but the good news is we are learning from our mistakes and we know how to do it better and we know how to do it more safely, and we can.

I am not going to take up any more of my colleagues' time because everybody has other issues to discuss as well, but I am going to come back every day as this debate goes forward and talk about the truth about production and what is actually being produced in this country and how much more can be produced, as well as pushing the conservation side, which most certainly has to be done to get our supply up and our demand down. I think this is a crucial issue, not only in this reelection, but for the future of the country.

Mr. President, I thank you for your courtesy.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I have an amendment I wish to talk about, and I will be glad to offer it now. I see the chairman on the floor. If he wishes to make a statement, that is fine.

Mr. BIDEN. Mr. President, I understand the Senator's amendment is in order. We have signed onto it. I ask unanimous consent that no second-degree amendments be in order to the Senator's amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 5073

Mr. BUNNING. Mr. President, I have an amendment at the desk, No. 5073, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] offers an amendment numbered 5073.

Mr. BUNNING. 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 is as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 401(a) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 is amended by striking ''2004 through 2008'' and inserting ''2009 through 2013''.

(b) MALARIA VACCINE DEVELOPMENT PROGRAMS.—Section 302(m) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(m)) is amended by striking ''2004 through 2008'' and inserting ''2009 through 2013''.

Mr. BUNNING. Mr. President, I rise today in strong support of the President's emergency plan for AIDS relief. However, the bill that is before us today—the so-called PEPFAR reauthorization bill—is a far cry from our original proposal to combat AIDS in Africa.

PEPFAR is one of our most successful foreign assistance programs. Since enactment in 2003, it has provided lifesaving treatment to 10 million people afflicted by HIV/AIDS, including children orphaned by AIDS. It has prevented 7 million new HIV infections and is on track to support treatment for an additional 2 million people. This is a successful program, and I am proud to have supported it. Through PEPFAR, the United States continues to be a leader in international assistance. With our generosity, we have created strong partnerships in countries where 5 years ago AIDS threatened to destroy entire generations. I wish to see us remain a leader in this effort, and it is because of this that I am concerned about the substantial changes made in the program in both the House and Senate reauthorization bills. These are not small changes made to a program to increase authorization levels or the number of patients treated in a bill; these are substantial changes that would jeopardize the success of the program as well as compromise the integrity of America's foreign assistance.

Aside from tripling the current funding levels, which I will address in a minute, the focus of the bill seems to be less on prevention and treatment of AIDS and more on development assistance. I am not opposed to development

assistance, but I do not believe an emergency global AIDS bill is the place to address issues such as water sanitation and/or the inheritance rights of women.

It detracts from the focus of the bill and shifts away funding from the core components of the program: treatment and prevention. They are what have made PEPFAR successful.

I oppose any efforts to weaken them or to needlessly shift money away from them to other lower priority programs.

This is why I was shocked and disappointed that both the House and the Senate committee-passed bills removed the AIDS treatment and prevention mandates.

Why would you remove language in a Global AIDS bill that would require the money to be spent on the treatment and prevention of AIDS? Is it not the purpose of the bill to prevent and treat AIDS?

Two months ago, I had the opportunity to meet with several doctors and patients from Uganda. Through their firsthand account, I could see how PEPFAR dollars, when used wisely, can combat the spread of AIDS and be used to provide lifesaving treatment.

One of the women I met with told me how PEPFAR saved her life. Through the program, she was able to treat this deadly disease in a way that enabled her to live a normal life. She now has a job and provides for her four children. In speaking with her, I was not only struck by her conviction for life but her insistence that I continue to work to strengthen the reauthorization of PEPFAR. Like me, she knew the changes made to the program could severely weaken its effectiveness and jeopardize its future success.

This woman is a living example of how PEPFAR can be successful if implemented as the program originally intended. Through her conviction, I, along with several of my colleagues on this side of the aisle, worked to fix this bill. We were able to make some improvements, such as restoring a treatment mandate that is still lower than the current program levels—but many problems still exist.

When so many Americans are facing economic problems at home, I have a hard time needlessly tripling the funding for this program. This is not the level requested by the administration. This is not even the level that the Congressional Budget Office says can be spent down by PEPFAR organizations within 5 years. This is $15 billion more than that.

To put that in context, this is triple the amount of money needed to fund the reauthorization of our domestic health care program for children, which is called SCHIP.

I know many Kentuckians would like to see this program reauthorized.

This is reckless spending, plain and simple. We owe it to the American taxpayer to be better stewards of their tax dollars. We should know where our taxpayer dollars are going—or not going—as in the case of Senator DEMINT's amendment on abortion.

We should also prioritize our funding for global AIDS. We need to ensure that these funds reach the neediest countries and not those that can afford their own space and nuclear programs, such as China and Russia.

At a time when China is tripling—I say tripling—their defense budget and manipulating their currency, I have a hard time spending billions of dollars in China to provide funding for treatment that we could use at home for our own AIDS programs.

Unfortunately, this is another example of how the so-called PEPFAR reauthorization bills have gone so far outside the original intent of the program. This is why I am offering my amendment.

The Bunning amendment simply reauthorizes the current program for another 5 years, while also continuing to fund the development of a malaria vaccine.

It maintains our original commitment to support the global fight against HIV/AIDS.

I urge my colleagues today to join me in my support for the current PEPFAR Program. I ask them to support my amendment so we can ensure that this program continues to be successful within the original scope of the program as intended by Congress and by the President.

Madam President, before I yield the floor, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mrs. MCCASKILL). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Madam President, I respect the Senator from Kentucky and understand his position. I am pleased to see his strong support for the intention of the PEPFAR legislation. But as appealing as the Senator's amendment is, it belies a very important underlying point. Originally, this was authorized for $15 billion. At the time of the authorization, it was clear to everyone that was not nearly sufficient to deal with what is a worldwide dilemma, a worldwide problem. There is also recognition that it is not like you can isolate AIDS to a single country. The notion that we became clearly aware of, as knowledge of this disease became more apparent to the world at large, is that this has no borders. It has no geographic bounds. It has no ideological component. We hear statements that sound very appealing, such as: Why should we help a country like China deal with AIDS? We have the technology and the medical capability and PEPFAR and the world organizations know how to deal with it in ways that individual countries, including developed and developing countries such as China, don't.

What happens in China affects what happens in the rest of the world. The idea of us not being part of the world effort to stem the spread of AIDS in China—or Russia, for that matter—impacts on the well-being of all humanity and, specifically, American citizens along the line. That is a generic point I wished to make.

Let me be more specific. This would slash funding from the $50 billion mark we have proposed to a $15 billion mark, which would be cutting current assistance substantially. It also assumes that the United States or the U.S. Global AIDS coordinator or our other partners have not learned anything in the past 5 years. In fact, we have learned a great deal. The Lantos-Hyde Reauthorization Act, which we are voting on now, and amendments to it, seeks to build on the current progress we have made.

The Senator outlined the real progress, but we ought not to freeze in place or, worse yet, set backward the progress we have made.

This bill draws heavily on several reports that have been commissioned by the Congress. The GAO, which is Congress's watchdog, and the Institute of Medicine, which is part of the U.S. National Academy of Sciences, both recommended substantial changes in current law in order to improve our programs. This bill acts on a number of those recommendations. First and foremost, it needs to be pointed out that the earmarks established in 2003—it would come back, as I understand it, in the proposal by my colleague from Kentucky—were actually impeding our progress in fighting AIDS, in some ways.

These earmarks set specific percentages for spending on HIV/AIDS prevention, treatment and care and, further, they set percentages on certain kinds of prevention activities.

In 2003, these earmarks may have served their stated purpose. For example, they emphasized the importance of treatment at a time when treatment was almost unheard of in parts of the world. They also underscored the ideas that abstinence and being faithful were key components of HIV prevention programs. Those principles were important and they are now well established.

But the Institute of Medicine also found that such rigid earmarks have ''adversely affected implementation of the U.S. Global AIDS Initiative'' and ''have been counterproductive.''

The GAO also found the 2003 earmarks effectively pitted some of these earmarks against other very highly valued prevention efforts that should be under way to prevent the transmission of HIV from mother to child. As a result, fewer funds were available to expand programs to prevent transmission of the disease from HIV-infected mothers to their children. Every day, for example, over 1,000 children are infected by HIV.

The reauthorization bill removes or modifies most of those earmarks in order to promote the approach that better allows each country to fight its

own epidemic. Balanced prevention strategies are still important, but they also allow for new science to be brought to bear on the problem.

Let me say this. One of the things we found—remember, when we first started discussing this program on the floor, there was overwhelming resistance to many countries in Africa to even acknowledge that they had a problem. There was resistance in other parts of the world to acknowledge that they had a problem. It was viewed as somehow negatively reflecting on the people of a country or on the society and the governance of that society if there was an acknowledgement of the degree to which this disease was prevalent in their country. In order to get it going to begin with, we did a lot of things to sort of break through that membrane of resistance that existed out there. To that extent, the original notions were very productive and positive.

We have gone way beyond that now. The problem is larger than we thought when we first initiated this program. Let me conclude by quoting the administration's position on the bill that Senator LUGAR and I are proposing for our colleagues today:

> The administration strongly supports S. 2731, the Tom Lantos-Henry J. Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008, and the managers' substitute amendment for this bill, both of which would reauthorize PEPFAR and ensure the continued success of this program. . . . S. 2731 would reauthorize the emergency plan in a manner consistent with the program's successful founding principles and would maintain a continued focus on quantifiable HIV/AIDS prevention, treatment, and care goals.

So I say to my colleagues, the starting block from which our friend from Kentucky wishes us to return was just that. It was operating with what we knew and what we needed at the time to get started. We have learned a great deal more since then. We should not, in fact, turn back the clock. This reauthorization represents a true bipartisan compromise.

It includes 15 Republican amendments in the bill and suggestions we incorporated even before we reached the unanimous consent agreement last Friday. From the outset, it was a bipartisan effort. It passed out of our Foreign Relations Committee in a bipartisan way overwhelmingly.

When the appropriate time comes, I will move to ask our colleagues to join me and my colleague in opposing this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise to strongly support the chairman and ranking member's initiative on the Lantos-Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act.

As we discuss how to support the President's Emergency Plan for AIDS Relief, we have the chance to take on the most devastating diseases the world has ever known.

The death toll from the AIDS epidemic stands at 22 million. Malaria will claim more than 1 million lives this year alone, most of which will be children under the age of 5.

This country has seen time and time again how the fate of the American people is intertwined with the fate of people all over the world. The AIDS epidemic is just one more case of that. More than half a million American lives have been lost.

Not just from a moral standpoint, but from an economic standpoint, a national security standpoint, and the standpoint of our own health as a nation, the fight against deadly diseases is a fight we are all in together.

Addressing these diseases is not just a humanitarian endeavor, it is also in the national security interests of the United States. These devastating diseases are a destabilizing force for many countries in Africa, and it is in our interest to ensure that sufficient funds are available to make meaningful progress in this area. This bill moves us closer to that goal.

The bipartisan bill we are considering offers ambitious but achievable targets, including supporting prevention of 12 million HIV infections, care for 12 million people with or affected by HIV/AIDS, including among those 5 million children, and an antiretroviral treatment for an increasing number of persons whose rising target is expected to represent at least 3 million lives saved.

Cutting funding would require a dramatic downsizing of these targets. Tuberculosis and malaria combined claim more than 3.6 million lives a year. The President's initial proposal of $30 billion did not address funding for these diseases, except through the Global Fund. This bill, like its House counterpart, does include these diseases and increases the treatment goals for persons with HIV/AIDS, as well as for the treatment of children, thus justifying the additional authorization of funds. Authorization of funds—this is only to say we have the ability to go up to that amount. It does not guarantee we will spend that amount.

The amendment that is being offered by the Senator from South Carolina would slash the funding of this bill by almost a third.

While international organizations estimate that achieving universal access to antiretroviral medications would demand $40 billion in resources—a number the world needs to do all it can to achieve—this amendment shaves down America's contribution, putting medication further out of the reach of thousands of people.

I chaired hearings on behalf of the committee. I know Senator LUGAR was with me during those hearings. This country hasn't gone into our greatest challenges halfheartedly. When we entered the Second World War, our allies knew we were in it with our hearts and our souls. When President Kennedy announced we would go to the Moon, friend and foe alike knew that we would not rest until we had allowed mankind to take that giant leap.

This is our chance to show that America is ready to lead. We should come together as Republicans and Democrats, as Americans, as human beings, to stop this vast catastrophe, to attack it with all that we have. This is about our vision for the world, a world where disease can be controlled, a world ultimately free from fear.

If we act today to give PEPFAR full funding, it is more than just a powerful statement. We will have saved hundreds of thousands of lives, and that—that—is the essence of this debate. That is what is at stake right now, pure and simple. It is an expression of our humanity. It is an expression of the fulfillment of being able to do the one single thing that I think is the highest calling in public service, which is to save the life of another. It is an understanding that is in our national interests and our national security interests because disease knows no boundaries. We have faced that time and time again during the course of our history. If we believe this is someone else's problem, we are sadly mistaken. This is a chance for us to lead. It is an opportunity to do it in a bipartisan way.

I hope my colleagues will ultimately support the underlying bill and certainly oppose the amendment offered by my colleague from South Carolina so we can fulfill that obligation.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I wish to speak in favor of the bill. I inquire of the manager if I need to receive any time allocation. I would like to speak for up to 10 minutes.

I rise to speak in favor of the U.S. Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 as it will be modified by the managers' amendment.

I have had the pleasure over the years to work with Senator LUGAR and Senator BIDEN. These are men of integrity, knowledge, and, I add, wisdom. They have seen a lot, done a lot. I think they have seen a few things that work, and I think they have seen a few things that don't work. This is one of those rare foreign policy programs that really works. Unfortunately, too often they do not.

While I am here, I wish to recognize the work of my colleague from Indiana for getting nuclear material out of the Soviet Union as one of those programs that works, and the world is a safer place because it works.

I have seen a lot of foreign policy issues that have not worked. Those sorts of things discredit foreign policy, particularly spending in the foreign affairs field. This is one of those programs that has worked. Because of it, hundreds of thousands of people are alive today who would not be alive. If we are able to get this reauthorization

and some additional support, there will be more who will be alive.

It is amazing how grateful people are if you help save their lives. The approval rating of the United States in Africa is the highest in the world, even including North America. I think it is primarily because of the health care support the United States does, and this is the leading bill to do it.

I am pleased as well that it is HIV/AIDS, tuberculosis, and malaria. Those three are not the only scourges that exist, but they are certainly the main ones, and they are ones that if we can go at each of them together, we are going to save people's lives. We are going to take away a lot of the difficulty—not all of it, by any means—but we are really going to help people where they need help, and this bill does it.

We all know that from whom much is given, much is expected. We have been given much in the United States. It is not that we don't have people struggling here as well because we certainly do. But a number of us have traveled to many of these countries where the HIV/AIDS scourge has been, and we have had a great deal of difficulty with it as well.

I have been to places where they have not had any resources to combat this disease at all. People wasting and dying in these terrible situations just have no hope at all. This gives them hope. This gives them help.

Since its creation in 2003, the Global AIDS initiative, commonly known as PEPFAR, has been a bright point of U.S. foreign aid policy. The United States has become the world's leader in prevention, treatment, and care for individuals suffering from this terrible disease. That 2003 law, which I was pleased to support and have somewhat a hand in helping it move on through, now needs to be reauthorized to continue this success.

From the beginning of this program, it has been my intention to do all that I could to make sure any reauthorization of the Global AIDS Program stayed true to its mission. This is a mission that has worked. We should not be taking it into other fields. We should stay with what this one program has accomplished. Often Government programs, when they lose sight of their mission, also lose their effectiveness. This one needs to stay true to its mission. I want to be certain it stays with this lifesaving program and not slip into other areas, some perilous waters that some may want it to do as it will get divisive for this body and for the United States.

Some people may want to push some of these funds over time into family planning or population control, possibly into abortion. That then divides us. Regardless of how one feels about these programs, it divides this body. If we can stay with the primary mission of what this has been about, it can keep us united. And the people on the ground receiving this treatment and assistance need us to stay together and stay closely focused on what the mission of this program has been.

I further want to see to it that fidelity programs, which have proven their effectiveness internationally over the last 5 years, will remain an integral part of this program, and that recently with the President of Uganda and the First Lady—they were the ones who first started this program, ABC: A, abstinence; B, be faithful; and C, condoms. They started reducing their AIDS rates in Uganda. It worked so well. We want to make sure all three of those aspects stay in this program too.

Again, I am grateful, in working with Chairman BIDEN and Senator LUGAR, to keep this bill on its lifesaving course and keep us pulling together with the administration on this issue.

While I, and I am sure many of my colleagues, have additional provisions we would like to see included, the carefully tailored compromise is a credit to the bill managers.

On my part, I am pleased to see that abstinence and fidelity programs continue to be important components of prevention. The pledge to oppose sex trafficking is maintained. That is important. Conscious clause protection language is included to prevent discrimination against faith-based organizations such as World Vision, Catholic Relief Services, and many others that are so key to putting boots on the ground in this battle against AIDS.

I am concerned about the price tag on this overall bill. I do have concern about ratcheting it up that much that fast, given our own deteriorating economy and the difficulty we have. We have had a slow growth rate recently. I am hopeful that can improve, but I think for us to look at that big of an increase when we are looking at a deteriorating Federal budget situation is not responsible on our part. I hope we can get that budgetary number up, but not as high as it is put forward in this bill. That would be responsible of us.

The Global AIDS Program called for by President Bush and brought to fruition by a strong bipartisan effort in Congress in 2003 has touched, and I might indeed say saved, the lives of many people worldwide. I am proud to have supported that 2003 law. I am pleased to be able to support this reauthorization effort.

Let's stay true to the mission, let's get a number that we can hit, and let's continue to save lives with the abilities that we have been granted as a country to be able to do that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. CLINTON. Madam President, there are two very important matters that will be coming before the Senate this afternoon. The first is the legislation we are now considering to strengthen our efforts to fight HIV/AIDS, tuberculosis, and malaria. The second is the President's veto of the Medicare legislation.

First, with respect to the important work that has been done that we are discussing on this floor, the United States should take a leadership role on behalf of those suffering from HIV/AIDS, tuberculosis, and malaria around the world. I am very proud that this legislation includes portions of a bill that I introduced, the PEPFAR Accountability and Transparency Act, to monitor and improve the programs we fund so that we know what we are getting for the money we spend; that, in effect, we are looking for ''best practices'' so that we can learn from what works and discontinue what does not work. It is not based on ideology or some kind of personal preference but on evidence, on looking for the best evidence to determine how our dollars can be used more smartly and making each dollar go as far as possible.

I am also pleased that this legislation focuses on the needs of women and girls. This has been neglected in the past, and I call on my colleagues to stand against any efforts to undermine the bipartisan consensus to invest more in saving lives and demonstrating the best of American values in the eyes of people around the world.

This is one of the ways we can lead with our values and demonstrate clearly that the United States cares about people who are suffering, that we are seeking to find common ground to alleviate that suffering, and that we are willing to stretch out our hands in partnership and friendship. This is an important piece of legislation. I look forward to it passing and being signed into law.

Secondly, later today we will consider the legislation which the President vetoed this morning. I find it hard to understand why the President did so. He clearly stood against both the doctors of America and the patients of America on behalf of the insurance companies of America. Personally, I don't understand that kind of calculation.

Today, we will be joining colleagues on both sides of the aisle to stand against the cutting of reimbursements for doctors who care for Medicare recipients and standing up for making sure there is access to care for seniors, Americans with disabilities, and the men and women who serve in our military.

Couched by lofty goals and cloaked in misleading rhetoric, the President essentially vetoed health care for seniors, for veterans, and for Americans with disabilities. It is a disgrace, but unfortunately it is not a surprise. This is a battle which has been waged ever since President Johnson signed the Medicare legislation into law 33 years ago this month, and long before. I hope

today's veto and the narrow margin by which we will override it serves as a wake-up call. By seeking to undermine Medicare, President Bush and his allies continue an unyielding, uncompromising, unrelenting ideological crusade, a long twilight struggle to eviscerate Medicare, Social Security, and the means by which our Government actually solves problems for the people of our country.

It really comes down to basic values, and it comes down to our priorities as a nation. Will you stand with our seniors, with our veterans, with our Americans with disabilities? Will you stand with hospitals that are already forced to stretch their budgets to the limit? Will you stand with the doctors who care for Medicare recipients and are already struggling to see more patients in less time every single day? Will you stand with the people of this country who need a champion in the White House?

I believe strongly that we have to override this veto. We have to make it clear to the hard-working physicians in America that we are with you, that we will help by investing in preventive medicine such as screening, in health information technology which will limit costs while improving care, in new measures that will lead to improved quality, and by actually seeing what works and what doesn't work.

We know that the cuts in reimbursements that the President and his allies are seeking will also affect cuts in reimbursement and care that is accessible to military families. You see, Medicare sets the standards for payments that are used by TRICARE. TRICARE is the program that cares for our veterans, cares for Active Duty, cares for family members. TRICARE uses the Medicare formula for physician payments.

I have just finished an incredible experience, crisscrossing our country for the past 17 months, and I was inspired each and every day by the resolve and the resilience of the American people. I learned a lot, and one of the lessons I learned is that Americans are ready, even eager to have a government that actually works again, that solves problems, that produces results. Thirty-three years ago, our Government did that. It wasn't easy and it literally took years, even decades, to achieve, but when Lyndon Johnson signed the Medicare law, he sent a very clear signal to those who worried about whether they would be able to afford to take care of themselves or take care of their parents and their grandparents that health care would be available to them.

We have a lot of work to do in the next years to make sure Medicare fulfills its promise. I look forward to working with like-minded allies on both sides of the aisle to make it clear that we will stand behind Medicare. We will need to be modernized. We will have to make some changes so that it works better, so that it emphasizes prevention. But you don't start by penalizing the people who take care of those who are on Medicare today.

The doctors and nurses of America do heroic work every single day. Our hospitals stand ready to care for those in need. Let's not make it more difficult to actually deliver the services that will save lives, ameliorate suffering, and extend the quality of life.

I am hoping that when this vote is held in a few hours, we will have a resounding repudiation of President Bush's veto and send a message, not only to doctors and nurses and other health care professionals but to the people of our country, that we are better than this and we are going to stand with you to make sure you have the health care you deserve under the program that has meant so much to so many for so long—Medicare.

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

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

Mr. BIDEN. Madam President, I have a unanimous consent I am about to propound that has been cleared on the Republican side. I ask unanimous consent that at 5 p.m. the Senate proceed to a vote in relation to the Bunning amendment, No. 5073; further, that the time until 5 p.m. be equally divided and controlled in the usual form.

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

AMENDMENT NO. 5073

Mr. BIDEN. Madam President, I will use a minute or so of this time. I believe the Bunning amendment is well intended, but I think the irony is the Bunning amendment fails to understand what it was that was intended at the first effort to bring forward PEPFAR and get this underway.

As I said, we had a number of nations that needed help badly denying the need for help because they viewed it reflected so negatively on them as a people and as a nation. So we did a lot of things the first time around that now, in the clear light of day, and much broader need, and the fact that PEPFAR and the world Global Fund is being embraced by the rest of the world, that actually acts as an impediment if we went back to Senator BUNNING's proposal.

So at the appropriate time, 5 o'clock, I am going to suggest again that my colleagues support a ''no'' vote. We will have an up-or-down vote on this amendment and vote no on the Bunning amendment, which would quite frankly eviscerate, literally eviscerate the President's initiative.

I will conclude by saying, I am often critical of the President and his foreign policy and his aid programs, et cetera. But the President of the United States, George W. Bush, deserves great credit. If the President did nothing else in his administration, this is justification enough for his legacy to be looked back on favorably because of the phenomenal and dramatic impact this initiative has had and will have in the rest of the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Madam President, in the concluding time before the scheduled vote, I want to give a statement in opposition to the Bunning amendment and also to the DeMint amendment, No. 5077, that was introduced earlier today. Both seek to reduce the authorization in the pending bill.

The amendment posed by the distinguished Senator DEMINT poses a fundamental question with regard to this legislation, which likewise is reiterated by Senator BUNNING: How much should we authorize for the continuing fight against HIV/AIDS, malaria, and tuberculosis? It is a question for honest debate and on which Members may have different views.

The figure of $50 billion in the bill we are debating today rose out of bipartisan negotiations between Congress and the White House. It is based on what the President and we believe can be spent efficiently and effectively in the years ahead.

It presumes that funding will gradually increase each year over the coming 5-year period. Of the $50 billion authorized, $5 billion has been reserved for malaria, and $4 billion has been reserved for tuberculosis.

The global impact of malaria and tuberculosis has been underestimated for years. And the bill before us takes an important step to invigorate these worldwide efforts. As other Senators have observed, this is an authorization bill that will be subject to the annual appropriations process. It is meant to establish policy and overall parameters of spending on the PEPFAR Program.

Congress may not deem it necessary or possible to spend the entire $50 billion over the course of 5 years, but if the funds authorized by this bill are being spent efficiently and effectively and productively for the lifesaving and life-altering purposes in the bill, I believe we should have the authorization in place to spend that much.

There is no question that the crisis created by these diseases is real, that our programs are preserving or improving millions of lives, and it is difficult to put the dislocation and human devastation caused by AIDS, malaria, and tuberculosis in context because the impact extends well beyond the lives lost.

The HIV/AIDS pandemic, coupled with the effects of tuberculosis and malaria, are rending the socioeconomic fabric of communities, nations, and entire continents. The U.S. National Intelligence Council and innumerable top officials, including President Bush, have stated that the HIV/AIDS pandemic is a threat to our national security and to international security.

Communities are being hobbled by the disability and loss of consumers and workers at the peak of their productive, reproductive and caregiving years. In the most heavily affected areas, communities are losing a whole generation of parents, teachers, laborers, peacekeepers, and police.

The projections of the United Nations indicate that by 2020, HIV/AIDS will have depressed the GDP by more than 20 percent in the hardest hit countries, and many children will have lost parents to HIV/AIDS or left entirely on their own, leading to an epidemic of orphan-headed households.

When they drop out of school to fend for themselves, they lose the potential for economic empowerment that education can provide. Such dislocation has obvious implications for our efforts to suppress and prevent terrorism. It has implications for our ability to expand economic opportunity and trade with emerging nations.

It has implications for our efforts to solidify partners to combat climate change and environmental degradation. Countries and regions that are prostrate due to the massive incidence of deadly diseases cannot effectively address the problems we need them to address. When circumstances reach such dire proportions, the countries in question can become the source of extreme instability. Therefore, we should understand our investments in disease prevention programs have yielded enormous foreign policy benefits during the past 5 years, and we look forward to extraordinary progress during the coming 5 years. This is why I support the $50 billion authorization, appreciating that there will need to be constant auditing, constant debate with the White House and the Congress on priorities, a tailoring during the appropriations process in each year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Madam President, I would like to try to respond to all these statements made since I offered my amendment. It seems that when we get a good program going in the Congress, one that is funded properly for the first 5 years, we try to expand the program and expand the program, and actually, in this expansion, we have differentiated the mission of the program.

The mission of the program originally was to fight infectious AIDS and AIDS-related things in every area of the world we could find them. It was something the United States wanted to do. This bill before us doesn't do that. It takes away a lot of the mandates that we had to fight infectious HIV and AIDS in areas of necessity. Instead, it puts it into the Global AIDS Fund at the United Nations. The Global AIDS Fund at the United Nations, unfortunately, is just in the first year, and then you have unlimited sums in years 2, 3, 4, and 5. There is no transparency at all in that Global AIDS Fund at the United Nations, and we all ought to reexamine and reauthorize this bill as it was originally proposed. Then we could go on and fight AIDS around the world in countries that need our assistance.

I beg my colleagues, think it over very seriously and vote for my amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). All time has expired.

The question is on agreeing to amendment No. 5073.

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 Massachusetts (Mr. KENNEDY) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 16, nays 80, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—16

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bond	DeMint	Vitter
Bunning	Ensign	Wicker
Chambliss	Gregg	
Cornyn	Hutchison	

NAYS—80

Akaka	Durbin	Murkowski
Alexander	Enzi	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Bennett	Graham	Pryor
Biden	Grassley	Reed
Bingaman	Hagel	Reid
Boxer	Harkin	Roberts
Brown	Hatch	Rockefeller
Brownback	Inhofe	Salazar
Burr	Inouye	Sanders
Byrd	Johnson	Schumer
Cantwell	Kerry	Sessions
Cardin	Klobuchar	Shelby
Carper	Kohl	Smith
Casey	Landrieu	Snowe
Clinton	Lautenberg	Specter
Coburn	Leahy	Stabenow
Cochran	Levin	Stevens
Coleman	Lieberman	Sununu
Collins	Lincoln	Tester
Conrad	Lugar	Thune
Corker	Martinez	Voinovich
Dodd	McCaskill	Webb
Dole	McConnell	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	

NOT VOTING—4

Kennedy	Obama
McCain	Warner

The amendment (No. 5073) was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CARDIN. Mr. President, today we consider one of the most important international assistance bills of the 110th Congress.

I refer to S. 2731, the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008, or better known as the PEPFAR Reauthorization Act.

Originally created in 2003, PEPFAR was funded at $15 billion dollars. At the time, this was the single largest bilateral program ever created to address a disease.

President George Bush should rightfully be commended for creating an innovative program designed to support HIV/AIDS prevention, treatment, and care programs.

I also wish to commend the chairman and ranking member of the Senate Foreign Relations Committee, Senator BIDEN and Senator LUGAR, for their persistence and hard work on bringing this bill to the floor of the Senate for today's vote.

The nature and extent of the HIV/AIDS epidemic varies from country and region. In some countries in East Asia, the AIDS rate is less than 1 percent, while in some Sub-Saharan African countries the rate is more than 20 percent. In fact, two-thirds of all people infected with HIV, some 22.5 million, live in Sub-Saharan Africa.

When we look at the health care infrastructure of most Sub-Saharan African countries, we find little technology, personnel, or physical structures. Most, if not all, of these nations are ill prepared to address the epidemic.

AIDS has destroyed many African families, leaving an estimated 11.4 million children without one or both parents. Many elderly grandparents are left to care for the children, draining their meager resources and energy. There are many cases where orphans are denied inherited land and cattle and ultimately left to fend for themselves.

With anecdotes such as these, it is vital that we pass S. 2731 to continue our efforts to combat AIDS. S. 2731 would require the President to establish a 5-year strategy to fight HIV/AIDS, TB, and malaria. S. 2731 will also intensify prevention, treatment, and care programs and include groups particularly vulnerable to the disease such as women and young girls.

S. 2731 will also boost funding for research, public-private partnerships, and reinforce vaccine development.

I have consulted with an organization in my home State of Maryland called Jhpiego. Jhpiego is affiliated with Johns Hopkins University Hospital and has performed tremendous work in Africa to build the health care infrastructure in Sub-Saharan Africa. Jhpiego has found through its programs that African health care workers need greater preservice training in order to bolster national, in-country efforts to fight AIDS. For this reason, I worked with the chairman and ranking member of the committee to include language to include preservice training and capacity building within the overall funding strategy of this legislation.

As the PEPFAR Program matures, it is my hope that so too will the skills and numbers of the cadre of African health workers engaged in the effort to reduce the prevalence of HIV/AIDS.

My other amendment allows for the inclusion of American land grant colleges and universities and historically Black colleges and universities to participate in programs to increase the technological and teaching capacity of African professional institutions to prepare their students for careers in public health. As the United States further engages the global fight against HIV/AIDS, I believe sustainability and African leadership are imperative to insure a full and respectful partnership and one that will be mutually beneficial to America and the states of Sub-Saharan Africa.

The PRESIDING OFFICER. The Senator from Washington.

I must note that there is a previous order to go to the veto message in 3 minutes.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield myself 7 minutes to speak on the vote that will occur at 6 o'clock this evening.

The PRESIDING OFFICER. The Senator will withhold.

MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008—VETO

The PRESIDING OFFICER. The Senate having received the veto message from the House of Representatives on H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008, the message will be considered read, spread upon the Journal, and printed in the RECORD.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives, as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 6331, the ''Medicare Improvements for Patients and Providers Act of 2008.'' I support the primary objective of this legislation, to forestall reductions in physician payments. Yet taking choices away from seniors to pay physicians is wrong. This bill is objectionable, and I am vetoing it because:

It would harm beneficiaries by taking private health plan options away from them; already more than 9.6 million beneficiaries, many of whom are considered lower-income, have chosen to join a Medicare Advantage (MA) plan, and it is estimated that this bill would decrease MA enrollment by about 2.3 million individuals in 2013 relative to the program's current baseline;

It would undermine the Medicare prescription drug program, which today is effectively providing coverage to 32 million beneficiaries directly through competitive private plans or through Medicare-subsidized retirement plans; and

It is fiscally irresponsible, and it would imperil the long-term fiscal soundness of Medicare by using short-term budget gimmicks that do not solve the problem; the result would be a steep and unrealistic payment cut for physicians—roughly 20 percent in 2010—likely leading to yet another expensive temporary fix; and the bill would also perpetuate wasteful overpayments to medical equipment suppliers.

In December 2003, when I signed the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) into law, I said that ''when seniors have the ability to make choices, health care plans within Medicare will have to compete for their business by offering higher quality service. For the seniors of America, more choices and more control will mean better health care.'' This is exactly what has happened—with drug coverage and with Medicare Advantage.

Today, as a result of the changes in the MMA, 32 million seniors and Americans with disabilities have drug coverage through Medicare prescription drug plans or a Medicare-subsidized retirement plan, while some 9.6 million Medicare beneficiaries—more than 20 percent of all beneficiaries—have chosen to join a private MA plan. To protect the interests of these beneficiaries, I cannot accept the provisions of this legislation that would undermine Medicare Part D, reduce payments for MA plans, and restructure the MA program in a way that would lead to limited beneficiary access, benefits, and choices and lower-than-expected enrollment in Medicare Advantage.

Medicare beneficiaries need and benefit from having more options than just the one-size-fits-all approach of traditional Medicare fee-for-service. Medicare Advantage plan options include health maintenance organizations, preferred provider organizations, and private fee-for-service (PFFS) plans. Medicare Advantage plans are paid according to a formula established by the Congress in 2003 to ensure that seniors in all parts of the country—including rural areas—have access to private plan options.

This bill would reduce these options for beneficiaries, particularly those in hard-to-serve rural areas. In particular, H.R. 6331 would make fundamental changes to the MA PFFS program. The Congressional Budget Office has estimated that H.R. 6331 would decrease MA enrollment by about 2.3 million individuals in 2013 relative to its current baseline, with the largest effects resulting from these PFFS restrictions.

While the MMA increased the availability of private plan options across the country, it is important to remember that a significant number of beneficiaries who have chosen these options earn lower incomes. The latest data show that 49 percent of beneficiaries enrolled in MA plans report income of $20,000 or less. These beneficiaries have made a decision to maximize their Medicare and supplemental benefits through the MA program, in part because of their economic situation. Cuts to MA plan payments required by this legislation would reduce benefits to millions of seniors, including lower-income seniors, who have chosen to join these plans.

The bill would constrain market forces and undermine the success that the Medicare Prescription Drug program has achieved in providing beneficiaries with robust, high-value coverage—including comprehensive formularies and access to network pharmacies—at lower-than-expected costs. In particular, the provisions that would enable the expansion of ''protected classes'' of drugs would effectively end meaningful price negotiations between Medicare prescription drug plans and pharmaceutical manufacturers for drugs in those classes. If, as is likely, implementation of this provision results in an increase in the number of protected drug classes, it will lead to increased beneficiary premiums and copayments, higher drug prices, and lower drug rebates. These new requirements, together with provisions that interfere with the contractual relationships between Part D plans and pharmacies, are expected to increase Medicare spending and have a negative impact on the value and choices that beneficiaries have come to enjoy in the program.

The bill includes budget gimmicks that do not solve the payment problem for physicians, make the problem worse with an abrupt payment cut for physicians of roughly 20 percent in 2010, and add nearly $20 billion to the Medicare Improvement Fund, which would unnecessarily increase Medicare spending and contribute to the unsustainable growth in Medicare.

In addition, H.R. 6331 would delay important reforms like the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies competitive bidding program, under which lower payment rates went into effect on July 1, 2008. This program will produce significant savings for Medicare and beneficiaries by obtaining lower prices through competitive bidding. The legislation would leave the Federal Supplementary Medical Insurance Trust Fund vulnerable to litigation because of the revocation of the awarded contracts. Changing policy in mid-stream is also confusing to beneficiaries who are receiving services from quality suppliers at lower prices. In order to slow the growth in Medicare spending, competition within the program should be expanded, not diminished.

For decades, we promised America's seniors we could do better, and we finally did. We should not turn the clock back to the days when our Medicare system offered outdated and inefficient benefits and imposed needless costs on its beneficiaries.

Because this bill would severely damage the Medicare program by undermining the Medicare Part D program and by reducing access, benefits, and choices for all beneficiaries, particularly the approximately 9.6 million

beneficiaries in MA, I must veto this bill.

I urge the Congress to send me a bill that reduces the growth in Medicare spending, increases competition and efficiency, implements principles of value-driven health care, and appropriately offsets increases in physician spending.

GEORGE W. BUSH.
THE WHITE HOUSE, *July 15, 2008*.

The Senate proceeded to reconsider the bill (H.R. 6331), the Medicare Improvements for Patients and Providers Act of 2008, returned to the House by the President on July 15, 2008, without his approval, and passed by the House of Representatives, on reconsideration, on July 15, 2008.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, 43 years ago, we created Medicare because this country recognized that no American should go without health care, especially once they reach retirement age.

As President Johnson was signing the Medicare bill into law, he praised Congress for its ability to ''see beyond words to the people that they touch,'' to put politics aside, and to create legislation that truly transforms society.

Well, today President Bush failed to heed those words, to see beyond politics and think of the seniors who have spent their lives paying into the Medicare system, and the doctors who treat them. Instead, he told millions of struggling American seniors, and military families as well, that he simply did not care. He vetoed a bill that would make vital improvements to the program that has helped ensure that millions of seniors and the disabled can get the care they need.

One of the most important provisions of that bill would have postponed a 10.6-percent reimbursement payment cut for doctors. That was a cut that would have forced many of our doctors across this country to stop seeing Medicare patients and would severely limit their access to health care. I believe the President was wrong to veto that bill.

Today, we can stand up for Medicare. We did it last week when we came together and voted for this bill by a veto-proof margin, and I believe we can do it today by overriding that veto. So I hope we can come together on the floor of the Senate today and override the President's veto and make sure that 44.1 million seniors who are enrolled in Medicare, as well as all the military families who rely on TRICARE, will continue to have access to health care.

We have spent a lot of time in the Senate debating this. My colleagues have thoroughly explained the improvements this legislation would make, but I wish to speak for a few minutes this evening on some of the provisions that illustrate why it is so important to take this vote tonight and override the veto.

First of all, many of our rural communities in Washington State and across the country are struggling today to provide health care services. This bill will help them strengthen their health care networks and extend the services that are available.

Importantly, this bill puts an emphasis on preventive care that will help our seniors stay healthy, and it will help to keep costs down by enabling those patients to get care before they get seriously ill. This bill will improve coverage for low-income seniors who need expert help to afford basic care. It will help make sure our seniors get mental health care. Currently, the copays for mental health care are 30 percent higher than those for physical care. The legislation we are about to vote on and override the President's veto, if it is passed, will treat mental and physical health care the same. Also, importantly, as we have talked about, this bill will block the cut in reimbursements for providing Medicare services. It will block that cut and ensure that doctors can afford, again, to take Medicare patients.

All the improvements I talked about are important, but it is critical we take action as soon as possible to ensure that the cut in payments to doctors does not go into effect. No doctor should have to choose between staying in business and taking care of their patients, but if we don't override this veto, that is exactly what will happen; our seniors and disabled will end up paying the price.

Cuts in payments would mean seniors will face longer drives in order to find doctors, they will see closed doors, and they will see fewer choices, even though they have spent their lives paying into this Medicare system. Out in our rural communities, the problem, I know, would be even worse because out there we already face a shortage of doctors and nurses and health care providers.

Finally, this cut would limit access to health care for our military retirees and our servicemembers at a time when we see many of our troops returning home from war. TRICARE uses the Medicare formula to pay their doctors, too, and doctors have said those lower reimbursements would force them to drop TRICARE patients. I think we can all agree this country cannot afford to jeopardize the health care for our servicemembers, especially during a time of war.

So this country took a huge step forward when we created Medicare back in 1965—when we agreed as a nation that all seniors should have access to health care services. We cannot afford, at this critical time, to let our country take a step backward. We have the opportunity this evening to do the right thing. Let's support our seniors, let's support our military families, let's stand together and override the President's veto and keep our commitment to the people who depend on us.

I yield the floor.

Mr. DURBIN. Mr. President, I ask unanimous consent that the time reserved for the majority leader be reduced to 3 minutes and that the remainder be returned to the time under control by the majority.

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

Mr. DURBIN. I ask that Senator STABENOW be recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, we have a historic opportunity in a few moments to reaffirm the fact that Medicare is a great American success story and to join with our colleagues from the House—383 Members of the House—who voted to override a Presidential veto and squarely side with our seniors, our military families and our veterans and to side with those in the disability community who use Medicare. We have an opportunity to vote to strengthen Medicare, to add mental health services, prevention, to focus on low-income seniors, to modernize Medicare with e-prescribing and telehealth. This is an opportunity to move Medicare into the future.

I am very proud to have offered the original bill to extend or block the cuts for 18 months into the future that were to be given to our physicians. I am proud of the work of the Finance Committee. I wish to thank Senator MAX BAUCUS for his leadership and our leader, Senator REID, for coming to the floor and bringing this back, over and over, until we got it done.

This is an opportunity for us to join together on a bipartisan basis to do the right thing, to overturn a very misplaced veto, and to say to all the seniors, our military families, and the disabled in this country that we understand what Medicare is all about and we stand with you to strengthen it, to add to the services available, and to modernize it for the future.

I urge a strong bipartisan vote to override this President's veto.

Mr. DURBIN. Mr. President, I ask to be recognized for 2 minutes.

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

Mr. DURBIN. Mr. President, we have an opportunity once every decade—maybe once every generation—to reaffirm our commitment to some of the most fundamental values in this country. The Medicare Program is not just another Government program. The Medicare Program said in the early 1960s that the United States was committed to our senior citizens and that commitment involved making certain they would always have access to affordable, quality health care. There were many at the time who were skeptical and said it was too much Government and socialism; it goes too far. Thank goodness their voices were drowned out by reason, the understanding that without this protection, seniors could lose every penny they had saved to a medical crisis.

Medicare passed and it worked. The proof of its success is the fact that senior citizens now live longer than ever

because of the quality of the health care they have available through Medicare. Skeptics have returned and said: Let's get rid of that system; what we ought to do is bring in private health insurance companies. They call it Medicare Advantage. We let them try. Over the last 10 years or so they have tried, and at considerably more expense they are not offering benefits as good as basic Medicare.

This bill we are going to consider overriding the President's veto on very shortly says some of the money they have taken out of the system and out of the program has to be returned to taxpayers. That is fair. It is fair compensation for doctors, to make certain Medicare is there for the seniors who need it; to make certain TRICARE is kept up to date in reimbursement, but most importantly this vote today on overriding President Bush's ill-fated veto is a reaffirmation of how important Medicare is to America's future.

It was a strong bipartisan vote of 69 who voted a week or so ago in favor of this measure. I hope the vote today in the Senate reflects an even stronger bipartisan commitment to the future of Medicare.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Mr. President, I suggest the absence of a quorum. It is my understanding the time from the quorum call will be taken evenly from both sides.

The PRESIDING OFFICER. It requires unanimous consent.

Mr. DURBIN. I ask unanimous consent for that, unless there is someone on the Republican side who is seeking recognition.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, Senator GRASSLEY, on our side, is responsible for this. I am waiting to consult with him. I would ask my colleague to wait a moment on that request, and we will see if we can find Senator GRASSLEY.

Mr. DURBIN. I ask unanimous consent that we go into a quorum call and it not get charged against either side.

Mr. KYL. Mr. President, if we can have the time run——

Mr. DURBIN. Mr. President, I see Senator DORGAN is on the floor, so I withdraw my request and ask that Senator DORGAN be recognized for 2 minutes.

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

Mr. DORGAN. Mr. President, my colleagues have described it well. This is a very important vote. I think the reason we have gotten to this point shows how difficult it is to get anything done in this Chamber. I come from a State that is first in the Nation in the number of people 80 years old or older as a percentage of our population. I think we are in the top five or six, of people 65 years of age or older as a percentage of our population.

Medicare is so unbelievably important to the folks who live in my State. Does anybody think it serves the interests of this Medicare program to say: Well, let's decide on provider cuts—in this case physician cuts—of 10.6 percent? Let's take a big whack, a 10.6-percent whack out of the reimbursements and it would not matter; it would not affect the program. It doesn't make any sense to me at all that we would do that.

What we need to do is strengthen this program, and that is what the underlying bill does. We have had an awful time trying to pull it through the Congress. We finally got it through the Congress, and then we had the President veto the bill. We had a colleague come out of his sick bed and fly to Washington, DC, to cast the 60th vote, after which the other side collapsed and we got 9 other votes. This is very important. This is about who we are as a country, what we decide to invest in.

It is said that 100 years from now we will all be dead. I guess that is not just said; it is a fact. Only historians will take a look at our value system. They can take a look at what we decided to do as a Congress: How did we decide to spend money? What did we invest in? What did we think was important? What were our value systems? Did we believe the Medicare Program—providing health care to America's elderly—was a successful program, or did we decide we wanted to begin to take it apart?

That is what this vote is about. I don't understand at all why the President decided to veto this.

This passed the House of Representatives by a margin of 6 to 1 and got 69 votes in the Senate, and the President decides to exercise his veto.

It is unfathomable to me how much money we shovel out of this building and how much the President recommends when we spend overseas: $170 billion, $180 billion this year in emergency funding for Iraq and Afghanistan and all these programs to replenish all these accounts; contractor abuse. Somehow that doesn't matter so much. All of a sudden we want to make an investment in the Medicare Program, and that is not something that is valuable to us, the President suggests. It makes no sense to me.

In this bill, we have also tried to address the problem of disparate reimbursements for the various States. Some of the smallest States in this country—mine included—receive reimbursements under the Medicare program for providing health care that are dramatically different than reimbursements in other areas. Without fixing that, there will be a degradation of medical services and the delivery of services. This bill addresses part of that. That is why this bill is so critically important.

I hope we will have a resounding vote overriding the President's veto this evening at 6 o'clock.

Mr. KYL. Mr. President, if Senator GRASSLEY arrives, I will defer to him, but let me make some comments. It is distressing that the effect of this bill has been misrepresented to the extent it has. There have been some very wild claims that this has to do with killing Medicare, that it has to do with punishing America's doctors, that it has to do with hurting America's seniors. This is not the language of a reasoned debate of the Senate. The bill has nothing to do with any of those things, and all my colleagues know that.

Let me describe why we are where we are today. I will take a minute to remind everyone of the promise we made to America's seniors 5 years ago. The 2003 Medicare Modernization Act achieved two very important goals. The first was to provide comprehensive drug coverage, prescription drug coverage, a very important benefit for America's seniors.

Secondly, to explain private health plan choices, similar to the options available to Members of Congress and other Federal employees. We wanted America's seniors—the Medicare patients—to have the same kind of private health insurance options for Medicare that all of us have.

Today, as a result of this plan, somewhere in the neighborhood of one-fourth of America's seniors have taken advantage of this private insurance alternative to traditional Medicare. From the beginning, I know a lot of people on the other side of the aisle didn't like that. They wanted a one-size-fits-all program, one program. Republicans said we need more choices. Seniors have been happy with the prescription drug benefit and with those choices.

The problem with this bill is it cuts both the choices for America's seniors and negatively impacts the prescription drug coverage. That is why Members on this side of the aisle have said they would like to see an opportunity to amend the bill, to try to fix the bill, to have a bipartisan bill instead. But, no, we were jammed—not once, twice, but three times: Take it or leave it. It is the partisan approach, despite the fact that the chairman and ranking member negotiated a bipartisan bill in good faith. Nonetheless, we had to revert to a strictly partisan approach.

That is what this was all about. It was never about covering the physicians to make sure they didn't take a pay cut. I doubt that there is any Senator who doesn't support the 1.1-percent increase in physician reimbursement, an increase for physicians who treat Medicare patients. We all support that. It was in the Grassley proposal, it was in the Baucus proposal, and it was in the bipartisan Grassley-Baucus proposal. So this was never about that. None of the Republicans ever opposed providing the physicians their update. It had to do mostly with an attempt that has been undertaken for many years to undercut the private insurance part of Medicare that many on the other side of the aisle have never liked. It is one of the signature

achievements of the Bush administration, and it is no wonder that the President vetoed the bill because of the fact that was hurt.

First of all, according to the nonpartisan CBO, as a result of this bill, 2.3 million seniors will be removed from their private coverage option under Medicare. That is one of the effects of this bill. Instead of all the scare tactics you have heard, I can honestly say that voting for this override of the President's veto will result, according to the CBO, in the removal of 2.3 million American seniors from this private health care option. That is not a good result.

Here is what the President's veto message personally said today:

. . . the provisions that would enable the expansion of protected classes of drugs would effectively end meaningful price negotiations between Medicare prescription drug plans and pharmaceutical manufacturers for drugs in those classes. If, as is likely, implementation of this provision results in an increase of a number of protected classes, it will lead to increased beneficiary premiums and copayments, higher drug prices, and lower drug rebates.

That is the second pernicious effect of the bill. It will undermine the Medicare prescription drug plan's ability to negotiate good drug prices for seniors.

I know some on the other side were always skeptical of the ability to bring down drug prices. In fact, the Medicare Part D has reduced them precisely because of this competition in the market. This bill partially eliminates that competition. That is the reason some of us oppose the bill, and they are good and legitimate reasons. I believe the President was correct to veto the bill because of these provisions.

Five years after the Medicare passage, we are rewinding the clock, chipping away at the very plan choices and prescription drug coverage that seniors asked us to provide.

These are not pro-patient policies. Rather, the bill reduces access, benefits, and choice for Medicare beneficiaries.

In conclusion, it was a very flawed process. As we know, there was an attempt at a bipartisan solution. There are 51 Democrats and 49 Republicans. You would think that Republicans could have a say in writing the legislation. But, no, that was not to be. We were required to deal with the take-it-or-leave-it proposal of the majority.

Twice the majority walked away from these bipartisan negotiations I talked about before. When we tried to suggest, at a minimum, that we should extend existing law so that doctors would not see the reduction in their payments, we were told it was a ''phony exercise.'' It was, in fact, a good-faith effort on our part to ensure that physicians would be protected.

As I stated earlier, I support the need for a positive physician update. We all do. I know physicians in Arizona know I mean that when I say it. I have led the fight for this in past years. However, I am strongly disappointed that the Senate was blocked from a bipartisan solution, and I regret that seniors, as a result, will suffer if this legislation is adopted.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, with all due respect to my friend from Arizona, I wanted to make it clear that there are no rate cuts for any provider in this legislation. As it relates to rate increases, the privatization that has been put into place over the last 3 years has actually raised rates, according to the CBO, for the 85 percent of the seniors and the disabled who use traditional Medicare. But there are no rate cuts.

There is a small change, which doesn't even take effect until 2011, to give the opportunity for the private fee-for-service entities to be able to make the changes by 2011. So with all due respect, this is in no way a dramatic change, a cut in services, or rate reductions for any provider, including the private insurance providers.

Mr. KYL. Mr. President, I never said there was a rate reduction. I said all Senators, I suspect, on both sides support not having a 10.6-percent cut in physician fees and that we all support the 1.1-percent positive update. That was never the issue.

The issue had to do with the other items I talked about. The fact that 2.3 million seniors will lose their private coverage option has to do with the way that the Medicare Advantage Program was used as an offset to pay for the additional benefits in the bill as a result of which CBO claims and believes—and I believe they are probably correct—that 2.3 million seniors will lose their private option coverage.

Mr. GRASSLEY. Mr. President, it is a very unfortunate and disappointing set of circumstances that got us to the point we are in today.

I want to make very clear where we stand on the physician fix. There is widespread Republican support to block the 10.6-percent reduction in physician fees and replace it with a 1.1-percent update.

I introduced S. 3118 on June 11 with Senators MCCONNELL and KYL and others to do just that.

In fact, the doctors would not be getting a 1.1-percent update in this bill if it had not been for Republicans who announced support for the higher update.

Everything that I have been trying to do is to get to a bipartisan solution that would avoid a veto and avoid the pay cut from going into effect even for a short time.

But the other side decided to play politics with this issue.

They ran the clock right up to the deadline and then refused to agree to an extension to keep the cut from going into effect. They repeatedly objected to an extension even though the Senate had passed 28 extensions on other matters just during this session alone.

And, to my absolute amazement, the majority leader said that Republicans had been given months to work out a Medicare bill so that was why no amendments would be allowed.

The fact is that Republicans and Democrats had been working together for months until the Democratic leadership pulled the rug right out from under that effort.

Let's review the facts here. At the end of last year, we agreed to a short-term Medicare extension so that we could complete work on a bipartisan Medicare package this year. We were very close to a deal then and needed time to finish that work.

Both sides agreed we would work quickly to get a bill that could be signed into law.

Unfortunately, that effort has been intentionally derailed by the majority's desire to play politics with Medicare.

The fact is that the majority has twice walked away from good faith bipartisan negotiations.

The fact is that we had been working for months before they pulled the plug.

The fact is that we had actually completed that bipartisan deal 2 weeks ago. It was a deal that would get signed into law, not vetoed.

But the other side thought they saw a political advantage and they have taken it. They scuttled that deal in favor of a bill that would get vetoed.

So it is a bit on the laughable side to blame us for failed negotiations that they seem to have intentionally sabotaged.

The fact is that the other side is more than willing to play politics with this issue. I believe that has been the wrong approach. It was not the approach I took as chairman of the Finance Committee. It was not the approach that Republicans took while we were in the majority.

Playing this kind of brinksmanship politics with Medicare and with people's lives is not what we should be doing around here.

I also warned the White House early on in this debate that their position on private fee for service was not defensible. As Republicans, we should not support the idea of allowing private plans to use government-set payment rates.

The basic premise of Medicare Advantage is that the private sector can do a better job than government in delivering health benefits to seniors. When we allow those private plans to force providers to accept the government rates, we undermine the philosophy behind the Medicare Advantage program. When we do that, we have conceded defeat up front.

There are some serious problems with this bill. I think the bill has some significant flaws that need to be addressed. I am going to be looking for opportunities to fix this bill and look forward to coming to the floor to do so.

As I have said before, I know the other side wants to argue that Republicans are only fighting this fight to protect Medicare Advantage plans. That is a good soundbite, but it is simply not true.

I, for one, could live with some Medicare Advantage reforms.

There would have been more than enough Republicans who would support more reforms, if the Democrats had been willing to make changes in other areas.

So let's talk about some of the problems that would have been fixed if this had been a truly bipartisan process.

First and foremost, if this bill becomes law, it will do serious harm to the Medicare drug benefit that millions of seniors have come to depend on.

It would tie the hands of the Medicare Part D plans resulting in higher drug prices and higher premiums on seniors.

Medicare's Office of the Actuary concluded that it will raise Part D drug costs. And outside analysts have likewise concluded that this provision has the potential to undermine the long-term financial sustainability of the Medicare drug benefit.

This bill also includes entitlement expansions that are well-intentioned but ill-timed with the pending insolvency of the program.

Let's spend a moment on what a truly bipartisan bill would have looked like.

A truly bipartisan bill would have included much-needed assistance for the so-called ''tweener hospitals.'' This is something myself and Senator HARKIN consider a high priority because of the tweener hospitals we have across Iowa.

A truly bipartisan bill would have included hospital value based purchasing in Medicare.

A truly bipartisan bill would have included physician payment sunshine provisions that Senator KOHL and I have worked out together.

A truly bipartisan bill wouldn't undermine the Medicare drug benefit and cause increased premiums on seniors.

The bill is riddled with problems and missed opportunities.

But instead of writing a bipartisan bill, the Democrats twice walked away from the table and now here we are. They scuttled a deal that could have become law right away.

Now I believe I have shown myself willing to join in bipartisan efforts to solve major issues. We have health care reform and more Medicare bills in the future. But this process has called into question whether the other side is willing to start and stick with a truly bipartisan effort.

The process that has been followed on this bill has done a great disservice to the Senate. But more than that, it does a disservice to seniors, doctors and everyone who depends on Medicare.

And I would hope that the other side will not take us down this path again. Bipartisanship is more than lipservice. It requires action and sometimes difficult choices. Compromise is not easy work. But if you want to tackle the big issues that are ahead of us, then it will require a better process than the one followed to produce this bill.

To my colleagues today, that is the full story on this vote today.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, there is 2 minutes left, right?

The PRESIDING OFFICER. That is correct.

Mr. REID. I will yield that time to Senator BAUCUS. I have a short statement, and I will use leader time. It is maybe 2½ minutes. I yield 2 minutes to Senator BAUCUS.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, sometimes when Senators vote in this Chamber, the real-world results of our actions are unclear.

But tonight, we can make a real-world difference for 44 million American seniors, and for nine million TRICARE users in America's military families.

In less than an hour, the Senate will vote to override the President's veto of the Medicare bill.

Here is the difference that our votes will make: Will doctors' doors stay open to older Americans, and to the children of our fighting men and women?

Our votes tonight will make the difference.

Will seniors living on a shoestring, and those in rural areas, be able to get decent health care when hospitals are few and far between?

Our votes tonight will make that difference.

Will the ambulances keep running? Will the medicines be covered by Medicare prescription drug plans?

Our votes tonight will make all the difference.

The President made his decision. His veto of the Medicare bill would shut the doctor's door to seniors and military families, and all on ideological grounds.

My bill does good things for seniors. It makes Medicare better for every beneficiary, and it's time to enact it into law.

The House has already voted to override the veto. Overwhelmingly—383 to 41.

Folks in my home State of Montana know I am going to do what is right, and vote to make the Medicare bill law—for Montana seniors and for our 32,000 folks in TRICARE.

Today I told a large rally of folks supporting this bill, reversing the cuts that keep our seniors and military families from seeing their doctors will be our finest hour.

I hope—and expect—that the Senate will stand together, just as our colleagues across the Capitol have done.

Senators of all parties have one more chance to make all the difference.

Let's do what is right for seniors.

Let's do what is right for military families.

Let's do what is right for America. Let's do it together and enact the Medicare Improvements for Patients and Providers Act tonight.

Mr. AKAKA. Mr. President, we must override the President's veto of the Medicare Improvements for Patients and Providers Act of 2008.

This bill will ensure that Medicare and TRICARE beneficiaries have continued access to health care. It will also enhance Medicare benefits. Finally, the legislation will provide much needed resources for Hawaii hospitals that care for the uninsured and Medicaid beneficiaries.

This legislation will maintain Medicare physician payment rates for 2008 and provide a slight increase in 2009. If this veto override fails, doctors will be subject to a 10.6-percent cut in Medicare reimbursements for the rest of the year. This severe cut could also restrict access to health care for our troops and their families because TRICARE reimbursement rates are linked to Medicare reimbursement rates. Rising costs and difficulty in recruiting and retaining qualified health professionals make it essential that we improve reimbursements to ensure that Medicare and TRICARE beneficiaries have access to health care services.

The act will make improvements in Medicare benefits. It increases coverage for preventive health care services and makes mental health care more affordable. The legislation will also help low-income seniors to obtain the health care services that they need.

Finally, the legislation will provide vital assistance for Hawaii hospitals. The legislation extends Medicaid disproportionate share DSH, allotments for Hawaii until December 31, 2009. Hawaii hospitals are struggling to meet the increasing demands placed on them by a growing number of uninsured patients and rising costs.

Hawaii and Tennessee are the only two States that do not have permanent DSH allotments. The Balanced Budget Act of 1997 created specific DSH allotments for each State based on their actual DSH expenditures for fiscal year 1995. In 1994, Hawaii implemented the QUEST demonstration program that was designed to reduce the number of uninsured and improve access to health care. The prior Medicaid DSH Program was incorporated into QUEST. As a result of the demonstration program, Hawaii did not have DSH expenditures in 1995 and was not provided a DSH allotment.

The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 made further changes to the DSH Program, which included the establishment of a floor for DSH allotments. States without allotments were again left out.

The Medicare Prescription Drug, Improvement, and Modernization Act of

2003 made additional changes to the DSH Program. This included an increase in DSH allotments for low DSH states. Again, States lacking allotments were left out.

In the Tax Relief and Health Care Act of 2006, DSH allotments were finally provided for Hawaii and Tennessee for 2007. The act included a $10 million Medicaid DSH allotment for Hawaii for 2007. The Medicare, Medicaid, and SCHIP Extension Act of 2007 extended the DSH allotments for Hawaii and Tennessee until June 30, 2008. This provided an additional $7.5 million for a Hawaii DSH allotment.

This additional extension in the Medicare Improvements for Patients and Providers Act of 2008 authorizes the submission by the State of Hawaii of a State plan amendment covering a DSH payment methodology to hospitals which is consistent with the requirements of existing law relating to DSH payments. The purpose of providing a DSH allotment for Hawaii is to provide additional funding to the State of Hawaii to permit a greater contribution toward the uncompensated costs of hospitals that are providing indigent care. It is not meant to alter existing arrangements between the State of Hawaii and the Centers for Medicare and Medicaid Services, CMS, or to reduce in any way the level of Federal funding for Hawaii's QUEST Program. This act will provide $15 million for Hawaii DSH allotments through December 31, 2009.

All States need to benefit from the DSH Program. This legislation will make sure that Hawaii and Tennessee continue to have Medicaid DSH assistance. I will continue to work with Chairman BAUCUS, Ranking Member GRASSLEY, Senators ALEXANDER, CORKER, and INOUYE to permanently restore allotments for Hawaii and Tennessee. However, we must override the veto to help our struggling hospitals.

Many of our hospitals in Hawaii desperately need resources. Layoffs have been announced and reductions in services are possible. These DSH resources will strengthen the ability of our providers to meet the increasing health care needs of our communities.

Mr. President, we must enact this legislation. It will protect access to health care for seniors, individuals with disabilities, and members of our armed services and their families. The bill will improve Medicare benefits and provide much needed financial assistance for hospitals in Hawaii that care fore the uninsured and Medicaid beneficiaries.

Mr. REID. Mr President, it may have taken just one flourish of a pen to affix the name ''Lyndon Baines Johnson'' to the law that created Medicare in 1965.

But that one pen stroke created a program that has come to reflect a bedrock American principle: That all those seniors who have worked hard—and all those who need a helping hand—will find themselves embraced by the care of our compassionate Nation.

And though Medicare was created by a Democratic Congress and a Democratic President, that principle has always been anchored far too deep in our soil for the roots of partisanship to entangle.

When the program has been threatened, Democrats and Republicans have risen to the occasion to protect it.

So it was last month, when the House of Representatives approved the ''doctor's fix'' by an overwhelming vote of 355–59.

So it was last week, when Senator KENNEDY led a veto-proof majority of all Democrats and 18 Republicans voting yes.

So it was earlier today, when the House voted to override President Bush's veto, 383–41.

So it must be now, as we follow suit to reject the veto and place this legislation into law.

On the July day in 1965 when President Johnson signed the original Medicare bill, he said this:

> Just think, because of this document—and the long years of struggle which so many have put into creating it—in this town, and a thousand other towns like it, there are men and women in pain who will now find ease.
>
> There are those, alone in suffering who will now hear the sound of some approaching footsteps coming to help.
>
> There are those fearing the terrible darkness of despairing poverty—despite their long years of labor and expectation—who will now look up to see the light of hope and realization.

Since the day President Johnson handed the very first Medicare card to President Truman, hundreds of millions of senior citizens and people with disabilities have received their own card.

Each new card issued strengthens our commitment to the health and well-being of our most vulnerable.

Now it is our turn to do our part—to renew the light of hope for those who need our help the most, those people in their golden years, the senior citizens of America who depend on Medicare.

The PRESIDING OFFICER. The question is, shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

The PRESIDING OFFICER (Mr. MENENDEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 26, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—70

Akaka	Dorgan	Murray
Alexander	Durbin	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bayh	Feinstein	Pryor
Biden	Harkin	Reed
Bingaman	Hutchison	Reid
Bond	Inouye	Roberts
Boxer	Isakson	Rockefeller
Brown	Johnson	Salazar
Byrd	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Smith
Carper	Landrieu	Snowe
Casey	Lautenberg	Specter
Chambliss	Leahy	Stabenow
Clinton	Levin	Stevens
Cochran	Lieberman	Tester
Coleman	Lincoln	Voinovich
Collins	Lugar	Webb
Conrad	Martinez	Whitehouse
Corker	McCaskill	Wicker
Cornyn	Menendez	Wyden
Dodd	Mikulski	
Dole	Murkowski	

NAYS—26

Allard	DeMint	Inhofe
Barrasso	Domenici	Kyl
Bennett	Ensign	McConnell
Brownback	Enzi	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Sununu
Coburn	Gregg	Thune
Craig	Hagel	Vitter
Crapo	Hatch	

NOT VOTING—4

Kennedy	Obama
McCain	Warner

The bill (H.R. 6331) was passed.

The PRESIDING OFFICER. On this vote, the yeas are 70, the nays are 26. Two-thirds of the Senators voting having voted in the affirmative, the bill on reconsideration is passed, the objections of the President of the United States to the contrary notwithstanding.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senate will come to order. Senators will take their conversations off the floor so the Senator from California can be heard.

Mrs. BOXER. Mr. President, I wanted to take some time this early evening to talk a little bit about our energy crisis and gas prices. But I first want to say thank you so much to our leaders, Senator REID in particular, to Senator BAUCUS, to all those who helped score a real victory for the Medicare Program for our senior citizens today. It is not every day that a President has a veto overridden, but this President is just out of touch in so many areas. This was one area. Now I truly think we have saved Medicare for the moment, and that is a good feeling.

ENERGY

Mrs. BOXER. Mr. President, I know you care a lot about the way we move toward addressing our energy crisis,

and I think the American people are very wise about this. I think they want to see action, but they do not want to see phony solutions to a real problem.

I remember when the idea came up for a gas tax holiday and it was put forward by Senator MCCAIN and others, it took a few days for people to understand that our gas tax funds our highway program and we were not about to put our highway program at risk because that program is essential to building the infrastructure of our Nation. That program is essential for hiring millions of workers. The American people are wise. They want to see solutions that are real and that work.

That is why I believe so strongly that as we shine the light of truth on this idea to undo a moratorium we have had on magnificent areas of our coastline, as people shine the light of truth on that, they will understand that this is another phony solution. It doesn't do a thing to lower gas prices. Just as the gas tax holiday put the highway trust fund at risk, this idea puts our national coastal economy at risk, which, as my friend knows, is a $70 billion economy with millions of jobs, many of them in his State of New Jersey and my State of California. It makes no sense to tell the American people that by undoing this very important protection for our coastline, that is going to result in lower prices at the pump. It simply is not going to happen.

There are many things we can do. I am going to outline some of those things for the consideration of colleagues, but I think the important thing for us to note as we reach this election year is that we are going to hear a lot of silly stuff. We are going to see a lot of proposals to try to take the focus off why we are where we are.

Two oil men in the White House for 8 years equals $4 per gallon for gasoline. That is 8 years divided by two oil men in the White House equals $4 per gallon of gasoline.

As my colleagues were coming up with this idea on how to show us where we are—and Senator WHITEHOUSE was one of those—I said to him: We better be careful, because in California we are getting to $5 a gallon gasoline and this math will not work.

But I am happy we did this, because one of the hallmarks of being a mature adult is taking responsibility. And this administration does not want to take responsibility for anything; not for the housing crisis, not for the war in Iraq, not for the deficit, the debt, not for the stock market, not for anything, and certainly not for a 300-percent increase in gas prices that has occurred while we have had two oil men in the White House.

The oil companies have gotten everything they have wanted: record-breaking profits, CEOs taking tens of millions of dollars home in their pockets. And guess what the President's solution is: Give the oil companies more of what they want. Give them access to beautiful land, land in the OCS, the Outer Continental Shelf, that was set aside first by President George Bush, G.W.'s Dad. He did not listen to him on Iraq and he is not listening to him on this either, and then carried forward by President Clinton.

Now, here is the point: Do we need to drill? Do we need to have domestic drilling? No problem. I agree with that. I agree with that. So go to the places where it makes sense. Do not go to the places where you are going to threaten a thriving coastal economy.

That leads me to the next chart which is: Use it or lose it. What do I mean? The oil companies have available to them 68 million acres they have leases on for drilling. Have they drilled there? No, not really. They have not. So I would say, rhetorically, why would the oil companies, in a time of these prices, not go and drill in these acres where they have all of this oil?

Answer—it is easy to answer your own question. Answer: They love the fact that there is a shortage of supply. I have seen in my own State where they tried to shut down a refinery and made up a whole story that it was losing money, that there were no buyers. That was baloney. And now why do you think they want more access to these leases? It is because they can put it on their balance sheet and their stocks can go up and their CEOs can make more money. Even the Bush administration stated very clearly there would be no impact on gas prices if you gave them access to more OCS. So let's go through this again. There are 68 million acres available for the oil companies right now this minute. And they want more, more, more, so they can put it on their balance sheets, get their stocks to go up higher, get their CEOs to earn more money. They are not going to drill. It would be foolhardy to believe this President when it comes to this issue. He said, and I am quoting him almost verbatim—if I do a disservice I am sure I will hear about it because I listened to him say it. He said: There is only one thing standing in the way of lower gas prices, and that is the Congress.

I thought: Well, that is interesting. What does he want us to do? Then he said he wants us to reverse our policy of preserving the pristine areas of our coastline. By the way, 80 percent of our coastline, 80 percent of the resource, is already available for drilling, so this represents 20 percent, so it is not an answer, anyway. His own people tell him it is not, but he is so desperate to detract the flak away from himself and his oil partner, DICK CHENEY, that he comes up with this idea.

I am here on the floor tonight because I am trying to tell the American people the God's honest truth. Here is what you are going to hear. You are going to hear: There were no problems with oil spills after Katrina. My friend from New Jersey, Senator MENENDEZ, is in the chair. I heard him give a little speech about this. He has documented tens of thousands of gallons of spills after Katrina. We have spills in California all the time. We have a lot of offshore oil drilling in our State.

But we know we do not want it expanded, because we count on the quarter million jobs we have in our State in the tourist industry and the fishing industry and the recreation industry. So I say to my friend: What can we do then to push for lower gas prices? There is a whole host of things we can do. I want to say for the 68 million acres available for drilling now: Use it or lose it, oil companies.

There is another 22 million acres in the naval reserve that is off of Alaska. They have only bid for a few million acres there, so they can do that. But do not come into our coasts. They are a gift from God. It is a moral responsibility to protect it, and it is an economic responsibility to protect it, because once you start the drilling, it changes the whole nature of that coast. I know that because I have got part of the coastline that allows drilling and part that does not, and the difference is immeasurable in terms of the activities that go on, in terms of the wildlife, in terms of the scenic value, the beauty, and the pristine feeling you have.

So what can we do? First, tell the oil companies: Drill where you have got leases. Oh, and the other thing you hear, in addition that there were no problems after Katrina, you will hear other stories about how we do not know if there is any oil in those acres. Excuse me, we do, because in the 2005 Energy bill we ordered an inventory to be taken. That inventory was started and we are getting the information. We know there is six times the amount of oil here than in ANWR, the Alaska preserve. So use it or lose it. That is one.

I did a whole study in my office about what it would mean to our imports of foreign oil if we could suddenly have every car on the road get in the high 30s, toward 40 miles per gallon fuel economy. I drive a hybrid. It is very good. One of my hybrid cars, the newest one, gets over 50. So I wanted to know if we all suddenly shifted—we know it is not going to happen, but it was an exercise. If we were able to get 39, 40 miles per gallon, that would save every single bit of import of oil from the Persian Gulf. Can you imagine?

So why are we sitting around being so dour about this? The technology is already there. We know we can do even better. If we can get that fuel efficiency up to 39, up to 40, we will no longer have to import nearly as much foreign oil. That is a very exciting point. So what can we do to lower gas prices and have the impact not be felt on our pocketbook? One way is to lessen the demand. Another way, because that does not always work, as my friend knows, if you get cars that do better so that, yes, you may be paying more at the end of the day but you need less to keep your car running, I would like to see some strong incentives for buying a hybrid car. Those incentives are gone now. We limited them to a certain number of cars. I would like to see that come down here,

and we do not need to give people who earn $200,000 or $300,000 a year those benefits, but I would like to give people who earn $30,000, $40,000 even up to $100,000, $150,000, a break when they buy a hybrid vehicle, an electric vehicle, because families do save up and do make these decisions. And we should incentivize them for purchasing such an automobile.

What else can we do? We have a Strategic Petroleum Reserve. One of the reasons it is set aside is so we can avoid the shock for the economy of high gas prices. Now is the time. I agree with Speaker PELOSI, who has put this out as an idea, to release some of the oil from the SPR. It is 97 percent full. Even if you kept it at 90 percent full, it is the highest it has been in history. That would have a salutary impact by allowing that supply to get right into the market.

And, by the way, if we did it in a swap, and it is complicated here, there are ways we could actually make money on such a plan. So that is another way.

Incentives for conservation, use it or lose it, while we protect our coasts. I am saying to you there are many ways to move.

Speculation. Some experts have said speculation is anywhere from 25 percent of the problem to 50 percent. I do not know where it comes out. But I can tell you this: We ought to go after the speculators. I talked to my friend MARIA CANTWELL from Washington. She and I and Senators FEINSTEIN and MURRAY were so burned on the Enron scandal. Now we have got traders doing the same thing. And we know there are many people playing in the futures market who are unregulated. They go abroad.

So I am hopeful, and Senator REID said he is working on this, he will be able to bring down to this floor a bipartisan measure that goes after the speculators. We can do these things. There are many other things we can do.

Let me tell you, the bottom line in the long run is global warming legislation, which I know my friend was such a strong supporter of. The fact is, we have 54 Senators who said: Yes, let's go forward on this. But we did not have 60, so we were cut short.

The fact is, our next President is going to take this on, and when he does and we work with him, we will unleash the genius of America. Once there is a price on carbon that will probably be set in the private market through a cap-and-trade system, the investments that will be made in cellulosic fuels, in biofuels, all of these things that we need, they are going to happen.

I have been told by Silicon Valley that they are going to spend more, more in finding alternative energy that is clean, that does not have a carbon footprint, than they did in the biotech revolution and in the high-tech revolution. That is pretty remarkable.

What we need to do in the long term is to stand up together, fight global warming, save the planet, have a transition fund to help our consumers get through the early years. We know from our modeling that by the time we get to the outyears, people will be saving money because we will have the alternatives.

So when it comes to energy, efficiency is the name of the game too. You know, if you have a leaky house, meaning that if you do not have double-paned windows, you double-pane them, the difference in your bill is overwhelming. If you are putting in a new air conditioner, and you have to do it, if you go to the high efficiency end, your bills will go down by two-thirds. That is a fact. We cannot drill our way out of this. Anyone who tells you we can is not telling the truth.

Senator BIDEN was saying to me, suppose you opened up every single drop of oil to drilling. It is a tiny percent of the energy we need. Why on Earth would we tell people, therefore, if you just open the coastline, your gas price will go down? That is what the President is saying. It is not true. His own energy people tell him it is not true. It will not have an impact on gas prices. Why don't we do something that will? I think I talked about some of those ideas.

I will close where I started, which is to the oil companies and to this President: Let the oil companies start drilling in the acreage they have access to before we start giving away the crown jewels of our country. We are just not going to do it.

I know the Senator from New Jersey very well. He and I are close friends. We worked hard on coastal protection. We will use every tool at our disposal to make sure that an energy policy we embrace is real, is not phony, does not give away more gifts to the oil companies and these CEOs who are making hundreds of millions of dollars in 1 year. We are not going to allow it. It is not going to happen. It shouldn't happen. What should happen is a balanced approach where we have drilling where it makes sense, where it doesn't endanger our precious coastline.

By the way, to think of the millions of dollars we have put into sanctuaries to protect wildlife and to hear our President say what he said was, to me, extraordinary. I haven't had a note in front of me through this speech because, honestly, I wasn't going to speak about this formally. But I couldn't resist the opportunity to get into the RECORD my dismay at having a President who is an oilman, who has presided over the biggest runup in gas prices we have ever seen. He has not ordered one investigation. He hasn't used any of the tools at the FTC, at the Commodity Futures Trading Commission, not one thing to say to the oil companies: Shape up.

We have proven in California that they are trying to control the supply. All he can do to deflect attention away from 8 years divided by two oilmen in the White House equals $4 per gallon of gasoline, all he can do now is to say: Congress, it is all your fault. It won't work. The American people are too smart.

Where is the President on the renewable energy tax credits we have tried and our Republican friends stopped us every single time? There is so much genius out there. We have the technologies, the solar, the wind, the geothermal. In California, we have 400 new solar companies because we are taking the lead on global warming. Thank God, we do because as the housing market is doing very badly in California and people are laid off of construction, they are going over to work putting solar panels on, building windmills. Thank goodness. That is what we could be doing all over this great Nation if we had a leader in the White House and enough of us here to overcome the status quo, the sucking up to the oil companies. I hate to be crude about it, but I have to say that is what it is like. We don't have an energy policy that works for anybody but the oil companies. It is quite obvious.

I hope the American people watch this debate. I hope they embrace the values we have had for so long, since George Bush's dad was in the White House, when we said there is a value to our unspoiled coast and there is not enough oil there to make a difference overall, so why should we jeopardize the many jobs that come from this unspoiled coast by drilling there when there are so many other places to drill and so many other ways we can work on this problem?

My colleague has been a leader on this issue. In many ways, he has been inspirational to many of us. I hope he has a chance to take the floor of the Senate and make some remarks. Leadership is very necessary.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

40TH ANNIVERSARY OF THE NATIONAL COUNCIL OF LA RAZA

Mr. REID. Mr. President, I rise to call the attention of the Senate to the 40th anniversary of the largest national Hispanic civil rights and advocacy organization in the United States. The National Council of La Raza and its nearly 300 community-based affiliates across the country have worked for more than 40 years to expand the opportunities of Hispanics in the United States.

The National Council of La Raza is strongly rooted in America's civil

rights movement of the 1960s and has been a critical force in the advancement of the Hispanic community's fight to obtain a voice in the public sphere. Thanks to the fine leadership at NCLR by individuals such as current president and CEO Janet Murguia and past president and CEO Raul Yzaguirre, NCLR has much to celebrate. In its 40 years of service in 41 States, Puerto Rico, and the District of Columbia, the National Council of La Raza has worked ardently to provide a much needed Latino perspective in the policy areas of civil rights, immigration, education, employment, health and asset building. In addition, I recognize NCLR's dedication to encouraging civic participation among Hispanics through its voter registration initiatives.

In the Silver State, NCLR has been a valuable partner in meeting national challenges at the local level through its four Nevada affiliates: the East Las Vegas Community Development Corporation, Housing for Nevada, The Nevada Association of Latin Americans, Inc., NALA, and Nevada Hispanic Services, Inc.

In recent months, Nevadans have endured the highest foreclosure rate in the country and struggled to overcome the challenges of an ailing economy. Unfortunately, the Hispanic community has been especially vulnerable to foreclosure and more susceptible to falling victim to economic decline. I have been comforted to know that local partners in the NCLR affiliate network have been tackling this problem head on by providing homebuyer education programs, assistance for loss of a home due to foreclosure, and counseling for individuals facing mortgage default, among many other services and valuable affordable housing projects.

In addition to these valuable housing services, NCLR's Nevada affiliates also offer programs that focus on job placement, education services, nutrition services, immigration assistance, and important health issues, such as HIV/AIDS prevention and substance abuse prevention. These efforts have been especially important during an economic recession, and I share the gratitude of the many Nevadans who have benefited from the services and programs in Las Vegas, Reno, and throughout the Silver State.

I commend the National Council of La Raza for their 40 years of support to the Hispanic community and to these affiliates in Nevada and around the United States. It is through the hard work of these organizations that we will be able to overcome the challenges of our current economy and of the longer term battles against racial and ethnic disparities in the United States.

REMEMBERING SENATOR JESSE HELMS

Mr. KYL. Mr. President, I wish to pay tribute to my late colleague, Senator Jesse Helms of North Carolina. Other Senators have spoken at length in remembrance of our friend, recalling the man and his many accomplishments in this body. It was wonderful to hear the tributes by friends and family at his services in Raleigh, NC.

It was my good fortune to come to the Senate when Senator Helms was leading a lot of fights for a strong America. Senator Helms took charge of the Foreign Relations Committee at the same time I arrived in the Senate. From that perch as chairman, he steadfastly defended the Nation's interests. Senator Helms relished defending his principles, and I am sure he enjoyed his victories.

One such victory in this body is of particular note to me, for I was privileged to play a part in it. In 1999, in Senator Helms's fifth and final term in office, the Comprehensive Test Ban Treaty was before the Senate, and it was poised for ratification. But, with his support and blessing, I helped secure the votes to defeat the treaty, and it fell far short of the two-thirds vote that had at one time seemed assured.

That is but one of the many victories for U.S. national security in which Jesse Helms was involved in his three decades in the Senate.

Senator Helms fought some of most contentious and courageous fights in the Senate on issues of profound significance. Yet even when the stakes were so high that they involved preserving and safeguarding this Nation, Senator Helms remained unfailingly courteous. He held to his principles even when they were not popular, but he did so in a way that did not damage friendships.

My wife Caryll and I offer our sympathies to Jesse's wife Dot and their family. Senator Helms took the positions he judged to be right and he didn't flinch. He was a kind and gentle man who deeply believed in his country, his family, and his God.

VOTE EXPLANATION

Ms. STABENOW. Mr. President, on Friday, July 11, 2008, I regrettably missed a vote on H.R. 3221 due to a prior commitment in Michigan. If I had been present, I would have voted for RECORD vote No. 173, the motion to disagree to the amendments of the House adding a new title and inserting a new section to the amendment of the Senate to H.R. 3221. This represented the final hurdle in passing the much-needed Housing and Economic Recovery Act of 2008. I strongly support this bipartisan, comprehensive bill to address the root of our economic problems—the housing crisis. This bill would strengthen the regulatory oversight of government sponsored enterprises, GSEs, and provide FHA modernization reforms to help stabilize the housing finance system and begin to restore confidence to the market. The bill's Hope for Homeowners FHA refinancing program would help as many as 400,000 homeowners at risk of losing their homes to foreclosure. It also includes foreclosure counseling for families in desperate need of help, assistance for communities hit by foreclosures, an affordable housing trust fund, provisions to help returning soldiers avoid foreclosure and important tax benefits targeted to help the recovery of the housing market. I am especially pleased that the package includes my provision to allow struggling American businesses to invest in the economy and create jobs here at home. This bill is an important first step in helping struggling families in Michigan and throughout the country. I look forward to the swift enactment of this legislation to provide relief to homeowners and to uphold the American dream for all.

EXPLANATION OF ABSENCE

Mr. WARNER. Mr. President, I have advised the Senate leadership that I will be necessarily absent from the Senate for the balance of this week. This evening, were I able to be present for the vote on the President's veto of the Medicare bill, I would have voted to override.

Following consultation and discussion with my physicians, including the Capitol Physician's Office, I made the decision earlier this summer to treat my atrial fibrillation with a pacemaker, and made arrangement for scheduled admission to Inova Fairfax Hospital. Colleagues will recall that last fall I was treated for this common condition.

This past Saturday doctors implanted a pacemaker, and consistent with the success of the routine procedure, I was released the following day.

This morning I came to the Capitol, handled planned morning appointments, and voted on the floor of the Senate. During a follow-up visit this afternoon, the Capitol Physician's Office and my private doctors made the decision to schedule a readmission to Inova Fairfax Hospital where they will perform a second procedure to adjust the pacemaker, and will keep me for observation.

FURTHER CHANGES TO S. CON. RES. 70

Mr. CONRAD. Mr. President, pursuant to sections 221(f) and 227 of S. Con. Res. 70, I previously filed adjustments to the 2009 budget resolution for H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008. Those adjustments reflected the Congressional Budget Office's estimate at that time of the budgetary effects of H.R. 6331.

CBO has since revised that estimate. While H.R. 6331 still meets the conditions required for the release of the reserve funds under sections 221(f) and 227, including being fully paid for over both the 6- and 11-year time periods, the net effect of CBO's revisions is to

lower the estimated net savings of the legislation.

Consequently, I am revising the adjustments made on July 9 pursuant to sections 221(f) and 227 to both the budgetary aggregates and the allocation provided to the Senate Finance Committee to reflect CBO's revised scoring.

I ask unanimous consent that the following revisions to S. Con. Res. 70 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 221(f) DEFICIT-NEUTRAL RESERVE FUND TO PROVIDE ECONOMIC RELIEF FOR AMERICAN FAMILIES AND SECTION 227 DEFICIT-NEUTRAL RESERVE FUND TO IMPROVE AMERICA'S HEALTH

In billions of dollars

Section 101	
(1)(A) Federal Revenues:	
FY 2008	1,875.401
FY 2009	2,029.653
FY 2010	2,204.695
FY 2011	2,413.285
FY 2012	2,506.063
FY 2013	2,626.571
(1)(B) Change in Federal Revenues:	
FY 2008	-3.999
FY 2009	-67.746
FY 2010	21.297
FY 2011	-14.785
FY 2012	-151.532
FY 2013	-123.648
(2) New Budget Authority:	
FY 2008	2,564.247
FY 2009	2,538.301
FY 2010	2,566.665
FY 2011	2,692.500
FY 2012	2,734.141
FY 2013	2,858.880
(3) Budget Outlays:	
FY 2008	2,466.678
FY 2009	2,573.384
FY 2010	2,625.623
FY 2011	2,711.441
FY 2012	2,719.543
FY 2013	2,852.019

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—-S. CON. RES. 70; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 221(f) DEFICIT-NEUTRAL RESERVE FUND TO PROVIDE ECONOMIC RELIEF FOR AMERICAN FAMILIES AND SECTION 227 DEFICIT-NEUTRAL RESERVE FUND TO IMPROVE AMERICA'S HEALTH

In millions of dollars

Current Allocation to Senate Finance Committee	
FY 2008 Budget Authority	1,102,801
FY 2008 Outlays	1,104,781
FY 2009 Budget Authority	1,092,354
FY 2009 Outlays	1,093,724
FY 2009–2013 Budget Authority	6,161,697
FY 2009–2013 Outlays	6,170,295
Adjustments	
FY 2008 Budget Authority	0
FY 2008 Outlays	0
FY 2009 Budget Authority	0
FY 2009 Outlays	0
FY 2009–2013 Budget Authority	297
FY 2009–2013 Outlays	193
Revised Allocation to Senate Finance Committee	
FY 2008 Budget Authority	1,102,801
FY 2008 Outlays	1,104,781
FY 2009 Budget Authority	1,092,354
FY 2009 Outlays	1,093,724
FY 2009–2013 Budget Authority	6,161,994
FY 2009–2013 Outlays	6,170,488

HONORING OUR ARMED FORCES

Mr. LAUTENBERG. Mr. President, almost 3 months have passed since I last sought to memorialize our fallen soldiers, and more American troops have lost their lives overseas in Iraq and Afghanistan. I wish to make sure their service and sacrifice is forever remembered by including their names in the CONGRESSIONAL RECORD.

Since I last included the names of our fallen troops on April 28, the Pentagon has announced the deaths of 117 troops in Iraq and in Operation Enduring Freedom, which includes Afghanistan. They will not be forgotten and today I submit their names into the RECORD:

MSG Mitchell W. Young, of Jonesboro, GA;

SPC Brian S. Leon Guerrero, of Hagatna, Guam;

SPC Samson A. Mora, of Dededo, Guam;

SFC Steven J. Chevalier, of Flint, MI;

SGT Douglas J. Bull, of Wilkes Barre, PA;

SPC William L. McMillan III, of Lexington, KY;

SFC Anthony L. Woodham, of Rogers, AR;

1LT Daniel Farkas, of Brooklyn, NY;

SPC Estell L. Turner, of Sioux Falls, SD;

SSGT Edgar A. Heredia, of Houston, TX;

SFC Jeffrey M. Rada Morales, of Naranjito, Puerto Rico;

MSG Shawn E. Simmons, of Ashland, MA;

SGT James M. Treber, of Imperial Beach, CA;

SSG Travis K. Hunsberger, of Goshen, IN;

SFC Matthew L. Hilton, of Livonia, MI;

SFC Joseph A. McKay, of Brooklyn, NY;

SPC Mark C. Palmateer, of Poughkeepsie, NY;

Lt Col Max A. Galeai, of Pago Pago, American Samoa;

CPT Philip J. Dykeman, of Brockport, NY;

CPL Marcus W. Preudhomme, of North Miami Beach, FL;

CW5 Robert C. Hammett, of Tucson, AZ;

MAJ Dwayne M. Kelley, of Willingboro, NJ;

SGT Alejandro A. Dominguez, of San Diego, CA;

SPC Joel A. Taylor, of Pinetown, NC;

SPC James M. Yohn, of Highspire, PA;

SPC Joshua L. Plocica, of Clarksville, TN;

PFC Bryan M. Thomas, of Lake Charles, LA;

SSG Christopher D. Strickland, of Labelle, FL;

SGT Ryan J. Connolly, of Vacaville, CA;

CPT Gregory T. Dalessio, of Cherry Hill, NJ;

LTC James J. Walton, of Rockville, MD;

SPC Anthony L. Mangano, of Greenlawn, NY;

SGT Nelson D. Rodriguez Ramirez, of Revere, MA;

SGT Andrew Seabrooks, of Queens, NY;

SSG Du Hai Tran, of Reseda, CA;

SGT Matthew E. Mendoza, of San Antonio, TX;

HN Dustin Kelby Burnett, of Fort Mohave, AZ;

CAPT Eric Daniel Terhune, of Lexington, KY;

LCpl Andrew Francis Whitacre, of Bryant, IN;

SPC Jason N. Cox, of Elyria, OH;

HN Marc A. Retmier, of Hemet, CA;

PO1 Ross L. Toles III, of Davison, MI;

PVT Eugene D. M. Kanakaole, of Maui, HI;

SFC Gerard M. Reed, of Jacksonville Beach, FL;

SGT Michael Toussiant-Hyle Washington, of Tacoma, WA;

LCpl Layton Bradly Crass, of Richmond, IN;

PFC David Pietrek, of Bensenville, IL;

PFC Michael Robert Patton, of Fenton, MO;

LCpl Kelly E. C. Watters, of Virginia Beach, VA;

LCpl Javier Perales Jr., of San Elizario, TX;

SGT John D. Aragon, of Antioch, CA;

SGT Steve A. McCoy, of Moultrie, GA;

SSG Tyler E. Pickett, of Saratoga, WY;

SPC Thomas F. Duncan, III, of Rowlett, TX;

SFC David R. Hurst, of Fort Sill, OK;

CW5 James Carter, of Alabama;

SPC Andre D. McNair, Jr., of Fort Pierce, FL;

SGT Shane P. Duffy, of Taunton, MA;

SPC Jonathan D. A. Emard, of Mesquite, TX;

SGT Cody R. Legg, of Escondido, CA;

MAJ Scott A. Hagerty, of Stillwater, OK;

PFC Derek D. Holland, of Wind Gap, PA;

PFC Joshua E. Waltenbaugh, of Ford City, PA;

SPC Quincy J. Green, of El Paso, TX;

SPC Christopher D. McCarthy, of Virginia Beach, VA;

SPC James M. Finley, of Lebanon, MO;

PFC Andrew J. Shields, of Battleground, WA;

CPL Justin R. Mixon, of Bogalusa, LA;

CPL Christian S. Cotner, of Waterbury, CT;

SFC David Nunez, of Los Angeles, CA;

PFC Chad M. Trimble, of West Covina, CA;

SPC Justin L. Buxbaum, of South Portland, ME;

SPC Christopher Gathercole, of Santa Rosa, CA;

SFC Jason F. Dene, of Castleton, VT;

SGT David L. Leimbach, of Taylors, SC;

SSG Frank J. Gasper, of Merced, CA;

SGT Blake W. Evans, of Rockford, IL;

PFC Kyle P. Norris, of Zanesville, OH;

LT Jeffrey A. Ammon, of Orem, UT;
1LT Jeffrey F. Deprimo, of Pittston, PA;
Lt Col Joseph A. Moore, of Boise, ID;
MSG Davy N. Weaver, of Barnesville, GA;
PVT Branden P. Haunert, of Cincinnati, OH;
CPL William J. L. Cooper, of Eupora, MS;
SGT John K. Daggett, of Phoenix, AZ;
SSG Victor M. Cota, of Tucson, AZ;
CPL Jessica A. Ellis, of Bend, OR;
PVT Matthew W. Brown, of Zelienople, PA;
SGT Joseph A. Ford, of Knox, IN;
PFC Ara T. Deysie, of Parker, AZ;
SPC Mary J. Jaenichen, of Temecula, CA;
SGT Isaac Palomarez, of Loveland, CO;
PFC Aaron J. Ward, of San Jacinto, CA;
SPC Alex D. Gonzalez, of Mission, TX;
LCpl Casey L. Casanova, of McComb, MS;
CPL Miguel A. Guzman, of Norwalk, CA;
LCpl James F. Kimple, of Carroll, OH;
SGT Glen E. Martinez, of Boulder, CO;
CPL Jeremy R. Gullett, of Greenup, KY;
SSG Kevin C. Roberts, of Farmington, NM;
PFC Corey L. Hicks, of Glendale, AZ;
SPC Jeffrey F. Nichols, of Granite Shoals, TX;
SFC Lawrence D. Ezell, of Portland, TX;
SSG Chad A. Caldwell, of Spokane, WA;
SGT Jerry L. DeLoach, of Jackson, GA;
CPT Andrew R. Pearson, of Billings, MT;
SPC Ronald J. Tucker, of Fountain, CO;
SSG Bryan E. Bolander, of Bakersfield, CA;
SGT Merlin German, of Manhattan, NY;
SSG Clay A. Craig, of Mesquite, TX;
PFC Adam L. Marion, of Mount Airy, NC;
SGT Marcus C. Mathes, of Zephyrhills, FL;
SGT Mark A. Stone, of Buchanan Dam, TX;
SPC William T. Dix, of Culver City, CA;
SFC David L. McDowell, of Ramona, CA;
SrA Jonathan A. V. Yelner, of Lafayette, CA;
CPL David P. McCormick, of Fresno, TX;

We cannot forget these men and women and their sacrifice. These brave souls left behind parents and children, siblings, and friends. We want them to know the country pledges to preserve the memory of our lost soldiers who gave their lives for our country.

60TH ANNIVERSARY OF THE BERLIN AIRLIFT

Mr. KOHL. Mr. President, I would like to take a moment to praise the efforts of the innumerable men and women who contributed to the success of the Berlin Airlift as we observe its 60th anniversary this year. The Berlin Airlift began in an effort between British and American forces to supply a post-WWII West Berlin population with the daily food rations necessary to sustain the entire city. In 1948 the Soviets began gradually closing down routes to West Berlin; routes by road, rail, and water were all eventually closed. Ingeniously, American and British commanders discovered the existence of air corridors over West Berlin due to a loophole in a 1945 agreement allowing 20-mile air corridors therefore providing free access to the city.

It was concluded that roughly 3,475 tons of daily supplies would be needed to sustain the city; the supplies included flour, meat, cereal, wheat, fish, milk, potatoes, sugar, coffee, salt, vegetables and cheese. The first supplies were dropped to West Berlin on June 26, 1948, by American C–47 aircraft under the orders of GEN Lucius Clay.

By April 1949 airlift operations had been running with almost flawless efficiency thanks to the perfection of airlift methods by LTG William Tunner after the Black Friday incident. Lt. Gen. Tunner decided to show the capabilities of his airlift operation to boost morale and break the spirits of the opposition at the same time; he decided to break any existing tonnage records. On Easter Sunday 1949, 12,941 tons of coal had been delivered to West Berlin from 1,138 flights without a single accident. This event raised daily airlift tonnage and contributed to the downfall of the Blockade. The Blockade officially ended May 12, 1949 yet airlift operations continued until September 30 of that year. In the struggle to supply the citizens of West Berlin with daily rations of food, 31 Americans lost their lives thus paying the ultimate price for the freedom of others. Mr. President, I would like to honor those men who lost their lives as well as all the men and women who contributed to the Berlin Airlift. They saved two millions lives through their heroic actions and shall never be forgotten.

RECOGNIZING THE ALPHA KAPPA ALPHA SORORITY

Mr. CARPER. Mr. President, I rise today to recognize the Alpha Kappa Alpha Sorority for 100 years of sisterhood and service and for the sorority's commitment to living lives of excellence that can serve as an example for us all.

Founded on the campus of Howard University in Washington, DC, in 1908, Alpha Kappa Alpha Sorority is the oldest Greek organization established by African-American college-trained women. The small group of founders hoped the organization would ensure that their college experiences were as significant and helpful as possible. As the sorority expanded, members emphasized dual themes of the importance of the individual and the strength of an organization of women of ability and courage.

Alpha Kappa Alpha is currently comprised of more than 950 chapters located in the United States, the Caribbean, Germany, Korea, Japan and my home State of Delaware. It includes more than 200,000 women who represent a diverse group including educators, politicians, lawyers, medical professionals, media personalities and decisionmakers of major corporations. They can certainly serve as role models to each of us.

Furthermore, the Alpha Kappa Alpha Sorority is dedicated to service. Currently, members are actively involved in a voter education and registration drive in order to mobilize Americans for the upcoming general election. They are also implementing the Extraordinary Service Program Platforms with activities dedicated to improving the living standards within the Black community, creating opportunities for women entrepreneurs, assisting Black families and improving the mental and physical health of local communities.

I am enormously proud to welcome members of the Delaware chapter of Alpha Kappa Alpha, along with many of their sisters, to Washington, DC, for their 100th anniversary celebration.

With this important anniversary in mind, the women of Alpha Kappa Alpha are to be commended and applauded for their leadership in communities across America, their commitment to service and the outstanding character that they personify.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, 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 CONGRESSIONAL 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 today's letters printed in the RECORD.

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

Hello Mike, One of your comments on the topic hit home with me—the fact that, due

to the size of our state, Idahoans are being left with few options in the face of higher gasoline prices. That is, sadly, my personal case.

I have the good fortune to be employed in Moscow for the University of Idaho. My home is up near Sandpoint. It is more than a commute distance, but I do get to go home on the weekends—a two-hour drive through, as I'm sure you're aware, some of the loveliest country anywhere. It is also twice as expensive now as it was when I joined the University in 2003.

Sure, I would love an alternative. But population density in our state does not allow light rail to be competitive, public transportation on that route runs only between such, ah, urban centers as Desmet and Hayden. (That would be greater metropolitan Desmet. If you go through there, do not blink.)

In short, we are stuck. Along the way, I've been noticing quite a few more cars parked near the highway than I used to. Big ones—Tahoes and Suburbans and other 4WD monsters too uneconomical to run under the new energy regime. Cars that offered their owners a measure of safety during the Idaho winters, and you are aware of what the last one was like. (By the way, it snowed in Moscow on the 10th of June. I am not kidding.)

What we are compromising with here in the name of economy is safety. There aren't really any numbers to describe that sort of choice, but it is not unusual in the transportation arena. Mandating a higher mileage requirement for domestic automobiles, for example, runs straight into the safety issue. I'd like people in D.C., to be aware that SUVs aren't necessarily useless affectations, and that choosing an alternative is not quite as easy out here as it is, say, to hop a train on the Boston-Atlanta metropolitan axis.

What to do? Well, it is generally good guidance to advise the government to get the heck out of the way in circumstances such as these. That means reviewing and discarding out-of-date environmental restrictions, for one. Can we really believe in this age of nuclear fuel re-processing that we still need to have swimming pools full of poisonous spent rods when something practical might be done with them? Silliness. It needs to be reviewed and corrected. It means not mandating nationwide speed restrictions when region A has different requirements than region B. It means stopping every state from mandating different gasoline formulae so that the refineries have to guess what and how much to make for where, when. That drives up their cost in the meantime. I'd love the government to ''encourage'' private research into alternate energy, largely by refraining from over-regulation.

Sure, I'd love a cheap, government-subsidized train ride from Moscow to the Canadian border, but I simply cannot countenance robbing my fellow citizens to pay for it. If it cannot stand on its own, let it be.

What I want most of all is for the government to stop flapping mindlessly to the gassy wind coming from the global warming hucksters. Just because it is an international political enthusiasm does not make it backed by valid science. And if we are going to clobber our economy in an effort to choke off carbon dioxide, of all things, we really ought to do so based on something other than computer modeling with more assumptions than data backing it. The government can say ''no'' to that sort of garbage but if it says ''yes'' it better be ready to pay for the damage. And not, I hope, with my money. Thanks for letting me vent, Mike.

TIM, *Moscow.*

SENATOR CRAPO. Thank you for the opportunity to voice my opinion and state my case in this situation.

Oil is the fuel of democracy, and there is no other natural resource available at this time that can replace it. None. I am convinced that unless the Congress acts now, they will be harnessed by the undertakers of historical fact with sabotaging our once-vibrant and globally-dominant economy with fuel prices that will cripple our ability to remain competitive at home and abroad.

[Conservatives] have a real opportunity to take this issue and own it. I cannot fathom a capitalist democracy offering up to investigate the profits of private industry when the government themselves are the only ones clearly guilty of benefiting from a windfall profit. By definition, a windfall profit is benefiting from a market occurrence you had nothing to do with. The government has nothing to do with the profitability of these oil companies, but benefits by levying the taxes and regulations.

Here's an Idahoan's approach to solving this:

1. Suspend the federal taxes immediately—this will not fix a thing, but will give a brief reprieve while you approve more domestic oil exploration.

2. Immediately announce that all [conservatives] will unite to pursue immediate off shore drilling, on shore drilling and especially drilling in remote locations such as the ANWR.

3. Stop corn subsidies to the corn growers for ethanol that has proven to be a political hay-making machine. I see right through this pandering to the early caucus and primary states, and it is wrong. It does not bring down the cost of fuel.

4. Approve more refineries to handle the flow of crude from our own wells and pipelines.

5. Explain to the American public why Iraq fuel is not flowing here yet in an amount that would benefit both nations.

6. Approve more clean energy like nuclear fuel and get Yucca Mountain open.

7. Approve more clean coal-burning power stations in the West. Look at the Navajo Nation!!!!

Most level-headed like-minded Americans will follow your lead in the pursuit of patriotic exploration of oil in our country. We need it. It has been long enough since we last cared about the state of our country in preserving our economy so we can preserve our country and way of life.

I love my way of life and wasted about five minutes calculating my [carbon] footprint on some website. I found out what I already knew—my carbon footprint was ten times larger than the average world citizen. Well, no news flash—the average Idahoan produces ten times more benefit to the world than the average world citizen. That is what makes Idaho great, and I love my state!

Get out front of this wave of frustration and cash in on the patriotic exploration of domestic oil. We will support you. I hate depending on politicians—but I have no choice on this one. I am depending on you to get something fixed.

BEN.

DEAR SENATOR CRAPO. Lowering the price of gasoline will not solve the current crisis for our country. If, by legislation, we were able to gain another source within our country, Americans would return to complacency and fail again to conserve. I believe a better use of legislative power is this:

Actually ask Americans to conserve what we have.

Support those many innovative people now researching alternative fuel (cooking oil, peanut butter, soybeans, hydrogen, whatever) for a sensible, quick and urgent solution—with the same fervor that went into the race to be first on the moon.

Offer incentives to car manufacturers to discontinue gas hogs, or provide an economical conversion option for existing engines; and to begin consistent production of hybrid vehicles with stellar mileage capacity on these alternate fuels.

Reduce dependence upon oil and gas from all sources, whether from unfriendly nations or from our own reserves.

Thank you for asking.

BJ, *Post Falls.*

To Whom It May Concern: The energy prices are of great concern to our family. We budget very conscientiously and always spend less than we make and try our best to pay down our mortgage and invest regularly. Our budget for gasoline has had to double over the past two years from $150/month to $300/month. We are a one-income family, and my husband commutes 50 miles round trip to work every day.

Due to the housing market, moving closer to work would cost us even more over a five to ten-year period, since the value of our house has decreased and the value of housing near his work has managed to stay pretty level. Not to mention that we like where we live and do not want to move. We have a very low fixed interest rate in our current mortgage as well.

As a result of the increasing costs, even camping, as a family vacation, is becoming cost-prohibitive. To manage the increase so far, we have reduced our travel plans and cut some from our regular savings and investment budget. However, with the concurrent grocery price increases and overall inflation, I foresee further cuts across the board for our budget as our costs rise and income stays the same.

Unlike the government, gas pumps, grocery stores, etc., we have no one to pass along our ''cost increase'' to. We have to make do with what we have.

I am infuriated that we allow other countries to drill offshore and yet not ourselves. The U.S. would run a cleaner and more efficient operation offshore than any of the other countries we currently encourage to work there. I am also a supporter of nuclear energy and think we need to keep building refineries for oil, concurrently with nuclear energy plants and other energy sources.

I often look at the policies that are being proposed and it is difficult not to believe the conspiracy theories that there are many in power who want Americans to suffer, who want the dollar's value to keep plummeting, who want energy prices to soar for their own political ends.

I hope my story and my opinion help in your research.

Blessings,

LORNA, *Boise.*

SENATOR CRAPO, I recently completed a complete analysis of sources of alternative energy at my ranch in Swan Valley, Idaho. Fuel and energy costs are now so prohibitive that we cannot sustain our business without passing on those costs or we will have to face the prospect of just shutting down. I looked at wind, water, bio gas and solar and, initially, I did not consider the capital costs required to install them. I used actual history for electricity and propane usage over the past couple of years. We raise beef cattle and registered horses, so I have plenty of possible methane production; we have a pretty constant canyon wind, especially in the summer; and we have a large stream that borders the property and it has a high flow rate in the spring and early summer. I carefully estimated wind days, solar days, flow volumes and efficient, but realistic manure collection. What I found was that for about $300,000 to $500,000 of capital, I could cover no more

than 30 percent of my annual electricity and propane needs! I didn't even start on my diesel and gasoline requirements. My conclusion from this analysis is that we *must* utilize oil, coal and nuclear power to continue to provide the majority of our energy requirements in this country long into the future. It is not just our economy that we need to worry about, but the very fabric of our society is at stake! Renewable energy is a curiosity and may help in small amounts in localized applications, but it is obvious to me that you cannot take small net energy sources and produce big net energy sources from them. Be concerned about ethanol and bio diesel for that very reason. We need to stop this anal conservation lunacy and utilize our natural resources to solve our energy problem! Absolutely, we need to take care of the environment, but we cannot afford to pay these prices (especially as the money goes directly to the Middle East to fund our enemies!). The solution to the problem is obvious—why cannot we set aside political posturing and get this done???

KEN, *Swan Valley*.

I consider Idaho my home. I love the state, the out of doors and, most of all, the people. I have lived here for over ten years having moved here from Bend, Oregon. My career has taken me all over the world. I have lived or traveled through 39 countries in the last twenty years prior to moving here, and there is nowhere else I would rather live. Presently, I live 45 miles north of Boise, near New Plymouth.

For a number of years, I worked for Woodgrain Millwork as manager of one of their testing and coatings sections. When that closed, I transferred to Kelly Moore as the outside Industrial and Commercial Sales Rep. Life has been very enjoyable. However, a large portion of my activity centers around construction, food processing and manufacturing. Each of these sectors has had to restructure a good many of their plans as one might expect.

It is my belief the market in Idaho will recover at some point; however, it is simply a matter of how long the individual can hold out. Commissions, as one would expect, have lagged, and, of course, the cost of living has not. I have a pretty good-sized territory requiring considerable driving. Every two weeks, I have been spending around $250 for gas. Today, I turned in receipts for close to $500. While the company offsets the majority of this, I still bear a portion and, with the increase in the overall cost of living and the decline in commissions, I am having to look for work elsewhere. I have been supplementing the difference out of savings; I cannot keep doing that. The fact of the matter is Friday I fly to Portland for an interview, a bitter pill, but I must get the bleed under control. Given the changes over the last seven to eight months, I see no other choice.

ROGER.

SENATOR CRAPO, Even though I make a good living these gas prices couldn't have hit at a worse time. I am trying to get my bills paid down so that I can afford to retire. It does not look like I'll be retiring anytime soon.

I am very upset with Congress; they should be opening up exploration and drilling in this country. I agree with Newt: Drill here, Drill now, Pay less. Please work towards this goal.

Thank you for asking,

BILL, *Meridian*.

Yeah, gas is too high and it makes the price of everything go up. Food prices are going crazy, produce, it is killing the farmers the truckers and the consumers. Now the electric bill is going up, natural gas going up, but wages not so much.

I make $15.60 an hour, pretty good for Idaho; but if I hadn't already bought into my house eight years ago, I would be out of luck.

I believe transit would help a good deal, but the bus system [is not adequate]. Not enough money to run a real bus system. Federal funding keeps getting cut and cut again. It does not make sense. If you want people to cut consumption of gas, you have to give them options.

Sincerely,

CONNIE, *Boise*.

I would like to respond to your request for comments regarding energy prices and their effect on the people you represent.

Like many people in the greater Boise metro area, I work in downtown Boise but live in communities in the surrounding areas. I work as a software developer, and as such I make what is largely considered to be a comfortable income. I drive a late 80s sedan that I have owned for ten years, and was owned by my parents before me. Unlike many neighbors, I carry no debt outside of my home mortgage, but my mortgage is a significant portion of my after-tax income (greater than 35 percent). My family functions on a very lean budget, not eating out often, producing our own vegetables in our garden, and taking few road trips or vacations.

Lately I have needed to cut back on my driving due to increased fuel costs. My commute now costs me roughly $5.50 per day just in gas. According to the IRS standard vehicle expense deduction, the real cost is $12.12 daily, which includes upkeep and repair as well as fuel costs. Just last year, I was able to function within a $3 per day commute budget. To counteract these increases in cost, I have purchased a road bicycle and am starting to ride in to work the 12 miles one way. Unfortunately, this adds an extra 1.5 hours to my day. So now my workday increased from roughly nine hours away from home to almost eleven hours.

However, I also suffer from severe allergies specifically relating to tree pollen, grasses and weeds, of which our desert climate and river surrounding community has plenty. These allergies cause my eyes to swell shut when pollen levels increase beyond reasonable levels. The Boise valley area has especially bad pollen problems, due to frequent inversions and stale summer air conditions.

So I am faced with the choice of saving money by riding a bicycle, but suffering debilitating allergic reactions, or paying an additional 54 percent in transportation costs, which cuts out monies allocated in our budget to spending time with my family in local restaurants, or for charitable giving to the Rescue Mission. Those businesses and charities, in turn, no doubt, are feeling the pinch from other families in similar situations, so local businesses are suffering as well.

The net result of rising costs of fuel and inadequate public transportation in suburban cities, is a lose-lose situation for both me and my community. Add to this problem the speculative nature of fuel prices due to our nations reliance on fuel imports, and the future becomes even less certain. An uncertain future means less spending. Less spending means economic shortfalls and contraction.

I am entirely in favor of new efforts to expand new domestic oil exploration and refining capacity as well as investments in nuclear energy infrastructure to help reassign valuable fossil fuels like natural gas or oil to transportation uses and away from electrical power generation. And I also am in favor of long term research in alternate energy and alternate transportation but not to the exclusion of shorter term solutions that make use of our nations existing vehicle inventory and infrastructure.

Thank you for your desire to hear from your constituents.

JASON, *Meridian*.

ADDITIONAL STATEMENTS

IN HONOR OF THE HEALTH CENTERS OF DELAWARE

• Mr. CARPER. Mr. President, each year the Nation celebrates National Health Center Week to honor the efforts of the nearly 40,000 medical professionals who strive to provide quality health care to Americans throughout all 50 States. I am pleased to announce that this year National Health Center Week will be held August 10 through 16.

As an annual supporter of this event, I once again commend the work of the Mid-Atlantic Association of Community Centers and the many health centers in my home State for the role they play in delivering quality, affordable health care to lower-income Delawareans.

These health centers are community-run and open to all Americans regardless of their ability to pay. Delaware is fortunate to have a number of these health centers, including Westside Health in Wilmington and Newark, Henrietta Johnson in Wilmington, Delmarva Kent Community Health Center in Dover, and La Red Health Center in Sussex County.

These centers and those across our Nation are extremely valuable, operating in both rural and urban medically underserved areas and providing care that might not be otherwise available to residents.

By serving as a point of access for affordable primary and preventative care, our Nation's health centers allow to patients to stay healthier, or if they are ill to allow them to seek earlier treatment. This prevents patients from relying solely on costly treatments, such as emergency room visits, saving money for them and our health care system as a whole.

Again, I wish to commend the health centers of Delaware for their hard work and dedication. I thank them for all of the valuable services they provide to so many of us who call Delaware home.•

100TH ANNIVERSARY OF MAN MOUND

• Mr. KOHL. Mr. President, I would like to recognize the importance of Man Mound and congratulate the citizens of Sauk County and the Sauk County Historical Society for their extensive and successful preservation efforts.

Hundreds of years ago, before the Europeans came to this land, a band of Native Americans began efforts to alter the landscape by creating effigy mounds. Although the purpose is still unclear, effigy mounds were primarily

used for religious purposes, though some served as burial mounds. Particularly in the Midwest, American Indians often built the earthen mounds in the shape of animals; however, Man Mound, located in Sauk County in Greenfield Township, WI, is the one of the few effigy mounds in the shape of a man. Over 900 mounds once existed in Sauk County, yet over 75 percent of the mounds have been plowed, erased by floods or destroyed by looters and construction. Although the legs of Man Mound were partially destroyed during road construction in the early 1900s, preservation of Man Mound continues and further destruction to the mound has not occurred. Due to the shrinking number of mounds and the rare human shape of the mound in Greenfield Township, Man Mound needs to be recognized as a valuable part of history.

The Sauk County Historical Society dedicated Man Mound Park, the area surrounding the mound, in 1908 and has since made efforts to keep the mound in its original state. The efforts of the people of Sauk County and the Sauk County Historical Society to protect the effigy mound were progressive and laudable. Man Mound is believed to be the best preserved man-shaped Native American effigy mound remaining in the United States, a title only possible through the commitment of the Historical Society and the citizens of Sauk County.

On August 9, 2008, citizens from many parts the State of Wisconsin will gather to celebrate the 100th anniversary of the preservation of the Man Mound. The commemoration will highlight this unique Native American effigy mound, increase awareness of its value as a landmark and allow for further investigation as to whether there are more mounds in the area. Man Mound will serve as an educational resource for the people in Greenfield Township, Sauk County and Wisconsin. The preservation efforts by the people of Sauk County have not gone unnoticed. The Sauk County Historical Society, the Ho-Chunk Nation, the Wisconsin Historical Society, the Wisconsin Archeological Society, the General Federation of Women's Clubs-Wisconsin, the Wisconsin Archeological Survey and the Sauk County UW Extension, Arts and Culture Committee have dedicated valuable time and resources toward the commemoration of Man Mound. The individuals involved deserve recognition, praise and thanks for their hard work.●

RECOGNIZING THE PHILADELPHIA PHILLIES

● Mr. SPECTER. Mr. President, I seek recognition today to express my gratitude to the Philadelphia Phillies for their extraordinary effort during a recent mentoring event at PNC Park in Philadelphia on June 21, 2008. This particular event was the most recent in a series of events that have been an integral part of a youth outreach program.

Since my days as district attorney in Philadelphia, I have devoted a great deal of time and attention to developing ways to reduce violent crime. I believe one of the best ways to reduce the rate of youth crime and violence is to develop mentoring programs with the explicit goal of imbuing the youth of Pennsylvania with ideals such as hard work and civic responsibility. With this goal in mind, I have worked diligently to secure funding for mentoring style programs and have subsequently held events focusing on mentoring and the issues of youth crime and violence throughout Pennsylvania including Philadelphia, Reading, Lancaster, York, Pittsburgh, and Allentown.

The mentoring events in which I have participated are intended to provide the young people of Pennsylvania with a day all their own and, simultaneously, highlight how fun and special mentoring relationships can be for everyone involved. It is my belief that when these young people see that there are positive role models readily available in their community to whom they can turn when searching for someone to emulate, the chance of perpetuating violent patterns of behavior will markedly decline. Specifically, youth involved in a formal mentoring program are 46 percent less likely to start using drugs and alcohol and 33 percent less likely to hit another person. Participants also attended school more regularly and completed their school work more consistently and on time. Finally, the children demonstrated improved peer and family relationships as a result of their involvement in mentoring. These indicators make me hopeful that wide-scale mentoring could have a tremendous impact in this city.

The day with the Philadelphia Phillies was no exception. Between the planning efforts and resources of the Phillies organization and the recommendations of my exceptional staff, the event turned out to be memorable for all those who attended. The accommodations the Phillies afforded the kids were exceptional. They went so far as to honor one young person from their own mentoring program and me, and we had the opportunity to get involved in the ''First Ball'' ceremony. I am sure this is a memory that this young man will carry with him for the rest of his life. I know it is one I will always reflect upon fondly.

In the wake of the numerous scandals plaguing professional athletics, the event on June 21, 2008, reminded all those in attendance how powerful professional athletes can be in serving as positive role models for the children of our communities. There is no doubt that the young people of the great Commonwealth of Pennsylvania will continue to look toward players such as Chase Utley, Tom Gordon, Jimmie Rollins, Pat Burrell, and others in the future when determining who they should emulate.

What I feel is most important to take away from this event is how significantly it reflects the desire of the entire Philadelphia community to become involved in programs that have the potential to effect real change in the lives of our youth. When a group as notable as the Philadelphia Phillies sets aside time and resources to enhance the lives of our youth, it establishes a powerful standard for involvement for the rest of the community. For this program to be a success, it is essential to engage groups of caring professionals. The Phillies, much to my pleasure, have done just that.

I look forward to working further into the future with this great organization and the others that I hope will follow their lead.●

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.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

The President pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 2967. An act to provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes.

At 2:15 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 231. An act to authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

S. 3145. An act to designate a portion of United States Route 20A, located in Orchard Park, New York, as the ''Timothy J. Russert Highway''.

S. 3218. An act to extend the pilot program for volunteer groups to obtain criminal history background checks.

The message also announced that the House has agreed to the amendment of the Senate to the bill (H.R. 3564) to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States through fiscal year 2011, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1714. An act to clarify the boundaries of the Coastal Barrier Resources System Clam Pass Unit FL–64P.

H.R. 3227. An act to authorize the Secretary of the Interior to allow stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

H.R. 4010. An act to designate the facility of the United States Postal Service located at 100 West Percy Street in Indianola, Mississippi, as the ''Minnie Cox Post Office Building''.

H.R. 5057. An act to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes.

H.R. 5464. An act to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

H.R. 5506. An act to designate the facility of the United States Postal Service located at 369 Martin Luther King Jr. Drive in Jersey City, New Jersey, as the ''Bishop Ralph E. Brower Post Office Building''.

H.R. 5618. An act to reauthorize and amend the National Sea Grant College Program Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 297. Concurrent resolution recognizing the 60th anniversary of the beginning of the integration of the Armed Forces.

H. Con. Res. 369. Concurrent resolution honoring the men and women of the Drug Enforcement Administration on the occasion of its 35th anniversary.

H. Con. Res. 381. Concurrent resolution honoring and recognizing the dedication and achievements of Thurgood Marshall on the 100th anniversary of his birth.

At 5:16 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 6331) to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, that the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

MEASURES REFERRED

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

H.R. 1714. An act to clarify the boundaries of Coastal Barrier Resources System Clam Pass Unit FL–64P; to the Committee on Environment and Public Works.

H.R. 3227. An act to authorize the Secretary of the Interior to allow stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area; to the Committee on Energy and Natural Resources.

H.R. 4010. An act to designate the facility of the United States Postal Service located at 100 West Percy Street in Indianola, Mississippi, as the ''Minnie Cox Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5506. An act to designate the facility of the United States Postal Service located at 369 Martin Luther King Jr. Drive in Jersey City, New Jersey, as the ''Bishop Ralph E. Brower Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5618. An act to reauthorize and amend the National Sea Grant College Program Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. Z97. Concurrent resolution recognizing the 60th anniversary of the beginning of the integration of the Armed Forces; to the Committee on Armed Services.

H. Con. Res. 369. Concurrent resolution honoring the men and women of the Drug Enforcement Administration on the occasion of its 35th anniversary; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3268. A bill to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on July 15, 2008, she had presented to the President of the United States the following enrolled bill:

S. 2967. An act to provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes.

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–410. A letter from the Society for Radiation Oncology Administrators urging the Senate to add certain medical imaging technologies to the list of procedures for which minimum education and credential standards are currently required; to the Committee on Finance.

POM–411. A resolution adopted by the Senate of the State of New Jersey urging Congress to not require purchase of flood insurance based on new flood insurance rate maps; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 74

Whereas, the Federal Emergency Management Agency (FEMA) is charged with reviewing, revising, and updating flood insurance rate maps Under section 1360 of the ''National Flood Insurance Act of 1968'' (42 U.S.C. s.4101); and

Whereas, as part of the this charge, through the National Flood Insurance Program's Map Modernization Program, FEMA is conducting a national reassessment of flood insurance rate maps as authorized and funded by the United States Congress; and

Whereas, FEMA is currently reviewing and revising the maps for the Bayshore area in Monmouth County, and has determined that the existing beach and dune system located along the Raritan Bay in the Borough of Keansburg, Monmouth County, does not comply with the requirements of the National Flood Insurance Program's regulations found at section 65.10 of title 44 of the Code of Federal Regulations concerning FEMA Levee Accreditation; and

Whereas, as a result of FEMA's flood map modernization effort, several thousand residents of the State in the Township of Hazlet, the Borough of Keansburg, the Township of Middletown, and the Borough of Union Beach will be now be required to purchase flood insurance; and

Whereas, the currently effective maps for the affected area are from 1983, prior to the federal regulations established in 1986 which are the basis for the determination that the area is in non-compliance; and

Whereas, H.R. 3121, known as the ''Flood Insurance Reform and Modernization Act of 2007,'' currently pending in the United States Senate, would make a number of changes to the National Flood Insurance Program, including prohibiting FEMA from adjusting the chargeable flood insurance premium rate based on an updated flood insurance rate map, or requiring the purchase of flood insurance for a property not subject to such a purchase requirement before the updating of the map, until such time as an updated map is completed for the entire district of the U.S. Army Corps of Engineers affected by the map: Now, therefore, be it

Resolved by the Senate of the State of New Jersey:

1. This House urges the United States Congress to enact legislation that would prohibit the Federal Emergency Management Agency from requiring the purchase of new flood insurance based on revised flood insurance rate maps developed as part of the National Flood Insurance Program's Map Modernization Program so that New Jersey residents do not have to incur the cost of the purchase of flood insurance.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the President of the United States, the Majority Leader and Minority Leader of the United States Senate, the Speaker, Majority Leader and Minority Leader of the United States House of Representatives, all members of the United States Congress representing the State of New Jersey, and the Administrator of the Federal Emergency Management Agency.

POM–412. A resolution adopted by the Senate of the State of Michigan urging Congress to reauthorize transportation funding with appropriate recognition of the importance of the Great Lakes' infrastructure to the nation's economy; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 194

Whereas, the future viability of the United States' economy depends on the ability to produce and export marketable products. The state of Michigan is an integral part of the North American manufacturing supply chain, with its international borders and waterways. The Detroit and Port Huron crossings are the busiest land borders in the entire country, bringing $2 trillion in trade value into this country each year; and

Whereas, transportation infrastructure support is necessary to facilitate the movement of products back and forth, across our borders and around the country, thus feeding the United States' economy. Michigan's aging transportation infrastructure carries an enormous amount of heavy truck traffic to that end and is in need of structural upgrades and expansion; and

Whereas, Michigan has been a donor state for transportation dollars for many years. As such, Michigan has subsidized transportation projects in other states to the detriment of state infrastructure and in disproportion to our contribution to the national economy; Now, therefore, be it

Resolved by the Senate, That we memorialize Congress to reauthorize transportation funding with appropriate recognition of the importance of the Great Lakes' infrastructure to the nation's economy; 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 House of Representatives, and the members of the Michigan congressional delegation.

POM–413. A concurrent resolution adopted by the House of Representatives of the State of Arizona urging Congress to use as guiding principles the sovereignty of the United States and the best interests of its citizens on matters relating to the adoption of treaties and agreements with foreign governments; to the Committee on Foreign Relations.

HOUSE CONCURRENT MEMORIAL NO. 2003

Whereas, the President and the Congress of the United States during the course of their duties often times enter into treaties and other bilateral and multi-lateral agreements with foreign nations and organizations of foreign nations, such as the Security and Prosperity Partnership of North America: and

Whereas, some treaties and agreements by intent, error or misinterpretation might have adverse negative effects on the sovereignty and best interests of the citizens of the United States; and

Whereas, Congressman Virgil Goode, Jr. and 46 cosponsors have introduced House Concurrent Resolution 40 to express ''the sense of Congress that the United States should not engage in the construction of a North American Free Trade Agreement (NAFTA) Superhighway System or enter into a North American Union with Mexico and Canada''; and

Whereas, the citizens of the United States have historically cherished, fought for and died to protect the sovereignty of the United States; and

Whereas, the guiding principle behind the foreign policy of the United States of America should always be to advance what is in the best interests of the citizens of the United States, politically, socially and economically. Wherefore your memorialist, the House of Representatives of the State of Arizona. the Senate concurring, prays:

1. That, in all matters relating to the adoption of treaties and agreements with foreign governments and organizations of foreign governments, the President and Congress use as guiding principles the maintenance of the historically cherished sovereignty of the United States and the advancement of the best interests of the citizens of the United States, including jobs and wages, in wording that is clear and unequivocal.

2. That the United States not enter into construction of a North American Free Trade Agreement (NAFTA) Superhighway System or enter into a North American Union with Mexico and Canada.

3. That existing treaties and agreements be publicly and thoroughly reevaluated to ensure compliance with the principles of this memorial.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–414. A joint resolution adopted by the House of Representatives of the State of Colorado relative to support for the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

HOUSE JOINT RESOLUTION NO. 08–1009

Whereas, the United States supports and has been an active participant in the drafting of, and is a signatory to, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, but the U.S. Senate has failed to ratify the Convention; and

Whereas, the spirit of the Convention is rooted in the goals of the United Nations and the United States, to affirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women; and

Whereas, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based on gender against one-half of the world's population; and

Whereas, although women have made major gains in the struggle for equality in social, business, political, legal, educational, and other fields during the past century, there is much yet to be accomplished; and

Whereas, through its support, leadership, and prestige, the United States can help create a world in which women are no longer discriminated against and have achieved one of the most fundamental of human rights, equality; and

Whereas, in 1980, President Jimmy Carter signed the Convention and submitted it to the Senate for ratification; and

Whereas, the U.S. is the only country to have signed but not ratified the convention; and

Whereas, ratification of the Convention would entitle the United States to join the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, which monitors reports of progress in the treatment of women from the countries that have ratified the Convention; and

Whereas, as of November, 2007, a total of 185 countries have ratified or acceded to the Convention, and the state legislatures of more than 10 states have endorsed U.S. ratification: Now, therefore, be it

Resolved by the House of Representatives of the Sixty-sixth General Assembly of the State of Colorado, the Senate concurring herein:

That the members of the Colorado General Assembly support the continuing goals of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and strongly urge the United States Senate to ratify the Convention; and be it further

Resolved, That copies of this Joint Resolution be sent to the President of the United States, the Secretary of State of the United States, the President and the Secretary of the U.S. Senate, the Speaker and Clerk of the U.S. House of Representatives, the Chair and members of the Senate Foreign Relations Committee, and to each member of the Colorado Congressional delegation.

POM–415. A concurrent resolution adopted by the Senate of the State of New Hampshire urging the federal government to create a simplified process for short-term admissions to nursing homes for the purpose of respite care; to the Committee on Health, Education, Labor, and Pensions.

RESOLUTION

Whereas, an increasing number of elderly and disabled citizens are being cared for in the home, often by family members, and

Whereas, the home care providers of such persons need time to relax and take care of other responsibilities; and

Whereas, there is an acute need for safe and appropriate short-term placements where elderly and disabled citizens can stay while their home caregivers have a period of respite from providing home-based care; and

Whereas, certain nursing homes in New Hampshire would be willing to provide short-term respite care if there was a simplified and streamlined process for such admissions; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the general court of new Hampshire hereby urges Congress to develop a simplified and streamlined process for short-term admissions to nursing homes for the purpose of respite care that minimizes, to the greatest extent possible, paperwork and recordkeeping that needs to be completed prior to and during such admissions; and

That copies of this resolution shall be sent by the senate clerk to the President of the United States, the Speaker of the United States House of Representatives, the United States Secretary of Health and Human Services, and each member of the New Hampshire congressional delegation.

POM–416. A resolution adopted by the House of Representatives of the State of Michigan urging Congress to provide a federal extension of unemployment benefits for those unemployed workers in the State of Michigan; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 117

Whereas, our nation, the state of Michigan in particular, has been hard hit by the country's recent recession. Although the overall economy has seen improvement, for states reliant on certain industries the recent years have been characterized by an inordinately high level of unemployment. This situation has been especially difficult in our state's manufacturing and other professional sectors; and

Whereas, in recognition of the country's unemployment difficulties, the United States Congress has provided federal 13-week extensions of unemployment benefits. These extensions have been invaluable in helping working men and women provide the necessities for their families while seeking work. It is only fitting that an extension of benefits be provided to our hard working men and women when, through no fault of their own, these workers are faced with extended periods of unemployment; and

Whereas, a host of Michigan workers have exhausted their state employment security benefits. Without a federal extension, these people and their families face tremendous financial hardships. Moreover, spiraling energy costs and a continuing slow job market spell disaster for far too many of Michigan's working families. The economic well-being and human dignity that a federal extension can help provide in these troubled economic times are critical; Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to provide a federal extension of unemployment benefits for those unemployed workers in the state of Michigan; 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–417. A resolution adopted by the House of Representatives of the State of Michigan urging Congress to enact the Youth Promise Act; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 310

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. This indicates that there are 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, Congress has before it the Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act, the Youth PROMISE Act, (H.R. 3846), which seeks to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention and to help build individual, family, and community strength to ensure that our youth lead productive, law-abiding, addiction- and gang-free lives; 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 intervention methods carried out under the Youth PROMISE Act. Further, it provides for the collection of data related to the juvenile delinquency and criminal 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 Coordinating Councils will develop plans that include a broad array of prevention and intervention programs that 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 Coordinating 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

Whereas, the Youth PROMISE Act establishes a National Center for Proven Practices Research, which will collect and disseminate research to PROMISE Coordinating 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-term 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 House of Representatives, That we memorialize the United States Congress to enact the Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act, 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–418. A resolution adopted by the House of Representatives of the State of Colorado relative to support for the rotating regional presidential primaries plan; to the Committee on Rules and Administration.

HOUSE RESOLUTION NO. 08–1006

Whereas, the quadrennial election of the president and vice president of the United States is among the most important civic acts of the voters of the state of Colorado; and

Whereas, the process leading to the nomination of candidates for president and vice president of the United States should be as open and participatory as possible; and

Whereas, voter participation will be enhanced, the political process strengthened, and the rights of all the states and their citizens will be protected with a coordinated, orderly, and defined electoral schedule in place; and

Whereas, the National Association of Secretaries of State (NASS) has created a rotating regional presidential primaries plan that:

(1) Groups the states into eastern, southern, midwestern, and western regions beginning in 2012;

(2) Places Colorado in the western region;

(3) Provides for a lottery to determine which region will begin the sequence of presidential primaries commencing on the first Tuesday in March preceding the presidential election and followed by primaries in each region in numerical order in April, May, and June;

(4) Ensures that in subsequent presidential election years each region moves up in the sequence and that the western region, in which Colorado would be placed, will vote in the first regional presidential primary every sixteen years; and

(5) Ensures that states will be able to determine whether they will conduct their elections by a primary or caucus system; and

Whereas, it would be of great benefit for the state of Colorado to affiliate with the western region and to participate in the NASS rotating regional presidential primary commencing in 2012: Now, therefore, be it

Resolved by the House of Representatives of the Sixty-sixth General Assembly of the State of Colorado, That we, the members of the House of Representatives, support the rotating regional presidential primaries plan endorsed by the National Association of Secretaries of State and encourage Colorado's participation in those regional primaries commencing in 2012; and be it further

Resolved, That copies of this Resolution be sent to the President and Vice President of the United States, each member of Colorado's Congressional delegation, the Colorado Secretary of State, the chairs ofthe Colorado Democratic and Republican parties, and the National Association of Secretaries of State.

POM–419. A joint resolution adopted by the Senate of the State of Tennessee urging Congress to adopt a Veterans Remembered Flag to honor all veterans who have served in our country's Armed Forces; to the Committee on Rules and Administration.

SENATE JOINT RESOLUTION NO. 901

Whereas, there are flags for all branches of the armed services, as well as flags for POWs and MIAs, but there is no flag to honor the millions of former military personnel who have served our nation; and

Whereas, a flag is a symbol of recognition for a group or an ideal; veterans compose a group and certainly represent an ideal, and surely deserve their own symbol; and

Whereas, it is estimated that 20,400,000 veterans have served in our nation's, military, comprising a significant portion of our country's population; and

Whereas, a Veterans Remembered Flag would memorialize and honor all past, present, and future veterans and provide an enduring symbol to support tomorrow's veterans today; and

Whereas, displaying and flying this flag would honor the lives of millions of men and women who have served our country in times of war, peace, and national crisis; and

Whereas, the symbolism of this unique flag's design would be all-inclusive and would pay respect to the history of our nation, to all branches of the military, and would serve to honor those who have served or died in the service of our nation; and

Whereas, in memorializing America's veterans, the Veterans Remembered Flag includes specific symbolism and should be designed in substantially the following form:

(a) It depicts the founding of our Nation through the thirteen stars that emanate from the hoist of the flag and march to the large red star, representing our Nation and the five branches of our country's military that defend her: the Army, Navy, Air Force, Marines, and Coast Guard.

(b) The white star indicates a veteran's dedication to service.

(c) The blue star honors all men and women who have ever served in our country's military.

(d) The gold star memorializes those who fell defending our Nation.

(e) The blue stripe which bears the title of the flag honors the loyalty of veterans to our Nation, flag, and government.

(f) The green field represents the hallowed ground where all rest eternally; and

Whereas, the Veterans Remembered Flag would serve to honor all veterans who have served in our country's Armed Forces: Now, therefore, be it further

Resolved, that an enrolled copy of this resolution be transmitted to the President of the United States, the Speaker and the Clerk of the U.S. House of Representatives, the President and the Secretary of the U.S. Senate, and each member of the Tennessee Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 2120. A bill to authorize the establishment of a Social Investment and Economic Development Fund for the Americas to provide assistance to reduce poverty, expand the middle class, and foster increased economic opportunity in the countries of the Western Hemisphere, and for other purposes (Rept. No. 110–419).

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

S. 2688. A bill to improve the protections afforded under Federal law to consumers from contaminated seafood by directing the Secretary of Commerce to establish a program, in coordination with other appropriate Federal agencies, to strengthen activities for ensuring that seafood sold or offered for sale to the public in or affecting interstate commerce is fit for human consumption (Rept. No. 110–420).

H.R. 1006. A bill to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes (Rept. No. 110–421).

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. BIDEN (for himself and Mr. LUGAR):

S. 3263. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes; to the Committee on Foreign Relations.

By Mr. INHOFE:

S. 3264. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JOHNSON:

S. 3265. A bill to amend title XVIII of the Social Security Act to provide for payment of home health services on a reasonable cost basis; to the Committee on Finance.

By Mr. WARNER:

S. 3266. A bill to require Congress and Federal departments and agencies to reduce the annual consumption of gasoline of the Federal Government; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BROWN:

S. 3267. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Egg Products Inspection Act, and the Federal Food, Drug, and Cosmetic Act to provide for improved public health and food safety through enhanced enforcement, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for himself, Mr. DURBIN, Mr. DORGAN, Mrs. MURRAY, and Mr. SCHUMER):

S. 3268. A bill to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; ordered read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DORGAN (for himself and Mr. CRAPO):

S. Con. Res. 93. A concurrent resolution supporting the goals and ideals of ''National Sudden Cardiac Arrest Awareness Month''; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 242

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 242, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 626

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 935

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 935, a bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 1382

At the request of Mr. REID, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1382, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1492

At the request of Mr. INOUYE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1492, a bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

S. 1846

At the request of Mr. BOND, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1846, a bill to improve defense cooperation between the Republic of Korea and the United States.

S. 2059

At the request of Mrs. CLINTON, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 2059, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 2243

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2243, a bill to strongly encourage the Government of Saudi Arabia to end its support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, to secure full Saudi cooperation in the investigation of terrorist incidents, to denounce Saudi sponsorship of extremist Wahhabi ideology, and for other purposes.

S. 2372

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2372, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear.

S. 2433

At the request of Mr. OBAMA, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 2433, a bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 2433, supra.

S. 2579

At the request of Mr. INOUYE, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Tennessee (Mr. CORKER), the Senator from

Louisiana (Ms. LANDRIEU), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. SCHUMER), the Senator from Washington (Ms. CANTWELL) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2608

At the request of Ms. SNOWE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2608, a bill to make improvements to the Small Business Act.

S. 2795

At the request of Mr. DURBIN, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mr. PRYOR) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 2795, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 2932

At the request of Mrs. MURRAY, the name of the Senator from Tennessee (Mr. ALEXANDER) 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. 3047

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 3047, a bill to provide for the coordination of the Nation's science, technology, engineering, and mathematics education initiatives.

S. 3140

At the request of Mr. WEBB, the name of the Senator from Michigan (Ms. STABENOW) 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. 3155

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3155, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 3185

At the request of Ms. CANTWELL, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 3185, a bill to provide for regulation of certain transactions involving energy commodities, to strengthen the enforcement authorities of the Federal Energy Regulatory Commission under the Natural Gas Act and the Federal Power Act, and for other purposes.

S. 3186

At the request of Mr. SANDERS, the names of the Senator from Missouri (Mr. BOND), the Senator from Rhode Island (Mr. REED), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Colorado (Mr. SALAZAR) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 3186, a bill to provide funding for the Low-Income Home Energy Assistance Program.

S. 3189

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3189, a bill to amend Public Law 106-392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

S. 3197

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3197, a bill to amend title 11, United States Code, to exempt for a limited period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

S. 3245

At the request of Mr. BIDEN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 3245, a bill to increase public confidence in the justice system and address any unwarranted racial and ethnic disparities in the criminal process.

S. 3257

At the request of Mr. SPECTER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 3257, a bill to extend immigration programs to promote legal immigration and for other purposes.

S.J. RES. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S.J. Res. 37, a joint resolution expressing the sense of Congress that the United States should sign the Declaration of the Oslo Conference on Cluster Munitions and future instruments banning cluster munitions that cause unacceptable harm to civilians.

S.J. RES. 41

At the request of Mrs. FEINSTEIN, the names of the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Washington (Mrs. MURRAY) and the Senator from Vermont (Mr. SANDERS) 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.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor 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. BIDEN (for himself and Mr. LUGAR):

S. 3263. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I am pleased to join Chairman BIDEN in introducing the Enhanced Partnership with Pakistan Act of 2008, important legislation to deepen our engagement with Pakistan over the long term. The Foreign Relations Committee has held an important series of hearings on Pakistan which have allowed Members to review the gamut of challenges there, including the dynamic political and security situation, United States policy options and the resources required to pursue them. We have few more important foreign policy priorities than encouraging stability in Pakistan and throughout the region, and providing sustainable cooperation to fight the terrorists who threaten both our countries.

We worked closely with the State Department's Deputy Secretary Negroponte, as well as officials at USAID, to craft this legislation. This bipartisan effort reflects the important realization that our relations with Pakistan must be broad-based and enduring. As Mr. Negroponte told the committee earlier this year, following the elections that ended military rule, we have ''a strategic opportunity to help the nation consolidate its democratic gains by encouraging development and economic reform.''

This legislation marks a good first step toward seizing that opportunity. Its success will be contingent upon effective progress in good governance by the leaders throughout the Pakistan government, and upon their commitment to combating terrorism within their borders. The U.S. National Intelligence Estimate revealed in June of

last year that al-Qaeda had reestablished its pre–2001 capacity in the tribal areas of Pakistan. This reconstituted capacity across the border from Afghanistan, together with the extreme Taliban leadership based in Pakistan, represents a threat to Pakistan, to the region, and to the United States.

The legislation recognizes that strengthening democracy and countering terrorism go hand in hand. American Defense, intelligence and State Department officials have all said that economic development and improved governance are at least as critical as military action in containing the terrorist threat.

While our bill envisions sustained cooperation with Pakistan for the long haul, it is not a blank check. It calls for tangible progress in a number of areas, including an independent judiciary, greater accountability by the central government, respect for human rights, and civilian control of the levers of power, including the military and the intelligence agencies. It recognizes that Pakistan will need security assistance to fight the terrorists, but it subjects this assistance to a certification that the government is using the money for its intended purpose, namely, to go after the Taliban and al-Qaeda, and that civilian control is maintained. It calls for a comprehensive, cross-border approach to the very difficult situation along the adjoining Afghan and Pakistani tribal areas, combining the economic and security aspects.

This bill represents a lot of hard work by many parties, but we recognize the job is not yet done. Passing it into law will require further efforts, first of all by us on the Senate Foreign Relations Committee. Then we must take it to the floor of the Senate, where I look forward to working with our chairman on advancing the bill.

By Mr. INHOFE:

S. 3264. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, today I am introducing a bill to reauthorize the Economic Development Administration, EDA. EDA was created in 1965 to provide assistance to economically distressed areas, primarily those experiencing substantial and persistent unemployment and poverty. EDA works with partners in local communities to create wealth and minimize poverty by promoting favorable business environments to attract private investment and encourage long-term economic growth.

Studies show that EDA uses Federal dollars efficiently and effectively, creating and retaining long-term jobs at an average cost that is among the lowest in government. Reauthorization gives us an opportunity to ensure the continuation of this good work and to provide the tools necessary to improve performance even further.

The reauthorization bill I am introducing today includes many of the program administration improvements proposed by the President, while reaffirming a commitment to acceptable funding levels. Specifically, the bill reauthorizes the agency for 5 years; allows for increases in the minimum level of funding for planning districts; provides needed resources and reforms to improve administration of the revolving loan fund program; and adds flexibility in addressing grant recipients' changed economic development needs.

In my home State of Oklahoma, we have some communities that struggle with economic distress, and EDA has worked long and hard with those communities to bring in private capital investment and jobs. Durant, Clinton, Oklahoma City, Seminole, Miami, and Elgin are just some of the Oklahoma communities that have made good use of EDA assistance. In fact, over the past 5½ years, EDA grants awarded in my home State have resulted in almost 12,000 jobs being created or saved. With an investment of about $22.7 million, we have leveraged another $24 million in State and local funds and more than $437 million in private sector funds. I would call that a wonderful success story.

The EDA's authorization is set to expire on September 30, 2008. Especially in these times of economic uncertainty, it is imperative not to create uncertainty for this very successful agency and the struggling communities that depend on its assistance by allowing the authorization to lapse. I look forward to working with the administration, as well as my colleagues here in the Senate and in the House of Representatives, to try to reauthorize EDA before that happens.

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

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

S. 3264

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 ''Economic Development Administration Reauthorization Act of 2008''.

SEC. 2. ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by adding at the end the following:

''(e) EXCELLENCE IN ECONOMIC DEVELOPMENT AWARDS.—

''(1) ESTABLISHMENT OF PROGRAM.—To recognize innovative economic development strategies of national significance, the Secretary may establish and carry out a program, to be known as the 'Excellence in Economic Development Award Program' (referred to in this subsection as the 'program').

''(2) ELIGIBLE ENTITIES.—To be eligible for recognition under the program, an entity shall be an eligible recipient that is not a for-profit organization or institution.

''(3) NOMINATIONS.—Before making an award under the program, the Secretary shall solicit nominations publicly, in accordance with such selection and evaluation procedures as the Secretary may establish in the solicitation.

''(4) CATEGORIES.—The categories of awards under the program shall include awards for—

''(A) urban or suburban economic development;

''(B) rural economic development;

''(C) environmental or energy economic development;

''(D) economic diversification strategies that respond to economic dislocations, including economic dislocations caused by natural disasters and military base realignment and closure actions;

''(E) university-led strategies to enhance economic development;

''(F) community- and faith-based social entrepreneurship;

''(G) historic preservation-led strategies to enhance economic development; and

''(H) such other categories as the Secretary determines to be appropriate.

''(5) PROVISION OF AWARDS.—The Secretary may provide to each entity selected to receive an award under this subsection a plaque, bowl, or similar article to commemorate the accomplishments of the entity.

''(6) FUNDING.—Of amounts made available to carry out this Act, the Secretary may use not more than $2,000 for each fiscal year to carry out this subsection.''.

SEC. 3. ENHANCEMENT OF RECIPIENT FLEXIBILITY TO DEAL WITH PROJECT ASSETS.

(a) REVOLVING LOAN FUND PROGRAM FLEXIBILITY.—Section 209(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(d)) is amended by adding at the end the following:

''(5) CONVERSION OF PROJECT ASSETS.—

''(A) REQUEST.—If a recipient determines that a revolving loan fund established using assistance provided under this section is no longer needed, or that the recipient could make better use of the assistance in light of the current economic development needs of the recipient if the assistance was made available to carry out any other project that meets the requirements of this Act, the recipient may submit to the Secretary a request to approve the conversion of the assistance.

''(B) METHODS OF CONVERSION.—A recipient the request to convert assistance of which is approved under subparagraph (A) may accomplish the conversion by—

''(i) selling to a third party any assets of the applicable revolving loan fund; or

''(ii) retaining repayments of principal and interest amounts on loans provided through the applicable revolving loan fund.

''(C) REQUIREMENTS.—

''(i) SALE.—

''(I) IN GENERAL.—Subject to subclause (II), a recipient shall use the net proceeds from a sale of assets under subparagraph (B)(i) to pay any portion of the costs of 1 or more projects that meet the requirements of this Act.

''(II) TREATMENT.—For purposes of subclause (I), a project described in that subclause shall be considered to be eligible under section 301.

''(ii) RETENTION OF REPAYMENTS.—Retention by a recipient of any repayment under subparagraph (B)(ii) shall be carried out in accordance with a strategic reuse plan approved by the Secretary that provides for the increase of capital over time until sufficient amounts (including interest earned on the amounts) are accumulated to fund other

projects that meet the requirements of this Act.

''(D) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions regarding a proposed conversion of the use of assistance under this paragraph as the Secretary determines to be appropriate.

''(E) EXPEDIENCY REQUIREMENT.—The Secretary shall ensure that any assistance intended to be converted for use pursuant to this paragraph is used in an expeditious manner.

''(6) PROGRAM ADMINISTRATION.—The Secretary may allocate not more than 2 percent of the amounts made available for grants under this section for the development and maintenance of an automated tracking and monitoring system to ensure the proper operation and financial integrity of the revolving loan program established under this section.''.

(b) MAINTENANCE OF EFFORT.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3211 et seq.) is amended by adding at the end the following:

''SEC. 613. MAINTENANCE OF EFFORT.

''(a) EXPECTED PERIOD OF BEST EFFORTS.—

''(1) ESTABLISHMENT.—To carry out the purposes of this Act, before providing investment assistance for a construction project under this Act, the Secretary shall establish the expected period during which the recipient of the assistance shall make best efforts to achieve the economic development objectives of the assistance.

''(2) TREATMENT OF PROPERTY.—To obtain the best efforts of a recipient during the period established under paragraph (1), during that period—

''(A) any property that is acquired or improved, in whole or in part, using investment assistance under this Act shall be held in trust by the recipient for the benefit of the project; and

''(B) the Secretary shall retain an undivided equitable reversionary interest in the property.

''(3) TERMINATION OF FEDERAL INTEREST.—

''(A) IN GENERAL.—Beginning on the date on which the Secretary determines that a recipient has fulfilled the obligations of the recipient for the applicable period under paragraph (1), taking into consideration the economic conditions existing during that period, the Secretary may terminate the reversionary interest of the Secretary in any applicable property under paragraph (2)(B).

''(B) ALTERNATIVE METHOD OF TERMINATION.—

''(i) IN GENERAL.—On a determination by a recipient that the economic development needs of the recipient have changed during the period beginning on the date on which investment assistance for a construction project is provided under this Act and ending on the expiration of the expected period established for the project under paragraph (1), the recipient may submit to the Secretary a request to terminate the reversionary interest of the Secretary in property of the project under paragraph (2)(B) before the date described in subparagraph (A).

''(ii) APPROVAL.—The Secretary may approve a request of a recipient under clause (i) if—

''(I) in any case in which the request is submitted during the 10-year period beginning on the date on which assistance is initially provided under this Act for the applicable project, the recipient repays to the Secretary an amount equal to 100 percent of the fair market value of the pro rata Federal share of the project; or

''(II) in any case in which the request is submitted after the expiration of the 10-year period described in subclause (I), the recipient repays to the Secretary an amount equal to the fair market value of the pro rata Federal share of the project as if that value had been amortized over the period established under paragraph (1), based on a straight-line depreciation of the project throughout the estimated useful life of the project.

''(b) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions under this section as the Secretary determines to be appropriate, including by extending the period of a reversionary interest of the Secretary under subsection (a)(2)(B) in any case in which the Secretary determines that the performance of a recipient is unsatisfactory.

''(c) PREVIOUSLY EXTENDED ASSISTANCE.—

''(1) IN GENERAL.—With respect to any recipient to which the term of provision of assistance was extended under this Act before the date of enactment of this section, the Secretary may approve a request of the recipient under subsection (a) in accordance with the requirements of this section to ensure uniform administration of this Act, notwithstanding any estimated useful life period that otherwise relates to the assistance.

''(2) CONVERSION OF USE.—If a recipient described in paragraph (1) demonstrates to the Secretary that the intended use of the project for which assistance was provided under this Act no longer represents the best use of the property used for the project, the Secretary may approve a request by the recipient to convert the property to a different use for the remainder of the term of the Federal interest in the property, subject to the condition that the new use shall be consistent with the purposes of this Act.

''(d) STATUS OF AUTHORITY.—The authority of the Secretary under this section is in addition to any authority of the Secretary pursuant to any law or grant agreement in effect on the date of enactment of this section.''.

SEC. 4. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 701(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231(a)) is amended—

(1) in paragraph (1), by striking ''2004'' and inserting ''2009'';

(2) in paragraph (2), by striking ''2005'' and inserting ''2010'';

(3) in paragraph (3), by striking ''2006'' and inserting ''2011'';

(4) in paragraph (4), by striking ''2007'' and inserting ''2012''; and

(5) in paragraph (5), by striking ''2008'' and inserting ''2013''.

SEC. 5. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

Section 704 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3234) is amended to read as follows:

''SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

''(a) IN GENERAL.—Subject to subsection (b), of the amounts made available under section 701 for each fiscal year, not less than $27,000,000 shall be made available to provide grants under section 203.

''(b) SUBJECT TO TOTAL APPROPRIATIONS.—For any fiscal year, the amount made available pursuant to subsection (a) shall be increased to—

''(1) $28,000,000, if the total amount made available under subsection 701(a) for the fiscal year is equal to or greater than $300,000,000;

''(2) $29,500,000, if the total amount made available under subsection 701(a) for the fiscal year is equal to or greater than $340,000,000;

''(3) $31,000,000, if the total amount made available under subsection 701(a) for the fiscal year is equal to or greater than $380,000,000;

''(4) $32,500,000, if the total amount made available under subsection 701(a) for the fiscal year is equal to or greater than $420,000,000; and

''(5) $34,500,000, if the total amount made available under subsection 701(a) for the fiscal year is equal to or greater than $460,000,000.''.

By Mr. REID (for himself, Mr. DURBIN, Mr. DORGAN, Mrs. MURRAY, and Mr. SCHUMER):

S. 3268. A bill to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; ordered read the first time.

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

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

S. 3268

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Stop Excessive Energy Speculation Act of 2008''.

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

SEC. 2. DEFINITION OF ENERGY COMMODITY.

(a) DEFINITION OF ENERGY COMMODITY.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (13) through (34) as paragraphs (14) through (35), respectively; and

(2) by inserting after paragraph (12) the following:

''(13) ENERGY COMMODITY.—The term 'energy commodity' means—

''(A) a petroleum product; and

''(B) natural gas.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—

(A) in subitem (AA), by striking ''section 1a(20)'' and inserting ''section 1a(21)''; and

(B) in subitem (BB), by striking ''section 1a(20)'' and inserting ''section 1a(21)''.

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking ''section 1a(32)'' and inserting ''section 1a''.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking ''section 1a(20)'' and inserting ''section 1a''; and

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking ''section 1a(33)'' and inserting ''section 1a''; and

(ii) in paragraph (2)(D), by striking ''section 1a(13)'' and inserting ''section 1a''.

SEC. 3. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-SHORE TRADING.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States, or otherwise subject to the jurisdiction of the Commission, direct access to the electronic trading and order matching system of the foreign board of trade with respect to an agreement, contract, or transaction in an energy commodity that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade—

''(i) makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the foreign board of trade settles; and

''(ii) promptly notifies the Commission of any change regarding—

''(I) the information that the foreign board of trade will make publicly available;

''(II) the position limits, speculation limits, and position accountability provisions that the foreign board of trade will adopt and enforce;

''(III) the position reductions required to prevent manipulation; and

''(IV) any other area of interest expressed by the Commission to the foreign board of trade; and

''(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

''(i) adopts position limits (including related hedge exemption provisions), speculation limits, or position accountability provisions for speculators for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions), speculation limits, or position accountability provisions adopted by the registered entity for the 1 or more contracts against which the foreign board of trade settles;

''(ii) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process; and

''(iii) provides information to the Commission regarding the extent of legitimate and nonlegitimate hedge trading in the agreement, contract, or transaction that is comparable to the information that the Commission determines to be necessary to publish the commitments of traders report of the Commission for the 1 or more contracts against which the foreign board of trade settles.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall not be effective with respect to any agreement, contract, or transaction in an energy commodity executed on a foreign board of trade to which the Commission had granted direct access permission prior to the date of enactment of this subsection until the date that is 180 days after the date of enactment of this subsection.''.

SEC. 4. AUTHORITY OF COMMODITY FUTURES TRADING COMMISSION WITH RESPECT TO CERTAIN TRADERS.

(a) IN GENERAL.—

(1) RESTRICTION OF FUTURES TRADING TO CONTRACT MARKETS OR DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended by inserting after the first sentence the following: ''The Commission may adopt rules and regulations requiring the maintenance of books and records by any person that is located within the United States (including the territories and possessions of the United States) or that enters trades directly into the trade matching system of a foreign board of trade from the United States (including the territories and possessions of the United States).''

(2) EXCESSIVE SPECULATION AS A BURDEN ON INTERSTATE COMMERCE.—Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(A) in subsection (e), in the second sentence—

(i) by striking ''this Act for any person'' and inserting ''this Act for (1) any person''; and

(ii) by inserting after ''to section 5c(c)(1)'' the following: '', and (2) any person that is located within the United States (including the territories and possessions of the United States) or that enters trades directly into the trade matching system of a foreign board of trade from the United States (including the territories and possessions of the United States) to violate any bylaw, rule, regulation, or resolution of any foreign board of trade or foreign futures authority fixing limits on the amount of trading that may be carried out or positions that may be held under any contract of sale of an energy commodity for future delivery or under any option on such contract or energy commodity, that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity''; and

(B) by adding at the end the following:

''(f) CONSULTATION.—Before taking any action under subsection (e), the Commission shall consult with the appropriate—

''(1) foreign board of trade; and

''(2) foreign futures authority.''.

(3) VIOLATIONS.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by inserting ''(including any person trading on a foreign board of trade)'' after ''Any person'' each place it appears.

(4) EFFECT.—No amendment made by this subsection limits any of the otherwise applicable authorities of the Commodity Futures Trading Commission.

SEC. 5. WORKING GROUP OF INTERNATIONAL REGULATORS.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 4(a)(2)(B)) is amended by adding at the end the following:

''(g) WORKING GROUP OF INTERNATIONAL REGULATORS.—Not later than 90 days after the date of enactment of this subsection, the Commission shall convene a working group of international regulators to develop uniform international reporting and regulatory standards to ensure the protection of the energy futures markets from nonlegitimate hedge trading, excessive speculation, manipulation, location shopping, and lowest common dominator regulation, each of which pose systemic risks to all energy futures markets, countries, and consumers.''.

SEC. 6. ELIMINATION OF MANIPULATION AND EXCESSIVE SPECULATION AS CAUSE OF HIGH OIL, GAS, AND ENERGY PRICES.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 5) is amended by adding at the end the following:

''(h) ELIMINATION OF EXCESSIVE SPECULATION AND NONLEGITIMATE HEDGE TRADING AS A CAUSE OF HIGH OIL, GAS, AND ENERGY PRICES.—

''(1) DEFINITION OF LEGITIMATE HEDGE TRADING.—

''(A) IN GENERAL.—The term 'legitimate hedge trading' means the conduct of trading that involves transactions by commercial producers and purchasers of actual physical petroleum and energy commodities for future delivery and the direct counterparties to such trades (regardless of whether the counterparties are commercial producers or purchasers).

''(B) INCLUSION.—To the extent a commercial producer or purchaser of an actual physical energy commodity for future delivery trades with an intermediary (referred to in this subparagraph as an 'initial trade'), each subsequent trade by the intermediary arising solely due to the initial trade and that directly results from such initial trade (referred to in this subparagraph as a 'follow-on trade') shall be considered to be the conduct of 'legitimate hedge trading' if each follow-on trade executed by the intermediary is—

''(i) done proximate to the initial trade; and

''(ii) in the aggregate, economically the same in size and substance as the initial trade.

''(2) IDENTIFICATION OF LEGITIMATE HEDGE TRADING.—In carrying out this Act, the Commission shall distinguish between—

''(A) legitimate hedge trading; and

''(B) all other trading in energy commodities.

''(3) TYPE OF TRADING.—Notwithstanding any other provision of this Act, the Commission shall modify (or delegate any appropriate entity to modify) such definitions, classifications, and data collection under this Act as are necessary to ensure that all direct and indirect parties and counterparties to all trades in the energy commodities market are clearly identified for all purposes as engaging in—

''(A) legitimate hedge trading; or

''(B) any other type of trading.

''(4) ELIMINATION OF EXCESSIVE SPECULATION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Commission shall review all regulations, rules, exemptions, exclusions, guidance, no action letters, orders, and other actions taken by or on behalf of the Commission (including any action or inaction taken pursuant to delegated authority by an exchange, self-regulatory organization, or any other entity) regarding all energy futures market participants or market activity (referred to in this subsection individually as a 'prior action') to ensure that—

''(i) legitimate hedge trading is protected and promoted; and

''(ii) excessive speculation is eliminated.

''(B) PRIOR ACTION.—

''(i) IN GENERAL.—The Commission shall consider modifying or revoking the application after the date of enactment of this subsection of any prior action taken by the Commission (including any prior action taken pursuant to delegated authority by any other entity) with respect to any trade on any market, exchange, foreign board of trade, swap or swap transaction, index or index market participant or trade, hedge fund, pension fund, and any other transaction, trade, trader, or petroleum or energy

futures market activity unless the Commission affirmatively determines that such prior action will protect and promote legitimate hedge trading and does not permit or encourage excessive speculation.

''(ii) REVOCATION.—In carrying out this subparagraph, the Commission shall consider modifying or revoking the results of each prior action that, in whole or in part, has the direct or indirect affect of limiting, reducing, or eliminating the filing of any report or data regarding any direct or indirect trade or trader, including the filing of large trader reports.

''(C) SPECULATIVE POSITION LIMITS APPLICABLE TO NONLEGITIMATE HEDGE TRADING IN ENERGY COMMODITIES AND DERIVATIVES.—

''(i) SPECULATIVE POSITION LIMITS.—

''(I) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall impose, by rule, regulation, or order, speculative position limits on trading that is not legitimate hedge trading.

''(II) APPLICATION.—The Commission shall apply the limits imposed under subclause (I) to any person who executes accounts, agreements, or transactions involving an energy commodity for the own account of the person and to any person for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a registered entity or in covered over-the-counter trading.

''(ii) ADVISORY GROUP.—

''(I) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall convene an advisory group primarily consisting of commercial producers and purchasers of actual physical energy commodities for future delivery.

''(II) RECOMMENDATIONS.—Not later than 60 days after the date on which the advisory group is convened under subclause (I), and annually thereafter, the advisory group shall submit to the Commission recommendations regarding an appropriate level for position limits—

''(aa) that are designed for traders or entities that are not legitimate hedge traders; and

''(bb) to replace the position limits imposed by the Commission under clause (i)(I).

''(III) APPLICABILITY OF FACA.—The advisory group shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(iii) REVIEW OF RECOMMENDATIONS.—Not later than 270 days after the date of enactment of this subsection, the Commission shall—

''(I) analyze and review the recommendations submitted by the advisory group under clause (ii)(II); and

''(II) submit to the appropriate committees of Congress a report describing each recommendation (including each modification to the statutory authority of the Commission that the Commission determines to be necessary to effectuate each recommendation).

''(iv) RULEMAKING.—

''(I) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Commission shall promulgate a final rule that establishes speculative position limits—

''(aa) for any person engaged in nonlegitimate hedge trading of an energy commodity; and

''(bb) that are consistent with this Act.

''(II) EFFECTIVE DATE.—The final rule described in subclause (I) shall take effect on the date that is 30 days after the date on which the Commission promulgates the final rule.

''(v) DEVELOPMENT OF METHODOLOGY.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Commission shall propose a methodology to determine and set aggregate speculative position limits at the control entity level for all nonlegitimate traders of energy commodities—

''(aa) on designated contract markets;

''(bb) on derivatives transaction execution facilities; and

''(cc) in over-the-counter commodity derivatives.

''(II) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Commission shall submit to the appropriate committees of Congress a report that contains—

''(aa) any recommendations regarding any additional statutory authority that the Commission determines to be necessary for the imposition of the speculative position limits described in subclause (I); and

''(bb) a description of the resources that the Commission considers to be necessary to implement the speculative position limits.

''(D) MAXIMUM LEVEL OF SPECULATIVE POSITION LIMITS.—

''(i) IN GENERAL.—In establishing speculative position limits under this section (including subparagraph (C)(iv)), the Commission shall set the limits at the maximum level practicable—

''(I) to ensure sufficient market liquidity for the conduct of legitimate hedging activities;

''(II) to ensure that price discovery is not disrupted;

''(III) to protect and promote legitimate hedge trading;

''(IV) to minimize nonlegitimate hedge trading; and

''(V) to eliminate excess speculation.

''(ii) EFFECT.—

''(I) IN GENERAL.—Nothing in this subparagraph modifies the spot month position limitation of 3,000 contracts that is designed to prevent a corner or squeeze at the delivery date.

''(II) COMMISSION ACTION.—If the Commission sets position limits under clause (i) that are different from the spot month position limit described in subclause (I), the Commission shall include in the report required under subparagraph (C)(v)(II) an analysis describing the reasons for the position limits.''.

SEC. 7. LARGE OVER-THE-COUNTER TRANSACTIONS.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

''(j) OVER-THE-COUNTER TRANSACTIONS.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED OVER-THE-COUNTER TRANSACTION.—The term 'covered over-the-counter transaction' means an over-the-counter transaction the reporting of which is required by the Commission as the result of a determination made under paragraph (3)(C).

''(B) COVERED PERSON.—The term 'covered person' means a person that enters into a covered over-the-counter transaction.

''(C) MAJOR MARKET DISTURBANCE.—The term 'major market disturbance' means any disturbance in a commodity market that disrupts the liquidity and price discovery function of that market from accurately reflecting the forces of supply and demand for a commodity, including—

''(i) a threatened or actual market manipulation or corner;

''(ii) excessive speculation;

''(iii) nonlegitimate hedge trading; and

''(iv) any action of the United States or a foreign government that affects a commodity.

''(D) MARKET DISTURBANCE.—The term 'market disturbance' shall be interpreted in accordance with section 8a(9)).

''(E) OVER-THE-COUNTER TRANSACTION.—The term 'over-the-counter transaction' means a contract, agreement, or transaction in a petroleum or energy commodity that is—

''(i) entered into only between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction;

''(ii) not entered into on a trading facility; and

''(iii) not a sale of any cash commodity for deferred shipment or delivery.

''(2) COMMISSION OVERSIGHT AUTHORITY.—

''(A) IN GENERAL.—In the case of a major market disturbance, as determined by the Commission, the Commission may require any trader subject to the reporting requirements described in paragraph (3) to take such action as the Commission considers to be necessary to maintain or restore orderly trading in any contract listed for trading on a registered entity, including—

''(i) the liquidation of any over-the-counter transaction; and

''(ii) the fixing of any limit that may apply to a market position involving any over-the-counter transaction acquired in good faith before the date of the determination of the Commission.

''(B) JUDICIAL REVIEW.—Any action taken by the Commission under subparagraph (A) shall be subject to judicial review carried out in accordance with section 8a(9).

''(3) REPORTING; RECORDKEEPING.—

''(A) IN GENERAL.—The Commission shall require each covered person to submit to the Commission a report—

''(i) at such time and in such manner as the Commission determines to be appropriate; and

''(ii) containing the information required under subparagraph (B) to assist the Commission in detecting and preventing potential price manipulation of, or excessive speculation in, any contract listed for trading on a registered entity.

''(B) CONTENTS OF REPORT.—A report required under subparagraph (A) shall contain—

''(i) information describing large trading positions of the covered person obtained through 1 or more over-the-counter transactions that involve—

''(I) substantial quantities of a commodity in the cash market; or

''(II) substantial positions, investments, or trades in agreements or contracts relating to the commodity;

''(ii) any other information relating to each covered over-the-counter transaction carried out by the covered person that the Commission determines to be necessary to accomplish the purposes described in subparagraph (A); and

''(iii) information distinguishing legitimate hedge trading from nonlegitimate hedge trading.

''(C) DETERMINATION OF COVERED OVER-THE-COUNTER TRANSACTIONS.—

''(i) IN GENERAL.—The Commission shall identify each large over-the-counter transaction or class of large over-the-counter transactions the reporting of which the Commission determines to be appropriate to assist the Commission in detecting and preventing potential price manipulation of, or excessive speculation in, any contract listed for trading on a registered entity.

''(ii) MANDATORY FACTORS FOR DETERMINATIONS.—

''(I) IN GENERAL.—In carrying out a determination under clause (i), the Commission shall consider the extent to which each factor described in subclause (II) applies.

''(II) FACTORS.—The factors required for carrying out a determination under clause (i) include whether—

''(aa) a standardized agreement is used to execute the over-the-counter transaction;

''(bb) the over-the-counter transaction settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity;

''(cc) the price of the over-the-counter transaction is reported to a third party, published, or otherwise disseminated;

''(dd) the price of the over-the-counter transaction is referenced in any other transaction;

''(ee) there is a significant volume of the over-the-counter transaction or class of over-the-counter transactions; and

''(ff) there is any other factor that the Commission determines to be appropriate.

''(D) RECORDKEEPING.—The Commission, by rule, shall require each covered person—

''(i) in accordance with section 4i, to maintain such records as directed by the Commission for a period of 5 years, or longer, if directed by the Commission; and

''(ii) to provide such records upon request to the Commission or the Department of Justice.

''(4) PROTECTION OF PROPRIETARY INFORMATION.—In carrying out this subsection, the Commission may not—

''(A) require the real-time publication of any proprietary information;

''(B) prohibit the commercial sale or licensing of any real-time proprietary information; and

''(C) except as provided in section 8, publicly disclose any information relating to any market position, business transaction, trade secret, or name of any customer of a covered person.

''(5) APPLICABILITY.—Notwithstanding subsections (g) and (h), and any exemption issued by the Commission for any energy commodity, each over-the-counter transaction shall be subject to this subsection.

''(6) SAVINGS CLAUSE.—Nothing in this subsection modifies or alters—

''(A) the guidance of the Commission; or

''(B) any applicable requirements with respect the disclosure of proprietary information.''.

SEC. 8. INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 3) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—Not later than 60 days after the date of enactment of this subsection, the Commission shall—

''(1) routinely require detailed reporting from index traders and swap dealers in markets under the jurisdiction of the Commission;

''(2) reclassify the types of traders for regulatory and reporting purposes to distinguish between index traders and swaps dealers;

''(3) review the trading practices for index traders in markets under the jurisdiction of the Commission—

''(A) to ensure that index trading is not adversely impacting the price discovery process; and

''(B) to determine whether different practices or regulations should be implemented; and

''(4) ensure, to the maximum extent practicable, that the reports required under this subsection distinguish between legitimate and nonlegitimate hedge trading.''.

SEC. 9. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 8) is amended by adding at the end the following:

''(g) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY MARKETS.—The Commission shall disaggregate and make public monthly—

''(1) the number of positions and total value of index funds and other passive, long-only positions in energy markets; and

''(2) data on speculative positions relative to bona fide physical hedgers in those markets.''.

SEC. 10. ADDITIONAL COMMODITY FUTURES TRADING COMMISSION EMPLOYEES FOR IMPROVED ENFORCEMENT.

Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

''(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of enactment of this subparagraph)—

''(i) to increase the public transparency of operations in energy futures markets;

''(ii) to improve the enforcement of this Act in those markets; and

''(iii) to carry out such other duties as are prescribed by the Commission.''.

SEC. 11. WORKING GROUP ON ENERGY MARKETS.

(a) ESTABLISHMENT.—There is established a Working Group on Energy Markets.

(b) COMPOSITION.—The Working Group shall be composed of—

(1) the Secretary of Energy (referred to in this section as the ''Secretary'');

(2) the Secretary of the Treasury;

(3) the Chairman of the Federal Energy Regulatory Commission;

(4) the Chairman of Federal Trade Commission;

(5) the Chairman of the Securities and Exchange Commission;

(6) the Chairman of the Commodity Futures Trading Commission; and

(7) the Administrator of the Energy Information Administration.

(c) CHAIRPERSON.—

(1) INITIAL CHAIRPERSON.—The Secretary shall serve as the Chairperson of the Working Group for the 1-year period beginning on the date of enactment of this Act.

(2) ROTATION OF CHAIRPERSONS.—For each 1-year period following the period described in paragraph (1), each individual described in subsection (b) shall serve as the Chairperson of the Working Group in the order corresponding to which the individual is described in that subsection.

(d) PURPOSE AND FUNCTION.—The Working Group shall—

(1) investigate the effect of speculation in energy commodities on energy prices and the energy security of the United States;

(2) recommend to the President and Congress laws (including regulations) that may be needed to prevent excessive speculation in energy commodities to prevent or minimize the adverse impact of high energy prices on consumers and the economy of the United States; and

(3) review energy security considerations posed by developments in international energy markets.

(e) ADMINISTRATION.—The Secretary shall provide the Working Group with such administrative and support services as may be necessary for the performance of the functions of the Working Group.

(f) COOPERATION OF OTHER AGENCIES.—The heads of Executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Working Group with such information as the Working Group requires to carry out this section.

(g) CONSULTATION.—The Working Group shall consult, as appropriate, with representatives of the various exchanges, clearinghouses, self-regulatory bodies, other major market participants, consumers, and the general public.

SEC. 12. STUDY OF REGULATORY FRAMEWORK FOR ENERGY MARKETS.

(a) STUDY.—The Working Group established under section 11(a) shall conduct a study to—

(1) identify the factors that affect the pricing of crude oil and refined petroleum products, including an examination of the effects of market speculation on prices; and

(2) review and assess the roles, missions, and structures of relevant Federal agencies, examine interagency coordination, and identify and assess the gaps that need to be filled for the Federal Government to effectively oversee and regulate markets critical to the energy security of the United States.

(b) ELEMENTS OF STUDY.—The study shall include—

(1) an examination of price formation with respect to crude oil and refined petroleum products;

(2) an examination of relevant international regulatory regimes; and

(3) an examination of the degree to which changes in energy market transparency, liquidity, and structure have influenced or driven abuse, manipulation, excessive speculation, or inefficient price formation.

(c) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides options and the recommendations of the Working Group for appropriate Federal coordination of oversight and regulatory actions to ensure transparency of crude oil and refined petroleum product pricing and the elimination of excessive speculation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 13. COLLECTION AND ANALYSIS OF INFORMATION ON ENERGY COMMODITIES.

(a) ACCURATE AND COMPLETE INFORMATION ON ENERGY PRODUCING COMPANIES.—Section 205(h)(1) of the Department of Energy Organization Act (42 U.S.C. 7135(h)(1)) is amended by adding at the end the following:

''(C) INFORMATION ON ENERGY-PRODUCING COMPANIES.—Notwithstanding any other provision of law, the head of each Federal department or agency shall provide to the Administrator, on the request of the Administrator, such information as the Administrator may require to identify each energy-producing company.''.

(b) ENHANCED DATA ON OWNERSHIP OF CRITICAL ENERGY COMMODITIES.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(n) COLLECTION OF INFORMATION ON OWNERSHIP OF ENERGY COMMODITIES.—

''(1) IN GENERAL.—To ensure transparency of information with respect to critical energy infrastructure and product ownership in the United States, the Administrator shall collect on a weekly basis information identifying the ownership of all commercially held oil and natural gas inventories in the United States.

''(2) COMPANY-SPECIFIC DATA.—The information shall include company-specific data, including—

''(A) volumes of product under ownership; and

''(B) storage and transportation capacity (including owned and leased capacity).

''(3) PROTECTION OF PROPRIETARY INFORMATION.—Section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) shall apply to information collected under this section.

''(o) MONTHLY REPORTING ON ENERGY COMMODITY TRANSACTIONS.—

''(1) IN GENERAL.—In accordance with paragraph (2), to improve the ability to evaluate the energy security of the United States, any person holding or controlling energy futures contracts or energy commodity swaps (as defined in section 202 of the Energy Policy and Conservation Act) at a level to be determined by the Secretary for which the underlying energy commodity is physically delivered within the United States shall report on a monthly basis, with respect to the energy commodities and the byproducts of the energy commodities—

''(A) the quantity of physical stocks owned;

''(B) the quantity of fixed price purchase commitments open;

''(C) the quantity of fixed price sales commitments open;

''(D) the physical storage capacity owned or leased; and

''(E) such other information as the Secretary determines is necessary to provide adequate transparency with respect to entities that control critical energy assets in the United States.

''(2) USE OF DATA.—Any data collected under paragraph (1) shall not be made public in a manner that is inconsistent with this Act.

''(p) FINANCIAL MARKET ANALYSIS OFFICE.—

''(1) ESTABLISHMENT.—There shall be within the Energy Information Administration a Financial Market Analysis Office, headed by a director, who shall report directly to the Administrator of the Energy Information Administration.

''(2) DUTIES.—The Office shall be responsible for analysis of the financial aspects of energy markets.

''(3) ANALYSES.—The Administrator of the Energy Information Administration shall take analyses by the Office into account in conducting analyses and forecasting of energy prices.''.

(c) CONFORMING AMENDMENT.—Section 645 of the Department of Energy Organization Act (42 U.S.C. 7255) is amended by inserting ''(15 U.S.C. 3301 et seq.) and the Natural Gas Act (15 U.S.C. 717 et seq.)'' after ''Natural Gas Policy Act of 1978''.

SEC. 14. NATIONAL NATURAL GAS MARKET INVESTIGATION.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, in order to ensure the integrity of natural gas markets, the Federal Energy Regulatory Commission (referred to in this section as the ''Commission'') shall commence an investigation into the role of financial institutions in natural gas markets, including—

(1) trends in investment in natural gas storage, transportation capacity, and pipeline infrastructure;

(2) factors contributing to potential effects on wholesale natural gas prices, including the mechanisms covered by physical natural gas supply contracts;

(3) the character and number of positions held in related financial markets; and

(4) any international considerations the Commission considers relevant.

(b) ASSESSMENT.—The Commission may include in the investigation an assessment of real-time market dynamics during the 2008 winter heating season.

(c) REQUIRED DATA.—Each Federal department and agency shall comply with any request from the Commission for records, papers, and information in the possession of the department or agency relating to any agreement, contract, or transaction for the sale of an energy commodity for future delivery in interstate or foreign commerce, or any energy commodity swap.

(d) REPORTS.—Not later than 270 days after the date of enactment of this Act, the Commission shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the findings, conclusions, and recommendations of the investigation conducted under this section.

(e) ADDITIONAL INVESTIGATIONS.—On an annual basis and during any other period the Commission determines necessary, the Commission shall—

(1) conduct an investigation that is similar to the investigation required under subsections (a) through (c); and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the findings, conclusions, and recommendations of the investigation.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 15. STUDIES; REPORTS.

(a) STUDY RELATING TO INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(2) ANALYSIS.—The study shall include an analysis of, at a minimum—

(A) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement standards and activities;

(B) variations among countries with respect to the use of position limits, accountability limits, or other thresholds to detect and prevent price manipulation, excessive speculation, or other unfair trading practices;

(C) variations in practices regarding the differentiation of commercial and noncommercial trading;

(D) agreements and practices for sharing market and trading data among regulatory bodies and among individual regulators and the entities that the bodies and regulators oversee; and

(E) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that—

(A) describes the results of the study;

(B) addresses the effects of excessive speculation and energy price volatility on energy futures; and

(C) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market in a manner that protects consumers in the United States.

(b) STUDY RELATING TO EFFECTS OF NONCOMMERCIAL SPECULATORS ON ENERGY FUTURES MARKETS AND ENERGY PRICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the effects of noncommercial speculators on energy futures markets and energy prices.

(2) ANALYSIS.—The study shall include an analysis of, at a minimum—

(A) the effect of increased amounts of capital in energy futures markets;

(B) the impact of the roll-over of positions by index fund traders and swap dealers on energy futures markets and energy prices; and

(C) the extent to which each factor described in subparagraphs (A) and (B) and noncommercial speculators—

(i) affect—

(I) the pricing of energy commodities; and

(II) risk management functions; and

(ii) contribute to economically efficient price discovery.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that describes the results of the study.

(c) REPORTS OF COMMODITY FUTURES TRADING COMMISSION.—

(1) IN GENERAL.—The Commission shall submit to Congress—

(A) not later than 60 days after the date of enactment of this Act, a report that describes in detail the actions the Commission has taken, is taking, and intends to take to carry out this subsection (including any recommended legislative changes that are necessary to carry out this subsection); and

(B) not later than 45 days after the date described in subparagraph (A) and every 45 days thereafter until the date of implementation of this subsection, an update on the report required under subparagraph (A).

(2) ADDITIONAL EMPLOYEES OR RESOURCES.—Not later than 60 days after the date of enactment of this Act, the Commission shall submit to Congress a report that describes the number of additional positions and resources that the Commission determines to be necessary to carry out this subsection (including the specific duty of each additional employee).

SEC. 16. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Subject to subsection (b), the Commodity Futures Trading Commission (referred to in this section as the ''Commission'') shall use emergency and expedited procedures (including any administrative or other procedure as appropriate) to carry out this Act (including the amendments made by this Act).

(b) REPORT.—If the Commission decides not to use the procedures described in subsection (a) in a specific instance, not later than 30 days after the date of the decision, the Commission shall submit to Congress a detailed report that describes in each instance the reasons for not using the procedures.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 93—SUPPORTING THE GOALS AND IDEALS OF ''NATIONAL SUDDEN CARDIAC ARREST AWARENESS MONTH''

Mr. DORGAN (for himself and Mr. CRAPO) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor and Pensions:

S. CON. RES. 93

Whereas sudden cardiac arrest is a leading cause of death in the United States;

Whereas sudden cardiac arrest takes the lives of more than 250,000 people in the United States each year, according to the Heart Rhythm Society;

Whereas anyone can experience sudden cardiac arrest, including infants, high school athletes, and people in their 30s and 40s who have no sign of heart disease;

Whereas sudden cardiac arrest is extremely deadly, with the National Heart, Lung, and Blood Institute giving the disease a mortality rate of approximately 95 percent;

Whereas to have a chance of surviving an attack, the American Heart Association states that victims of sudden cardiac arrest must receive a lifesaving defibrillation within the first 4 to 6 minutes of an attack;

Whereas for every minute that passes without a shock from an automated external defibrillator, the chance of survival decreases by approximately 10 percent;

Whereas lifesaving treatments for sudden cardiac arrest are effective if administered in time;

Whereas according to joint research by the American College of Cardiology and the American Heart Association, implantable cardioverter defibrillators are 98 percent effective at protecting people at risk for sudden cardiac arrest;

Whereas according to the American Heart Association, cardiopulmonary resuscitation and early defibrillation with an automated external defibrillator more than double the chances that a victim will survive;

Whereas the Yale-New Haven Hospital and the New England Journal of Medicine state that women and African-Americans are at a higher risk than the general population for dying as a result of sudden cardiac arrest, yet this fact is not well known to people at risk;

Whereas there is a need for comprehensive educational efforts designed to increase awareness of sudden cardiac arrest and related therapies among medical professionals and the greater public in order to promote early detection and proper treatment of this disease and to improve quality of life; and

Whereas the Heart Rhythm Society and the Sudden Cardiac Arrest Coalition are preparing related public awareness and education campaigns on sudden cardiac arrest to be held each year during the month of October: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of ''National Sudden Cardiac Arrest Awareness Month'';

(2) supports efforts to educate people about sudden cardiac arrest and to raise awareness about the risk of sudden cardiac arrest, identifying warning signs, and the need to seek medical attention in a timely manner;

(3) acknowledges the critical importance of sudden cardiac arrest awareness to improving national cardiovascular health; and

(4) calls upon the people of the United States to observe this month with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5080. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2731, to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table.

SA 5081. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2731, supra.

SA 5082. Mr. KYL proposed an amendment to the bill S. 2731, supra.

SA 5083. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2731, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5080. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2731, to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

SEC. 502. CONTRIBUTIONS TO THE GLOBAL FUND TO FIGHT HIV/AIDS, TUBERCULOSIS AND MALARIA.

(a) SHORT TITLE.—This section may be cited as the ''Accountability for United States Taxpayer Contributions to the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria Act''.

(b) DEFINITIONS.—In this section:

(1) GLOBAL FUND.—The term ''Global Fund'' means any Global Fund to Fight HIV/AIDS, Tuberculosis, and Malaria agency, commission, conference, council, court, department, forum, fund, institute, office, organization, partnership, program, subsidiary body, tribunal, trust, university or academic body, related organization, or subsidiary body, wherever located, that uses the Global Fund name, or is authorized to use the Global Fund logo, and their funding recipients and subrecipients.

(2) OVERSIGHT INFORMATION.—The term ''oversight information'' includes—

(A) internally and externally commissioned audits, program reviews, performance reports, and evaluations, including reports of the Inspector General of the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria;

(B) financial statements, records, and billing systems;

(C) program budgets and program budget implications, including revised estimates and reports produced by or provided to the Executive Director and the Executive Director's agents on budget related matters;

(D) operational plans, budgets, and budgetary analyses;

(E) analyses and reports regarding the scale of current and future resource needs;

(F) databases and other data systems containing financial or programmatic information;

(G) documents or other records alleging or involving improper use of resources, misconduct, mismanagement, or other violations of rules and regulations applicable to the Global Fund;

(H) documentation related to activities of the Global Fund regarding quality, safety and efficacy of pharmaceuticals and medical or public health chemicals and devices eligible for procurement with Global Fund funding or applying for eligibility for such procurement; and

(I) other documentation relevant to the audit and investigative work of the United States Inspector General for Contributions to the Global Fund.

(3) TRANSPARENCY CERTIFICATION.—The term ''Transparency Certification'' means an annual, written affirmation by the Executive Director of the Global Fund that the Global Fund will cooperate with the Inspector General, including by providing the Inspector General, upon request, with full access to oversight information.

(4) UNITED STATES CONTRIBUTION.—The term ''United States contribution'' means a voluntary contribution, whether financial, in-kind, or otherwise, from the United States Government to the Global Fund, including contributions passed through other entities for ultimate use by the Global Fund.

(c) ESTABLISHMENT AND MANAGEMENT OF THE OFFICE OF THE UNITED STATES INSPECTOR GENERAL FOR CONTRIBUTIONS TO THE GLOBAL FUND.—

(1) ESTABLISHMENT.—There is established the Office of the United States Inspector General for Contributions to the Global Fund (referred to in this subsection as the ''Global Fund Contributions Office'').

(2) PURPOSE.—The purpose of this subsection is to facilitate—

(A) independent and objective audits and investigations relating to United States contributions; and

(B) the use of such contributions by the Global Fund—

(i) to eliminate and deter waste, fraud, and abuse in the use of such contributions; and

(ii) to develop greater transparency, accountability, and internal controls throughout the Global Fund.

(3) INSPECTOR GENERAL.—

(A) APPOINTMENT.—The Global Fund Contributions Office shall be headed by the Inspector General for Contributions to the Global Fund (referred to in this subsection as the ''Inspector General''), who shall be appointed by the President, not later than 30 days after the date of the enactment of this Act, on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(B) REMOVAL.—The Inspector General may be removed from office by the President, who shall communicate the reasons for any such removal to the Senate and the House of Representatives.

(C) COMPENSATION.—The Inspector General shall be paid at the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(D) RELATIONSHIP TO BOARD.—

(i) IN GENERAL.—Except as provided under clause (ii), the Inspector General shall report directly to, and be under the general supervision of, the Board of Overseers established under paragraph (4).

(ii) INDEPENDENCE.—The Board, any officer of the Board, and any officer of the Federal Government may not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation.

(E) DUTIES.—The Inspector General shall—

(i) conduct, supervise, and coordinate audits and investigations of—

(I) the treatment, handling, expenditure, and use of United States contributions by and to the Global Fund; and

(II) the adequacy of accounting, oversight, quality assurance, and internal control mechanisms at the Global Fund;

(ii) establish, maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duties described in clause (i);

(iii) carry out the duties described in clauses (i) and (ii) in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.);

(iv) collect and maintain current records regarding Transparency Certifications by the Global Fund; and

(v) fully and promptly inform Congress and the Board of Overseers regarding how the Global Fund is spending United States contributions through reports, testimony, document transfers, and briefings.

(F) REFERRALS.—

(i) TO APPROPRIATE LAW ENFORCEMENT ENTITIES.—The Inspector General shall promptly report to the law enforcement entity of jurisdiction if the Inspector General has reasonable grounds to believe that a criminal law of such jurisdiction has been violated by the Global Fund or by an employee, grantee, contractor, or representative of the Global Fund.

(ii) TO EXECUTIVE DIRECTOR.—The Inspector General shall promptly report to the Executive Director, as appropriate, regarding cases in which the Inspector General reasonably believes that—

(I) mismanagement, misfeasance, or malfeasance is likely to have taken place within the Global Fund; and

(II) disciplinary proceedings are likely justified.

(G) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—The Inspector General may—

(i) select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General;

(ii) obtain services authorized under section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title;

(iii) lease, purchase, or otherwise acquire, improve, and use such real property as may be necessary for carrying out this subsection; and

(iv) to the extent, and in such amounts as may be appropriated in advance—

(I) enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons; and

(II) make such payments as may be necessary to carry out the duties of the Inspector General.

(H) USE OF DETAILEES.—

(i) IN GENERAL.—Upon request by the Inspector General, the head of an agency may detail any employee of such agency to the Global Fund Contributions Office on a reimbursable basis.

(ii) EFFECT ON BENEFITS.—Any employee detailed pursuant to clause (i) shall remain an employee of the agency from which detailed for the purpose of preserving such employee's allowances, privileges, rights, seniority, and other benefits.

(I) COOPERATION BY FEDERAL GOVERNMENT ENTITIES.—

(i) IN GENERAL.—In carrying out the duties, responsibilities, and authorities of the Inspector General under this subsection, the Inspector General shall receive the cooperation of inspectors general of other Federal agencies.

(ii) INFORMATION AND ASSISTANCE.—Upon request of the Inspector General for information or assistance from any Federal department, agency, or other entity, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.

(iii) REPORTING REQUIREMENT.—If information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall immediately report the circumstances of such refusal to the Board of Directors and to the appropriate congressional committees.

(J) CONFIRMATION OF TRANSPARENCY BY THE GLOBAL FUND.—

(i) PROMPT NOTICE BY INSPECTOR GENERAL.—If information or assistance requested from the Global Fund by the Inspector General pursuant to a Transparency Certification is, in the opinion of the Inspector General, unreasonably refused or not provided in a timely manner, the Inspector General shall immediately provide written notification of the circumstances of such refusal to—

(I) the Board of Overseers; and

(II) the Executive Director of the Global Fund.

(ii) NOTICE OF COMPLIANCE.—If the information or assistance being sought by the Inspector General in connection with a notification pursuant to clause (i) is provided to the satisfaction of the Inspector General, the Inspector General shall submit written notification of such fact to—

(I) the Global Fund;

(II) the Board of Overseers; and

(III) the appropriate congressional committees.

(iii) NONCOMPLIANCE.—If the information or assistance being sought by the Inspector General in connection with a notification pursuant to clause (i) is not provided to the satisfaction of the Inspector General within 90 days after such notification—

(I) the Global Fund is deemed to be noncompliant with its Transparency Certification; and

(II) the Inspector General shall submit prompt, written notification of that fact to the Board of Overseers, appropriate congressional committees, the Executive Director of the Global Fund and any office or agency of the Federal Government that has provided the Global Fund with any United States contribution during the most recent 2 years.

(iv) RESTORATION OF COMPLIANCE.—

(I) IN GENERAL.—The Board of Overseers may reverse a finding of Transparency Certification noncompliance pursuant to clause (iii) by an affirmative vote of at least 3 of the 4 members of the Board of Overseers listed in clauses (i) through (iv) of paragraph (4)(C).

(II) NOTIFICATION.—Upon reversing a noncompliance finding under subclause (H), the Board of Overseers shall promptly provide notification of such restoration and a description of the basis for such decision, to the Inspector General, appropriate congressional committees, the Executive Director of the Global Fund and the head of any office or agency of the Federal Government that has provided the Global Fund with any United States contribution during the most recent 2 years.

(v) COST REIMBURSEMENT.—The Inspector General may reimburse the Global Fund for the reasonable cost of providing to the Inspector General information or assistance sought pursuant to a Transparency Certification for the purpose of performing the duties described in subparagraph (E).

(K) REPORTS.—

(i) AUDIT AND INVESTIGATION REPORTS.—Promptly upon completion, the Inspector General shall provide copies of each audit and investigation report completed pursuant to subparagraph (F) to the Board of Overseers, the appropriate congressional committees, and, to the extent permissible under Federal law, the Executive Director of the Global Fund.

(ii) SEMIANNUAL REPORTS.—Not later than May 30, 2009, and semiannually thereafter, the Inspector General shall submit a report to the appropriate congressional committees that—

(I) meets the requirements of section 5 of the Inspector General Act of 1978 (5 U.S.C. App.);

(II) includes a list and detailed description of the circumstances surrounding any notification of noncompliance issued pursuant to subparagraph (K)(iii) during the covered time frame; and

(III) describes whether and when Board of Overseers has reversed such finding of noncompliance.

(iii) PROHIBITED DISCLOSURES.—Nothing in this paragraph may be construed to authorize the public disclosure of information that is—

(I) specifically prohibited from disclosure by any other provision of law; or

(II) a part of an ongoing criminal investigation in the United States.

(iv) PRIVACY PROTECTIONS.—The Inspector General shall exempt from public disclosure information received from the Global Fund or developed during an audit or investigation that the Inspector General believes—

(I) constitutes a trade secret or privileged and confidential personal financial information;

(II) accuses a particular person of a crime;

(III) would, if publicly disclosed, constitute a clearly unwarranted invasion of personal privacy; and

(IV) would compromise an ongoing law enforcement investigation or judicial trial in the United States.

(v) PUBLICATION.—Except as provided under clauses (iii) and (iv), the Inspector General shall promptly publish each report under this paragraph on a publicly available and searchable Internet Website.

(4) BOARD OF OVERSEERS.—

(A) ESTABLISHMENT.—The Global Fund Contributions Office shall have a Board of Overseers.

(B) DUTIES.—The Board of Overseers shall—

(i) receive information and reports of audits and investigations from the Global Fund Contributions Office and the Inspector General;

(ii) provide general direction and supervision to the Global Fund Contributions Office and the Inspector General; and

(iii) determine the restoration of compliance by the Global Fund with its Transparency Certification pursuant to paragraph (3)(J)(iv).

(C) MEMBERSHIP.—The Board of Overseers shall be comprised of the following 6 members:

(i) The Secretary of State (or the Secretary's designee).

(ii) The Secretary of Health and Human Services (or the Secretary's designee).

(iii) The Secretary of the Treasury (or the Secretary's designee).

(iv) The Director of the Office of Management and Budget (or the Director's designee).

(v) The Global AIDS Coordinator.

(vi) The Malaria Coordinator.

(D) CHAIRMAN.—The Director of the Office of Management and Budget (or the Director's designee) shall serve as chairman of the Board of Overseers for the 1-year period beginning on the date of the enactment of this Act. The chairmanship shall annual rotate among the members of the Board of Overseers listed in clauses (i) through (iv) of subparagraph (C).

(d) TRANSPARENCY FOR UNITED STATES CONTRIBUTIONS.—

(1) FUNDING PREREQUISITES.—Notwithstanding any other provision of law, no funds made available for use as a United States contribution to the Global Fund may be obligated or expended if—

(A) the Global Fund has not provided to the Inspector General within the preceding year a Transparency Certification; or

(B) the Global Fund is deemed to be noncompliant with its Transparency Certification under subsection (c)(J)(iii).

(2) TREATMENT OF FUNDS WITHHELD FOR NONCOMPLIANCE.—On the last day of each fiscal year, any funds appropriated for use as a United States contribution to the Global Fund during that fiscal year that have not been obligated or expended because of the restrictions described in paragraph (3)—

(A) shall be returned to the United States Treasury;

(B) are not subject to reprogramming for any other use; and

(C) shall not be considered arrears to be repaid to the Global Fund.

(e) ALLOCATION OF APPROPRIATIONS.—For each of the fiscal years 2009 through 2013, not less than 0.5 percent of the amounts otherwise appropriated for United States contributions shall be made available to carry out this section.

SA 5081. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2731, to authorize appropriations for fiscal years 2009

through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On page 38, strike line 15 and all that follows through ''(e)'' on page 40, line 20 and insert the following:''.

(e) INSPECTOR GENERAL.—

(1) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting ''the Coordinator of United States Government Activities to Combat HIV/AIDS Globally;'' after ''Federal Deposit Insurance Corporation;''; and

(B) in paragraph (2), by inserting ''Office of the U.S. Global AIDS Coordinator,'' after ''Nuclear Regulatory Commission,''.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of the fiscal years 2009 through 2013, to carry out the duties of the Inspector General of the Office of the Global AIDS Coordinator.

(f)

SA 5082. Mr. KYL proposed an amendment to the bill S. 2731, to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On page 129, strike line 21 and all that follows through ''(b)'' on page 130, line 3, and insert the following:

(a) IN GENERAL.—Section 401 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7671) is amended—

(1) in subsection (a), by striking ''$3,000,000,000 for each of the fiscal years 2004 through 2008'' and inserting the following ''—

''(1) $40,000,000,000 for the 4-year period beginning on October 1, 2008; and

''(2) $10,000,000,000 for fiscal year 2013.''; and

(2) by striking subsection (c).

(b) POINT OF ORDER AGAINST ANY APPROPRIATION THAT EXCEEDS THE AMOUNT AUTHORIZED.—

(1) POINT OF ORDER.—Subject to paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that contains an appropriation to carry out this Act or any amendment made by this Act that exceeds the amount authorized to be appropriated for such purpose under this Act or any amendment made by this Act.

(2) WAIVER AND APPEAL.—

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn.

(B) APPEAL.—An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(c)

SA 5083. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2731, to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

SEC. 601. SHORT TITLE.

This title may be cited as the ''United States Authorization and Sunset Commission Act of 2008''.

SEC. 602. DEFINITIONS.

In this title—

(1) the term ''Commission'' means the United States Authorization and Sunset Commission established under section 603; and

(2) the term ''Commission Schedule and Review bill'' means the proposed legislation submitted to Congress under section 604(b).

SEC. 603. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the United States Authorization and Sunset Commission.

(b) COMPOSITION.—The Commission shall be composed of eight members (in this title referred to as the ''members''), as follows:

(1) Four members appointed by the majority leader of the Senate, 1 of whom may include the majority leader of the Senate, with minority members appointed with the consent of the minority leader of the Senate.

(2) Four members appointed by the Speaker of the House of Representatives, 1 of whom may include the Speaker of the House of Representatives, with minority members appointed with the consent of the minority leader of the House of Representatives.

(3) The Director of the Congressional Budget Office and the Comptroller of the Government Accountability Office shall be non-voting ex officio members of the Commission.

(c) QUALIFICATIONS OF MEMBERS.—

(1) IN GENERAL.—

(A) SENATE MEMBERS.—Of the members appointed under subsection (b)(1), 4 shall be members of the Senate, not more than 2 of whom may be of the same political party.

(B) HOUSE OF REPRESENTATIVE MEMBERS.—Of the members appointed under subsection (b)(2), 4 shall be members of the House of Representatives, not more than 2 of whom may be of the same political party.

(2) CONTINUATION OF MEMBERSHIP.—

(A) IN GENERAL.—If a member was appointed to the Commission as a Member of Congress and the member ceases to be a Member of Congress, that member shall cease to be a member of the Commission.

(B) ACTIONS OF COMMISSION UNAFFECTED.—Any action of the Commission shall not be affected as a result of a member becoming ineligible under subparagraph (A).

(d) INITIAL APPOINTMENTS.—Not later than 90 days after the date of enactment of this Act, all initial appointments to the Commission shall be made.

(e) CHAIRPERSON; VICE CHAIRPERSON.—

(1) INITIAL CHAIRPERSON.—An individual shall be designated by the Speaker of the House of Representatives from among the members initially appointed under subsection (b)(2) to serve as chairperson of the Commission for a period of 2 years.

(2) INITIAL VICE CHAIRPERSON.—An individual shall be designated by the majority leader of the Senate from among the individuals initially appointed under subsection (b)(1) to serve as vice-chairperson of the Commission for a period of 2 years.

(3) ALTERNATE APPOINTMENTS OF CHAIRMEN AND VICE CHAIRMEN.—Following the termination of the 2-year period described under paragraphs (1) and (2), the Speaker and the majority leader of the Senate shall alternate every 2 years in appointing the chairperson and vice-chairperson of the Commission.

(f) TERMS OF MEMBERS.—

(1) MEMBERS OF CONGRESS.—Each member appointed to the Commission shall serve for a term of 5 years.

(2) TERM LIMIT.—A member of the Commission who serves more than 30 months of a term may not be appointed to another term as a member.

(g) INITIAL MEETING.—If, after 90 days after the date of enactment of this Act, 5 or more members of the Commission have been appointed—

(1) members who have been appointed may—

(A) meet; and

(B) select a chairperson from among the members (if a chairperson has not been appointed) who may serve as chairperson until the appointment of a chairperson; and

(2) the chairperson shall have the authority to begin the operations of the Commission, including the hiring of staff.

(h) MEETING; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(i) POWERS OF THE COMMISSION.—

(1) IN GENERAL.—

(A) HEARINGS, TESTIMONY, AND EVIDENCE.—The Commission may, for the purpose of carrying out the provisions of this title—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, that the Commission or such designated subcommittee or designated member may determine advisable.

(B) SUBPOENAS.—Subpoenas issued under subparagraph (A)(ii) may be issued to require attendance and testimony of witnesses and the production of evidence relating to any matter under investigation by the Commission.

(C) ENFORCEMENT.—The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this paragraph.

(2) CONTRACTING.—The Commission may contract with and compensate government and private agencies or persons for services without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) to enable the Commission to discharge its duties under this title.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson.

(4) SUPPORT SERVICES.—

(A) GOVERNMENT ACCOUNTABILITY OFFICE.—The Government Accountability Office is authorized to provide to the Commission, on a reimbursable basis, administrative services, funds, facilities, staff, and other support services for the performance of the functions of the Commission.

(B) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(C) AGENCIES.—In addition to the assistance under subparagraphs (A) and (B), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as the Commission may determine advisable as may be authorized by law.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(6) IMMUNITY.—The Commission is an agency of the United States for purposes of part V of title 18, United States Code (relating to immunity of witnesses).

(7) DIRECTOR AND STAFF OF THE COMMISSION.—

(A) DIRECTOR.—The chairperson of the Commission may appoint a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level II of the Executive Schedule. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(B) PERSONNEL AS FEDERAL EMPLOYEES.—

(i) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(ii) MEMBERS OF COMMISSION.—Clause (i) shall not be construed to apply to members of the Commission.

(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—With the approval of the majority of the Commission, the chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(8) COMPENSATION AND TRAVEL EXPENSES.—

(A) COMPENSATION.—Members shall not be paid by reason of their service as members.

(B) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703(b) of title 5, United States Code.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for the purposes of carrying out the duties of the Commission.

(k) TERMINATION.—The Commission shall terminate on December 31, 2018.

SEC. 604. DUTIES AND RECOMMENDATIONS OF THE UNITED STATES AUTHORIZATION AND SUNSET COMMISSION.

(a) SCHEDULE AND REVIEW.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to Congress a legislative proposal that includes the schedule of review and abolishment of programs reauthorized or established under this Act (in this section referred to as the ''Commission Schedule and Review bill'').

(2) SCHEDULE.—The schedule of the Commission shall provide a timeline for the Commission's review and proposed abolishment, if applicable, of—

(A) programs identified by the Congressional Budget Office under section 602(e)(3) of title 2, United States Code; and

(B) programs identified by the Office of Management and Budget through its Program Assessment Rating Tool program or other similar review program established by the Office of Management and Budget as ineffective or results not demonstrated.

(3) CRITERIA AND REVIEW.—The Commission shall review each program identified under paragraph (1) in accordance with the following criteria as applicable:

(A) The effectiveness and the efficiency of the program.

(B) The achievement of performance goals (as defined under section 1115(g)(4) of title 31, United States Code).

(C) The management of the financial and personnel issues of the program.

(D) Whether the program has fulfilled the legislative intent surrounding its creation, taking into account any change in legislative intent during the existence of the program.

(E) Ways the program could be less burdensome but still efficient in protecting the public.

(F) Whether reorganization, consolidation, abolishment, expansion, or transfer of programs would better enable the Federal Government to accomplish its missions and goals.

(G) The extent to which the program duplicates or conflicts with other Federal programs, State or local government, or the private sector and if consolidation or streamlining into a single program is feasible.

(b) SCHEDULE AND ABOLISHMENT OF PROGRAMS REAUTHORIZED OR ESTABLISHED UNDER THIS ACT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the Congress a Commission Schedule and Review bill that—

(A) includes a schedule for review of only those programs reauthorized or established under this Act; and

(B) abolishes any program 2 years after the date the Commission completes its review of the program, unless the program is reauthorized by Congress.

(2) EXPEDITED CONGRESSIONAL CONSIDERATION PROCEDURES.—In reviewing the Commission Schedule and Review bill, Congress shall follow the expedited procedures under section 606.

(c) RECOMMENDATIONS AND LEGISLATIVE PROPOSALS.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to Congress and the President—

(1) a report that reviews and analyzes according to the criteria established under subsection (a)(4) for each program (reauthorized or established under this Act) to be reviewed in the year in which the report is submitted under the schedule submitted to Congress under subsection (a)(1);

(2) a proposal, if appropriate, to reauthorize, reorganize, consolidate, expand, or transfer the Federal programs to be reviewed in the year in which the report is submitted under the schedule submitted to Congress under subsection (a)(1); and

(3) legislative provisions necessary to implement the Commission's proposal and recommendations.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the power of the Commission to review any Federal program reauthorized or established under this Act.

(e) APPROVAL OF REPORTS.—The Commission Schedule and Review bill and all other legislative proposals and reports submitted under this section shall require the approval of not less than 5 members of the Commission.

SEC. 605. EXPEDITED CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—If any legislative proposal with provisions is submitted to Congress under section 604(c), a bill with that proposal and provisions shall be introduced in the Senate by the majority leader, and in the House of Representatives, by the Speaker. Upon introduction, the bill shall be referred to the appropriate committees of Congress under paragraph (2). If the bill is not introduced in accordance with the preceding sentence, then any Member of Congress may introduce that bill in their respective House of Congress beginning on the date that is the 5th calendar day that such House is in session following the date of the submission of such proposal with provisions.

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A bill introduced under paragraph (1) shall be referred to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and any appropriate committee of jurisdiction in the Senate and the House of Representatives.

(B) REPORTING.—Not later than 30 calendar days after the introduction of the bill, each committee of Congress to which the bill was referred shall report the bill or a committee amendment thereto.

(C) DISCHARGE OF COMMITTEE.—If a committee to which is referred a bill has not reported such bill at the end of 30 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a bill, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such bill, and such bill shall be placed on the appropriate calendar of the House involved.

(b) EXPEDITED PROCEDURE.—

(1) CONSIDERATION.—

(A) IN GENERAL.—Not later than 5 calendar days after the date on which a committee has been discharged from consideration of a bill, the majority leader of the Senate, or the majority leader's designee, or the Speaker of the House of Representatives, or the Speaker's designee, shall move to proceed to the consideration of the committee amendment to the bill, and if there is no such amendment, to the bill. It shall also be in order for any member of the Senate or the House of Representatives, respectively, to move to proceed to the consideration of the bill at any time after the conclusion of such 5-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a bill is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the bill, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the Senate or the House of Representatives, as the case may be, shall immediately proceed to consideration of the bill without intervening motion, order, or other business, and the bill shall remain the unfinished business of the Senate or the House of Representatives, as the case may be, until disposed of.

(C) LIMITED DEBATE.—Debate on the bill and all amendments thereto and on all debatable motions and appeals in connection therewith shall be limited to not more than 50 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate on the bill is in order and is not debatable. All time used for consideration of the bill, including time used for quorum calls (except quorum calls immediately preceding a vote) and voting, shall come from the 50 hours of debate.

(D) AMENDMENTS.—No amendment that is not germane to the provisions of the bill shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 1 hour to be divided equally between those favoring and those opposing the amendment, motion, or appeal.

(E) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the bill, and the disposition of any pending amendments under subparagraph (D), the vote on final passage of the bill shall occur.

(F) OTHER MOTIONS NOT IN ORDER.—A motion to postpone consideration of the bill, a motion to proceed to the consideration of other business, or a motion to recommit the bill is not in order. A motion to reconsider the vote by which the bill is agreed to or not agreed to is not in order.

(2) CONSIDERATION BY OTHER HOUSE.—

(A) IN GENERAL.—If, before the passage by 1 House of the bill that was introduced in such House, such House receives from the other House a bill as passed by such other House—

(i) the bill of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the bill of the other House, with respect to the bill that was introduced in the House in receipt of the bill of the other House, shall be the same as if no bill had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the bill of the other House.

(B) EFFECT OF DISPOSITION.—Upon disposition of a bill that is received by 1 House from the other House, it shall no longer be in order to consider the bill that was introduced in the receiving House.

(3) CONSIDERATION IN CONFERENCE.—

(A) CONVENING OF CONFERENCE.—Immediately upon final passage of a bill that results in a disagreement between the 2 Houses of Congress with respect to a bill, conferees shall be appointed and a conference convened.

(B) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(i) MOTION TO PROCEED.—The motion to proceed to consideration in the Senate of the conference report on a bill may be made even though a previous motion to the same effect has been disagreed to.

(ii) DEBATE.—Consideration in the Senate of the conference report (including a message between Houses) on a bill, and all amendments in disagreement, including all amendments thereto, and debatable motions and appeals in connection therewith, shall be limited to 20 hours, equally divided and controlled by the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(iii) CONFERENCE REPORT DEFEATED.—Should the conference report be defeated, debate on any request for a new conference and the appointment of conferrees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or the minority leader's designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or the minority leader's designee.

(iv) AMENDMENTS IN DISAGREEMENT.—In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or the minority leader's designee. No amendment that is not germane to the provisions of such amendments shall be received.

(v) LIMITATION ON MOTION TO RECOMMIT.—A motion to recommit the conference report is not in order.

(c) RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 606. EXPEDITED CONSIDERATION OF COMMISSION SCHEDULE AND REVIEW BILL.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—The Commission Schedule and Review bill submitted under section 604(b) shall be introduced in the Senate by the majority leader, or the majority leader's designee, and in the House of Representatives, by the Speaker, or the Speaker's designee. Upon such introduction, the Commission Schedule and Review bill shall be referred to the appropriate committees of Congress under paragraph (2). If the Commission Schedule and Review bill is not introduced in accordance with the preceding sentence, then any member of Congress may introduce the Commission Schedule and Review bill in their respective House of Congress beginning on the date that is the 5th calendar day that such House is in session following the date of the submission of such aggregate legislative language provisions.

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A Commission Schedule and Review bill introduced under paragraph (1) shall be referred to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and any appropriate committee of jurisdiction in the Senate and the House of Representatives. A committee to which a Commission Schedule and Review bill is referred under this paragraph may review and comment on such bill, may report such bill to the respective House, and may not amend such bill.

(B) REPORTING.—Not later than 30 calendar days after the introduction of the Commission Schedule and Review bill, each Committee of Congress to which the Commission Schedule and Review bill was referred shall report the bill.

(C) DISCHARGE OF COMMITTEE.—If a committee to which is referred a Commission Schedule and Review bill has not reported such Commission Schedule and Review bill at the end of 30 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a Commission Schedule and Review bill, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such Commission Schedule and Review bill, and such Commission Schedule and Review bill shall be placed on the appropriate calendar of the House involved.

(b) EXPEDITED PROCEDURE.—

(1) CONSIDERATION.—

(A) IN GENERAL.—Not later than 5 calendar days after the date on which a committee has been discharged from consideration of a Commission Schedule and Review bill, the majority leader of the Senate, or the majority leader's designee, or the Speaker of the House of Representatives, or the Speaker's designee, shall move to proceed to the consideration of the Commission Schedule and Review bill. It shall also be in order for any member of the Senate or the House of Representatives, respectively, to move to proceed to the consideration of the Commission Schedule and Review bill at any time after the conclusion of such 5-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission Schedule and Review bill is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the Commission Schedule and Review bill, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the Senate or the House of Representatives, as the case may be, shall immediately proceed to consideration of the Commission Schedule and Review bill without intervening motion, order, or other business, and the Commission Schedule and Review bill shall remain the unfinished business of the Senate or the House of Representatives, as the case may be, until disposed of.

(C) LIMITED DEBATE.—Debate on the Commission Schedule and Review bill and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the Commission Schedule and Review bill. A motion further to limit debate on the Commission Schedule and Review bill is in order and is not debatable. All time used for consideration of the Commission Schedule and Review bill, including time used for quorum calls (except quorum calls immediately preceding a vote) and voting, shall come from the 10 hours of debate.

(D) AMENDMENTS.—No amendment to the Commission Schedule and Review bill shall be in order in the Senate and the House of Representatives.

(E) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the Commission Schedule and Review bill, the vote on final passage of the Commission Schedule and Review bill shall occur.

(F) OTHER MOTIONS NOT IN ORDER.—A motion to postpone consideration of the Commission Schedule and Review bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission Schedule and Review bill is not in order. A motion to reconsider the vote by which the Commission Schedule and Review bill is agreed to or not agreed to is not in order.

(2) CONSIDERATION BY OTHER HOUSE.—If, before the passage by 1 House of the Commission Schedule and Review bill that was introduced in such House, such House receives

from the other House a Commission Schedule and Review bill as passed by such other House—

(A) the Commission Schedule and Review bill of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under subparagraph (C);

(B) the procedure in the House in receipt of the Commission Schedule and Review bill of the other House, with respect to the Commission Schedule and Review bill that was introduced in the House in receipt of the Commission Schedule and Review bill of the other House, shall be the same as if no Commission Schedule and Review bill had been received from the other House; and

(C) notwithstanding subparagraph (B), the vote on final passage shall be on the Commission Schedule and Review bill of the other House. Upon disposition of a Commission Schedule and Review bill that is received by 1 House from the other House, it shall no longer be in order to consider the Commission Schedule and Review bill that was introduced in the receiving House.

(c) RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a Commission Schedule and Review bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, July 17, at 10:00 a.m. in room 562 of the Dirksen Senate Office Building to conduct an oversight hearing entitled ''Tracking Sex Offenders in Indian Country: Tribal Implementation of the Adam Walsh Act.''

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, July 24, 2008, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to discuss current policy related to the Strategic Petroleum Reserve.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Rosemarie_Calabro@energy.senate.gov.

For further information, please contact Tara Billingsley at (202) 224–4756 or Rosemarie Calabro at (202) 224–5039.

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. FEINSTEIN. Mr. President, I wish to announce that the committee on Rules and Administration will meet on Wednesday, July 6, 2008, at 10:00 a.m. to hear testimony on the Administration and Management Operations of the United States Capitol Police.

For further information regarding this hearing, please contact Howard Gantman at the Rules and Administration Committee, 224–6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 15, 2008 at 10 a.m., to conduct a hearing entitled ''The Semiannual Monetary Policy Report to the Congress.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 15, 2008 at 11:30 a.m. to conduct a hearing entitled ''Recent Developments in U.S. Financial Markets and Regulatory Responses to Them.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. 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 Tuesday, July 15, 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 ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, July 15, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, July 15, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 15, 2008, at 10:30 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. DURBIN. 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 ''Determining the Proper Scope of Coverage for the Americans with Disabilities Act'' on Tuesday, July 15, 2008. The hearing will commence at 10 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, July 15, 2008, at 10 a.m.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''The Google-Yahoo Agreement and the Future of Internet Advertising'' on Tuesday, July 15, 2008, at 10:30 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008

On Friday, July 11, 2008, the Senate passed H.R. 3221, as amended, as follows:

H.R. 3221

Resolved, That on June 25, 2008, the Senate concurs in the House amendment, striking section 1 through title V and inserting certain language, to the Senate amendment to the bill (H.R. 3221) entitled ''An Act 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.'', with an amendment

SENATE AMENDMENT TO HOUSE AMENDMENTS TO SENATE AMENDMENT

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:

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, policy-making, 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 ⅔ 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 ''1/3'' and inserting ''1/4''; 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 4½ 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 DATABASE; 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, policy-making, 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 Administration, 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 non-profit 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, including the fact that the initial regular payments are for a specific time period that will end on a certain date, that payments will adjust afterwards potentially to a higher amount, and that there is no guarantee that the borrower will be able to refinance to a lower amount.

''(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.''.

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 550 or fewer.

''(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency, and does not have a failing score under the section 8 Management Assessment Program during the prior 12 months.''.

(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.''.

TITLE VIII—FORECLOSURE RESCUE FRAUD PROTECTION

SEC. 2801. SHORT TITLE.

This title may be cited as the ''Foreclosure Rescue Fraud Act of 2008''.

SEC. 2802. 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 makes any solicitation, representation, or offer to a homeowner facing foreclosure on residential real property to perform, for gain, or who performs, for gain, 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. 2803. 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, in a clear and conspicuous manner, 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 to solicit or market the services to 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. 2804. 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. 2805. CIVIL LIABILITY.

(a) IN GENERAL.—Any foreclosure consultant who fails to comply with any provision of section 2803 or 2804 with respect to any other person shall be liable to such person in an amount equal to the greater of—

(1) the amount of any actual damage sustained by such person as a result of such failure; or

(2) any amount paid by the person to the foreclosure consultant.

(b) CLASS ACTIONS PROHIBITED.—No Federal court may certify a civil action under subsection (a) as a class action under rule 23 of the Federal Rules of Civil Procedure.

SEC. 2806. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of a prohibition described in section 2803 or a failure to comply with any provision of section 2803 or 2804 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 2803 and 2804 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 2803 or 2804, 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 2805 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.

(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 2803 or 2804, 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 2803 or 2804 that is alleged in that complaint.

SEC. 2807. LIMITATION.

No violation of a prohibition described in section 2803 or a failure to comply with any provision of section 2803 or 2804 shall provide grounds for the halt, delay, or modification of a foreclosure process or proceeding.

SEC. 2808. 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.

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 pre-school, 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.

Resolved further, That on July 8, 2008, the Senate concurs in the House amendments, striking titles VI through XI, to the Senate amendment to the aforesaid bill;

Resolved further, That on July 11, 2008, the Senate disagrees to the amendments of the House, adding a new title and inserting a new section to the amendment of the Senate to the aforesaid bill.

ORDER FOR MEASURE TO BE READ THE FIRST TIME—S. 3268

Mrs. BOXER. Mr. President, I ask unanimous consent that S. 3268, Stop Excessive Energy Speculation Act of 2008, to be introduced by the majority leader today, Tuesday, July 15, notwithstanding an adjournment of the Senate on that day, be considered to have received a first reading, and that the RECORD remain open today until 8:30 p.m. for that purpose.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JULY 16, 2008

Mrs. BOXER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., tomorrow, July 16; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for up to an hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the second 30 minutes; I further ask that following morning business, the Senate resume consideration of S. 2731, the Global AIDS legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mrs. BOXER. Mr. President, tomorrow, the Senate will resume consideration of the Global AIDS bill. Senators

should expect rollcall votes throughout the day as we work to complete this important legislation.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. BOXER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Wednesday, July 16, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF TRANSPORTATION

THOMAS J. MADISON, OF NEW YORK, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION, VICE RICHARD CAPKA.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

BEVERLY ALLEN, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2013. (REAPPOINTMENT)

DONALD H. DYAL, OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2013, VICE GAIL DALY, TERM EXPIRING.

JEFFREY B. RUDMAN, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2013, VICE HARRY ROBINSON, JR., TERM EXPIRING.

THE JUDICIARY

TIMOTHY G. DUGAN, OF WISCONSIN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN, VICE RUDOLPH T. RANDA, RETIRING.

DEPARTMENT OF JUSTICE

MICHAEL G. CONSIDINE, OF CONNECTICUT, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF FOUR YEARS, VICE KEVIN J. O'CONNOR, RESIGNED.

BENTON J. CAMPBELL, OF NEW JERSEY, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE ROSLYNN R. MAUSKOPF, RESIGNED.

A. BRIAN ALBRITTON, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS, VICE PAUL I. PEREZ, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

DAVID REID MURTAUGH, OF INDIANA, TO BE DEPUTY DIRECTOR FOR STATE, LOCAL, AND TRIBAL AFFAIRS, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE SCOTT M. BURNS.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL HEIDI V. BROWN
COLONEL JOHN A. DAVIS
COLONEL EDWARD P. DONNELLY, JR.
COLONEL KAREN E. DYSON
COLONEL ROBERT S. FERRELL
COLONEL STEPHEN G. FOGARTY
COLONEL MICHAEL X. GARRETT
COLONEL THOMAS A. HARVEY
COLONEL THOMAS A. HORLANDER
COLONEL PAUL J. LACAMERA
COLONEL SEAN B. MACFARLAND
COLONEL KEVIN W. MANGUM
COLONEL ROBERT M. MCCALEB
COLONEL COLLEEN L. MCGUIRE
COLONEL HERBERT R. MCMASTER, JR.
COLONEL AUSTIN S. MILLER
COLONEL JOHN M. MURRAY
COLONEL RICHARD P. MUSTION
COLONEL CAMILLE M. NICHOLS
COLONEL JOHN R. O'CONNOR
COLONEL LAWARREN V. PATTERSON
COLONEL GUSTAVE F. PERNA
COLONEL WARREN E. PHIPPS, JR.
COLONEL GREGG C. POTTER
COLONEL NANCY L. S. PRICE
COLONEL EDWARD M. REEDER, JR.
COLONEL ROSS E. RIDGE
COLONEL JESS A. SCARBROUGH
COLONEL MICHAEL H. SHIELDS
COLONEL JEFFOREY A. SMITH
COLONEL LESLIE C. SMITH
COLONEL JEFFREY J. SNOW
COLONEL KURT S. STORY
COLONEL KENNETH E. TOVO
COLONEL STEPHEN J. TOWNSEND
COLONEL JOHN UBERTI
COLONEL THOMAS S. VANDAL
COLONEL BRYAN G. WATSON
COLONEL JOHN F. WHARTON
COLONEL MARK W. YENTER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN M. PAXTON, JR.