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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. MCNULTY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 8, 2008.

I hereby appoint the Honorable MICHAEL R. MCNULTY to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

God of the ages and Lord of all.

Here in America You find a Nation that is fully modern yet guided by ancient and eternal truths. The United States is a very innovative, creative, and dynamic country and among the most religious on Earth. Here, faith and reason were part of our foundation and coexist in harmony to this very day. This is not only one of America's greatest strengths; it is one of the reasons our land remains a beacon of hope and opportunity for millions across the world.

Lord, may America's quest for freedom continue to be guided by the conviction that the principles governing political and social life are intimately linked to a moral order based on the dominion of God the Creator who created all women and men equal and endowed with inalienable rights grounded in the laws of nature and nature's God. This vision, Lord, gives us the power to act giving You glory now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri (Mr. CARNAHAN) come forward and lead the House in the Pledge of Allegiance.

Mr. CARNAHAN 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.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has agreed to without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 308. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The message also announced that the Senate has agreed to concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. Con. Res. 72. Concurrent Resolution supporting the goals and ideals of the International Year of Sanitation.

S. Con. Res. 81. Concurrent Resolution supporting the goals and ideals of National Women's Health Week.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2929) ''An Act to temporarily extend the programs under the Higher Education Act of 1965.''.

The message also announced that pursuant to Public Law 110–53, the Chair, on behalf of the Vice President, appoints the following individuals to serve as members of the commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism:

Graham Allison of Massachusetts.

Richard Verma of Maryland.

The message also announced that pursuant to Public Law 110–53, the Chair, on behalf of the Vice President, appoints the following individual to serve as a member and Chairman of the Commission ont he Prevention of Weapons of Mass Destruction Proliferation and Terrorism:

The Honorable BOB GRAHAM of Florida.

The message also announced that pursuant to Public Law 110–53, the Chair, on behalf of the Vice President, appoints the following individuals to serve as members of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism:

Robin Cleveland of Virginia.

James Talent of Missouri.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five 1-minute speeches on each side of the aisle.

HAPPY BIRTHDAY, HARRY S TRUMAN

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, in remembrance of President Truman's birthday today, I want to share a speech my grandfather, Representative A.S.J. Carnahan, made on this floor over half a century ago in April 1945 after Truman assumed the Presidency:

''Mr. Speaker, my own native State, Missouri, bows with the Nation and the world in sorrow at the loss of the late

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President Roosevelt. As we bow in the presence of divine providence and have committed a national leader to the ages, we must carry on. New hands must take up the task of national leadership. Missouri is honored to present to the Nation and the world the new American leader, President Harry S Truman.

''Born and reared on a Missouri farm, elected county judge, sent to the U.S. Senate, selected by President Roosevelt as a running mate, elected vice president and now President of the United States, it's typically Missourian and typically American. What could more truly represent the American tradition and spirit than from farm boy to President?

''This is the first time my beloved State of Missouri has furnished a President. We are happy it is Harry Truman. His honesty, ability, frankness, experience, and humility fit him for the very heavy tasks which lie ahead. He is equal to the occasion.''

CONGRATULATING TROOPER ROBERT ''BOBBY'' HAYSLIP

(Mrs. SCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Speaker, I rise today to congratulate Trooper Robert ''Bobby'' Hayslip of West Union, Ohio, for being awarded the Ohio State Highway Patrol's Trooper of the Year Award.

Trooper Bobby Hayslip was commissioned a State Trooper only 6 years ago as part of the 138th academy class and has quickly risen to the top. Bobby's District Commander, Captain Daniel Kolcum, best describes him as being hardworking and aggressive but also compassionate and professional.

Trooper Hayslip is known for being a leader in making both enforcement and non-enforcement contacts; he is constantly working to keep Ohioans safe through investigations, assisting motorists, and getting drunk and impaired drivers off Ohio's roads. The dedication of Trooper Hayslip does not end after his shift. It continues in his free time as a volunteer working with local juvenile traffic offenders and at-risk high school students.

Mr. Speaker, I am very thankful that the best trooper in the State of Ohio is patrolling Ohio's Second Congressional District.

Congratulations, Bobby, and continued success in years to come.

WHY ARE WE STILL IN IRAQ?

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, with this House on the threshold of granting the President $183 billion to continue the war in Iraq long past his term, it's an appropriate time to ask why are we still in Iraq, especially since the Democratic leadership promised the American people, 2 years ago, that if they voted Democrat, we'd move to end the war. Why are we still in Iraq?

Why are we still in Iraq? Iraq had nothing to do with 9/11, with al Qaeda's role in 9/11. Iraq didn't have weapons of mass destruction. Why have we lost 4,000 of our finest troops? Why have we seen tens of thousands of Americans injured? Why have we seen over a million innocent Iraqis killed?

The war is based on lies. The Bible says, you shall know the truth and the truth shall set you free. We need to start telling the truth here on this floor about the war in Iraq. And we need to end the war, end the occupation, close the bases, bring our troops home. Why are we still in Iraq?

This is a wake-up call for the American people. This is a wake-up call for the Congress. This is a wake-up call to stand for the truth.

THE NOBLE THREE

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, America's lawmen are the last strand of wire in the fence between the law and the outlaws. They are all that stands between chaos and civilization, between the barbarians and the people, and between what is good and what is evil.

As we honor these lawmen, I give special attention to the Capitol Police Officers. These officers are on duty 24 hours a day in the halls, on the roof, and in the shadows of this Capitol diligently protecting this shrine of democracy.

Ten years ago, a madman entered the Capitol, shot and killed Officer Jacob Chestnut. He headed to the majority leader's office and wounded Officer Douglas McMillan and tourist Angela Dickerson. His shooting stopped after he murdered John Gibson, who literally gave his life for a Member of Congress.

In these hallowed halls, we have portraits and statues of great Americans that have lived before us, but the spirit of duty, sacrifice, and honor is still alive and on display daily by those Capitol Police who serve us so well. They carry on the tradition of Chestnut, McMillan, and Gibson, those noble three that stood in the line of fire for the rest of us.

And that's just the way it is.

HONORING STAFF SERGEANT MICHAEL BROUSSARD

(Mr. MCNERNEY asked and was given permission to address the House for 1 minute.)

Mr. MCNERNEY. Today it gives me great pleasure to rise in honor of Staff Sergeant Michael Broussard of Contra Costa County's own Brentwood, California, for winning the 25th Best Ranger Competition, one of the Army's athletic achievements.

Held at Fort Benning, Georgia, the competition tests a Ranger's physical and mental toughness and self-discipline. Of the 28 participants, only 16 were able to complete the grueling 3-day athletic competition, which features some of the best athletes in the world.

Despite this honor, I believe Staff Sergeant Broussard's greatest achievement is that he repeatedly served this Nation with distinction by completing two deployments to Iraq and two deployments to Afghanistan.

Mr. Speaker, Sergeant Broussard is a true American hero and an example of the commitment, dedication, and capability of our men and women in uniform on and off the battlefield.

THE PRACTICE OF EARMARKS IS OUT OF CONTROL

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, many of us in this body have realized for quite a while that the practice of earmarking is out of control. When we herald the fact that we had a mere 12,000 earmarks last year, as opposed to only 15,000 a couple of years ago, we know that something is wrong.

But the exercise we went through last week was perhaps the best indication we had yet that we still have a long way to go. We authorized the Justice Department to investigate the origin of an immaculate earmark, an earmark that wasn't in either the House or Senate version of the bill, that only showed up when the President signed the legislation. The earmark was not in either the House or Senate version. Now, one would think that the discovery of an immaculate earmark would prompt an immediate congressional investigation. Instead, we waited 2 years and then authorized the Justice Department to look into it.

Mr. Speaker, we owe this great institution far better than we're giving it, from bridges to nowhere to teapot museums, to immaculate earmarks that we don't even pass, let alone scrutinize. We can do far better than this.

THE 60TH ANNIVERSARY OF THE FOUNDING OF ISRAEL

(Mr. BARROW asked and was given permission to address the House for 1 minute.)

Mr. BARROW. Mr. Speaker, in 6 days, on May 14, we observe the 60th anniversary of the declaration of the independence of the State of Israel. That's also the 60th anniversary, I'm proud to say, of the day that the administration of President Harry Truman recognized the State of Israel as a free and independent state.

Throughout the past 60 years, the relationship between the United States and Israel has been based on a shared commitment to democratic values. Also, for the past 60 years Israel has

stood on the front lines in confronting those who would use terror against civilian populations as a means of bringing about political change.

Throughout that time, the United States has stood for the political independence and the physical security of the State of Israel. But we usually find ourselves as being in the rear echelons as standing behind Israel more than standing beside Israel. But not any more.

Ever since 9/11, we in the United States have come to realize that we're members of the same club, that we, too, stand on the front lines alongside Israel in an ongoing war on terror. We not only belong to the same philosophical society, we're also serving in the same outfit.

As we congratulate Israel on its 60th birthday, we look forward to the day when each of us will be able to devote less of our national treasures to the vital work of survival and national defense and be able, instead, to devote more of our national treasures to more profitable enterprises.

On behalf of my fellow Georgians, I congratulate Israel on this milestone, and I pledge my best efforts to making the next 60 years of our relationship together years of peace and prosperity.

STOP HOLDING THE VOTE ON H.R. 3058 HOSTAGE

(Mr. WALDEN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDEN of Oregon. Mr. Speaker, by refusing to renew the county payments program, Congress has broken its pledge to rural areas all across this country like Lake County, Oregon, where Federal land covers 61 percent of the county.

Lake County has had to cut its road department from 42 people to 14, the equipment is aging and overworked, it needs maintenance on the roads that's being deferred. In this winter's record snowfall, or near-record, Lake County had to call in the Oregon Air National Guard to come in and help plow the streets so the safety vehicles could get through this county that's larger than the States of Connecticut and Delaware combined. Now they will be forced to let paved roads revert to gravel.

H.R. 3058 would solve this problem and would help keep the roads open in Lake County and schools open throughout the west. Yet H.R. 3058 is still held hostage on the Union Calendar. It's been approved by the committees of this House. It has been held hostage since January 15. This is day 114.

All we're asking is that the majority schedule it for a vote on this House floor. Let us vote on secure rural schools and roads just to vote. That's all. Let's keep the commitment of the Federal Government for 100 years to these rural communities where Federal land makes up the bulk of their counties.

I call on the Democrat leadership, day 114 held hostage, H.R. 3058, bring it up for a vote.

□ 1015

JONELL STINNETT

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Mr. Speaker, I rise to tell the story of Jonell Stinnett from my district in Fairdale, Kentucky. Here are her words:

''My story is about my brother and his wife who died last September. Carol, my sister-in-law, had colon cancer for over 7 years. She took chemo for the last 5 years of her life.

''My brother had a heart attack 2 years after she was diagnosed. A week after his heart surgery, he had a massive stroke which paralyzed his right side, and then he got a diabetic ulcer on his foot and finally had to have his leg amputated.

''Needless to say, their medical bills were massive. They lost everything they had worked for their whole life. I take care of him now, and he needed to file bankruptcy. He needs a ramp to get out his front door, a safe way to take a shower, but there is no help anywhere.

''I believe as an American citizen who has worked, paid taxes, and served his country in the Armed Forces, there should be some sort of help. I don't know what, but with all the intelligent people in Washington, it seems they could come up with some kind of plan for people like these so they don't lose all they have made.''

That was Jonell Stinnett, one voice from Kentucky's Third District.

GAS PRICES

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Madam Speaker, I rise today because high gas prices are placing an increasingly heavy burden on everyone, including my fellow West Virginians. As gas prices continue to spike, we deserve a sound energy policy that creates new domestic sources of energy, increases supply and puts downward pressure on gas prices.

I've supported anti-gouging legislation and called on the President to halt shipments to the Strategic Petroleum Reserve, which could increase supply and possibly save as much as 24 cents from the price of a gallon of gas.

We've also increased fuel economy standards to make each gallon stretch a little further. Yet West Virginians deserve a more comprehensive, long-term solution that provides real stability and actually leads to the creation of new energy.

From clean coal to oil exploration and drilling to our desperate need for new refineries to expanded natural gas exploration, we have a wide range of options and ways to make a difference. Unfortunately, many of my colleagues on the other side of the aisle have stood in the way of a truly comprehensive energy policy.

It's time that Congress stop the rhetoric and work for real solutions.

NEIGHBORHOOD STABILIZATION ACT OF 2008

The SPEAKER pro tempore (Ms. SOLIS). Pursuant to House Resolution 1174 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 5818.

□ 1018

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 5818) to authorize the Secretary of Housing and Urban Development to make loans to States to acquire foreclosed housing and to make grants to States for related costs, with Mr. MCNULTY (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 7, 2008, a request for a recorded vote on amendment No. 7 printed in House Report 110–621 by the gentleman from Pennsylvania (Mr. ALTMIRE) had been postponed.

Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 110–621 on which further proceedings were postponed, in the following order:

Amendment No. 4 by Mr. HENSARLING of Texas.

Amendment No. 7 by Mr. ALTMIRE of Pennsylvania.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. HENSARLING

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. HENSARLING) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. HENSARLING:

Page 2, line 10, strike ''and grant''.

Page 3, line 1, strike ''and grants''.

Page 3, line 10, strike ''AND GRANTS''.

Page 3, line 13, strike ''make grants under section 5(a) to qualified States and''.

Page 3, lines 18 and 19, strike ''make a grant under this Act only to a State, and may''.

Page 4, line 25, strike ''grant and''.

Page 5, line 3, strike ''grant and''.

Page 5, line 7, strike ''grant or''.

Page 6, line 8, strike ''grant and''.

Page 6, lines 21 and 22, strike ''grant amounts, and for''.

Page 7, line 1, strike ''grant or''.

Strike line 22 on page 8 and all that follows through page 9, line 2.

Page 9, line 9, strike ''GRANT AMOUNTS AND''.

Page 9, line 11, strike ''grant amount or''.

Page 9, lines 12 and 13, strike ''foreclosure grant share''.

Page 9, line 13, strike ''or''.

Page 9, lines 13 and 14, strike '', respectively,''.

Page 9, line 20, strike ''grant amount or''.

Page 9, line 22, strike ''foreclosure grant share or''.

Page 9, line 23, strike '', respectively,'' and ''the grant amount or''.

Page 9, line 25, strike ''foreclosure grant share or''.

Page 10, line 1, strike '', respectively,''.

Page 10, line 2, strike ''grant amounts or''.

Page 10, line 6, strike ''grant amounts or''.

Page 10, line 9, strike ''grant amount or''.

Page 10, line 11, strike ''grant amount or''.

Page 10, line 13, strike ''foreclosure grant share or''.

Page 10, line 14, strike '', respectively''.

Page 10, line 16, strike ''grant or''.

Page 10, line 18, strike ''or grants''.

Strike line 23 on page 10 and all that follows through page 11, line 10.

Page 12, line 3, strike ''grant and''.

Page 12, strike lines 5 through 7.

Page 12, line 14, strike ''grant amounts and''.

Page 12, lines 17 and 18, strike ''such grant amounts and''.

Page 12, line 19, strike ''grant amounts and''.

Page 12, line 20, strike '', respectively,''.

Page 13, line 8, strike ''grant amounts and''.

Page 13, lines 11 and 12, strike ''grant amounts and''.

Page 13, line 13, strike ''grant amounts and''.

Page 13, line 14, strike '', respectively,''.

Page 14, lines 1 and 2, strike ''grant and''.

Page 14, line 5, strike ''grant and''.

Page 14, line 8, strike ''grant and''.

Page 14, line 12, strike ''grant amounts and''.

Page 14, line 17, strike ''grant amounts and''.

Page 17, strike lines 21 through 25.

Strike line 18 on page 19 and all that follows through page 21, line 24.

Page 22, line 2, strike ''grant or''.

Strike line 12 on page 22 and all that follows through page 24, line 4.

Page 24, line 6, strike ''grant or''.

Page 24, lines 7 and 8, strike ''grant and''.

Page 24, line 23, strike ''or grant''.

Page 24, line 25, strike ''or grant''.

Page 27, line 13, strike ''grant or''.

Page 27, line 19, strike ''or grant''.

Page 28, lines 12 and 13, strike ''receives a grant under this Act or''.

Page 28, lines 15 and 16, strike ''obligation of such grant amounts and''.

Page 28, line 20, strike ''obligate all such grant amounts and''.

Page 28, lines 24 and 25, strike ''outlay all such grant amounts and''.

Page 30, line 3, strike ''a grant or'' and insert ''an''.

Page 30, line 13, strike ''grant or''.

Page 30, lines 14 and 15, strike ''grant or''.

Page 30, line 19, strike ''grant or''.

Page 35, strike lines 8 through 10.

Page 35, line 21, strike ''$7,500,000,000'' and insert ''$15,000,000,000''.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 219, not voting 29, as follows:

[Roll No. 295]

AYES—190

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ruppersberger
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Upton
Walberg
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (FL)

NOES—219

Abercrombie
Ackerman
Allen
Altmire
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Bordallo
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Cazayoux
Christensen
Clarke
Cleaver
Clyburn
Conyers
Costello
Courtney
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Fortuño
Foster
Frank (MA)
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McNerney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOT VOTING—29

Arcuri
Barrow
Bean
Bishop (GA)
Boren
Campbell (CA)
Carney
Chandler
Clay
Cohen
Cooper
Costa
Cramer
Cubin
Giffords
Goode
Hill
Loebsack
Mahoney (FL)
McHenry
McIntyre
Melancon
Moore (KS)
Pomeroy
Richardson
Rush
Schiff
Space
Young (AK)

□ 1045

Messrs. SERRANO, JOHNSON of Georgia, FARR, GORDON of Tennessee and Ms. SPEIER, Ms. ROS-LEHTINEN, Ms. SLAUGHTER and Mrs. GILLIBRAND changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. POMEROY. Mr. Chairman, on May 8, 2008, I missed rollcall vote No. 295. Had I been present, I would have voted in the following manner: Rollcall No. 295, "yea."

Mr. MCINTYRE. Mr. Chairman, on rollcall No. 295, had I been present, I would have voted "no."

Mr. SCHIFF. Mr. Chairman, on rollcall No. 295, had I been present, I would have voted "no."

Mr. WESTMORELAND. Mr. Chairman, parliamentary inquiry.

The Acting CHAIRMAN. The gentleman may state his inquiry.

Mr. WESTMORELAND. Mr. Chairman, in light of the conversation that the majority leader and the minority leader had last night as far as leaving votes open, and I believe the majority leader said the vote would be for 15 minutes, and then a 2-minute courtesy period, could you tell me the tally of

the vote at the end of the 15 minutes and the 2-minute courtesy period?

The Acting CHAIRMAN. The gentleman has not stated a parliamentary inquiry.

POINT OF ORDER

Mr. WESTMORELAND. Mr. Chairman, I make a point of order under clause 2(a) of rule XX that the vote just ended was held open for the sole purpose of reversing the outcome.

The Acting CHAIRMAN. The Chair has considered whether the new sentence in clause 2(a) of rule XX should be enforceable in real time.

The black letter of the rule is not dispositive. It uses the mandatory ''shall.'' It might just as well say ''should,'' inasmuch as it is setting a standard of behavior for presiding officers. For this reason the Chair thinks it more sensible to enforce the rule on collateral bases, as by a question of the privileges of the House.

A set of ''whereas'' clauses in the preamble of a resolution could allege the facts and circumstances tending to indicate a violation more coherently than they could be articulated in argument on a point of order or in debate on an appeal. The resolving clause of a resolution could propose a fitting remedy, rather than requiring the instant selection of a remedy in the face of competing demands for vitiation of the putative result, reversal of the putative result, or admonishment of the presiding officer.

The Chair finds that the new sentence in clause 2(a) of rule XX does not establish a point of order having an immediate procedural remedy. Rather than contemplating a ruling from the Chair in real time, the language should be understood to establish a standard of behavior for presiding officers that might be enforced on collateral bases.

Mr. WESTMORELAND. Mr. Chairman, with that I appeal the ruling of the Chair.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to lay the appeal on the table.

The Acting CHAIRMAN. The motion to lay on the table is not in order in the Committee of the Whole.

The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The Acting CHAIRMAN. This 15-minute vote on sustaining the ruling of the Chair will be followed by a 5-minute vote.

Mr. LINDER (during the vote). Mr. Chairman, I was standing right by the gentleman who made the motion. The motion was to appeal the ruling of the Chair.

Who changed the motion to sustaining it?

The Acting CHAIRMAN. The Chair would advise the gentleman from Georgia that the Chair put the question correctly, that it is whether the ruling of the Chair shall stand.

Mr. LINDER. That wasn't the motion. The motion was to appeal the ruling of the Chair.

The Acting CHAIRMAN. The question that the Chair properly put was whether the ruling of the Chair shall be sustained.

Mr. LINDER. Would you tell me who changed the ruling from ''appeal'' to ''sustain''?

The Acting CHAIRMAN. The Chair would advise the gentleman from Georgia the question on appeal is, as always in the Committee of the Whole, ''Shall the decision of the Chair stand as the judgment of the Committee?''

The Chair understands that the display board initially said ''appealing the ruling of the Chair,'' which was incorrect. So for the information of all Members of the House, in case of any misapprehension, the question is on sustaining the ruling of the Chair, not on whether an appeal shall take place.

Mr. LINDER. I ask unanimous consent that the vote be restarted.

Mr. SCOTT of Virginia. I object.

Mr. LINDER. I ask unanimous consent that we vacate this vote.

The Acting CHAIRMAN. Objection is heard.

Mr. LINDER. So moved.

The Acting CHAIRMAN. Such a motion is not in order.

Voting will resume. All Members are advised that the question is on sustaining the ruling of the Chair. Adequate time will remain for any Member who wishes to verify his or her vote.

Mr. LINDER. Mr. Chairman, I ask unanimous consent again that we vacate the vote.

The Acting CHAIRMAN. Is there objection? The Chair hears none.

As soon as the Clerk is prepared, the pending vote will be vacated and the Chair will put the question anew.

The question before the House is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALDEN of Oregon. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The Acting CHAIRMAN. This 15-minute vote will be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 182, answered ''present'' 6, not voting 15, as follows:

[Roll No. 296]

AYES—235

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Cazayoux
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Foster
Frank (MA)
Giffords
Gillibrand
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wynn
Yarmuth
Young (FL)

NOES—182

Aderholt
Akin
Alexander
Bachmann
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fortuño
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson

Hoekstra
Inglis (SC)
Issa
Johnson, Sam
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Peterson (PA)
Petri
Pitts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)

ANSWERED ''PRESENT''—6

Gilchrest
Hulshof
LaTourette
Lungren, Daniel E.
Pence
Rohrabacher

NOT VOTING—15

Bachus
Boehner
Bordallo
Campbell (CA)
Cohen
Hunter
Loebsack
McCarthy (NY)
Miller, George
Paul
Pickering
Platts
Richardson
Rush
Wu

□ 1121

Mr. ISSA changed his vote from ''aye'' to ''no.''

So the decision of the Chair stands as the judgment of the Committee.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. ALTMIRE

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. ALTMIRE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. ALTMIRE:

Page 36, after line 2, insert the following new section:

SEC. 15. INELIGIBLITY OF ILLEGAL ALIENS FOR ASSISTANCE.

Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this Act, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this Act shall be construed to alter the restrictions or definitions in such section 214.

Page 36, line 3, strike ''**15**'' and insert ''**16**''.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 391, noes 33, not voting 14, as follows:

[Roll No. 297]

AYES—391

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Christensen
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Faleomavaega
Fallin
Fattah
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fortuño
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hobson
Hodes
Hoekstra
Holden
Holt
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCaul (TX)
McCollum (MN)
McCotter
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mitchell
Mollohan
Moore (KS)
Moran (KS)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Norton
Nunes
Oberstar
Obey
Ortiz
Pallone
Pascrell
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sarbanes
Saxton
Scalise
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NOES—33

Baca
Baldwin
Clarke
Crowley
Diaz-Balart, L.
Diaz-Balart, M.
Ellison
Farr
Filner
Gonzalez
Grijalva
Gutierrez
Hirono
Honda
Johnson (GA)
Kucinich
Lee
McDermott
McGovern
Moore (WI)
Moran (VA)
Napolitano
Olver
Pastor
Ros-Lehtinen
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Serrano
Solis
Stark
Sutton
Woolsey

NOT VOTING—14

Baird
Bordallo
Campbell (CA)
Cohen
Cummings
Jackson-Lee (TX)
Loebsack
McCarthy (NY)
McCrery
Miller, George
Pickering
Richardson
Rush
Welch (VT)

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members have less than 1 minute remaining to vote.

□ 1130

Mr. ELLISON changed his vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCCARTHY of New York. Mr. Chairman, earlier today I was questioning witnesses on the arts and humanities as Chairwoman of the Healthy Families and Communities Subcommittee of the Education and Labor Committee. I missed two votes. I would like the RECORD to reflect how I would have voted had I been able to get to the floor in time.

Rollcall No. 296 on sustaining the ruling of the chair, I would have voted ''aye.''

Rollcall No. 297 on the Altmire amendment to H.R. 5818, I would have voted ''aye.''

PERSONAL EXPLANATION

Ms. BORDALLO. Mr. Chairman, I was unavoidable detained in a meeting earlier today, May 8, 2008, in the other body regarding legislation I have sponsored, and, therefore, was absent from the Chamber when rollcall votes 296 and 297 were taken. Had I been present for these two votes taken in the Committee of the Whole House on the State of the Union,

I would have voted as follows: ''aye'' to sustain the ruling of the Chair (rollcall vote 296) and ''aye'' on the amendment offered by Mr. ALTMIRE of Pennsylvania to H.R. 5818 (rollcall vote 297).

Mr. DINGELL. Mr. Chairman, this legislation represents a fair, commonsense solution that will give assistance to communities struggling to deal with the problem of vacant homes, help stabilize the housing market, and help low income families obtain a home they can afford and be proud of.

The Neighborhood Stabilization Act will make available to communities throughout the Nation $15 billion in new zero interest loans and grants for the purchase and rehabilitation of foreclosed properties. State and local governments have been hit hard by the foreclosure crisis not only because they have been stuck with the bill for maintaining and securing vacant homes, but also because they face decreased property tax revenues. Not only are these properties off the tax rolls, but empty houses drive down the value of other homes in the neighborhood which further decreases tax revenues.

Just as important, this bill will get these homes occupied by families who truly need them. A priority will be given to low income families, families who have lost a home through foreclosure, as well as first responders, veterans, public school teachers, and homeless persons.

This measure will bring almost $600 million in assistance to the State of Michigan at a time when it is badly needed. Michigan has been particularly hard hit by the President's misguided economic policies, most especially his failure to address the foreclosure crisis. I sincerely hope that the President, who approved a $30 billion bailout for the investment bank Bear Steams, will see to it to sign and implement this bill which will provide much needed assistance to State and local governments.

Mrs. JONES of Ohio. Mr. Chairman, I rise today in support of this housing package because it is imperative that Congress take action to assist homeowners struggling today. The epidemic of home losses in this country is severe, with the impact not only causing harm to the families who lose their homes, but also affecting nearby homeowners who suffer drops in their property values and communities who suffer the impact of lower tax revenues.

Nationally, the number of seriously delinquent loans and new foreclosures in January and February of this year was over 2.1 million, an increase of 8 percent over the previous quarter and a 55 percent increase from a year earlier.

The housing crisis has severely impacted my congressional district, particularly the city of Cleveland, Ohio. Cleveland's weak housing market coupled with a housing over-supply has created a large number of foreclosures and abandoned properties. As of December 2007, the number of properties in Cleveland identified as abandoned, nuisance properties was 8,588. According to the Cleveland Department of Community Development, the estimated number of homes entering the tax foreclosure pool in 2008 was 1,000—with 900 homes within this pool requiring public demolition. These abandoned and foreclosed properties exist in every neighborhood in Cleveland, but there are concentrations in communities in my district where the real estate market has completely collapsed.

I support this housing package because it will greatly assist my constituents in Cleveland as well as thousands of Americans across the country by helping families stay in their homes while they repay their mortgage debt. This legislation will also help avoid the decreased property values and increased crime rates that often come with concentrations of foreclosed and abandoned properties.

I wish to thank Chairman RANGEL and Ranking Member MCCRERY as well as Chairman FRANK and Subcommittee Chair WATERS for their work on these important pieces of legislation. I am extremely pleased that sections of H.R. 1043, the Community Restoration and Revitalization Act, a piece of legislation I have introduced for the past two Congresses, was incorporated into the housing legislation before us today.

This bill simplifies the Federal Historic Rehabilitation Tax Credit, ''Rehab Credit'' thereby making it easier to utilize the credit for revitalizing our nation's older neighborhoods, harnessing greater housing potential in underutilized historic and older buildings, and focusing more private sector investment in smaller, ''main street'' oriented commercial structures.

The language in the bill that explicitly refers to the ''historic nature'' of development projects is important because, for the first time, it directs state housing agencies to create a priority within their qualified allocation plans for historic properties that can be converted to affordable housing through the use of both the Low-Income Housing Tax Credit and the Federal historic tax credit.

Additionally, the bill simplifies the rules for nonprofit and government agencies who sponsor or rent space in historic tax credit projects and significantly lowers the cost of these transactions.

In addition to simplifying the Rehab Tax Credit, the bill would also facilitate coordination of the credit with the Low-Income Housing Tax Credit by exempting both credits from the restrictions of the AMT rules.

Since its inception, the rehab credit has been responsible for 133 residential and commercial projects in the city of Cleveland, leveraging about $760 million of private investment. Because of the credit, downtown Cleveland and neighborhoods like the Warehouse District, the Gateway District, and East Fourth Street are being revitalized—pumping more investment into the region and revenue to the city and State. This legislation is crucial to furthering the economic development of Cleveland and the State of Ohio.

My hope is that as we move forward we shall have the other important parts of H.R. 1043 enacted, as well as further simplification and clarification of the regulations regarding nonprofit and government use of historic buildings rehabilitated with the help of the Federal historic tax credit.

I urge my colleagues to support the passage of this housing package.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of H.R. 5818, the Neighborhood Stabilization Act of 2008. This bill would provide $15 billion in loans and grants, administered by the U.S. Department of Housing and Urban Development, for States to buy and, rehabilitate foreclosed and vacated housing properties in order to resell or rent them out.

While I have some reservations about the balance in this bill between loans and grants, I think the potential threat to the value of American homes and the safety of our communities justifies the overall cost. Studies have shown that home foreclosures adversely affect the value of other homes in the same neighborhood, and the rate of home foreclosures in a neighborhood directly corresponds to a spike in crime in that neighborhood. In many cases, foreclosed and vacated homes have become the dens of vagrants, drug addicts and drug dealers.

H.R. 5818 attempts to reduce the likelihood of these problems by helping States buy and refurbish foreclosed and vacated housing properties to make them an appealing choice for qualified families to buy or rent. In addition, this legislation includes provisions to protect against housing speculator abuse by requiring that homes purchased and refurbished by a State be resold to families whose income does not exceed 140 percent of the area median income. This bill offers further targeted assistance for those Americans who need it most by requiring that half of the bill's grant money be dedicated to housing families at or below 50 percent area median income.

Finally, H.R. 5818 will direct funds to the States with the greatest need. Under this bill, each State's loan and grant authority would be based on the State's percentage of nationwide foreclosures reported during the previous four calendar quarters. This is a significant point for my home State of Colorado, which has consistently ranked among the top 10 States in percentage of foreclosures.

Mr. Chairman, this bill is a good measure that deserves our support. As I previously stated, the benefits of this legislation outweigh my concerns over its cost, and I urge my colleagues to join me in supporting it.

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WEINER) having assumed the chair, Mr. MCNULTY, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5818) to authorize the Secretary of Housing and Urban Development to make loans to States to acquire foreclosed housing and to make grants to States for related costs, pursuant to House Resolution 1174, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Speaker, I have a motion at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SHADEGG. I am in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Shadegg moves to recommit the bill H.R. 5818 to the Committee on Financial Services with instructions to report the same back to the House promptly in the form to which it may be perfected at the time of this motion with the following amendments:

Page 6, line 3, before ''provide'' insert ''subject to any preferences as may be specifically set forth in this subsection with respect to amounts for housing rehabilitation and to the preferences required under the last two paragraphs of this subsection,''.

Page 6, line 15, strike ''for veterans,''.

Page 6, strike ''or providing'' in line 18 and all that follows through ''located'' in line 20 and insert the following: ''except that preferences established pursuant to this paragraph shall be subordinate to any preferences as may be specifically set forth in this subsection with respect to amounts for housing rehabilitation and to the preferences required under the last two paragraphs of this subsection''.

Page 6, line 24, strike ''and''.

Page 7, line 5, strike the period and insert a semicolon.

Page 7, after line 5, insert the following:

(14) subject only to any preferences as may be specifically set forth in this subsection with respect to amounts for housing rehabilitation and to the last paragraph of this subsection and notwithstanding any other preferences established or authorized by this subsection, provide priority preference, in use of amounts from grants or loans under this Act, for providing housing for veterans and for teachers or workforce (including law enforcement officers, firefighters, and other first responders) who are employed by the city or locality in which the housing is located; and

(15) provide that in carrying out any other provision of this subsection that provides preference, in the use of amounts from grants or loans under this Act (or any portion of such amounts), for providing housing for veterans and other classes, highest preference shall be provided for providing housing for disabled veterans, and then preference shall be given to providing housing for other veterans and such other classes; and

Page 27, after line 16, insert the following:

(k) LIMITATION ON RESIDENCY.—No individual may purchase or lease any qualified foreclosed housing that was acquired using any amounts provided under a grant or loan under this Act, or any dwelling unit in any such qualified foreclosed housing, if such individual has been convicted under Federal or State law of a drug-dealing offense, a sex offense, or mortgage fraud.

The SPEAKER pro tempore. The gentleman from Arizona is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, this legislation is flawed in many respects. It provides $7.5 billion in loans to cities, States, and nonprofits to buy foreclosed homes from mortgage lenders who made bad loans. That will not help people avoid foreclosures. In addition, it provides $7.5 billion in grants to rehabilitate those homes. As such, it is a giveaway to the mortgage industry that made bad loans.

Nonetheless, Mr. Speaker, this motion to recommit is a genuine attempt to improve this bill. If the majority insists on going down this path, the least we can do is to give those who have served our Nation the highest priority in receiving housing assistance under this legislation, and to make sure that those who have preyed upon our society as criminals are not helped by the legislation.

In its present form, the bill allows homes acquired and rehabilitated with taxpayer money to be purchased by convicted drug dealers, convicted sex offenders, and people who have been convicted of mortgage fraud.

Last night our colleague, Mr. ALTMIRE, offered an amendment that prohibits homes made available for sale under this bill, acquired and rehabilitated with taxpayer dollars, from being sold to illegal immigrants. That was a good amendment and I am glad to see that the House just now overwhelmingly adopted it.

In advocating for his amendment, Mr. ALTMIRE said that homes made available through this bill should be available only to law abiding U.S. citizens.

My colleagues, Mr. ALTMIRE is right. This motion to recommit brings the same commonsense to this bill that Mr. ALTMIRE's amendment did. It simply says that homes made available under the bill cannot be sold to drug dealers, sex offenders, or people convicted of mortgage fraud.

I ask my colleagues, imagine how you would feel if your taxes were taken under this legislation and used by the government to purchase foreclosed homes, then to rehabilitate a foreclosed home in your neighborhood, and then if that house was put on the market and sold by the government to a convicted drug dealer, a convicted sex offender, or person guilty of fraud in the mortgage industry who contributed to the very housing turmoil we are now faced with. You would be outraged, and you should be. We cannot let that happen under this legislation.

The second provision of the motion to recommit corrects another defect in the bill. Yesterday an amendment was offered to provide veterans and public safety officers such as firemen and police with a preference in purchasing homes made available under this bill. The chairman of the committee quite appropriately accepted that amendment. But we can do better than that. This motion to recommit takes that concept one step further. It provides that disabled American veterans are to be accorded an even higher preference in acquiring homes under this legislation.

Mr. Speaker, every Member in this body is aware tragically that American soldiers are returning with horrific wounds. Like many of you, I have been to Landstuhl Hospital in Germany and visited our fighting men and women. I have been to Walter Reed Army Hospital and visited them. It is wonderful that we can save their lives, but this motion to recommit recognizes and rewards their sacrifices. It provides that disabled veterans, seeking to purchase a home made available under this legislation, must be given first preference.

Mr. Speaker, these are commonsense changes to this bill that will improve it, and I urge my colleagues to adopt them by passing this motion to recommit.

I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I rise to speak in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I hope we are here seriously to legislate. The effect of adopting this will be to make it much less likely that veterans will get the preference. Now I understand the frustration of Members on the other side. The gentleman from Michigan (Mr. MCCOTTER) offered an amendment yesterday, notwithstanding any other preferences, first priority to veterans, members of the Armed Forces on active duty, members of the National Guard or Armed Forces reserves, school teachers and emergency responders. That is now in the bill. That is part of the bill.

The gentleman phrased his motion as ''promptly.'' Now we have already seen the kind of delay tactics that the minority has been prone to use. Send this back to committee, and you are very unlikely to get it back on the floor in a way in which we can pass it. So last night we adopted preference for veterans. Today, in the guise of redoing what we have already done, a motion is offered that will keep veterans from benefiting from that preference because the bill won't go anywhere.

The gentleman was honest. He began by saying he doesn't like this bill. And since a head-on assault will not pass—no, I will not yield. I will explain why I won't yield. I won't yield because I have consistently, when I was chairing the committee, been open to amendments. I have yielded. But when at the last minute with zero notice something is drafted with no chance to discuss it, and they use their full 5 minutes, of course I won't give up the small amount of time we have. It is already inadequate to discuss this.

So this will prevent the veterans from getting the preferences they already have. You have seen what can happen with these delays. We have preference for veterans in this bill.

Now let me say procedurally, if this had said ''forthwith,'' I would have been less concerned about it. But there is also this: during the markup of this bill, we accepted nine Republican amendments. Yesterday we accepted several Republican amendments. If I was seriously interested in helping the people who are to be the beneficiaries,

I would have offered an amendment at the Rules Committee, and we would have accepted it. I would not have waited to say ''promptly'' so that I would have used the disabled veterans as a way to kill the bill.

Similarly, with regard to mortgage fraud—and by the way, this is through the cities. If you think that the cities are going to give out money to rapists, worry about it.

I would be prepared, if this would have been put forward in an orderly way so we could vet it and not have unintended consequences as we did with the last recommit on a bill from our committee, we could have accepted it.

As we go forward, and let me say further in conference with the Senate, yes, I think we ought to make it explicit that people with mortgage fraud don't get it, as well as certain kinds of sex offenders. Yes, I think we can do these things, and we will do them going forward.

But to take it now with a ''promptly,'' designed to kill the bill, and it will in fact undo, take back the veterans' preferences we gave yesterday, and to use disabled veterans and to use concern for the law as a cover to kill a bill for which the votes do not exist to kill it is the wrong way to go.

We have amended this bill. Nine amendments were accepted in committee. None of these were offered. Had they been, they would have substantially been accepted, and they can be accepted going forward. But you have seen, my colleagues, what has gone on here. Send this back to committee, we have to go back to committee. We have rules to deal with. You have a crowded agenda in the committee. You will not see this bill again probably for weeks, and we will again have these tactics.

The gentleman from Georgia is going to raise the point that it can come out the next day. It cannot. The rules of the House do not allow it. And anyone who thinks you are going to get unanimous consent from this group to waive four and five rules is not paying attention. After we just had two votes on an appeal of a ruling, a frivolous appeal, and we get an appeal of the appeal because people didn't like the wording on the board, you tell me if you think we are going to get serious legislative efforts.

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So, yeah, I want veterans preferences in the bill. Going forward, we can address this. But Members who are worried about some kind of ad long before your election, the sensible parts of this will be embodied in the bill. You will have a chance to vote to protect against mortgage fraud, et cetera. But vote for this today.

And as the gentleman from Arizona made clear, he doesn't like the bill. And I understand the problem the President has. The administration can't decide whether it wants to sign or veto. There are internal debates, so it falls to our Republican colleagues to save this President from having to make the decision.

I urge my colleagues not to fall for that partisan ploy. Vote down this effort to delay, and perhaps delay indefinitely this bill. We will, going forward, take the good parts of it and incorporate it. Had they been substantially offered seriously before, they would have been adopted.

Please, let's not fall for a partisan ploy and kill a good bill.

Mr. VAN HOLLEN. Speaker, I rise in support of the second amendment to the American Housing Rescue and Foreclosure Prevention Act of 2008.

Today, one quarter of subprime adjustable-rate mortgages are delinquent by 90 days or more. As a consequence, during 2007, foreclosure proceedings were initiated on about 1.5 million U.S. homes. The Federal Reserve has projected that the rate of foreclosures will grow even higher in 2008.

We know that many of these foreclosures are unavoidable. There are cases where investors choose foreclosure because a property's value has depreciated significantly, or a borrower's personal circumstances have changed. And, many times, as has recently become alarmingly prevalent, a borrower was put into a loan inappropriate for their circumstances. But, if a foreclosure is preventable, and the borrower wants to stay in the home, the economic argument for trying to avolid foreclosure is strong.

Foreclosures impose high legal and administrative costs. Foreclosures can destabilize communities, reduce area property values and lower municipal tax revenues. And, at the national level, foreclosures add to the stock of homes for sale, increasing downward pressure on home prices, which affects the broader economy.

In the past, mortgage defaults were usually triggered by a borrower's life event, such as the loss of a job, serious illness or injury, or divorce. But the widespread decline in home prices we are witnessing today is a relatively new phenomenon and lenders, servicers and policymakers will have to develop new strategies to meet this new challenge.

To be effective, our approach must closely target the borrowers at the highest risk of foreclosure while avoiding programs that give borrowers, who can make their payments, an incentive to default.

Th American Housing Rescue and Foreclosure Prevention Act will address these problems. The bill's second amendment contains several housing-related tax provisions recently reported by the Ways and Means Committee as part of the Housing Assistance Tax Act.

The amendment creates a refundable tax credit of up to $7,500 for first-time homebuyers that would serve as an interest-free loan, and provides an additional standard deduction in 2008 of up to $350 for individuals and $700 for couples for state and local property taxes. It authorizes an additional $10 billion in taxexempt bonds that would be used to refinance subprime loans, finance the construction of low-income rental housing, and support loans to first-time homebuyers.

To assist our men and women in uniform, many of whom have put themselves in harms way in service to their country, the amendment adds provisions from a measure approved by the Veterans Affairs Committee that extends to one year, from 90 days, the period following active duty service during which service members are protected from foreclosures.

This amendment will fully offset the cost of its tax provisions in two ways. First, by raising $8 billion through FY 2018 by requiring brokers to report their customer's basis in securities transactions, and second, by raising $3.2 billion through FY 2018 by delaying, until 2010, new rules allocating interest expenses between foreign and domestic sources.

Madam Speaker, I am proud to stand today in support of the second amendment to The American Housing Rescue and Foreclosure Prevention Act of 2008 and I urge my colleagues to join me.

Mr. DINGELL. Mr. Speaker, this legislation represents a fair, common sense solution that will allow homeowners to stay in their homes and help stabilize the housing market. I would like to extend my gratitude to Chairman FRANK for his hard work on this legislation, which will be of critical importance in Michigan, where there are thousands of homeowners in danger of foreclosure. I am especially pleased that this bill includes legislation which I cosponsored that would provide up to $300 billion in new loan guarantees to help refinance at-risk borrowers into viable mortgages. In addition, this legislation includes important provisions that expand homeownership opportunities for veterans, seniors, and first-time homebuyers.

This legislation will help both homeowners and lenders, but this is no bailout. Lenders who participate will have to take a loss, but their losses under this program will be far less than if these properties go into foreclosure. Borrowers who realize a profit when they sell their home must return some of that profit to the government. The United States provided similar leadership during the New Deal using a program run by the Home Owners' Loan Corporation, HOLC. Much like the HOLC, this program stands to save millions of homes from foreclosure at a minimum cost to the taxpayers.

I would especially like to thank Chairman FRANK for his assistance in securing passage of a provision important to the residents of Parkview Apartments in Ypsilanti, Michigan. I have been working for four years now to try to facilitate the transfer of this property to Ypsilanti Housing Authority. Chairman FRANK and the staff of the Financial Services Committee have been instrumental in these efforts, which are designed to clarify Congressional intent regarding certain properties that entered the Department of Housing and Urban Development, HUD, property disposition process prior to the enactment of the Deficit Reduction Act, DRA, but where the initial proposed disposition was delayed.

While I believe that Parkview is already subject to the grandfathering provision of the DRA, this provision clarifies that such properties should be considered ''pre-DRA'' properties, and that HUD should proceed with its prior disposition contracts as to those properties. This provision is one of many that was included in legislation that passed the House last year, and is now being included in this bill as part of a comprehensive housing package. This legislation is of the utmost importance to the Congress, and it is my hope and expectation that it will soon be enacted into law.

Mr. DONNELLY. Mr. Speaker, I rise in strong support of H.R. 3221, The Foreclosure

Prevention Act of 2008 and the package on the floor today that will provide much-needed relief to homeowners at risk of foreclosure across the country.

The collapse of the mortgage market that has unraveled over the last year has not only impacted homebuyers who entered into non-traditional mortgage products that they now find they are unable to repay, but has also reverberated throughout the economy. We must act with necessary urgency and pass the package before us today.

My home State of Indiana has been significantly impacted by this foreclosure crisis, which is contributing to an ongoing economic downturn. Our State has lost 27,000 jobs in the manufacturing industry since 2000. Additionally, in 2007, 53,000 Indiana homes received foreclosure notices. This number is up 74 percent from the number of notices in 2005. That means that 53,000 families in my State+ may be forced to move out of their homes, pull their children out of school and find another place to live. Mr. Speaker, many of these people are not reckless speculators, but rather hard-working families struggling to make ends meet.

This package allows lenders, investors and homeowners to voluntarily sit down at a table and work out a plan to rescue mortgages that may be on the verge of foreclosure. It takes a responsible approach to provide rescue assistance to those who most need it without encouraging irresponsible behavior.

Mr. Speaker, I am also glad to see that this legislation includes a bill I introduced to raise loan limits on FHA Title I-insured manufactured home loans which have not been adjusted since 1992, allowing more people to enter into a mortgage that they can afford on a high-quality affordable home.

Also, this comprehensive package includes a number of tax incentives to help prospective and current homeowners. It provides a $7,500 tax credit to eligible families to put towards their downpayment on their first home. Existing homeowners who do not itemize their tax returns for 2008 would be eligible to deduct up to $700 for property tax relief at a time they need it most.

Mr. Speaker, I want to thank Chairman FRANK for his continued leadership in responding to the housing and economic crisis and I urge all my colleagues to pass the Housing Rescue Package today.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of H.R. 3221, American Housing Rescue and Foreclosure Prevention Act of 2008, and amendments to the bill. This bill is a critical step towards stabilizing our housing market, and providing assistance to thousands of Americans facing foreclosure.

There are grave problems facing our current housing market and economy. Decreasing home values and lack of available credit are damaging the market, and skyrocketing mortgages have led thousands of families to face the frightening prospect of foreclosure. In my state of North Carolina alone, PEW Charity Trusts and the Center for Responsible Lending estimate there will be 53,254 foreclosures in 2008 and 2009. Not only does foreclosure strike at the heart of these families' financial stability, but unfortunately the damage spreads across all of our communities. The same study shows that over 330,000 homes in North Carolina will be devalued by the spillover impact of the foreclosures, and North Carolina stands to lose over $860 million in property values.

However, H.R. 3221 is a comprehensive package that can provide relief to these families and our communities in a variety of ways. Provisions in this bill reform and modernize the Federal Housing Administration (FHA) as well as government sponsored entities Fannie Mae and Freddie Mac. These programs allow for stability in the housing market and by strengthening their loan limits and regulations, they can serve as a safer alternative to the riskier subprime loans we have recently seen. The American Housing Rescue and Foreclosure Prevention Act of 2008 also includes a tax benefit for first-time homebuyers as well as an additional credit on property taxes for existing homeowners who claim the standard deduction. These measures will help revive the housing market and get our sluggish economy moving in the right direction.

This bill also creates a voluntary FHA initiative that provides mortgage refinancing assistance to allow families to stay in their homes while also strengthening the housing market. This voluntary plan would require lenders to write-down some of the existing mortgage in order to qualify for FHA backing, and would require borrowers to return portions of any future profits on the house to the government in order to prevent foreclosure. It is important to note that under H.R. 3221, only owner-occupied homes facing foreclosure can qualify for this mortgage assistance, and speculators, investors, and second-homeowners are not eligible. This provision represents a compromise by all participating parties and can keep people in their homes and improve surrounding communities.

I support the passage of H.R. 3221, American Housing Rescue and Foreclosure Prevention Act of 2008, and I urge my colleagues to join me.

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of this legislation.

In most circumstances, I consider it counterproductive and not in the best interest of the American people for the Federal Government to intervene in the free market process. However, in certain exceptional times, I believe it is the duty of the Federal Government to act for the greater good of our Nation. And I think we are experiencing such an exceptional moment in American history.

The provisions of this legislative package will help stabilize the downward trend in the housing industry and overall economy, and prevent that trend from spiraling out of control.

The danger is real. Just last month, the Pew Charitable Trusts released a study that forecast one in 25 homeowners in my home state of Colorado will be in foreclosure within the next two years if Congress does not act now to curb this impending disaster. The national forecast of homeowners in foreclosure within the next two years—one in 33—is only slightly less discouraging. If we stand by and do nothing, as some have suggested, the damage to the overall American economy could be devastating.

First and foremost, this bill will help American families at risk of foreclosure to stay in their homes by allowing the Federal Housing Administration (FHA) to guarantee qualified refinanced loans. To do so, however, homeowners and their lenders must agree to sacrifice. Lenders could recover no more than 85 percent of a property's current value, but could avoid the potentially greater losses associated with unloading a foreclosed property. Meanwhile, participating homeowners could remain in their home, but must repay the Federal Government a percentage of the value of the home if they sell or refinance again.

The bill provides much needed measures to modernize the FHA, allowing expanded opportunities for families to secure affordable loans without having to turn to subprime lenders. The legislation also increases the Veterans Administration home loan guarantee limit, allowing our veterans to receive the dignified homeownership opportunities they deserve for honoring us with their service; reforms Government Sponsored Enterprises through strengthened regulation, while raising GSE loan limits for homes in high-cost areas; and encourages mortgage servicers to readjust at-risk mortgages by removing the threat of lawsuit.

This legislation would help remove some of the excess housing inventory by offering a refundable tax credit for first-time homebuyers. It would also provide additional mortgage revenue bonds for states to refinance subprime loans, and help prevent soldiers from being unfairly penalized for their service by providing more time to get their finances in order when they return from service before a lender could start foreclosure.

A final important piece of this legislation would simply protect the right of States and cities to regulate their own foreclosure process. Some have argued that national banks and financial institutions should be exempt from these rules. I, however, believe it is the right of States and cities to have their own requirements and enforce their own rules throughout the foreclosure process.

Mr. Speaker, I was very disappointed to learn of the Bush Administration's threat to veto this legislation, because I believe that it is important for us to act now to provide relief to America's stressed homeowners. It is my understanding that Federal Reserve Chairman Bernanke and Treasury Secretary Paulson, as well as other Administration officials, had worked with Chairman FRANK to shape provisions of this legislation, so this change of heart is doubly regrettable. I hope that the President will change his mind and sign this needed legislation when it reaches his desk.

This legislation has been carefully crafted to safeguard against fraud, corporate giveaways and speculator abuse. And as concerned as I was that the Federal Reserve had to devote $29 billion to prevent the collapse of investment bank Bear Stearns, I am equally concerned about the Federal Government taking action to rescue the housing market. However, without the stability that the Fed provided the investment banking industry, experts tell us that the bottom may well have fallen out of our economy. And it appears the same is true for our housing market—without the stability this legislation will help provide, it may not have the chance to correct itself and, eventually, rebound. Main Street deserves the same attention as Wall Street.

For these reasons, Mr. Speaker, I urge my colleagues to join me in supporting all three components of this legislation.

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of the American Housing Rescue and Foreclosure Prevention Act, which will help cities and towns, but most importantly, individuals and families that have been adversely impacted by the foreclosure crisis.

In my home state of Rhode Island, this problem is particularly acute. Foreclosures have increased by 20 percent in the last few months, and it is our most vulnerable communities that have been disproportionately affected.

Last weekend I teamed with Rhode Island Housing—a nonprofit organization dedicated to keeping housing affordable—to hold a workshop for those facing foreclosure. While we helped many local families, it is time for the Federal Government to do its part on a national scale.

I commend Chairman FRANK and Chairman RANGEL for their leadership in bringing this critical measure to the floor. I urge my colleagues to support this bill.

Mr. CARSON of Indiana. Mr. Speaker, I rise today in strong support of H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act of 2008. This package is a comprehensive response to the current housing crisis that has left many honest, hard-working Americans in financial distress.

H.R. 3221 is especially important to Hoosiers who have struggled as our state consistently ranks among the top ten for foreclosures nationally. The district I represent, which includes most of the City of Indianapolis, currently has around 17,000 foreclosed properties and around 7,200 in the preforeclosure phase. My constituents need the assistance available in this bill urgently.

This package includes key legislation such as Government Sponsored Enterprise reform, Federal Housing Administration modernization, the Housing Assistance Tax Act and H.R. 5830, a critical bill reported out of the Financial Services Committee last week that will help borrowers at risk of foreclosure refinance into more stable loans. These bills will not only help borrowers now, but strengthen the mortgage lending market moving forward.

In order to ensure borrowers would be aware of the important FHA refinancing opportunity under Chairman FRANK's bill, H.R. 5830, I introduced an amendment in the Financial Services Committee which stated that no less than 2 percent of funds available for counseling in the bill would be targeted towards notification to individuals who are eligible to refinance their mortgage under the bill's provisions.

Further, we know that African American mortgage consumers were 3.7 times more likely than white borrowers to receive subprime loans and Latinos were 2.3 times more likely. In order to help those disproportionately affected by these high-cost loans, my amendment further instructed the Secretary to give preference to organizations that have a proven track record for outreach within minority communities in allocating these notification resources. I am pleased the amendment received bipartisan support and was incorporated into this crucial piece of legislation.

I believe H.R. 3221 is the right approach to this complex housing crisis. I thank Chairman FRANK and Chairman RANGEL for their hard and thoughtful work on this bill and I look forward to seeing this legislation move forward.

Mr. BACA. Mr. Speaker, I rise to support this bipartisan housing stimulus package.

The foreclosure crisis is hurting communities all across the Nation, and my district has been especially impacted: 4,523 families in my district have already lost their homes this year. Over 11,000 families in San Bernardino County are currently in default. And the San Bernardino-Riverside area in the Inland Empire, ranked #2 nationwide in foreclosure filings this year.

Everyone pays when there are foreclosures! Crime increases, home values decline, schools are affected, and cities run deficits which impacts revenues for local police, fire, and social services.

H.R. 5818, the Neighborhood Stabilization Act which passed today, will help stabilize communities harmed by empty homes closed by foreclosure. It will provide loans and grants to States to buy and rehabilitate these properties and restore home values in neighborhoods.

The broader housing package is also important for many reasons: FHA Stabilization will allow lenders to refinance mortgages with FHA-insured loans to keep families in their homes. FHA Modernization increases FHA loan limits permanently to help high cost housing areas like the Inland Empire. The $7,500 Tax Credit for Homebuyers will help first-time homebuyers purchasing their first home. Low-income Housing Credit Reform modernizes the credit to increase affordable housing in underserved neighborhoods. The increase in Mortgage Revenue Bonds will allow states to issue more bonds for housing and use the proceeds to refinance subprime mortgages.

Finally, my amendment to the financial services committee bill, H.R. 5830, will promote in-person housing counseling to reach homeowners in default. This is more effective than sending a letter in the mail and will help prevent many foreclosures.

I urge my colleagues to support this housing stimulus package. This is the right thing to do and will keep people in their homes.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of this legislation to help homeowners and families affected by the housing crisis.

This past year has been one of the most difficult ever for middle class and low-income homeowners because of the collapse of the credit markets, the weak economy, and high energy prices. It is clear to all that what began as a housing crisis has become a crisis for the entire economy and the entire country.

The housing crisis put a strain on our banking system, and that has sent shock waves throughout the credit markets, for cars, for student loans, and for all consumers. American families in all walks of life are feeling the economic strain.

Millions of families across the Nation have lost or are at risk of losing their homes. Foreclosures in my congressional district, Solano County and Contra Costa County, are among the highest in the country. People are looking to Congress for help.

It is critical that we stabilize the housing market and reduce the number of homes going into foreclosure.

The bill we are considering today is urgently needed. It is designed to responsibly rescue those who are facing foreclosure. It responds directly to the current crisis, but it also establishes a system to try to prevent a similar crisis in the future.

This bill will provide mortgage refinancing assistance to keep families from losing their homes, protect neighboring home values, and help stabilize the housing market. The federal government will step in to insure $300 billion in new mortgages.

This legislation will allow FHA to insure more affordable fixed rate loans for borrowers who are facing financial troubles. It will modernize the FHA and reform the GSEs while providing crucial liquidity to our mortgage markets now, and will also strengthen regulation and oversight for the future.

The mortgage collapse has sent shockwaves through our entire economy and it is clear that stabilizing the housing market is a critical step in strengthening our economy.

I am appalled that President Bush refuses to help American homeowners despite being perfectly willing to rescue Bear Stearns just a few months ago. It is reckless for the White House to threaten to veto this housing package that will make it easier for those in trouble to keep their homes and will help stabilize our economy.

I urge the President to support this bill.

With this legislation, we can begin to repair the economy, restore confidence in the markets, limit the damage to families and neighborhoods, and help build new affordable housing. This bill is good for hard working American families. We owe it to them to get it done.

Mr. MCDERMOTT. Mr. Speaker, we're here today to take a stand on behalf of low-income and vulnerable Americans who have been left out, shut out, dropped out or forced out of any chance at decent, affordable housing because of the predatory economic policies of this Administration.

Under the leadership of Ways and Means Chairman CHARLES RANGEL, we have bipartisan legislation before us today that finally responds to the needs of the American people.

For too long, too many disadvantaged and vulnerable Americans have been forgotten, ignored or under-served when it came time to provide economic assistance.

For the first time in a long time we have legislation that recognizes and addresses the unique housing needs and circumstances of the working poor, and other vulnerable Americans.

We provide States and cities with incentives to ensure that low-income housing options remain available to those who need it most.

We increase the allocation of Federal low-income housing tax credits and expand the authority of States to issue tax-exempt bonds to help finance affordable housing.

Section 103 includes language to ensure that Federal assistance that helps vulnerable populations, like the elderly, the sick, and veterans, does not reduce the value of the Federal low-income housing tax credits used to finance affordable rental housing.

Section 104 allows for consideration of whether an affordable housing development employs technology and practices to improve its energy efficiency, when Federal low-income housing tax credits are allocated to affordable housing developments.

Section 104 also clarifies that students who were formerly in foster care are not precluded from renting affordable housing financed by Federal low-income housing tax credits.

This legislation touches the lives of real Americans who have been left behind or outright forgotten for too long.

I urge my colleagues to support the legislation.

If we fail to meet the needs of vulnerable Americans, then we will fail to live up to our responsibility of governing on behalf of all people.

Mrs. CAPPS. Mr. Speaker, I rise today in strong support of H.R. 5818, the Neighborhood Stabilization Act, and H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act.

These bills come at a critical time for America—and especially for my constituents on the Central and South Coasts of California. That is why I am extremely disappointed that the President has threatened to veto them both.

They include much-needed reforms of the Federal Housing Administration, Fannie Mae, and Freddie Mac, and usher these agencies into the 21st century.

But they also accomplish three tasks that are vital to the housing market and economy of the Central and South Coasts.

First, the American Housing Rescue and Foreclosure Prevention Act makes permanent the temporary loan limit increases contained in the Economic Stimulus Act of 2008.

Mr. Speaker, I cannot stress enough how vital this provision is for my district.

Median home prices in Ventura, Santa Barbara, and San Luis Obispo Counties are well above the national average, and our families are truly struggling to obtain affordable housing.

Second, this bill will stem foreclosures by creating a voluntary mortgage refinancing program that allows families to stay in their homes.

Under this program, the Federal Housing Administration has the authority to refinance up to $300 billion in imperiled mortgages.

With median home prices in Santa Barbara County alone declining almost 30 percent in the past year alone, it is undoubtedly in the best interests of lenders to participate in this program.

Lastly, the Neighborhood Stabilization Act establishes a loan and grant program for the purchase and rehabilitation of foreclosed homes.

Just this week one of my hometown newspapers, the Ventura County Star, reported on the negative impact that foreclosed homes have on communities.

Lower home values, increased crime, and safety hazards are just a few of the consequences that can result from foreclosure.

This bill prevents neighborhood decline by providing targeted assistance to state and local governments.

Mr. Speaker, American families need help, and that is exactly what is provided by the housing bills on the floor today.

I urge my colleagues to support these bills, and I urge the President to work together with Congress in addressing the needs of the hard-working families in America who want to keep their homes.

Mr. MARKEY. Mr. Speaker, I rise today in support of H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act of 2008.

This vital legislation comes at a time of record-breaking gas prices, double digit increases in food prices and a weakening economy. On top of all these struggles, Americans now face a crisis at home and in their communities in the form of rising property foreclosures. In some parts of the country, neighborhoods are littered with ''for sale'' signs, and many families are struggling to keep up with their mortgage payments. The legislation we are debating on this floor today will empower communities to respond to the current home mortgage crisis, prevent further lending abuses and increase federal oversight of the mortgage industry.

H.R. 3221 expands the Federal Housing Administration's role in preventing foreclosures by expanding refinancing loan guarantees for at-risk homeowners. Today, families are facing variable interest rates, hidden fees, early payment penalties, but with enactment of the Foreclosure Prevent Act, the government will be there to provide relief and counseling. It also increases oversight to ensure regulators have the tools to prevent the next crisis. It expands housing counseling and consumer protections. The bill also establishes an affordable housing trust fund to provide assistance for low income households. The bill even makes it harder to foreclose on the homes of our returning troops from Iraq and Afghanistan.

This bill also contains important language to my district and my hometown of Malden, Massachusetts. The tenants of the Heritage Apartments face an uncertain future, with an HUD affordability contract expiring soon. The tenants are facing possible displacement once an outstanding HUD mortgage is fully paid in a few years. The development is also in need of major renovations and upgrades that simply cannot be delayed. Unfortunately HUD is failing to ensure that the development remains affordable and livable by placing burdensome restrictions on prepayment of the outstanding mortgage and subsequent transfer to a new owner who is willing to finance the renovations.

Language in this bill would allow income-eligible residents to qualify for enhanced housing vouchers following the prepayment of the HUD mortgage and the property transfer and directs HUD to approve such actions. I want to thank the Chairman of the Financial Services Committee (Mr. FRANK) for his assistance in ensuring that this important provision is included in this housing bill.

Today, with this legislation, we are taking steps to revitalize our communities for a better tomorrow. I strongly urge this House to vote to approve this bill.

Mr. SKELTON. Mr. Speaker, over the past months, economic conditions in our country have soured. Particularly troublesome to our Nation's economic engine are skyrocketing home foreclosures and loan delinquency rates, which have risen over 85 percent in the past year.

Foreclosures and delinquencies are harmful to borrowers and lenders, but they also stifle economic growth, shake consumer confidence, and lower home values for those who live near foreclosed properties.

While borrowers in our country must certainly bear a great deal of responsibility when it comes to financial planning, the government can and must carefully examine the impact of soaring mortgage foreclosures on the whole U.S. economy and also thoroughly review regulatory oversight with respect to the mortgage business.

I have been pleased that the House has been active in addressing the mortgage crisis, voting last year to strengthen consumer protections against risky loans and to overhaul the Federal Housing Administration (FHA), Freddie Mac, and Fannie Mae, among other things. Under the leadership of Financial Services Committee Chairman BARNEY FRANK, the House is again poised to pass critical, market-driven housing legislation designed to reduce foreclosures, to help families avoid foreclosure in the future, and to alleviate the negative impacts of foreclosures on property values and the national economy.

I am pleased to support this legislation, which would create a new voluntary program within FHA that would offer lenders an alternative to foreclosure. This approach, which is driven by the lenders' desire to save costs associated with foreclosing on property, forces the lender, the borrower, and the government to all make sacrifices to ensure families have the ability to stay in their homes. While some have criticized this initiative as a government bailout of those who have made poor financial choices, in my view, it represents an innovative, market-driven way to shore up the housing market and the overall economy.

The measure would also create a $7,500 tax incentive for first time home buyers and other important tax incentives while simultaneously modernizing the FHA, Freddie Mac, and Fannie Mae and increasing the loan limit for FHA and Veterans' Administration loans.

I am hopeful that the Senate will act quickly on this well written bill and that it will be signed into law by the President.

Mr. HOLT. Mr. Speaker, I rise today in support of H.R. 3221, the Foreclosure Prevention Act.

At the end of last year, home foreclosure rates rose to the highest level in 20 years. Every day more than 7,000 people file for foreclosure, and it is predicted that predatory lending practices and sub prime mortgages will cause one in every thirty-three homeowners to foreclose on their mortgages in the next 2 years.

This is not an issue that is merely affecting those who have defaulted on their mortgages and their lenders; it is having a ripple effect throughout the economy. It has resulted in a nationwide decrease in housing prices of 12.4 percent, and 10 percent of Americans now owe more money on their mortgages than their homes are worth. It has caused a decrease in consumer confidence and corresponding decrease in consumer spending. It has contributed to a steep increase in job losses in housing related industries such as manufacturing, construction and related industries. These job losses combined with the loss of consumer confidence could reduce economic activity by over 150 billion dollars in 2008.

This is a crisis, and it is time, it is past time, that the Federal Government step in and help those that are suffering. H.R. 3221 would provide mortgage refinancing assistance to keep families in their homes, protect neighboring home values, and help stabilize the housing market. It would expand the Federal Housing Administration to help borrowers who are at risk of losing their homes to refinance into lower-cost government-insured mortgages that they can afford to repay. H.R. 3221 ensures that this will be done responsibly, by requiring lenders and mortgage investors to take significant losses in order to participate in this program and by requiring borrowers to share a portion of any resale of a refinanced home with the government.

H.R. 3221 also provides 11 billion dollars in tax incentives to help Americans purchase a first home or hold onto the ones that they already have. This includes tax credits to first-time homebuyers, an additional 10 billion dollars in mortgage revenue bonds for states,

and improves access to low-income housing. It also includes a provision that I wrote to allow homeowners who currently do not itemize their Federal tax returns to take an additional standard deduction for the state and local property taxes that they pay. The Temporary Tax Relief Act creates an additional standard deduction of $350 for single filers and $700 for joint filers for state and local real property taxes paid or accrued. This legislation will complement efforts that have already been implemented on the state and federal level to help address the housing crisis.

I am proud that several organizations in my home state of New Jersey have stepped in to provide services and assistance to New Jerseyans who are at risk of losing their homes. One of the shining examples of this is Legal Services of New Jersey. LSNJ created the Anti-Predatory Lending Project 5 years ago to provide legal services to borrowers victimized by predatory lenders. LSNJ's hard-working lawyers have helped almost 500 families who were facing foreclosure receive legal assistance. I would like to commend LSNJ for the work that they have done on behalf of the residents of my central New Jersey district and for all New Jerseyans who have been at risk of losing their homes.

H.R. 3221 and the companion bill that the House of Representatives will be considering, H.R. 5818, the Neighborhood Stabilization Act are a bold step towards addressing the mortgage crisis and the resulting economic downturn, and I urge my colleagues to support them.

Mr. KANJORSKI. Mr. Speaker, I rise in support of the amendments to H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act of 2008, which the House is considering today. This urgently needed legislation makes a number of surgical reforms to help address the problems we are currently facing in our Nation's housing markets.

In particular, I am pleased that one of the amendments that we will consider today contains H.R. 5579, the Emergency Mortgage Loan Modification Act of 2008. I have worked with the gentleman from Delaware (Mr. CASTLE) to refine his original proposal and introduce a new bill. We also held a productive hearing on H.R. 5579 before the House Financial Services Capital Markets Subcommittee and made a number of revisions to the bill before bringing it to the floor today.

During the hearings on H.R. 5579 and throughout its legislative development, I have been clear about the intended goals of this legislation: to provide servicers a safe harbor from investor lawsuits. Servicers, in turn, would have to meet prescribed duties and enter into a ''qualified loan modification'' or ''workout plan'' which the legislation defines. It is my firm belief that with such an arrangement in place, servicers will more readily assist troubled homeowners and will have more tools at their disposal to prevent defaults and foreclosures.

Moreover, I would like to be clear about what the bill does not intend. H.R. 5579 does not intend to create a statutory preference for loss mitigation activities generally, nor does it limit the ability of servicers to pursue the full scope of available options. In drafting this legislation we sought to create a bill that honors the terms of existing contracts while at the same time recognizing that foreclosure is not in the best interests of the investor or borrower.

In closing, Mr. Speaker, Americans have been hit hard both by the current housing crisis and by the broader credit crunch. We can delay action no longer. I therefore urge my colleagues to support H.R. 3221, and especially the incorporated language from H.R. 5579.

PARLIAMENTARY INQUIRIES

Mr. WESTMORELAND. Parliamentary inquiry.

The SPEAKER pro tempore (Mr. WEINER). State your parliamentary inquiry.

Mr. WESTMORELAND. Mr. Speaker, isn't it true that if this motion passed, that it would be referred back to the committee from whence it came, and that it could be reported back the next legislative day?

The SPEAKER pro tempore. As the Chair reaffirmed on November 15, 2007, at some subsequent time, the committee could meet and report the bill back to the House.

Mr. FRANK of Massachusetts. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. The committee and the House are constrained by a number of rules that cause substantial numbers of days to elapse. Does this motion, if it passes, in any way empower us to forget those rules of the House which require a certain number of days in committee, certain number of layovers, an announcement of a markup, a delay before the bill is reported, the Rules Committee, et cetera? Does this motion in any way reduce any of those timetables?

The SPEAKER pro tempore. As the Chair stated on November 15, 2007, an order of recommital does not necessarily waive any rules, but the Chair cannot render an advisory opinion on what points of order might lie.

Mr. WESTMORELAND. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia will state his parliamentary inquiry.

Mr. WESTMORELAND. Mr. Speaker, isn't it true if you have 218 votes you can do just about anything you want to in this House?

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHADEGG. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of the bill, and motion to suspend the rules on H.R. 4279.

The vote was taken by electronic device, and there were—ayes 210, noes 216, not voting 7, as follows:

[Roll No. 298]

AYES—210

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Carney
Carter
Castle
Cazayoux
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Patrick
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOES—216

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett

Doyle
Edwards
Ellison
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOT VOTING—7

Campbell (CA)
Cohen
Gutierrez
Jones (NC)
Loebsack
Richardson
Rush

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining to cast their votes.

□ 1206

Messrs. KINGSTON and PICKERING changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HENSARLING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 239, noes 188, not voting 6, as follows:

[Roll No. 299]

AYES—239

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Cazayoux
Chandler
Clarke
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Giffords
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOES—188

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gillibrand
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Price (GA)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Upton
Walberg
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Campbell (CA)
Cohen
Gutierrez
Loebsack
Richardson
Rush

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1216

Mr. KIRK changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIORITIZING RESOURCES AND ORGANIZATION FOR INTELLECTUAL PROPERTY ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 4279, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 4279, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HINOJOSA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 410, noes 11, not voting 12, as follows:

[Roll No. 300]

AYES—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hayes
Heller
Hensarling
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (FL)

NOES—11

Boucher
Doolittle
Duncan
Flake
Kucinich
Lofgren, Zoe
Moore (WI)
Paul
Poe
Westmoreland
Young (AK)

NOT VOTING—12

Bachus
Campbell (CA)
Capito
Cohen
Gilchrest
Gutierrez
Hastings (WA)
Herger
Loebsack
Lynch
Richardson
Rush

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded they have 2 minutes remaining on this vote.

□ 1222

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOLDEN). Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 1086, de novo;
H.R. 5690, de novo;
H.R. 1512, de novo;
H.R. 5512, de novo.

NATIONAL NURSES WEEK

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1086.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GENE GREEN) that the House suspend the rules and agree to the resolution, H. Res. 1086.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

AFRICAN NATIONAL CONGRESS EXEMPTION

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 5690, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 5690, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to remove the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, and for other purposes.''.

A motion to reconsider was laid on the table.

PROVIDING FOR COMPENSATION TO STATES INCARCERATING UNDOCUMENTED ALIENS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 1512.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) that the House suspend the rules and pass the bill, H.R. 1512.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COIN MODERNIZATION AND TAXPAYER SAVINGS ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 5512, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Illinois (Mr. GUTIERREZ) that the House suspend the rules and pass the bill, H.R. 5512, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to reduce the costs of producing 1-cent and 5-cent coins, provide authority to the Secretary of the Treasury to perform research and development on new metallic content for circulating coins, and to require biennial reports to Congress on circulating coin production costs and possible alternative metallic content.''.

A motion to reconsider was laid on the table.

FORECLOSURE PREVENTION ACT OF 2008

Mr. FRANK of Massachusetts. Mr. Speaker, pursuant to House Resolution 1175, I call up the bill (H.R. 3221) moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, with the Senate amendments thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendments.

The text of the Senate amendments is as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Foreclosure Prevention Act of 2008''.

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

Sec. 1. Short title; table of contents.

TITLE I—FHA MODERNIZATION ACT OF 2008

Sec. 101. Short title.

Subtitle A—Building American Homeownership

Sec. 111. Short title.
Sec. 112. Maximum principal loan obligation.
Sec. 113. Cash investment requirement and prohibition of seller-funded down-payment assistance.
Sec. 114. Mortgage insurance premiums.
Sec. 115. Rehabilitation loans.
Sec. 116. Discretionary action.
Sec. 117. Insurance of condominiums.
Sec. 118. Mutual Mortgage Insurance Fund.
Sec. 119. Hawaiian home lands and Indian reservations.
Sec. 120. Conforming and technical amendments.
Sec. 121. Insurance of mortgages.
Sec. 122. Home equity conversion mortgages.
Sec. 123. Energy efficient mortgages program.
Sec. 124. Pilot program for automated process for borrowers without sufficient credit history.
Sec. 125. Homeownership preservation.
Sec. 126. Use of FHA savings for improvements in FHA technologies, procedures, processes, program performance, staffing, and salaries.
Sec. 127. Post-purchase housing counseling eligibility improvements.
Sec. 128. Pre-purchase homeownership counseling demonstration.
Sec. 129. Fraud prevention.
Sec. 130. Limitation on mortgage insurance premium increases.
Sec. 131. Savings provision.
Sec. 132. Implementation.
Sec. 133. Moratorium on implementation of risk-based premiums.

Subtitle B—Manufactured Housing Loan Modernization

Sec. 141. Short title.
Sec. 142. Purposes.
Sec. 143. Exception to limitation on financial institution portfolio.
Sec. 144. Insurance benefits.
Sec. 145. Maximum loan limits.
Sec. 146. Insurance premiums.
Sec. 147. Technical corrections.
Sec. 148. Revision of underwriting criteria.
Sec. 149. Prohibition against kickbacks and unearned fees.
Sec. 150. Leasehold requirements.

TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

Sec. 201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.
Sec. 202. Counseling on mortgage foreclosures for members of the Armed Forces returning from service abroad.
Sec. 203. Enhancement of protections for servicemembers relating to mortgages and mortgage foreclosures.

TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

Sec. 301. Emergency assistance for the redevelopment of abandoned and foreclosed homes.
Sec. 302. Nationwide distribution of resources.
Sec. 303. Limitation on use of funds with respect to eminent domain.
Sec. 304. Limitation on distribution of funds.
Sec. 305. Counseling intermediaries.

TITLE IV—HOUSING COUNSELING RESOURCES

Sec. 401. Housing counseling resources.
Sec. 402. Credit counseling.

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

Sec. 501. Short title.
Sec. 502. Enhanced mortgage loan disclosures.
Sec. 503. Community Development Investment Authority for depository institutions.
Sec. 504. Federal Home loan bank refinancing authority for certain residential mortgage loans.

TITLE VI—TAX-RELATED PROVISIONS

Sec. 601. Election for 4-year carryback of certain net operating losses and temporary suspension of 90 percent AMT limit.
Sec. 602. Modifications on use of qualified mortgage bonds; temporary increased volume cap for certain housing bonds.
Sec. 603. Credit for certain home purchases.
Sec. 604. Additional standard deduction for real property taxes for nonitemizers.
Sec. 605. Election to accelerate AMT and R and D credits in lieu of bonus depreciation.
Sec. 606. 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.
Sec. 607. Waiver of deadline on construction of GO Zone property eligible for bonus depreciation.
Sec. 608. Temporary tax relief for Kiowa County, Kansas and surrounding area.

TITLE VII—EMERGENCY DESIGNATION

Sec. 701. Emergency designation.

TITLE VIII—REIT INVESTMENT DIVERSIFICATION AND EMPOWERMENT

Sec. 801. Short title; amendment of 1986 Code.

Subtitle A—Taxable REIT Subsidiaries

Sec. 811. Conforming taxable REIT subsidiary asset test.

Subtitle B—Dealer Sales

Sec. 821. Holding period under safe harbor.
Sec. 822. Determining value of sales under safe harbor.

Subtitle C—Health Care REITs

Sec. 831. Conformity for health care facilities.

Subtitle D—Effective Dates and Sunset

Sec. 841. Effective dates and sunset.

TITLE IX—VETERANS HOUSING MATTERS

Sec. 901. Home improvements and structural alterations for totally disabled members of the Armed Forces before discharge or release from the Armed Forces.
Sec. 902. 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.
Sec. 903. Specially adapted housing assistance for individuals with severe burn injuries.
Sec. 904. Extension of assistance for individuals residing temporarily in housing owned by a family member.
Sec. 905. Increase in specially adapted housing benefits for disabled veterans.
Sec. 906. Report on specially adapted housing for disabled individuals.
Sec. 907. Report on specially adapted housing assistance for individuals who reside in housing owned by a family member on permanent basis.
Sec. 908. Definition of annual income for purposes of section 8 and other public housing programs.
Sec. 909. Payment of transportation of baggage and household effects for members of the Armed Forces who relocate due to foreclosure of leased housing.

TITLE X—CLEAN ENERGY TAX STIMULUS

Sec. 1001. Short title; etc.

Subtitle A—Extension of Clean Energy Production Incentives

Sec. 1011. Extension and modification of renewable energy production tax credit.
Sec. 1012. Extension and modification of solar energy and fuel cell investment tax credit.
Sec. 1013. Extension and modification of residential energy efficient property credit.
Sec. 1014. Extension and modification of credit for clean renewable energy bonds.
Sec. 1015. Extension of special rule to implement FERC restructuring policy.

Subtitle B—Extension of Incentives to Improve Energy Efficiency

Sec. 1021. Extension and modification of credit for energy efficiency improvements to existing homes.
Sec. 1022. Extension and modification of tax credit for energy efficient new homes.
Sec. 1023. Extension and modification of energy efficient commercial buildings deduction.
Sec. 1024. Modification and extension of energy efficient appliance credit for appliances produced after 2007.

TITLE XI—SENSE OF THE SENATE

Sec. 1101. Sense of the Senate.

TITLE I—FHA MODERNIZATION ACT OF 2008

SEC. 101. SHORT TITLE.

This title may be cited as the ''FHA Modernization Act of 2008''.

Subtitle A—Building American Homeownership

SEC. 111. SHORT TITLE.

This subtitle may be cited as the ''Building American Homeownership Act of 2008''.

SEC. 112. 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 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 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation in effect for 2007 under such section for a 1-family residence; or

''(ii) 132 percent of the dollar amount limitation in effect for 2007 under such section 305(a)(2) for a residence of the applicable size (without regard to any authority to increase such limitations with respect to properties located in Alaska, Guam, Hawaii, or the Virgin Islands), except that each such maximum dollar amount shall be adjusted effective January 1 of each year beginning with 2009, by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recently completed 12-month or 4-quarter period ending before the time of determining such annual adjustment, in an housing price index developed or selected by the Secretary for purposes of adjustments under this clause;

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 in effect for 2007 under such section 305(a)(2) for a residence of the applicable size, as such limitation is adjusted by any subsequent percentage adjustments determined under clause (ii) of this subparagraph; 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. 113. CASH INVESTMENT REQUIREMENT AND PROHIBITION OF SELLER-FUNDED DOWNPAYMENT 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. 114. 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. 115. 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. 116. 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. 117. 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. 118. 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. 119. 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. 120. 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. 121. 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. 122. HOME EQUITY CONVERSION MORTGAGES.

(a) IN GENERAL.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20) is amended—

(1) in subsection (b)(2), insert ''''real estate,''' after ''''mortgagor','';

(2) by amending subsection (d)(1) to read as follows:

''(1) have been originated by a mortgagee approved by the Secretary;'';

(3) by amending subsection (d)(2)(B) to read as follows:

''(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

''(i) originating or servicing the mortgage;

''(ii) funding the loan underlying the mortgage; or

''(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;'';

(4) in subsection (f)—

(A) by striking ''(f) INFORMATION SERVICES FOR MORTGAGORS.—'' and inserting ''(f) COUNSELING SERVICES AND INFORMATION FOR MORTGAGORS.—''; and

(B) by amending the matter preceding paragraph (1) to read as follows: ''The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Reverse Mortgage Proceeds Protection Act. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—''

(5) in subsection (g), by striking ''established under section 203(b)(2)'' and all that follows through ''located'' and inserting ''limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence'';

(6) in subsection (i)(1)(C), by striking ''limitations'' and inserting ''limitation'';

(7) by striking subsection (l);

(8) by redesignating subsection (m) as subsection (l);

(9) by amending subsection (l), as so redesignated, to read as follows:

''(l) FUNDING FOR COUNSELING.—The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.''; and

(10) by adding at the end the following new subsection:

''(m) AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

''(2) LIMITATION ON PRINCIPAL OBLIGATION.—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

''(n) REQUIREMENTS ON MORTGAGE ORIGINATORS.—

''(1) IN GENERAL.—The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

''(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

''(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

''(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

''(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

''(2) APPROVAL OF OTHER PARTIES.—All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

''(o) PROHIBITION AGAINST REQUIREMENTS TO PURCHASE ADDITIONAL PRODUCTS.—The mortgagee or any other party shall not be required by the mortgagor or any other party to purchase an insurance, annuity, or other additional product as a requirement or condition of eligibility for a mortgage authorized under subsection (c).

''(p) 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. 123. 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. 124. 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. 125. 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. 126. 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. 127. 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. 128. 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. 129. 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. 130. 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. 131. 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. 132. 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. 133. MORATORIUM ON IMPLEMENTATION OF RISK-BASED PREMIUMS.

For the 12-month period beginning on the date of enactment of this title, 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 the insurance contract represents, as such planned implementation was set forth in the Notice published in the Federal Register on September 20, 2007 (Vol. 72, No. 182, Page 53872).

Subtitle B—Manufactured Housing Loan Modernization

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''FHA Manufactured Housing Loan Modernization Act of 2008''.

SEC. 142. 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. 143. 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. 144. 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. 145. 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. 146. 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. 147. 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. 148. 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. 149. 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. 150. 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. 201. 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. 202. 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. 203. 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 the 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. 301. 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; and

(D) demolish blighted structures.

(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. 302. 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 301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

SEC. 303. LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.

No State or unit of general local government may use any amounts received pursuant to section 301 to fund any 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. 304. 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. 305. COUNSELING INTERMEDIARIES.

Notwithstanding any other provision of this Act, the amount appropriated under section

301(a) of this Act shall be $3,920,000,000 and the amount appropriated under section 401 of this Act shall be $180,000,000: Provided, That of amounts appropriated under such section 401 $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. 401. 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. 402. 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. 501. SHORT TITLE.

This title may be cited as the ''Mortgage Disclosure Improvement Act of 2008''.

SEC. 502. ENHANCED MORTGAGE LOAN DISCLOSURES.

(a) TRUTH IN LENDING ACT DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

(1) by inserting ''(A)'' before ''In the'';

(2) by striking ''a residential mortgage transaction, as defined in section 103(w)'' and inserting ''any extension of credit that is secured by the dwelling of a consumer'';

(3) by striking ''before the credit is extended, or'';

(4) by inserting '', which shall be at least 7 business days before consummation of the transaction'' after ''written application'';

(5) by striking '', whichever is earlier''; and

(6) by striking ''If the'' and all that follows through the end of the paragraph and inserting the following:

''(B) In the case of an extension of credit that is secured by the dwelling of a consumer, the disclosures provided under subparagraph (A), shall be in addition to the other disclosures required by subsection (a), and shall—

''(i) state in conspicuous type size and format, the following: 'You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'; and

''(ii) be provided in the form of final disclosures at the time of consummation of the transaction, in the form and manner prescribed by this section.

''(C) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this subsection shall do the following:

''(i) Label the payment schedule as follows: 'Payment Schedule: Payments Will Vary Based on Interest Rate Changes'.

''(ii) State in conspicuous type size and format examples of adjustments to the regular required payment on the extension of credit based on the change in the interest rates specified by the contract for such extension of credit. Among the examples required to be provided under this clause is an example that reflects the maximum payment amount of the regular required payments on the extension of credit, based on the maximum interest rate allowed under the contract, in accordance with the rules of the Board. Prior to issuing any rules pursuant to this clause, the Board shall conduct consumer testing to determine the appropriate format for providing the disclosures required under this subparagraph to consumers so that such disclosures can be easily understood.

''(D) In any case in which the disclosure statement under subparagraph (A) contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.

''(E) The consumer shall receive the disclosures required under this paragraph before paying any fee to the creditor or other person in connection with the consumer's application for an extension of credit that is secured by the dwelling of a consumer. If the disclosures are mailed to the consumer, the consumer is considered to have received them 3 business days after they are mailed. A creditor or other person may impose a fee for obtaining the consumer's credit report before the consumer has received the disclosures under this paragraph, provided the fee is bona fide and reasonable in amount.

''(F) WAIVER OF TIMELINESS OF DISCLOSURES.—To expedite consummation of a transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may waive or modify the timing requirements for disclosures under subparagraph (A), provided that—

''(i) the term 'bona fide personal emergency' may be further defined in regulations issued by the Board;

''(ii) the consumer provides to the creditor a dated, written statement describing the emergency and specifically waiving or modifying those timing requirements, which statement shall bear the signature of all consumers entitled to receive the disclosures required by this paragraph; and

''(iii) the creditor provides to the consumers at or before the time of such waiver or modification, the final disclosures required by paragraph (1).

''(G) The requirements of subparagraphs (B), (C), (D) and (E) shall not apply to extensions of credit relating to plans described in section 101(53D) of title 11, United States Code.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking ''not less than $200 or greater than $2,000'' and inserting ''not less than $400 or greater than $4,000''; and

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

(A) by inserting ''or section 128(b)(2)(C)(ii),'' after ''128(a),''; and

(B) by inserting ''or section 128(b)(2)(C)(ii)'' before the period.

(c) EFFECTIVE DATES.—

(1) GENERAL DISCLOSURES.—Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective 12 months after the date of enactment of this Act.

(2) VARIABLE INTEREST RATES.—Subparagraph (C) of section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by subsection (a) of this section, shall become effective on the earlier of—

(A) the compliance date established by the Board for such purpose, by regulation; or

(B) 30 months after the date of enactment of this Act.

SEC. 503. COMMUNITY DEVELOPMENT INVESTMENT AUTHORITY FOR DEPOSITORY INSTITUTIONS.

(a) DEPOSITORY INSTITUTION COMMUNITY DEVELOPMENT INVESTMENTS.—

(1) NATIONAL BANKS.—The first sentence of the paragraph designated as the ''Eleventh'' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) (as amended by section 305(a) of the Financial Services Regulatory Relief Act of 2006) is amended by striking ''promotes the public welfare by benefitting primarily'' and inserting ''is designed primarily to promote the public welfare, including the welfare of''.

(2) STATE MEMBER BANKS.—The first sentence of the 23rd paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended by striking ''promotes the public welfare by benefitting primarily'' and inserting ''is designed primarily to promote the public welfare, including the welfare of''.

SEC. 504. 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 VI—TAX-RELATED PROVISIONS

SEC. 601. ELECTION FOR 4-YEAR CARRYBACK OF CERTAIN NET OPERATING LOSSES AND TEMPORARY SUSPENSION OF 90 PERCENT AMT LIMIT.

(a) IN GENERAL.—

(1) 4-YEAR CARRYBACK OF CERTAIN LOSSES.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended to read as follows:

''(H) ADDITIONAL CARRYBACK OF CERTAIN LOSSES.—

''(i) TAXABLE YEARS ENDING DURING 2001 AND 2002.—In the case of a net operating loss for any

taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply.

''(ii) TAXABLE YEARS ENDING DURING 2008 AND 2009.—In the case of a net operating loss with respect to any eligible taxpayer (within the meaning of section 168(k)(4)) for any taxable year ending during 2008 or 2009—

''(I) subparagraph (A)(i) shall be applied by substituting '4' for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting '3' for '2', and

''(III) subparagraph (F) shall not apply.''.

(2) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—

(A) IN GENERAL.—Section 56(d) of the Internal Revenue Code of 1986 (relating to definition of alternative tax net operating loss deduction) is amended by adding at the end the following new paragraph:

''(3) ADDITIONAL ADJUSTMENTS.—For purposes of paragraph (1)(A), in the case of an eligible taxpayer (within the meaning of section 168(k)(4)), the amount described in subclause (I) of paragraph (1)(A)(ii) shall be increased by the amount of the net operating loss deduction allowable for the taxable year under section 172 attributable to the sum of—

''(A) carrybacks of net operating losses from taxable years ending during 2008 and 2009, and

''(B) carryovers of net operating losses to taxable years ending during 2008 or 2009.''.

(B) CONFORMING AMENDMENT.—Subclause (I) of section 56(d)(1)(A)(i) of such Code is amended by inserting ''amount of such'' before ''deduction described in clause (ii)(I)''.

(3) EFFECTIVE DATES.—

(A) NET OPERATING LOSSES.—The amendments made by paragraph (1) shall apply to net operating losses arising in taxable years ending in 2008 or 2009.

(B) SUSPENSION OF AMT LIMITATION.—The amendments made by paragraph (2) shall apply to taxable years ending after December 31, 1997.

(4) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this subsection, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(b) ELECTION AMONG STIMULUS INCENTIVES.—

(1) IN GENERAL.—

(A) BONUS DEPRECIATION.—Section 168(k) of the Internal Revenue Code of 1986 (relating to special allowance for certain property acquired after December 31, 2007, and before January 1, 2009), as amended by the Economic Stimulus Act of 2008, is amended—

(i) in paragraph (1), by inserting ''placed in service by an eligible taxpayer'' after ''any qualified property'', and

(ii) by adding at the end the following new paragraph:

''(4) ELIGIBLE TAXPAYER.—

''(A) IN GENERAL.—At such time and in such manner as the Secretary shall prescribe, each taxpayer may elect to be an eligible taxpayer with respect to 1 (and only 1) of the following:

''(i) This subsection and section 179(b)(7).

''(ii) The application of section 56(d)(1)(A)(ii)(I) and section 172(b)(1)(H)(ii) in connection with net operating losses relating to taxable years ending during 2008 and 2009.

''(B) ELIGIBLE TAXPAYER.—For purposes of each of the provisions described in subparagraph (A), a taxpayer shall only be treated as an eligible taxpayer with respect to the provision with respect to which the taxpayer made the election under subparagraph (A).

''(C) ELECTION IRREVOCABLE.—An election under subparagraph (A) may not be revoked except with the consent of the Secretary.''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect as if included in section 103 of the Economic Stimulus Act of 2008.

(2) ELECTION FOR INCREASED EXPENSING.—

(A) IN GENERAL.—Paragraph (7) of section 179(b) of the Internal Revenue Code of 1986 (relating to limitations), as added by the Economic Stimulus Act of 2008, is amended to read as follows:

''(7) SPECIAL RULE FOR ELIGIBLE TAXPAYERS IN 2008.—In the case of any taxable year of any eligible taxpayer (within the meaning of section 168(k)(4)) beginning in 2008—

''(A) the dollar limitation under paragraph (1) shall be $250,000,

''(B) the dollar limitation under paragraph (2) shall be $800,000, and

''(C) the amounts described in subparagraphs (A) and (B) shall not be adjusted under paragraph (5).''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect as if included in section 102 of the Economic Stimulus Act of 2008.

SEC. 602. MODIFICATIONS ON USE OF QUALIFIED MORTGAGE BONDS; TEMPORARY INCREASED VOLUME CAP FOR CERTAIN HOUSING BONDS.

(a) USE OF QUALIFIED MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING LOANS.—Section 143(k) of the Internal Revenue Code of 1986 (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 this paragraph to any case in which the proceeds of a qualified mortgage issue are used for any refinancing described in subparagraph (A)—

''(i) subsection (a)(2)(D)(i) (relating to proceeds must be used within 42 months of date of issuance) 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 originated 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.''.

(b) INCREASED VOLUME CAP FOR CERTAIN BONDS.—

(1) IN GENERAL.—Subsection (d) of section 146 of the Internal Revenue Code of 1986 (relating to State ceiling) 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 the greater of—

''(i) $10,000,000,000 multiplied by a fraction—

''(I) the numerator of which is the population of such State, and

''(II) the denominator of which is the total population of all States, or

''(ii) the amount determined under subparagraph (B).

''(B) MINIMUM AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a State (other than a possession), $90,300,606, and

''(ii) in the case of a possession of the United States with a population less than the least populous State (other than a possession), the product of—

''(I) a fraction the numerator of which is $90,300,606 and the denominator of which is population of the least populous State (other than a possession), and

''(II) the population of such possession.

In the case of any possession of the United States not described in clause (ii), the amount determined under this subparagraph shall be zero.

''(C) 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 purposes.

''(ii) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(I) the issuance of exempt facility bonds used solely to provide 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 of such Code (relating to elective carryforward of unused limitation for specified purpose) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR INCREASED VOLUME CAP UNDER SUBSECTION (d)(5).—

''(A) IN GENERAL.—No amount which is attributable to the increase under subsection (d)(5) may be used—

''(i) for a carryforward purpose other than a qualified purpose (as defined in subsection (d)(5)), and

''(ii) to issue any bond after calendar year 2010.

''(B) ORDERING RULES.—For purposes of subparagraph (A), any carryforward of an issuing authority's volume cap for calendar year 2008 shall be treated as attributable to such increase to the extent of such increase.''.

(c) ALTERNATIVE MINIMUM TAX EXEMPTION FOR QUALIFIED MORTGAGE BONDS, QUALIFIED VETERANS' MORTGAGE BONDS, AND BONDS FOR QUALIFIED RESIDENTIAL RENTAL PROJECTS.—

(1) IN GENERAL.—Clause (ii) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 (relating to specified private activity bonds) is amended by striking ''shall not include'' and all that follows and inserting ''shall not include—

''(I) any qualified 501(c)(3) bond (as defined in section 145), or

''(II) any qualified mortgage bond (as defined in section 143(a)), any qualified veterans' mortgage bond (as defined in section 143(b)), or any exempt facility bond (as defined in section 142(a)) 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)), but only if such bond is issued after the date of the enactment of this subclause and before January 1, 2011.

Subclause (II) shall not apply to a refunding bond unless such subclause applied to the refunded bond (or in the case of a series of refundings, the original bond).''.

(2) CONFORMING AMENDMENT.—The heading for section 57(a)(5)(C)(ii) of such Code is amended by striking ''QUALIFIED 501(c)(3) BONDS'' and inserting ''CERTAIN BONDS''.

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

SEC. 603. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to so much of the purchase price of the residence as does not exceed $7,000.

''(2) ALLOCATION OF CREDIT AMOUNT.—The amount of the credit allowed under paragraph (1) shall be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after the date of the enactment of this section, and

''(B) before the date that is 12 months after such date.

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

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 23) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other qualified principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

''(c) QUALIFIED PRINCIPAL RESIDENCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified principal residence' means an eligible single-family residence that is purchased to be the principal residence of the purchaser.

''(2) ELIGIBLE SINGLE-FAMILY RESIDENCE.—

''(A) IN GENERAL.—The term 'eligible single-family residence' means a single-family structure that is a residence—

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

''(ii) which—

''(I) is a new previously unoccupied residence for which a building permit was issued and construction began on or before September 1, 2007, or

''(II) was occupied as a principal residence by the mortgagor for at least 1 year prior to the foreclosure filing.

''(B) CERTIFICATION.—In the case of an eligible single-family residence described in subparagraph (A)(ii)(I), no credit shall be allowed under this section unless the purchaser submits a certification by the seller of such residence that such residence meets the requirements of such subparagraph.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 1400C.

''(e) RECAPTURE IN THE CASE OF CERTAIN DISPOSITIONS.—In the event that a taxpayer—

''(1) disposes of the qualified principal residence with respect to which a credit is allowed under subsection (a), or

''(2) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the remaining portion of the credit allowed under subsection (a) shall be disallowed in the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence, and in any subsequent taxable year in which the remaining portion of the credit would, but for this subsection, have been allowed.

''(f) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$3,500' for '$7,000' in paragraph (1) thereof.

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $7,000.

''(2) PURCHASE; PURCHASE PRICE.—Rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply for purposes of this section.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply for purposes of this section.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 25D(c)(2) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(5) Section 26(a)(1) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(6) Section 904(i) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(7) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(g).''.

(8) Section 1400C(d)(2) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 25E''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

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

(e) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendment relates.

SEC. 604. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.

(a) IN GENERAL.—Section 63(c)(1) of the Internal Revenue Code of 1986 (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) of the Internal Revenue Code of 1986 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 so much of the amount of the eligible State and local real property taxes paid or accrued by the taxpayer during the taxable year which do not exceed $500 ($1,000 in the case of a joint return).

''(B) ELIGIBLE STATE AND LOCAL REAL PROPERTY TAXES.—For purposes of subparagraph (A), the term 'eligible State and local real property taxes' means State and local real property taxes (within the meaning of section 164), but only if the rate of tax for all residential real property taxes in the jurisdiction has not been increased at any time after April 2, 2008, and before January 1, 2009.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 605. ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.

(a) IN GENERAL.—Section 168(k), as amended by this Act, is amended by adding at the end the following new paragraph:

''(5) ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.—

''(A) IN GENERAL.—If a corporation which is an eligible taxpayer (within the meaning of paragraph (4)) for purposes of this subsection elects to have this paragraph apply—

''(i) no additional depreciation shall be allowed under paragraph (1) for any qualified property placed in service during any taxable year to which paragraph (1) would otherwise apply, and

''(ii) 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) ELIGIBLE QUALIFIED PROPERTY.—For purposes of clause (i), 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.

''(iii) MAXIMUM AMOUNT.—The bonus depreciation amount for any applicable taxable year shall not exceed the applicable limitation under clause (iv), reduced (but not below zero) by the bonus depreciation amount for any preceding taxable year.

''(iv) APPLICABLE LIMITATION.—For purposes of clause (iii), the term 'applicable limitation' means, with respect to any eligible taxpayer, the lesser of—

''(I) $40,000,000, or

''(II) 10 percent of the sum of the amounts determined with respect to the eligible taxpayer under clauses (ii) and (iii) of subparagraph (D).

''(v) 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 (iv).

''(D) 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.

''(E) 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.

''(F) OTHER RULES.—

''(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (D)) 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) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years ending after such date.

SEC. 606. 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.

(a) 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 personal 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 disallow such deduction. If elected, such amended return must be filed not later than the due date for filing the tax return for the taxable year in which the taxpayer receives such reimbursement or the date that is 4 months after the date of the enactment of this Act, whichever is later. Any increase in Federal income tax resulting from such disallowance if such amended return is filed—

(1) shall be subject to interest on the underpaid tax for one year at the underpayment rate determined under section 6621(a)(2) of such Code; and

(2) shall not be subject to any penalty under such Code.

(b) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, all provisions of this section 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.

SEC. 607. WAIVER OF DEADLINE ON CONSTRUCTION OF GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.

(a) IN GENERAL.—Subparagraph (B) of section 1400N(d)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) without regard to 'and before January 1, 2009' in clause (i) thereof,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

(c) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, all provisions of this section 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.

SEC. 608. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.

(a) IN GENERAL.—The following provisions of or relating to the Internal Revenue Code of 1986 shall apply, in addition to the areas described in such provisions, to an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributed to such storms and tornados:

(1) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting ''May 4, 2007'' for ''August 25, 2005''.

(2) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting ''on or after May 4, 2007, by reason of the May 4, 2007, storms and tornados'' for ''on or after August 25, 2005, by reason of Hurricane Katrina''.

(3) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting ''May 4, 2007'' for ''August 28, 2005'' each place it appears,

(B) by substituting ''January 1, 2008'' for ''January 1, 2006'' both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(4) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code—

(A) by substituting ''qualified Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' each place it appears,

(B) by substituting ''May 5, 2007'' for ''August 28, 2005'' each place it appears,

(C) by substituting ''December 31, 2008'' for ''December 31, 2007'' in paragraph (2)(A)(v),

(D) by substituting ''December 31, 2009'' for ''December 31, 2008'' in paragraph (2)(A)(v),

(E) by substituting ''May 4, 2007'' for ''August 27, 2005'' in paragraph (3)(A),

(F) by substituting ''January 1, 2009'' for ''January 1, 2008'' in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(5) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting ''qualified section 179 Recovery Assistance property'' for ''qualified section 179 Gulf Opportunity Zone property'' each place it appears.

(6) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—

(A) by substituting ''qualified Recovery Assistance clean-up cost'' for ''qualified Gulf Opportunity Zone clean-up cost'' each place it appears, and

(B) by substituting ''beginning on May 4, 2007, and ending on December 31, 2009'' for ''beginning on August 28, 2005, and ending on December 31, 2007'' in paragraph (2) thereof.

(7) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—Section 1400N(o) of such Code.

(8) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—

(A) by substituting ''qualified Recovery Assistance loss'' for ''qualified Gulf Opportunity Zone loss'' each place it appears,

(B) by substituting ''after May 3, 2007, and before on January 1, 2010'' for ''after August 27, 2005, and before January 1, 2008'' each place it appears,

(C) by substituting ''May 4, 2007'' for ''August 28, 2005'' in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting ''qualified Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' in paragraph (2)(B)(iv) thereof, and

(E) by substituting ''qualified Recovery Assistance casualty loss'' for ''qualified Gulf Opportunity Zone casualty loss'' each place it appears.

(9) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RENTAL PROJECT REQUIREMENTS.—Section 1400N(n) of such Code.

(10) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code—

(A) by substituting ''qualified Recovery Assistance distribution'' for ''qualified hurricane distribution'' each place it appears,

(B) by substituting ''on or after May 4, 2007, and before January 1, 2009'' for ''on or after August 25, 2005, and before January 1, 2007'' in subsection (a)(4)(A)(i),

(C) by substituting ''qualified storm distribution'' for ''qualified Katrina distribution'' each place it appears,

(D) by substituting ''after November 4, 2006, and before May 5, 2007'' for ''after February 28, 2005, and before August 29, 2005'' in subsection (b)(2)(B)(ii),

(E) by substituting ''beginning on May 4, 2007, and ending on November 5, 2007'' for ''beginning on August 25, 2005, and ending on February 28, 2006'' in subsection (b)(3)(A),

(F) by substituting ''qualified storm individual'' for ''qualified Hurricane Katrina individual'' each place it appears,

(G) by substituting ''December 31, 2007'' for ''December 31, 2006'' in subsection (c)(2)(A),

(H) by substituting ''beginning on June 4, 2007, and ending on December 31, 2007'' for ''beginning on September 24, 2005, and ending on December 31, 2006'' in subsection (c)(4)(A)(i),

(I) by substituting ''May 4, 2007'' for ''August 25, 2005'' in subsection (c)(4)(A)(ii), and

(J) by substituting ''January 1, 2008'' for ''January 1, 2007'' in subsection (d)(2)(A)(ii).

(b) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, all provisions of this section 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 VII—EMERGENCY DESIGNATION

SEC. 701. EMERGENCY DESIGNATION.

For purposes of Senate enforcement, all provisions of this Act 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 VIII—REIT INVESTMENT DIVERSIFICATION AND EMPOWERMENT

SEC. 801. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''REIT Investment Diversification and Empowerment Act of 2008''.

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

Subtitle A—Taxable REIT Subsidiaries

SEC. 811. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.

Section 856(c)(4)(B)(ii) is amended by striking ''20 percent'' and inserting ''25 percent''.

Subtitle B—Dealer Sales

SEC. 821. 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. 822. 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 C—Health Care REITs

SEC. 831. 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 property or facility 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 D—Effective Dates and Sunset

SEC. 841 EFFECTIVE DATES AND SUNSET.

(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 amendment made by section 801(a) and (b) shall apply to gains and items of income recognized after the date of the enactment of this Act.

(2) The amendment made by section 801(c) shall apply to transactions entered into after the date of the enactment of this Act.

(3) The amendment made by section 801(d) shall apply after the date of the enactment of this Act.

(c) CONFORMING FOREIGN CURRENCY REVISIONS.—

(1) The amendment made by section 803(a) shall apply to gains recognized after the date of the enactment of this Act.

(2) The amendment made by section 803(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.

(e) SUNSET.—All amendments made by this title shall not apply to taxable years beginning after the date which is 5 years after the date of the enactment of this Act. The Internal Revenue Code of 1986 shall be applied and administered to taxable years described in the preceding sentence as if the amendments so described had never been enacted.

TITLE IX—VETERANS HOUSING MATTERS

SEC. 901. 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. 902. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES AND INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.

(a) ELIGIBILITY.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2101 the following new section:

''§2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States

''(a) MEMBERS WITH SERVICE-CONNECTED DISABILITIES.—(1) The Secretary may provide assistance under this chapter to a member of the Armed Forces serving on active duty who is suffering from a disability that meets applicable criteria for benefits under this chapter if the disability is incurred or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under this chapter to veterans eligible for assistance under this chapter and subject to the same requirements as veterans under this chapter.

''(2) For purposes of this chapter, any reference to a veteran or eligible individual shall be treated as a reference to a member of the Armed

Forces described in subsection (a) who is similarly situated to the veteran or other eligible individual so referred to.

''(b) BENEFITS AND ASSISTANCE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—(1) Subject to paragraph (2), the Secretary may, at the Secretary's discretion, provide benefits and assistance under this chapter (other than benefits under section 2106 of this title) to any individual otherwise eligible for such benefits and assistance who resides outside the United States.

''(2) The Secretary may provide benefits and assistance to an individual under paragraph (1) only if—

''(A) the country or political subdivision in which the housing or residence involved is or will be located permits the individual to have or acquire a beneficial property interest (as determined by the Secretary) in such housing or residence; and

''(B) the individual has or will acquire a beneficial property interest (as so determined) in such housing or residence.

''(c) REGULATIONS.—Benefits and assistance under this chapter by reason of this section shall be provided in accordance with such regulations as the Secretary may prescribe.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUPERSEDED AUTHORITY.—Section 2101 of such title is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) LIMITATIONS ON ASSISTANCE.—Section 2102 of such title is amended—

(A) in subsection (a)—

(i) by striking ''veteran'' each place it appears and inserting ''individual''; and

(ii) in paragraph (3), by striking ''veteran's'' and inserting ''individual's'';

(B) in subsection (b)(1), by striking ''a veteran'' and inserting ''an individual'';

(C) in subsection (c)—

(i) by striking ''a veteran'' and inserting ''an individual''; and

(ii) by striking ''the veteran'' each place it appears and inserting ''the individual''; and

(D) in subsection (d), by striking ''a veteran'' each place it appears and inserting ''an individual''.

(3) ASSISTANCE FOR INDIVIDUALS TEMPORARILY RESIDING IN HOUSING OF FAMILY MEMBER.—Section 2102A of such title is amended—

(A) by striking ''veteran'' each place it appears (other than in subsection (b)) and inserting ''individual'';

(B) in subsection (a), by striking ''veteran's'' each place it appears and inserting ''individual's''; and

(C) in subsection (b), by striking ''a veteran'' each place it appears and inserting ''an individual''.

(4) FURNISHING OF PLANS AND SPECIFICATIONS.—Section 2103 of such title is amended by striking ''veterans'' both places it appears and inserting ''individuals''.

(5) CONSTRUCTION OF BENEFITS.—Section 2104 of such title is amended—

(A) in subsection (a), by striking ''veteran'' each place it appears and inserting ''individual''; and

(B) in subsection (b)—

(i) in the first sentence, by striking ''A veteran'' and inserting ''An individual'';

(ii) in the second sentence, by striking ''a veteran'' and inserting ''an individual''; and

(iii) by striking ''such veteran'' each place it appears and inserting ''such individual''.

(6) VETERANS' MORTGAGE LIFE INSURANCE.—Section 2106 of such title is amended—

(A) in subsection (a)—

(i) by striking ''any eligible veteran'' and inserting ''any eligible individual''; and

(ii) by striking ''the veterans''' and inserting ''the individual's'';

(B) in subsection (b), by striking ''an eligible veteran'' and inserting ''an eligible individual'';

(C) in subsection (e), by striking ''an eligible veteran'' and inserting ''an individual'';

(D) in subsection (h), by striking ''each veteran'' and inserting ''each individual'';

(E) in subsection (i), by striking ''the veteran's'' each place it appears and inserting ''the individual's'';

(F) by striking ''the veteran'' each place it appears and inserting ''the individual''; and

(G) by striking ''a veteran'' each place it appears and inserting ''an individual''.

(7) HEADING AMENDMENTS.—(A) The heading of section 2101 of such title is amended to read as follows:

''§ 2101. Acquisition and adaptation of housing: eligible veterans''.

(B) The heading of section 2102A of such title is amended to read as follows:

''§ 2102A. Assistance for individuals residing temporarily in housing owned by a family member''.

(8) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 21 of such title is amended—

(A) by striking the item relating to section 2101 and inserting the following new item:

''2101. Acquisition and adaptation of housing: eligible veterans.'';

(B) by inserting after the item relating to section 2101, as so amended, the following new item:

''2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States.'';

and

(C) by striking the item relating to section 2102A and inserting the following new item:

''2102A. Assistance for individuals residing temporarily in housing owned by a family member.''.

SEC. 903. 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. 904. 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. 905. 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. 906. 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 902(a) of this Act) who have disabilities that are not described in such subsections.

SEC. 907. 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 902(a) of this Act), who reside with family members on a permanent basis.

SEC. 908. 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. 909. 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 X—CLEAN ENERGY TAX STIMULUS

SEC. 1001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the ''Clean Energy Tax Stimulus Act of 2008''.

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

Subtitle A—Extension of Clean Energy Production Incentives

SEC. 1011. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2010.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 1012. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2017''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2017''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1013. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and

added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 1014. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the Clean Energy Tax Stimulus Act of 2008 and ending before January 1, 2010, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

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

SEC. 1015. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 2 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

Subtitle B—Extension of Incentives to Improve Energy Efficiency

SEC. 1021. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 1022. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. 1023. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

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

SEC. 1024. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

TITLE XI—SENSE OF THE SENATE

SEC. 1101. 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.

Amend the title so as to read: ''An Act to provide needed housing reform and for other purposes.''.

MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Motion offered by Mr. FRANK of Massachusetts:

Mr. Frank of Massachusetts moves that the House concur in the Senate amendments to the text of H.R. 3221 with each of the three amendments printed in the report of the Committee on Rules accompanying House Resolution 1175.

The text of House amendment No. 1 to the Senate amendments is as follows:

In the matter proposed to be inserted by the amendment of the Senate to the text of the bill, strike section 1 and all that follows through the end of title V and insert the following:

SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Housing Rescue and Foreclosure Prevention Act of 2008''.

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

Sec. 1. Short title and table of contents.

TITLE I—FHA HOUSING STABILIZATION AND HOMEOWNERSHIP RETENTION

Sec. 101. Short title.

Subtitle A—Homeownership Retention

Sec. 111. Purposes.
Sec. 112. Insurance of homeownership retention mortgages.
Sec. 113. Study of Auction or Bulk Refinance Program.
Sec. 114. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by Secretary of Veterans Affairs.
Sec. 115. Study of possible accounting revisions relating to property at risk of foreclosure and the availability of credit for refinancing home mortgages at risk of foreclosure.
Sec. 116. GAO study of the effect of tightening credit markets in communities affected by the subprime mortgage foreclosure crises and predatory lending on prospective first-time homebuyers seeking mortgages.

Subtitle B—Office of Housing Counseling

Sec. 131. Short title.
Sec. 132. Establishment of Office of Housing Counseling.
Sec. 133. Counseling procedures.
Sec. 134. Grants for housing counseling assistance.
Sec. 135. Requirements to use HUD-certified counselors under HUD programs.
Sec. 136. Study of defaults and foreclosures.
Sec. 137. Definitions for counseling-related programs.
Sec. 138. Updating and simplification of mortgage information booklet.

Subtitle C—Combating Mortgage Fraud

Sec. 151. Authorization of appropriations to combat mortgage fraud.

TITLE II—FHA REFORM AND MANUFACTURED HOUSING LOAN INSURANCE MODERNIZATION

Subtitle A—FHA Reform

Sec. 201. Short title.
Sec. 202. Findings and purposes.
Sec. 203. Maximum principal loan obligation.
Sec. 204. Extension of mortgage term.
Sec. 205. Downpayment simplification.
Sec. 206. Mortgage insurance premiums for qualified homeownership assistance entities and higher-risk borrowers.
Sec. 207. Risk-based mortgage insurance premiums.
Sec. 208. Payment incentives for higher-risk borrowers.
Sec. 209. Protections for higher-risk borrowers.
Sec. 210. Refinancing mortgages.
Sec. 211. Annual reports on new programs and loss mitigation.
Sec. 212. Insurance for single family homes with licensed child care facilities.
Sec. 213. Rehabilitation loans.
Sec. 214. Discretionary action.
Sec. 215. Insurance of condominiums and manufactured housing.
Sec. 216. Mutual Mortgage Insurance Fund.
Sec. 217. Hawaiian home lands and Indian reservations.
Sec. 218. Conforming and technical amendments.
Sec. 219. Home equity conversion mortgages.
Sec. 220. Study on participation of mortgage brokers and correspondent lenders.
Sec. 221. Conforming loan limit in disaster areas.
Sec. 222. Failure to pay amounts from escrow accounts for single family mortgages.

Sec. 223. Acceptable identification for FHA mortgagors.
Sec. 224. Pilot program for automated process for borrowers without sufficient credit history.
Sec. 225. Sense of Congress regarding technology for financial systems.
Sec. 226. Clarification of disposition of certain properties.
Sec. 227. Valuation of multifamily properties in noncompetitive sales by HUD to states and localities.
Sec. 228. Limitation on mortgage insurance premium increases.
Sec. 229. Civil money penalties for improperly influencing appraisals.
Sec. 230. Mortgage insurance premium refunds.
Sec. 231. Savings provision.
Sec. 232. Implementation.

Subtitle B—FHA Manufactured Housing Loan Insurance Modernization

Sec. 251. Short title.
Sec. 252. Findings and purposes.
Sec. 253. Exception to limitation on financial institution portfolio.
Sec. 254. Insurance benefits.
Sec. 255. Maximum loan limits.
Sec. 256. Insurance premiums.
Sec. 257. Technical corrections.
Sec. 258. Revision of underwriting criteria.
Sec. 259. Requirement of social security account number for assistance.
Sec. 260. GAO study of mitigation of tornado risks to manufactured homes.

TITLE III—REFORM OF GOVERNMENT-SPONSORED ENTITIES FOR HOUSING FINANCE

Sec. 301. Short title.
Sec. 302. Definitions.

Subtitle A—Reform of Regulation of Enterprises and Federal Home Loan Banks

CHAPTER 1—IMPROVEMENT OF SAFETY AND SOUNDNESS

Sec. 311. Establishment of the Federal Housing Finance Agency.
Sec. 312. Duties and authorities of Director.
Sec. 313. Federal Housing Enterprise Board.
Sec. 314. Authority to require reports by regulated entities.
Sec. 315. Disclosure of income and charitable contributions by enterprises.
Sec. 316. Assessments.
Sec. 317. Examiners and accountants.
Sec. 318. Prohibition and withholding of executive compensation.
Sec. 319. Reviews of regulated entities.
Sec. 320. Inclusion of minorities and women; diversity in Agency workforce.
Sec. 321. Regulations and orders.
Sec. 322. Non-waiver of privileges.
Sec. 323. Risk-based capital requirements.
Sec. 324. Minimum and critical capital levels.
Sec. 325. Review of and authority over enterprise assets and liabilities.
Sec. 326. Corporate governance of enterprises.
Sec. 327. Required registration under Securities Exchange Act of 1934.
Sec. 328. Liaison with Financial Institutions Examination Council.
Sec. 329. Guarantee fee study.
Sec. 330. Conforming amendments.

CHAPTER 2—IMPROVEMENT OF MISSION SUPERVISION

Sec. 331. Transfer of product approval and housing goal oversight.
Sec. 332. Review of enterprise products.
Sec. 333. Conforming loan limits.
Sec. 334. Annual housing report regarding regulated entities.
Sec. 335. Annual reports by regulated entities on affordable housing stock.
Sec. 336. Mortgagor identification requirements for mortgages of regulated entities.
Sec. 337. Revision of housing goals.
Sec. 338. Duty to serve underserved markets.
Sec. 339. Monitoring and enforcing compliance with housing goals.
Sec. 340. Affordable Housing Fund.
Sec. 341. Consistency with mission.
Sec. 342. Enforcement.
Sec. 343. Conforming amendments.

CHAPTER 3—PROMPT CORRECTIVE ACTION

Sec. 345. Capital classifications.
Sec. 346. Supervisory actions applicable to undercapitalized regulated entities.
Sec. 347. Supervisory actions applicable to significantly undercapitalized regulated entities.
Sec. 348. Authority over critically undercapitalized regulated entities.
Sec. 349. Conforming amendments.

CHAPTER 4—ENFORCEMENT ACTIONS

Sec. 351. Cease-and-desist proceedings.
Sec. 352. Temporary cease-and-desist proceedings.
Sec. 353. Prejudgment attachment.
Sec. 354. Enforcement and jurisdiction.
Sec. 355. Civil money penalties.
Sec. 356. Removal and prohibition authority.
Sec. 357. Criminal penalty.
Sec. 358. Subpoena authority.
Sec. 359. Conforming amendments.

CHAPTER 5—GENERAL PROVISIONS

Sec. 361. Boards of enterprises.
Sec. 362. Report on portfolio operations, safety and soundness, and mission of enterprises.
Sec. 363. Conforming and technical amendments.
Sec. 364. Study of alternative secondary market systems.
Sec. 365. Effective date.

Subtitle B—Federal Home Loan Banks

Sec. 371. Definitions.
Sec. 372. Directors.
Sec. 373. Federal Housing Finance Agency oversight of Federal Home Loan Banks.
Sec. 374. Joint activities of Banks.
Sec. 375. Sharing of information between Federal Home Loan Banks.
Sec. 376. Reorganization of Banks and voluntary merger.
Sec. 377. Securities and Exchange Commission disclosure.
Sec. 378. Community financial institution members.
Sec. 379. Technical and conforming amendments.
Sec. 380. Study of affordable housing program use for long-term care facilities.
Sec. 381. Effective date.

Subtitle C—Transfer of Functions, Personnel, and Property of Office of Federal Housing Enterprise Oversight, Federal Housing Finance Board, and Department of Housing and Urban Development

CHAPTER 1—OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

Sec. 385. Abolishment of OFHEO.
Sec. 386. Continuation and coordination of certain regulations.
Sec. 387. Transfer and rights of employees of OFHEO.
Sec. 388. Transfer of property and facilities.

CHAPTER 2—FEDERAL HOUSING FINANCE BOARD

Sec. 391. Abolishment of the Federal Housing Finance Board.
Sec. 392. Continuation and coordination of certain regulations.
Sec. 393. Transfer and rights of employees of the Federal Housing Finance Board.
Sec. 394. Transfer of property and facilities.

CHAPTER 3—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 395. Termination of enterprise-related functions.
Sec. 396. Continuation and coordination of certain regulations.
Sec. 397. Transfer and rights of employees of Department of Housing and Urban Development.
Sec. 398. Transfer of appropriations, property, and facilities.

TITLE IV—EMERGENCY MORTGAGE LOAN MODIFICATION

Sec. 401. Short title.
Sec. 402. Safe harbor for qualified loan modifications or workout plans for certain residential mortgage loans.

TITLE V—OTHER HOUSING PROVISIONS

Sec. 501. Depository Institution Community Development Investments Enhancement .
Sec. 502. Preservation of certain affordable housing dwelling units.
Sec. 503. Eligibility of certain projects for enhanced voucher assistance.
Sec. 504. Transfer of certain rental assistance contracts.
Sec. 505. Protection against discriminatory treatment.

TITLE I—FHA HOUSING STABILIZATION AND HOMEOWNERSHIP RETENTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''FHA Housing Stabilization and Homeownership Retention Act of 2008''.

Subtitle A—Homeownership Retention

SEC. 111. PURPOSES.

The purposes of this subtitle are—

(1) to create an FHA program, which is voluntary on the part of borrowers and existing mortgage loan holders, including both existing senior mortgage loan holders and existing subordinate mortgage loan holders, to insure refinance loans for substantial numbers of borrowers at risk of foreclosure, at levels which are reasonably likely to be sustainable through enhanced affordability of debt service;

(2) to provide flexible underwriting for FHA-insured loans under such a program to provide refinancing opportunities under fiscally responsible terms, including higher fees commensurate with higher risk levels, a seasoning requirement for higher debt to income loans, and additional program controls to limit and control risk;

(3) to bar speculators and second home owners from participation in such program;

(4) to require existing mortgage loan holders to take substantial loan writedowns in exchange for having the Federal Government and the borrower assume the ongoing risk of the refinanced loan;

(5) to set a loan-to-value limit on such loans that provides the FHA with an equity buffer against potential loan losses, provides protections against the risk of future home price declines, and creates incentives for borrowers to maintain payments on the loan;

(6) to protect the FHA against losses which may exceed normal FHA loss levels by establishing higher fee levels, including an exit fee and profit sharing during the first five years of the loan, with such higher fee levels effectively being funded through the required lender writedown;

(7) to provide a fair level of incentives for junior lien holders to provide the necessary releases of their lien interests, in order to meet program requirements that all outstanding liens must be extinguished, and thereby permit the refinancing to be completed;

(8) to enhance the administrative capacity of the FHA to carry out its expanded role

under the program through establishment of an Oversight Board which adds expertise from the Federal Reserve and the Department of the Treasury, through additional funding to contract out for the provision of any needed expertise in designing program requirements and oversight, and through additional funding to increase FHA personnel resources as needed to handle the increased loan volume resulting from the program;

(9) to sunset the program when it is no longer needed; and

(10) to study the need for and efficacy of an auction or bulk refinancing mechanism to facilitate more expeditious refinancing of larger volumes of existing mortgages that are at risk for foreclosure into FHA-insured mortgages.

SEC. 112. INSURANCE OF HOMEOWNERSHIP RETENTION MORTGAGES.

(a) MORTGAGE INSURANCE PROGRAM.—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. INSURANCE OF HOMEOWNERSHIP RETENTION MORTGAGES.

''(a) OVERSIGHT BOARD.—

''(1) ESTABLISHMENT.—There is hereby established the Refinance Program Oversight Board (in this section referred to as the 'Oversight Board').

''(2) MEMBERSHIP.—The Oversight Board shall consist of the following members or their designees:

''(A) The Secretary of the Treasury.

''(B) The Secretary of Housing and Urban Development.

''(C) The Chairman of the Board of Governors of the Federal Reserve System.

''(3) NO ADDITIONAL COMPENSATION.—Members of the Oversight Board shall receive no additional pay by reason of service on the Oversight Board.

''(4) RESPONSIBILITIES.—The Oversight Board shall be responsible for establishing program and oversight requirements for the program under this section, which shall include—

''(A) detailed program requirements under subsection (c);

''(B) flexible underwriting criteria under subsection (d);

''(C) a mortgage premium structure under subsection (e);

''(D) a reasonable fee and rate limitation under subsection (f);

''(E) enhancement of FHA capacity under subsection (i), including oversight of such activities and personnel as may be contracted for as provided therein;

''(F) monitoring of underwriting risk under subsection (j); and

''(G) such additional requirements as may be necessary and appropriate to oversee and implement the program.

''(5) USE OF RESOURCES.—In carrying out its functions under this section, the Oversight Board may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Department of the Treasury, the Department of Housing and Urban Development, the Board of Governors of the Federal Reserve System, the Federal Reserve Banks, and other Federal agencies, with or without reimbursement therefore.

''(b) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall, subject only to the absence of qualified requests for insurance under this section and to the limitations under subsection (h) of this section and section 531(a), make commitments to insure and insure any mortgage covering a 1- to 4-family residence that is made for the purpose of paying or prepaying outstanding obligations under an existing mortgage or mortgages on the residence if the mortgage being insured under this section meets the requirements of this section, as established by the Oversight Board, and of section 203, except as modified by this section.

''(2) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM REQUIREMENTS.—The Oversight Board shall establish program requirements and standards under this section and the Secretary shall implement such requirements and standards. The Oversight Board and the Secretary may establish and implement any requirements or standards through interim guidance and mortgagee letters.

''(c) REQUIREMENTS.—To be eligible for insurance under this section, a mortgage shall comply with all of the following requirements:

''(1) OWNER-OCCUPIED PRINCIPAL RESIDENCE REQUIREMENT.—The residence securing the mortgage insured under this section shall be occupied by the mortgagor as the principal residence of the mortgagor and the mortgagor shall provide a certification to the originator of the mortgage that such residence securing the mortgage insured under this section is the only residence in which the mortgagor has any present ownership interest. With regard to such certification, the Oversight Board may create exceptions for mortgagors who have only a partial ownership interest in a residence other than the residence securing the mortgage insured under this section.

''(2) LACK OF CAPACITY TO PAY EXISTING MORTGAGE OR MORTGAGES.—

''(A) BORROWER CERTIFICATION.—

''(i) The mortgagor shall provide a certification to the originator of the mortgage that the mortgagor—

''(I) has not intentionally defaulted on the existing mortgage or mortgages; and

''(II) has not knowingly, or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining the existing mortgage or mortgages.

''(ii) The mortgagor shall agree in writing that the mortgagor shall be liable to repay the FHA 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 Oversight Board.

''(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 at such time, greater than 35 percent.

''(C) LOSS MITIGATION RESPONSIBILITIES.—This section may not be construed to alter or in any way affect the responsibilities of any party (including the mortgage servicer) to engage in any or all loan modification or other loss mitigation strategies to maximize value to investors as established by any applicable contract.

''(3) ELIGIBILITY OF MORTGAGES BY DATE OF ORIGINATION.—The existing senior mortgage shall have been originated on or before December 31, 2007.

''(4) MAXIMUM LOAN-TO-VALUE RATIO FOR NEW LOANS.—The mortgage being insured under this section shall involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve and including the mortgage insurance premium paid pursuant to subsection (e)(1)) in an amount not to exceed 90 percent of the current appraised value of the property. Section 203(d) shall not apply to mortgages insured under this section.

''(5) REQUIRED WAIVER OF PREPAYMENT PENALTIES AND FEES.—All penalties for prepayment of the existing mortgage or mortgages, and all fees and penalties related to default or delinquency on all existing mortgages or mortgages, shall be waived or forgiven.

''(6) REQUIRED LOAN REDUCTION.—

''(A) REDUCTION OF INDEBTEDNESS UNDER EXISTING SENIOR MORTGAGE.—The amount of indebtedness on the existing mortgage or mortgages on the residence shall have been substantially reduced by such percentage as the Oversight Board may require, and such reduction shall be at least sufficient to—

''(i) provide for the refinancing of such existing mortgage or mortgages in an amount not greater than 90 percent of the current appraised value of the property involved;

''(ii) pay the full amount of the single premium to be collected pursuant to subsection (e)(1) (which shall be an amount equal to 3.0 percent of the amount of the original insured principal obligation of the mortgage insured under this section and which shall serve as an additional reserve to cover possible loan losses); and

''(iii) pay the full amount of the loan origination fee and any other closing costs, not to exceed 2.0 percent of the amount of the original insured principal obligation of the mortgage insured under this section.

''(B) EXTINGUISHMENT OF DEBT BY REFINANCING.—

''(i) REQUIRED AGREEMENT.—All existing holders of mortgage liens on the property securing the mortgage to be insured under this section shall agree to accept the proceeds of the insured loan as payment in full of all indebtedness under all existing mortgages, and all encumbrances related to such mortgages shall be removed. The Oversight Board may take such actions as the Oversight Board considers necessary or 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, to comply with the requirement under this subparagraph.

''(ii) TREATMENT OF MULTIPLE MORTGAGE LIENS.—In addition to clause (i), the Oversight Board shall adopt one of the following approaches for all mortgages or such classes of mortgages as the Oversight Board may determine and may, from time to time, reconsider:

''(I) FIXED PRICE.—As a requirement for participating in this program, all existing lien holders will agree to not provide any payment to subordinate lien holders other than such payment in accordance with a formula established by the Oversight Board as set forth in clause (iii); except that the Oversight Board may establish a short period within which first and subordinate lien holders may negotiate to extinguish all subordinate liens for compensation that may be different from the amount determined under such formula set forth in clause (iii).

''(II) SHARED EQUITY.—The Oversight Board may require the mortgagor under a mortgage insured under this section to agree to share a portion of any future equity in the mortgaged property with holders of existing subordinate mortgages, in accordance with a formula for such shared equity established by the Oversight Board as set forth in clause (iii), except that payments of such shared equity may be made only after the Secretary recovers all amounts owed to the Secretary with respect to such mortgage pursuant to the program under this section (including amounts owed pursuant to paragraph (8)).

''(iii) FORMULA.—In determining a formula for determining any payments to subordinate lien holders pursuant to subclauses (I) and (II) of clause (ii), and in any reconsideration of such formula as the Oversight Board may from time to time undertake, the Oversight Board shall take into consideration the

current market value of such liens. In no case may a formula provide for the payment of more than 1 percent of the current appraised value of the mortgaged property to a subordinate lien holder if the outstanding balance owed to more senior lien holders is equal to or exceeds such current appraised value.

''(iv) VOLUNTARY PROGRAM.—This section 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.

''(v) SOURCE OF PAYMENTS FOR SUBORDINATE LOANS.—Any amounts paid to holders of any existing subordinate mortgages in connection with the origination and insurance of a mortgage under this section shall derive only from—

''(I) the holder of the existing senior mortgage; or

''(II) in the case only of the shared equity approach under clause (ii)(II), the mortgagor under the mortgage insured under this section

''(7) REQUIRED REDUCTION OF DEBT SERVICE.—The debt service payments due under the mortgage insured under this section shall be in an amount that is substantially reduced from the debt service payments due under the existing mortgage or mortgages, which reduction may be achieved through a reduction of indebtedness, a reduction in the interest rate being paid, or an extension of the term of the mortgage, or any combination thereof.

''(8) FINANCIAL RECOVERY TO FEDERAL GOVERNMENT THROUGH EXIT PREMIUM.—

''(A) SUBORDINATE LIEN.—The mortgage shall provide that the Secretary shall retain a lien on the residence involved, which shall be subordinate to the mortgage insured under this section but senior to all other mortgages on the residence that may exist at any time, and which shall secure the repayment of the amount due under subparagraph (D).

''(B) NO INTEREST OR PAYMENT DURING MORTGAGE.—The amount secured by the lien retained by the Secretary pursuant to subparagraph (A) shall not bear interest and shall not be repayable to the Secretary except as provided in subparagraph (D) of this paragraph.

''(C) NET PROCEEDS AVAILABLE FOR EXIT PREMIUM.—Upon the sale, refinancing, or other disposition of the residence securing a mortgage insured under this section, any proceeds resulting from such disposition that remain after deducting the remaining insured principal balance of the mortgage insured under this section shall be available to meet the obligation under subparagraph (D). In the case of a refinance, non-arms length transaction, or such other transaction as the Oversight Board shall determine, the proceeds shall be based on the current appraised value at the time of the refinance or transaction.

''(D) EXIT PREMIUM.—Upon any refinancing of the mortgage insured under this section or any sale or disposition of the residence securing the mortgage, the Secretary shall, subject to the availability of sufficient net proceeds described in subparagraph (C), receive the greater of—

''(i) 3 percent of the amount of the original insured principal obligation of the mortgage (or the entire amount of the net proceeds described in subparagraph (C) if such net proceeds are less than 3 percent of the amount of the original insured principal obligation of the mortgage); or

''(ii) a percentage of the portion of the net proceeds available for profit-sharing, as described in subparagraph (E), which shall be—

''(I) in the case of any refinancing, sale, or disposition occurring during the first year of the term of the mortgage, 100 percent of such net proceeds;

''(II) in the case of any refinancing, sale, or disposition occurring during the second year of the term of the mortgage, 80 percent;

''(III) in the case of any refinancing, sale, or disposition occurring during the third year of the term of the mortgage, 60 percent; and

''(IV) in the case of any refinancing, sale, or disposition occurring during the fourth year of the term of the mortgage or at any time thereafter, 50 percent;

except that such percentage of proceeds shall be reduced by all fees the Secretary has collected for the mortgage prior to such refinancing, sale, or disposition.

''(E) NET PROCEEDS AVAILABLE FOR PROFIT-SHARING.—With respect to any mortgage insured under this section, the net proceeds available for purposes of subparagraph (D)(ii) shall be any proceeds resulting from the sale, refinancing, or other disposition of the residence securing the mortgage that remain after deducting the original insured principal obligation of the mortgage. In the case of a refinance, non-arms length transaction, or such other transaction as the Oversight Board shall determine, the proceeds shall be based on the current appraised value at the time of the refinance or transaction.

''(F) AUTHORITY TO PROHIBIT NEW SECOND LIENS.—The Oversight Board shall prohibit borrowers from granting a new second lien on the mortgaged property during the first five years of the term of the mortgage insured under this section, except as the Oversight Board determines to be necessary to ensure the appropriate maintenance of the mortgaged property.

''(9) DOCUMENTATION AND VERIFICATION OF INCOME.—In complying with the FHA underwriting requirements under the program under this section, the mortgagee shall document and verify the income of the mortgagor or non-filing status by procuring (A) an income tax return transcript of the income tax returns of the mortgagor, or (B) a copy of the income tax returns for the Internal Revenue Service, for the two 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 Oversight Board shall establish.

''(10) FIXED RATE MORTGAGE.—The mortgage insured under this section shall bear interest at a single rate that is fixed for the entire term of the mortgage.

''(11) MAXIMUM LOAN AMOUNT.—Notwithstanding section 203(b)(2), the mortgage being insured under this section shall involve a principal obligation in an amount that does not exceed the limitation (for a property of the applicable size) on the amount of the principal obligation that would be allowable under the terms of section 202(a) of the Economic Stimulus Act of 2008 if the mortgage were insured pursuant to such section. The limitation on the amount of the principal obligation allowable under such Act shall apply for the purposes of this section until the termination under subsection (n) of the program under this section.

''(12) INELIGIBILITY FOR FRAUD CONVICTION.—The mortgagor shall not have been convicted under Federal or State law for mortgage fraud during the 7-year period ending upon the insurance of the mortgage under this section.

''(13) LENDER REVIEW.—The mortgagee under the mortgage shall conduct an electronic database search of the mortgagor's criminal history to determine if the mortgagor has had a conviction described in paragraph (12). The mortgagee may charge the mortgagor a reasonable fee for the actual cost of the search not to exceed a maximum rate established by the Oversight Board. The Oversight Board may provide clarification, if needed, to help mortgagees identify any differences among the States in how they report mortgage fraud convictions. The Oversight Board shall establish procedures sufficient to allow the mortgagor to challenge a mortgagee's determination with respect to paragraph (12) (including to correct inaccuracies resulting from theft of the mortgagor's identity or personally identifiable information).

''(14) 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).

''(15) STATEMENT OF LOAN TERMS.—

''(A) REQUIREMENT.—The mortgagor shall have been provided by the mortgagee, not later than three days before closing for the mortgage, a form described in subparagraph (B) appropriately and accurately completed by the mortgagee.

''(B) FORM.—The form described in this subparagraph shall be a single page, written disclosure regarding the mortgage loan to be insured under this section that, when completed by the mortgagee, sets forth, in accordance with such requirements as the Secretary shall by regulation establish a best possible estimate of—

''(i) the total loan amount under the mortgage;

''(ii) the loan-to-value ratio for the mortgage;

''(iii) the final maturity date for the mortgage;

''(iv) the amount of any prepayment fee to be charged if the mortgage is paid in full before the final maturity date for the mortgage, including the percentages of any net proceeds to be received by the Secretary pursuant to paragraph (8)(D)(ii);

''(v) the amount of the exit premium under the mortgage pursuant to subsection (e)(3);

''(vi) the interest rate under the mortgage expressed as an annual percentage rate, and the amount of the monthly payment due under such rate;

''(vii) the fully indexed rate of interest under the mortgage expressed as an annual percentage rate and the amount of the monthly payment due under such rate;

''(viii) the monthly household income of the borrower upon which the mortgage is based;

''(ix) the amount of the monthly payment due under the mortgage, and the amount of such initial monthly payment plus monthly amounts due for taxes and insurance on the property for which the mortgage is made, both expressed as a percentage of the monthly household income of the borrower; and

''(x) the aggregate amount of settlement charges for all settlement services provided in connection with the mortgage, the amount of such charges that are included in the principal amount and the amount of such charges the borrower must pay at closing, the aggregate amount of mortgagee's fees

connection with the mortgage, and the aggregate amount of other fees or required payments in connection with the mortgage.

''(d) FLEXIBLE UNDERWRITING CRITERIA.—

''(1) IN GENERAL.—The Oversight Board shall establish, and the Secretary acting on behalf of the Oversight Board shall implement, underwriting standards for mortgages insured under this section that—

''(A) ensure that each mortgagor under a mortgage insured under this section has a reasonable expectation of repaying the mortgage, taking into consideration the mortgagor's income, assets, liabilities, payment history, and other applicable criteria, but which shall not result in a denial of insurance solely on the basis of the mortgagor's current FICO or other credit scores, or any delinquency or default by the mortgagor under the existing mortgage or mortgages, or any case filed under title 11, United States Code, by the mortgagor; and

''(B) subject to the provisions of subparagraph (A), permit a total debt-to-income ratio of up to 43 percent.

''(2) EXCEPTION.—

''(A) IN GENERAL.—Subject to the underwriting standards established under paragraph (1)(A) and any additional requirements that the Oversight Board considers appropriate, the Oversight Board shall permit a total debt-to-income ratio of more than 43 percent, but not more than 50 percent, if the mortgagor has made, on a timely basis before the endorsement of the mortgage insured under this section, not less than six months of payments in an amount not less than the amount of the monthly payment due under the mortgage to be insured under this section. The holder of the existing senior mortgage shall exercise forbearance with respect to such mortgage during the period in which such payments are made.

''(B) COMPUTATION OF DEBT-TO-INCOME RATIO.— In computing the mortgagor's total debt-to-income ratio for purposes of mortgage qualification under the underwriting standards established pursuant to this section—

''(i) if the mortgagor is a debtor in a case under chapter 13 of title 11, United States Code, payments on recurring debts other than housing expenses shall be based on the amounts being paid on such debts under the mortgagor's confirmed plan under such chapter; and

''(ii) if the mortgagor is a debtor in a case under chapter 7 of title 11, United States Code, recurring debts that are to be discharged in that case shall not be considered.

''(3) AUTHORITY.—The Oversight Board may alter the ratios under this subsection for a particular class of borrowers subject to such requirements as the Board determines is necessary and appropriate to fulfill the purposes of this Act.

''(4) REPRESENTATIONS AND WARRANTIES.— The Oversight Board shall require the underwriter of the insured loan to provide such representations and warranties as the Oversight Board considers necessary or appropriate for the Secretary to enforce compliance with all underwriting and appraisal standards of the program.

''(e) PREMIUMS.—For each mortgage insured under this section, the Oversight Board shall establish and the Secretary shall collect—

''(1) at the time of insurance, a single premium payment in an amount equal to 3.0 percent of the amount of the original insured principal obligation of the mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness on the existing senior mortgage required under subsection (c)(6)(A);

''(2) in addition to the premium under paragraph (1), annual premium payments in an amount equal to 1.50 percent of the remaining insured principal balance of the mortgage; and

''(3) an exit premium in the amount determined under subsection (c)(8), but which shall not be less than 3.0 percent of the original insured principal obligation of the mortgage, subject only to the availability of sufficient net proceeds from sale, refinancing, or other disposition of the property, as determined in subsection (c)(8).

''(f) ORIGINATION FEES AND MORTGAGE RATE.—The Oversight Board shall establish and the Secretary shall implement a reasonable limitation on origination fees for mortgages insured under this section and shall establish procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

''(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, non-payment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

''(2) EXCEPTIONS.—The requirements of paragraph (1) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

''(A) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

''(B) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

''(C) Correct errors in the appraisal report.

''(3) 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) LIMITATION ON AGGREGATE INSURANCE AUTHORITY.—The aggregate original principal obligation of all mortgages insured under this section may not exceed $300,000,000,000.

''(i) ENHANCEMENT OF FHA CAPACITY.— Under the direction of the Oversight 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.

''(j) MONITORING OF UNDERWRITING RISK.—

''(1) MONITORING OF DESIGNATED UNDERWRITERS.—The Oversight Board and the Secretary shall monitor independent quality reviews as established pursuant to subsection (i)(2) to—

''(A) determine compliance of designated underwriters with underwriting standards;

''(B) determine rates of delinquency, claims rates, and loss rates of designated underwriters; and

''(C) terminate eligibility of designated underwriters that do not meet minimum performance standards as the Oversight Board may establish and the Secretary implements.

''(2) REPORTS BY OVERSIGHT BOARD.—The Oversight Board shall submit monthly reports to the Congress identifying the progress of the program for mortgage insurance under this section, which shall contain the following information for each month:

''(A) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.

''(B) The aggregate principal obligation of new mortgages insured under this section.

''(C) The average amount by which the indebtedness on existing mortgages is reduced in accordance with subsection (c)(6).

''(D) The average amount by which the debt service payments on existing mortgages is reduced in accordance with subsection (c)(7).

''(E) The amount of premiums collected for insurance of mortgages under this section.

''(F) The claim and loss rates for mortgages insured under this section.

''(G) The race, ethnicity, gender, and income of the mortgagors, aggregated by geographical areas at least as specific as census tracts, except where necessary to protect privacy of the borrower.

''(H) Any other information that the Oversight Board considers appropriate.

''(3) REPORT BY INSPECTOR GENERAL.—The Inspector General of the Department of Housing and Urban Development shall conduct an annual audit of the program for mortgage insurance under this section to determine compliance with this section and program rules.

''(k) 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.

''(l) SPECIAL RISK INSURANCE FUND.—The insurance of each mortgage under this section shall be the obligation of the Special Risk Insurance Fund established by section 238.

''(m) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) EXISTING MORTGAGE.—The term 'existing mortgage' means, with respect to a mortgage insured under this section, a mortgage that is to be extinguished, and paid or prepaid, from the proceeds of the mortgage insured under this section.

''(2) 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.

''(3) 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.

''(n) SUNSET.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the authority of the Secretary to make any new commitment to insure any mortgage under this section shall terminate upon the expiration of the 2-year period beginning on the date of the enactment of the FHA Housing Stabilization and Homeownership Retention Act of 2008.

''(2) EXTENSIONS.—The Oversight Board may, not more than four times, extend the authority to enter into new commitments to insure mortgages under this section beyond the date specified in paragraph (1), except that each such extension shall—

''(A) be effective only if, before the program terminates pursuant to paragraph (1) or any previous extension pursuant to this paragraph, the Oversight Board—

''(i) certifies the need for such extension in writing to the Congress; and

''(ii) causes notice of such extension to be published in the Federal Register no later than the beginning of the 3-month period that ends upon the scheduled termination date of the program; and

''(B) be for a period of not more than 6 months.

''(o) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2008 and 2009—

''(1) $230,000,000 for providing counseling regarding loss mitigation for mortgagors with 1- to 4-family residences, including determining eligibility for the program under this section, with grants to be administered through the Neighborhood Reinvestment Corporation, except that—

''(A) funds shall be targeted to States and communities based on their levels of foreclosures and delinquencies in 2007 and 2008;

''(B) not less than 15 percent of the funds made available pursuant to this paragraph shall be provided to counseling organizations that target counseling services regarding loss mitigation to minority and low-income homeowners or provide such services in neighborhoods with high concentrations of minority and low-income homeowners;

''(C) $35,000,000 of the funds made available pursuant to this paragraph shall be used by the Neighborhood Reinvestment Corporation (referred to in this subparagraph as the 'NRC') to make grants to State and local legal organizations or attorneys that have demonstrated legal experience in home foreclosure or eviction law to provide legal assistance related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure or to counseling intermediaries that have been approved by the Department of Housing and Urban Development for the purpose of making such grants or contracting for such legal assistance; of the amount provided under this subparagraph, at least 60 percent shall be allocated for legal assistance to low-income homeowners or tenants; such attorneys shall be capable of assisting homeowners in owner-occupied homes or tenants who live in homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure or eviction and who have legal issues that cannot be handled by counselors employed by NRC intermediaries; in using the amount made available under this subparagraph, the NRC shall give priority consideration to State and local legal organizations and attorneys that (i) 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 (ii) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance; as a condition of the receipt of a grant under this subparagraph, the grantee shall submit to NRC information relating to the demographic characteristics of the assisted homeowners or tenants, the dollar amount and terms of the relevant mortgages and the outcome of legal proceedings related to the foreclosure or eviction proceedings, including the resolutions thereof; except that no funds under this subparagraph shall be used for class action litigation;

''(D) $20,000,000 of the funds made available pursuant to this paragraph shall be used for such counseling for veterans recently returning from active duty in the Armed Forces;

''(E) the NRC shall give priority consideration for funding with amounts made available pursuant to this paragraph, except for funds made available under subparagraphs (B), (C), and (D), to entities that have an effective plan in place for making contact, including personal contact, with defaulted mortgagors, and such a plan may include use of third parties (including both for-profit and not-for-profit entities) to make personal contact with defaulted mortgagors, or visits to such mortgagors, or both;

''(F) except with respect to funds reserved under subparagraphs (B), (C), and (D), the NRC shall give priority consideration for funding with amounts made available pursuant to this paragraph to entities that have a written plan that has been implemented for providing in-person counseling and for making contact, including personal contact, with defaulted mortgagors, for the purpose of providing counseling or providing information about available counseling, both (i) prior to commencement of any foreclosure proceedings, and (ii) in the event effective in person or phone contact has not been made with such defaulted mortgagors prior thereto, then prior to the conclusion of the foreclosure process; and

''(G) not less than 2 percent of the funds made available pursuant to this paragraph shall be used only for identifying and notifying borrowers under existing mortgages who are eligible under this section for insurance of refinancing mortgages, and in making funds reserved under this subparagraph available for such purpose, the Secretary shall give preference to assistance for programs that have a proven history of outreach within minority communities; and

''(2) $150,000,000 for costs of activities under subsection (i).

''(p) AUDIT AND REPORT BY INSPECTOR GENERAL.—

''(1) AUDIT.—The Inspector General of the Department of Housing and Urban Development shall conduct an audit of the program for loss mitigation counseling funded with amounts made available under subsection (o)(1) to determine compliance with such subsection.

''(2) REPORTS TO CONGRESS.—Not later than March 30, 2009, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of the Congress a report summarizing the activities of the Inspector General and the Neighborhood Reinvestment Corporation during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement of all obligations, expenditures, and revenues associated with paragraphs (1) and (2) of subsection (o), including—

''(A) obligations and expenditures of appropriated funds;

''(B) the number of homeowners eligible in such program;

''(C) the number of homeowners participating in such program;

''(D) the status of homeowners within such program;

''(E) the number of homeowners who have rejected assistance from the Neighborhood Reinvestment Corporation; and

''(F) information on participating counseling services.''.

(b) SPECIAL RISK INSURANCE FUND.—Section 238 of the National Housing Act (12 U.S.C. 1715z–3) is amended—

(1) in subsection (a)(1), by striking ''or 243'' each place such term appears and inserting ''243, or 257''; and

(2) in subsection (b), by striking ''and 243'' each place such term appears and inserting ''243, and 257''.

(c) FHA REVERSE MORTGAGE PROGRAM.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking the first sentence.

SEC. 113. STUDY OF AUCTION OR BULK REFINANCE PROGRAM.

(a) STUDY.—The Board of Governors of the Federal Reserve System (in this section referred to as the ''Board of Governors''), in consultation with other members of the Oversight Board established by section 257(a) of the National Housing Act (as added by the amendment made by section 112(a) of this title), 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 the mortgage insurance program under title II of the National Housing Act. 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.

(b) CONTENT.—

(1) ANALYSIS.—The study required under subsection (a) shall analyze—

(A) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under title II of the National Housing Act;

(B) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;

(C) 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;

(D) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and

(E) and any other factors that the Board of Governors considers relevant.

(2) DETERMINATIONS.—To the extent that the Board of Governors finds that a facility of the type described in paragraph (1) is feasible and useful, the study shall—

(A) determine and identify any additional authority or resources needed to establish and operate such a mechanism;

(B) determine whether there is a need for additional authority with respect to the loan underwriting criteria included in the amendment made by section 112(a) of this title or with respect to eligibility of participating borrowers, lenders, or holders of liens;

(C) 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 the National Housing Act.

(c) REPORT.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Board of Governors shall submit a report regarding the results of the study conducted under this section 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 subsection (b)(1) and of the determinations made pursuant to subsection (b)(2), and shall include any other findings and recommendations of the Board of Governors pursuant to the study, including identifying various options for mechanisms described in subsection (a).

SEC. 114. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY 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. 115. STUDY OF POSSIBLE ACCOUNTING REVISIONS RELATING TO PROPERTY AT RISK OF FORECLOSURE AND THE AVAILABILITY OF CREDIT FOR REFINANCING HOME MORTGAGES AT RISK OF FORECLOSURE.

(a) STUDY REQUIRED.—The Securities and Exchange Commission, in consultation with the Board of Governors of the Federal Reserve System, shall conduct a study on fair value accounting standards applicable to financial institutions, including depository institutions, with respect to their residential mortgages that are at risk of foreclosure and mortgage-backed securities involving such mortgages, the effects of such accounting standards on a financial institution's balance sheet and capacity to provide refinancing to residential mortgagors that are at risk of foreclosure and to residential mortgagors during periods of market value declines and increased foreclosures, and the advisability and feasibility of modifications of such standards during periods of market fluctuation in order to maintain the ability of the institution to continue to carry mortgages on residential property at risk of foreclosure and assure the availability of credit to refinance at-risk residential mortgages.

(b) REPORT REQUIRED.—The Securities and Exchange Commission shall submit a report to the Congress before the end of the 90-day period beginning on the date of the enactment of this Act containing the findings and determinations of the Commission with respect to the study conducted under subsection (a) and such administrative and legislative recommendations as the Commission may determine to be appropriate.

SEC. 116. GAO STUDY OF THE EFFECT OF TIGHTENING CREDIT MARKETS IN COMMUNITIES AFFECTED BY THE SUBPRIME MORTGAGE FORECLOSURE CRISES AND PREDATORY LENDING ON PROSPECTIVE FIRST-TIME HOMEBUYERS SEEKING MORTGAGES.

The Comptroller General of the United States shall conduct a study to analyze the effects of tightening credit markets on prospective first-time home buyers who reside in selected communities that have been most detrimentally affected by both the current subprime mortgage foreclosure crisis and predatory mortgage lending. Such study shall also analyze the adequacy of financial literacy outreach efforts by agencies of the Federal Government tasked with implementing financial literacy education in such communities and shall assess whether the current funding levels for such efforts are at sufficient levels to reduce the levels of subprime mortgage delinquencies and foreclosures and to increase the level of financial literacy in the selected communities so as to minimize the incidences of predatory mortgage lending. Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress setting forth the results of the study and including recommendations regarding such funding levels.

Subtitle B—Office of Housing Counseling

SEC. 131. SHORT TITLE.

This subtitle may be cited as the ''Expand and Preserve Home Ownership Through Counseling Act''.

SEC. 132. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING.

Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:

''(g) OFFICE OF HOUSING COUNSELING.—

''(1) ESTABLISHMENT.—There is established, in the Office of the Secretary, the Office of Housing Counseling.

''(2) DIRECTOR.—There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

''(3) FUNCTIONS.—

''(A) IN GENERAL.—The Director shall have ultimate responsibility within the Department, except for the Secretary, for all activities and matters relating to homeownership counseling and rental housing counseling, including—

''(i) research, grant administration, public outreach, and policy development relating to such counseling; and

''(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

''(B) SPECIFIC FUNCTIONS.—The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for—

''(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));

''(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;

''(iii) carrying out section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) for home buying information booklets prepared pursuant to such section;

''(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));

''(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;

''(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 136 of the Expand and Preserve Home Ownership Through Counseling Act;

''(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

''(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and

''(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services.

''(4) ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

''(B) MEMBERS.—Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent all aspects of the mortgage and real estate industry, including consumers.

''(C) TERMS.—Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

''(D) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

''(E) PROHIBITION OF PAY; TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(F) ADVISORY ROLE ONLY.—The advisory committee shall have no role in reviewing or awarding housing counseling grants.

''(5) SCOPE OF HOMEOWNERSHIP COUNSELING.—In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.''.

SEC. 133. COUNSELING PROCEDURES.

(a) IN GENERAL.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

''(g) PROCEDURES AND ACTIVITIES.—

''(1) COUNSELING PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.

''(B) HOMEOWNERSHIP COUNSELING.—For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term 'homeownership counseling' means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to—

''(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

''(ii) in the United States Housing Act of 1937—

''(I) section 9(e) (42 U.S.C. 1437g(e));

''(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));

''(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

''(IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

''(V) section 32(e)(4) (42 U.S.C. 1437z–4(e)(4));

''(VI) section 33(d)(2)(B) (42 U.S.C. 1437z–5(d)(2)(B));

''(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa–1(b)(6), 1437aaa–2(b)(7)); and

''(VIII) section 304(c)(4) (42 U.S.C. 1437aaa–3(c)(4));

''(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note);

''(iv) sections 233(b)(2) and 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2), 12808(b));

''(v) this section and section 101(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x, 1701w(e));

''(vi) section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G));

''(vii) sections 422(b)(6), 423(b)(7), 424(c)(4), 442(b)(6), and 443(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6));

''(viii) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

''(ix) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

''(x) in the National Housing Act—

''(I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);

''(II) subsections (a) and (c)(3) of section 237 (12 U.S.C. 1715z–2); and

''(III) subsections (d)(2)(B) and (m)(1) of section 255 (12 U.S.C. 1715z–20);

''(xi) section 502(h)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4)(B)); and

''(xii) section 508 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–7).

''(C) RENTAL HOUSING COUNSELING.—For purposes of this subsection, the term 'rental housing counseling' means counseling related to rental of residential property, which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to—

''(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

''(ii) in the United States Housing Act of 1937—

''(I) section 9(e) (42 U.S.C. 1437g(e));

''(II) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

''(III) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

''(IV) section 32(e)(4) (42 U.S.C. 1437z–4(e)(4));

''(V) section 33(d)(2)(B) (42 U.S.C. 1437z–5(d)(2)(B)); and

''(VI) section 302(b)(6) (42 U.S.C. 1437aaa–1(b)(6));

''(iii) section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2));

''(iv) section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x);

''(v) section 422(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6));

''(vi) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

''(vii) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and

''(viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

''(2) STANDARDS FOR MATERIALS.—The Secretary, in conjunction with the advisory committee established under subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).

''(3) MORTGAGE SOFTWARE SYSTEMS.—

''(A) CERTIFICATION.—The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account—

''(i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;

''(ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan;

''(iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the Secretary determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.

''(B) USE AND INITIAL AVAILABILITY.—Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

''(C) AVAILABILITY.—After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

''(4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

''(A) IN GENERAL.—The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.

''(B) CONTACT INFORMATION.—Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and web site of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.

''(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2008, 2009, and 2010, for the develop, implement, and conduct of national public service multimedia campaigns under this paragraph.

''(5) EDUCATION PROGRAMS.—The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, and home repair loans.''.

(b) CONFORMING AMENDMENTS TO GRANT PROGRAM FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (III), by striking ''and'' at the end;

(2) in subclause (IV) by striking the period at the end and inserting ''; and''; and

(3) by inserting after subclause (IV) the following new subclause:

''(V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).''.

SEC. 134. GRANTS FOR HOUSING COUNSELING ASSISTANCE.

Section 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding at the end the following new paragraph:

''(4) HOMEOWNERSHIP AND RENTAL COUNSELING ASSISTANCE.—

''(A) IN GENERAL.—The Secretary shall make financial assistance available under this paragraph to States, units of general local governments, and nonprofit organizations providing homeownership or rental counseling (as such terms are defined in subsection (g)(1)).

''(B) QUALIFIED ENTITIES.—The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph.

''(C) DISTRIBUTION.—Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $45,000,000 for each of fiscal years 2008 through 2011 for—

''(i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;

''(ii) the responsibilities of the Secretary under paragraphs (2) through (5) of subsection (g); and

''(iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.''.

SEC. 135. REQUIREMENTS TO USE HUD-CERTIFIED COUNSELORS UNDER HUD PROGRAMS.

Section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 101(e), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.'';

(2) in paragraph (2)—

(A) by inserting ''and for certifying organizations'' before the period at the end of the first sentence; and

(B) in the second sentence by striking ''for certification'' and inserting '', for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual,'';

(3) in paragraph (3), by inserting ''organizations and'' before ''individuals'';

(4) by redesignating paragraph (3) as paragraph (5); and

(5) by inserting after paragraph (2) the following new paragraphs:

''(3) REQUIREMENT UNDER HUD PROGRAMS.—Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the Secretary under this subsection as competent to provide such counseling.

''(4) OUTREACH.—The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).''.

SEC. 136. STUDY OF DEFAULTS AND FORECLOSURES.

The Secretary of Housing and Urban Development shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as are available. The study shall also examine the role of escrow accounts in helping prime and nonprime borrowers to avoid defaults and foreclosures. Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a preliminary report regarding the study. Not later than 24 months after such date of enactment, the Secretary shall submit a final report regarding the results of the study, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to identify populations that need counseling the most.

SEC. 137. DEFINITIONS FOR COUNSELING-RELATED PROGRAMS.

Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new subsection:

''(h) DEFINITIONS.—For purposes of this section:

''(1) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' has the meaning given such term in section 104(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(5)), except that subparagraph (D) of such section shall not apply for purposes of this section.

''(2) STATE.—The term 'State' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

''(3) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State.''.

SEC. 138. UPDATING AND SIMPLIFICATION OF MORTGAGE INFORMATION BOOKLET.

Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended—

(1) in the section heading, by striking ''SPECIAL'' and inserting ''HOME BUYING'';

(2) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) PREPARATION AND DISTRIBUTION.—The Secretary shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Secretary shall prepare the booklet in various languages and cultural styles, as the Secretary determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Secretary shall distribute such booklets to all lenders that make federally related mortgage loans. The Secretary shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section.

''(b) CONTENTS.—Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in plain and understandable language the following information:

''(1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum—

''(A) balloon payments;

''(B) prepayment penalties; and

''(C) the trade-off between closing costs and the interest rate over the life of the loan.

''(2) An explanation and sample of the uniform settlement statement required by section 4.

''(3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

''(4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower.

''(5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act.

''(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled 'Consumer Handbook on Adjustable Rate Mortgages', published by the Board of Governors of the Federal Reserve System pursuant to section 226.19(b)(1) of title 12, Code of Federal Regulations, or to any suitable substitute of such booklet that such Board of Governors may subsequently adopt pursuant to such section.

''(7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act.

''(8) Information about homeownership counseling services made available pursuant to section 106(a)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available.

''(9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 10 of this Act regarding such accounts.

''(10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement.

''(11) An explanation of a consumer's responsibilities, liabilities, and obligations in a mortgage transaction.

''(12) An explanation of the nature and purpose of real estate appraisals, including the difference between an appraisal and a home inspection.

''(13) Notice that the Office of Housing of the Department of Housing and Urban Development has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure.

The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.'';

(3) in subsection (c), by inserting at the end the following new sentence: ''Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) and located in the area of the lender.''; and

(4) in subsection (d), by inserting after the period at the end of the first sentence the following: ''The lender shall provide the HUD-issued booklet in the version that is most appropriate for the person receiving it.''.

Subtitle C—Combating Mortgage Fraud

SEC. 151. AUTHORIZATION OF APPROPRIATIONS TO COMBAT MORTGAGE FRAUD.

For fiscal years 2008, 2009, 2010, 2011, and 2012, there are authorized to be appropriated to the Attorney General a total of—

(1) $31,250,000 to support the employment of 30 additional agents of the Federal Bureau of Investigation and 2 additional dedicated prosecutors at the Department of Justice to coordinate prosecution of mortgage fraud efforts with the offices of the United States Attorneys; and

(2) $750,000 to support the operations of interagency task forces of the Federal Bureau of Investigation in the areas with the 15 highest concentrations of mortgage fraud.

TITLE II—FHA REFORM AND MANUFACTURED HOUSING LOAN INSURANCE MODERNIZATION

Subtitle A—FHA Reform

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Expanding American Homeownership Act of 2008''.

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) one of the primary missions of the Federal Housing Administration (FHA) single family mortgage insurance program is to reach borrowers who are underserved, or not served, by the existing conventional mortgage marketplace;

(2) the FHA program has a long history of innovation, which includes pioneering the 30-year self-amortizing mortgage and a safe-to-seniors reverse mortgage product, both of which were once thought too risky to private lenders;

(3) the FHA single family mortgage insurance program traditionally has been a major provider of mortgage insurance for home purchases;

(4) the FHA mortgage insurance premium structure, as well as FHA's product offerings, should be revised to reflect FHA's enhanced ability to determine risk at the loan level and to allow FHA to better respond to changes in the mortgage market;

(5) during past recessions, including the oil-patch downturns in the mid-1980s, FHA remained a viable credit enhancer and was therefore instrumental in preventing a more catastrophic collapse in housing markets and a greater loss of homeowner equity; and

(6) as housing price appreciation slows and interest rates rise, many homeowners and prospective homebuyers will need the less-expensive, safer financing alternative that FHA mortgage insurance provides.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide flexibility to FHA to allow for the insurance of housing loans for low- and moderate-income homebuyers during all economic cycles in the mortgage market;

(2) to modernize the FHA single family mortgage insurance program by making it more reflective of enhancements to loan-level risk assessments and changes to the mortgage market; and

(3) to adjust the loan limits for the single family mortgage insurance program to reflect rising house prices and the increased costs associated with new construction.

SEC. 203. MAXIMUM PRINCIPAL LOAN OBLIGATION.

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

''(A) not to exceed the lesser of—

''(i) in the case of a 1-family residence, 125 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) 175 percent of the dollar amount limitation determined under such section 305(a)(2)(A) for a residence of the applicable size (without regard to any authority to increase such limitations with respect to properties located in Alaska, Guam, Hawaii, or the Virgin Islands and without regard to the high-cost area limitation under such section 305(a)(2)(B));

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 except that, if the Secretary determines that market conditions warrant such an increase, the Secretary may, for such period as the Secretary considers appropriate, increase the maximum dollar amount limitation determined pursuant to the preceding provisions of this subparagraph with respect to any particular size or sizes of residences, or with respect to residences located in any particular area or areas, to an amount that does not exceed the maximum dollar amount then otherwise in effect pursuant to the preceding provisions of this subparagraph for such size residence, or for such area (if applicable), by not more than $100,000; and''.

(b) TREATMENT OF TEMPORARY LOAN LIMIT INCREASE.—Subsection (a) and the amendment made by such subsection may not be construed to in any way affect the effectiveness of section 202 of the Economic Stimulus Act of 2008 (Public Law 110-185; 122 Stat. 620).

SEC. 204. EXTENSION OF MORTGAGE TERM.

Paragraph (3) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(3)) is amended—

(1) by striking ''thirty-five years'' and inserting ''forty years''; and

(2) by striking ''(or thirty years if such mortgage is not approved for insurance prior to construction)''.

SEC. 205. DOWNPAYMENT SIMPLIFICATION.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) not to exceed an amount equal to the sum of—

''(i) the amount of the mortgage premium paid at the time the mortgage is insured; and

''(ii) 97.75 percent of the appraised value of the property.'';

(B) in the matter after and below subparagraph (B), by striking the second sentence (relating to a definition of ''average closing cost'') and all that follows through ''title 38, United States Code.''; and

(C) by striking the last undesignated paragraph (relating to counseling with respect to the responsibilities and financial management involved in homeownership); and

(2) in paragraph (9)—

(A) by striking the paragraph designation and all that follows through ''*Provided further*, That for'' and inserting the following:

''(9) Be executed by a mortgagor who shall have paid on account of the property, in cash or its equivalent, at least 3 percent of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured). For''; and

(B) by inserting after the period at the end the following: ''For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts gifted by a family member (as such term is defined in section 201), the mortgagor's employer or labor union, or a qualified homeownership assistance entity, but only if there is no obligation on the part of the mortgagor to repay the gift: For purposes of the preceding sentence, the term 'qualified homeownership assistance entity' means any governmental agency or charity that has a program to provide homeownership assistance to low- and moderate-income families or first-time home buyers, or any private nonprofit organization that has such a program and evidences sufficient fiscal soundness to protect the fiscal integrity of the Mutual Mortgage Insurance Fund by maintaining a minimum net worth of $4,000,000 of acceptable assets.''.

SEC. 206. MORTGAGE INSURANCE PREMIUMS FOR QUALIFIED HOMEOWNERSHIP ASSISTANCE ENTITIES AND HIGHER-RISK BORROWERS.

Paragraph (2) of section 203(c) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in subparagraph (A), in the matter preceding subparagraph (A), by striking the first comma after ''section 234(c)'';

(2) in subparagraph (A), by inserting after the period at the end of the second sentence the following: ''In the case of a mortgage for which any amounts gifted by a qualified homeownership assistance entity (as such term is defined in paragraph (9) of subsection (b)) that is a private nonprofit organization are treated as cash or its equivalent for purposes of meeting the 3 percent requirement under such paragraph, the premium payment under this subparagraph shall not exceed 3.0 percent of the amount of the original insured principal obligation of the mortgage.''; and

(3) by adding at the end the following new subparagraph:

''(C) HIGHER-RISK BORROWERS.—The Secretary shall establish underwriting standards that provide for insurance under this section of mortgages described in the matter in this paragraph preceding subparagraph (A) for which the mortgagor has a credit score equivalent to a FICO score of less than 560, and may insure, and make commitments to insure, such mortgages. Such underwriting standards shall include establishing and collecting premium payments that comply with the requirements of this paragraph, except that notwithstanding subparagraph (A), the single premium payment collected at the time of insurance may be established in an amount that does not exceed 3.0 percent of the amount of the original insured principal obligation of the mortgage.''.

SEC. 207. RISK-BASED MORTGAGE INSURANCE PREMIUMS.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new paragraphs:

''(4) FLEXIBLE RISK-BASED PREMIUMS.—In the case of a mortgage referred to in paragraph (2)(C) or a mortgage described in the third sentence of subparagraph (A) of paragraph (2) (relating to mortgages for which amounts are gifted by a nonprofit qualified homeownership assistance entity), for which the loan application is received by the mortgagee on or after the date of the enactment of the Expanding American Homeownership Act of 2008:

''(A) IN GENERAL.—The Secretary may establish a mortgage insurance premium structure involving a single premium payment collected prior to the insurance of the mortgage or annual payments (which may be collected on a periodic basis), or both, subject

to the requirements of subparagraph (B) and paragraph (5). Under such structure, the rate of premiums for such a mortgage may vary according to the credit risk associated with the mortgage and the rate of any annual premium for such a mortgage may vary during the mortgage term as long as the basis for determining the variable rate is established before the execution of the mortgage. The Secretary may change a premium structure established under this subclause but only to the extent that such change is not applied to any mortgage already executed.

''(B) ESTABLISHMENT AND ALTERATION OF PREMIUM STRUCTURE.—A premium structure shall be established or changed under subparagraph (A) only by providing notice to mortgagees and to the Congress, at least 30 days before the premium structure is established or changed.

''(C) ANNUAL REPORT REGARDING PREMIUMS.—The Secretary shall submit a report to the Congress annually setting forth the rate structures and rates established and altered pursuant to this paragraph during the preceding 12-month period and describing how such rates were determined.

''(5) CONSIDERATIONS FOR PREMIUM STRUCTURE.—When establishing premiums for mortgages referred to in paragraph (2)(C), establishing premiums pursuant to paragraph (3), establishing a premium structure under paragraph (4), and when changing such a premium structure, the Secretary shall consider the following:

''(A) The effect of the proposed premiums or structure on the Secretary's ability to meet the operational goals of the Mutual Mortgage Insurance Fund as provided in section 202(a).

''(B) Underwriting variables.

''(C) The extent to which new pricing under the proposed premiums or structure has potential for acceptance in the private market.

''(D) The administrative capability of the Secretary to administer the proposed premiums or structure.

''(E) The effect of the proposed premiums or structure on the Secretary's ability to maintain the availability of mortgage credit and provide stability to mortgage markets.

''(6) AUTHORITY TO BASE PREMIUM PRICES ON PRODUCT RISK.—

''(A) AUTHORITY.—In establishing premium rates under paragraphs (2), (3), and (4), the Secretary may provide for variations in such rates according to the credit risk associated with the type of mortgage product that is being insured under this title, which may include providing that premium rates differ between fixed-rate mortgages and adjustable-rate mortgages insured pursuant to section 251, between mortgages insured pursuant to section 203(b) and mortgages for condominiums insured pursuant to section 234, and between such other products as the Secretary considers appropriate.

''(B) LIMITATION.—Subparagraph (A) may not be construed to authorize the Secretary to establish, for any mortgage product, any mortgage insurance premium rate that does not comply with the requirements and limitations under paragraphs (2) through (5).''.

SEC. 208. PAYMENT INCENTIVES FOR HIGHER-RISK BORROWERS.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new paragraph:

''(7) PAYMENT INCENTIVES.—

''(A) AUTHORITY.—With respect to mortgages referred to in paragraph (2)(C):

''(i) DISCRETIONARY 3-YEAR PAYMENT INCENTIVE.—The Secretary may provide, in the discretion of the Secretary, that the payment incentive under subparagraph (B) shall apply upon the expiration of the 3-year period beginning upon the time of insurance of such a mortgage.

''(ii) MANDATORY 5-YEAR PAYMENT INCENTIVE.—The Secretary shall provide that the payment incentive under subparagraph (B) applies upon the expiration of the 5-year period beginning upon the time of insurance of such a mortgage.

''(B) PAYMENT INCENTIVE.—In the case of any mortgage to which the payment incentive under this subparagraph applies, if, during the period referred to in clause (i) or (ii) of subparagraph (A), as applicable, all mortgage insurance premiums for such mortgage have been paid on a timely basis, upon the expiration of such period the Secretary shall—

''(i) reduce the amount of the annual premium payments otherwise due thereafter under such mortgage to an amount that does not exceed the amount of the annual premium payable at the time of insurance of the mortgage on a mortgage of the same product type having the same terms, but for which the mortgagor has a credit score equivalent to a FICO score of 560 or more; and

''(ii) refund to the mortgagor, upon payment in full of the obligation of the mortgage, any amount by which the single premium payment for such mortgage collected at the time of insurance exceeded the amount of the single premium payment chargeable under paragraph (2)(A) at the time of insurance for a mortgage of the same product type having the same terms, but for which the mortgagor has a credit score equivalent to a FICO score of 560 or more.''.

SEC. 209. PROTECTIONS FOR HIGHER-RISK BORROWERS.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by adding at the end the following new paragraph:

''(10) PROTECTIONS FOR HIGHER-RISK BORROWERS.—Except as otherwise specifically provided in this paragraph, in the case of any mortgage referred to in paragraph (2)(C) of subsection (c), the following requirements shall apply:

''(A) DISCLOSURES.—

''(i) REQUIRED DISCLOSURES.—In addition to any disclosures that are otherwise required by law or by the Secretary for single family mortgages, the mortgagee shall disclose to the mortgagor the following information:

''(I) AT APPLICATION.—At the time of application for the loan involved in the mortgage, a list of counseling agencies, approved by the Secretary, in the area of the applicant.

''(II) AT EXECUTION.—At the time of entering into the mortgage—

''(aa) the terms of the mandatory 5-year payment incentive required under subsection (c)(7)(A)(ii); and

''(bb) a statement that the mortgagor has a right under contract to loss mitigation.

''(III) OTHER INFORMATION.—Any other additional information that the Secretary determines is appropriate to ensure that the mortgagor has received timely and accurate information about the program under paragraph (2)(C) of subsection (c).

''(ii) PENALTIES FOR FAILURE TO PROVIDE REQUIRED DISCLOSURES.—The Secretary may establish and impose appropriate penalties for failure of a mortgagee to provide any disclosure required under clause (i).

''(iii) NO PRIVATE RIGHT OF ACTION.—This subparagraph shall not create any private right of action on behalf of the mortgagor.

''(B) COUNSELING.—

''(i) REQUIREMENT.—The Secretary shall require that the mortgagor shall have received counseling that complies with the requirements of this subparagraph.

''(ii) TERMS OF COUNSELING.—Counseling under this subparagraph shall be provided—

''(I) prior to closing for the loan involved in the mortgage;

''(II) by a third party (other than the mortgagee) who is approved by the Secretary, with respect to the responsibilities and financial management involved in homeownership;

''(III) on an individual basis to the mortgagor by a representative of the approved third-party counseling entity; and

''(IV) in person, to the maximum extent possible.

''(iii) 2- AND 3-FAMILY RESIDENCES.—In the case of a mortgage involving a 2- or 3-family residence, counseling under this subparagraph shall include (in addition to the information required under clause (iii)) information regarding real estate property management.

''(C) NOTICE OF FORECLOSURE PREVENTION COUNSELING AVAILABILITY.—

''(i) WRITTEN AGREEMENT.—To be eligible for insurance under this subsection, the mortgagee shall provide the mortgagor, at the time of the execution of the mortgage, a written agreement which shall be signed by the mortgagor and under which the mortgagee shall provide notice described in clause (ii) to a housing counseling entity that has agreed to provide the notice and counseling required under clause (iii) and is approved by the Secretary.

''(ii) NOTICE TO COUNSELING AGENCY.—The notice described in this clause, with respect to a mortgage, is notice, provided at the earliest time practicable after the mortgagor becomes 60 days delinquent with respect to any payment due under the mortgage, that the mortgagor is so delinquent and of how to contact the mortgagor. Such notice may only be provided once with respect to each delinquency period for a mortgage.

''(iii) NOTICE TO MORTGAGOR.—Upon notice from a mortgagee that a mortgagor is 60 days delinquent with respect to payments due under the mortgage, the housing counseling entity shall at the earliest time practicable notify the mortgagor of such delinquency, that the entity makes available foreclosure prevention counseling that may assist the mortgagor in resolving the delinquency, and of how to contact the entity to arrange for such counseling.

''(iv) ABILITY TO CURE.—Failure to provide the written agreement required under clause (i) may be corrected by sending such agreement to the mortgagor not later than the earliest time practicable after the mortgagor first becomes 60 days delinquent with respect to payments due under the mortgage. Insurance provided under this subsection may not be terminated and penalties for such failure may not be prospectively or retroactively imposed if such failure is corrected in accordance with this clause.

''(v) PENALTIES FOR FAILURE TO PROVIDE AGREEMENT.—The Secretary may establish and impose appropriate penalties for failure of a mortgagee to provide the written agreement required under clause (i).

''(vi) LIMITATION ON LIABILITY OF MORTGAGEE.—A mortgagee shall not incur any liability or penalties for any failure of a housing counseling entity to provide notice under clause (iii).

''(vii) NO PRIVATE RIGHT OF ACTION.—This subparagraph shall not create any private right of action on behalf of the mortgagor.

''(viii) DELINQUENCY PERIOD.—For purposes of this subparagraph, the term 'delinquency period' means, with respect to a mortgage, a period that begins upon the mortgagor becoming delinquent with respect to payments due under the mortgage and ends upon the first subsequent occurrence of such payments under the mortgage becoming current or the property subject to the mortgage being foreclosed or otherwise disposed of.''.

SEC. 210. REFINANCING MORTGAGES.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by inserting after subsection (k) the following new subsection:

''(l) REFINANCING MORTGAGES.—

''(1) ESTABLISHMENT OF UNDERWRITING STANDARDS.—The Secretary shall establish underwriting standards that provide for insurance under this title of mortgage loans, and take actions to facilitate the availability of mortgage loans insured under this title, for qualified borrowers that are made for the purpose of paying or prepaying outstanding obligations under existing mortgages for borrowers that—

''(A) have existing mortgages with adverse terms or rates, or

''(B) do not have access to mortgages at reasonable rates and terms for such refinancings due to adverse market conditions.

''(2) INSURANCE OF MORTGAGES TO BORROWERS IN DEFAULT OR AT RISK OF DEFAULT.—In facilitating insurance for such mortgages, the Secretary may insure mortgages to borrowers who are, currently in default or at imminent risk of being in default, but only if such loans meet reasonable underwriting standards established by the Secretary.''.

SEC. 211. ANNUAL REPORTS ON NEW PROGRAMS AND LOSS MITIGATION.

Section 540(b)(2) of the National Housing Act (12 U.S.C. 1735f–18(b)(2)) is amended, by adding at the end the following new subparagraphs:

''(C) The rates of default and foreclosure for the applicable collection period for mortgages insured pursuant to the program for mortgage insurance under paragraph (2)(C) of section 203(c).

''(D) Actions taken by the Secretary during the applicable collection period with respect to loss mitigation on mortgages insured pursuant to section 203.''.

SEC. 212. INSURANCE FOR SINGLE FAMILY HOMES WITH LICENSED CHILD CARE FACILITIES.

(a) DEFINITION OF CHILD CARE FACILITY.—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 'child care facility' means a facility that—

''(A) has as its purpose the care of children who are less than 12 years of age; and

''(B) is licensed or regulated by the State in which it is located (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located).

Such term does not include facilities for school-age children primarily for use during normal school hours.''.

(b) INCREASE IN MAXIMUM MORTGAGE AMOUNT LIMITATION.—Paragraph (2) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(2)), as amended by the preceding provisions of this subtitle, is further amended by adding at end the following new undesignated paragraph:

''Notwithstanding any other provision of this paragraph, the amount that may be insured under this section may be increased by up to 25 percent if such increase is necessary to account for the increased cost of the residence due to an increased need of space in the residence for locating and operating a child care facility (as such term is defined in section 201) within the residence, but only if a valid license or certificate of compliance with regulations described in section 201(g)(2) has been issued for such facility as of the date of the execution of the mortgage, and only if such increase in the amount insured is proportional to the amount of space of such residence that will be used for such facility.''.

SEC. 213. 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. 214. 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. 215. INSURANCE OF CONDOMINIUMS AND MANUFACTURED HOUSING.

(a) IN GENERAL.—Section 234 of the National Housing Act (12 U.S.C. 1715y) is amended—

(1) in subsection (c)—

(A) in the first sentence—

(i) by striking ''and'' before ''(2)''; and

(ii) 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

(B) in clause (B) of the third sentence, by striking ''thirty-five years'' and inserting ''forty years''; 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), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new subsection:

''(h) 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. 216. 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.

''(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each 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 upon the expiration of the 90-day period beginning on the date of the enactment of the Expanding 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 (5), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (8) 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 section 203 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 charge borrowers under loans that are obligations of the Fund an appropriate premium for the risk that such loans pose to the Fund;

''(B) to minimize the default risk to the Fund and to homeowners;

''(C) to curtail the impact of adverse selection on the Fund; and

''(D) 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 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. 217. HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) HAWAIIAN HOME LANDS.—Section 247(c) of the National Housing Act (12 U.S.C. 1715z–12) 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) is amended—

(1) by striking ''General Insurance Fund'' the first place it appears and all that follows 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. 218. 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. 219. 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) in subsection (b)(4), by striking subparagraph (B) and inserting the following new subparagraph:

''(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.''.

(3) in the second sentence of subsection (g), by striking ''the maximum dollar amount established under section 203(b)(2)'' and all that follows through ''located'' and inserting ''132 percent of the dollar amount limitation determined under section 305(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence (without regard to any authority to increase such limitations with respect to properties located in Alaska, Guam, Hawaii, or the Virgin Islands and without regard to the high-cost area limitation under such section 305(a)(2)(B))'';

(4) in subsection (i)(1)(C), by striking ''limitations'' and inserting ''limitation''; and

(5) by adding at the end the following new subsection:

''(o) AUTHORITY TO INSURE HOME PURCHASE MORTGAGES.—

''(1) IN GENERAL.—Notwithstanding any other provision in 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 primary purpose of the home equity conversion mortgage is to enable an elderly mortgagor to purchase a 1- to 4-family dwelling in which the mortgagor will occupy or occupies one of the units.

''(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 limitation under subsection (g) of this section on the maximum amount of the benefits of insurance under this section.''.

(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) PROHIBITION ON REQUIRED PURCHASE OF AN ANNUITY.—Section 255 of the National Housing Act of 1937 (12 U.S.C. 1715z–20) is amended—

(1) by striking subparagraph (B) of subsection (d)(2) and inserting the following new subparagraph:

''(B) has received adequate counseling by a third party (other than a reverse mortgage lender, servicer or investor, or an entity engaged in the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product) as provided in subsection (f);'';

(2) by striking the first sentence of subsection (f) and inserting the following new sentence: ''The Secretary shall provide or cause to be provided and paid for by entities other than a reverse mortgage lender, servicer or investor, or an entity engaged in the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product the information required in subsection (d)(2)(B).''; and

(3) by striking subsections (l) and (m) and inserting the following new subsection:

''(l) REGULATIONS TO PROTECT ELDERLY HOMEOWNERS.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of the Expanding American Homeownership Act of 2008, the Secretary shall, in consultation with other relevant Federal departments and agencies, prescribe regulations to help protect elderly homeowners from the marketing of financial and insurance products not in the interest of such homeowners, including the marketing or sale of an annuity as a condition of obtaining any home equity conversion mortgage.

''(2) CONSULTATION.—In developing the regulations required under paragraph (1), the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.''.

(d) 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—

(1) by redesignating subsections (k), (l), and (m) as subsections (l), (m), and (n), respectively; and

(2) by inserting after subsection (j) the following new subsection:

''(k) 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) be equal to 2.0 percent of the maximum claim amount of the mortgage up to a maximum claim amount of $200,000 plus 1 percent of any portion of the maximum claim amount that is greater than $200,000, unless adjusted thereafter on the basis of an analysis of (A) costs to mortgagors, and (B) the impact 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 or to mortgage brokers;

''(5) apply beginning upon the date that the maximum dollar amount limitation on the benefits of insurance under this section is first increased pursuant to the amendments made by section 219(a)(3) of the Expanding American Homeownership Act of 2008; and

''(6) be subject to a maximum origination fee of $6,000, except that such maximum limit shall be adjusted in accordance with the annual percentage increase in the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor in increments of $500 only when the percentage increase in such index, when applied to the maximum origination fee, produce dollar increases that exceed $500.''.

(e) STUDY REGARDING MORTGAGE INSURANCE PREMIUMS.—The Secretary of Housing and Urban Development shall conduct a study regarding mortgage insurance premiums charged under the program under section 255 of the National Housing Act (12 U.S.C. 1715z–20) for insurance of home equity conversion mortgages to analyze and determine the effects of reducing the amounts of such premiums from the amounts charged as of the date of the enactment of this Act on: (1) costs to mortgagors; and (2) the financial soundness of the program. Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress setting forth the results and conclusions of the study.

(f) PURCHASE AUTHORITY OF FANNIE MAE AND FREDDIE MAC.—

(1) FANNIE MAE.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)) is amended by adding at the end the following:

''(7) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in any mortgage insured

under section 255 of the National Housing Act (12 U.S.C. 1715z–20), notwithstanding the limitations under paragraph (2) on the maximum original principal obligations of mortgages.''.

(2) FREDDIE MAC.—Section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) is amended by adding at the end the following:

''(6) The Corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in any mortgage insured under section 255 of the National Housing Act (12 U.S.C. 1715z–20), notwithstanding the limitations under paragraph (2) on the maximum original principal obligations of mortgages.''.

SEC. 220. STUDY ON PARTICIPATION OF MORTGAGE BROKERS AND CORRESPONDENT LENDERS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study, which shall be completed not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, which shall analyze and determine—

(1) the extent to which the financial audit and net worth requirements impede participation by mortgage brokers and correspondent lenders in the mortgage insurance programs under the National Housing Act, as measured by the number and value of such insured mortgages, disaggregated by the States in which the properties subject to such mortgages are located;

(2) the extent and effectiveness of the financial audit and net worth requirements in protecting the Mutual Mortgage Insurance Fund;

(3) the extent and effectiveness of the supervision and quality control enforcement, by the Secretary, of mortgagees in the FHA program, separate from the financial audit and net worth requirements for participation, in protecting the Mutual Mortgage Insurance Fund;

(4) the extent to which allowing a mortgage broker to secure a surety bond in lieu of the financial audit and net worth requirements would increase participation by mortgage brokers and correspondent lenders in the mortgage insurance programs under the National Housing Act;

(5) the extent to which allowing a mortgage broker to secure a surety bond in lieu of the financial audit and net worth requirements would protect the Mutual Mortgage Insurance Fund; and

(6) the potential impact of such changes on the costs incurred by the Secretary of Housing and Urban Development in administering the mortgage insurance programs under such Act.

(b) GAO REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress and the Secretary of Housing and Urban Development setting forth the results and conclusions of the study conducted pursuant to subsection (a).

(c) HUD REPORT.—Not later than the expiration of the 18-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development may submit a report to the Congress making recommendations regarding any changes in requirements for participation of mortgage brokers and correspondent lenders in the mortgage insurance programs under the National Housing Act arising from a review of the study conducted pursuant to subsection (a).

SEC. 221. CONFORMING LOAN LIMIT IN DISASTER AREAS.

Section 203(h) of the National Housing Act (12 U.S.C. 1709) is amended—

(1) by inserting after ''property'' the following: ''plus any initial service charges, appraisal, inspection and other fees in connection with the mortgage as approved by the Secretary,'';

(2) by striking the second sentence (as added by chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211; 108 Stat. 12)); and

(3) by adding at the end the following new sentence: ''In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 36 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a single family residence, and not in excess of 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection and other fees in connection with the mortgage as approved by the Secretary.''.

SEC. 222. FAILURE TO PAY AMOUNTS FROM ESCROW ACCOUNTS FOR SINGLE FAMILY MORTGAGES.

(a) PENALTIES.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (a)(1), by inserting ''servicers (including escrow account servicers),'' after ''appraisers,'';

(2) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''or other participant referred to in subsection (a),'' after ''lender,''; and

(B) by inserting at the end the following new subparagraphs:

''(K) In the case of a mortgage for a 1- to 4-family residence insured under title II that requires the mortgagor to make payments to the mortgagee or other servicer of the mortgage for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, failure on the part of the servicer to make any such payment from the escrow account by the deadline to avoid a penalty with respect to such payment provided for in the mortgage, unless the servicer was not provided notice of such deadline.

''(L) In the case of any failure to make any payment as described in subparagraph (K), submitting any information to a consumer reporting agency (as such term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) regarding such failure that is adverse to the credit rating or interest of the mortgagor.''; and

(3) in subsection (c)(3), by adding at the end the following: ''In the case of any failure to make a payment described in subsection (b)(1)(K) for which the servicer fails to reimburse the mortgagor (A) before the expiration of the 60-day period beginning on the deadline to avoid a penalty with respect to such payment, in the sum of the amount not paid from the escrow account by such deadline and the amount of any penalties accruing to the mortgagor that are attributable to such failure, or (B) in the amount of any attorneys fees incurred by the mortgagor and attributable to such failure, the Secretary shall increase the amount of the penalty under subsection (a) for any such failure to reimburse, unless the Secretary determines there are mitigating circumstances.''.

(b) PROHIBITION ON SUBMISSION OF INFORMATION BY HUD.—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. PROHIBITION REGARDING FAILURE ON PART OF SERVICER TO MAKE ESCROW PAYMENTS.

''In the case of any failure to make any payment as described in section 536(b)(1)(K), the Secretary may not submit any information to a consumer reporting agency (as such term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) regarding such failure that is adverse to the credit rating or interest of the mortgagor.''.

SEC. 223. ACCEPTABLE IDENTIFICATION FOR FHA MORTGAGORS.

(a) IN GENERAL.—Title II of the National Housing Act is amended by inserting after section 209 (12 U.S.C. 1715) the following new section:

''SEC. 210. FORMS OF ACCEPTABLE IDENTIFICATION.

''The Secretary may not insure a mortgage under any provision of this title unless the mortgagor under the mortgage provides personal identification in one of the following forms:

''(1) A valid social security number verified in accordance with paragraph 3-1 C of chapter 3 of HUD Handbook 4155.1 REV-5.

''(2) A driver's license or identification card issued by a State in the case of a State that is in compliance with title II of the REAL ID Act of 2005 (title II of division B of Public Law 109–13; 49 U.S.C. 30301 note).

''(3) A passport issued by the United States or a foreign government.

''(4) A photo identification card issued by the Secretary of Homeland Security (acting through the Director of the United States Citizenship and Immigration Services).''.

(b) EFFECTIVE DATE.—The requirements of section 210 of the National Housing Act (as added by subsection (a) of this section) shall take effect 6 months after the date of the enactment of this Act.

SEC. 224. 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.), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new section:

''SEC. 258. 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—

''(1) to first-time homebuyers; or

''(2) metropolitan statistical areas significantly impacted by subprime lending.

''(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 Expanding 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 4-year period beginning on the date that the Secretary of Housing and Urban Development first insures any mortgage pursuant to the automated process established under pilot program under section 258 of the National Housing Act (as added by the amendment made by subsection (a) of this section), the Comptroller General of the United States shall submit to the Congress a report identifying the number of additional mortgagors served using such automated process 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. 225. SENSE OF CONGRESS REGARDING TECHNOLOGY FOR FINANCIAL SYSTEMS.

(a) CONGRESSIONAL FINDINGS.—The Congress finds the following:

(1) The Government Accountability Office has cited the FHA single family housing mortgage insurance program as a ''high-risk'' program, with a primary reason being non-integrated and out-dated financial management systems.

(2) The ''Audit of the Federal Housing Administration's Financial Statements for Fiscal Years 2004 and 2003'', conducted by the Inspector General of the Department of Housing and Urban Development reported as a material weakness that ''HUD/FHA's automated data processing [ADP] system environment must be enhanced to more effectively support FHA's business and budget processes''.

(3) Existing technology systems for the FHA program have not been updated to meet the latest standards of the Mortgage Industry Standards Maintenance Organization and have numerous deficiencies that lenders have outlined.

(4) Improvements to technology used in the FHA program will—

(A) allow the FHA program to improve the management of the FHA portfolio, garner greater efficiencies in its operations, and lower costs across the program;

(B) result in efficiencies and lower costs for lenders participating in the program, allowing them to better use the FHA products in extending homeownership opportunities to higher credit risk or lower-income families, in a sound manner.

(5) The Mutual Mortgage Insurance Fund operates without cost to the taxpayers and generates revenues for the Federal Government.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Secretary of Housing and Urban Development should use a portion of the funds received from premiums paid for FHA single family housing mortgage insurance that are in excess of the amounts paid out in claims to substantially increase the funding for technology used in such FHA program;

(2) the goal of this investment should be to bring the technology used in such FHA program to the level and sophistication of the technology used in the conventional mortgage lending market, or to exceed such level; and

(3) the Secretary of Housing and Urban Development should report to the Congress not later than 180 days after the date of the enactment of this Act regarding the progress the Department is making toward such goal and if progress is not sufficient, the resources needed to make greater progress.

SEC. 226. CLARIFICATION OF DISPOSITION OF CERTAIN PROPERTIES.

Notwithstanding any other provision of law, subtitle A of title II of the Deficit Reduction Act of 2005 (12 U.S.C. 1701z–11 note) and the amendments made by such title shall not apply to any transaction regarding a multifamily real property for which—

(1) the Secretary of Housing and Urban Development has received, before the date of the enactment of such Act, written expressions of interest in purchasing the property from both a city government and the housing commission of such city;

(2) after such receipt, the Secretary acquires title to the property at a foreclosure sale; and

(3) such city government and housing commission have resolved a previous disagreement with respect to the disposition of the property.

SEC. 227. VALUATION OF MULTIFAMILY PROPERTIES IN NONCOMPETITIVE SALES BY HUD TO STATES AND LOCALITIES.

Subtitle A of title II of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 7) is amended by adding at the end the following new section:

''SEC. 2004. VALUATION OF MULTIFAMILY PROPERTIES IN NONCOMPETITIVE SALES BY HUD TO STATES AND LOCALITIES.

'' 'Notwithstanding any other provision of law, in determining the market value of any multifamily real property or multifamily loan for any noncompetitive sale to a State or local government entity occurring during fiscal year 2008, the Secretary shall consider, but not be limited to, industry standard appraisal practices, including the cost of repairs needed to bring the property at least to minimum State and local code standards and of maintaining the existing affordability restrictions imposed by the Secretary on the multifamily real property or multifamily loan.'.''.

SEC. 228. LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES.

Notwithstanding any other provision of law, including any provision of this subtitle and any amendment made by this subtitle—

(1) the premiums charged for mortgage insurance under any program 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 by rule making in accordance with the procedures under section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 229. CIVIL MONEY PENALTIES FOR IMPROPERLY INFLUENCING APPRAISALS.

Paragraph (2) of section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)(2)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(D) in the case of an insured mortgage under title II for a 1- to 4-family residence, compensating, instructing, inducing, coercing, or intimidating any person who conducts an appraisal of the property in connection with such mortgage, or attempting to compensate, instruct, induce, coerce, or intimidate such a person, for the purpose of causing the appraised value assigned to the property under the appraisal to be based on any other factor other than the independent judgment of such person exercised in accordance with applicable professional standards.''.

SEC. 230. MORTGAGE INSURANCE PREMIUM REFUNDS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development shall, to the extent that amounts are made available pursuant to subsection (c), provide refunds of unearned premium charges paid, at the time of insurance, for mortgage insurance under title II of the National Housing Act (12 U.S.C. 1707 et seq.) to or on behalf of mortgagors under mortgages described in subsection (b).

(b) ELIGIBLE MORTGAGES.—A mortgage described in this section is a mortgage on a one- to four-family dwelling that—

(1) was insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);

(2) is otherwise eligible, under the last sentence of subparagraph (A) of section 203(c)(2) of such Act (12 U.S.C. 1709(c)(2)(A)), for a refund of all unearned premium charges paid on the mortgage pursuant to such subparagraph, except that the mortgage—

(A) was closed before December 8, 2004; and

(B) was endorsed on or after such date.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each fiscal year such sums as may be necessary to provide refunds of unearned mortgage insurance premiums pursuant to this section.

SEC. 231. SAVINGS PROVISION.

Any mortgage insured under title II of the National Housing Act before the date of enactment of this Act 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 Act.

SEC. 232. IMPLEMENTATION.

Except as provided in section 223(b), 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.

Subtitle B—FHA Manufactured Housing Loan Insurance Modernization

SECTION 251. SHORT TITLE.

This subtitle may be cited as the ''FHA Manufactured Housing Loan Modernization Act of 2008''.

SEC. 252. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) manufactured housing plays a vital role in providing housing for low- and moderate-income families in the United States;

(2) the FHA title I insurance program for manufactured home loans traditionally has been a major provider of mortgage insurance for home-only transactions;

(3) the manufactured housing market is in the midst of a prolonged downturn which has resulted in a severe contraction of traditional sources of private lending for manufactured home purchases;

(4) during past downturns the FHA title I insurance program for manufactured homes has filled the lending void by providing stability until the private markets could recover;

(5) in 1992, during the manufactured housing industry's last major recession, over 30,000 manufactured home loans were insured under title I;

(6) in 2006, fewer than 1,500 manufactured housing loans were insured under title I;

(7) the loan limits for title I manufactured housing loans have not been adjusted for inflation since 1992; and

(8) these problems with the title I program have resulted in an atrophied market for manufactured housing loans, leaving American families who have the most difficulty

achieving homeownership without adequate financing options for home-only manufactured home purchases.

(b) 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. 253. 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. 254. 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 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 Act.

SEC. 255. 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 subtitle, 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 one 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. 256. 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. 257. 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. 258. 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 subtitle, 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 Act, 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. 259. REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER FOR ASSISTANCE.

Section 2 of the National Housing Act (12 U.S.C. 1703) is amended by adding at the end the following new subsection:

''(j) REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER FOR FINANCING.—No insurance shall be granted under this section with respect to any obligation representing any loan, advance of credit, or purchase by a financial institution unless the borrower to

which the loan or advance of credit was made has a valid social security number.''.

SEC. 260. GAO STUDY OF MITIGATION OF TORNADO RISKS TO MANUFACTURED HOMES.

The Comptroller General of the United States shall assess how the Secretary of Housing and Urban Development utilizes the FHA manufactured housing loan insurance program under title I of the National Housing Act, the community development block grant program under title I of the Housing and Community Development Act of 1974, and other programs and resources available to the Secretary to mitigate the risks to manufactured housing residents and communities resulting from tornados. The Comptroller General shall submit to the Congress a report on the conclusions and recommendations of the assessment conducted pursuant to this section not later than the expiration of the 12-month period beginning on the date of the enactment of this Act.

TITLE III—REFORM OF GOVERNMENT-SPONSORED ENTITIES FOR HOUSING FINANCE

SEC. 301. SHORT TITLE.

This title may be cited as the ''Federal Housing Finance Reform Act of 2008''.

SEC. 302. DEFINITIONS.

Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in paragraph (7), by striking ''an enterprise'' and inserting ''a regulated entity'';

(2) by striking ''the enterprise'' each place such term appears (except in paragraphs (4) and (18)) and inserting ''the regulated entity'';

(3) in paragraph (5), by striking ''Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Federal Housing Finance Agency'';

(4) in each of paragraphs (8), (9), (10), and (19), by striking ''Secretary'' each place that term appears and inserting ''Director'';

(5) in paragraph (13), by inserting '', with respect to an enterprise,'' after ''means'';

(6) by redesignating paragraphs (16) through (19) as paragraphs (20) through (23), respectively;

(7) by striking paragraphs (14) and (15) and inserting the following new paragraphs:

''(18) 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) each Federal home loan bank.

''(19) REGULATED ENTITY-AFFILIATED PARTY.—The term 'regulated entity-affiliated party' means—

''(A) any director, officer, employee, or agent for, a regulated entity, or controlling shareholder of an enterprise;

''(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, except that a shareholder of a regulated entity shall not be considered to have participated in the affairs of that regulated entity solely by reason of being a member or customer of the regulated entity;

''(C) any independent contractor for a regulated entity (including any attorney, appraiser, or accountant), if—

''(i) the independent contractor knowingly or recklessly participates in—

''(I) any violation of any law or regulation;

''(II) any breach of fiduciary duty; or

''(III) any unsafe or unsound practice; and

''(ii) such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the regulated entity; and

''(D) any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity.''.

(8) by redesignating paragraphs (8) through (13) as paragraphs (12) through (17), respectively; and

(9) by inserting after paragraph (7) the following new paragraph:

''(11) FEDERAL HOME LOAN BANK.—The term 'Federal home loan bank' means a bank established under the authority of the Federal Home Loan Bank Act.'';

(10) by redesignating paragraphs (2) through (7) as paragraphs (5) through (10), respectively; and

(11) by inserting after paragraph (1) the following new paragraphs:

''(2) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency.

''(3) AUTHORIZING STATUTES.—The term 'authorizing statutes' means—

''(A) the Federal National Mortgage Association Charter Act;

''(B) the Federal Home Loan Mortgage Corporation Act; and

''(C) the Federal Home Loan Bank Act.

''(4) BOARD.—The term 'Board' means the Federal Housing Enterprise Board established under section 1313B.''.

Subtitle A—Reform of Regulation of Enterprises and Federal Home Loan Banks

CHAPTER 1—IMPROVEMENT OF SAFETY AND SOUNDNESS

SEC. 311. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.

(a) IN GENERAL.—The Housing and Community Development 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, AND FEDERAL HOME LOAN BANKS.—The Director of the Federal Housing Finance Agency shall have general supervisory and regulatory authority over each regulated entity and shall exercise such general regulatory and supervisory authority, including such duties and authorities set forth under section 1313 of this Act, to ensure that the purposes of this Act, the authorizing statutes, and any other applicable law are carried out. The Director shall have the same supervisory and regulatory authority over any joint office of the Federal home loan banks, including the Office of Finance of the Federal Home Loan Banks, as the Director has over the individual Federal home loan banks.

''(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.

''SEC. 1312. DIRECTOR.

''(a) ESTABLISHMENT OF POSITION.—There is established the position of the Director of the Federal Housing Finance 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 AND REMOVAL.—The Director shall be appointed for a term of 5 years and may be removed by the President only for cause.

''(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), the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development shall serve as the Director until a successor has been appointed under paragraph (1).

''(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 appointed by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of financial management or oversight and 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 appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight and 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.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director for Housing, who shall be appointed 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 and of community and economic development.

''(2) FUNCTIONS.—The Deputy Director for Housing 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.

''(f) LIMITATIONS.—The Director and each of the Deputy Directors may not—

''(1) have any direct or indirect financial interest in any regulated entity or regulated entity-affiliated party;

''(2) hold any office, position, or employment in any regulated entity or regulated entity-affiliated party; or

''(3) have served as an executive officer or director of any regulated entity, or regulated entity-affiliated party, at any time during

the 3-year period ending on the date of appointment of such individual as Director or Deputy Director.

''(g) OMBUDSMAN.—The Director shall establish the position of the Ombudsman in the Agency. The Director shall provide that the Ombudsman will consider complaints and appeals from any regulated entity and any person that has a business relationship with a regulated entity and shall specify the duties and authority of the Ombudsman.''.

(b) APPOINTMENT OF DIRECTOR.—Notwithstanding any other provision of law or of this title, the President may, any time after the date of the enactment of this Act, appoint an individual to serve as the Director of the Federal Housing Finance Agency, as such office is established by the amendment made by subsection (a). This subsection shall take effect on the date of the enactment of this Act.

SEC. 312. DUTIES AND AUTHORITIES OF DIRECTOR.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 (12 U.S.C. 4513) is amended by striking section 1313 and inserting the following new sections:

''SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.

''(a) DUTIES.—

''(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be—

''(A) to oversee the operations of each regulated entity and any joint office of the Federal Home Loan Banks; 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 that minimize the cost of housing finance (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; and

''(iv) each regulated entity carries out its statutory mission only through activities that are consistent with this title and the authorizing statutes.

''(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 an enterprise; 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 or employees of the Agency, including each of the Deputy Directors, 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, or request that the Attorney General of the United States act on behalf of the Director.

''(2) CONSULTATION WITH ATTORNEY GENERAL.—The Director shall provide notice to, and consult with, the Attorney General of the United States before taking an action under paragraph (1) of this subsection or under section 1344(a), 1345(d), 1348(c), 1372(e), 1375(a), 1376(d), or 1379D(c), except that, if the Director determines that any delay caused by such prior notice and consultation may adversely affect the safety and soundness responsibilities of the Director under this title, the Director shall notify the Attorney General as soon as reasonably possible after taking such action.

''(3) 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 or director or officer thereof 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.

''SEC. 1313A. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.

''(a) STANDARDS.—The Director shall establish standards, by regulation, guideline, or order, for each regulated entity relating to—

''(1) adequacy of internal controls and information systems, including information security and privacy policies and practices, taking into account the nature and scale of business operations;

''(2) independence and adequacy of internal audit systems;

''(3) 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;

''(4) management of interest rate risk exposure;

''(5) 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;

''(6) adequacy and maintenance of liquidity and reserves;

''(7) management of any asset and investment portfolio;

''(8) investments and acquisitions by a regulated entity, to ensure that they are consistent with the purposes of this Act and the authorizing statutes;

''(9) 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;

''(10) issuance of subordinated debt by that particular regulated entity, as the Director considers necessary;

''(11) overall risk management processes, including adequacy of oversight by senior management and the board of directors and of processes and policies to identify, measure, monitor, and control material risks, including reputational risks, and for adequate, well-tested business resumption plans for all major systems with remote site facilities to protect against disruptive events; and

''(12) 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.''.

(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. 313. FEDERAL HOUSING ENTERPRISE BOARD.

(a) IN GENERAL.—Title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313A, as added by the preceding provisions of this title, the following new section:

''SEC. 1313B. FEDERAL HOUSING ENTERPRISE BOARD.

''(a) IN GENERAL.—There is established the Federal Housing Enterprise Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this title.

''(b) LIMITATIONS.—The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director.

''(c) COMPOSITION.—The Board shall be comprised of 3 members, of whom—

''(1) one member shall be the Secretary of the Treasury;

''(2) one member shall be the Secretary of Housing and Urban Development; and

''(3) one 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 or the Secretary of Housing and Urban Development 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 Housing and Community Development Act of 1992 (12 U.S.C. 4521 (a)) is amended—

(1) in paragraph (3), by striking ''and'' at the end; and

(2) by striking paragraph (4) and inserting the following new paragraphs:

''(4) an 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 missions;

''(5) operations, resources, and performance of the Agency;

''(6) a description of the demographic makeup of the workforce of the Agency and the actions taken pursuant to section 1319A(b) to provide for diversity in the workforce; and

''(7) such other matters relating to the Agency and its fulfillment of its mission.''.

SEC. 314. AUTHORITY TO REQUIRE REPORTS BY REGULATED ENTITIES.

Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514) is amended—

(1) in the section heading, by striking ''**ENTERPRISES**'' and inserting ''**REGULATED ENTITIES**'';

(2) in subsection (a)—

(A) in the subsection heading, by striking ''SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION'' and inserting ''REGULAR AND SPECIAL REPORTS'';

(B) in paragraph (1)—

(i) in the paragraph heading, by striking ''FINANCIAL CONDITION'' and inserting ''REGULAR REPORTS''; and

(ii) by striking ''reports of financial condition and operations'' and inserting ''regular reports on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate''; and

(C) in paragraph (2), after ''submit special reports'' insert ''on any of the topics specified in paragraph (1) or such other topics''; and

(3) by adding at the end the following new subsection:

''(c) REPORTS OF FRAUDULENT FINANCIAL TRANSACTIONS.—

''(1) 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 a purchase or sale of any loan or financial instrument. The Director shall require the regulated entities to establish and maintain procedures designed to discover any such transactions.

''(2) PROTECTION FROM LIABILITY FOR REPORTS.—

''(A) IN GENERAL.—If a regulated entity makes a report pursuant to paragraph (1), or a regulated entity-affiliated party makes, or requires another to make, such a report, and such report is made in a good faith effort to comply with the requirements of paragraph (1), such regulated entity or regulated entity-affiliated party shall not be liable to any person under any law or regulation of the United States, 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 person identified in the report.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

''(i) any inference that the term 'person', as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

''(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.''.

SEC. 315. DISCLOSURE OF INCOME AND CHARITABLE CONTRIBUTIONS BY ENTERPRISES.

Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsections:

''(d) DISCLOSURE OF CHARITABLE CONTRIBUTIONS BY ENTERPRISES.—

''(1) REQUIRED DISCLOSURE.—The Director shall, by regulation, require each enterprise to submit a report annually, in a format designated by the Director, containing the following information:

''(A) TOTAL VALUE.—The total value of contributions made by the enterprise to nonprofit organizations during its previous fiscal year.

''(B) SUBSTANTIAL CONTRIBUTIONS.—If the value of contributions made by the enterprise to any nonprofit organization during its previous fiscal year exceeds the designated amount, the name of that organization and the value of contributions.

''(C) SUBSTANTIAL CONTRIBUTIONS TO INSIDER-AFFILIATED CHARITIES.—Identification of each contribution whose value exceeds the designated amount that were made by the enterprise during the enterprise's previous fiscal year to any nonprofit organization of which a director, officer, or controlling person of the enterprise, or a spouse thereof, was a director or trustee, the name of such nonprofit organization, and the value of the contribution.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'designated amount' means such amount as may be designated by the Director by regulation, consistent with the public interest and the protection of investors for purposes of this subsection; and

''(B) the Director may, by such regulations as the Director deems necessary or appropriate in the public interest, define the terms officer and controlling person.

''(3) PUBLIC AVAILABILITY.—The Director shall make the information submitted pursuant to this subsection publicly available.

''(e) DISCLOSURE OF INCOME.—Each enterprise shall include, in each annual report filed under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), the income reported by the issuer to the Internal Revenue Service for the most recent taxable year. Such income shall—

''(1) be presented in a prominent location in each such report and in a manner that permits a ready comparison of such income to income otherwise required to be included in such reports under regulations issued under such section; and

''(2) be submitted to the Securities and Exchange Commission in a form and manner suitable for entry into the EDGAR system of such Commission for public availability under such system.''.

SEC. 316. ASSESSMENTS.

Section 1316 of the Housing and Community Development Act of 1992 (12 U.S.C. 4516) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the regulated entities annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Agency, including—

''(1) the expenses of any examinations under section 1317 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 wind up of the affairs of the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board under subtitle C of the Federal Housing Finance Reform Act of 2008.'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''ENTERPRISES'' and inserting ''REGULATED ENTITIES'' ;

(B) by realigning paragraph (2) two ems from the left margin, so as to align the left margin of such paragraph with the left margins of paragraph (1);

(C) in paragraph (1)—

(i) by striking ''Each enterprise'' and inserting ''Each regulated entity'';

(ii) by striking ''each enterprise'' and inserting ''each regulated entity''; and

(iii) by striking ''both enterprises'' and inserting ''all of the regulated entities''; and

(D) in paragraph (3)—

(i) in subparagraph (B), by striking ''subparagraph (A)'' and inserting ''clause (i)'';

(ii) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii) and (ii), respectively, and realigning such clauses, as so redesignated, so as to be indented 6 ems from the left margin;

(iii) by striking the matter that precedes clause (i), as so redesignated, and inserting the following:

''(3) DEFINITION OF TOTAL ASSETS.—For purposes of this section, the term 'total assets' means as follows:

''(A) ENTERPRISES.—With respect to an enterprise, the sum of—''; and

(iv) by adding at the end the following new subparagraph:

''(B) FEDERAL HOME LOAN BANKS.—With respect to a Federal home loan bank, the total assets of the Bank, as determined by the Director in accordance with generally accepted accounting principles.'';

(3) by striking subsection (c) and inserting the following new subsection:

''(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 new subsections:

''(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 (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 under section 365 of the Federal Housing Finance 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 amount 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 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 assets and liabilities and surplus or deficit; a statement of income and expenses; and a statement of sources and application of funds.

''(3) FINANCIAL MANAGEMENT SYSTEMS.—The Agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and that uses 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 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 reports, plans, forecasts, 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 U.S. 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 5 of title 41, United States Code, 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. 317. EXAMINERS AND ACCOUNTANTS.

(a) EXAMINATIONS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended—

(1) in subsection (a), by adding after the period at the end the following: ''Each examination under this subsection of a regulated entity shall include a review of the procedures required to be established and maintained by the regulated entity pursuant to section 1314(c) (relating to fraudulent financial transactions) and the report regarding each such examination shall describe any problems with such procedures maintained by the 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''; and

(3) in subsection (c)—

(A) in the second sentence, by inserting ''to conduct examinations under this section'' before the period; and

(B) in the third sentence, by striking ''from amounts available in the Federal Housing Enterprises Oversight Fund''.

(b) ENHANCED AUTHORITY TO HIRE EXAMINERS AND ACCOUNTANTS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following new subsection:

''(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, SPECIALISTS, AND EXAMINERS.—

''(1) APPLICABILITY.—This section applies with respect to any position of examiner, accountant, specialist in financial markets, specialist in information technology, and economist 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.

''(3) RULE OF CONSTRUCTION.—The appointment of a candidate to a position under the authority of this subsection shall not be considered to cause such position to be converted from the competitive service to the excepted service.''.

(c) REPEAL.—Section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440) is amended—

(1) by striking the section heading and inserting the following: ''EXAMINATIONS AND GAO AUDITS'';

(2) in the third sentence, by striking ''the Board and'' each place such term appears; and

(3) by striking the first two sentences and inserting the following: ''The Federal home loan banks shall be subject to examinations by the Director to the extent provided in section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517).''.

SEC. 318. PROHIBITION AND WITHHOLDING OF EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Section 1318 of the Housing and Community Development 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 new subsections:

''(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. 319. REVIEWS OF REGULATED ENTITIES.

Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended—

(1) by striking the section designation and heading and inserting the following:

''SEC. 1319. REVIEWS OF REGULATED ENTITIES.''; and

(2) by striking ''is a nationally recognized'' and all that follows through ''1934'' and inserting the following: ''the Director considers appropriate, including an entity that is registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78a) as a nationally registered statistical rating organization''.

SEC. 320. INCLUSION OF MINORITIES AND WOMEN; DIVERSITY IN AGENCY WORKFORCE.

Section 1319A of the Housing and Community Development Act of 1992 (12 U.S.C. 4520) is amended—

(1) in the section heading, by striking ''**EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS**'' and inserting ''**MINORITY AND WOMEN INCLUSION; DIVERSITY REQUIREMENTS**'';

(2) in subsection (a), by striking ''(a) IN GENERAL.—Each enterprise'' and inserting ''(e) OUTREACH.—Each regulated entity''; and

(3) by striking subsection (b);

(4) by inserting before subsection (e), as so redesignated by paragraph (2) of this section, the following new subsections:

''(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—Each regulated entity shall establish an Office of Minority and Women Inclusion, or designate an office of the entity, that shall be responsible for carrying out this section and all matters of the entity relating to diversity in management, employment, and business activities in accordance with such standards and requirements as the Director shall establish.

''(b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES.—Each regulated entity shall develop and implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including financial institutions, investment banking firms, mortgage banking firms, asset management firms, broker-dealers, financial services firms, underwriters, accountants, brokers, investment consultants, and providers of legal services) in all business and activities of the regulated entity at all levels, including in procurement, insurance, and all types of contracts (including contracts for the issuance or guarantee of any debt, equity, or mortgage-related securities, the management of its mortgage and securities portfolios, the making of its equity investments, the purchase, sale and servicing of single- and multi-family mortgage loans, and the implementation of its affordable housing program and initiatives). The processes established by each regulated entity for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant.

''(c) APPLICABILITY.—This section shall apply to all contracts of a regulated entity for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services.

''(d) INCLUSION IN ANNUAL REPORTS.—Each regulated entity shall include, in the annual report submitted by the entity to the Director pursuant to section 309(k) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(k)), section 307(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(c)), and section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440), as applicable, detailed information describing the actions taken by the entity pursuant to this section, which shall include a statement of the total amounts paid by the entity to third party contractors since the last such report and the percentage of such amounts paid to businesses described in subsection (b) of this section.''; and

(5) by adding at the end the following new subsection:

''(f) DIVERSITY IN AGENCY WORKFORCE.—The Agency shall take affirmative steps to seek diversity in its workforce at all levels of the agency consistent with the demographic diversity of the United States, which shall include—

''(1) heavily recruiting at historically Black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations;

''(2) sponsoring and recruiting at job fairs in urban communities, and placing employment advertisements in newspapers and magazines oriented toward women and people of color;

''(3) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions; and

''(4) where feasible, partnering with inner-city high schools, girls' high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring.''.

SEC. 321. REGULATIONS AND ORDERS.

Section 1319G of the Housing and Community Development Act of 1992 (12 U.S.C. 4526) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) AUTHORITY.—The Director shall issue any regulations, guidelines, and orders necessary to carry out the duties of the Director under this title and each of the authorizing statutes to ensure that the purposes of this title and such statutes are accomplished.'';

(2) in subsection (b), by inserting '', this title, or any of the authorizing statutes'' after ''under this section''; and

(3) by striking subsection (c).

SEC. 322. NON-WAIVER OF PRIVILEGES.

Part 1 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4511) is amended by adding at the end the following new section:

''SEC. 1319H. PRIVILEGES NOT AFFECTED BY DISCLOSURE.

''(a) IN GENERAL.—The submission by any person of any information to the Agency for any purpose in the course of any supervisory or regulatory process of the Agency shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than the Agency.

''(b) RULE OF CONSTRUCTION.—No provision of subsection (a) may be construed as implying or establishing that—

''(1) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which subsection (a) does not apply; or

''(2) any person would waive any privilege applicable to any information by submitting the information to the Agency, but for this subsection.''.

SEC. 323. RISK-BASED CAPITAL REQUIREMENTS.

(a) IN GENERAL.—Section 1361 of the Housing and Community Development 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) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or a regulated entity to enable the risk-based capital requirements established under this section to be applied shall—

''(1) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the regulated entity; and

''(2) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

''(c) 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 new subparagraph:

''(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. 324. MINIMUM AND CRITICAL CAPITAL LEVELS.

(a) MINIMUM CAPITAL LEVEL.—Section 1362 of the Housing and Community Development 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 new subsections:

''(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.—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 for such period as the Director may provide if the Director—

''(1) makes any determination specified in subparagraphs (A) through (C) of section 1364(c)(1);

''(2) determines that the regulated entity has violated any of the prudential standards established pursuant to section 1313A and, as a result of such violation, determines that an unsafe and unsound condition exists; or

''(3) determines that an unsafe and unsound condition exists, except that a temporary increase in minimum capital imposed on a regulated entity pursuant to this paragraph shall not remain in place for a period of more than 6 months unless the Director makes a renewed determination of the existence of an unsafe and unsound condition.

''(e) AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL AND RESERVE REQUIREMENTS FOR PARTICULAR PROGRAMS.—The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any program 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. The Director shall rescind any temporary minimum capital level increase if the Director determines that the circumstances or facts justifying the temporary increase are no longer present.''.

(b) CRITICAL CAPITAL LEVELS.—

(1) IN GENERAL.—Section 1363 of the Housing and Community Development Act of 1992 (12 U.S.C. 4613) is amended—

(A) by striking ''For'' and inserting ''(a) ENTERPRISES.—FOR''; and

(B) 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.''.

(2) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date under section 365, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Housing and Community Development Act of 1992 (as added by paragraph (1) of this subsection) establishing the critical capital level under such section.

SEC. 325. REVIEW OF AND AUTHORITY OVER ENTERPRISE ASSETS AND LIABILITIES.

(a) IN GENERAL.—Subtitle B of title XIII of the Housing and Community Development 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 standards by which the portfolio holdings, or rate of growth of the portfolio holdings, of the enterprises will be deemed to be consistent with the mission and the safe and sound operations of the enterprises. In developing such standards, the Director shall consider—

''(1) the size or growth of the mortgage market;

''(2) the need for the portfolio in maintaining liquidity or stability of the secondary mortgage market (including the market for the mortgage-backed securities the enterprises issue);

''(3) the need for an inventory of mortgages in connection with securitizations;

''(4) the need for the portfolio to directly support the affordable housing mission of the enterprises;

''(5) the liquidity needs of the enterprises;

''(6) any potential risks posed to the enterprises by the nature of the portfolio holdings; and

''(7) any additional factors that the Director determines to be necessary to carry out the purpose under the first sentence of this subsection to establish standards for assessing whether the portfolio holdings are consistent with the mission and safe and sound operations of the enterprises.

''(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 under section 365, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1369E(a) of the Housing and Community Development Act of 1992 (as added by subsection (a) of this section) establishing the portfolio holdings standards under such section.

SEC. 326. CORPORATE GOVERNANCE OF ENTERPRISES.

The Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

''SEC. 1322A. CORPORATE GOVERNANCE OF ENTERPRISES.

''(a) BOARD OF DIRECTORS.—

''(1) INDEPENDENCE.—A majority of seated members of the board of directors of each enterprise shall be independent board members, as defined under rules set forth by the New York Stock Exchange, as such rules may be amended from time to time.

''(2) FREQUENCY OF MEETINGS.—To carry out its obligations and duties under applicable laws, rules, regulations, and guidelines, the board of directors of an enterprise shall meet at least eight times a year and not less than once a calendar quarter.

''(3) NON-MANAGEMENT BOARD MEMBER MEETINGS.—The non-management directors of an enterprise shall meet at regularly scheduled executive sessions without management participation.

''(4) QUORUM; PROHIBITION ON PROXIES.—For the transaction of business, a quorum of the board of directors of an enterprise shall be at least a majority of the seated board of directors and a board member may not vote by proxy.

''(5) INFORMATION.—The management of an enterprise shall provide a board member of the enterprise with such adequate and appropriate information that a reasonable board member would find important to the fulfillment of his or her fiduciary duties and obligations.

''(6) ANNUAL REVIEW.—At least annually, the board of directors of each enterprise shall review, with appropriate professional assistance, the requirements of laws, rules, regulations, and guidelines that are applicable to its activities and duties.

''(b) COMMITTEES OF BOARDS OF DIRECTORS.—

''(1) FREQUENCY OF MEETINGS.—Any committee of the board of directors of an enterprise shall meet with sufficient frequency to carry out its obligations and duties under applicable laws, rules, regulations, and guidelines.

''(2) REQUIRED COMMITTEES.—Each enterprise shall provide for the establishment, however styled, of the following committees of the board of directors:

''(A) Audit committee.

''(B) Compensation committee.

''(C) Nominating/corporate governance committee.

Such committees shall be in compliance with the charter, independence, composition, expertise, duties, responsibilities, and other requirements set forth under section 10A(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(m)), with respect to the audit committee, and under rules issued by the New York Stock Exchange, as such rules may be amended from time to time.

''(c) COMPENSATION.—

''(1) IN GENERAL.—The compensation of board members, executive officers, and employees of an enterprise—

''(A) shall not be in excess of that which is reasonable and appropriate;

''(B) shall be commensurate with the duties and responsibilities of such persons;

''(C) shall be consistent with the long-term goals of the enterprise;

''(D) shall not focus solely on earnings performance, but shall take into account risk management, operational stability and legal and regulatory compliance as well; and

''(E) shall be undertaken in a manner that complies with applicable laws, rules, and regulations.

''(2) REIMBURSEMENT.—If an enterprise is required to prepare an accounting restatement due to the material noncompliance of the enterprise, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the enterprise shall reimburse the enterprise as provided under section 304 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7243). This provision does not otherwise limit the authority of the Agency to employ remedies available to it under its enforcement authorities.

''(d) CODE OF CONDUCT AND ETHICS.—

''(1) IN GENERAL.—An enterprise shall establish and administer a written code of conduct and ethics that is reasonably designed to assure the ability of board members, executive officers, and employees of the enterprise to discharge their duties and responsibilities, on behalf of the enterprise, in an objective and impartial manner, and that includes standards required under section 406 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7264) and other applicable laws, rules, and regulations.

''(2) REVIEW.—Not less than once every three years, an enterprise shall review the adequacy of its code of conduct and ethics for consistency with practices appropriate to the enterprise and make any appropriate revisions to such code.

''(e) CONDUCT AND RESPONSIBILITIES OF BOARD OF DIRECTORS.—The board of directors of an enterprise shall be responsible for directing the conduct and affairs of the enterprise in furtherance of the safe and sound operation of the enterprise and shall remain reasonably informed of the condition, activities, and operations of the enterprise. The responsibilities of the board of directors shall include having in place adequate policies and procedures to assure its oversight of, among other matters, the following:

''(1) Corporate strategy, major plans of action, risk policy, programs for legal and regulatory compliance and corporate performance, including prudent plans for growth and allocation of adequate resources to manage operations risk.

''(2) Hiring and retention of qualified executive officers and succession planning for such executive officers.

''(3) Compensation programs of the enterprise.

''(4) Integrity of accounting and financial reporting systems of the enterprise, including independent audits and systems of internal control.

''(5) Process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors.

''(6) Extensions of credit to board members and executive officers.

''(7) Responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

''(f) PROHIBITION OF EXTENSIONS OF CREDIT.—An enterprise may not directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any board member or executive officer of the enterprise, as provided by section 13(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(k)).

''(g) CERTIFICATION OF DISCLOSURES.—The chief executive officer and the chief financial officer of an enterprise shall review each quarterly report and annual report issued by the enterprise and such reports shall include certifications by such officers as required by section 302 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241).

''(h) CHANGE OF AUDIT PARTNER.—An enterprise may not accept audit services from an external auditing firm if the lead or coordinating audit partner who has primary responsibility for the external audit of the enterprise, or the external audit partner who has responsibility for reviewing the external audit has performed audit services for the enterprise in each of the five previous fiscal years.

''(i) COMPLIANCE PROGRAM.—

''(1) REQUIREMENT.—Each enterprise shall establish and maintain a compliance program that is reasonably designed to assure that the enterprise complies with applicable laws, rules, regulations, and internal controls.

''(2) COMPLIANCE OFFICER.—The compliance program of an enterprise shall be headed by a compliance officer, however styled, who reports directly to the chief executive officer of the enterprise. The compliance officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current compliance policies and procedures of the enterprise, and shall recommend any adjustments to such policies and procedures that the compliance officer considers necessary and appropriate.

''(j) RISK MANAGEMENT PROGRAM.—

''(1) REQUIREMENT.—Each enterprise shall establish and maintain a risk management program that is reasonably designed to manage the risks of the operations of the enterprise.

''(2) RISK MANAGEMENT OFFICER.—The risk management program of an enterprise shall

be headed by a risk management officer, however styled, who reports directly to the chief executive officer of the enterprise. The risk management officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current risk management policies and procedures of the enterprise, and shall recommend any adjustments to such policies and procedures that the risk management officer considers necessary and appropriate.

''(k) COMPLIANCE WITH OTHER LAWS.—

''(1) DEREGISTERED OR UNREGISTERED COMMON STOCK.—If an enterprise deregisters or has not registered its common stock with the Securities and Exchange Commission under the Securities Exchange Act of 1934, the enterprise shall comply or continue to comply with sections 10A(m) and 13(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(m), 78m(k)) and sections 302, 304, and 406 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7243, 7264), subject to such requirements as provided by subsection (l) of this section.

''(2) REGISTERED COMMON STOCK.—An enterprise that has its common stock registered with the Securities and Exchange Commission shall maintain such registered status, unless it provides 60 days prior written notice to the Director stating its intent to deregister and its understanding that it will remain subject to the requirements of the sections of the Securities Exchange Act of 1934 and the Sarbanes-Oxley Act of 2002, subject to such requirements as provided by subsection (l) of this section.

''(l) OTHER MATTERS.—The Director may from time to time establish standards, by regulation, order, or guideline, regarding such other corporate governance matters of the enterprises as the Director considers appropriate.

''(m) MODIFICATION OF STANDARDS.—In connection with standards of Federal or State law (including the Revised Model Corporation Act) or New York Stock Exchange rules that are made applicable to an enterprise by section 1710.10 of the Director's rules (12 CFR 1710.10) and by subsections (a), (b), (g), (i), (j), and (k) of this section, the Director, in the Director's sole discretion, may modify the standards contained in this section or in part 1710 of the Director's rules (12 CFR Part 1710) in accordance with section 553 of title 5, United States Code, and upon written notice to the enterprise.''.

SEC. 327. REQUIRED REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934.

The Housing and Community Development Act of 1992 is amended by adding after section 1322A, as added by the preceding provisions of this title, the following new section:

''SEC. 1322B. REQUIRED REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934.

''(a) IN GENERAL.—Each regulated entity shall register at least one class of the capital stock of such regulated entity, and maintain such registration with the Securities and Exchange Commission, under the Securities Exchange Act of 1934.

''(b) ENTERPRISES.—Each enterprise shall comply with sections 14 and 16 of the Securities Exchange Act of 1934.''.

SEC. 328. LIAISON WITH FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1007 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3306) is amended—

(1) in the section heading, by inserting after ''STATE'' the following: ''AND FEDERAL HOUSING FINANCE AGENCY''; and

(2) by inserting after ''financial institutions'' the following: '', and one representative of the Federal Housing Finance Agency,''.

SEC. 329. GUARANTEE FEE STUDY.

(a) IN GENERAL.—The Director of the Federal Housing Finance Agency, in consultation with the heads of the federal banking agencies, shall, not later than 18 months after the date of the enactment of this Act, submit to the Congress a study concerning the pricing, transparency and reporting of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal home loan banks with regard to guarantee fees and concerning analogous practices, transparency and reporting requirements (including advances pricing practices by the Federal Home Loan Banks) of other participants in the business of mortgage purchases and securitization.

(b) FACTORS.—The study required by this section shall examine various factors such as credit risk, counterparty risk considerations, economic value considerations, and volume considerations used by the regulated entities (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) included in the study in setting the amount of fees they charge.

(c) CONTENTS OF REPORT.—The report required under subsection (a) shall identify and analyze—

(1) the factors used by each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) in determining the amount of the guarantee fees it charges;

(2) the total revenue the enterprises earn 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 how and why the guarantee fees charged differ from such fees charged during the previous year;

(6) a breakdown of the revenue and costs associated with providing guarantees, based on product type and risk classifications; and

(7) other relevant information on guarantee fees with other participants in the mortgage and securitization business.

(d) PROTECTION OF INFORMATION.—Nothing in this section may be construed to require or authorize the Director of the Federal Housing Finance Agency, in connection with the study mandated by this section, to disclose information of the enterprises or other organization that is confidential or proprietary.

(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 330. CONFORMING AMENDMENTS.

(a) 1992 ACT.—Part 1 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4511 et seq.), as amended by the preceding provisions of this title, is further amended—

(1) by striking ''an enterprise'' each place such term appears in such part (except in sections 1313(a)(2)(A), 1313A(b)(2)(B)(ii)(I), and 1316(b)(3)) and inserting ''a regulated entity'';

(2) by striking ''the enterprise'' each place such term appears in such part (except in section 1316(b)(3)) and inserting ''the regulated entity'';

(3) by striking ''the enterprises'' each place such term appears in such part (except in sections 1312(c)(2), and 1312(e)(2)) and inserting ''the regulated entities'';

(4) by striking ''each enterprise'' each place such term appears in such part and inserting ''each regulated entity'';

(5) by striking ''Office'' each place such term appears in such part (except in sections 1311(b)(2), 1312(b)(5), 1315(b), and 1316(a)(4), (g), and (h), 1317(c), and 1319A(a)) and inserting ''Agency'';

(6) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) in the subsection heading, by striking ''OFFICE PERSONNEL'' and inserting ''IN GENERAL''; and

(ii) by striking ''The'' and inserting ''Subject to subtitle C of the Federal Housing Finance Reform Act of 2008, the'';

(B) by striking subsections (d) and (f); and

(C) by redesignating subsection (e) as subsection (d);

(7) in section 1319B (12 U.S.C. 4521), by striking ''Committee on Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Committee on Financial Services''; and

(8) in section 1319F (12 U.S.C. 4525), striking all that follows ''United States Code'' and inserting '', the Agency shall be considered an agency responsible for the regulation or supervision of financial institutions.''.

(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place such term appears, and inserting ''Director of the Federal Housing Finance Agency'', in—

(A) section 303(c)(2) (12 U.S.C. 1718(c)(2));

(B) section 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)); and

(C) section 309(k)(1); and

(2) in section 309—

(A) in subsections (d)(3)(A) and (n)(1), by striking ''Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Financial Services''; and

(B) in subsection (m)—

(i) in paragraph (1), by striking ''Secretary'' the second place such term appears and inserting ''Director'';

(ii) in paragraph (2), by striking ''Secretary'' the second place such term appears and inserting ''Director''; and

(iii) by striking ''Secretary'' each other place such term appears and inserting ''Director of the Federal Housing Finance Agency''; and

(C) in subsection (n), by striking ''Secretary'' each place such term appears and inserting ''Director of the Federal Housing Finance Agency''.

(c) AMENDMENTS TO FREDDIE MAC ACT.—The Federal Home Loan Mortgage Corporation Act is amended—

(1) by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place such term appears, and inserting ''Director of the Federal Housing Finance Agency'', in—

(A) section 303(b)(2) (12 U.S.C. 1452(b)(2));

(B) section 303(h)(2) (12 U.S.C. 1452(h)(2)); and

(C) section 307(c)(1) (12 U.S.C. 1456(c)(1));

(2) in sections 303(h)(1) and 307(f)(1) (12 U.S.C. 1452(h)(1), 1456(f)(1)), by striking ''Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Financial Services'';

(3) in section 306(i) (12 U.S.C. 1455(i))—

(A) by striking ''1316(c)'' and inserting ''306(c)''; and

(B) by striking ''section 106'' and inserting ''section 1316''; and

(4) in section 307 (12 U.S.C. 1456))—

(A) in subsection (e)—

(i) in paragraph (1), by striking ''Secretary'' the second place such term appears and inserting ''Director'';

(ii) in paragraph (2), by striking ''Secretary'' the second place such term appears and inserting ''Director''; and

(iii) by striking ''Secretary'' each other place such term appears and inserting ''Director of the Federal Housing Finance Agency''; and

(B) in subsection (f), by striking ''Secretary'' each place such term appears and inserting ''Director of the Federal Housing Finance Agency''.

CHAPTER 2—IMPROVEMENT OF MISSION SUPERVISION

SEC. 331. TRANSFER OF PRODUCT APPROVAL AND HOUSING GOAL OVERSIGHT.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking the designation and heading for the part and inserting the following:

''PART 2—PRODUCT APPROVAL BY DIRECTOR, CORPORATE GOVERNANCE, AND ESTABLISHMENT OF HOUSING GOALS'';

and

(2) by striking sections 1321 and 1322.

SEC. 332. REVIEW OF ENTERPRISE PRODUCTS.

(a) IN GENERAL.—Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

''SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS OF ENTERPRISES.

''(a) IN GENERAL.—The Director shall require each enterprise to obtain the approval of the Director for any product of the enterprise before initially offering the product.

''(b) STANDARD FOR APPROVAL.—In considering any request for approval of a product pursuant to subsection (a), the Director shall make a determination that—

''(1) in the case of a product of the Federal National Mortgage Association, the Director determines that the product is authorized under paragraph (2), (3), (4), or (5) of section 302(b) or section 304 of the Federal National Mortgage Association Charter Act, (12 U.S.C. 1717(b), 1719);

''(2) in the case of a product of the Federal Home Loan Mortgage Corporation, the Director determines that the product is authorized under paragraph (1), (4), or (5) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a));

''(3) the product is in the public interest;

''(4) the product is consistent with the safety and soundness of the enterprise or the mortgage finance system; and

''(5) the product does not materially impair the efficiency of the mortgage finance system.

''(c) PROCEDURE FOR APPROVAL.—

''(1) SUBMISSION OF REQUEST.—An enterprise shall submit to the Director a written request for approval of a product that describes the product in such form as prescribed by order or regulation of the Director.

''(2) REQUEST FOR PUBLIC COMMENT.—Immediately upon receipt of a request for approval of a product, as required under paragraph (1), the Director shall publish notice of such request and of the period for public comment pursuant to paragraph (3) regarding the product, and a description of the product proposed by the request. The Director shall give interested parties the opportunity to respond in writing to the proposed product.

''(3) PUBLIC COMMENT PERIOD.—During the 30-day period beginning on the date of publication pursuant to paragraph (2) of a request for approval of a product, the Director shall receive public comments regarding the proposed product.

''(4) OFFERING OF PRODUCT.—

''(A) IN GENERAL.—Not later than 30 days after the close of the public comment period described in paragraph (3), the Director shall approve or deny the product, specifying the grounds for such decision in writing.

''(B) FAILURE TO ACT.—If the Director fails to act within the 30-day period described in subparagraph (A), the enterprise may offer the product.

''(d) EXPEDITED REVIEW.—

''(1) DETERMINATION AND NOTICE.—If an enterprise determines that any new activity, service, undertaking, or offering is not a product, as defined in subsection (f), the enterprise shall provide written notice to the Director prior to the commencement of such activity, service, undertaking, or offering.

''(2) DIRECTOR DETERMINATION OF APPLICABLE PROCEDURE.—Immediately upon receipt of any notice pursuant to paragraph (1), the Director shall make a determination under paragraph (3).

''(3) DETERMINATION AND TREATMENT AS PRODUCT.—If the Director determines that any new activity, service, undertaking, or offering consists of, relates to, or involves a product—

''(A) the Director shall notify the enterprise of the determination;

''(B) the new activity, service, undertaking, or offering described in the notice under paragraph (1) shall be considered a product for purposes of this section; and

''(C) the enterprise shall withdraw its request or submit a written request for approval of the product pursuant to subsection (c).

''(e) CONDITIONAL APPROVAL.—The Director may conditionally approve the offering of any product by an enterprise, and may establish terms, conditions, or limitations with respect to such product with which the enterprise must comply in order to offer such product.

''(f) DEFINITION OF PRODUCT.—For purposes of this section, the term 'product' does not include—

''(1) the automated loan underwriting system of an enterprise in existence as of the date of the enactment of the Federal Housing Finance Reform Act of 2008, including any upgrade to the technology, operating system, or software to operate the underwriting system; or

''(2) any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by an enterprise: *Provided*, That such modifications do not alter the underlying transaction so as to include services or financing, other than residential mortgage financing, or create significant new exposure to risk for the enterprise or the holder of the mortgage.

''(g) NO LIMITATION.—Nothing in this section shall be deemed to restrict—

''(1) the safety and soundness authority of the Director over all new and existing products or activities; or

''(2) the authority of the Director to review all new and existing products or activities to determine that such products or activities are consistent with the statutory mission of the enterprise.''.

(b) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 302(b)(6) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(6)) is amended—

(A) by striking ''implement any new program'' and inserting ''initially offer any product'';

(B) by striking ''section 1303'' and inserting ''section 1321(f)''; and

(C) by striking ''before obtaining the approval of the Secretary under section 1322'' and inserting ''except in accordance with section 1321''.

(2) FREDDIE MAC.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is amended—

(A) by striking ''implement any new program'' and inserting ''initially offer any product'';

(B) by striking ''section 1303'' and inserting ''section 1321(f)''; and

(C) by striking ''before obtaining the approval of the Secretary under section 1322'' and inserting ''except in accordance with section 1321''.

(3) 1992 ACT.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502), as amended by the preceding provisions of this title, is further amended—

(A) by striking paragraph (17) (relating to the definition of ''new program''); and

(B) by redesignating paragraphs (18) through (23) as paragraphs (17) through (22), respectively.

SEC. 333. CONFORMING LOAN LIMITS.

(a) FANNIE MAE.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the second sentence, by redesignating clause (A) through (C) as clauses (i) through (iii), respectively;

(2) in the third sentence, by striking ''clause (A)'' and inserting ''clause (i)'';

(3) in the 4th sentence, by striking ''the Resolution Trust Corporation,'';

(4) by striking the 7th and 8th sentences and inserting the following new sentences: ''For 2008, 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 with 2009, subject to the limitations in this paragraph. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or four-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 Housing and Community Development Act of 1992 (12 U.S.C. 4541)).''.

(5) by inserting ''(A)'' after ''(2)''; and

(6) by adding at the end the following new subparagraph:

''(B)(i) Notwithstanding subparagraph (A), for mortgages originated on or after January 1, 2009, the limitation on the maximum original principal obligation of a mortgage that may be purchased by the corporation shall be the higher of—

''(I) the limitation determined under subparagraph (A) for a residence of the applicable size; or

''(II) 125 percent of the area median price for a residence of the applicable size, but in no case to exceed 175 percent of the limitation determined under subparagraph (A) for a residence of the applicable size.

''(ii) The areas and area median prices used for purposes of the determination under this subparagraph shall be the areas and area median prices used by the Secretary of Housing and Urban Development in determining the applicable limits under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)). A mortgage that is eligible for purchase by the corporation at the time the mortgage is originated under this subparagraph shall be eligible for such purchase for the duration of the term of the mortgage.''.

(b) FREDDIE MAC.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended—

(1) in the first sentence, by redesignating clause (A) through (C) as clauses (i) through (iii), respectively;

(2) in the second sentence, by striking ''clause (A)'' and inserting ''clause (i)'';

(3) in the third sentence by striking ''the Resolution Trust Corporation'';

(4) by striking the 6th and 7th sentence and inserting the following new sentences: ''For 2008, 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 with 2009, subject to the limitations in this paragraph. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or four-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 Housing and Community Development Act of 1992 (12 U.S.C. 4541)).'';

(5) by inserting ''(A)'' after ''(2)''; and

(6) by adding at the end the following new subparagraph:

''(B)(i) Notwithstanding subparagraph (A), for mortgages originated on or after January 1, 2009, the limitation on the maximum original principal obligation of a mortgage that may be purchased by the Corporation shall be the higher of—

''(I) the limitation determined under subparagraph (A) for a residence of the applicable size; or

''(II) 125 percent of the area median price for a residence of the applicable size, but in no case to exceed 175 percent of the limitation determined under subparagraph (A) for a residence of the applicable size.

''(ii) The areas and area median prices used for purposes of the determination under this subparagraph shall be the areas and area median prices used by the Secretary of Housing and Urban Development in determining the applicable limits under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)). A mortgage that is eligible for purchase by the Corporation at the time the mortgage is originated under this subparagraph shall be eligible for such purchase for the duration of the term of the mortgage.''.

(c) HOUSING PRICE INDEX.—Subpart A of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (as amended by the preceding provisions of this title) is amended by inserting after section 1321 (as added by the preceding provisions of this title) the following new section:

''SEC. 1322. HOUSING PRICE INDEX.

''(a) IN GENERAL.—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 under section 365 of the Federal Housing Finance 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.

''(b) GAO AUDIT.—

''(1) IN GENERAL.—At such times as are required under paragraph (2), the Comptroller General of the United States shall conduct an audit of the methodology established by the Director under subsection (a) to determine whether the methodology established is an accurate and appropriate means of measuring changes to the national average 1-family house price.

''(2) TIMING.—An audit referred to in paragraph (1) shall be conducted and completed not later than the expiration of the 180-day period that begins upon each of the following dates:

''(A) ESTABLISHMENT.—The date upon which such methodology is initially established under subsection (a) in final form by the Director.

''(B) MODIFICATION OR AMENDMENT.—Each date upon which any modification or amendment to such methodology is adopted in final form by the Director.

''(3) REPORT.—Within 30 days of the completion of any audit conducted under this subsection, the Comptroller General shall submit a report detailing the results and conclusions of the audit to the Director, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.''.

(d) 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 by the amendments made by this section, to the extent that such securitizations can be effected in a timely and efficient manner that does not impose additional costs for mortgages originated, purchased, or securitized under the existing limits or interfere with the goal of adding liquidity to the market.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on, and shall apply beginning on, January 1, 2009.

SEC. 334. ANNUAL HOUSING REPORT REGARDING REGULATED ENTITIES.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking section 1324 (12 U.S.C. 4544) and inserting the following new section:

''SEC. 1324. ANNUAL HOUSING REPORT REGARDING REGULATED ENTITIES.

''(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act, section 307(f) of the Federal Home Loan Mortgage Corporation Act, and section 10(j)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(11)), the Director shall submit a report, not later than October 30 of each year, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the activities of each regulated entity.

''(b) CONTENTS.—The report shall—

''(1) discuss the extent to which—

''(A) each enterprise is achieving the annual housing goals established under subpart B of this part;

''(B) each enterprise is complying with section 1337;

''(C) each Federal home loan bank is complying with section 10(j) of the Federal Home Loan Bank Act; and

''(D) each regulated entity is achieving the purposes of the regulated entity established by law;

''(2) aggregate and analyze relevant data on income to assess the compliance by 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) examine actions that—

''(A) each enterprise has undertaken or could undertake to promote and expand the annual goals established under subpart B and the purposes of the enterprise established by law; and

''(B) each Federal home loan bank has taken or could undertake to promote and expand the community investment program and affordable housing program of the bank established under subsections (i) and (j) of section 10 of the Federal Home Loan Bank Act;

''(5) examine the primary and secondary multifamily housing mortgage markets and describe—

''(A) the availability and liquidity of mortgage credit;

''(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

''(C) any factors inhibiting such standardization and securitization;

''(6) examine actions each regulated entity has undertaken and could undertake to promote and expand opportunities for first-time homebuyers, including the use of alternative credit scoring;

''(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures;

''(8) discuss and analyze existing conditions and trends, including conditions and trends relating to pricing, in the housing markets and mortgage markets; and

''(9) identify the extent to which each enterprise is involved in mortgage purchases and secondary market activities involving subprime loans (as identified in accordance with the regulations issued pursuant to section 334(b) of the Federal Housing Finance Reform Act of 2008) and compare the characteristics of subprime loans purchased and securitized by the enterprises to other loans purchased and securitized by the enterprises.

''(c) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—To assist the Director in analyzing the matters described in subsection (b) and establishing the methodology described in section 1322, 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; and

''(B) 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 is not released in an identifiable form.

''(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.''.

(b) STANDARDS FOR SUBPRIME LOANS.—The Director shall, not later than one year after the effective date under section 365, by regulations issued under section 1316G of the Housing and Community Development Act of 1992, establish standards by which mortgages purchased and mortgages purchased and securitized shall be characterized as subprime for the purpose of, and only for the purpose of, complying with the reporting requirement under section 1324(b)(9) of such Act.

SEC. 335. ANNUAL REPORTS BY REGULATED ENTITIES ON AFFORDABLE HOUSING STOCK.

The Housing and Community Development Act of 1992 is amended by inserting after section 1328 (12 U.S.C. 4548) the following new section:

''SEC. 1329. ANNUAL REPORTS ON AFFORDABLE HOUSING STOCK.

''(a) IN GENERAL.—To obtain information helpful in applying the formula under section 1337(c)(2) for the affordable housing program under such section and for other appropriate uses, the regulated entities shall conduct, or provide for the conducting of, a study on an annual basis to determine the levels of affordable housing inventory, and the changes in such levels, in communities throughout the United States.

''(b) CONTENTS.—The annual study under this section shall determine, for the United States, each State, and each community within each State—

''(1) the level of affordable housing inventory, including affordable rental dwelling units and affordable homeownership dwelling units;

''(2) any changes to the level of such inventory during the 12-month period of the study under this section, including—

''(A) any additions to such inventory, disaggregated by the category of such additions (including new construction or housing conversion);

''(B) any subtractions from such inventory, disaggregated by the category of such subtractions (including abandonment, demolition, or upgrade to market-rate housing);

''(C) the number of new affordable dwelling units placed in service; and

''(D) the number of affordable housing dwelling units withdrawn from service;

''(3) the types of financing used to build any dwelling units added to such inventory level and the period during which such units are required to remain affordable;

''(4) any excess demand for affordable housing, including the number of households on rental housing waiting lists and the tenure of the wait on such lists; and

''(5) such other information as the Director may require.

''(c) REPORT.—For each annual study conducted pursuant to this section, the regulated entities shall submit to the Congress, and make publicly available, a report setting forth the findings of the study.

''(d) REGULATIONS AND TIMING.—The Director shall, by regulation, establish requirements for the studies and reports under this section, including deadlines for the submission of such annual reports and standards for determining affordable housing.''.

SEC. 336. MORTGAGOR IDENTIFICATION REQUIREMENTS FOR MORTGAGES OF REGULATED ENTITIES.

(a) IN GENERAL.—Subpart A of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

''SEC. 1330. MORTGAGOR IDENTIFICATION REQUIREMENTS FOR MORTGAGES OF REGULATED ENTITIES.

''(a) LIMITATION.—The Director shall by regulation establish standards, and shall enforce compliance with such standards, that—

''(1) prohibit the enterprises from the purchase, service, holding, selling, lending on the security of, or otherwise dealing with any mortgage on a one- to four-family residence that will be used as the principal residence of the mortgagor that does not meet the requirements under subsection (b); and

''(2) prohibit the Federal home loan banks from providing any advances to a member for use in financing, and from accepting as collateral for any advance to a member, any mortgage on a one- to four-family residence that will be used as the principal residence of the mortgagor that does not meet the requirements under subsection (b).

''(b) IDENTIFICATION REQUIREMENTS.—The requirements under this subsection with respect to a mortgage are that the mortgagor have, at the time of settlement on the mortgage, a Social Security account number.''.

(b) FANNIE MAE.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended by adding at the end the following new subsection:

''(g) PROHIBITION REGARDING MORTGAGOR IDENTIFICATION REQUIREMENT.—Nothing in this Act may be construed to authorize the corporation to purchase, service, hold, sell, lend on the security of, or otherwise deal with any mortgage that the corporation is prohibited from so dealing with under the standards issued under section 1330 of the Housing and Community Development Act of 1992 by the Director of the Federal Housing Finance Agency.''.

(c) FREDDIE MAC.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by adding at the end the following new subsection:

''(d) PROHIBITION REGARDING MORTGAGOR IDENTIFICATION REQUIREMENTS.—Nothing in this Act may be construed to authorize the Corporation to purchase, service, hold, sell, lend on the security of, or otherwise deal with any mortgage that the Corporation is prohibited from so dealing with under the standards issued under section 1330 of the Housing and Community Development Act of 1992 by the Director of the Federal Housing Finance Agency.''.

(d) FEDERAL HOME LOAN BANKS.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

''(6) PROHIBITION REGARDING MORTGAGOR IDENTIFICATION REQUIREMENTS.—Nothing in this Act may be construed to authorize a Federal Home Loan Bank to provide any advance to a member for use in financing, or accept as collateral for an advance under this section, any mortgage that a Bank is prohibited from so accepting under the standards issued under section 1330 of the Housing and Community Development Act of 1992 by the Director of the Federal Housing Finance Agency.''.

SEC. 337. REVISION OF HOUSING GOALS.

(a) HOUSING GOALS.—The Housing and Community Development Act of 1992 is amended by striking sections 1331 through 1334 (12 U.S.C. 4561–4) and inserting the following new sections:

''SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.

''(a) IN GENERAL.—The Director shall establish, effective for the first year that begins after the effective date under section 365 of the Federal Housing Finance Reform Act of 2008 and each year thereafter, annual housing goals, with respect to the mortgage purchases by the enterprises, as follows:

''(1) SINGLE FAMILY HOUSING GOALS.—Three single-family housing goals under section 1332.

''(2) MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOALS.—A multifamily special affordable housing goal under section 1333.

''(b) ELIMINATING INTEREST RATE DISPARITIES.—

''(1) IN GENERAL.—Upon request by the Director, an enterprise shall provide to the Director, in a form determined by the Director, data the Director may review to determine whether there exist disparities in interest rates charged on mortgages to borrowers who are minorities as compared with comparable mortgages to borrowers of similar creditworthiness who are not minorities.

''(2) REMEDIAL ACTIONS UPON PRELIMINARY FINDING.—Upon a preliminary finding by the Director that a pattern of disparities in interest rates with respect to any lender or lenders exists pursuant to the data provided by an enterprise in paragraph (1), the Director shall—

''(A) refer the preliminary finding to the appropriate regulatory or enforcement agency for further review;

''(B) require the enterprise to submit additional data with respect to any lender or lenders, as appropriate and to the extent practicable, to the Director who shall submit any such additional data to the regulatory or enforcement agency for appropriate action; and

''(C) require the enterprise to undertake remedial actions, as appropriate, pursuant to section 1325(5) (12 U.S.C. 4545(5)).

''(3) ANNUAL REPORT TO CONGRESS.—The Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken, and being taken, by the Director to carry out this subsection. No such report shall identify any lender or lenders who have not been found to have engaged in discriminatory lending practices pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code.

''(4) PROTECTION OF IDENTITY OF INDIVIDUALS.—In carrying out this subsection, the Director shall ensure that no property-related or financial information that would enable a borrower to be identified shall be made public.

''(c) TIMING.—The Director shall establish an annual deadline by which the Director shall establish the annual housing goals under this subpart for each year, 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 annual goals.

''SEC. 1332. SINGLE-FAMILY HOUSING GOALS.

''(a) IN GENERAL.—The Director shall establish annual goals for the purchase by each enterprise of conventional, conforming, single-family, purchase money mortgages financing owner-occupied and rental housing for each of the following categories of families:

''(1) Low-income families.

''(2) Families that reside in low-income areas.

''(3) Very low-income families.

''(b) REFINANCE SUBGOAL.—

''(1) IN GENERAL.—The Director shall establish a separate subgoal within each goal under subsection (a)(1) for the purchase by each enterprise of mortgages for low-income families on single family housing given to pay off or prepay an existing loan secured by the same property. The Director shall, for each year, determine whether each enterprise has complied with the subgoal under this subsection in the same manner provided under this section for determining compliance with the housing goals.

''(2) ENFORCEMENT.—For purposes of section 1336, the subgoal established under paragraph (1) of this subsection shall be considered to be a housing goal established under this section. Such subgoal shall not be enforceable under any other provision of this title (including subpart C of this part) other than section 1336 or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

''(c) DETERMINATION OF COMPLIANCE.—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. An enterprise shall be considered to be in compliance with such a goal 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 or rental, as applicable, purchase money 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 (d).

''(d) ANNUAL TARGETS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), for each of the types of families described in subsection (a), the target under this subsection for a year shall be the average percentage, for the three years that most recently precede such year and for which information under the Home Mortgage Disclosure Act of 1975 is publicly available, of the number of conventional, conforming, single-family, owner-occupied or rental, as applicable, purchase money mortgages originated in such year that serves such type of family, as determined by the Director using the information obtained and determined pursuant to paragraphs (3) and (4).

''(2) AUTHORITY TO INCREASE TARGETS.—

''(A) IN GENERAL.—The Director may, for any year, establish by regulation, for any or all of the types of families described in subsection (a), percentage targets that are higher than the percentages for such year determined pursuant to paragraph (1), to reflect expected changes in market performance related to such information under the Home Mortgage Disclosure Act of 1975.

''(B) FACTORS.—In establishing any targets pursuant to subparagraph (A), the Director shall consider the following factors:

''(i) National housing needs.

''(ii) Economic, housing, and demographic conditions.

''(iii) The performance and effort of the enterprises toward achieving the housing goals under this section in previous years.

''(iv) The size of the conventional mortgage market serving each of the types of families described in subsection (a) relative to the size of the overall conventional mortgage market.

''(v) The ability of the enterprise to lead the industry in making mortgage credit available.

''(vi) The need to maintain the sound financial condition of the enterprises.

''(3) HMDA INFORMATION.—The Director shall annually obtain information submitted in compliance with the Home Mortgage Disclosure Act of 1975 regarding conventional, conforming, single-family, owner-occupied or rental, as applicable, purchase money mortgages originated and purchased for the previous year.

''(4) CONFORMING MORTGAGES.—In determining whether a mortgage is a conforming mortgage for purposes of this paragraph, the Director shall consider the original principal balance of the mortgage loan to be the principal balance as reported in the information referred to in paragraph (3), as rounded to the nearest thousand dollars.

''(e) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (c) regarding a compliance of an enterprise for a year with a 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 targets for the year under subsection (d).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

''(f) 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 such income at the time of origination of the mortgage.

''(g) CONSIDERATION OF UNITS IN SINGLE-FAMILY RENTAL HOUSING.—In establishing any goal under this subpart, the Director may take into consideration the number of housing units financed by any mortgage on single-family rental housing purchased by an enterprise.

''SEC. 1333. MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOAL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish, by regulation, an annual goal for the purchase by each enterprise of each of the following types of mortgages on multifamily housing:

''(A) Mortgages that finance dwelling units for low-income families.

''(B) Mortgages that finance dwelling units for very low-income families.

''(C) 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 goal 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 such smaller sizes as are typical among such projects that serve rural areas.

''(3) FACTORS.—In establishing the goal under this section relating to mortgages on multifamily housing for an enterprise for a year, the Director shall consider—

''(A) national multifamily mortgage credit needs;

''(B) the performance and effort of the enterprise in making mortgage credit available for multifamily housing in previous years;

''(C) the size of the multifamily mortgage market;

''(D) the ability of the enterprise to lead the industry in making mortgage credit available, especially for underserved markets, such as for small multifamily projects of 5 to 50 units, multifamily properties in need of rehabilitation, and multifamily properties located in rural areas; and

''(E) the need to maintain the sound financial condition of the enterprise.

''(b) UNITS FINANCED BY HOUSING FINANCE AGENCY BONDS.—The Director shall give credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 1336) to dwelling units in multifamily housing that otherwise qualifies under such goal and that is financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, but only if 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 INCOME OR RENT.—The Director shall monitor the performance of each enterprise in meeting the goals established under this section and shall evaluate such performance (for purposes of section 1336) based on—

''(1) the income of the prospective or actual tenants of the property, where such data are available; or

''(2) where the data referred to in paragraph (1) are not available, rent levels affordable to low-income and very low-income families.

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.—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).

''SEC. 1334. DISCRETIONARY ADJUSTMENT OF HOUSING GOALS.

''(a) AUTHORITY.—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, or section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(3)) or section 301(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

''(c) DETERMINATION.—The Director shall make a determination regarding any proposed reduction within 30 days of receipt of the petition regarding the reduction. The Director may extend such period for a single additional 15-day period, but only if the Director requests additional information from the enterprise. A denial by the Director to reduce the level of any goal under this section may be appealed to the United States District Court for the District of Columbia or the United States district court in the jurisdiction in which the headquarters of an enterprise is located.''.

(b) CONFORMING AMENDMENTS.—The Housing and Community Development Act of 1992 is amended—

(1) in section 1335(a) (12 U.S.C. 4565(a)), in the matter preceding paragraph (1), by striking ''low- and moderate-income housing goal'' and all that follows through ''section 1334'' and inserting ''housing goals established under this subpart''; 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''.

(c) DEFINITIONS.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502), as amended by the preceding provisions of this title, is further amended—

(1) in paragraph (22) (relating to the definition of ''very low-income''), by striking ''60 percent'' each place such term appears and inserting ''50 percent'';

(2) by redesignating paragraphs (19) through (22) as paragraphs (23) through (26), respectively;

(3) by inserting after paragraph (18) the following new paragraph:

''(22) RURAL AREA.—The term 'rural area' has the meaning given such term in section 520 of the Housing Act of 1949 (42 U.S.C. 1490), except that such term includes micropolitan areas and tribal trust lands.''.

(4) by redesignating paragraphs (13) through (18) as paragraphs (16) through (21), respectively;

(5) by inserting after paragraph (12) the following new paragraph:

''(15) 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.'';

(6) by redesignating paragraphs (11) and (12) as paragraphs (13) and (14), respectively;

(7) by inserting after paragraph (10) the following new paragraph:

''(12) EXTREMELY LOW-INCOME.—The term 'extremely low-income' means—

''(A) in the case of owner-occupied units, income not in excess of 30 percent of the area median income; and

''(B) in the case of rental units, income not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.'';

(8) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(9) by inserting after paragraph (6) the following new paragraph:

''(7) CONFORMING MORTGAGE.—The term 'conforming mortgage' means, with respect to an enterprise, a conventional mortgage having an original principal obligation that does not exceed the dollar limitation, in effect at the time of such origination, under, as applicable—

''(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.''.

SEC. 338. DUTY TO SERVE UNDERSERVED MARKETS.

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Housing and Community Development Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting ''**DUTY TO SERVE UNDERSERVED MARKETS AND**'' before ''**OTHER**'';

(2) by striking subsection (b);

(3) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''and to carry out the duty under subsection (a) of this section'' before '', each enterprise shall'';

(B) in paragraph (3), by inserting ''and'' after the semicolon at the end;

(C) in paragraph (4), by striking ''; and'' and inserting a period;

(D) by striking paragraph (5); and

(E) by redesignating such subsection as subsection (b);

(4) by inserting before subsection (b) (as 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.

''(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 Secretary 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 under section 365 of the Federal Housing Finance 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. 339. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) ADDITIONAL CREDIT FOR CERTAIN MORTGAGES.—Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (2), by inserting '', except as provided in paragraph (4),'' after ''which''; and

(2) by adding at the end the following new paragraph:

''(5) ADDITIONAL CREDIT.—The Director shall assign more than 125 percent credit toward achievement, under this section, of the housing goals for mortgage purchase activities of the enterprises that comply with the requirements of such goals and support—

''(A) housing that meets energy efficiency or other environmental standards that are

established by a Federal, State, or local governmental authority with respect to the geographic area where the housing is located or are otherwise widely recognized; or

''(B) housing that includes a licensed childcare center.

The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.''.

(b) MONITORING AND ENFORCEMENT.—Section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting ''PRELIMINARY'' before ''DETERMINATION'';

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) NOTICE.—If the 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 established 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.'';

(C) in paragraph (2)—

(i) in subparagraph (A), by inserting ''finally'' before ''determining'';

(ii) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) EXTENSION OR SHORTENING OF PERIOD.—The Director may—

''(i) extend the period under subparagraph (A) for good cause for not more than 30 additional days; and

''(ii) shorten the period under subparagraph (A) for good cause.''; and

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(D) in paragraph (3)—

(i) in subparagraph (A), by striking ''determine'' and inserting ''issue a final determination of'';

(ii) in subparagraph (B), by inserting ''final'' before ''determinations''; and

(iii) in subparagraph (C)—

(I) by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services''; and

(II) by inserting ''final'' before ''determination'' each place such term appears; and

(2) in subsection (c)—

(A) by striking the subsection designation and heading and all that follows through the end of paragraph (1) and inserting the following:

''(c) CEASE AND DESIST ORDERS, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

''(1) REQUIREMENT.—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) of this subsection.'';

(B) in paragraph (2)—

(i) by striking ''CONTENTS.—Each housing plan'' and inserting ''HOUSING PLAN.—If the Director requires a housing plan under this section, such a plan''; and

(ii) in subparagraph (B), by inserting ''and changes in its operations'' after ''improvements'';

(C) in paragraph (3)—

(i) by inserting ''comply with any remedial action or'' before ''submit a housing plan''; and

(ii) by striking ''under subsection (b)(3) that a housing plan is required'';

(D) in paragraph (4), by striking the first two sentences and inserting the following: ''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 such extension necessary.''; and

(E) by adding at the end the following new paragraph:

''(7) ADDITIONAL REMEDIES FOR FAILURE TO MEET GOALS.—In addition to ordering a housing plan under this section, issuing cease and desist orders under section 1341, and ordering civil money penalties under section 1345, the Director may seek other actions when an enterprise fails to meet a goal, and exercise appropriate enforcement authority available to the Director under this Act to prohibit the enterprise from initially offering any product (as such term is defined in section 1321(f)) or engaging in any new activities, services, undertakings, and offerings and to order the enterprise to suspend products and activities, services, undertakings, and offerings pending its achievement of the goal.''.

SEC. 340. AFFORDABLE HOUSING FUND.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking sections 1337 and 1338 (12 U.S.C. 4562 note) and inserting the following new section:

''SEC. 1337. AFFORDABLE HOUSING FUND.

''(a) ESTABLISHMENT AND PURPOSE.—The Director, in consultation with the Secretary of Housing and Urban Development, shall establish and manage an affordable housing fund in accordance with this section, which shall be funded with amounts allocated by the enterprises under subsection (b). The purpose of the affordable housing fund shall be to provide formula grants to grantees for use—

''(1) to increase homeownership for extremely low-and very low-income families;

''(2) to increase investment in housing in low-income areas, and areas designated as qualified census tracts or an area of chronic economic distress pursuant to section 143(j) of the Internal Revenue Code of 1986 (26 U.S.C. 143(j));

''(3) to increase and preserve the supply of rental and owner-occupied housing for extremely low- and very low-income families;

''(4) to increase investment in public infrastructure development in connection with housing assisted under this section; and

''(5) to leverage investments from other sources in affordable housing and in public infrastructure development in connection with housing assisted under this section.

''(b) ALLOCATION OF AMOUNTS BY ENTERPRISES.—

''(1) IN GENERAL.—In accordance with regulations issued by the Director under subsection (m) and subject to paragraph (2) of this subsection and subsection (i)(5), each enterprise shall allocate to the affordable housing fund established under subsection (a), in each of the years 2008 through 2012, an amount equal to 1.2 basis points for each dollar of the average total mortgage portfolio of the enterprise during the preceding year.

''(2) SUSPENSION OF CONTRIBUTIONS.—The Director shall temporarily suspend the allocation under paragraph (1) by an enterprise to the affordable housing fund upon a finding by the Director that such allocations—

''(A) are contributing, or would contribute, to the financial instability of the enterprise;

''(B) are causing, or would cause, the enterprise to be classified as undercapitalized; or

''(C) are preventing, or would prevent, the enterprise from successfully completing a capital restoration plan under section 1369C.

''(3) 5-YEAR SUNSET AND REPORT.—

''(A) SUNSET.—The enterprises shall not be required to make allocations to the affordable housing fund in 2012 or in any year thereafter.

''(B) REPORT ON PROGRAM CONTINUANCE.—Not later than June 30, 2011, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report making recommendations on whether the program under this section, including the requirement for the enterprises to make allocations to the affordable housing fund, should be extended and on any modifications for the program.

''(4) PROHIBITION OF PASS-THROUGH OF COST OF ALLOCATIONS.—The Director shall, by regulation, prohibit each enterprise from redirecting such costs, through increased charges or fees, or decreased premiums, or in any other manner, to the originators of mortgages purchased or securitized by the enterprise.

''(c) AFFORDABLE HOUSING NEEDS FORMULAS.—

''(1) ALLOCATION FOR 2008.—

''(A) ALLOCATION PERCENTAGES FOR LOUISIANA AND MISSISSIPPI.—For purposes of subsection (d)(1)(A), the allocation percentages for 2008 for the grantees under this section for such year shall be as follows:

''(i) The allocation percentage for the Louisiana Housing Finance Agency shall be 75 percent.

''(ii) The allocation percentage for the Mississippi Development Authority shall be 25 percent.

''(B) USE IN DISASTER AREAS.—Affordable housing grant amounts for 2008 shall be used only as provided in subsection (g) only for such eligible activities in areas that were subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina or Rita of 2005.

''(2) ALLOCATION FORMULA FOR OTHER YEARS.—The Secretary of Housing and Urban Development shall, by regulation, establish a formula to allocate, among the States (as such term is defined in section 1303) and federally recognized Indian tribes, the amounts provided by the enterprises in each year referred to subsection (b)(1), other than 2008, to the affordable housing fund established under this section. The formula shall be based on the following factors, with respect to each State and tribe:

''(A) The ratio of the population of the State or federally recognized Indian tribe to the aggregate population of all the States and tribes.

''(B) The percentage of families in the State or federally recognized Indian tribe that pay more than 50 percent of their annual income for housing costs.

''(C) The percentage of persons in the State or federally recognized Indian tribe that are members of extremely low- or very low-income families.

''(D) The cost of developing or carrying out rehabilitation of housing in the State or for the federally recognized Indian tribe.

''(E) The percentage of families in the State or federally recognized Indian tribe that live in substandard housing.

''(F) The percentage of housing stock in the State or for the federally recognized Indian tribe that is extremely old housing.

''(G) Any other factors that the Secretary determines to be appropriate.

''(3) FAILURE TO ESTABLISH.—If, in any year referred to in subsection (b)(1), other than 2008, the regulations establishing the formula required under paragraph (2) of this subsection have not been issued by the date that the Director determines the amounts described in subsection (d)(1) to be available for affordable housing fund grants in such year, for purposes of such year any amounts for a State (as such term is defined in section 1303 of this Act) that would otherwise be determined under subsection (d) by applying the formula established pursuant to paragraph (2) of this subsection shall be determined instead by applying, for such State, the percentage that is equal to the percentage of the total amounts made available for such year for allocation under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.) that are allocated in such year, pursuant to such subtitle, to such State (including any insular area or unit of general local government, as such terms are defined in section 104 of such Act (42 U.S.C. 12704), that is treated as a State under section 1303 of this Act) and to participating jurisdictions and other eligible entities within such State.

''(d) ALLOCATION OF FORMULA AMOUNT; GRANTS.—

''(1) FORMULA AMOUNT.—For each year referred to in subsection (b)(1), the Director shall determine the formula amount under this section for each grantee, which shall be the amount determined for such grantee—

''(A) for 2008, by applying the allocation percentages under subparagraph (A) of subsection (c)(1) to the sum of the total amounts allocated by the enterprises to the affordable housing fund for such year, less any amounts used pursuant to subsection (i)(1); and

''(B) for any other year referred to in subsection (b)(1) (other than 2008), by applying the formula established pursuant to paragraph (2) of subsection (c) to the sum of the total amounts allocated by the enterprises to the affordable housing fund for such year and any recaptured amounts available pursuant to subsection (i)(4), less any amounts used pursuant to subsection (i)(1).

''(2) NOTICE.—In each year referred to in subsection (b)(1), not later than 60 days after the date that the Director determines the amounts described in paragraph (1) to be available for affordable housing fund grants to grantees in such year, the Director shall cause to be published in the Federal Register a notice that such amounts shall be so available.

''(3) GRANT AMOUNT.—

''(A) IN GENERAL.—For each year referred to in subsection (b)(1), the Director shall make a grant from amounts in the affordable housing fund to each grantee in an amount that is, except as provided in subparagraph (B), equal to the formula amount under this section for the grantee. A grantee 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 other qualified instrumentality of the grantee to receive such grant amounts.

''(B) REDUCTION FOR FAILURE TO OBTAIN RETURN OF MISUSED FUNDS.—If in any year a grantee fails to obtain reimbursement or return of the full amount required under subsection (j)(1)(B) to be reimbursed or returned to the grantee during such year—

''(i) except as provided in clause (ii)—

''(I) the amount of the grant for the grantee for the succeeding year, as determined pursuant to subparagraph (A), shall be reduced by the amount by which such amounts required to be reimbursed or returned exceed the amount actually reimbursed or returned; and

''(II) the amount of the grant for the succeeding year for each other grantee whose grant is not reduced pursuant to subclause (I) shall be increased by the amount determined by applying the formula established pursuant to subsection (c)(2) to the total amount of all reductions for all grantees for such year pursuant to subclause (I); or

''(ii) 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 subsection will not be made, the grantee shall pay to the Director for reallocation among the other grantees an amount equal to the amount of the reduction for the grantee that would otherwise apply under clause (i)(I).

''(e) GRANTEE ALLOCATION PLANS.—

''(1) IN GENERAL.—For each year that a grantee receives affordable housing fund grant amounts, the grantee shall establish an allocation plan in accordance with this subsection, which shall be a plan for the distribution of such grant amounts of the grantee for such year that—

''(A) is based on priority housing needs, as determined by the grantee in accordance with the regulations established under subsection (m)(2)(C);

''(B) complies with subsection (f); and

''(C) includes performance goals, benchmarks, and timetables for the grantee for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts that comply with the requirements established by the Director pursuant to subsection (m)(2)(F).

''(2) ESTABLISHMENT.—In establishing an allocation plan, a grantee shall notify the public of the establishment of the plan, provide an opportunity for public comments regarding the plan, consider any public comments received, and make the completed plan available to the public.

''(3) CONTENTS.—An allocation plan of a grantee shall set forth the requirements for eligible recipients under subsection (h) to apply to the grantee to receive assistance from affordable housing fund grant amounts, including a requirement that each such application include—

''(A) a description of the eligible activities to be conducted using such assistance; and

''(B) 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.

''(f) SELECTION OF ACTIVITIES FUNDED USING AFFORDABLE HOUSING FUND GRANT AMOUNTS.—Affordable housing fund grant amounts of a grantee may be used, or committed for use, only for activities that—

''(1) are eligible under subsection (g) for such use;

''(2) comply with the applicable allocation plan under subsection (e) of the grantee; and

''(3) are selected for funding by the grantee in accordance with the process and criteria for such selection established pursuant to subsection (m)(2)(C).

''(g) ELIGIBLE ACTIVITIES.—Affordable housing fund grant amounts of a grantee shall be eligible for use, or for commitment for use, only for assistance for—

''(1) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B), except that such grant amounts may be used for the benefit only of extremely low- and very low-income families;

''(2) the production, preservation, and rehabilitation of housing for homeownership, including such forms as downpayment assistance, closing cost assistance, and assistance for interest-rate buy-downs, that—

''(A) 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 section be considered to refer to assistance from affordable housing fund grant amounts;

''(B) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act;

''(C) 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

''(D) is made available for purchase only by, or in the case of assistance under this paragraph, is made available only to, homebuyers who have, before purchase—

''(i) completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Director; except that the Director may, at the request of a State, waive the requirements of this subparagraph with respect to a geographic area or areas within the State if: (I) the travel time or distance involved in providing counseling with respect to such area or areas, as otherwise required under this subparagraph, on an in-person basis is excessive or the cost of such travel is prohibitive; and (II) the State provides alternative forms of counseling for such area or areas, which may include interactive telephone counseling, online counseling, interactive video counseling, and interactive home study counseling and a program of financial literacy and education to promote an understanding of consumer, economic, and personal finance issues and concepts, including saving for retirement, managing credit, long-term care, and estate planning and education on predatory lending, identity theft, and financial abuse schemes relating to homeownership that is approved by the Director, except that entities providing such counseling shall not discriminate against any particular form of housing; and

''(ii) demonstrated, in accordance with regulations as the Director shall issue setting forth requirements for sufficient evidence, that they are lawfully present in the United States; and

''(3) public infrastructure development activities in connection with housing activities funded under paragraph (1) or (2).

''(h) ELIGIBLE RECIPIENTS.—Affordable housing fund grant amounts of a grantee may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity, a nonprofit entity, and a faith-based organization) that—

''(1) has demonstrated experience and capacity to conduct an eligible activity under (g), as evidenced by its ability to—

''(A) own, construct or rehabilitate, manage, and operate an affordable multifamily rental housing development;

''(B) design, construct or rehabilitate, and market affordable housing for homeownership;

''(C) provide forms of assistance, such as downpayments, closing costs, or interest-rate buy-downs, for purchasers; or

''(D) construct related public infrastructure development activities in connection with such housing activities;

''(2) demonstrates the ability and financial capacity to undertake, comply, and manage the eligible activity;

''(3) demonstrates its familiarly 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

''(4) makes such assurances to the grantee as the Director shall, by regulation, require to ensure that the recipient will comply with the requirements of this section 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 subsection (g) that are engaged in by the recipient and funded with such grant amounts.

''(i) LIMITATIONS ON USE.—

''(1) REQUIRED AMOUNT FOR REFCORP.—Of the aggregate amount allocated pursuant to subsection (b) in each year to the affordable housing fund, 25 percent shall be used as provided in section 21B(f)(2)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(E)).

''(2) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of the aggregate amount of affordable housing fund grant amounts provided in each year to a grantee, not less than 10 percent shall be used for activities under paragraph (2) of subsection (g).

''(3) MAXIMUM AMOUNT FOR PUBLIC INFRASTRUCTURE DEVELOPMENT ACTIVITIES IN CONNECTION WITH AFFORDABLE HOUSING ACTIVITIES.—Of the aggregate amount of affordable housing fund grant amounts provided in each year to a grantee, not more than 12.5 percent may be used for activities under paragraph (3) of subsection (g).

''(4) DEADLINE FOR COMMITMENT OR USE.—Any affordable housing fund grant amounts of a grantee shall be used or committed for use within two years of the date of that such grant amounts are made available to the grantee. The Director shall recapture into the affordable housing fund any such amounts not so used or committed for use and allocate such amounts under subsection (d)(1) in the first year after such recapture.

''(5) USE OF RETURNS.—The Director shall, by regulation provide that any return on a loan or other investment of any affordable housing fund grant amounts of a grantee shall be treated, for purposes of availability to and use by the grantee, as affordable housing fund grant amounts.

''(6) PROHIBITED USES.—The Director shall—

''(A) by regulation, set forth prohibited uses of affordable housing fund grant amounts, 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;

''(B) by regulation, provide that, except as provided in subparagraph (C), affordable housing fund grant amounts of a grantee may not be used for administrative, outreach, or other costs of—

''(i) the grantee; or

''(ii) any recipient of such grant amounts; and

''(C) by regulation, limit the amount of any affordable housing fund grant amounts of the grantee for a year that may be used for administrative costs of the grantee of carrying out the program required under this section to a percentage of such grant amounts of the grantee for such year, which may not exceed 10 percent.

''(7) 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 affordable housing fund grant amounts used under this section for eligible activities under subsection (g). 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 affordable housing fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

''(8) ACCEPTABLE IDENTIFICATION REQUIREMENT FOR OCCUPANCY OR ASSISTANCE.—

''(A) IN GENERAL.—Any assistance provided with any affordable housing grant amounts may not be made available to, or on behalf of, any individual or household unless the individual provides, or, in the case of a household, all adult members of the household provide, personal identification in one of the following forms:

''(i) SOCIAL SECURITY CARD WITH PHOTO IDENTIFICATION CARD OR REAL ID ACT IDENTIFICATION.—

''(I) A social security card accompanied by a photo identification card issued by the Federal Government or a State Government; or

''(II) A driver's license or identification card issued by a State in the case of a State that is in compliance with title II of the REAL ID Act of 2005 (title II of division B of Public Law 109–13; 49 U.S.C. 30301 note).

''(ii) PASSPORT.—A passport issued by the United States or a foreign government.

''(iii) USCIS PHOTO IDENTIFICATION CARD.—A photo identification card issued by the Secretary of Homeland Security (acting through the Director of the United States Citizenship and Immigration Services).

''(B) REGULATIONS.—The Director shall, by regulation, require that each grantee and recipient take such actions as the Director considers necessary to ensure compliance with the requirements of subparagraph (A).

''(j) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

''(1) RECIPIENTS.—

''(A) TRACKING OF FUNDS.—The Director shall—

''(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from affordable housing fund grant amounts of the grantee 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 recipients, regarding assistance from the affordable housing fund grant amounts of the grantee, which shall include—

''(I) appropriate continuing 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 Director determines are necessary to ensure appropriate grant administration and compliance.

''(B) MISUSE OF FUNDS.—

''(i) REIMBURSEMENT REQUIREMENT.—If any recipient of assistance from affordable housing fund grant amounts of a grantee 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 grantee shall require that, within 12 months after the determination of such misuse, the recipient shall reimburse the grantee for such misused amounts and return to the grantee any amounts from the affordable housing fund grant amounts of the grantee 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—

''(I) made by the Director; or

''(II)(aa) made by the grantee;

''(bb) the grantee provides notification of the determination to the Director for review, in the discretion of the Director, of the determination; and

''(cc) the Director does not subsequently reverse the determination.

''(2) GRANTEES.—

''(A) REPORT.—

''(i) IN GENERAL.—The Director shall require each grantee receiving affordable housing fund grant amounts for a year to submit a report, for such year, to the Director that—

''(I) describes the activities funded under this section during such year with the affordable housing fund grant amounts of the grantee; and

''(II) the manner in which the grantee complied during such year with the allocation plan established pursuant to subsection (e) for the grantee.

''(ii) PUBLIC AVAILABILITY.—The Director shall make such reports pursuant to this subparagraph publicly available.

''(B) MISUSE OF FUNDS.—If the Director 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 Director is satisfied that there is no longer any such failure to comply, the Director shall—

''(i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount affordable housing fund grant amounts which were not used in accordance with this section;

''(ii) require the grantee to repay the Director an amount equal to the amount of the amount affordable housing 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.

''(k) CAPITAL REQUIREMENTS.—The utilization or commitment of amounts from the affordable housing fund shall not be subject to the risk-based capital requirements established pursuant to section 1361(a).

''(l) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) AFFORDABLE HOUSING FUND GRANT AMOUNTS.—The term 'affordable housing fund

grant amounts' means amounts from the affordable housing fund established under subsection (a) that are provided to a grantee pursuant to subsection (d)(3).

''(2) GRANTEE.—The term 'grantee' means—

''(A) with respect to 2008, the Louisiana Housing Finance Agency and the Mississippi Development Authority; and

''(B) with respect to the years referred to in subsection (b)(1), other than 2008, each State (as such term is defined in section 1303) and each federally recognized Indian tribe.

''(3) RECIPIENT.—The term 'recipient' means an entity meeting the requirements under subsection (h) that receives assistance from a grantee from affordable housing fund grant amounts of the grantee.

''(4) TOTAL MORTGAGE PORTFOLIO.—The term 'total mortgage portfolio' means, with respect to a year, the sum, for all mortgages outstanding during that year in any form, including whole loans, mortgage-backed securities, participation certificates, or other structured securities backed by mortgages, of the dollar amount of the unpaid outstanding principal balances under such mortgages. Such term includes all such mortgages or securitized obligations, whether retained in portfolio, or sold in any form. The Director is authorized to promulgate rules further defining such term as necessary to implement this section and to address market developments.

''(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.

''(m) REGULATIONS.—

''(1) IN GENERAL.—The Director, in consultation with the Secretary of Housing and Urban Development, shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) a requirement that the Director ensure that the program of each grantee for use of affordable housing fund grant amounts of the grantee is audited not less than annually to ensure compliance with this section;

''(B) authority for the Director to audit, provide for an audit, or otherwise verify a grantee's activities, to ensure compliance with this section;

''(C) requirements for a process for application to, and selection by, each grantee for activities meeting the grantee's priority housing needs to be funded with affordable housing fund grant amounts of the grantee, which shall provide for priority in funding to be based upon—

''(i) greatest impact;

''(ii) geographic diversity;

''(iii) ability to obligate amounts and undertake activities so funded in a timely manner;

''(iv) in the case of rental housing projects under subsection (g)(1), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;

''(v) in the case of rental housing projects under subsection (g)(1), the extent of the duration for which such rents will remain affordable;

''(vi) the extent to which the application makes use of other funding sources; and

''(vii) the merits of an applicant's proposed eligible activity;

''(D) requirements to ensure that amounts provided to a grantee from the affordable housing fund that are used for rental housing under subsection (g)(1) are used only for the benefit of extremely low- and very-low income families;

''(E) limitations on public infrastructure development activities that are eligible pursuant to subsection (g)(3) for funding with affordable housing fund grant amounts and requirements for the connection between such activities and housing activities funded under paragraph (1) or (2) of subsection (g); and

''(F) requirements and standards for establishment, by grantees (including the grantees for 2008 pursuant to subsection (l)(2)(A)), of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with affordable housing fund grant amounts.

''(n) 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.

''(o) AFFORDABLE HOUSING TRUST FUND.—If, after the enactment of the Federal Housing Finance 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 (b)(1), the Director shall in such subsequent year and any remaining years referred to in subsection (b)(1) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (b) in such year to the affordable housing fund under this section, less any amounts used pursuant to subsection (i)(1). For such subsequent and remaining years, the provisions of subsections (c) and (d) shall not apply. 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 (i)(6). Nothing in this subsection shall be construed to alter the terms and conditions of the affordable housing fund under this section or to extend the life of such fund.

''(p) FUNDING ACCOUNTABILITY AND TRANSPARENCY.—Any grant under this section to a grantee from the affordable housing fund established under subsection (a), any assistance provided to a recipient by a grantee from affordable housing fund grant amounts, and any grant, award, or other assistance from an affordable housing trust fund referred to in subsection (o) 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 Director of the Federal Housing Finance Agency 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.''.

(b) TIMELY ESTABLISHMENT OF AFFORDABLE HOUSING NEEDS FORMULA.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall, not later than the effective date under section 365 of this title, issue the regulations establishing the affordable housing needs formulas in accordance with the provisions of section 1337(c)(2) of the Housing and Community Development Act of 1992, as such section is amended by subsection (a) of this section.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

(c) REFCORP PAYMENTS.—Section 21B(f)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)) is amended—

(1) in subparagraph (E), by striking ''and (D)'' and inserting ''(D), and (E)'';

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

''(E) PAYMENTS BY FANNIE MAE AND FREDDIE MAC.—To the extent that the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (42 U.S.C. 4502)) shall transfer to the Funding Corporation in each calendar year the amounts allocated for use under this subparagraph pursuant to section 1337(i)(1) of such Act.''.

(d) GAO REPORT.—The Comptroller General shall conduct a study to determine the effects that the affordable housing fund established under section 1337 of the Housing and Community Development Act of 1992, as added by the amendment made by subsection (a) of this section, will have on the availability and affordability of credit for homebuyers, including the effects on such credit of the requirement under such section 1337(b) that the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation make allocations of amounts to such fund based on the average total mortgage portfolios, and the extent to which the costs of such allocation requirement will be borne by such entities or will be passed on to homebuyers. Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress setting forth the results and conclusions of such study. This subsection shall take effect on the date of the enactment of this Act.

SEC. 341. CONSISTENCY WITH MISSION.

Subpart B of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4561 et seq.) is amended by adding after section 1337, as added by the preceding provisions of this title, the following new section:

''SEC. 1338. CONSISTENCY WITH MISSION.

''This subpart may not be construed to authorize an enterprise to engage in any program or activity that contravenes or is inconsistent with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.''.

SEC. 342. ENFORCEMENT.

(a) CEASE-AND-DESIST PROCEEDINGS.—Section 1341 of the Housing and Community Development Act of 1992 (12 U.S.C. 4581) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines—

''(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 1314, 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, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

''(4) the enterprise has violated any provision of this part or any order, rule or regulation under this part;

''(5) the enterprise has failed to submit a housing plan that 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).'';

(2) in subsection (b)(2), by striking ''requiring the enterprise to'' and all that follows through the end of the paragraph and inserting the following: ''requiring the enterprise to—

''(A) comply with the goal or goals;

''(B) submit a report under section 1314;

''(C) comply with any provision this part or any order, rule or regulation under such part;

''(D) submit a housing plan in compliance with section 1336(c);

''(E) comply with a housing plan submitted under 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, as applicable.'';

(3) in subsection (c), by inserting ''date of the'' before ''service of the order''; and

(4) by striking subsection (d).

(b) AUTHORITY OF DIRECTOR TO ENFORCE NOTICES AND ORDERS.—Section 1344 of the Housing and Community Development Act of 1992 (12 U.S.C. 4584) is amended 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 enterprise is located, for the enforcement of any effective and outstanding notice or order issued under section 1341 or 1345, 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.''.

(c) CIVIL MONEY PENALTIES.—Section 1345 of the Housing and Community Development Act of 1992 (12 U.S.C. 4585) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

''(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 1314, 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 this part or any order, rule or regulation under this part;

''(5) submit a housing plan 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 the penalty, as determined by the Director, may not exceed—

''(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), $50,000 for each day that the failure occurs; and

''(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), $20,000 for each day that the failure occurs.'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ''and'' after the semicolon at the end;

(ii) in subparagraph (B), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (C); and

(B) in paragraph (2), by inserting after the period at the end the following: ''In determining the penalty under subsection (a)(1), the Director shall give consideration to the length of time the enterprise should reasonably take to achieve the goal.'';

(3) in the first sentence of subsection (d)—

(A) by striking ''request the Attorney General of the United States to'' and inserting '', in the discretion of the Director,''; and

(B) by inserting '', or request that the Attorney General of the United States bring such an action'' before the period at the end;

(4) by striking subsection (f); and

(5) by redesignating subsection (g) as subsection (f).

(d) ENFORCEMENT OF SUBPOENAS.—Section 1348(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4588(c)) is amended—

(1) by striking ''request the Attorney General of the United States to'' and inserting '', in the discretion of the Director,''; and

(2) by inserting ''or request that the Attorney General of the United States bring such an action,'' after ''District of Columbia,''.

(e) CONFORMING AMENDMENT.—The heading for subpart C of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended to read as follows:

''Subpart C—Enforcement''.

SEC. 343. CONFORMING AMENDMENTS.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking ''Secretary'' each place such term appears in such part and inserting ''Director'';

(2) in the section heading for section 1323 (12 U.S.C. 4543), by inserting ''**of enterprises**'' before the period at the end;

(3) by striking section 1327 (12 U.S.C. 4547);

(4) by striking section 1328 (12 U.S.C. 4548);

(5) by redesignating section 1329 (as amended by section 335) as section 1327;

(6) in sections 1345(c)(1)(A), 1346(a), and 1346(b) (12 U.S.C. 4585(c)(1)(A), 4586(a), and 4586(b)), by striking ''Secretary's'' each place such term appears and inserting ''Director's''; and

(7) by striking section 1349 (12 U.S.C. 4589).

CHAPTER 3—PROMPT CORRECTIVE ACTION

SEC. 345. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—Section 1364 of the Housing and Community Development 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 new subsections:

''(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, in the case of an enterprise, that the value of the property subject to mortgages held or securitized by the 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 effective date under section 365, the Director of the Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Housing and Community Development Act of 1992 (as added by paragraph (4) of this

subsection), relating to capital classifications for the Federal home loan banks.

SEC. 346. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED REGULATED ENTITIES.

Section 1365 of the Housing and Community Development Act of 1992 (12 U.S.C. 4615) is amended—

(1) in the section heading, by striking ''enterprises'' and inserting ''**regulated entities**'';

(2) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A) of this paragraph, the following paragraph:

''(1) REQUIRED MONITORING.—The Director shall—

''(A) closely monitor the condition of any regulated entity that is classified as undercapitalized;

''(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed under this section; and

''(C) periodically review the plan, restrictions, and requirements applicable to the undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.''; and

(C) by inserting at the end the following new paragraphs:

''(4) RESTRICTION OF ASSET GROWTH.—A regulated entity that is classified as undercapitalized shall not permit 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 unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity;

''(B) any increase in total assets is consistent with the plan; and

''(C) the ratio of total capital to assets for the regulated entity increases during the calendar quarter at a rate sufficient to enable the entity to become adequately capitalized within a reasonable time.

''(5) PRIOR APPROVAL OF ACQUISITIONS, NEW PRODUCTS, AND NEW ACTIVITIES.—A regulated entity that is classified as undercapitalized shall not, directly or indirectly, acquire any interest in any entity or initially offer any new product (as such term is defined in section 1321(f)) or engage in any new activity, service, undertaking, or offering unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity, the 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 section.'';

(3) in the subsection heading for subsection (b), by striking ''FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED''; and

(4) by striking subsection (c) and inserting the following new subsection:

''(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to a regulated entity that is classified as undercapitalized, any of the actions authorized to be taken under section 1366 with respect to a regulated entity that is classified as significantly undercapitalized, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.''.

SEC. 347. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED REGULATED ENTITIES.

Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended—

(1) in the section heading, by striking ''**enterprises**'' and inserting ''**regulated entities**'';

(2) in subsection (a)(2)(A), by striking ''enterprise'' the last place such term appears;

(3) in subsection (b)—

(A) in the subsection heading, by striking ''DISCRETIONARY SUPERVISORY ACTIONS'' and inserting ''SPECIFIC ACTIONS''.

(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, one or more'';

(C) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(D) by inserting after paragraph (4) the following new paragraph:

''(5) IMPROVEMENT OF MANAGEMENT.—Take one 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 entity became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director's enforcement powers provided in 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

(E) by inserting at the end the following new paragraph:

''(8) 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 actions specified in this paragraph.'';

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

''(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—A regulated entity that is classified as significantly undercapitalized 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 that officer's average rate of compensation (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the regulated entity became undercapitalized.''.

SEC. 348. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

(a) IN GENERAL.—Section 1367 of the Housing and Community Development 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 AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, if any of the grounds under paragraph (3) exist, at the discretion of the Director, the Director may establish a conservatorship or receivership, as appropriate, for the purpose of reorganizing, rehabilitating, or winding up the affairs of a regulated entity.

''(2) APPOINTMENT.—In any conservatorship or receivership established under this section, the Director shall appoint the Agency as conservator or receiver.

''(3) GROUNDS FOR APPOINTMENT.—The grounds for appointing a conservator or receiver for a regulated entity are as follows:

''(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The assets of the regulated entity are less than the obligations of the regulated entity to its creditors and others.

''(B) 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.

''(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

''(D) CEASE-AND-DESIST ORDERS.—Any willful violation of a cease-and-desist order that has become final.

''(E) 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.

''(F) 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.

''(G) 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)).

''(H) 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.

''(I) CONSENT.—The regulated entity, by resolution of its board of directors or its shareholders or members, consents to the appointment.

''(J) UNDERCAPITALIZATION.—The regulated entity is undercapitalized or significantly undercapitalized (as defined in section 1364(a)(3) or in regulations issued pursuant to section 1364(b), as applicable), 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 an undercapitalized 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.

''(K) CRITICAL UNDERCAPITALIZATION.—The regulated entity is critically undercapitalized, as defined in section 1364(a)(4) or in regulations issued pursuant to section 1364(b), as applicable.

''(L) MONEY LAUNDERING.—The Attorney General notifies the Director in writing that the regulated entity has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code.

''(4) MANDATORY RECEIVERSHIP.—

''(A) IN GENERAL.—The Director shall appoint the Agency as receiver for a regulated entity if the Director determines, in writing, that—

''(i) the assets of the regulated entity are, and during the preceding 30 calendar days have been, less than the obligations of the regulated entity to its creditors and others; or

''(ii) the regulated entity is not, and during the preceding 30 calendar days has not been, generally paying the debts of the regulated entity (other than debts that are the subject of a bona fide dispute) as such debts become due.

''(B) PERIODIC DETERMINATION REQUIRED FOR CRITICALLY UNDER CAPITALIZED 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) shall 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 under this section of the Agency as receiver of a regulated entity shall immediately terminate any conservatorship established under this title for the regulated entity.

''(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 principal place of business 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; and

''(iv) preserve and conserve the assets and property of such regulated entity.

''(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, including, if two or more Federal home loan banks have been placed in conservatorship contemporaneously, merging two or more such banks into a single Federal home loan bank.

''(E) ADDITIONAL POWERS AS RECEIVER.—The Agency may, as receiver, place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity, having due regard to the conditions of the housing finance market.

''(F) ORGANIZATION OF NEW REGULATED ENTITIES.—The Agency may, as receiver, organize a successor regulated entity that will operate pursuant to subsection (i).

''(G) TRANSFER OF ASSETS AND LIABILITIES.—The Agency may, as conservator or receiver, transfer any asset or liability of the regulated entity in default without any approval, assignment, or consent with respect to such transfer. Any Federal home loan bank may, with the approval of the Agency, acquire the assets of any Bank in conservatorship or receivership, and assume the liabilities of such Bank.

''(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 in accordance with the prescriptions and limitations of this section.

''(I) SUBPOENA AUTHORITY.—

''(i) IN GENERAL.—

''(I) IN GENERAL.—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 exercised under this subparagraph in the same manner as such provisions apply under that section.

''(ii) AUTHORITY OF DIRECTOR.—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 1379D.

''(J) CONTRACTING FOR SERVICES.—The Agency may, as conservator or receiver, provide by contract for the carrying out of any of its functions, activities, actions, or duties as conservator or receiver.

''(K) 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.

''(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 publication of such notice; and

''(ii) republish such notice approximately 1 month and 2 months, respectively, after the 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 notification 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), or the date specified in the notice required under paragraph (3)(C), which is proved to the satisfaction of the receiver.

''(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF 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 any extension of credit from any Federal Reserve Bank, Federal home loan bank, or the Treasury of the United States.

''(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. This subparagraph shall not affect the authority of a claimant to obtain de novo judicial review of a claim pursuant to paragraph (6).

''(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, 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 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 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 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 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 official of the regulated entity, except that such requirements for qualified financial contracts shall be applied in a manner consistent with reasonable business trading practices in the financial contracts market.

''(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the sole discretion of the receiver, pay from the assets of the regulated entity dividends on proved claims at any time, and no liability shall attach to the Agency, by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

''(D) RULEMAKING AUTHORITY OF THE DIRECTOR.—The Director may prescribe such rules, including definitions of terms, as the Director deems appropriate to establish a single uniform interest rate for, or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estates of regulated entities 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 any 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 shall—

''(i) have all 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) 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.

''(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 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 maintains stability in the housing finance markets and, to the extent consistent with that goal—

''(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 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 the claim accrues; or

''(II) the period applicable under State law.

''(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

''(i) the date of the appointment of the Agency as conservator or receiver; or

''(ii) the date on which the cause of action accrues.

''(13) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

''(A) IN GENERAL.—In the case of any tort claim described under subparagraph (B) for which the statute of limitations applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Agency as conservator or receiver, the Agency may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

''(B) CLAIMS DESCRIBED.—A tort claim referred to under subparagraph (A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the regulated entity.

''(14) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

''(A) IN GENERAL.—The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

''(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

''(C) AVAILABILITY OF REPORTS.—Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

''(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date that 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 a regulated entity-affiliated party, or any person who the conservator or receiver determines is 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 regulated 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 Agency or such conservator 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 RECEIVER OR CONSERVATOR.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against a receiver or conservator for the breach of an agreement executed or approved in writing by such receiver or conservator after the date of its appointment, shall be paid as an administrative expense of the receiver or conservator.

''(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of a receiver or conservator 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 a 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 persons other than the regulated entity shall not be available to satisfy the claims of creditors generally.

''(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages, described under 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 a pool of mortgages in accordance with the terms of the agreement creating such trust, custodial, or other agency arrangement.

''(iii) LIABILITY OF RECEIVER.—The liability of a 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 set forth in the regulations of the Director.

''(c) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

''(1) IN GENERAL.—Unsecured claims against a regulated entity, or a receiver, 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 and claims of other Federal home loan banks arising from their payment obligations (including joint and several payment obligations).

''(C) Any obligation subordinated to general creditors.

''(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 Agency may make such other payments to creditors necessary to maximize the present value return from the sale or disposition or such regulated entity's assets or to minimize the amount of any loss realized in the resolution of cases so long as all creditors similarly situated receive not less than the amount provided under subsection (e)(2).

''(3) DEFINITION.—The term 'administrative expenses of the receiver' shall include the actual, necessary costs and expenses incurred by the receiver in preserving the assets of the regulated entity or liquidating or otherwise resolving the affairs of the regulated entity. Such expenses shall include obligations that are incurred by the receiver after appointment as receiver that the Director 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—

''(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 such subparagraph—

''(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 such subparagraph—

''(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) PROVISIONS APPLICABLE TO 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 the 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 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 any 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 Act, any other Federal law, or the law of any State, 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 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 described in clause (i); 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.—Paragraph (10) of subsection (b) 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 Federal or State laws 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:

''(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 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' (which definition also applies to 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 the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities 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.

For purposes of this clause, the term 'qualified foreign government security' means 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).

''(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.

Such term is 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 swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.

''(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 regulated entity's equity of redemption.

''(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (13) of this subsection), any other Federal law, or the law of any State, 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 one 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) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (d)(1) of this section.

''(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 such party's status 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.—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) the transfer includes any qualified financial contract,

the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern 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.

''(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 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 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 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 Agency as receiver or conservator 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 Agency 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 a conservator or receiver, the conservator or receiver may enforce any contract or 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 director's or officer's liability insurance contract or surety 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 paragraph shall—

''(I) not apply to a director's or officer's liability insurance contract;

''(II) not apply to the rights of parties to any qualified financial contracts under subsection (d)(8); and

''(III) not 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 equal the lesser of—

''(A) the amount such claimant would have received if the Agency had liquidated the assets and liabilities of such regulated entity without exercising the authority of the Agency under subsection (i) of this section; or

''(B) the amount of proceeds realized from the performance of contracts or sale of the assets of the regulated entity.

''(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 by, on behalf of, or at the request or direction of the Agency, which action is 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,

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.

''(2) NO LIMITATION.—Nothing in this paragraph 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.—If a regulated entity is in default, or if the Agency anticipates that a regulated entity will default, the Agency may organize a limited-life regulated entity with those powers and attributes of the regulated entity in default or in danger of default that the Director determines necessary, subject to the provisions of this subsection. The Director shall grant a temporary charter to the limited-life regulated entity, and the limited-life regulated entity shall operate subject to that charter.

''(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, provided that the liabilities assumed shall not exceed the amount of assets of 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.—

''(A) CONDITIONS.—The Agency may grant a temporary charter if the Agency determines that the continued operation of the regulated entity in default or in danger of default is in the best interest of the national economy and the housing markets.

''(B) TREATMENT 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.

''(C) MANAGEMENT.—A limited-life regulated entity, upon the granting of its charter, 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.

''(D) 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.—No capital stock need be paid into a limited-life regulated entity by the Agency.

''(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 STATUS.—Notwithstanding any other provision of Federal or State law, the 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 subparagraph (B), unless Congress authorizes the sale of the capital stock of the limited-life regulated entity, not later than 2 years after the date of its organization, the Agency shall wind up the affairs of the limited-life regulated entity.

''(B) EXTENSION.—The Director may, in the discretion of the Director, extend the status of the limited-life regulated entity for 3 additional 1-year periods.

''(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 paragraph (1).

''(ii) SUBSEQUENT TRANSFERS.—At any time after a charter is transferred to a limited-life regulated entity, the Agency, as receiver, may transfer any assets and liabilities of such regulated entity in default, or in danger in default, as the Agency may, in its discretion, determine to be appropriate in accordance with paragraph (1).

''(iii) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities of a regulated entity in default, or in danger of default, transferred to a limited-life regulated entity shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

''(8) PROCEEDS.—To the extent that available proceeds from the limited-life regulated entity exceed amounts required to pay obligations, such proceeds may be paid to the regulated entity in default, or in danger of default.

''(9) POWERS.—

''(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; and

''(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;

''(ii) the Agency may 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

''(iii) 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 up to 45 days at the request of the limited-life regulated entity. Such period may be modified upon the consent of all parties.

''(10) OBTAINING OF CREDIT AND INCURRING OF DEBT.—

''(A) IN GENERAL.—The limited-life regulated entity may obtain unsecured credit and incur unsecured debt in the ordinary course of business.

''(B) INABILITY TO OBTAIN CREDIT.—If the limited-life regulated entity is unable to obtain unsecured credit the Director may authorize the obtaining of credit or the incurring of debt—

''(i) with priority over any or all administrative expenses;

''(ii) secured by a lien on property that is not otherwise subject to a lien; or

''(iii) secured by a junior lien on property 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 incurring of debt secured by a senior or equal lien on property that is subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by the regulated entity) only if—

''(I) the limited-life regulated entity is unable to obtain such credit otherwise; and

''(II) there is adequate protection of the interest of the holder of the lien on the property which such senior or equal lien is proposed to be granted.

''(ii) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

''(D) EFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this paragraph to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, 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 incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

''(11) ISSUANCE OF PREFERRED DEBT.—A limited-life regulated entity may, subject to the approval of the Director and subject to such terms and conditions as the Director may prescribe, issue notes, bonds, or other debt obligations of a class to which all other debt obligations of the limited-life regulated entity shall be subordinate in right and payment.

''(12) 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.

''(13) ADDITIONAL POWERS.—In addition to any other powers granted under this subsection, a limited-life regulated entity may—

''(A) extend a maturity date or change in an interest rate or other term of outstanding securities;

''(B) issue securities of the limited-life regulated entity, for cash, for property, for existing securities, or in exchange for claims or interests, or for any other appropriate purposes; and

''(C) take any other action not inconsistent with this section.

''(j) OTHER EXEMPTIONS.—When acting as a receiver, the following provisions shall apply with respect to the Agency:

''(1) EXEMPTION FROM TAXATION.—The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, country, 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.

''(2) EXEMPTION FROM ATTACHMENT AND LIENS.—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.

''(3) EXEMPTION FROM 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 a receiver appointed pursuant to this section revoke, annul, or terminate the charter of a regulated entity.

''(l) PRESERVATION OF BANKRUPTCY LAW .—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any provision of title 11 of the United States Code, or the operation of any provision of title 28 of such Code that relates to cases under such title 11, except as otherwise provided in section 1367(b) of this Act and except that a regulated entity may not be a debtor under such title 11.''.

(b) CONFORMING AMENDMENTS.—

(1) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 is amended by striking sections 1369 (12 U.S.C. 4619), 1369A (12 U.S.C. 4620), and 1369B (12 U.S.C. 4621).

(2) FEDERAL HOME LOAN BANKS.—Section 25 of the Federal Home Loan Bank Act (12 U.S.C. 1445) is amended to read as follows:

''SEC. 25. SUCCESSION OF FEDERAL HOME LOAN BANKS.

''Each Federal Home Loan Bank shall have succession until it is voluntarily merged with another Bank under this Act, or until it is merged, reorganized, rehabilitated, liquidated, or otherwise wound up by the Director in accordance with the provisions of section 1367 of the Housing and Community Development Act of 1992, or by further Act of Congress.''.

SEC. 349. CONFORMING AMENDMENTS.

Title XIII of the Housing and Community Development Act of 1992, as amended by the preceding provisions of this title, is further amended—

(1) in sections 1365 (12 U.S.C. 4615) through 1369D (12 U.S.C. 4623), but not including section 1367 (12 U.S.C. 4617) as amended by section 349 of this title—

(A) by striking ''An enterprise'' each place such term appears and inserting ''A regulated entity'';

(B) by striking ''an enterprise'' each place such term appears and inserting ''a regulated entity''; and

(C) by striking ''the enterprise'' each place such term appears and inserting ''the regulated entity'';

(2) in section 1366 (12 U.S.C. 4616)—

(A) in subsection (b)(7), by striking ''section 1369 (excluding subsection (a)(1) and (2))'' and inserting ''section 1367''; and

(B) in subsection (d), by striking ''the enterprises'' and inserting ''the regulated entities'';

(3) in section 1368(d) (12 U.S.C. 4618(d)), by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services'';

(4) in section 1369C (12 U.S.C. 4622)—

(A) in subsection (a)(4), by striking ''activities (including existing and new programs)'' and inserting ''activities, services, undertakings, and offerings (including existing and new products (as such term is defined in section 1321(f))''; and

(B) in subsection (c), by striking ''any enterprise'' and inserting ''any regulated entity''; and

(5) in subsections (a) and (d) of section 1369D, by striking ''section 1366 or 1367 or action under section 1369)'' each place such phrase appears and inserting ''section 1367)''.

CHAPTER 4—ENFORCEMENT ACTIONS

SEC. 351. CEASE-AND-DESIST PROCEEDINGS.

Section 1371 of the Housing and Community Development Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS OF RULES OR LAWS.—If, in the opinion of the Director, a regulated entity or any regulated entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated entity or any regulated entity-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the regulated entity or is violating or has violated, or the Director has reasonable cause to believe that the regulated entity or any regulated entity-affiliated party is about to violate, a law, rule, or regulation, 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 any written agreement entered into with the Director, the Director may issue and serve upon the regulated entity or such party a notice of charges in respect thereof. 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 this subsection.'';

(2) in subsection (c)(2), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party''; and

(3) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party'';

(B) in paragraph (1)—

(i) by striking ''an executive officer or a director'' and inserting ''a regulated entity affiliated party''; and

(ii) by inserting ''(including reimbursement of compensation under section 1318)'' after ''reimbursement'';

(C) in paragraph (6), by striking ''and'' at the end;

(D) by redesignating paragraph (7) as paragraph (8); and

(E) by inserting after paragraph (6) the following new paragraph:

''(7) to effect an attachment on a regulated entity or regulated entity-affiliated party subject to an order under this section or section 1372; and''.

SEC. 352. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.

Section 1372 of the Housing and Community Development Act of 1992 (12 U.S.C. 4632) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) GROUNDS FOR ISSUANCE.—Whenever the Director determines that the violation or threatened violation or the unsafe or unsound practice or practices specified in the notice of charges served upon the regulated entity or any regulated 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 the regulated entity, or is likely to weaken the condition of the regulated entity prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may issue a temporary order requiring the regulated entity or such party to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).'';

(2) in subsection (b), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party'';

(3) in subsection (d)—

(A) by striking ''An enterprise, executive officer, or director'' and inserting ''A regulated entity or regulated entity-affiliated party''; and

(B) by striking ''the enterprise, executive officer, or director'' and inserting ''the regulated entity or regulated entity-affiliated party''; and

(4) by striking subsection (e) and in inserting the following new subsection:

''(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this section, the Director may 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 an injunction to enforce such order, and, if the court determines that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.''.

SEC. 353. PREJUDGMENT ATTACHMENT.

The Housing and Community Development Act of 1992 is amended by inserting after section 1375 (12 U.S.C. 4635) the following new section:

''SEC. 1375A. PREJUDGMENT ATTACHMENT.

''(a) IN GENERAL.—In any action brought pursuant to this title, or in actions brought in aid of, or to enforce an order in, any administrative or other civil action for money damages, restitution, or civil money penalties brought pursuant to this title, the court may, upon application of the Director or Attorney General, as applicable, issue a restraining order that—

''(1) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

''(2) appoints a person on a temporary basis to administer the restraining order.

''(b) STANDARD.—

''(1) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subsection (a) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

''(2) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to a party's right to due process as Rule 65 (as modified with respect to such proceeding by paragraph (1)), the relief sought under subsection (a) may be requested under the laws of such State.''.

SEC. 354. ENFORCEMENT AND JURISDICTION.

Section 1375 of the Housing and Community Development 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 ''1376, or 1377''.

SEC. 355. CIVIL MONEY PENALTIES.

Section 1376 of the Housing and Community Development Act of 1992 (12 U.S.C. 4636) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking '', or any executive officer or director'' and inserting ''or any regulated-entity affiliated party''; and

(B) in paragraph (1)—

(i) by striking ''the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act'' and inserting ''any provision of any of the authorizing statutes'';

(ii) by striking ''or Act'' and inserting ''or statute'';

(iii) by striking ''or subsection'' and inserting '', subsection''; and

(iv) by inserting '', or paragraph (5) or (12) of section 10(j) of the Federal Home Loan Bank Act'' before the semicolon at the end;

(2) by striking subsection (b) and inserting the following new subsection:

''(b) AMOUNT OF PENALTY.—

''(1) FIRST TIER.—Any regulated entity which, or any regulated entity-affiliated party who—

''(A) violates any provision of this title, any provision of any of the authorizing statutes, or any order, condition, rule, or regulation under any such title or statute, except that 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) or (12) of section 10(j) of the Federal Home Loan Bank Act;

''(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,

shall forfeit and pay a civil money penalty of not more than $10,000 for each day during which such violation continues.

''(2) SECOND TIER.—Notwithstanding paragraph (1)—

''(A) if a regulated entity, or a regulated entity-affiliated party—

''(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 such 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 such regulated entity; or

''(iii) results in pecuniary gain or other benefit to such party,

the regulated entity or regulated entity-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which such violation, practice, or breach continues.

''(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any regulated entity which, or any regulated entity-affiliated party who—

''(A) knowingly—

''(i) commits any violation or engages in any conduct described in any subparagraph of paragraph (1);

''(ii) engages in any unsafe or unsound practice in conducting the affairs of such regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) knowingly or recklessly causes a substantial loss to such regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

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.

''(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 such paragraph is—

''(A) in the case of any person other than a regulated entity, an amount not to exceed $2,000,000; and

''(B) in the case of any regulated entity, $2,000,000.'';

(3) in subsection (c)(1)(B), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party'';

(4) in subsection (d), by striking the first sentence and inserting the following: ''If a regulated entity or regulated entity-affiliated party fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may, in the discretion of the Director, bring an action in 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, to obtain a monetary judgment against the regulated entity or regulated entity affiliated party and such other relief as may be available, or request that the Attorney General of the United States bring such an action.''; and

(5) in subsection (g), by striking ''subsection (b)(3)'' and inserting ''this section, unless authorized by the Director by rule, regulation, or order''.

SEC. 356. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Subtitle C of title XIII of the Housing and Community Development Act of 1992 is amended—

(1) by redesignating sections 1377, 1378, 1379, 1379A, and 1379B (12 U.S.C. 4637–41) as sections 1379, 1379A, 1379B, 1379C, and 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following new section:

''SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

''(a) AUTHORITY TO ISSUE ORDER.—Whenever the Director determines that—

''(1) any regulated entity-affiliated party has, directly or indirectly—

''(A) 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;

''(B) engaged or participated in any unsafe or unsound practice in connection with any regulated entity; or

''(C) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

''(2) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1)—

''(A) such regulated entity has suffered or will probably suffer financial loss or other damage; or

''(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

''(3) such violation, practice, or breach—

''(A) involves personal dishonesty on the part of such party; or

''(B) demonstrates willful or continuing disregard by such party for the safety or soundness of such regulated entity, the Director may serve upon such party a written notice of the Director's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any regulated entity.

''(b) SUSPENSION ORDER.—

''(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) to any regulated entity-affiliated party of the Director's intention to issue an order under such subsection, the Director may—

''(A) suspend 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—

''(i) determines that such action is necessary for the protection of the regulated entity; and

''(ii) serves such party with written notice of the suspension order; and

''(B) prohibit the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with any resignation, removal, retirement, or other termination of employment or office of the party.

''(2) EFFECTIVE PERIOD.—Any suspension 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) of this section, shall remain in effect and enforceable until—

''(i) the date 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 by the Director to such party under subsection (a).

''(3) COPY OF ORDER.—If the Director issues a suspension order under this subsection to any regulated entity-affiliated 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.—A notice of intention to remove a regulated entity-affiliated party from office or to prohibit such party from participating in the conduct of the affairs of a regulated entity 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. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of (1) such party, and for good cause shown, or (2) the Attorney General of the United States. Unless such party shall appear 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 of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Director shall find that any of the grounds specified in such notice have been established, the Director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the regulated entity, as it may deem appropriate, together with an order prohibiting compensation described in subsection (b)(1)(B). Any such order shall become effective at the expiration of 30 days after service upon such regulated entity and such party (except in the case of an order issued upon consent, 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;

''(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 a regulated entity-affiliated party.

''(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 prohibited from participating in the conduct of the affairs of a regulated entity 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.

''(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any regulated entity-affiliated party or prohibits such party from participating in the conduct of the affairs of a regulated entity, 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 described in the written consent. If the Director grants such a written consent, it shall publicly disclose such consent.

''(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order described in such subsection 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 enterprise.

''(g) STAY OF SUSPENSION AND PROHIBITION OF REGULATED ENTITY-AFFILIATED PARTY.—Within 10 days after any regulated entity-affiliated party has been suspended from office and/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 and/or prohibition and any prohibition under subsection (b)(1)(B) pending the completion of the administrative proceedings pursuant to the notice served upon such party under this section, and such court shall have jurisdiction to stay such suspension and/or prohibition.

''(h) SUSPENSION OR REMOVAL OF REGULATED ENTITY-AFFILIATED PARTY CHARGED WITH FELONY.—

''(1) SUSPENSION OR PROHIBITION.—

''(A) IN GENERAL.—Whenever any regulated 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 one year under State or Federal 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—

''(i) 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; and

''(ii) prohibit the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of

current or potential value in connection with the period of any such suspension or with any resignation, removal, retirement, or other termination of employment or office of the party.

''(B) PROVISIONS APPLICABLE TO NOTICE.—

''(i) COPY.—A copy of any notice under paragraph (1)(A) shall also be served upon the 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 such subparagraph 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 a regulated 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 that—

''(i) removes such party from office or prohibits 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; and

''(ii) prohibits the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with the termination of employment or office of the party.

''(B) PROVISIONS APPLICABLE TO ORDER.—

''(i) COPY.—A copy of any order under paragraph (2)(A) shall also be served upon the regulated entity, whereupon the regulated 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 such party from office or to prohibit further participation in regulated entity affairs, and to prohibit compensation or other payment of money or other thing of current or potential value in connection with any resignation, removal, retirement, or other termination of employment or office of the party, pursuant to subsections (a), (d), or (e) of this section.

''(iii) EFFECTIVE PERIOD.—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) unless terminated by the Director.

''(3) AUTHORITY OF REMAINING BOARD MEMBERS.—If at any time, because of the suspension of one 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. In the event all of the directors of a regulated entity are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors in their place and stead 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.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2) of this subsection, the regulated entity-affiliated party concerned may request in writing an opportunity to appear before the Director to show that the continued service to 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. Upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such party) and place at which such party may appear, personally or through counsel, before one or more members of the Director or designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument. Within 60 days of such hearing, the Director shall notify such 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, and prohibiting compensation in connection with termination will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Director's decision, if adverse to such party. The Director is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.

''(i) HEARINGS AND JUDICIAL REVIEW.—

''(1) VENUE AND PROCEDURE.—Any hearing provided for in this section shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the regulated entity is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

''(2) REVIEW OF ORDER.—Any party to any proceeding under paragraph (1) may obtain a review of any order served pursuant to paragraph (1) (other than an order issued with the consent of the regulated entity or the regulated entity-affiliated party concerned, or an order issued under subsection (h) of this section) by the filing in the United States Court of Appeals for the District of Columbia Circuit or court of appeals of the United States for the circuit in which the headquarters of the regulated entity is located, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall (except as provided in the last sentence of paragraph (1)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

''(3) PROCEEDINGS NOT TREATED AS STAY.—The commencement of proceedings for judicial review under paragraph (2) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.''.

(b) CONFORMING AMENDMENTS.—

(1) 1992 ACT.—Section 1317(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 4517(f)) is amended by striking ''section 1379B'' and inserting ''section 1379D''.

(2) FANNIE MAE CHARTER ACT.—The second sentence of subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by striking ''The'' and inserting ''Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the''.

(3) FREDDIE MAC ACT.—The second sentence of subparagraph (A) of section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by striking ''The'' and inserting ''Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the''.

SEC. 357. CRIMINAL PENALTY.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4631 et seq.) is amended by inserting after section 1377 (as added by the preceding provisions of this title) the following new section:

''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 be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.''.

SEC. 358. SUBPOENA AUTHORITY.

Section 1379D(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4641(c)), as so redesignated by section 356(a)(1) of this title, is further amended—

(1) by striking ''request the Attorney General of the United States to'' and inserting '', in the discretion of the Director,'';

(2) by inserting ''or request that the Attorney General of the United States bring such an action,'' after ''District of Columbia,''; and

(3) by striking ''or may, under the direction and control of the Attorney General, bring such an action''.

SEC. 359. CONFORMING AMENDMENTS.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4631 et seq.), as amended by the preceding provisions of this title, is amended—

(1) in section 1372(c)(1) (12 U.S.C. 4632(c)), by striking ''that enterprise'' and inserting ''that regulated entity'';

(2) in section 1379 (12 U.S.C. 4637), as so redesignated by section 356(a)(1) of this title—

(A) by inserting '', or of a regulated entity-affiliated party,'' before ''shall not affect''; and

(B) by striking ''such director or executive officer'' each place such term appears and inserting ''such director, executive officer, or regulated entity-affiliated party'';

(3) in section 1379A (12 U.S.C. 4638), as so redesignated by section 356(a)(1) of this title, by inserting ''or against a regulated entity-affiliated party,'' before ''or impair'';

(4) by striking ''An enterprise'' each place such term appears in such subtitle and inserting ''A regulated entity'';

(5) by striking ''an enterprise'' each place such term appears in such subtitle and inserting ''a regulated entity'';

(6) by striking ''the enterprise'' each place such term appears in such subtitle and inserting ''the regulated entity''; and

(7) by striking ''any enterprise'' each place such term appears in such subtitle and inserting ''any regulated entity''.

CHAPTER 5—GENERAL PROVISIONS

SEC. 361. BOARDS 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 365 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 365 occurs.

SEC. 362. REPORT ON PORTFOLIO OPERATIONS, SAFETY AND SOUNDNESS, AND MISSION OF ENTERPRISES.

Not later than the expiration of the 12-month period beginning on the effective date under section 365, the Director of the Federal Housing Finance Agency shall submit a report to the Congress which shall include—

(1) a description of the portfolio holdings of the enterprises (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) in mortgages (including whole loans and mortgage-backed securities), non-mortgages, and other assets;

(2) a description of the risk implications for the enterprises of such holdings and the consequent risk management undertaken by the enterprises (including the use of derivatives for hedging purposes), compared with off-balance sheet liabilities of the enterprises (including mortgage-backed securities guaranteed by the enterprises);

(3) an analysis of portfolio holdings for safety and soundness purposes;

(4) an assessment of whether portfolio holdings fulfill the mission purposes of the enterprises under the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act; and

(5) an analysis of the potential systemic risk implications for the enterprises, the housing and capital markets, and the financial system of portfolio holdings, and whether such holdings should be limited or reduced over time.

SEC. 363. CONFORMING AND TECHNICAL AMENDMENTS.

(a) 1992 ACT.—Title XIII of the Housing and Community Development Act of 1992 is amended by striking section 1383 (12 U.S.C. 1451 note).

(b) 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''.

(c) 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''.

(d) 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).

(e) TITLE 5, UNITED STATES CODE.—

(1) DIRECTOR'S PAY RATE.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

''Director of the Federal Housing Finance Agency.''.

(2) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(D) of title 5, United States Code, is amended—

(A) by striking ''the Federal Housing Finance Board,''; and

(B) by striking ''the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''the Federal Housing Finance Agency''.

(f) INSPECTOR GENERAL ACT OF 1978.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(g) 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 new clause:

''(vii) The Federal Housing Finance Agency.''.

(h) 1997 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT.—Section 10001 of the 1997 Emergency Supplemental Appropriations Act for Recovery From Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those In Bosnia (42 U.S.C. 3548) is amended—

(1) by striking ''the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight'' and inserting ''and the Government National Mortgage Association''; and

(2) by striking '', the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight'' and inserting ''or the Government National Mortgage Association''.

(i) NATIONAL HOMEOWNERSHIP TRUST ACT.—Section 302(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12851(b)(4)) is amended by striking ''the chairperson of the Federal Housing Finance Board'' and inserting ''the Director of the Federal Housing Finance Agency''.

SEC. 364. STUDY OF ALTERNATIVE SECONDARY MARKET SYSTEMS.

(a) IN GENERAL.—The Director of the Federal Housing Finance Agency, in consultation with the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, and the Secretary of Housing and Urban Development, shall conduct a comprehensive study of the effects on financial and housing finance markets of alternatives to the current secondary market system for housing finance, taking into consideration changes in the structure of financial and housing finance markets and institutions since the creation of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) CONTENTS.—The study under this section shall—

(1) include, among the alternatives to the current secondary market system analyzed—

(A) repeal of the chartering Acts for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) establishing bank-like mechanisms for granting new charters for limited purposed mortgage securitization entities;

(C) permitting the Director of the Federal Housing Finance Agency to grant new charters for limited purpose mortgage securitization entities, which shall include analyzing the terms on which such charters should be granted, including whether such charters should be sold, or whether such charters and the charters for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should be taxed or otherwise assessed a monetary price; and

(D) such other alternatives as the Director considers appropriate;

(2) examine all of the issues involved in making the transition to a completely private secondary mortgage market system;

(3) examine the technological advancements the private sector has made in providing liquidity in the secondary mortgage market and how such advancements have affected liquidity in the secondary mortgage market; and

(4) examine how taxpayers would be impacted by each alternative system, including the complete privatization of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) REPORT.—The Director of the Federal Housing Finance Agency shall submit a report to the Congress on the study not later

than the expiration of the 24-month period beginning on the effective date under section 365.

SEC. 365. EFFECTIVE DATE.

Except as specifically provided otherwise in this subtitle, this subtitle shall take effect on and the amendments made by this subtitle shall take effect on, and shall apply beginning on, the expiration of the 6-month period beginning on the date of the enactment of this Act.

Subtitle B—Federal Home Loan Banks

SEC. 371. 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.''.

SEC. 372. DIRECTORS.

(a) ELECTION.—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.—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, each of whom shall be a citizen of the United States. All directors of a Bank who are not independent directors pursuant to paragraph (3) shall be elected by the members.

''(2) MEMBER DIRECTORS.—A majority of the directors of each Bank shall be officers or directors of a member of such Bank that is located in the district in which such Bank is located.

''(3) INDEPENDENT DIRECTORS.—At least two-fifths of the directors of each Bank shall be independent directors, who shall be appointed by the Director of the Federal Housing Finance Agency from a list of individuals recommended by the Federal Housing Enterprise Board. The Federal Housing Enterprise Board may recommend individuals who are identified by the Board's own independent process or included on a list of individuals recommended by the board of directors of the Bank involved, which shall be submitted to the Federal Housing Enterprise Board by such board of directors. The number of individuals on any such list submitted by a Bank's board of directors shall be equal to at least two times the number of independent directorships to be filled. All independent directors appointed shall meet the following criteria:

''(A) IN GENERAL.—Each independent director shall be a bona fide resident of the district in which such Bank is located.

''(B) PUBLIC INTEREST DIRECTORS.—At least 2 of the independent directors under this paragraph of each Bank shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, community development, economic development, or financial consumer protections.

''(C) OTHER DIRECTORS.—

''(i) QUALIFICATIONS.—Each independent director that is not a public interest director under subparagraph (B) 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) CONSULTATION WITH BANKS.—In appointing other directors to serve on the board of a Federal home loan bank, the Director of the Federal Housing Finance Agency may consult with each Federal home loan bank about the knowledge, skills, and expertise needed to assist the board in better fulfilling its responsibilities.

''(D) CONFLICTS OF INTEREST.—Notwithstanding subsection (f)(2), an independent director under this paragraph of a Bank may not, during such director's term of office, serve as an officer of any Federal Home Loan Bank or as a director or officer of any member of a Bank.

''(E) COMMUNITY DEMOGRAPHICS.—In appointing independent directors of a Bank pursuant to this paragraph, the Director shall take into consideration the demographic makeup of the community most served by the Affordable Housing Program of the Bank pursuant to section 10(j).'';

(2) in the first sentence of subsection (b), by striking ''elective directorship'' and inserting ''member directorship established pursuant to subsection (a)(2)'';

(3) in subsection (c)—

(A) by striking ''elective'' each place such term appears and inserting ''member'', except—

(i) in the second sentence, the second place such term appears; and

(ii) each place such term appears in the fifth sentence;

(B) in the first sentence, by inserting after ''less than one'' the following: ''or two, as determined by the board of directors of the appropriate Federal home loan bank,''; and

(C) 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 two or more such banks''; and

(4) by striking ''elective'' each place such term appears (except in subsections (c), (e), and (f)).

(b) TERMS.—

(1) IN GENERAL.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(A) in the first sentence, by striking ''3 years'' and inserting ''4 years''; and

(B) in the second sentence—

(i) by striking ''Federal Home Loan Bank System Modernization Act of 1999'' and inserting ''Federal Housing Finance Reform Act of 2008''; and

(ii) by striking ''1/3'' and inserting ''1/4''.

(2) SAVINGS PROVISION.—The amendments made by paragraph (1) shall not apply to the term of office of any director of a Federal home loan bank who is serving as of the effective date of this subtitle under section 381, including any director elected to fill a vacancy in any such office.

(c) CONTINUED SERVICE OF INDEPENDENT DIRECTORS AFTER EXPIRATION OF TERM.—Section 7(f)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1427(f)(2)) is amended—

(1) in the second sentence, by striking ''or the term of such office expires, whichever occurs first'';

(2) by adding at the end the following new sentence: ''An independent Bank director may continue to serve as a director after the expiration of the term of such director until a successor is appointed.'';

(3) in the paragraph heading, by striking ''APPOINTED'' and inserting ''INDEPENDENT''; and

(4) by striking ''appointive'' each place such term appears and inserting ''independent''.

(d) CONFORMING AMENDMENTS.—Section 7(f)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1427(f)(3)) is amended—

(1) in the paragraph heading, by striking ''ELECTED'' and inserting ''MEMBER''; and

(2) by striking ''elective'' each place such term appears in the first and third sentences and inserting ''member''.

(e) COMPENSATION.—Subsection (i) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended to read as follows:

''(i) DIRECTORS' COMPENSATION.—

''(1) IN GENERAL.—Each Federal home loan bank may pay the directors on the board of directors for the bank reasonable and appropriate compensation for the time required of such directors, and reasonable and appropriate expenses incurred by such directors, in connection with service on the board of directors, in accordance with resolutions adopted by the board of directors and subject to the approval of the Director.

''(2) ANNUAL REPORT BY THE BOARD.—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.''.

(f) TRANSITION RULE.—Any member of the board of directors of a Federal Home Loan Bank serving as of the effective date under section 381 may continue to serve as a member of such board of directors for the remainder of the term of such office as provided in section 7 of the Federal Home Loan Bank Act, as in effect before such effective date.

SEC. 373. FEDERAL HOUSING FINANCE 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 title, is amended—

(1) by striking sections 2A and 2B (12 U.S.C. 1422a, 1422b);

(2) in section 6 (12 U.S.C. 1426(b)(1))—

(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'';

(3) in section 8 (12 U.S.C. 1428), in the section heading, by striking ''BY THE BOARD'';

(4) in section 10(b) (12 U.S.C. 1430(b)), by striking ''by formal resolution'';

(5) in section 10 (12 U.S.C. 1430), by adding at the end the following new subsection:

''(k) MONITORING AND ENFORCING COMPLIANCE WITH AFFORDABLE HOUSING AND COMMUNITY INVESTMENT PROGRAM REQUIREMENTS.—The requirements under subsection (i) and (j) that the Banks establish Community Investment and Affordable Housing Programs, respectively, and contribute to the Affordable Housing Program, shall be enforceable by the Director with respect to the Banks in the same manner and to the same extent as the housing goals under subpart B of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4561 et seq.) are enforceable under section 1336 of such Act with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.'';

(6) 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 two commas after ''permit'' and inserting ''or''; and

(ii) by striking the comma after ''require'';

(7) in section 15 (12 U.S.C. 1435), by inserting ''or the Director'' after ''the Board'';

(8) in section 18 (12 U.S.C. 1438), by striking subsection (b);

(9) in section 21 (12 U.S.C. 1441)—

(A) in subsection (b)—

(i) in paragraph (5), by striking ''Chairperson of the Federal Housing Finance Board'' and inserting ''Director''; and

(ii) in the heading for paragraph (8), by striking ''FEDERAL HOUSING FINANCE BOARD'' and inserting ''DIRECTOR''; and

(B) in subsection (i), in the heading for paragraph (2), by striking ''FEDERAL HOUSING FINANCE BOARD'' and inserting ''DIRECTOR'';

(10) in section 23 (12 U.S.C. 1443), by striking ''Board of Directors of the Federal Housing Finance Board'' and inserting ''Director'';

(11) by striking ''the Board'' each place such term appears in such Act (except in section 15 (12 U.S.C. 1435), section 21(f)(2) (12 U.S.C. 1441(f)(2)), subsections (a), (k)(2)(B)(i), and (n)(6)(C)(ii) of section 21A (12 U.S.C. 1441a), subsections (f)(2)(C), and (k)(7)(B)(ii) of section 21B (12 U.S.C. 1441b), and the first two places such term appears in section 22 (12 U.S.C. 1442)) and inserting ''the Director'';

(12) by striking ''The Board'' each place such term appears in such Act (except in sections 7(e) (12 U.S.C. 1427(e)), and 11(b) (12 U.S.C. 1431(b)) and inserting ''The Director'';

(13) by striking ''the Board's'' each place such term appears in such Act and inserting ''the Director's'';

(14) by striking ''The Board's'' each place such term appears in such Act and inserting ''The Director's'';

(15) by striking ''the Finance Board'' each place such term appears in such Act and inserting ''the Director'';

(16) by striking ''Federal Housing Finance Board'' each place such term appears and inserting ''Director'';

(17) in section 11(i) (12 U.S.C. 1431(i), by striking ''the Chairperson of''; and

(18) in section 21(e)(9) (12 U.S.C. 1441(e)(9)), by striking ''Chairperson of the''.

SEC. 374. JOINT ACTIVITIES OF BANKS.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end the following new subsection:

''(l) JOINT ACTIVITIES.—Subject to the regulation of the Director, any two or more Federal Home Loan Banks may establish a joint office for the purpose of performing functions for, or providing services to, the Banks on a common or collective basis, or may require that the Office of Finance perform such functions or services, but only if the Banks are otherwise authorized to perform such functions or services individually.''.

SEC. 375. SHARING OF INFORMATION BETWEEN FEDERAL HOME LOAN BANKS.

(a) IN GENERAL.—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 BETWEEN FEDERAL HOME LOAN BANKS.

''(a) REGULATORY AUTHORITY.—The Director shall prescribe such regulations as may be necessary to ensure that each Federal Home Loan Bank has access to information that the Bank needs to determine the nature and extent of its joint and several liability.

''(b) NO WAIVER OF PRIVILEGE.—The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purpose of enabling the recipient to evaluate the nature and extent of its joint and several liability.''.

(b) REGULATIONS.—The regulations required under the amendment made by subsection (a) shall be issued in final form not later than 6 months after the effective date under section 381 of this title.

SEC. 376. REORGANIZATION OF BANKS AND VOLUNTARY MERGER.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended—

(1) by inserting ''(a) REORGANIZATION.—'' before ''Whenever''; and

(2) by striking ''liquidated or'' each place such phrase appears;

(3) by striking ''liquidation or''; and

(4) by adding at the end the following new subsection:

''(b) VOLUNTARY MERGERS.—Any two or more Banks may, with the approval of the Director, and the approval of the boards of directors of the Banks involved, merge. The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any such voluntary merger, including the procedures for Bank member approval.''.

SEC. 377. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE.

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Commission regulations; and

(2) section 15 of that Act and related Securities and Exchange Commission regulations with respect to transactions in capital stock of the Banks.

(b) MEMBER EXEMPTION.—The members of the Federal Home Loan Banks 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 Securities and Exchange Commission regulations with respect to their ownership of, or transactions in, capital stock of the Federal Home Loan Banks.

(c) EXEMPTED AND GOVERNMENT SECURITIES.—

(1) CAPITAL STOCK.—The capital stock issued by each of the Federal Home Loan Banks under section 6 of the Federal Home Loan Bank Act are—

(A) exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933; and

(B) ''exempted securities'' within the meaning of section 3(a)(12)(A) of the Securities Exchange Act of 1934.

(2) OTHER OBLIGATIONS.—The debentures, bonds, and other obligations issued under section 11 of the Federal Home Loan Bank Act 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;

(C) excluded from the definition of ''government securities broker'' within section 3(a)(43) of the Securities Exchange Act of 1934;

(D) excluded from the definition of ''government securities dealer'' within section 3(a)(44) of the Securities Exchange Act of 1934; and

(E) ''government securities'' within the meaning of section 2(a)(16) of the Investment Company Act of 1940.

(d) EXEMPTION FROM REPORTING REQUIREMENTS.—The Federal Home Loan Banks shall be exempt from periodic reporting requirements pertaining to—

(1) the disclosure of related party transactions that occur in the ordinary course of business of the Banks with their members; and

(2) the disclosure of unregistered sales of equity securities.

(e) TENDER OFFERS.—The Securities and Exchange Commission's rules relating to tender offers shall not apply in connection with transactions in capital stock of the Federal Home Loan Banks.

(f) REGULATIONS.—In issuing any final regulations to implement provisions of this section, the Securities and Exchange Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating the accounting treatment with respect to the payment to Resolution Funding Corporation, the role of the combined financial statements of the twelve Banks, the accounting classification of redeemable capital stock, and the accounting treatment related to the joint and several nature of the obligations of the Banks.

SEC. 378. 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 371(3) of this title, 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. 379. 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, 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) SARBANES-OXLEY ACT OF 2002.—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,''.

SEC. 380. STUDY OF AFFORDABLE HOUSING PROGRAM USE FOR LONG-TERM CARE FACILITIES.

The Comptroller General shall conduct a study of the use of affordable housing programs of the Federal home loan banks under section 10(j) of the Federal Home Loan Bank Act to determine how and the extent to which such programs are used to assist long-term care facilities for low- and moderate-income individuals, and the effectiveness and adequacy of such assistance in meeting the needs of affected communities. The study shall examine the applicability of such use to the affordable housing fund required to be established by the Director of the Federal Housing Finance Agency pursuant to the amendment made by section 340 of this title. The Comptroller General shall submit a report to the Director of the Federal Housing Finance Agency and the Congress regarding the results of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act. This section shall take effect on the date of the enactment of this Act.

SEC. 381. EFFECTIVE DATE.

Except as specifically provided otherwise in this subtitle, this subtitle shall take effect on and the amendments made by this subtitle shall take effect on, and shall apply beginning on, the expiration of the 6-month period beginning on the date of the enactment of this Act.

Subtitle C—Transfer of Functions, Personnel, and Property of Office of Federal Housing Enterprise Oversight, Federal Housing Finance Board, and Department of Housing and Urban Development

CHAPTER 1—OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SEC. 385. ABOLISHMENT OF OFHEO.

(a) IN GENERAL.—Effective at the end of the 6-month period beginning on the date of the 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 6-month period beginning on the date of the enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight shall, for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight and in addition to carrying out its other responsibilities under law—

(1) 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 pursuant to section 387; 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 subtitle A 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 employees 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 pursuant to section 387.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this title or any amendment made by this title 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 of the Federal Housing Finance Agency shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any other provision of law applicable with respect to such Office; and

(B) existed on the day before the abolishment under subsection (a) of this section.

(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 title, 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. 386. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

All regulations, orders, determinations, and resolutions that—

(1) were issued, made, prescribed, or allowed to become effective by—

(A) the Office of Federal Housing Enterprise Oversight; or

(B) a court of competent jurisdiction and that relate to functions transferred by this chapter; and

(2) are in effect on the date of the abolishment under section 385(a) of this title, shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such Director, as the case may be, any court of competent jurisdiction, or operation of law.

SEC. 387. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Federal Housing Finance Agency for employment no later than the date of the abolishment under section 385(a) of this title and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—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. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions in the excepted service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the date of the abolishment under section 385(a), that a reorganization of the combined work force is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Director of the Federal Housing Finance Agency as a result of a transfer under subsection (a) may retain for 12 months after the date such transfer occurs membership in any employee benefit program of the Federal Housing Finance Agency or the Office of Federal Housing Enterprise Oversight, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 385(a) if—

(1) the employee does not elect to give up the benefit or membership in the program; and

(2) the benefit or program is continued by the Director of the Federal Housing Finance Agency,

The difference in the costs between the benefits which would have been provided by such agency and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an

alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

SEC. 388. TRANSFER OF PROPERTY AND FACILITIES.

Upon the abolishment under section 385(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Director of the Federal Housing Finance Agency.

CHAPTER 2—FEDERAL HOUSING FINANCE BOARD

SEC. 391. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL.—Effective at the end of the 6-month 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 6-month period beginning on the date of enactment of this Act, the Board, for the purpose of winding up the affairs of the Board and in addition to carrying out its other responsibilities under law—

(1) shall manage the employees of such 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 393; 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 subtitles A and B and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of such Board as employees 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 393.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Board to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this title or any amendment made by this title 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 period under subsection (a) in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, a member of the Board, or any other person, which—

(A) arises under the Federal Home Loan Bank Act or any other provision of law applicable with respect to such 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 to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this title, except that the Director of the Federal Housing Finance Agency shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

SEC. 392. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(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 of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such 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 chapter; and

(2) is in effect on the effective date of the abolishment under section 391(a).

SEC. 393. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.

(a) TRANSFER.—Each employee of the Board shall be transferred to the Federal Housing Finance Agency for employment not later than the effective date of the abolishment under section 391(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.—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. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions 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 positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policymaking, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 391(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees 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 Federal Housing Finance 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 Federal Housing Finance Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 391(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.—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 of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or notice, without regard to any other regularly scheduled open season.

SEC. 394. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of the abolishment under section 391(a), all property of the Board shall transfer to the Director of the Federal Housing Finance Agency.

CHAPTER 3—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 395. TERMINATION OF ENTERPRISE-RELATED FUNCTIONS.

(a) TERMINATION DATE.—For purposes of this chapter, the term ''termination date'' means the date that occurs 6 months after the date of the enactment of this Act.

(b) DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.—

(1) IN GENERAL.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Director of the Office of Federal Housing Enterprise Oversight, shall determine—

(A) the functions, duties, and activities of the Secretary of Housing and Urban Development regarding oversight or regulation of the enterprises under or pursuant to the authorizing statutes, title XIII of the Housing and Community Development Act of 1992, and any other provisions of law, as in effect before the date of the enactment of this Act, but not including any such functions, duties, and activities of the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and such Office; and

(B) the employees of the Department of Housing and Urban Development necessary to perform such functions, duties, and activities.

(2) ENTERPRISE-RELATED FUNCTIONS.—For purposes of this chapter, the term ''enterprise-related functions of the Department'' means the functions, duties, and activities of the Department of Housing and Urban Development determined under paragraph (1)(A).

(3) ENTERPRISE-RELATED EMPLOYEES.—For purposes of this chapter, the term ''enterprise-related employees of the Department'' means the employees of the Department of Housing and Urban Development determined under paragraph (1)(B).

(c) DISPOSITION OF AFFAIRS.—During the 6-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development (in this subtitle referred to as the ''Secretary''), for the purpose of winding up the affairs of the Secretary regarding the enterprise-related functions of the Department of Housing and Urban Development (in this subtitle referred to as the

''Department'') and in addition to carrying out the Secretary's other responsibilities under law regarding such functions—

(1) shall manage the enterprise-related employees of the Department and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of any such employee under section 397; and

(2) may take any other action necessary for the purpose of winding up the enterprise-related functions of the Department.

(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by subtitles A and B and the termination of the enterprise-related functions of the Department under subsection (b) may not be construed to affect the status of any employee of the Department as employees 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 397.

(e) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Secretary to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this title or any amendment made by this title 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 Secretary regarding enterprise-related functions of the Department before the termination date under subsection (a) in connection with such functions that are transferred to the Director of the Federal Housing Finance Agency 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.

(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 Secretary, or any other person, which—

(A) arises under the authorizing statutes, title XIII of the Housing and Community Development Act of 1992, or any other provision of law applicable with respect to the Secretary, in connection with the enterprise-related functions of the Department; and

(B) existed on the day before the termination date under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Secretary in connection with the enterprise-related functions of the Department shall abate by reason of the enactment of this title, except that the Director of the Federal Housing Finance Agency shall be substituted for the Secretary or any member thereof as a party to any such action or proceeding.

SEC. 396. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such Director, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described under this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Secretary; or

(B) a court of competent jurisdiction and that relate to the enterprise-related functions of the Department; and

(2) is in effect on the termination date under section 395(a).

SEC. 397. TRANSFER AND RIGHTS OF EMPLOYEES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) TRANSFER.—

(1) IN GENERAL.—Except as provided in paragraph (2), each enterprise-related employee of the Department shall be transferred to the Federal Housing Finance Agency for employment not later than the termination date under section 395(a) and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(2) AUTHORITY TO DECLINE.—An enterprise-related employee of the Department may, in the discretion of the employee, decline transfer under paragraph (1) to a position in the Federal Housing Finance Agency and shall be guaranteed a position in the Department with the same status, tenure, grade, and pay as that held on the day immediately preceding the date that such declination was made. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date that the transfer would otherwise have occurred, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(b) GUARANTEED POSITIONS.—Each enterprise-related employee of the Department 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. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions 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 positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policymaking, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the termination date under section 395(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees 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 enterprise-related employee of the Department accepting employment with the Federal Housing Finance 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 Federal Housing Finance Agency or the Department, as applicable, including insurance, to which such employee belongs on the termination date under section 395(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.—The difference in the costs between the benefits which would have been provided by the Department and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or notice, without regard to any other regularly scheduled open season.

SEC. 398. TRANSFER OF APPROPRIATIONS, PROPERTY, AND FACILITIES.

Upon the termination date under section 395(a), all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department in connection with enterprise-related functions of the Department shall transfer to the Director of the Federal Housing Finance Agency. Unexpended funds transferred by this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

TITLE IV—EMERGENCY MORTGAGE LOAN MODIFICATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Emergency Mortgage Loan Modification Act of 2008''.

SEC. 402. SAFE HARBOR FOR QUALIFIED LOAN MODIFICATIONS OR WORKOUT PLANS FOR CERTAIN RESIDENTIAL MORTGAGE LOANS.

(a) STANDARD FOR LOAN MODIFICATIONS OR WORKOUT PLANS.—Absent contractual provisions to the contrary—

(1) the duty to maximize, or to not adversely affect, the recovery of total proceeds from pooled residential mortgage loans is owed by a servicer of such pooled loans to the securitization vehicle for the benefit of all investors and holders of beneficial interests in the pooled loans, in the aggregate, and not to any individual party or group of parties; and

(2) a servicer of pooled residential mortgage loans shall be deemed to be acting on behalf of the securitization vehicle in the best interest of all investors and holders of beneficial interests in the pooled loans, in the aggregate, if for a loan that is in payment default under the loan agreement or for which payment default is imminent or reasonably foreseeable, the loan servicer makes or causes to be made reasonable and documented efforts to implement a modification or workout plan or, if such efforts are unsuccessful or such plan would be infeasible, engages or causes to engage in other loss mitigation, including accepting a short payment or partial discharge of principal, or agreeing to a short sale of the property, to the extent that the servicer reasonably believes the modification or workout plan or other mitigation actions will maximize the net present value to be realized on the loan over that which would be realized through foreclosure.

(b) SAFE HARBOR.—Absent contractual provisions to the contrary, a servicer of a residential mortgage loan that acts or causes to act in a manner consistent with the duty set forth in subsection (a), shall not be liable for entering into a qualified loan modification or workout plan, to—

(1) any person, based on that person's ownership of a residential mortgage loan or any interest in a pool of residential mortgage loans or in securities that distribute payments out of the principal, interest and other payments in loans on the pool;

(2) any person who is obligated to make payments pursuant to a derivatives instrument determined in reference to any interest referred to in paragraph (1); or

(3) any person that insures any loan or any interest referred to in paragraph (1) under any law or regulation of the United States or any law or regulation of any State or political subdivision of any State.

(c) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting the ability of a servicer to enter into loan modifications or workout plans other than qualified loan modification or workout plans.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) QUALIFIED LOAN MODIFICATION OR WORKOUT PLAN.—The term ''qualified loan modification or workout plan'' means a modification or plan that—

(A) is scheduled to remain in place until the borrower sells or refinances the property, or for at least 5 years from the date of adoption of the plan, whichever is sooner;

(B) does not provide for a repayment schedule that results in an increase in the outstanding principal balance of the loan, including by deferred or unpaid interest, fees, or other charges; and

(C) does not require the borrower to pay additional points and fees.

(2) RESIDENTIAL MORTGAGE LOAN DEFINED.—The term ''residential mortgage loan'' means a loan that is secured by a lien on an owner-occupied residential dwelling.

(3) SECURITIZATION VEHICLE.—The term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

(B) holds such loans.

(e) EFFECTIVE PERIOD.—This section shall apply only with respect to qualified loan modification or workout plans initiated prior to January 1, 2011.

TITLE V—OTHER HOUSING PROVISIONS

SEC. 501. DEPOSITORY INSTITUTION COMMUNITY DEVELOPMENT INVESTMENTS ENHANCEMENT .

(a) TECHNICAL CORRECTIONS.—

(1) NATIONAL BANKS.—The first sentence of the paragraph designated as the ''Eleventh'' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) (as amended by section 305(a) of the Financial Services Regulatory Relief Act of 2006) is amended by striking ''promotes the public welfare by benefitting primarily'' and inserting ''is designed primarily to promote the public welfare, including the welfare of''.

(2) STATE MEMBER BANKS.—The first sentence of the 23rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) (as amended by section 305(b) of the Financial Services Regulatory Relief Act of 2006) is amended by striking ''promotes the public welfare by benefitting primarily'' and inserting ''is designed primarily to promote the public welfare, including the welfare of''.

(b) INVESTMENTS BY FEDERAL SAVINGS ASSOCIATIONS AUTHORIZED TO PROMOTE THE PUBLIC WELFARE.—

(1) IN GENERAL.—Section 5(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended by adding at the end the following new subparagraph:

''(D) DIRECT INVESTMENTS TO PROMOTE THE PUBLIC WELFARE.—

''(i) IN GENERAL.—A Federal savings association may make investments, directly or indirectly, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families through the provision of housing, services, and jobs.

''(ii) DIRECT INVESTMENTS OR ACQUISITION OF INTEREST IN OTHER COMPANIES.—Investments under clause (i) may be made directly or by purchasing interests in an entity primarily engaged in making such investments.

''(iii) PROHIBITION ON UNLIMITED LIABILITY.—No investment may be made under this subparagraph which would subject a Federal savings association to unlimited liability to any person.

''(iv) SINGLE INVESTMENT LIMITATION TO BE ESTABLISHED BY DIRECTOR.—Subject to clauses (v) and (vi), the Director shall establish, by order or regulation, limits on—

''(I) the amount any savings association may invest in any 1 project; and

''(II) the aggregate amount of investment of any savings association under this subparagraph.

''(v) FLEXIBLE AGGREGATE INVESTMENT LIMITATION.—The aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus, unless—

''(I) the Director determines that the savings association is adequately capitalized; and

''(II) the Director determines, by order, that the aggregate amount of investments in a higher amount than the limit under this clause will pose no significant risk to the affected deposit insurance fund.

''(vi) MAXIMUM AGGREGATE INVESTMENT LIMITATION.—Notwithstanding clause (v), the aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 15 percent of the savings association's capital stock actually paid in and unimpaired and 15 percent of the savings association's unimpaired surplus.

''(vii) INVESTMENTS NOT SUBJECT TO OTHER LIMITATION ON QUALITY OF INVESTMENTS.—No obligation a Federal savings association acquires or retains under this subparagraph shall be taken into account for purposes of the limitation contained in section 28(d) of the Federal Deposit Insurance Act on the acquisition and retention of any corporate debt security not of investment grade.

''(viii) APPLICABILITY OF STANDARDS TO EACH INVESTMENT.—The standards and limitations of this subparagraph shall apply to each investment under this subparagraph made by a savings association directly and by its subsidiaries.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5(c)(3)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)(A)) is amended to read as follows:

''(A) [Repealed]''.

SEC. 502. PRESERVATION OF CERTAIN AFFORDABLE HOUSING DWELLING UNITS.

(a) CONVERSION OF HUD CONTRACTS.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may, at the request of the owner of the multifamily housing project to which Section 8 Project Number NY 913 VO 0018 and RAP Contract Number 012035NIRAP are subject, convert such contracts to a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) INITIAL RENEWAL.—

(1) ELIGIBILITY.—At the request of the owner 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).

(2) REQUEST.—A request by the 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 the 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.—The owner shall be deemed to be in compliance with all income-targeting requirements under the United States Housing Act of 1937 by serving low-income families, as such term is defined in the section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2)).

(e) TENANT ELIGIBILITY.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of the conversion 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 ''assisted dwelling unit'' means the dwelling units that, on the date of the conversion under this section, were subject to Section 8 Project Number NY 913 VO 0018 or RAP Contract Number 012035NIRAP;

(2) the term ''conversion'' means the action under which Section 8 Project Number NY 913 VO 0018 and RAP Contract Number 012035NIRAP become a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) pursuant to subsection (a);

(3) the term ''MAHRA'' means the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note);

(4) the term ''owner'' means Starrett City Associates or any successor owner of the multifamily housing project to which Section 8 Project Number NY 913 VO 0018 and RAP Contract Number 012035NIRAP are subject;

(5) the term ''resulting contract'' means the new contract after a conversion of Section 8 Project Number NY 913 VO 0018 and RAP Contract Number 012035NIRAP to a contract for project-based rental assistance under section 8 of the United States Housing

Act of 1937 (42 U.S.C. 1437f) pursuant to subsection (a); and

(6) the term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 503. ELIGIBILITY OF CERTAIN PROJECTS FOR ENHANCED VOUCHER ASSISTANCE.

Notwithstanding any other provision of law—

(1) the property known as The Heritage Apartments (FHA No. 023-44804), in Malden, Massachusetts, shall be considered eligible low-income housing for purposes of the eligibility of residents of the property for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)), pursuant to paragraph (2)(A) of section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)(2)(A));

(2) such residents shall receive enhanced rental housing vouchers upon the prepayment of the mortgage loan for the property under section 236 of the National Housing Act (12 U.S.C. 1715z–1); and

(3) the Secretary shall approve such prepayment and subsequent transfer of the property without any further condition, except that the property shall be restricted for occupancy, until the original maturity date of the prepaid mortgage loan, only by families with incomes not exceeding 80 percent of the adjusted median income for the area in which the property is located, as published by the Secretary.

Amounts for the enhanced vouchers pursuant to this section shall be provided under amounts appropriated for tenant-based rental assistance otherwise authorized under section 8(t) of the United States Housing Act of 1937.

SEC. 504. TRANSFER OF CERTAIN RENTAL ASSISTANCE CONTRACTS.

(a) TRANSFER.—Subject to subsection (c) and notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, at the request of the owner, transfer or authorize the transfer, of the contracts, restrictions, and debt described in subsection (b)—

(1) on the housing that is owned or managed by Community Properties of Ohio Management Services LLC or an affiliate of Ohio Capital Corporation for Housing and located in Franklin County, Ohio, to other properties located in Franklin County, Ohio; and

(2) on the housing that is owned or managed by The Model Group, Inc., and located in Hamilton County, Ohio, to other properties located in Hamilton County, Ohio.

(b) CONTRACTS, RESTRICTIONS, AND DEBT COVERED.—The contracts, restrictions, and debt described in this subsection are as follows:

(1) All or a portion of a project-based rental assistance housing assistance payments contract under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) Existing Federal use restrictions, including without limitation use agreements, regulatory agreements, and accommodation agreements.

(3) Any subordinate debt held by the Secretary or assigned and any mortgages securing such debt, all related loan and security documentation and obligations, and reserve and escrow balances.

(c) RETENTION OF SAME NUMBER OF UNITS AND AMOUNT OF ASSISTANCE.—Any transfer pursuant to subsection (a) shall result in—

(1) a total number of dwelling units (including units retained by the owners and units transferred) covered by assistance described in subsection (b)(1) after the transfer remaining the same as such number assisted before the transfer, with such increases or decreases in unit sizes as may be contained in a plan approved by a local planning or development commission or department; and

(2) no reduction in the total amount of the housing assistance payments under contracts described in subsection (b)(1).

SEC. 505. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525 of title 11, the United States Code, is amended by adding at the end the following:

''(d) A governmental unit that operates a mortgage loan program, including a loan guarantee or subsidy program, may not deny the benefits of such program to a disabled veteran (as defined in section 3741(1) of title 38) because he or she is or has been a debtor under this title, has been insolvent before the commencement of a case under this title or during the pendency of the case but before being granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title.''.

In the matter proposed to be inserted by the amendment of the Senate to the text of the bill, strike titles VII, IX, and XI.

The text of House amendment No. 2 to the Senate amendments is as follows:

In the matter proposed to be inserted by the Senate amendment to H.R. 3221, strike titles VI (relating to tax-related provisions), VIII (relating to REIT investment diversification and empowerment), and X (relating to clean energy tax stimulus) and add at the end the following new title (and conform the table of contents accordingly):

TITLE VII—REVENUE AND OTHER PROVISIONS

SEC. 700. AMENDMENT OF 1986 CODE.

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

Subtitle A—Housing Tax Incentives

PART 1—MULTI-FAMILY HOUSING

Subpart A—Low-Income Housing Tax Credit

SEC. 701. 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, 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.''.

SEC. 702. DETERMINATION OF CREDIT RATE.

(a) ELIMINATION OF DISTINCTION BETWEEN NEW AND EXISTING BUILDINGS; MINIMUM CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED BUILDINGS.—

(1) IN GENERAL.—Subsection (b) section 42 is amended to read as follows:

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any building, the appropriate percentage prescribed by the Secretary for the earlier of—

''(A) the month in which such building is placed in service, or

''(B) at the election of the taxpayer—

''(i) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

''(ii) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

''(2) METHOD OF PRESCRIBING PERCENTAGES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the percentages prescribed by the Secretary for any month shall be—

''(i) in the case of any building which is not federally subsidized for the taxable year, the greater of—

''(I) the average percentage determined under subclause (II) for months in the preceding calendar year, or

''(II) the percentage which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to 70 percent of the qualified basis of such building, and

''(ii) in the case of any other building, the percentage which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to 30 percent of the qualified basis of such building.

''(B) METHOD OF DISCOUNTING.—The present value under subparagraph (A) shall be determined—

''(i) as of the last day of the 1st year of the 10-year period referred to in subparagraph (A),

''(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) and compounded annually, and

''(iii) by assuming that the credit allowable under this section for any year is received on the last day of such year.

''(3) CROSS REFERENCES.—

''(A) For treatment of certain rehabilitation expenditures as separate buildings, see subsection (e).

''(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

''(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(7).''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 42(e)(3) is amended by striking ''subsection (b)(2)(B)(ii)'' and inserting ''subsection (b)(2)(A)(ii)''.

(B) Subparagraph (A) of section 42(i)(2) is amended by striking ''new building'' and inserting ''building''.

(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. 703. 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 (f), 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) 15 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 $5,000,000, 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 (f)(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) 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).

(g) 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. 704. 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) 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.

Notwithstanding the preceding sentence, the amendments made by subsection (c) shall not apply to any disposition after the date 5 years after the date of the enactment of this Act.

(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.

Subpart B—Modifications to Tax-Exempt Housing Bond Rules

SEC. 706. 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. 707. 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 further 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.

Subpart C—Reforms Related to the Low-Income Housing Credit and Tax-Exempt Housing Bonds

SEC. 709. HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 142(d), as amended by section 707, is further 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. 710. 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.

PART 2—SINGLE FAMILY HOUSING

SEC. 712. 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 $7,500.

''(B) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting '$3,750' for '$7,500'.

''(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 $7,500.

''(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) $70,000 ($140,000 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. 713. 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:

''(7) REAL PROPERTY TAX DEDUCTION.—For purposes of paragraph (1), the real property tax deduction is the lesser of—

''(A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or

''(B) $350 ($700 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.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

PART 3—GENERAL PROVISIONS

SEC. 715. 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 $10,000,000,000 multiplied by a fraction—

''(i) the numerator of which is the population of such State, and

''(ii) the denominator of which is the total population of 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. 716. 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. 717. 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) 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 Act 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. 718. 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. 719. 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.

Subtitle B—Reforms Related to Real Estate Investment Trusts

PART 1—FOREIGN CURRENCY AND OTHER QUALIFIED ACTIVITIES

SEC. 721. REVISIONS TO REIT INCOME TESTS.

(a) ADDITION OF PERMISSIBLE INCOME CATEGORIES.—Section 856(c) (relating to limitations) is amended—

(1) by striking ''and'' at the end of paragraph (2)(G) and by inserting after paragraph (2)(H) the following new subparagraphs:

''(I) passive foreign exchange gains; and

''(J) any other item of income or gain as determined by the Secretary;'', and

(2) by striking ''and'' at the end of paragraphs (3)(H) and (3)(I) and by inserting after paragraph (3)(I) the following new subparagraphs:

''(J) real estate foreign exchange gains; and

''(K) any other item of income or gain as determined by the Secretary; and''.

(b) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

''(n) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—With respect to any taxable year—

''(1) REAL ESTATE FOREIGN EXCHANGE GAINS.—For purposes of subsection (c)(3)(J), the term 'real estate foreign exchange gains' means—

''(A) foreign currency gains (as defined in section 988(b)(1)) which are attributable to—

''(i) any item described in subsection (c)(3) (other than in subparagraph (J) thereof),

''(ii) the acquisition or ownership of obligations secured by mortgages on real property or on interests in real property (other than foreign currency gains attributable to any item 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 gains attributable to any item described in clause (i)),

''(B) gains described in section 987 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) (without regard to subparagraph (J) thereof) 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 gains as determined by the Secretary.

''(2) PASSIVE FOREIGN EXCHANGE GAINS.—For purposes of subsection (c)(2)(I), the term 'passive foreign exchange gains' means—

''(A) real estate foreign exchange gains,

''(B) foreign currency gains (as defined in section 988(b)(1)) which are not described in subparagraph (A) and which are attributable to any item described in subsection (c)(2) (other than in subparagraph (I) thereof), and

''(C) any other foreign currency gains as determined by the Secretary.''.

(c) 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 described in paragraph (2) or (3), 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).''.

(d) AUTHORITY TO EXCLUDE ITEMS OF INCOME FROM REIT INCOME TESTS.—Section 856(c)(5) is amended by adding at the end the following new subparagraph:

''(H) SECRETARIAL AUTHORITY TO EXCLUDE OTHER ITEMS OF INCOME.—The Secretary is authorized to determine whether any item of income or gain which does not otherwise qualify under paragraph (2) or (3) may be considered as not constituting gross income solely for purposes of this part.''.

SEC. 722. 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 721(d), is amended by adding at the end the following new subparagraph:

''(I) CASH.—The term 'cash' includes foreign currency if the real estate investment trust or its qualified business unit (as defined in section 989) uses such foreign currency as its functional currency (as defined in section 985(b)).''.

SEC. 723. 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;''.

PART 2—TAXABLE REIT SUBSIDIARIES

SEC. 725. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.

Section 856(c)(4)(B)(ii) is amended by striking ''20 percent'' and inserting ''25 percent''.

PART 3—DEALER SALES

SEC. 727. 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. 728. 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,''.

PART 4—HEALTH CARE REITS

SEC. 730. 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 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 directly or indirectly possesses a license, permit or similar instrument enabling it to do so.''.

(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''.

PART 5—EFFECTIVE DATES

SEC. 732. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made

by this subtitle shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REIT INCOME TESTS.—

(1) The amendment made by section 721(a) and (b) shall apply to gains and items of income recognized after the date of the enactment of this Act.

(2) The amendment made by section 721(c) shall apply to transactions entered into after the date of the enactment of this Act.

(3) The amendment made by section 721(d) shall apply after the date of the enactment of this Act.

(c) CONFORMING FOREIGN CURRENCY REVISIONS.—

(1) The amendment made by section 723(a) shall apply to gains recognized after the date of the enactment of this Act.

(2) The amendment made by section 723(b) shall apply to gains and deductions recognized after the date of the enactment of this Act.

(d) DEALER SALES.—The amendments made by part 3 shall apply to sales made after the date of the enactment of this Act.

Subtitle C—Revenue Provisions

SEC. 741. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

''(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS, ETC.—

''(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

''(2) ADDITIONAL INFORMATION REQUIRED.—

''(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

''(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The customer's adjusted basis shall be determined—

''(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

''(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

''(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

''(3) COVERED SECURITY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'covered security' means any specified security acquired on or after the applicable date if such security—

''(i) was acquired through a transaction in the account in which such security is held, or

''(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

''(B) SPECIFIED SECURITY.—The term 'specified security' means—

''(i) any share of stock in a corporation,

''(ii) any note, bond, debenture, or other evidence of indebtedness,

''(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

''(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

''(C) APPLICABLE DATE.—The term 'applicable date' means—

''(i) January 1, 2010, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

''(ii) January 1, 2011, in the case of any stock for which an average basis method is permissible under section 1012, and

''(iii) January 1, 2012, or such later date determined by the Secretary in the case of any other specified security.

''(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

''(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.''.

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(h) APPLICATION TO OPTIONS ON SECURITIES.—

''(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

''(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

''(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2012.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'covered security' and 'specified security' shall have the meanings given such terms in subsection (g)(3).''.

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking ''January 31'' and inserting ''February 15''.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking ''at such time and'', and

(ii) by inserting after ''other item.'' the following new sentence: ''The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.''.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: ''In the case of a consolidated reporting statement (as defined in regulations) with respect to any account, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.''.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 (relating to basis of property–cost) is amended—

(1) by striking ''The basis of property'' and inserting the following:

''(a) IN GENERAL.—The basis of property'',

(2) by striking ''The cost of real property'' and inserting the following:

''(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property'', and

(3) by adding at the end the following new subsections:

''(c) DETERMINATIONS BY ACCOUNT.—

''(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

''(2) APPLICATION TO OPEN-END FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any stock in an open-end fund acquired before January 1, 2011, shall be treated as a separate account from any such stock acquired on or after such date.

''(B) ELECTION BY OPEN-END FUND FOR TREATMENT AS SINGLE ACCOUNT.—If an open-end fund elects to have this subparagraph apply with respect to one or more of its stockholders—

''(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

''(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding stock in an open-end fund as a nominee.

''(3) DEFINITIONS.—For purposes of this section—

''(A) OPEN-END FUND.—The term 'open-end fund' means a regulated investment company (as defined in section 851) which is offering for sale or has outstanding any redeemable security of which it is the issuer. Any stock which is traded on an established securities exchange shall not be treated as stock in an open-end fund.

''(B) SPECIFIED SECURITY; APPLICABLE DATE.—The terms 'specified security' and 'applicable date' shall have the meaning given such terms in section 6045(g).

''(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

''(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

''(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other

account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

''(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

''(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'dividend reinvestment plan' means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

''(B) INITIAL STOCK ACQUISITION TREATED AS ACQUIRED IN CONNECTION WITH PLAN.—Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.''.

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

''SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.

''(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

''(b) APPLICABLE PERSON.—For purposes of subsection (a), the term 'applicable person' means—

''(1) any broker (as defined in section 6045(c)(1)), and

''(2) any other person as provided by the Secretary in regulations.

''(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.''.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by redesignating subparagraphs (I) through (CC) as subparagraphs (J) through (DD), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),''.

(3) 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 6045 the following new item:

''Sec. 6045A. Information required in connection with transfers of covered securities to brokers.''.

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

''SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.

''(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

''(1) a description of any organizational action which affects the basis of such specified security of such issuer,

''(2) the quantitative effect on the basis of such specified security resulting from such action, and

''(3) such other information as the Secretary may prescribe.

''(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

''(1) 45 days after the date of the action described in subsection (a), or

''(2) January 15 of the year following the calendar year during which such action occurred.

''(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such security, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

''(d) SPECIFIED SECURITY.—For purposes of this section, the term 'specified security' has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

''(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

''(1) the name, address, phone number, and email address of the information contact of such person, and

''(2) the information described in paragraphs (1), (2), and (3) of subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (defining information return) is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xxii), respectively, and by inserting after clause (iii) the following new clause:

''(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),''.

(B) Paragraph (2) of section 6724(d) of such Code (defining payee statement), as amended by subsection (c)(2), is amended by redesignating subparagraphs (J) through (DD) as subparagraphs (K) through (EE), respectively, and by inserting after subparagraph (I) the following new subparagraph:

''(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

''Sec. 6045B. Returns relating to actions affecting basis of specified securities.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2010.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

SEC. 742. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) TRANSITIONAL RULE.—Subsection (f) of section 864 is amended by adding at the end the following new paragraph:

''(7) TRANSITION.—In the case of the first taxable year to which this subsection applies, the increase (if any) in the amount of the interest expense allocable to sources within the United States by reason of the application of this subsection shall be 78 percent of the amount of such increase determined without regard to this paragraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 743. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

(a) REPEAL OF ADJUSTMENT FOR 2012.—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking the percentage contained therein and inserting ''100 percent''.

(b) MODIFICATION OF ADJUSTMENT FOR 2013.—The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 13 percentage points.

Subtitle D—Coordination of Federal Housing Programs and Tax Incentives for Housing

SEC. 751. SHORT TITLE.

This subtitle may be cited as the ''Housing Tax Credit Coordination Act of 2008''.

SEC. 752. APPROVALS BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) ADMINISTRATIVE AND PROCEDURAL CHANGES.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the ''Secretary'') shall, not later than the expiration of the 6-month period beginning upon after the date of the enactment of this Act, implement administrative and procedural changes to expedite approval of multifamily housing projects under the jurisdiction of the Department of Housing and Urban Development that meet the requirements of the Secretary for such approvals.

(2) PROJECTS.—The multifamily housing projects referred to in paragraph (1) shall include—

(A) projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds; and

(B) existing public housing projects and assisted housing projects, for which approval of the Secretary is necessary for transactions, in conjunction with any such low-income housing tax credits or tax-exempt housing bonds, involving the preservation or rehabilitation of the project.

(3) CHANGES.—The administrative and procedural changes referred to in paragraph (1)

shall include all actions necessary to carry out paragraph (1), which may include—

(A) improving the efficiency of approval procedures;

(B) simplifying approval requirements,

(C) establishing time deadlines or target deadlines for required approvals;

(D) modifying division of approval authority between field and national offices;

(E) improving outreach to project sponsors regarding information that is required to be submitted for such approvals;

(F) requesting additional funding for increasing staff, if necessary; and

(G) any other actions which would expedite approvals.

Any such changes shall be made in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving public and assisted housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

(b) CONSULTATION.—The Secretary shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms, and approval requirements for multifamily housing projects projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

(c) RECOMMENDATIONS.—In implementing the changes required under this section, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, public housing agencies, tenant advocates, and other stakeholders in such projects.

(d) REPORT.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that—

(1) identifies the actions taken by the Secretary to comply with this section;

(2) includes information regarding any resulting improvements in the expedited approval for multifamily housing projects;

(3) identifies recommendations made pursuant to subsection (c);

(4) identifies actions taken by the Secretary to implement the provisions in the amendments made by sections 4 and 5 of this Act; and

(5) makes recommendations for any legislative changes that are needed to facilitate prompt approval of assistance for such projects.

SEC. 753. PROJECT APPROVALS BY RURAL HOUSING SERVICE.

Section 515(h) of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) by inserting ''(1) CONDITION.—'' after ''(h)''; and

(2) by adding at the end the following new paragraphs:

''(2) ACTIONS TO EXPEDITE PROJECT APPROVALS.—

''(A) IN GENERAL.—The Secretary shall take actions to facilitate timely approval of requests to transfer ownership or control, for the purpose of rehabilitation or preservation, of multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

''(B) CONSULTATION.—The Secretary of Agriculture shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms (including applications forms for project transfers), and approval requirements multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

''(C) EXISTING REQUIREMENTS.—Any actions taken pursuant to this paragraph shall be taken in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving Federal housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

''(D) RECOMMENDATIONS.—In implementing the changes required under this paragraph, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, tenant advocates, and other stakeholders in such projects.''.

SEC. 754. USE OF FHA LOANS WITH HOUSING TAX CREDITS.

(a) SUBSIDY LAYERING REQUIREMENTS.—Subsection (d) of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) is amended—

(1) in the first sentence, by inserting after ''assistance within the jurisdiction of the Department'' the following: '', as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.)''; and

(2) in the second sentence, by inserting ''such'' before ''assistance''.

(b) COST CERTIFICATION.—Section 227 of National Housing Act (12 U.S.C. 1715r) is amended—

(1) in the matter preceding paragraph (a) (relating to a definition of ''new or rehabilitated multifamily housing'')—

(A) in the first sentence—

(i) by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (b) and notwithstanding''; and

(ii) by redesignating clauses (a) and (b) as clauses (A) and (B), respectively; and

(B) by striking ''As used in this section—'';

(2) in paragraph (c) (relating to a definition of ''actual cost'')—

(A) in clause (i), by redesignating clauses (1) and (2) as clauses (I) and (II), respectively; and

(B) in clause (ii), by redesignating clauses (1) and (2) as clauses (I) and (II), respectively;

(3) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively;

(4) by inserting before paragraph (1) (as so redesignated by paragraph (3) of this subsection) the following:

''(b) EXEMPTION FOR CERTAIN PROJECTS ASSISTED WITH LOW-INCOME HOUSING TAX CREDIT.—In the case of any mortgage insured under any provision of this title that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), if the Secretary determines at the time of issuance of the firm commitment for insurance that the ratio of the loan proceeds to the actual cost of the project is less than 80 percent, subsection (a) of this section shall not apply.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:''; and

(5) by inserting ''(a) REQUIREMENT.—'' after ''227.''.

(c) OTHER PROVISIONS REGARDING TREATMENT OF MORTGAGES COVERING TAX CREDIT PROJECTS.—Title II of the National Housing Act is amended by inserting after section 227 (12 U.S.C. 1715r) the following new section:

''SEC. 228. TREATMENT OF MORTGAGES COVERING TAX CREDIT PROJECTS.

''(a) DEFINITION.—For purposes of this section, the term 'insured mortgage covering a tax credit project' means a mortgage insured under any provision of this title that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42).

''(b) ACCEPTANCE OF LETTERS OF CREDIT.—In the case of an insured mortgage covering a tax credit project, the Secretary may not require the escrowing of equity provided by the sale of any low-income housing tax credits for the project pursuant to Section 42 of the Internal Revenue Code of 1986, or any other form of security, such as a letter of credit.

''(c) ASSET MANAGEMENT REQUIREMENTS.—In the case of an insured mortgage covering a tax credit project for which project the applicable tax credit allocating agency is causing to be performed periodic inspections in compliance with the requirements of section 42 of the Internal Revenue Code of 1986, such project shall be exempt from requirements imposed by the Secretary regarding periodic inspections of the property by the mortgagee. To the extent that other compliance monitoring is being performed with respect to such a project by such an allocating agency pursuant to such section 42, the Secretary shall, to the extent that the Secretary determines such monitoring is sufficient to ensure compliance with any requirements established by the Secretary, accept such agency's evidence of compliance for purposes of determining compliance with the Secretary's requirements.

''(d) STREAMLINED PROCESSING PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program to demonstrate the effectiveness of streamlining the review process, which shall include all applications for mortgage insurance under any provision of this title for mortgages executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986. The Secretary shall issue instructions for implementing the pilot program under this subsection not later than the expiration of the 180-day period beginning upon the date of the enactment of the Housing Tax Credit Coordination Act of 2008.

''(2) REQUIREMENTS.—Such pilot program shall provide for—

''(A) the Secretary to appoint designated underwriters, who shall be responsible for reviewing such mortgage insurance applications and making determinations regarding the eligibility of such applications for such mortgage insurance in lieu of the processing functions regarding such applications that are otherwise performed by other employees

of the Department of Housing and Urban Development;

''(B) submission of applications for such mortgage insurance by mortgagees who have previously been expressly approved by the Secretary; and

''(C) determinations regarding the eligibility of such applications for such mortgage insurance to be made by the chief underwriter pursuant to requirements prescribed by the Secretary, which shall include requiring submission of reports regarding applications of proposed mortgagees by third-party entities expressly approved by the chief underwriter.''.

SEC. 755. OTHER HUD PROGRAMS.

(a) SECTION 8 ASSISTANCE.—

(1) PHA PROJECT-BASED ASSISTANCE.—Section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) is amended—

(A) in subparagraph (D)(i)—

(i) by striking ''building'' and inserting ''project''; and

(ii) by adding at the end the following: ''For purposes of this subparagraph, the term 'project' means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.'';

(B) in the first sentence of subparagraph (F), by striking ''10 years'' and inserting ''15 years'';

(C) In subparagraph (G)—

(i) by inserting after the period at the end of the first sentence the following: ''Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract.''; and

(ii) by adding at the end the following: ''A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.'';

(D) in subparagraph (H), by inserting before the period at the end of the first sentence the following: '', except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A)'';

(E) in subparagraph (I)(i), by inserting before the semicolon the following: '', except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit''; and

(F) by adding at the end the following new subparagraphs:

''(L) USE IN COOPERATIVE HOUSING AND ELEVATOR BUILDINGS.—A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

''(i) dwelling units in cooperative housing; and

''(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

''(M) REVIEWS.—

''(i) SUBSIDY LAYERING.—A subsidy layering review in accordance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing structure, or if a subsidy layering review has been conducted by the applicable State or local agency.

''(ii) ENVIRONMENTAL REVIEW.—A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing structure, except to the extent such a review is otherwise required by law or regulation.''.

(2) VOUCHER PROGRAM RENT REASONABLENESS.—Section 8(o)(10) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(10)) is amended by adding at the end the following new subparagraph;

''(F) TAX CREDIT PROJECTS.—In the case of a dwelling unit receiving tax credits pursuant to section 42 of the Internal Revenue Code of 1986 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez National Affordable Housing Act of 1990, for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

''(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

''(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

''(I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

''(II) the payment standard established by the public housing agency for a unit of the size involved.''.

(b) SECTION 202 HOUSING FOR ELDERLY PERSONS.—Subsection (f) of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q(f)) is amended—

(1) by striking ''SELECTION CRITERIA.—'' and inserting ''INITIAL SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—'';

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively; and

(3) by adding at the end the following new paragraph:

''(2) DELEGATED PROCESSING.—

''(A) In issuing a capital advance under this subsection for any project for which financing for the purposes described in the last two sentences of subsection (b) is provided by a combination of a capital advance under subsection (c)(1) and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

''(i) is in geographic proximity to the property;

''(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

''(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section, and

''(iv) agrees to issue a firm commitment within 12 months of delegation.

''(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

''(C) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

''(D) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.''.

(c) MCKINNEY-VENTO ACT HOMELESS ASSISTANCE UNDER SHELTER PLUS CARE PROGRAM.—

(1) TERM OF CONTRACTS WITH OWNER OR LESSOR.—Part I of subtitle F of the McKinney-Vento Homeless Assistance Act is amended—

(A) by redesignating sections 462 and 463 (42 U.S.C. 11403g, 11403h) as sections 463 and 464, respectively;

(B) by striking ''section 463'' each place such term appears in sections 471, 476, 481, 486, and 488 (42 U.S.C. 11404, 11405, 11406, 11407, and 11407b) and inserting ''section 464''; and

(C) by inserting after section 461 (42 U.S.C. 11403f) the following new section:

''SEC. 462. TERM OF CONTRACT WITH OWNER OR LESSOR.

''An applicant under this subtitle may enter into a contract with the owner or lessor of a property that receives rental assistance under this subtitle having a term of not more than 15 years, subject to the availability of sufficient funds provided in appropriation Acts for the purpose of renewing expiring contracts for assistance payments. Such contract may, at the election of the applicant and owner or lessor, specify that such contract shall be extended for renewal terms of not more than 15 years each, subject to the availability of sufficient such appropriated funds.''.

(2) PROJECT-BASED RENTAL ASSISTANCE CONTRACTS.—Section 478(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11405a(a)) is amended by inserting before the period at the end the following: ''; except that, in the case of any project for which equity is provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), if an expenditure of such amount for each unit (including the prorated share of such work) is required to make the structure decent, safe, and sanitary, and the owner agrees to reach initial closing on permanent financing from such other sources within two years and agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 60 months of notification of grant approval, the contract shall be for a term of 10 years (except that such period may be extended by up to 1 year by the Secretary, which extension shall be granted unless the Secretary determines that the sponsor is primarily responsible for the failure to meet such deadline)''.

(d) DATA COLLECTION ON TENANTS OF HOUSING TAX CREDIT PROJECTS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 36. COLLECTION OF INFORMATION ON TENANTS IN TAX CREDIT PROJECTS.

''(a) IN GENERAL.—Each State agency administering tax credits under section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) shall furnish to the Secretary of Housing and Urban Development, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits through such agency. Such State agencies shall, to the extent feasible, collect such information through existing reporting processes and in a manner that minimizes burdens on property owners. In the case of any household that continues to reside in the same dwelling unit, information provided by the household in a previous year may be used if the information is of a category that is not subject to change or if information for the current year is not readily available to the owner of the property.

''(b) STANDARDS.—The Secretary shall establish standards and definitions for the information collected under subsection (a), provide States with technical assistance in establishing systems to compile and submit such information, and, in coordination with other Federal agencies administering housing programs, establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs.

''(c) PUBLIC AVAILABILITY.—The Secretary shall, not less than annually, compile and make publicly available the information submitted to the Secretary pursuant to subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the cost of activities required under subsections (b) and (c) $2,500,000 for fiscal year 2009 and $900,000 for each of fiscal years 2010 through 2013.''.

Subtitle E—Limitation on Sale, Foreclosure, or Seizure of Property Owned by Servicemembers

SEC. 761. LIMITATION ON SALE, FORECLOSURE, OR SEIZURE OF PROPERTY OWNED BY SERVICEMEMBERS DURING ONE-YEAR PERIOD FOLLOWING PERIOD OF MILITARY SERVICE.

(a) LIMITATION.—Section 303(c) of the Servicemembers Civil Relief Act is amended by striking ''90 days'' and inserting ''one year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any sale, foreclosure, or seizure of property on or after the date of the enactment of this Act.

SEC. 762. PROVISION OF FINANCIAL DISCLOSURE TO SERVICEMEMBERS WHO DEFAULT ON CERTAIN OBLIGATIONS.

(a) PROVISION OF DISCLOSURE REQUIRED.—Section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533) is amended by adding at the end the following new subsection:

''(e) PROVISION OF FINANCIAL DISCLOSURE.—In the case of a servicemember who defaults on an obligation described in subsection (a) for two consecutive months, the mortgagor or loan servicer of the obligation shall provide to the servicemember a written financial disclosure describing the servicemember's liability with respect to the obligation for the period during which a sale, foreclosure, or seizure of the property is not valid under subsection (c).''.

(b) EFFECTIVE DATE.—Subsection (e) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533), as added by subsection (a), shall apply with respect to a servicemember who defaults on an obligation on or after the date of the enactment of this Act.

The text of House amendment No. 3 to the Senate amendments is as follows:

At the end of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, add the following new section:

SEC. ___. RULE OF CONSTRUCTION.

(a) IN GENERAL.—No provision of this Act, the Home Owners' Loan Act, or title LXII of the Revised Statutes of the United States (commonly referred to as the ''National Bank Act'') may be construed as preempting the application, to any entity, of any State law regulating the foreclosure of residential real property in that State or the treatment of foreclosed property.

(b) NO NEGATIVE IMPLICATION.—This section shall not be construed as affecting in any way the applicability of any other type of State law to any Federal depository institution (as defined in section 3(c)(4) of the Federal Deposit Insurance Act) or to any agent or subsidiary of any such depository institution.

The SPEAKER pro tempore. Pursuant to House Resolution 1175, debate shall not exceed 3 hours, with 2 hours equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services, and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 1 hour; and the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Louisiana (Mr. MCCRERY) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I want to begin by thanking Mr. FRANK. In the 30 years that I've known him, I've yet to meet anybody who has done a better job of mastering the most arcane detail of complicated housing policy. In fact, in some measure, we're here today because of the energy that he's brought to the task at hand.

Mr. Speaker, I also rise today in support of this housing assistance tax package which has been reported by the Ways and Means Committee. I want to thank Chairman RANGEL for his leadership on this very important national issue.

There is little doubt that the sagging housing industry, now at historic lows, has been a drag on our national economy. This legislation would stimulate that industry and help families who have been caught up in this struggling economy.

This legislation provides tax credits for first-time homebuyers, and it boosts credits for construction of affordable housing. It allows families to deduct property taxes who couldn't do so before.

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It increases mortgage revenue bonds and it allows the States to refinance troubled subprime loans.

This assistance is targeted to those who need it most. It will also help bring economic stability to our communities. And these provisions are revenue neutral, I emphasize ''revenue neutral,'' using a provision from the President's own budget to pay for much of the cost.

Mr. Speaker, this bill has been endorsed by the Home Builders, the Realtors and State Housing Administrators. It passed with the support of 12 Republican members of the Ways and Means Committee, including my friend and the distinguished ranking member, Mr. MCCRERY. It is broadly supported, it's bipartisan in nature, and I am proud to bring it to this House today.

There are but two changes to our amendment. One is a package of technical improvements from the Financial Services Committee to better coordinate the various housing tax and HUD programs. The other is—and I hope that everybody will listen to this suggestion—a provision approved by the Veterans Affairs Committee to extend from 90 days to 1 year the protection against foreclosure for servicemembers returning from active duty. I can't imagine that there is a voice in this body who would not be supportive of that initiative, the idea that in Afghanistan and/or in Iraq, that a servicemember who is doing all that's asked of him or her every day would find themselves facing mortgage foreclosure because of their military service.

As chairman of the Select Revenue Measures Subcommittee, again I stand in strong support of the legislation that's before us today. It includes a number of improvements to the affordable housing program.

Our subcommittee considered these provisions last summer. And at the urging of housing officials, developers, and advocates for low-income families, they have all been included in the Ways and Means amendment that we consider today. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCRERY. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, it is with regret that I rise to urge my colleagues to vote against the tax amendment to this bill. Let me be clear, however, in stating that my opposition to this section is not the result of a disagreement with my friend, Mr. NEAL, or with the chairman of the committee, Mr. RANGEL. We were able to work together so that the housing bill reported by the Ways and Means Committee enjoyed bipartisan support.

And while that package contains many provisions that do make sense, I think the House should have had the opportunity to consider at least one alternative. Unfortunately, the procedural straitjacket imposed by the majority for consideration of the housing bill today is something that I simply cannot ignore. For that reason, I will be voting against this amendment.

We all understand the severity of the housing crisis. Housing starts declined to 680,000 in March of 2008, the lowest level since January of 1991. Since hitting a peak in early 2006, housing starts have dropped by 62 percent. There is currently a 9½ month supply of unsold homes, more than double the 10-year average. With those facts in mind, it is not surprising that home prices are falling, and the contraction in the residential real estate market is an anchor around our economy.

The Tax Code didn't get us into this mess, and there is only so much the Tax Code can do to get us out. The package approved by the Committee on Ways and Means contains many well-designed improvements, including improvements to make the low-income housing tax credit more efficient. I also think allowing those credits to be claimed against both the regular tax and the AMT is a step in the right direction.

The language expanding the Mortgage Revenue Bond program and allowing proceeds of the bonds to be used to refinance existing home mortgages, as suggested by the President, is certainly worth doing. And although I have some reservations about the design of the first-time homebuyer's tax credit, the recapture provision, if we include it, makes it more like a no-interest loan and not really a tax credit.

Still, I share the hope of the sponsors that this provision will help induce some home purchases this year and stabilize the market. We desire that because we recognize that potential homebuyers right now are reading the headlines every day, they're waiting on the sidelines to get to the bottom of the market. Well, as prices keep falling, more people who might think about buying a home decide to keep waiting, and so that creates a self-perpetuating cycle of declining home prices. Maybe, just maybe, this tax credit could induce some of those waiting on the sidelines to go ahead, jump in and buy a home. That's our desire. I think it could have been better, as I say, designed as a pure tax credit with no recapture provision, but still, I think it's better than nothing.

I understand the concern raised by some that an artificial temporary floor, so to speak, will not restore long-term stability to the housing market and could even result in further price declines when the temporary benefit lapses. But on balance, I think this provision holds some hope of helping us to reverse this slide in housing prices, or at least stop it for a while and give it a chance to recover.

At the same time, there are elements of this package that, frankly, I would prefer not be in here. Given the nature of the housing crisis, I think the House should follow the Senate's lead and waive PAYGO, for example. I think this is an emergency. We shouldn't be responding to this emergency situation with tax increases.

And there are specific items in here that if it were up to me might not have made the cut. But democracy is about compromise, and the bill produced by the Ways and Means Committee was something that I supported and would like to vote for again here on the House floor today. But the decision made by the majority leadership to debate this legislation as an amendment to a Senate-passed bill deprives the House of the chance to consider ways to improve it, even to the extent of denying the minority a motion to recommit.

Now, I recognize that tax bills traditionally come to the floor under restrictive rules, and I support that. But as I documented in a letter last year to the distinguished chairwoman of the Rules Committee, in years when Republicans were in the majority, on one tax bill after another the Republican majority offered the Democratic minority not only a motion to recommit, but a substitute.

Mr. Speaker, at this time, I would like to insert the text of that letter to the chairwoman of the Rules Committee into the CONGRESSIONAL RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, August 1, 2007.

Chairwoman LOUISE MCINTOSH SLAUGHTER,
Committee on Rules, House of Representatives, The Capitol, Washington, DC.

Ranking Member DAVID DREIER,
Committee on Rules, House of Representatives, Longworth Building, Washington, DC.

DEAR CHAIRWOMAN SLAUGHTER AND RANKING MEMBER DREIER: This week the House is expected to consider H.R. 2776, the ''Renewable Energy and Energy Conservation Act of 2007.'' This will be the first tax bill, reported by the Ways and Means Committee, to be considered under a rule in the 110th Congress. As you are aware, the House has a long history of supporting rules for tax bills which make in order an amendment in the nature of a substitute. Numerous examples, dating back to the 104th Congress, include:

1. Death Tax Repeal Permanency Act of 2005;
2. Tax Increase Prevention and Reconciliation Act of 2005;
3. Charitable Giving Act of 2003;
4. Death Tax Repeal Permanency Act of 2003;
5. Social Security Protection Act of 2003;
6. Pension Security Act of 2003;
7. Tax Administration Good Government Act;
8. A bill to extend permanently the marriage penalty relief provided under the Economic Growth and Tax Relief Reconciliation Act of 2001;
9. Middle-Class Alternative Minimum Tax Relief Act of 2004:
10. A bill to permanently extend the ten percent individual income tax bracket;
11. Child Credit Preservation and Expansion Act of 2004;
12. Economic Growth and Tax Relief Act of 2001;
13. Marriage Penalty and Family Tax Relief Act of 2001;
14. Care Act of 2002;
15. Death Tax Elimination Act of 2001;
16. Economic Growth and Tax Relief Reconciliation Act of 2001;
17. Permanent Death Tax Repeal Act of 2002;
18. Job Creation and Worker Assistance Act of 2002;
19. Pension Security Act of 2002;
20. The WORK Act of 2002;
21. Retirement Savings Security Act of 2002;
22. Marriage Tax Penalty Relief Act of 2000;
23. Death Tax Elimination Act of 2000;
24. Retirement Security and Savings Act of 2000;
25. Foster Care Independence Act of 1999;
26. Financial Freedom Act of 1999;
27. Fathers Count Act of 1999;
28. Marriage Tax Relief Reconciliation Act of 2000;
29. Social Security Benefits Tax Relief Act of 2000;
30. Education Savings and School Excellence Act of 1998;
31. Taxpayer Relief Act of 1998;
32. Job Creation and Wage Enhancement Act of 1995;
33. A bill to permanently extend the deduction for the health insurance costs of self-employed individuals, and for other purposes;
34. Tax Fairness and Deficit Reduction Act of 1995; and,
35. Health Insurance Portability and Accountability Act of 1996.

While the usual practice has been to provide for the consideration of an amendment in the nature of a substitute, I recognize that there have been instances where such consideration was not allowed under the rule. In many of these cases, the amendment was either non-germane to the underlying bill, was not an actual substitute amendment, or was not compliant with the Budget Act.

I have submitted an amendment in the nature of a substitute to H. R. 2776. According to the Joint Committee on Taxation, the amendment complies with Clause 10 of House Rule 21, otherwise known as the ''paygo rule.'' In addition, through consultations with the Office of the Parliamentarian, I am assured that the amendment is germane to H.R. 2776. To my knowledge, it would violate no rules of the House.

I hope that the Committee will make in order my amendment as part of the consideration of H.R. 2776. Please do not hesitate to contact me if you have any questions.

With kindest regards, I am

Sincerely yours,

JIM MCCRERY,
Ranking Member.

At the same time, I recognize that it is not uncommon to resolve differences between the House and the Senate by sending amendments back and forth across the Capitol. That's what's being done today. But what makes today's procedure so unusual, and to some of us so frustrating, is that this House never had a chance to work its will on housing legislation. This is not a housing bill that went to the Senate, was amended, and then sent back to us. This was an energy bill for heaven's sake. It was gutted in the Senate, replaced with housing provisions, sent back to us, and that is what has created this unusual opportunity for the

majority to deny the minority even a motion to recommit, and it's wrong.

So Mr. Speaker, I think that action reflects poorly on this House. It's a trampling of the rights of all of our Members, not just the minority. And I, therefore, plan to vote against all of these amendments and urge my colleagues to do the same until we can get a fair hearing, a fair rule governing the debate of these very important matters.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I ask unanimous consent at this time to allow the gentleman from New York (Mr. REYNOLDS), a member of the Ways and Means Committee, to control the remainder of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. NEAL of Massachusetts. Mr. Speaker, I do offer some acknowledgement of the constraints that we find ourselves within today on the House floor, and I think there's some accuracy as to what Mr. MCCRERY had to say. However, there is another very important point, and that is, that the issues were vetted at the committee level and there was ample opportunity and a full and vigorous debate ensued in the Ways and Means Committee in which every opinion was welcomed.

With that, I would like to yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. I rise in strong support.

There has been some bipartisanship that has motored this legislation, and I hope it won't break down today.

The crisis in housing needs the attention and the support of everybody. It needs much more than tea and sympathy, it needs legislation. Recently I met with mayors and managers from the 12th District, in Macomb County and southeast Oakland. And they all talked about the plight of the homeowner, the plight of the communities when houses are shut down. We have to act. And I pay tribute, all of us should, to the Committee on Financial Services.

And let me say just a word about the tax provisions. They would provide credit to first-time homebuyers. Essential. It would improve access to low-income housing. Essential. It would allow families to deduct property taxes through the standard deduction. It's a good experiment. It should have been done earlier. And it also would allow Federal home loan banks to help relieve pressure on credit markets.

I read the Statement of Administrative Policy that said it was risky and it was an expansion of the purpose of the banks, and I think it's incorrect in both respects. So I just want to close with the sense of urgency that I think all of us feel. Mr. Bernanke said that if markets were simply allowed to follow their own course, it could ''destabilize communities, reduce the property values of nearby homes and lower municipal tax revenues.''

What more do we need to impel us to act than the flight of families, the plight of communities, and the plight of municipalities? Let's vote on a bipartisan bill. Let's vote for this bill.

Mr. REYNOLDS. Mr. Speaker, it is now my pleasure to yield 3 minutes to the distinguished senior member of the Republican side of Ways and Means, WALLY HERGER of California.

Mr. HERGER. Mr. Speaker, I'm troubled by the housing catch-all bill before the House of Representatives today from a commonsense, pro-American taxpayer position.

The bill would enable the already troubled FHA to take on an additional $300 million in distressed mortgage liabilities, loans that have a good chance of going into default. This effectively transfers risk from those holding bad loans to those taxpayers who made prudent decisions in the first place.

More than nine out of 10 mortgage holders make payments on time. They would now be on the hook for the bad mortgage debt, as will renters saving for a first-time home and those who own their own homes outright. This bill sends the signal that there are no real consequences for poor lending or borrowing practices, and encourages more of the same behavior that led us here in the first place.

Further, to offset some of the tax giveaways in the bill, the Democrat majority proposes billions of dollars in what amounts to a retroactive tax increase on American employers with operations in foreign markets. What our economy really needs is tax policies that foster greater, not less, competitiveness for the U.S. employers.

Finally, it is truly disappointing that the Democrat majority has chosen to bring this bill up in a lock down, unamendable manner. I urge my colleagues to reject this measure.

Mr. NEAL of Massachusetts. Mr. Speaker, I would remind the audience, including the Members that are on the floor, that this procedure was fully vetted in the Ways and Means Committee. It passed 35–5. That means we picked up 12 members of the minority who supported this legislation.

With that, I would like to yield 2 minutes to my friend, the distinguished gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, you can't have it both ways. You can't say that this is an emergency and we've got to get something done, and then in the other breath say let's go through the technical procedures. They're contradictory.

This bill was vetted. And housing inventories in our communities continue to increase and home prices continue to decline. We need to incentivize Americans to reenter the housing market. It affects so much of our economy. I think this amendment, this bill takes giant leaps towards accomplishing this goal. I applaud Mr. RANGEL for his efforts and the 12 Members from the distinguished opposition who joined.

There is an array of good work here, but in particular I'm heartened that included within is a tax benefit for most first-time homebuyers. This is a truly meaningful incentive, and one that will pull out a large swath of people from the sidelines and back into the market, having a ripple effect throughout the rest of the economy. After all, without bold action to spur housing market activity, inventories across the country may continue to grow, placing downward pressure on home prices and wiping out equity that so many Americans have worked so hard to build.

□ 1245

We don't want more homes to be in that situation. We prove nothing. There is a place for the Federal Government, therefore, in this terrible situation that has occurred and developed over the last year.

This bill, when passed, will allow middle class families to receive a tax benefit that is equivalent to an interest-free loan of $7,000 towards the purchase of their first home. It will also allow existing homeowners who claim the standard deduction to an additional standard deduction for property taxes, up to $700 for a married couple filing jointly.

When we first addressed this issue in the Ways and Means Committee, the National Association of Realtors found that our legislation would generate about 1 million sales——

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield the gentleman an additional 30 seconds.

Mr. PASCRELL. The National Association of Realtors found that our legislation would generate about 1 million sales to first-time homebuyers and stimulate nearly $130 billion in increased economic activity. You tell me that that's not worth it in this economy.

Studies have shown that this will help reduce housing inventory by 900,000 homes, which will, in turn, stabilize prices.

This is a wise and necessary course to take. Because of this we also salute Chairman RANGEL's leadership. I hope all my colleagues will enthusiastically support this proposal. It's good for America.

Mr. REYNOLDS. Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, at this time I would like to yield to the gentlewoman from Pennsylvania (Ms. SCHWARTZ) for 2 minutes.

Ms. SCHWARTZ. Mr. Speaker, I want to thank Chairman RANGEL and Chairman FRANK for acting so swiftly and wisely to stem the tide of foreclosures and address the sagging home values that are hurting families and communities across our Nation.

By addressing a whole range of issues, from the continuing foreclosure

crisis to the new and existing homes that are sitting vacant and further depressing the housing market, this package represents a significant step toward stabilizing the economy and restoring consumer confidence.

I am very proud of the portion of this package that came through the Committee on Ways and Means, particularly a timely, targeted, and well-designed first-time homebuyers credit; a new Federal tax deduction to help families meet rising State property taxes; and expansion of the ability of cities and States to raise capital for infrastructure improvements by partnering with the Federal Home Loan Banks.

In particular, I am pleased that the package includes a provision that I championed, along with my Republican colleague JON PORTER, which would enable State housing finance agencies to raise capital through tax-exempt mortgage revenue bonds and use these additional funds to help at-risk borrowers refinance their subprime loans, access mortgages at fair rates, and enable families to meet their financial obligations and stay in their homes. This provision will work hand in hand with the Federal Housing Agency reforms that have come out of Chairman FRANK's committee and will allow States to play a role in addressing the needs of their local communities.

As Federal Reserve Chairman Ben Bernanke put it, '' . . . doing what we can to avoid preventable foreclosures is not just in the interest of lenders and borrowers, it is in everyone's interest.''

It is in everyone's interest that we overcome this crisis in the housing market, that we work to stabilize the economy, and we work to maintain and build our competitive edge in the global economy. The proposal before us is a comprehensive approach to this challenge, and I hope that it will be supported by all.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the debate continues from the Ways and Means portion of the housing bill, I believe the ranking member has set very clear remarks on where many of us find ourselves with this debate today.

Chairman RANGEL and Ranking Member MCCRERY have a superb working relationship, and they have set the tenor of what has been hard work on both sides of the aisle and bipartisan compromise and consensus to craft some good legislation that has passed this body and has become law. And as I manage this portion for the minority and look across to my colleague from Massachusetts, he and I also share in commonsense solutions to strengthen America and to resolve some of the problems and challenges that are there. And this bill is not an exception to that. We worked at the spirit of request of both the Chair and ranking member to reach compromise and consensus to improve the Ways and Means jurisdiction on housing.

And I look at it with sadness in two parts. One, as a realtor who looks at the industry, knowing across the country that we face challenges, and the statistics that Ranking Member MCCRERY outlined, 680,000 fewer starts, a reduction in high percentages of what the industry is about, seeing what the drag has been on our country's growth. And we need to work through good, solid solutions that need a hearing process that involve the Congress, particularly this body, in a debate of solution.

And when we look at the entire complexity of this bill, not only as a Ways and Means member, not only as someone who understands the housing world, but also as a former member of the Rules Committee, I know that the Members of this body were trampled on based on the decision of taking an energy bill and making the housing provisions, one of the challenges of the country today, short-circuited as an amendment to circumvent debate, amendments, recommittals, and substitutes that would be afforded the minority in any other instance.

And as I look at this and the frustration I heard in the ranking member's message of what is being trampled on on rights of the minority to make presentations, quite frankly, maybe some majority Members on amendments, recommittal, and substitute, I find it disturbing that this is the beginning of strong trends of kind of a less than reasonable approach to advance legislation through this body.

And in the final thoughts, as we look at the predicament we're in on procedural processes here and maybe the fact that we could have made this bill even better, I must share with my colleagues that there is a clear veto message on this legislation as it leaves the House and it will unlikely be the solution of the land.

So with that, Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, just briefly in reference to my friend Mr. REYNOLDS' comments, the constraints that we are operating on today, as he criticizes them, are entirely legitimate; but they are institutional problems, as opposed to just the will of the majority.

I was asking a Member of the minority last evening, ''Is it possible to be an aggrieved Member of the majority?'' In these instances I think you can be an aggrieved Member of the majority.

But I want to emphasize a very important point: This legislation received overwhelming support from the minority in the committee, and I think based upon news accounts this morning that there was some conflict in two major dailies as to whether or not the administration would, in fact, veto this legislation, but I can't overstate enough this simple point: There was ample opportunity for the minority to participate in the debate at the Ways and Means Committee; and, in fact, they succeeded in amending the legislation that has come to the floor today, and every voice was heard.

Mr. Speaker, with that I would like to yield 3 minutes to the distinguished gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. I thank the gentleman from Massachusetts for yielding. And I would like to particularly thank Chairman RANGEL and Chairman FRANK for their extraordinary efforts on behalf of the American people.

Mr. Speaker, this amendment and the overall housing package we are considering today will help millions of Americans and significantly improve the economic situation in my State of Nevada. In recent years the vibrant economy and rapid growth in my district of Las Vegas combined to make the city appear immune to economic downturn. This foreclosure crisis has shown that this is no longer the case.

Nevada has had the highest statewide foreclosure rate for well over a year. The surge in foreclosures has led to huge inventories of unsold homes. This, in turn, has led to massive layoffs of the construction industry and other housing-related fields. Nevada, which has been a land of economic opportunity, the fastest-growing State in the Nation, now has an unemployment rate of 5.8 percent, which is, I'm sorry to say, well above the national average.

This amendment takes several steps that will help both current and prospective homeowners as well as increase affordable housing opportunities. Current homeowners will be helped by the creation of a standard deduction for property taxes, which will lower Federal taxes for taxpayers who don't itemize and by freeing up funds to refinance certain subprime loans. The tax credit for first-time homebuyers creates a great incentive to get families into properties that are currently sitting vacant due to foreclosure or that have been sitting on the market for long periods of time due to excess unsold inventory. The bill also takes steps to increase affordable rental housing, another critical need in Las Vegas.

I'm hopeful that the combined efforts of this amendment and other provisions of the package will be to alleviate the current housing crisis and help turn our Nation's economy around. I proudly support the intent and the substance of this legislation. I urge adoption.

And I must say I think it's insulting to the American people when they hear that there are Members on the other side of the aisle that support the bill, support the intent, but are voting against it because they didn't get a procedural motion to vote on.

Let's do what's best for the American people and stop this ridiculous infighting that nobody out there cares about. They care about staying in their homes. They care about protecting their families. And, quite frankly, they don't give a hoot whether somebody has a motion to recommit to vote on.

Mr. REYNOLDS. Mr. Speaker, I would like to yield 5 minutes to the

gentleman from Texas (Mr. BRADY), a distinguished member of the Ways and Means Committee and a leading expert on this issue.

Mr. BRADY of Texas. Thank you, Mr. REYNOLDS, for your leadership on our economic issues here in Congress.

Mr. Speaker, a principle that is before us today is that Congress should not be bailing out speculators, lenders, or investors who have behaved irresponsibly.

If you bought a home that is too big for you, that you couldn't afford from the get-go, or you were betting that property values would go up in your region, that's tough.

If you lent money without income or means of those who were borrowing it, or you preyed, you preyed on people who didn't know better and then churned their loan repeatedly, that's tough. If you purchased securities without determining if the loans underlying them were sound, that is your problem. That is not the taxpayers', that is not your next-door neighbor's problem.

We do have a role in Congress and it is this, to address this issue: One, we should make sure that there is available, affordable credit for creditworthy borrowers. We need to make sure that we prevent this from occurring again. And we need to punish, aggressively punish, the bad actors who have infected our entire American economy.

The proposal we have before us today is well intentioned, clearly. I think Republicans and Democrats agree on the need to help where we can. It is well intentioned. It is not particularly effective. I have my doubts that it will help much at all. It is too little, too slow, too unfocused. It is, as you would imagine, a typical Washington reaction.

For example, a provision to allow States to have more authority for low income housing. Nothing wrong with that. In fact, we need more of that. That housing likely, knowing the process that works here, in the State of Texas and others, it will probably be 3 years before anyone moves into housing of that caliber. Way too late for this problem.

The property tax deduction for seniors who don't itemize, you always want to help people with their property taxes. But is a retired person really going to take $350 and buy a new home or buy a foreclosed home in their neighborhood? Not likely.

Even the tax credit for first-time homebuyers, a part that, I think, the philosophy of which I really like. But this no-interest loan is structured so low, $7,500, it won't allow them to buy a home. There are not many $75,000 homes on the market. If it's only a 5 percent down payment, there are, truthfully, not very many $150,000 homes that are in the areas of America that actually have massive foreclosures. Those tend to be either in the depressed areas or in the high-value States where a lot of people did bet on rising property values.

□ 1300

So I like the philosophy of it. I don't think it will help much. Thankfully it won't hurt. It won't hurt. There are good things in this bill. The FHA modernization and the reform of Fannie Mae and Freddie Mac I think are exactly appropriate.

But if our goal is to make sure we have available credit for creditworthy borrowers, I think this bill is a poor alternative to the Hope Alliance, which is moving faster and more effectively today and covering more than 90 percent of those who have mortgages and could have problems, or has already worked with 1.4 million families who need help moving them into new loans or moderating the loan they have today. And they are doing that without taxpayers underwriting any potential loss. That is, I think, the approach that works best and is already proven to work.

I will finish with this. I have said that there is nothing patently offensive in the amendment from Ways and Means. In fact, again, I think it is well intentioned. But in the underlying bill by Chairman FRANK, there is something that is especially offensive.

I come from Texas. Our region was destroyed in Hurricane Rita, a hurricane that was stronger than Hurricane Katrina. We lost 70,000 homes that were damaged or destroyed. We lost more than $1 billion of our timber industry, our main crop. We still have 10 percent of our families who haven't moved back to southeast Texas because they don't have housing. Yet in Chairman FRANK's underlying bill, he creates an affordable housing fund and dedicates $500 million to Louisiana and Mississippi to help rebuild housing in those areas. And yet for the same hurricane, and Hurricane Rita, in the communities that actually took in the Katrina families as they fled that hurricane, and then those same families have their own roofs torn off in southeast Texas, this bill says, ''Drop dead. Forget it. We are going to help those who are on this side of the hurricane.''

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. REYNOLDS. I yield the gentleman an additional 30 seconds.

Mr. BRADY of Texas. But to those who not only took in those of Katrina, to those communities that opened their hearts, their churches and their homes and have their own community destroyed, this government and this Congress is saying, ''Forget it. We are going to divide this hurricane along State lines. You can drop dead. No help for you in housing. No help for you in apartments. No help for you, period. None. Zero for the victims of Hurricane Rita in Texas.''

This Congress ought to be ashamed of itself.

Mr. NEAL of Massachusetts. Mr. Speaker, I would like at this time to yield to the gentleman from Vermont via Springfield, Massachusetts, one of the most distinguished families in Springfield, my friend, Mr. WELCH, for 2 minutes.

Mr. WELCH of Vermont. Thank you, Mr. Chairman.

Mr. Speaker, I rise in strong support of this legislation. The legislation does two things that are good and one thing that is very good in its absence. The two things that are good are one, it addresses very specifically, in a practical way, the housing crisis that has been brought on by the subprime foreclosure debacle.

What it does is it shares the opportunity of relief and it shares the pain of getting the relief so that we can end up at the end of the day with several hundred thousand American families still in their homes, lenders having been able to mitigate their loss, homeowners being able to keep a roof over their head, and the American taxpayer not being left on the hook.

It does it by recognizing we have to use existing institutions to accomplish that. It does it by acknowledging that it has to be voluntary. A lender will be in this program only when they make the practical business decision that it is a better route than foreclosure. A borrower is going to be able to make that same change and has to be able to demonstrate an ability to pay at the new current appraisal value of that property. And in the process of doing that, it means that we use the guaranty of the taxpayer, but in all likelihood, according to the CBO score, not the money of the taxpayer.

So it is a practical solution to a very severe problem that could only have been brought to this House for consideration with the extraordinary cooperation of both sides in the Ways and Means Committee, the Financial Services Committee, and the help of high administration officials who had significant input along the way.

And it would be very unfortunate if the procedural debates that we are having about process, made at the leadership level, derail what is a practical approach to solving a very serious problem. What this bill isn't, and I congratulate the Members on both sides as well, it is not a blame game about who caused this. That is for another day.

Mr. REYNOLDS. Mr. Speaker, it is now my privilege to yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I appreciate the opportunity to come down and speak.

Certainly in every one of our districts, the housing crunch or crisis affects everyday people. And we have to look at the best way to resolve this.

And I think what we have today is kind of a best-intentions type of bill. But I don't think it's really getting to the heart of the matter. When I have talked to several economists that specialize in the real estate markets, all have told me that when you're looking back and trying to remedy or bail out what has occurred, that you are really not going to fix the problems or stimulate the housing industry.

So I have developed, with several of my colleagues, a bill that is forward looking. It is straightforward. It is an up to $10,000 tax credit for a purchaser of a home, not a foreclosed home only or a new build only or anything like that. Just if they want to buy a new home or a home they would be eligible.

I realize that there was at least a weak attempt to something like that in the amendment that is before us now. We have got a $7,500 tax credit. But when you look at the eligibility and the fact that, yes, it is a refundable tax credit that you have to pay back, it turns out to be rather useless in trying to stimulate the housing market. This is really a faux or phantom tax credit. So I don't think that can be used to help stimulate our economy or the housing market to get us out of the housing depression here.

And one of the issues that we're talking about here today is the devaluation of our homes because of the housing depression and that what we're going to do is make up the difference of a home that has been devalued that goes into—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. REYNOLDS. I yield 1 additional minute to the gentleman from Nebraska.

Mr. TERRY. What we are going to do is spend $300 billion to try and get us to right size that by bailing these folks out. That's just going to prolong the problem according to the economists.

Two points there: If that is all that we are really going to do here, we are not going to turn the tide of the devaluation of our homes. The only way to do that is to increase demand overall, which increasing your tax credit will do, not the phantom one that is here.

The other way is when you look at the market and the availability of credit, especially for lower income people, I think we are doing the right thing here by increasing the cap or the limit on credits for low-income housing. But there is also market-available tools that are out there. I have had people come to my office and present these market, nongovernment bailout programs, not programs but options, where they use a 501(c)(3) entity where you can put the life insurance in and cover the costs, reduce the house, and I thank you for the opportunity.

Mr. NEAL of Massachusetts. Mr. Speaker, I must tell you I swore to myself I was going to resist what I'm about to say until I heard the term ''bailout.'' The minute I heard the term ''bailout,'' I thought to myself the speed with which the Federal Reserve Board and the Treasury came to the aid of Bear Stearns in a 48-hour period. And to use that same example of making it an analogy here is striking.

With that, I would like to reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, first, I guess I will ask the gentleman if he has any other speakers. I am prepared to close and yield back the balance of my time.

With that, Mr. Speaker, I think, again, for our colleagues it is important to understand some of what has happened that the minority feels that their rights have been trampled in what has been a very unusual decision on a major piece of legislation, housing. It is certainly a significant piece of legislation because the Rules Committee granted 3 hours of debate by various jurisdictions. So it certainly sends a signal to all observers that this is serious. It warrants debate. And it is now before the House.

But I want to remind my colleagues that this is not a bill that has gone regular order. There is a Senate bill that is energy that has come over to the House. And we have now amended it entirely with a housing amendment. And so this is an amendment to an existing Senate bill to circumvent all of the regular order process that the House enjoys and has had speakers of both parties affirm this should be the action of how we debate great issues of the day.

This body is really infamous for acronyms. So today I call this the SSAD Amendment, or the Sorry Sick Amendment Decision. It is sad because the bipartisan work that was done in the Ways and Means Committee outlined by many from the Ways and Means Committee is not being worked through a process so that bipartisanship and the ability to have the entire body debate its work that came from committee.

It is sad that the bipartisan work was trampled in the Rules Committee by this decision to slickly move around the mechanism of regular order in our House. It is sad that there is no substitute. It is sad that there is no recommittal. It is sad that what makes it a procedure so unusual and so frustrating is the House never had a chance to work its will on housing legislation. In fact, as I said, the housing bill sent back to the House by the Senate was an energy bill. When it first passed the House, it had nothing to do with housing. And it is sad that a procedural straitjacket has been used in order to garner the type of votes that the majority wants to put before the House today.

Finally, it is just plain sad that the bipartisan work of the Ways and Means Committee is joined up by the Rules Committee with the Frank housing bill, because it has been clear that senior advisers to the White House will recommend the President veto the work of the Ways and Means Committee.

So as we debate one of the significant issues that many feel should be debated in the House, it is a sad day how we have approached to do it.

I yield back the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, let me see what I can do to lift the spirits of the gentleman from New York, my friend, Mr. REYNOLDS.

In fact, I think what is sad is that you are leaving us, that you're retiring. And I was searching hard to figure out the meaning of that acronym, based upon the fact that the Ways and Means Committee took this legislation up, and I want to reiterate, for the fourth time today, 12 of the 17 Republicans on the committee voted for the very bill that they are now all saying they are going to oppose. Forgive me. That is sad. How can you come to the floor and argue against the proposal that you voted for in the committee when you agree with just about every part of the bill?

□ 1315

That's what's before us here. We have heard these arguments, and they have all said, we support most of what's in the bill, but they are prepared because of an institutional constraint with the Senate to vote against the legislation that they favor.

In my home State of Massachusetts, it's sixth in the Nation in foreclosure activity. In Springfield, the largest community in my district, 300 homes have been foreclosed this year and over 2,000 mortgages will reset to higher interest rates by the end of next year.

In response to the worsening housing crisis, Massachusetts this month initiated a new law that extends the foreclosure moratorium from 30 to 90 days. Other States are taking similar action, but, like Massachusetts, they need help from Congress.

Reports seem to suggest that the housing slide won't turn around until 2010. These tax provisions we are considering today for families and communities will help turn it around, I hope, much sooner. It certainly will help our economy and markets in general.

The President's housing proposals really haven't worked. It's time for the Congress to act. We are often accused of having a short memory, but I think all Members in this chamber remember the recent government-backed bailout of Bear Stearns, yes, the bailout of that mom-and-pop operation called Bear Stearns. If we can, with great urgency and enthusiasm, come to the aid of Wall Street, we have no excuse not to help the people who reside on Main Street.

I hope that my colleagues will support this legislation, and I ask unanimous consent to yield the remainder of my time to the gentleman from Massachusetts (Mr. FRANK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, I will claim the remaining time on behalf of the Financial Services Committee.

Mr. Speaker, this is a composite package. The President some time ago, a couple of weeks ago, urgently asked the Congress to send him several pieces of legislation, three in particular. One is embodied in the part of the bill that came out of the Ways and Means Committee.

Two, in fact, had previously passed the House from our committee, the bill reforming the government sponsored enterprises—and that came out of our committee and on the floor in a form that the administration mostly liked—and the bill to modernize the FHA.

In fact, the Senate then acted on the bill to modernize the FHA. We went into conference, we ran into some difficulty. Not a formal conference, but a conversation. What we have done because, as we know, the Senate is in a situation where procedurally it's often harder for them to act, so we are acting on the basis of a Senate bill.

We are readopting today two of the pieces we already adopted, reforms of Fannie Mae and Freddie Mac and the FHA modernization. I think it ought to be noted that in both cases they are a recognition by the President that the private sector needs to be able to cooperate with public or quasi-public entities to get the job done. Those who take the philosophy that the market alone is sufficient unto itself, and that public sector intervention will do more harm than good clearly have been repudiated.

The FHA is a government agency. Fannie Mae and Freddie Mac are government creations with both public and private aspects. It is clear that we need both of them if we are to get out of this current crisis in mortgage lending and be able to go forward in a healthy way.

There is one new element today. That is a bill that our committee voted on last week and the week before. We had a markup. It was suggested to us in many ways by some of the regulators. In its essential form it was endorsed last Monday by the Chairman of the Federal Reserve, and we worked closely with his staff. The administration had an objection to one major piece of an auction mechanism. That's the longer part of the bill. What it says is that holders of loans, not the lenders, because the lenders have unfortunately long since been able to sell off their loans in many cases—and that's part of the problem—if the holders of loans will write down the amount due them in the principal, and if they get to a point below the current value of the home, in many cases these homes have lost value from when they were first mortgaged, and the borrower can be reasonably expected to repay it, we will broaden the right of the FHA to make a case-by-case determination, provide a guarantee so that can then be financed and resold to the secondary market.

It's entirely voluntary on the part of the lender. The lender will retain the right to foreclose. In many cases we believe that it will pay the lender not to foreclose.

In fact, we have legislation in this package sponsored by the gentleman from Delaware (Mr. CASTLE) and the gentleman from Pennsylvania (Mr. KANJORSKI) that will ensure servicers who are willing to write down the amounts, that they will not be sued if they write down those amounts to a reasonable level. We think that is very helpful. Again, it's voluntary.

We do believe that knowing if you write this down to a reasonable level, accepting your loss, you will be able then to at least get some guarantee of that to help stabilize the situation. But people should understand, there is not $1 of taxpayer money going to writing down that loan. The holders of the loans have to write it down.

Secondly, the borrower can then go to the FHA if the borrower can pay the new loan, but there is no taxpayer money that will go to help pay off that loan. The taxpayer exposure comes in the fact that there are FHA guarantees. If someone gets an FHA guarantee and subsequently fails to make the payments, his or her house is forfeited to the FHA.

We will lose some money on this, we believe. The Congressional Budget Office estimates that half a million foreclosures will be averted by this program, that would otherwise have taken place, at a cost to the taxpayers of $2.4 billion. That means $4,800 for every foreclosure averted.

We are told, well, this is a bailout, and I want to follow on what my colleague from Massachusetts said. We have seen one bailout this year over investors and speculators. It came when the Federal Reserve, actively urged on by the Treasury, bailed out for $30 billion potentially—we don't know what the losses will be—but $30 billion is at risk of what will ultimately be public money, to lenders, to speculators and investors, people who were partners at Bear Stearns.

Now there may have been some confusion yesterday. I tried to avoid it. I am not critical that we are doing that. I am critical of the lack of sensible regulation that led them to be in that position. I think we do have to examine it, and I want to examine it from the standpoint of what we can do that will make it less likely that we will be confronted with that kind of choice, either provide those funds or see serious further economic debilitation.

But for the administration that engineered $30 billion of bailout for the investors and others who did business with Bear Stearns to say that this $2.4 billion cost according to CBO that will avert 500,000 foreclosures is unacceptable as a bailout is as intellectually and morally and economically inconsistent a policy as we have ever seen. It is true, and some of the Republicans have said in a letter to me in the House, that they wanted to question this.

I would note, by the way, we talked about this, I have looked at the letter that was sent to me. I looked again at the letter, and in no case does it say they were opposed to it. People raised questions. Maybe that's an easy way to kind of cover your bases, but my point is not so much those who wrote the letter, it's the administration.

The administration says they're going to veto this bill, that it's a bailout. It is $2.4 billion versus $30 billion at Bear Stearns.

Now, I believe that Secretary Paulson and Chairman Bernanke have been doing the best they can in this situation. I am not critical of what they have done. Chairman Bernanke has been consistent and thinks this is also a reasonable thing to do.

The President, of course, appointed Secretary Paulson and Chairman Bernanke, and for the administration that supported and facilitated the $30 billion for Bear Stearns which went to lenders, went to investors and some of them were speculators—to then object when it's homeowners seems to me to be entirely the reverse of the reality of the situation.

Again, I want to stress, I was asked by 17 Republicans if the committee would have a hearing. My answer was yes, the committee will have a hearing after we have dealt with the current subprime crisis—and that will be soon, that was our priority—and a hearing not simply to say what did you do, because we cannot compel them to undo it—to look at what they did in the Bear Stearns thing in the context of figuring out how we are best able to diminish the likelihood that it will recur.

But we are in a recession, and a major cause of that recession is the subprime crisis. We do not see any alternatives to this bill to trying to work on that.

Yes, we had Hope Now, and then we had FHA Secure. The administration had several policies. They have been closer, in many ways, to us. The differences are not as great as they once were.

But the fundamental here is this, foreclosures are causing, have caused and are causing serious economic problems. Diminishing the number of foreclosures is in the interest—not simply of those who will avert foreclosure—but of people in the neighborhood of the cities in which they are located and the whole economy. That's why we are going forward with this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. NEUGEBAUER. Mr. Speaker, I claim time in opposition.

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. NEUGEBAUER. Mr. Speaker, I yield so much time as he may consume to the distinguished ranking member of the House Financial Services Committee, Mr. BACHUS.

Mr. BACHUS. Mr. Speaker, I rise in strong opposition to this Democratic omnibus housing bill, and also I rise in strong opposition to the procedure under which it comes to the floor today under a contorted rule, which is designed to do one thing and one thing only, and that's allow no Republican amendments, allow no input, allow no open debate of different provisions with any ability to modify those provisions.

Mr. Speaker, I submit for the RECORD page 24 of a promise that the Democratic majority made to the American

people. It's a statement of the Speaker of the House in their document ''A New Direction for America.''

REGULAR ORDER FOR LEGISLATION

Bills should be developed following full hearings and open subcommittee and committee markups, with appropriate referrals to other committees. Members should have at least 24 hours to examine a bill prior to consideration at the subcommittee level.

Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority the right to offer its alternatives, including a substitute.

Members should have at least 24 hours to examine bill and conference report text prior to floor consideration. Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day.

Floor votes should be completed within 15 minutes, with the customary 2-minute extension to accommodate Members' ability to reach the House Chamber to cast their votes. No vote shall be held open in order to manipulate the outcome.

House-Senate conference committees should hold regular meetings (at least weekly) of all conference committee Members. All duly-appointed conferees should be informed of the schedule of conference committee activities in a timely manner and given ample opportunity for input and debate as decisions are made toward final bill language.

The Suspension Calendar should be restricted to non-controversial legislation, with minority-authored legislation scheduled in relation to the party ratio in the House.

In this document, the Democratic majority promised to the American people in what was called a Congress working for all America, they made this promise: ''Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the Minority a right to offer its alternatives, including a substitute.''

Well, that's not what we have here today. Instead, we have what we are calling the American Housing Rescue and Foreclosure Prevention Act of 2008, but, in fact, it started out as a bill here in the House and passed the House as a bill to move the United States towards greater energy independence and security. Absolutely none of that bill remains, it's a total sham.

Through some, I suppose, back room, front room, side room, smoke-filled room, who knows, but the Democratic leadership, we, the American people really don't know—but at some point they decided to take every bit of that bill out. The only thing that remains of that bill, actually, is the resolution that brings this bill to the floor.

It refers to this bill and the resolution that brings it to the floor. The resolution says, upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 3221) moving the United States towards greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, increasing clean, renewable energy production. That's all gone. But that's still in the RECORD. That's still the resolution.

□ 1330

Mr. Speaker, the procedure outlined here indeed stifles the democratic process. It corrupts the democratic process. Despite ''A New Direction for America,'' despite a specific promise not to do this, we have a process that not only allows no Republican amendments, no substitutes, it does not allow even a vote on final passage of this entire bill. There will be no vote on final passage. There will be a vote on each of the three amendments that go to make up this package, but as the resolution clearly says, it is sort of self-executing, a motion that the House concur in the Senate amendment to the title, the so-called renewable energy bill, shall be considered as adopted. There won't even be a vote on that. Now that is pretty innovative. That is pretty unusual.

But above all, as strange and as contorted and convoluted as this is, it is a corruption of the democratic process. It is a corruption of our democratic system, and it is a sad day for this House.

It is not the Members of this House who are being denied the full amendment process, it is Americans, those Americans we on this side of the aisle represent. They, as are we, are being shut out of the process.

Now, Mr. Speaker, if we had been allowed, and we were not allowed to offer a substitute, if we had been allowed to offer an amendment, one of our first substitutes would have contained some of the things that the Democratic alternative has. It is a Democrat alternative, but there is no alternative, nor was one allowed, so I am not sure that we ought to use the word ''alternative.'' Alternative without an alternative is maybe what we should call it.

But it has FHA reform in it. When we said we would have liked to have offered a stand-alone amendment or offered legislation to do that, the chairman says that has already passed the House. Certainly it has; so did the renewable energy bill. But it didn't pass the Senate. We would like, because there is agreement in this House, and we could have agreed today and almost unanimously passed a FHA reform bill which all Members of this body say will go a long ways toward solving the problems of Americans stressed by lowering housing prices and their mortgage obligations. We could have done that. But in the Senate there has been no movement. We won't do that today because if we start taking those concrete steps, it will diminish the majority's opportunity to take what is a bad situation and adopt and create a tremendously expensive new omnibus housing bill.

GSE reform, we would have liked to have seen that joined with FHA. It is in this bill, and it is offered kind of as a candy or a carrot: take the GSE reform which you want, take the FHA reform which you want and we have all passed, and in doing that, you will have to take a new $300 billion housing program. At a time when we are running a deficit, that makes no sense to most Americans, most of us on this side of the aisle. Most of all what I do oppose is our inability to strike from the overall package this new $300 billion government subsidy that I believe is fundamentally unfair and likely to do more harm than good.

Mr. Speaker, let me explain, and in doing so I do not want to minimize the seriousness of the distress many of our citizens are experiencing. When we talk about distress, we sometimes focus on those who are behind on their mortgage payments. But, Mr. Speaker, let me assure you there are millions of other Americans who are making their mortgage payments; but, nonetheless, they are under an equal stress or a great stress themselves.

Last night the gentleman from Vermont said what we want to do with this bill is we want to spread the pain from those million or 2 million Americans who are behind on their mortgage, we want to spread that pain to all Americans. We want to spread that pain to those 34 million Americans who are renting their homes. We want them to take part of that yoke upon them. We want those who are making their mortgage payments on time, we want them to adopt some of this liability and assume some of this liability. We want those 25 million American families who have paid off their mortgages, many of them elderly citizens, we want them to assume some of this pain. We want them as taxpayers to assume some of these liabilities.

In other words, 110 million American families who are making their mortgage payments on time, who are renting or who have paid off their mortgages, they are being drug into this process and are being made liable and are on the hook now for these bad loans. They have been reading about it, and now they are going to be responsible for them. Now they are going to have to start paying. And the vast majority of Americans who find themselves struggling with mortgage payments, struggling with high gas prices, struggling with high food prices, are now going to assume responsibility for ill-advised financial decisions and misjudgments of other people. Good and decent people who have absolutely done nothing wrong, don't have a bad mortgage, don't have a problem with their mortgage, are going to be trapped in this dragnet.

Now is it necessary to involve the 110 million American families that aren't behind on their mortgages? I say, no. No. In fact, the Federal Government has already extended almost a trillion dollars in guarantees of liquidity. They have brought onto their books, the Federal Reserve, almost a half a trillion dollars worth of these questionable loans and questionable securities backing these loans. And the American people could be on a hook for that.

That is why my companion on the Financial Services Committee and 17 of

us on the Republican side wrote the chairman and said we need to take a close look. We need to urgently look at the Federal Government extending its guarantees and assuming securities and investments that maybe have no market value, just to pump liquidity into the market.

Now what we have agreed to in the past and we continue to agree with and we would have liked to have said let's go further with this, is the Hope Now program. The 1.4 million Americans, those who come closest to making their mortgage payments, they are behind or in default but they were close, and they had an ability to, with adjustments to their mortgage agreements, could make those payments, 1.4 million American families have been helped by Hope Now. And we think that more will be helped.

The FHA Secure program, almost 180,000 families have been helped by that program, at some Federal expense.

Before we create a massive new government program and put billions of additional taxpayer dollars at risk, we need to think long and hard about asking other Americans to assume this burden.

Lenders and securitizers wanted no part of government regulation or interference when house prices were soaring, and they made extraordinary profits. Speculators made millions of dollars. Lenders made millions of dollars. Investors on Wall Street bought high-risk SIVs, securitized investment vehicles, and they made millions of dollars. Sometimes we read where the heads of those hedge funds, private equity funds, and investment banks were paid a billion dollars in profits. They all made a lot of money. But now that the loans that they eagerly made are going bad, this bill offers a mechanism to off-load their problem loans onto the American taxpayers. That is unfair. It is wrong.

Because participation in the plan is voluntary, no investor will part with a mortgage if they think it has a reasonable chance of performing. The incentives are designed to ensure that the taxpayer loses. Investors will place the worst mortgages they have into the program. In fact, that is exactly what they are going to do. They are going to off-load the worst of their loans. If there is any chance of people paying, they won't put these loans into this pool. They will take those loans where people are way behind or have no ability to pay and they will put them into a program that will be financed by FHA-guaranteed loans. We all know when those loans go bad, who pays. It is not the lenders, it is not the borrowers, it is not the investors, it is not the speculators, it is the people we all represent.

Given the substantial risk these loans present, no lender would refinance them without the FHA guarantee. That is what was said on the floor. They are not going to refinance these with a Federal Government guarantee. There is a reason for that. They anticipate a default.

The result is the taxpayers of this country, 110 million American families that acted responsibly during the run-up in housing prices will be left to bear the cost of cleaning up after irresponsible lenders, investors and speculators. That's just not fair.

For all of those reasons, Mr. Speaker, I oppose this housing package and I express my disappointment that the Republican Party, the minority, that many representatives here were shut out of the process, denied any opportunity to address the bill's many deficiencies through the amendment process or through the motion to recommit.

Mr. FRANK of Massachusetts. Mr. Speaker, before I yield to the gentlewoman from Florida for 3 minutes, I would like to note the use of the figure $300 billion is not a hopeful sign about a rational debate. Three hundred billion is the total value of the mortgages that could be insured. It would cost $300 billion only if nobody made any payments ever, and when the property was taken by the Federal Government, none of it had any value. CBO gave us a score of $2.4 billion. So we can debate this, but I would hope we can debate it with real numbers. The CBO score for the mortgage part is $2.4 billion. Everybody knows that $300 billion is not remotely what is at risk.

I yield now 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. I thank the gentleman for yielding, and I thank him for clarifying the true potential cost of this bill.

Mr. Speaker, today we have to face the fact that many Americans are in a very tough financial position. If I have learned anything over the past year, it is how intricate our financial and economic markets are woven.

As members of the Financial Services Committee, we have been presented and have debated dozens of proposals and ideas to combat this housing crisis before us. Many of them were sound, good ideas worth pursuing.

In the months leading up to today, going around my district I came to several conclusions, but one is that Congress cannot accept the status quo. I have been patient. I believe in the market working itself out, but that just doesn't seem to be happening. At a time when our dollar is devalued, not only is the price of petroleum products, the gas everyone fills up with over $1.70 more than it was a year ago, we also have very high food prices. People are finding it hard to make those payments.

And the beauty of this, it has to be a homeowner who is being helped out, not a speculator, not a flipper.

While Chairman FRANK's proposal isn't perfect, I do think it is one that Members should take a very close look at and compare it to what is happening in their districts. It is a voluntary, participatory program. No one is forced to play.

□ 1345

This is not the silver bullet, by any means. Homeowners, lenders and investors will make sacrifices under this.

But I'm also concerned about hearing from constituents who try to work with their lenders, but their lenders won't call them back. I'm tired of driving through the Fifth Congressional District and seeing many houses vacant because of foreclosure. No one wins when a house in the neighborhood is foreclosed, absolutely no one, because it brings down the value of those properties.

No, Mr. Chairman, we cannot stick with the status quo. That's sticking our policy-making heads in the sand. By providing lenders an incentive to write down mortgages, modernizing FHA, improving GSE oversight and including tax incentives, I believe we can help Americans get back into the market and help the housing market to survive.

The bill isn't perfect, and certainly, neither was the process that this bill comes to the floor. And I'm sure that Chairman FRANK agrees that the process is murky, at best. But I do believe that what we have before us will provide relief to Americans, and I urge Members to support it.

Mr. NEUGEBAUER. Mr. Speaker, the distinguished ranking member of the Financial Services Committee mentioned that this is a shell. Maybe it's a shell game. I'm not sure. But for energy bill being the underlying bill, I think the American people wish we were on the floor today discussing an energy future for America.

It's now my distinct pleasure to yield 5 minutes to the distinguished ranking member of the Housing Subcommittee, Mrs. BIGGERT from Illinois.

Mrs. BIGGERT. I would say that all I can find in the Congressional Budget Office cost estimate is that it's $2.7 billion and not $2.4 billion over 2008 to 2013, as far as the CBO estimate that Chairman FRANK was talking about.

You know, Congress has yet to submit a single bill to the President that might begin to address this crisis in the housing market, and here we are again debating controversial new housing legislation, instead of passing common-sense housing reform that could start helping homeowners.

And I feel like I woke up one morning, we just had a markup on the Housing bill, and suddenly, I couldn't even find the number of it, H.R. 3221, and it suddenly was a different bill with a lot of different provisions in it. Some were the same and some weren't. I have to say this reminds me of the SCHIP bill that we debated, which kind of came over here the same way from the Senate. I don't think it's going to be the same result, but I just can't understand that process.

And I do appreciate Chairman FRANK's inclusion of FHA and GSE reform, as well as the funding for housing

counseling and mortgage fraud in the bill that we're considering today. But these are much needed reforms that could increase the liquidity in the housing market and provide consumers with an alternative to the bad subprime loans, and help to restore consumer confidence, which is so important.

But attaching these things to a taxpayer-funded bailout will not get them any closer to the President's desk. And make no mistake. This is a bailout. It would place U.S. taxpayers on the hook for the $300 billion guarantee, but that includes the riskiest mortgage debt on the market. And it does this by allowing speculators, borrowers who have overstated assets, who have cheated and knew that they couldn't make the payments, and those who invested irresponsibly, to pawn off their financial liabilities on U.S. taxpayers. This is a liability.

And instead of serving distressed homeowners, the bill requires that the lenders, not the homeowners, to make the decision to place the mortgage in the program. Since the lenders are the ones that would like to get rid of their bad loans and put those on the, be guaranteed by the Federal Government, the taxpayers, the taxpayers will be bailing out the banks, the investors on their most unwise lending decisions.

Even more disturbing is that the bailout is partially funded on the backs of seniors through changes to FHA reverse mortgage program.

Mr. Speaker, we shouldn't be asking American taxpayers to pay for the mistakes of those who over estimated their income on mortgage applications, or scam artists that inflated appraisals and flipped properties. Nor should they pay for homeowners who chose to live beyond their means, using inflated home equity loans to buy a new plasma TV, a swimming pool or a fancy car. It is not fair to those who saved and invested responsibly.

The majority of Americans are working hard to make ends meet. Ninety-three percent of our mortgage holders are making their payments on time. Fifty-one out of 55 million Americans with a mortgage are making their mortgage payments on time.

Twenty-five million Americans own their own homes and have no mortgage. Thirty-four million Americans are prudently renting because they aren't ready to own a home. These hardworking Americans should not be forced to foot the bill for the bad decisions of a few who gambled that their home values would never stop rising. They don't think that's fair, and I don't think so either.

I understand that many of my colleagues are looking at the economic effects of the housing bubble and saying to themselves, ''We must act, we must do something. ''But we shouldn't do something if it's not right. Congress can help struggling borrowers and promote economic growth without burdening the taxpayers with inappropriate spending.

And that's why I join with Financial Services Ranking Member BACHUS to offer an alternative plan that helps homeowners in a responsible way. It does include the FHA reform. This could solve this problem right away. Our substitute funds housing for counseling, other reforms to GSEs that's so important, without a so-called trust fund or slush fund.

And there's nothing in the Democrat alternative that would prevent a similar housing crisis like this in the future. Though improved, disclosure lender registration higher price is standard.

The SPEAKER pro tempore. The time of the gentlewoman from Illinois has expired.

Mr. NEUGEBAUER. I yield the gentlewoman an additional minute.

Mrs. BIGGERT. Our Republican alternative would do more than put an expensive Band-Aid on the housing market. It begins to address the underlying causes of the subprime mess. It will ensure that borrowers have access to legitimate loans; that they understand the terms of their loan, and that they are taking a loan that they can afford based on the actual value of the house.

We need to bring transparency and integrity to the homebuying process, and we need to expand access to credit for worthy borrowers who genuinely want to pay off their loans, but we need to do it without wasting taxpayers' dollars.

I think we have an alternative bill that would solve these problems. And many were supported by both Republicans and Democrats. It's a commonsense plan that doesn't spend money and, in fact, has been scored by CBO to actually reduce the deficit by $25 million. Coupled with Mr. TERRY's tax credit for owner-occupied homebuyers, it will jump-start the flailing housing market and get our economy back on track.

That's why I urge my colleagues to vote against the bill before us today and consider the alternative, if we had the opportunity to have an alternative.

Mr. FRANK of Massachusetts. I yield myself first 45 seconds to say that on the scoring, $2.4 billion was the CBO score for the mortgage part. They did say a total of $2.7 billion. The other $300 million is attributable to an amendment offered by the gentlewoman from Illinois on mortgage. So the gentlewoman from Illinois is correct. It is $2.7 billion. That includes the $300 million she added to the bill with her amendment, and the $2.4 million in mortgages.

Mrs. BIGGERT. Will the gentleman yield? I thank you for putting that $300 million.

Mr. FRANK of Massachusetts. Yes, the gentlewoman is correct.

Now I would yield to the gentleman from Ohio for a unanimous consent request.

REQUEST FOR PERMISSION TO MODIFY AMENDMENT NO. 3

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that the amendment that I have offered with Mr. MILLER of North Carolina be modified and amended, and I will describe that—but then I know the Clerk has to report it—just by adding 2 words, on line 7, after the word ''foreclosure'' adding the word ''process,'' and on the next line, after the words ''foreclosed property,'' add the word ''maintenance.''

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment No. 3 printed in House Report 110–622:

Insert ''process'' after ''foreclosure'' and strike ''treatment'' and insert ''maintenance''.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. PRICE of Georgia. Mr. Speaker, reserving the right to object, I appreciate my colleague on the committee for attempting to clarify an issue which is, I think, significantly problematic.

The issue of defining foreclosure time, and length, the particulars have always been the purview of the States. And I know that this amendment is an attempt to try to clarify that. In fact, I think it confounds it, and my concern about the unanimous consent request is that it doesn't make it clear still. So I have significant concerns about the amendment.

I'm happy to yield to my friend from Ohio for any clarification that he might offer.

Mr. LATOURETTE. If the gentleman would yield to me on his reservation, I would make this observation to the gentleman and to the House. This amendment that Mr. MILLER and I crafted, obviously, one of the things that vexes, and it doesn't matter whether it's financial services or anything else, one of the things that continues to vex and cause tension between the Federal Government and the States is this whole issue of preemption.

So when Mr. MILLER came to me with the original amendment, we began to hear some concerns. And quite frankly, the concerns were are you opening the door to a Maryland-type situation, where they can pass a State law that says that nobody can foreclose on property for 5 years, 10 years, 15 years. And clearly, although I happen to think that that kind of abrogation of property rights is an unconstitutional exercise of legislative authority, I understood the concerns.

And so I will tell the gentleman on his reservation that we sought the advice of the OCC and the OTS and received a list of things that are already preempted. And as I think the gentleman has accurately stated, the manner, the process in which foreclosures have happened have always been the purview of the States. And then the boarding up of properties or the maintenance of properties that are foreclosed.

And so it is my attempt through this unanimous consent request, I think, from all Members, and I think Members on both sides of the aisle have some concerns about this. This wasn't limited to Republican Members. There were some Democratic members that had concerns as well. The OCC has indicated to us that this answers that concern. It doesn't deprive them of their authority under the National Bank Act. Some of the banking institutions that were originally concerned about the amendment have indicated the that this is language that they can live with.

And just as a Republican Member of the House, I would say to the gentleman from Georgia, under his reservation, that this is typically the point in our debates where our distinguished chairman of the Financial Services Committee skewers us as Republicans for being for States' rights on some days and being against States' rights on other days. It was my goal to make sure that States' rights were preserved on those things that they've always had the opportunity to regulate, and not impinge upon those, but also recognizing that not all the best ideas in terms of how to proceed on process or maintenance necessarily emanate from this Chamber.

I thank the gentleman for yielding on his reservation.

Mr. PRICE of Georgia. Reclaiming my time, I appreciate those comments and I would agree. I think that all of us, many of us in the House, many certainly on this side of the aisle, want to retain the States' prerogative in the area of foreclosure. And I would suggest to the gentleman that his comment about that, and the discussion that's gone on on the unanimous consent request and the language therein, is something that ''they can live with.''

And I would suggest, Mr. Speaker, that this probably should have been dealt with in committee, and it might have been able to be clarified to a much greater degree. My concern remains.

Mr. FRANK of Massachusetts. Mr. Speaker, I don't know what the parliamentary status is. Has the gentleman objected or not?

The SPEAKER pro tempore. Does the gentleman from Georgia continue to object?

Mr. PRICE of Georgia. Yes, unless anybody else would like time on my reservation, I will object.

The SPEAKER pro tempore. Objection is heard.

□ 1400

Mr. FRANK of Massachusetts. Mr. Speaker, I regret that, but sometimes people would rather see things not improved so they can then complain that they weren't improved. Fortunately in this case, we are not constrained.

The gentleman from North Carolina and the gentleman from Ohio said it had not come to our attention fully until after the committee markup. What happened was that they came forward with this amendment, and we heard some concerns from the Comptroller of the Currency, as the gentleman from Ohio has said, and from bankers.

We then talked to the gentleman from Ohio and the gentleman from North Carolina (Mr. MILLER), talked to the American Bankers Association, the Community Bankers Association, the Mortgage Bankers, the OCC, various of the advocacy groups, the State Attorneys General, the National Council of State Legislators, and they came to an agreement that adding these words would make this something that would work.

Now, the obvious thing in a constructive way would have been with the agreement of all of the stakeholders and the conversations among Members on both sides to be incorporated into the bill. But constructive isn't always the order of the day.

So let me make this announcement which I have also, in anticipation that there might be such an objection, although I had spoken to the ranking member and he told me he thought we should go forward. It was my understanding the gentleman from Ohio had talked to the leadership on the Republican side. They thought it should go forward. So here is where we are. We will vote on the Miller-LaTourette amendment. I will guarantee to the Members that when this goes forward in any discussions we have with the Senate, we will accept this language, the Miller-LaTourette language, or if someone comes up with a better idea, any other language that would be mutually agreed upon by the gentleman from Ohio and the gentleman from North Carolina, the two bipartisan sponsors.

So while we don't get the unanimous consent agreement, because some people would rather there not be a resolution over an objection, let me announce what may be a first, and I'm not always the most technologically updated person; I don't have a lot of the devices, but I do want to maybe be the pioneer of the virtual unanimous consent agreement. In good faith the gentleman from North Carolina and the gentleman from Ohio want to amend this, they were denied unanimous consent, but I am prepared to act as if the body, and I have no question that it would have been adopted had we had a chance to vote on it, that it be incorporated. And as we go forward, we can guarantee Members that this language, if this bill is included, this will be included; and I can report that all of the stakeholders, the community advocacy groups, the banks, and the public officials at the State and local level believe that with the language that was worked out by the gentleman from Ohio and the gentleman from North Carolina with the Comptroller of the Currency, it will be fine.

So I wish we had got unanimous consent, but I want to assure Members that in this process going forward, our failure to get real unanimous consent, as opposed to virtual unanimous consent, will make no difference whatsoever.

On this point, let me yield 3 minutes to the gentleman from North Carolina to complete this conversation.

Mr. MILLER of North Carolina. Mr. Speaker, I want to add my assurance to that of Mr. FRANK, as if anyone would need that, but I think that this clarification really does not change the intent of the statute. On its face, going from foreclosure to foreclosure process is redundant. Foreclosure is a process. It is a legal procedure. It is a legal procedure by which real property given as security for the payment of a debt is seized and sold to pay the debt. It is a legal procedure. It is all process. So saying ''foreclosure process'' appears, on its face, to be redundant.

However, the concern has been that States would add to the same section of their State ordinances, their State statutes, other provisions that have nothing to do with foreclosure procedures, that have to do something to make other provisions; and yet there would be the argument that all of those now are exempt, immune from any argument of preemption. That is certainly not what we intend, and I lend my assurance to that of Mr. FRANK that I will work to make sure that the language that Mr. LATOURETTE just presented be the language in the final bill.

Mr. NEUGEBAUER. Mr. Speaker, at this time it is my pleasure to yield 3 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I thank my friend from Texas, and I would say that people in my district, there are some people who are hurting right about now as there are around the country. There are some people, indeed, who are homeowners in very bad shape. Some, for example, were duped or lied to by people that loaned them money. Some, a few, have lost their jobs. Some bought homes at the high of the housing market, say $150,000, now to find that their house is more like $120,000 or $100,000. And we all feel very sympathetic for those people.

But I don't feel too terribly bad for speculators that went in search of ways to get higher returns and take higher risks as an exchange, and that's who is getting bailed out today. I also don't have complete sympathy when it comes to using taxpayer money to reimburse people that, for example, put zero money down. They didn't buy that home. They bought an option to buy the home. People that bought into a 3-percent teaser rate knowing that if the interest rate went to 7 percent, they would never be able to stay in that home. People that used no documentation to demonstrate that they ever had the chance to repay. They moved into a home with an option to continue buying it. They didn't make the type of commitment that most homeowners do

to put 10 or 20 or 30 percent down and to make sure that they have a mortgage and a loan that they can pay under virtually any circumstance except for a disaster.

Who does this bill help? Well, The Wall Street Journal made it very clear who this bill helps. This bill is a bailout from American taxpayers of speculators and imprudent borrowers. Less than 1 percent of borrowers whose homes, under this bill, would be eligible when all is said and done to be helped.

I come today to speak on behalf of the forgotten man. And that includes some 50 percent of Americans that either own their home or are renting. Every one of them watching today needs to know that they are bailing out irresponsible speculators and lenders and they will pay the price of this bill. I come here to speak for the 90-plus, 95 percent of homeowners that are making their payments on time, that took out responsible loans. They need to know that they are bailing out irresponsible speculators and people that went in search of higher profits.

Investors who take advantage of this program are basically getting a guaranteed gift from the government: 85 percent of a loan that they know is not likely to perform. We are bailing out people that will cherry-pick the very worst loans in their portfolio.

Who is here speaking on behalf of the forgotten man? Who is here speaking on behalf of 99 percent of Americans that did not behave irresponsibly, that did not behave foolishly, that ultimately will pay the price for this bill? Well, some of us in the minority are here speaking on behalf of the forgotten man, which is 99 percent of America.

And I would leave you with this: Chairman FRANK and the CBO and others can estimate how much this bill will cost these forgotten men and women, 99 percent of Americans who were not irresponsible who will pay the price. The answer is we don't know. We don't have a crystal ball. If property prices around the country take off by another 50 percent and go up, there will be no cost. If they go down by 30 percent, the cost will be closer to $3 billion.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to Mr. KAGEN of Wisconsin.

Mr. KAGEN. Mr. Speaker, I rise in strong support of the Foreclosure Prevention Act on which would address today's crisis in the housing market and help many American families work out their financing to avoid foreclosure, although it comes a little bit too late for the gentleman I talked to in Green Bay an hour ago who will be losing his home.

As we are all aware, foreclosure rates have risen, Housing prices are declining, and too many families nationwide, including many veterans who served us with bravery, honor, and courage in Iraq and Afghanistan are overwhelmed with their monthly mortgage payments, many having fallen into the trap, the adjustable-rate mortgage trap.

For these reasons, I commend Chairman FRANK for graciously including a provision I offered that would provide funding in fiscal years 2008 and 2009 for grants to be administered to the Neighborhood Reinvestment Corporation for mortgage foreclosure and credit counseling for veterans recently returning from active duty. The mounting mortgage delinquencies and defaults pose a serious economic threat to our economy, to say nothing of what it does to affected families and their communities.

Preventing foreclosures for our veterans will benefit all communities, and more importantly, by providing additional counseling, resources to veterans, it will enhance their ability to make sound financial decisions during these challenging times. Our soldiers need our help now, and toward that end, I'm pleased that the Foreclosure Prevention Act would also assist returning soldiers to avoid foreclosure by lengthening the time a lender must wait before starting the foreclosure process from 3 months to 1 year following a soldier's return from military service.

This act is not a handout. It is a hand up. And I urge my colleagues to support passage of this very important legislation.

Mr. NEUGEBAUER. Mr. Speaker, at this time it is my pleasure to yield 5 minutes to my colleague and friend from the great State of Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding.

I first come here somewhat amused at the lecture that some of us received from the majority leader last evening on abuse of process. I hear many of my colleagues on the other side of the aisle say that we have a housing crisis and that this is one of the single most important bills to come to this floor in this Congress. And yet here we are, as the minority, not being allowed any amendments, not being allowed a substitute, not being allowed a motion to recommit, not even being allowed to have an up-or-down vote on the bill. And we're accused of an abusive process?

But enough of that.

Let's look at the substance of this. There is a great challenge in our housing markets. There is no doubt about it. And there are innocent people who have suffered, and they deserve to be helped. But this is the wrong plan.

What we need to do, Mr. Speaker, is, number one, we have to have better disclosure so that people understand the economic obligations they're undertaking. We need to enforce the laws that we have on the books. Mortgage fraud has been rampant on both the borrowers' side and on the lenders' side.

We need to prevent the automatic tax increase that has been included in the majority's budget that's going to impose a $3,000-a-year on the average American family tax increase phased in over the next 3 years. We need to do something about the skyrocketing cost of gasoline and food that has occurred on the watch of the majority. They've been in charge of the economic policies of this country for almost 18 months.

The shrinking American paycheck is our challenge. A huge bailout of Wall Street and borrowers, some who may be innocent victims and some who may be guilty, is not the answer, and using taxpayers' money to do it is simply an insult.

Number one, we ought to have the facts before we actually take on a major piece of legislation. The American people need to know. Over half of America rents their homes or owns their home outright. Of those who have an active mortgage, 95 percent are making their mortgage payments on time. You have roughly 2 percent who are in foreclosure. So now we're being asked essentially for 98 percent of America to bail out 2 percent of America.

Now listen. On the investors' side, these are a big bunch of boys and girls on Wall Street who made decisions about what they should invest in. We know from the Financial Crimes Enforcement Network that mortgage fraud has been rampant: 1,400 percent increase over the last 6 years; 42 percent increase last year alone, with the majority of the fraud being borrowers who lied about their income, about their assets, about their occupancy; and yet we have a bill to help them out.

Let's hear from some of the people who are being called upon to do the bailout. I often ask people who reside in the Fifth Congressional District of Texas that I have the honor of representing what they think about legislation coming to the House floor. And I hear from people like the Sadler family in Mesquite, Texas, and they write:

''Congressman, 3 years ago my husband and I faced the loss of our home due to a decrease in the sales income. We cut our expenses as much as possible, but it was simply no longer affordable. We made the decision to put the home on the market before we faced foreclosure.

''I am adamantly opposed to my tax dollars going toward bailing anyone out of a mortgage crisis. If we didn't have to give up so much of our income to the government for taxes, we could have continued to afford our home.''

And what is the answer of the Democrat majority? Well, to the Sadler family in Mesquite, we're going to increase your taxes an extra $3,000 a year.

Mr. Speaker, I heard from Sergeant First Class Kenneth Adams of Frankston, Texas. He writes:

''Congressman, the mortgage crisis Congress is trying to fix is an insult. My house went unpainted until I could return from serving in Iraq. I'm a Sergeant First Class in the United States

Army with over 20 years active and reserve service. Some day I would like to use my VA house-buying benefits, but what a fool I was to earn those type of benefits when all I had to do was be irresponsible, overspend, and have the government bail me out.''

□ 1415

That's the answer that the Democrat majority brings to the floor, and it is an insult to 98 percent of Americans who did it right.

Mr. Speaker, we should reject this legislation.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, in 2007, Texas ranked fourth behind California, Florida and Illinois in pre-foreclosures. We're reminded of Franklin Delano Roosevelt who said we have nothing to fear but fear itself. We certainly have to face fear and to be able to respond to this collapse in mortgages and our economic markets, by resolve and not fear.

And so this is not a bailout. It's a helping hand. It's what Franklin Delano Roosevelt did to restore this country, and it worked. We survived.

And so this tells us that we can survive, providing $10 billion in low-income tax credits for low-income homeowners and to also build rental properties. We also give a $7,500 tax credit for first time home buyers and a $700 tax credit for those who are paying property taxes.

And it does fix the GSEs. It does provide an opportunity to get us out of this mortgage foreclosure hold, but it does it in the right way. It's not scandalous. It's not illegal. It allows us to be able to have the mortgage owner sell it back to FHA at a lower price; the lower mortgage is then backed by FHA, and it isn't a gimmick. It's not a flipover. Any profit made by the homeowner comes back to the government if the property is later sold.

And we protect our disabled veterans, those who have fallen upon hard times. They can still be in the program even if they are in bankruptcy.

Mr. Speaker, this bill responds to the homeless and the helpless. What it does say is those who are living from hand-to-hand, who are living in their parents' homes, who have been thrown out of their home, who have been thrown out because they're in rental property, this is a fix and the life and the spirit of what America is all about.

We don't believe in giving a fish. We believe in giving a fishing rod. This is an even-handed, balanced way between the House and the Senate to provide tax relief but also to be able to provide the construct and the infrastructure to get our houses back together, along with our stabilization bill that says we're going to buy back foreclosed homes and give them to people who need them.

Is there anything wrong with America rising to be higher angels and helping our fellow brothers and sisters?

Mr. Speaker, I rise in support of H.R. 3221, the ''American Housing Rescue and Foreclosure Prevention Act of 2008''. This momentous legislation would jump-start the market for mortgages by establishing a true market value for the securities backed by these loans.

H.R. 3221 responds directly to the current housing crisis facing this country, while providing the tools to prevent a repeat of these problems.

This is preeminently the time to speak the truth, the whole truth, frankly and boldly. Nor need we shrink from honestly facing conditions in our country today. This great Nation will endure as it has endured, will revive and will prosper. As President Franklin Delano Roosevelt stated in 1933, ''the only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance.'' We must do just that. We must move forward and that is exactly what H.R. 3221 seeks to do.

This legislation will begin to repair, not bail out the economy, restoring confidence in the markets, limiting the damage to families and neighborhoods, and rejuvenating the communities with new affordable housing. Ironically, we celebrate the bailouts of yesteryear, when we believed that the power of the federal government was needed to get the country out of the Depression.

Were the banking reform laws, emergency relief programs, work relief programs, and agricultural programs, the Social Security Act, and programs to aid tenant farmers and migrant workers—were these bailouts? Many of the New Deal programs under President Roosevelt were considered bailouts at that time. And yet, these programs brought our country out of the Depression, rejuvenated our economy, and gave hope as we sought to deal with the War overseas.

TEXAS

In 2007, Texas ranked fourth behind California, Florida, and Illinois in pre-foreclosures. Last year, Texas held the top seat for active foreclosures.

H.R. 3221 helps homeowners and only homeowners, not speculators or lenders. We cannot continue to stand by as things get worse. Texas reported 13,829 properties entering some stage of foreclosure in April, a 16% increase from the previous month and the most foreclosure filings reported by any state. The state documented the Nation's third highest state combined foreclosure rate—one foreclosure filing for every 582 households.

Many homeowners in my district are worried about missing their next house payment or their next home equity mortgage, or their interest rate going up. These families are under stress and in constant fear of losing their homes.

While this bill should not be the last word in housing legislation, it is a great beginning. This bill coupled with H.R. 5818, the Neighborhood Stabilization Act, provides a good starting point in providing Americans with relief.

TEXAS AND WHAT HUD IS DOING

In March, the Department of Housing and Urban Development (HUD), announced the Texas State Program and the cities of Houston and New Braunfels will receive a total of $234,868,077 to support community development and produce more affordable housing. HUD's annual funding will also provide down-payment assistance to first-time home buyers; assist individuals and families who might otherwise be living on the streets; and offer real housing solutions for individuals with HIV/AIDS.

While HUD is working to help Americans, we must all do our part.

We need to pass H.R. 3221, and we need to continue to push in a bipartisan manner, legislation that will ease gas and energy costs, the rising costs of food, and the ever-rising cost of health care.

We are spending billions of dollars on the war in Iraq. I support our troops but I am dismayed at how our support for a war that needs to become less military and more diplomatic in nature, has disrupted our ability to take care of things at home.

CONCLUSION

Thank you Mr. Speaker for your leadership in this area, I urge my colleagues to support American families by supporting, H.R. 3221. I yield back the balance of my time.

Mr. FEENEY. Mr. Speaker, I move I be able to claim Mr. NEUGEBAUER's time in his temporary absence.

The SPEAKER pro tempore (Mr. ROSS). The gentleman is recognized.

Mr. FEENEY. Mr. Speaker, I yield 6 minutes to a champion of the working family, Mr. GARRETT from New Jersey.

Mr. GARRETT of New Jersey. I thank the gentleman.

I rise today to voice my opposition to the underlying bill, as well as the underlying unfairness that's contained in it. But before I speak about Title I, which does contain the opportunity to use taxpayers' dollars to insure up to $300 billion worth of new mortgages to bail out the Nation's banking industry and homeowners, those who made irresponsible decisions, I want to briefly discuss other parts of the bill.

The chairman has been routinely criticizing the administration for failing to do anything, he says, to address the current housing problems facing the Nation, but you know, this administration has been calling for the last couple of years for FHA reform and new regulations for the GSEs. However, the new Democrat majority in the House and the Senate has been unable to pass these important measures.

You know, when you think about it, who knows how many people we could have already helped to stay in their homes and keep out of foreclosure if the Democrat leadership would have only forged an agreement already and passed those previous bills.

It is unfortunate that due to the refusal of the distinguished chairman and others in the majority to temporarily forego some of their pet projects, such as the housing slush fund for ACORN and La Raza and others, that these two important reforms have been held up now for the last year-and-a-half.

And now, with this new housing omnibus bill before us, the chairman has once again refused to compromise, I say, in good faith with the administration or the minority side and has included such pet projects once again.

And as an indication of the majority's unwillingness to substantively compromise, the administration has issued a veto threat to this bill.

Over the last 6 months, the administration and HUD have been working on a program, the FHA Secure. It's to try to help American families who are in the right house but maybe not in the right mortgage to stay in the house. And this program has recently been expanded upon and has to date helped thousands of Americans to be able to stay in their homes.

But now our distinguished chairman and Democrat leadership are proposing a plan that is really financially risky. It rewards irresponsible behavior and it mandates a loosing of FHA underwriting standards, and this is important, that would put taxpayers on the hook.

So, when the chairman put together what I say is an ill-conceived plan, he noted originally that it would help up to 2 million homeowners. Well, unfortunately when CBO scored the bill, they determined it would only help 500,000, and that's the same amount they have oft criticized the administration plan is projected to help. So you'll excuse me if I find it a little hypocritical here that those who believe that the administration's plan isn't going to provide adequate help to struggling homeowners but that this new plan, which is forecasted to help the exact same number of people, is somehow the perfect cure-all.

Now, the bill before us for consideration goes much further than this. This bill actually pays people to stay in their houses. It would give every homeowner who was in trouble and participates in this program a 10 percent equity stake in their home. Normally, depending on the specifics of your loan, it could take you or I 3 or 4 years for a homeowner to make enough payments for you to get a 10 percent equity stake. Now under this bill, we're just going to give those people who are having trouble making their payments. You know, I know things are bad in the mortgage markets right now, but are things so bad that we actually have to pay people to stay in the houses?

Where is the fairness in that proposal? The distinguished chairman acknowledged during the committee consideration that maybe this bill isn't fair in that sense. What about the person who has been patiently sitting on the sidelines over the last several years, saving up, waiting for these unsustainable high housing prices to come down to reality, come down to earth? They've been paying their rent every month, building up no equity whatsoever. What about those people? We're now rewarding someone else who has undertaken an irresponsible loan and bought something, frankly, they just couldn't afford.

What about the person who took out a loan 3 years ago and he's been scraping by, struggling just to get enough money from every paycheck to paycheck to afford their mortgage and, I say, attain their 10 percent equity over 3 years? Now, again, with this bill, we're just giving that equity away to people who didn't save, didn't decide they would live within their means.

Some say the reason this provision is needed is that it will encourage people to stay in the houses. I believe, quite frankly, the possibility of being kicked out of your house is incentive enough to try to stay in your house. I don't have a problem with trying to help people, and this side of the aisle is trying to do it as well, to stay in their homes, but I do have a problem with facilitating arrangements in which they are given a 10 percent equity in their home with a mortgage that is insured by the Federal Government, and that means the American taxpayer.

Our distinguished chairman was quoted in the paper the other day, ''We have done as much as possible to respond responsibly with the public policy.''

However, the legislation before us completely disregards borrowers' payment histories and credit scores when considering eligibility for this program. Borrowers could have missed the majority of their monthly payments over the life of the loan, yet these borrowers would still be eligible for a government-backed mortgage—and taxpayers would be on the hook. An amendment was offered during the committee process to rectify this and it was soundly defeated by the Democrat majority party.

I have also heard a number of members on the other side of the aisle mention today their concerns about the Federal Reserve bailing out Bear Stearns to the tune of $29 billion. However, none of the members complaining or any democrats for that matter choose to sign onto any of three letters I and a number of my Republican colleagues sent to Chairman FRANK, Secretary Paulson, and Chairman Bernanke noting our strong concern.

For the last 17 months that the Democrat majority has been in charge, the Administration has been asking for a number of housing reforms from Congress, none of which have been delivered. Now, they want to say the Administration has idly sat by and watched as the housing turmoil has continued to increase, while it is actually the Democrat congress that has yet to pass significant housing reforms that could have provided the Administration with the much needed tools to begin easing us out of this housing downturn.

The Chairman states that this a grand compromise between the different groups involved in the discussion, but the only compromise I can see is the one between he and his party, the big banks who made unsound loans, and the special interests and trial lawyers that stand to benefit.

Mr. FRANK of Massachusetts. Mr. Speaker, first I wondered how I'd fill 2 hours, but I could do that just responding to the inaccuracies we've just heard. Let me pick a couple.

The gentleman from New Jersey said that the administration wanted FHA reform and GSE reform and this Congress wouldn't get it. Well, he misread the newspaper. Bryan Montgomery, the head of the FHA, was quoted yesterday as saying, if Congress had done what I wanted in 2006, this wouldn't have happened. It was the Republicans who were in power in 2006. It was under the Republicans that GSE reform and FHA reform were frustrated.

When we took power as the Democratic majority, last year this Financial Services Committee and this House passed both of those in forms very close to what the administration wanted. In fact, the holdup on the GSE, and I know the gentleman thinks the notion of building affordable rental housing with public help is, as he calls it, a slush fund, and I think it's that lack of sympathy for affordable housing that was one of the contributing factors to getting people into homes they couldn't have owned.

But the fact is that we sent the GSE bill over to the Senate last year with a very large majority in favor, and the Senate hasn't acted, partly because the ranking Republican on the Senate committee hasn't wanted to act. I know the administration has been trying to persuade him to act.

So the notion that the affordable housing trust fund, that's slush fund for the gentleman from New Jersey, housing for lower income people, for elderly people, for disabled people, that's slush fund, well, it was not that that held it up. It was the refusal apparently of the ranking member to act on it.

So this is an example of the inaccurate descriptions you're getting.

Mr. GARRETT of New Jersey. Would the gentleman yield?

Mr. FRANK of Massachusetts. I yield.

Mr. GARRETT of New Jersey. Just for one question. With regard to your initial comment with regard to the FHA reform and the GSE reform, my comment saying that it hasn't been done, isn't it true that we're 17 months into the year under Democrat leadership? Have those bills passed this House and have those bills made it to the President's desk?

Mr. FRANK of Massachusetts. No, but the gentleman very inaccurately blamed the Democrats. He forgot, Bryan Montgomery said in 2006, the Republicans did it.

I think one ought to be more accurate and less partisan in a description of reality. The fact is that those were defeated under the Republicans when he was on the committee. Then, the Democrats did pass them.

And as to the GSE bill, he said it was the slush fund. I really like that phrase, ''slush fund.'' That's affordable housing for people, for lower income people. He said that's what's holding up the GSE bill. That is not remotely true. The GSE bill was sent by us to the Senate. They haven't taken it up. By the way, the affordable housing trust fund was in the Senate committee version when the Republicans were in power under the current ranking member when he was chairman. So that is just inaccurate.

It is true they have been held up in the Senate as they were held up under the Republican leadership as well. We are closer to passing them. I am confident that they are going to get passed fairly soon. We did finally get to some conversation on the FHA.

My objection was that the gentleman acted as if the world was created in January of 2007 and the Democrats refused to pass the bill, neglecting to note that the head of the FHA himself put the blame much earlier when the Republicans were in power.

I now yield 3 minutes to the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Mr. Speaker, I wish to address specifically the amendment that Mr. LATOURETTE and I have offered.

Mr. Speaker, the worst of the foreclosure crisis is yet to come. Mr. FRANK just corrected incorrect factual assertions. Let me correct one as well.

Mr. FEENEY said a few minutes ago or gave the example of a 3 percent teaser rate. Mr. Speaker, the typical initial rate for the mortgages that are causing this problem was 8½ percent, which is already well above the conventional prime rate.

According to The Wall Street Journal, 55 percent of the people who got those loans qualified for prime loans. Their trust was betrayed. And the typical adjustment after just 2 or 3 years was a 30 to 50 percent higher monthly mortgage payment. Seventy percent had prepayment penalties so people couldn't get out and would have to pay when they got out, when they refinanced out of a loan they could not possibly afford and the lender never intended they would afford because they required they come back and refinance again.

It's not surprising that 3 million homeowners with subprime loans are expected to enter foreclosure proceedings in the next couple of years and 2 million of them will likely lose their homes. Another 40 million homeowners will see the value of their homes decline when other homes in their neighborhood are foreclosed, and they will lose $200 billion in their home property values.

Credit Suisse now estimates that there is another wave of foreclosures coming after this one as even more exotic, innovative mortgages go into default. Credit Suisse estimates that in the next 5 years 12.7 percent of homeowners with mortgages are expected to lose their homes to foreclosure.

Mr. Speaker, when those families lose their home to foreclosure most will fall out of the middle class and into poverty.

The policy failures that caused this problem, that led to this crisis, were in Washington, but State and local government are having to deal with the consequences.

Property rights, contracts and foreclosure proceedings are all matters of State law, not Federal law. The laws vary from State to State, but every State's foreclosure law includes protections for the borrowers whose homes are being seized and sold to pay the mortgage.

□ 1430

State laws have notice requirements. They provide reasonable time for the families who are losing their homes to find someplace else to live and to move; they limit the costs that they be charged to homeowners; they allow homeowners to cure defaults in some circumstances. Many States limit or prohibit deficiency judgments if the sale of the home is not enough to pay off the debt, and on and on. And several States, not surprisingly, are now considering additional laws to protect borrowers who are losing their homes to foreclosure.

Recently, there has been some suggestion, some hint in the press and elsewhere that if State and local governments start getting underfoot, if they start making a nuisance of themselves, the lending industry will argue that some of the especially annoying State laws, State foreclosure proceedings cannot be applied to mortgage holders or mortgage services that are affiliated with national banks or trusts.

There is no Federal foreclosure law, but they argue that State foreclosure proceedings could be preempted by Federal laws that govern national banks and trusts. This amendment clarifies that State laws and local ordinances on foreclosure and foreclosed properties are not preempted by Federal law.

Mr. NEUGEBAUER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I've spent nearly three decades in the housing business. And over those three decades the housing market has gone up and the housing market has had its soft moments, and one of the soft moments we're experiencing today. I liken it to the fact that the housing market has a cold. And when you go to the doctor and you talk to the doctor about a cold, what does he usually tell you? He says, you know, you're going to have to let it run its course. And quite honestly, over the years as these housing downturns have happened, that exactly what we've had to do is let these markets run their course. And what we do know is that when they run their course, that they come back a lot stronger.

We have just come off an unprecedented run in housing where the rise in home ownership has risen to record levels. And how did we do that? Well, we did it with the marketplace.

One of the things about this bill that bothers me is that we leave people with the understanding that if their house goes down, the government will come in and make up the difference. We can't do that. People buy stocks, people buy bonds, people buy other assets. They go up, they go down. But it's not the role of the Federal Government to create a profit opportunity for people.

One of the things that we know is that, as the ranking member, I think, pointed out, is that we have 110 million people that are already meeting their own housing needs. Some of them are having problems, yes, they are, and we're sorry about that. We know about 51 million people in America have mortgages. And a lot of those folks are taking second jobs and doing things to make sure that they meet their rental payments and meet their housing payments. And you look at the fact that 94, 95 percent of those people are making those payments, not only are they making them in full, but they're making them on time.

What we can't let the Federal Government be is the piggy bank when things don't go exactly the way we planned. I would like to go back over my 30 years in the real estate business and wish the Federal Government could have been my piggy bank when I bought property that didn't go in the right direction. Some of it went down, some of it went up. But what I do know is that it is important that the Federal Government not get into the business of trying to manipulate markets.

Markets are very efficient. In fact, they're a lot more powerful than the Federal Government. I know everybody here feels like they may be a powerful person and part of a powerful government, but quite honestly, these free markets are much more powerful than the Federal Government and they're much more efficient and they're much better able to deliver a housing market that the American people can sustain and count on.

And so that's one of the reasons that I rise in opposition to this bill today is, as I look across America—and I wish you could have been at a town hall meeting with me the other day where people weren't asking about mortgages, Mr. Speaker, they were asking when is this Congress going to finally do something about getting a comprehensive energy strategy for America? When are we going to open up the ability to drill in these other areas? And when are we going to be able to come up with more nuclear power plants?

Mr. Speaker, the American people don't want to make their neighbor's payment when they're having a hard time making their own.

Mr. FRANK of Massachusetts. I yield 3 minutes to a very hardworking member of the committee, the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. You know, I'm wondering whether the Republicans are looking at the same America I'm looking at, and that the American people are feeling. Between 7,000 and 8,000 American families file for foreclosure every day. While we were up here debating this bill the last day and today over 15,000 American families have filed for foreclosure. We have a crisis.

Now, I want to deal with three points here right quick in my 3 minutes. The

first one is this: I think it is wrong as wrong can be for the other side to continually blame this crisis on the backs of the American family.

Let me read here for a moment from this morning's Hill newspaper, and I hope that you all will read this as well, this article by J. Morton Davis of the Harvard Business School, an economist. He tells you what the cause of this is and who is to blame.

Because mortgage originators themselves were not taking any of the risk of holding this paper and were being well paid by providing mortgages to Wall Street banks that were packaging them, they became more aggressive, less demanding of the conditions traditionally required upon them. The mortgage brokers and bankers introduced a whole series of new criteria that made it easier to obtain a mortgage, they introduced nothing down, no equity mortgage, interest-only mortgage, no income, no job requirement as sufficient basis to receive the mortgage. That's why we're in the condition that we're in, not on the backs of the poor American family.

He goes on to say that ''the changes in lending practices actually transformed what were solid, safe, secure mortgage loans into instruments that were inferior even to the subprime mortgages. The cause of this can be traced to the simple fact that the providers of these mortgages did not end up holding the paper and thus were far less concerned about the quality of the loan.'' Because nobody bothered to look at or take issue with the enormously changed quality of these underlying mortgages, not the Federal Reserve, they didn't look at it, not the Securities and Exchange Commission, not the rating agencies, not even we here in Congress, who surely should have been more responsible and accountable, and not the many Wall Street banks that were coining the money, just as they did. The whole world is now suffering the pain, the outsized losses and the damage to its banking systems and economies.

Ladies and gentlemen of this Congress, it is not the American homeowner who is the cause of this, he is the victim, and it's our responsibility to provide the response for it.

Now, the other point I wanted to make is I have a copy in my hands here of the Congressional Budget Office coassessment. Let's put to bed once and for all, this is not $300 billion of the taxpayers' money. The taxpayers' money that's going to this, as clearly as put out in this estimate, is $1.7 billion just to run the program, another $300 million for administrative support, and the counseling of $400,000. And then Mrs. BIGGERT's own program for counseling of $300 million. That's $2.7 million of the taxpayers' money.

Let's do facts right. That's why we need to pass this bill, Mr. Speaker. Let us stop fooling around and give the American people some relief.

Mr. NEUGEBAUER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from South Carolina, a member of the House Financial Services Committee, Mr. BARRETT.

Mr. BARRETT of South Carolina. Mr. Speaker, I rise to oppose this bill, which I think is unhelpful for the housing market and unfair to the American taxpayer.

Like many of my colleagues, I'm concerned that this program will only distort housing prices, causing problems in the future by forcing the taxpayer to foot the bill.

I have no doubt that some of the lending practices in the beginning of the decade, Mr. Speaker, were irresponsible, and that the government should take certain steps to help the market right itself and to prevent these problems from recurring in the future. At the same time, I'm a firm believer in the power of the free market, and I believe that the housing market fundamentally reflects the laws of supply and demand.

I'm always wary of government intervention in the markets and concerned about unintended consequences. I fear that in our rush to help, we are overlooking the basic realities about today's housing market and about the cost of government spending.

I think we can all agree that government programs cost money, and this program has the potential to cost a tremendous amount of money. And that money comes from the taxpayer, Mr. Speaker. Because, in reality, like the laws of supply and demand, decisions have consequences, and money has to come from somewhere. It's not fair to ask my constituents from South Carolina, who work hard and spend wisely and pay, in my opinion, too much tax money, to carry the burden for others' financial mistakes.

While I believe that people in need deserve our understanding and our help, I trust in the ability of the free market to correct itself. And I think Americans know how best to spend their money and should be trusted to make their own financial decisions. I also think that lenders have a responsibility to live with the consequences of investments that did not quite turn out as planned.

Mr. Speaker, I offered an amendment in the Financial Services Committee that is representative of my concerns. The amendment was not adopted, and it was very simple. It was to strike the section of the bill that prohibits FHA from denying borrowers entry into the new FHA program solely on the basis of the mortgagor's current FICO or other credit scores, or any delinquency or default by the mortgagor. In South Carolina talk, Mr. Speaker, this amendment would have given the FHA the opportunity to use individual pieces of information on their own that reveal the risk of borrowers defaulting. In offering the amendment, I wanted to allow the FHA to protect the American taxpayer by giving them every tool available.

I understand the motivations of this section of the bill to try to include as many people as possible in the program meant to help them. And I understand it would be nice if we could help all of these borrowers, but some may have very bad credit scores that reflect irresponsible borrowing behavior. It's not fair to the American taxpayer to insure the loans of the riskiest borrowers who may not be able to pay their mortgages no matter what the terms of the loan.

Without a doubt, it's never easy to hear the stories of hardworking individuals and families losing their homes, but I do not believe that more government intervention is the solution to our problems. And we should not allow the American taxpayers to become the insurance policy for the financial decisions that did not turn out as planned or for temporary market downturns. We should not punish those hardworking and responsible American taxpayers for the mistakes of a few. For these reasons, and others, I oppose this legislation and ask my colleagues to do the same.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. GARY G. MILLER).

Mr. GARY G. MILLER of California. Mr. Speaker, I rise in support of this bill.

A lot of people are losing their home in this country. In fact, in California, 500 families or more lose their home every day. And that not only hurts them, but the neighbors around them. Because of foreclosure, their home value drops weekly.

I don't support government bailouts. I consider this bill we're dealing with here far from a government bailout. If you look at the situation people are in today, people are suffering from shrinking paychecks, other things go wrong in their life. But this loan is the most expensive FHA loan you will get.

Normally, a person can go to get an FHA loan, put 3 percent down, and the government will basically be guaranteeing 97 percent financing. Under this loan, the lender has to be willing to take 85 percent of current market value. Let me explain that so it makes it understandable to most people.

Let's say you bought a house for $580,000. The first trustee gets $5,000, but current market value is $400,000 for that house. The people are upside down, they can't make the payment, it is going into foreclosure. The lender has an opportunity to allow another lender to buy them out with an FHA loan guarantee, and they're willing to take $340,000 for a loan they have that the market today is $400,000, and the new loan against that house will be $360,000. Now, that sounds really good. And we say the person is going to make a lot of money, it's a bailout. But this is really more like a joint venture. And I don't think CBO even scores this portion. If you sell the home the first year, we either get 3 percent of the loan amount or 100 percent of the profit on the home, whichever is greater. If they sell the second year, we either get

3 percent, or 80 percent of the profit, whichever is greater. The third year, 60 percent. And if you hold it for 30 years and you sell that home, FHA gets 50 percent of the profit on that home.

Now, I don't know how most people look at it, but that's the worst FHA loan you can get. It's not a bailout, but it's enabling a person who's losing their home and a lender who says, well, if I foreclose it on $400,000, I might get $380,000, $390,000. And what does that do to a neighborhood? That home that originally sold for $580,000, now the market value for that home in that neighborhood is now $380,000, $390,000 or $400,000.

This is more like a refi. It doesn't impact the value of the homes in the community. It basically helps a person get in position where they can retain ownership of their hone. And they're not going to make a windfall profit for it.

I would like to thank the chairman for introducing language in this bill that I worked on for 5 years, and that's raising conforming home limits in high-cost areas. Basically, Freddie and Fannie and FHA, in high-cost areas, you can borrow a maximum of a $730,000 loan from them today. The biggest problem we've had in the marketplace in recent years is people have been forced into jumbo loans. If you look at a GSE loan, that's Freddie and Fannie, compared to a jumbo loan today, you can generally save about 100 basis points in interest rates. That's a huge amount of payment a person can save each year, enable a person to be able to put away money in the future for house payments if times get tough and basically own their own home.

Some people have said they don't trust the Refinance Program Oversight Board because they don't have any idea what the Board is going to implement as far as criteria to qualify for this loan. I have a problem believing that we can't trust the Secretary of Treasury, the Secretary of HUD and the Chairman of the Federal Reserve Board to come up with criteria based on income, assets, liability, payment history, other criteria, debt-to-income ratio. If we can't trust those three individuals to come up with a reasonable criteria under which this loan is made, I think we're in trouble in this country.

The problem some people have is FHA exists. FHA loans are made today, and FHA is guaranteeing, through insurance premiums, these loans. Now, a normal FHA insured premium costs a borrower .55 percent per year, about half a percent. Under this new program, they have to pay 1.5 percent per year to FHA to underwrite this guarantee. That's far from a giveaway. I can't see anything in this FHA loan that's a giveaway.

I rise in strong support of this bill.

□ 1445

Mr. NEUGEBAUER. Mr. Speaker, now it is my honor to recognize for 3 minutes the distinguished gentleman from Georgia (Mr. PRICE), who is also a member of the Financial Services Committee.

Mr. PRICE of Georgia. I thank the gentleman for yielding.

There's a general sense, Mr. Speaker, that it's this bill or nothing, and that certainly isn't true. In fact, much has been done. As has been talked about, the FHA Secure program has created greater flexibility, helping hundreds of thousands stay in their homes. The Hope Now program has already helped 1.4 million individuals stay in their home, getting borrowers and lenders together. Loan limits have been increased, FHA, Fannie Mae, Freddie Mac. The Federal Reserve has lowered interest rates. So the notion that the Federal Government has been unresponsive or slow to move is disingenuous and is repeated as fact solely as an excuse for the Democrats to continue outbidding each other on how much taxpayer funding they can spend or bail out imprudent borrowers who either bought too much house or lenders who were gladly willing to give them the money. So much has been done to date.

We have also heard the chairman and others say that it's unlikely that this will cost $300 billion, that it will only be $2.4 or $2.7 billion. Well, then why doesn't the bill say that? It doesn't, Mr. Speaker, because the taxpayer will be on the hook for risky loans and the number may significantly rise, and that's because this bailout plan irresponsibly disregards borrowers' payment history and credit scores. Borrowers could have missed the majority of their monthly payments over the life of the loan; yet those borrowers would still be eligible for a government-backed mortgage, and taxpayers would be on the hook. Americans don't believe that's fair.

There has also been discussion about the voluntary nature of this program. However, Federal Reserve Board Governor Randall Krozner said in our committee, ''If Congress decides to move down this road, then it should carefully consider the steps that should be taken to mitigate moral hazard, avoid adverse selection, and ensure that the financial interests of the taxpayer are adequately safeguarded.''

But if you listen to the chairman, this program isn't so voluntary. At that same hearing, the chairman said, ''If we were to get this approach adopted but we don't get much of a voluntary buy into this, then I have to say the response will probably be more regulation than people might like to see.''

He went on in an article quoted yesterday here in Washington to say, ''Meanwhile Chairman FRANK has warned the mortgage industry that if it doesn't support something like this plan this year, it could be in for far more regulation next year.'' And that article went on: ''If after this we continue to get very little participation by servicers, I can guarantee you that the servicer industry will look very different . . . If after everything we do in this cooperative way falls short, then you are going to see legislation that puts some very real restrictions on the role of servicers.''

All of a sudden, Mr. Speaker, this program doesn't sound so voluntary. It seems to me that the chairman's comments will exacerbate the moral hazard that the Federal Reserve Governor warned us against.

In addition to the incentives, the chairman provides in his legislation for holders of mortgages, and they are real and enticing. We have actual threats of harmful regulation if they don't sign up dutifully for this program. That's not voluntary.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. NEUGEBAUER. Mr. Speaker, I yield the gentleman an additional 15 seconds.

Mr. PRICE of Georgia. I thank the gentleman.

I would suggest, Mr. Speaker, that these threats do no favors to the American taxpayers across our country. The chairman is ensuring that we will get full and active participation in this program, populated by the riskiest of loans with enormous redefault rates and cost to the American taxpayer of up to $300 billion. Mr. Speaker, that's irresponsible and it's unwise.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. WATT), member of our full committee.

Mr. WATT. Mr. Speaker, I was listening to this debate, and the only thing I could be reminded of was a few years ago when I had a very, very serious political campaign mounted against me and that had about $800,000 spent on television ads telling people how terrible I was, and at the end of the campaign, my mother finally called me and said, ''Are you really that bad?''

I don't recognize the bill that's being described here on the floor. Title II and title III we have overwhelmingly passed previously. Title V was overwhelmingly passed out of the Financial Services Committee. And all of the representations that are made about title I seem to me to be just outrageously overstated.

Like FHA is going to assume all of this responsibility. This is a bailout.

This is a voluntary program. FHA is not out soliciting any of these loans. They will evaluate the credit worthiness of everyone who comes to them.

Like this will cost $300 billion.

There's no way this program will cost $300 billion unless every single person who gets involved in it defaults and we get nothing out of a foreclosure or reclaiming of the property.

Like this is going to benefit speculators.

The bill explicitly says that this is limited to homeowners, not people who have been speculators. I don't know what else we could say on that. The language is absolutely explicit that only homeowners qualify for this program.

Or maybe like the most outrageous one that I've heard today: Well, the market will take care of this.

Well, the market is how we got here in the first place. If the market had been taking care of this, we wouldn't be in this crisis. We wouldn't be having the problem that we are trying to solve. And so this notion that the market is somehow going to overnight correct itself and we will solve this problem solely through market forces just doesn't make a lot of sense to me. But, again, my mother started to question after a while, after people said it over and over and over again. Maybe my colleagues think if they say it enough, that this is terrible, they will convince somebody.

Mr. NEUGEBAUER. Mr. Speaker, it is now my honor to introduce another member of the Financial Services Committee, the gentleman from North Carolina (Mr. MCHENRY), for 3 minutes.

Mr. MCHENRY. Mr. Speaker, there are many good and decent people who are in financial distress right now across this country. Some with mortgages they can't afford. Some made poor financial decisions. Some were victims of fraud. Some were simply speculators acting on their instincts.

But the reality is that most borrowers are paying on time. They are making their mortgages; 92 percent of borrowers are paying on time across this country; 6 percent are late but not yet in foreclosure, and 2 percent are actually in foreclosure. This bill is directed to the 2 percent on the backs of the 98 percent. That means that 110 million households are meeting their obligations. This legislation under consideration today would require that those 110 million families bail out the lenders on Wall Street. And I will tell you it's simply a case of robbing Peter to pay Paul.

We are sending the message to financial institutions and Wall Street investors that when those investors make poor choices and take ill-advised risks that the Federal Government will step in and bail them out. That's a bad decision. In fact, this is a $300 billion taxpayer bailout that will cost the American taxpayer $5,000 for every foreclosed loan that is dumped into the program. And make no mistake about it. They will be dumped into the program. And it's not the homeowners who will control this. It will be the lenders and servicers who will decide to take advantage of this for their own personal advantage, the servicers and the lenders.

The one thing that we know for sure is that those lenders and servicers are only going to submit those loans that they don't believe will pay. The American taxpayer will instead be punished. Ultimately, the real losers are the American taxpayers who are left to guarantee the loans that nobody else wants.

Mr. Speaker, in the past couple of months, I received several calls, letters, conversations I have had with my constituents, talking about the struggles that they are making in order to pay their mortgage. They don't want to have to pay somebody else's mortgage. They are struggling enough to make their ends meet with high gas prices, the rising cost of health care. And I'm not advocating that we do nothing. In fact, I have been working very hard in my district with foreclosure prevention seminars, working with the Hope Now alliance, which has helped 1.4 million homeowners stay out of foreclosure, keep their homes.

These are the things that Congress should be doing, is helping individuals get through this crisis. We shouldn't have a massive bailout of lenders on Wall Street. We shouldn't bail out the servicers. They took ill-advised risks, and as such, the losses should be carried by them, not by my constituents who are paying on time.

Let's oppose this legislation and do what's reasonable and right for the taxpayer.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to a very hardworking member of the committee who contributed to this bill, the gentleman from Florida (Mr. MAHONEY).

Mr. MAHONEY of Florida. Mr. Speaker, I rise today in strong support of the American Housing Rescue and Foreclosure Prevention Act.

I must say that I'm extremely disappointed that the President and many of my friends on the other side of the aisle have expressed opposition to this legislation. I think it's telling that Federal Reserve Chairman Bernanke has expressed his support for the bill.

Mr. Speaker, the President and some of my Republican colleagues have called this plan a bailout. Clearly, the party that claims to represent big business doesn't understand business.

This plan requires current mortgage holders who choose to participate, not taxpayers, to realize the loss of at least 15 percent. And by putting homeowners in mortgages with rates and payments that we know they can afford, we are minimizing the risk of future defaults. And by doing so, we are injecting confidence and liquidity back into credit markets, thereby taking an important step to ensure the economy has the capital to begin digging ourselves out of this recession.

For anyone who calls this a bailout of risky investors, I would invite them to come to my district and meet some of the thousands of families who are in foreclosure. These are families with dreams and hopes. They, like everyone in this room, were trying as best they could to live the American Dream of homeownership. These are not frauds and cheats. They are firefighters and teachers who were forced into the subprime mortgage market in order to realize their dream.

The only moral hazard before us today would be our failure to act. If we are to protect our economy, our families, and the American Dream of homeownership, pass this amendment today.

Mr. NEUGEBAUER. Mr. Speaker, it is my honor to introduce another distinguished member of the Financial Services Committee, the gentleman from Illinois (Mr. ROSKAM), and I yield to him 3 minutes.

Mr. ROSKAM. I thank the gentleman for yielding.

Mr. Speaker, have I ever told you about my dog, Max? I don't think I have. Let me just take a minute and tell you about Max.

Like a lot of us who are fathers of younger children, I have four children, who approached me, Mr. Speaker, and begged me and begged me and begged me to get them a dog. And for years I was able to avoid eye contact and was able to keep an animal out of my house. But, finally, in a moment of weakness, I said yes.

And a friend of mine, Mr. Speaker, realized what was happening, and he pulled me aside and he said, ''Look, if you're going to get a dog, realize this: You get what you pet.'' You get what you pet. So if a dog comes in and it's disobedient and you pet that dog and give it all kinds of affirmation, then guess what. It's going to keep being disobedient. And not being very wise, we started to do that, and so now we've got a slightly out-of-control dog.

Now, why do I mention Max? We're on the verge of doing that same type of conduct exactly to people who have fundamentally made some bad decisions. Let's take the borrowers aside, and I realize the chairman has worked hard, but let's take the borrowers aside and just put them in a different category because what we're going to be doing today, in addition to helping borrowers, is really bailing out lenders. And I don't think that's an overcharacterization. I don't think that's an unfair way of looking at this. We are being told that lenders who were in this, who are great advocates of the free market when they're making money, they love the free market when they're making money, and now all of a sudden, they are coming to the Federal taxpayer and saying this has gotten a little bit more complicated than we thought, and now we want the taxpayers to come in and take care of this from here out. It's voluntary on the part of the lenders, and think about how voluntary that would be. What a great invitation. These lenders go and they say here's our pile of bad debt. Let's take a haircut, 85 percent of the value, shove that off to the FHA, which is pretty ill equipped, I might add, to take on this obligation—let's shove that off to the taxpayer, and instead of getting our heads chopped off as lenders, we're just going to get a haircut.

I think we can do a lot better, I think, over a period of time.

□ 1500

There is a great willingness, Mr. Speaker, on this side of the aisle to try and work creatively and to try and work substantively on solutions. But I think as we reflect back on this, in the

chairman's own words, it is going to cost $5,000 for every defaulted mortgage that is assumed by the FHA, times a half million. That gets us to the $2.5 billion figure that makes many of us cringe.

And I don't think that those types of numbers should be allocated to lenders and bailing out lenders who made bad decisions.

Mr. FRANK of Massachusetts. I yield 1 minute to the majority leader, the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

This is not about petting dogs. This is about people who are hurting. This is trying to reach out to people who have been savaged in many ways by this economy and the policies that have led to an economy where average working incomes are down $1,000 and where gasoline prices have exploded over 200 percent from $1.46 to $3.56. I would remind you that under the Clinton administration they went from $1.06 to $1.46, 5 cents a year during the 8 years of the Clinton administration. They are going up 5 cents a week during this administration.

People are stretched.

I didn't hear people come to this floor and say $30 billion for Bear Stearns. It was outrageous, putting the taxpayers' money—Mr. FLAKE says he did. Thirty billion dollars. We just talked about $2.5 billion for literally tens of thousands, hundreds of thousands, perhaps as many as 1 million people. There is a crisis, and they have asked us to respond.

I want to congratulate the chairman of our committee. I want to thank the ranking member of the committee. I want to thank all the members of the committee for giving this their attention and trying to come up with a solution that works. Was this a partisan, divisive solution? Absolutely not. The Secretary of the Treasury has said that this is a product that merits serious consideration.

For a time, I thought he was for it. I am not sure now. There seems to be some internal division within the administration. Mr. Bernanke, the head of the Federal Reserve, former chairman of the Council of Economic Advisers, said that this is a good thing to do.

So, Mr. Speaker, today through this comprehensive landmark legislation, the American Housing Rescue and Foreclosure Prevention Act, this House is going to act not to pet dogs but to help people. This House will take decisive action to keep hundreds of thousands of families at risk of foreclosure in their homes and will help stabilize the housing markets across the Nation that have been wracked by an unprecedented drop in home values over the last 2 years.

Make no mistake: The slumping housing market has had negative, rippling effects throughout our economy. It is not just people in houses that are having problems, but the subprime crisis has affected our entire country and the availability of credit. And thus it is imperative that we take responsible, reasonable steps such as this to strengthen our weak economy and ultimately benefit not just those who are at risk of losing their homes, but every American.

As Federal Reserve Chairman Ben Bernanke pointed out in a speech on Monday, Monday, just a few days ago, at Columbia University, ''High rates of delinquency and foreclosure can have substantial spillover effects on the housing market, the financial markets, and the broader economy.''

And the answer is, don't pet your dog. It was bad behavior. Leave him alone. Or punish him. What we want to do is help people do the right thing.

He continued: ''Therefore, doing what we can to avoid preventable foreclosures is not just in the interests of lenders and borrowers, it's in everybody's interest.'' Those are Bernanke's words. Not Chairman FRANK's. Not mine.

Mr. Speaker, that is precisely what this legislation, the product of hard work by Chairman BARNEY FRANK and so many others, is designed to do: Avoid preventable foreclosures.

There is little question that after an historic housing boom in the first half of this decade we now are faced with a housing crisis. Foreclosures soared to an all-time high in the last quarter of 2007. According to Mortgage Bankers Association, more than 1.2 million properties received foreclosure notices in 2007, up 75 percent from 2006. And 1 in 33 homeowners is projected to be in foreclosure over the next 2 years. So much for a great economy.

This legislation, in short, will expand the FHA program so that borrowers in danger of losing their homes can refinance into lower-cost, government-insured mortgages that they can afford to repay.

I've heard so much talk about a family-friendly Congress. Family values. Caring about children. What can be more family friendly than keeping families in their homes? I think not too many things.

But to be clear, this bill will minimize taxpayer exposure. In fact, the Congressional Budget Office estimates that the cost of putting homeowners into affordable loans under the bill would be not $30 billion, not $20 billion, not $10 billion, but a total of $2.7 billion. A few days in Iraq. A few days in Iraq. Not a month. A few days in Iraq.

Contrary to the rhetoric coming from some, this bill is not a bailout for irresponsible lenders or borrowers. Only primary residences are eligible. Investors and lenders must take significant losses, as they should. The owner of the old mortgage can only receive 85 percent of the current value of the home.

And in return for an FHA guarantee on the mortgage, borrowers must share with the government any profit from the resale of a refinanced home. The government will only have liability if the borrower defaults and the amount recovered in foreclosure is below the outstanding debt still owed.

Furthermore, this legislation includes tax provisions to expand refinancing opportunities and to spur home buying.

It increases the VA home loan limit for high-cost housing areas, which we passed before, enabling veterans to have more homeownership opportunities. We are having people come home from Iraq. We are going to be talking about that. They may have lost their home because they went to Iraq and they couldn't keep their home. This helps them get back in a home.

And it includes FHA modernization provisions that have already passed this House, as well as GSE reforms such as strengthening the regulation of Fannie Mae and Freddie Mac and raising their loan limits to increase liquidity in the mortgage market.

Chairman FRANK has talked to Secretary Paulson about that. I have talked to Secretary Paulson about that. I am sure many of you on your side of the aisle have talked to Secretary Paulson about that. He thinks this is absolutely essential.

I urge my colleagues on both sides of the aisle, let's mitigate the effects of the bursting of the housing bubble. Let's prevent hundreds of thousands, and perhaps up to 1 million people, from foreclosure and allow American families to stay in their homes through this responsible legislation.

Let's stabilize our housing market and help millions and millions of homeowners who are not at risk of foreclosure, but whose neighbors are at risk for foreclosure, and if they are foreclosed upon, will see their home values deteriorate. So the assistance is not just to those at risk of foreclosure, but to all those who are in communities where homes are at risk.

Let's pass this comprehensive, bipartisan legislation today and work to get it to the President's desk without delay. I am hopeful that the President will see fit to sign it. Vote ''yes.'' Vote ''yes'' on the American Housing Rescue and Foreclosure Prevention Act of 2008. Vote ''yes'' for the families of America.

Mr. HENSARLING. I yield myself 30 seconds.

As the distinguished majority leader said, this is about people hurting. He should know. Since his Democrat majority came into office almost 18 months ago, we know that we have a $3,000 per family tax increase that has been approved, gasoline at almost $4 a gallon, milk over $4 a gallon. Yes. This is about people hurting, particularly the 98 percent that rent, that have paid off their mortgages and whose mortgages are current.

And if this bill is only going to cost the taxpayers $2.7 billion, why do we see $300 billion written in the bill?

With that, I am happy to yield 2 minutes to the gentleman from Arizona, JEFF FLAKE.

Mr. FLAKE. I thank the gentleman for yielding.

The gentleman from Massachusetts knows the respect I have for his knowledge of free market economics. He often scolds us on this side of the aisle when our rhetoric doesn't match our actions. And he is often justified in doing so. I have heard him quote Adam Smith and Milton Friedman with the best of them.

That is why I was baffled to see this bill come to the floor from his committee, a bill that violates the same principles that he has chastened us for not recognizing. He was right then. And he is inconsistent and wrong today.

This bill has ''moral hazard'' written all over it. We know that a party insulated from risk behaves differently than a party that is fully exposed to risk. The truth is here we are insulating home buyers and home owners from risk. And we will simply prolong the housing crisis by doing so.

Let's be real here. The purpose of this legislation is to insulate political parties from risk. That is what we are doing here. If we felt such a need to intervene here, we ought to remember what we did last September when I believe, if I remember right, we encouraged FHA to give no-money-down loans. Why is it that we think that we are so prescient here about what is going to happen?

We can't outguess the market. We shouldn't try to. We simply will delay the bottom and delay and increase the dislocations that will occur when its politicians decide to allocate resources and capital rather than the markets.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 30 seconds to respond to the gentleman from Texas.

He says, why isn't the $2.7 written into the bill? It is, in effect, because it is subject to appropriation, and no money will be spent until that is provided. The $300 billion is the number of mortgages that could be insured, up to that. We needed to put that number there before CBO could tell us how much it would cost. And written into this bill before it becomes law and becomes operational will be that $2.7 billion figure. That is the way the process works. You get a CBO score, and then you pay for it.

I now yield 2 minutes to the gentlewoman from Illinois, a very diligent member of our committee.

Ms. BEAN. Mr. Speaker, I rise to engage in a colloquy with the chairman of the Committee on Financial Services.

Mr. Chairman, section 505 of title V of this legislation contains language pertaining to the treatment of disabled veterans in the bankruptcy code.

Every Member of the House supports ensuring that no disabled veteran is discriminated against for obtaining federally supported housing loans or subsidies.

Mr. Chairman, can you clarify for me why this provision was included in the bill, and why we need to protect disabled veterans from discrimination in this legislation?

Mr. FRANK of Massachusetts. If the gentlewoman will yield, I know sometimes conspiracy theories rattle around this place. The reason we put in the legislation to protect disabled veterans who had bankruptcy from being excluded from this program is to protect veterans, disabled veterans who have been in bankruptcy from being in this program. There were people who suggested that the sensitivity people would have in bankruptcy could be a problem. Now I will point out, by the way, that thanks to some very good amendments by the gentleman from Georgia (Mr. MARSHALL) who has dealt with this problem in a more general way, and he is a bankruptcy expert—from the law side not the subject side. But we thought with disabled veterans, we know this engenders prejudice when people see in some cases people are disabled. So it was there for that reason, to protect people, to make sure that we, the Federal Government, would not, in any way, be discriminating against them and maybe therefore set a good example for everybody else.

Ms. BEAN. Mr. Chairman, there have been reports suggesting that this provision could be used as a placeholder for a broader expansion of the Federal bankruptcy laws. Can you clarify that this language will not be expanded in conference to include a broader rewrite of the Nation's bankruptcy laws or to be used in conference for any other redrafting of language encompassed under title 11 of the U.S. Code other than this specific provision?

Mr. FRANK of Massachusetts. If the gentlewoman will yield, absolutely I can guaranty that. I should be clear. I am cosponsor of the bill that would have provided a bankruptcy avenue for primary residences. That is a separate issue as far as I am concerned. No, this particular provision will not be a vehicle for that.

The SPEAKER pro tempore. The time of the gentlewoman from Illinois has expired.

Mr. FRANK of Massachusetts. I yield the gentlewoman 30 additional seconds.

□ 1515

I guarantee this provision will only be what it is. If anybody wants to move elsewhere, I might support that. But entirely separate from this, this will not be a vehicle.

In fact, I think it would be dishonorable for anyone. We have had too many examples of people trying to use veterans, and particularly disabled veterans, as a political stick to achieve other objectives. I would find that to be an absolutely outrageous procedure, and I can guarantee you it will not happen.

Ms. BEAN. I thank the chairman for the clarification. I would also like to commend your leadership on producing a balanced bipartisan bill and allowing me to work with you during the committee markup.

The SPEAKER pro tempore. The time of the gentlewoman from Illinois has again expired.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield the gentlelady from Illinois an additional 30 seconds.

Ms. BEAN. Contrary to the earlier comments from our colleague in Texas, I want to specifically acknowledge the inclusion of my amendment to disallow participation in this program to anyone who had misstated their incomes on their original loan or been convicted of mortgage fraud.

On the whole, this legislation will help stabilize the housing market and economy while not creating any uncertainty in legal contracts by reducing risks to lenders who keep qualified borrowers in their homes instead of foreclosing.

Mr. HENSARLING. Mr. Speaker, may I inquire how much time is remaining on each side.

The SPEAKER pro tempore. The gentleman from Texas has 6½ minutes remaining. The gentleman from Massachusetts has 26½ minutes remaining.

Mr. HENSARLING. Mr. Speaker, I wish to reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Thank you, Mr. Chairman.

Mr. Speaker, I had originally planned to talk about something else altogether, but it's the nature of the debate that causes me to simply say I do view this as a bailout of sorts, but it's not a bailout for the borrowers, it's not a bailout for the lenders.

If you understand the bill, you understand that actually the deals that the borrowers get are not particularly good. The deals that the lenders get are not particularly good.

This is intended, if it works, as a bailout generally for all those innocent homeowners and taxpayers who have been dragged into this mess in part, because of our failure to regulate previously, in part because of the incompetence, virtually, the pitiful performance the of the rating agencies.

As a result, an awful lot of people, and our economy, are being hurt. I view, this personally, as a bailout for the economy, with an incidental effect of avoiding foreclosures in individual cases—and that's nice. It's nice to help people out—but I am not voting for this thing because it's helping individuals out and happens to help a few lenders out. It's not a bailout for those folks. In my view it's a bailout for the entire economy and all of these people that have been dragged into it.

Mr. HENSARLING. Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. I yield 3 minutes to the gentleman from Texas (Mr. AL GREEN), a very active member of our committee.

Mr. AL GREEN of Texas. I thank the chairman for the time, and I thank the chairman for his tireless efforts to bring this to the floor. I question this moral hazard argument.

I question it because I have to ask myself, where was the moral hazard

when we bailed out Penn Central? Penn Central got more than laissez faire. Penn Central got more than market forces. Penn Central got $7 billion in a bailout.

Where was the moral hazard when we bailed out Lockheed Martin, $250 million? Franklin National Bank, $1.7 billion bailout. For the good of the country, we bailed out Chrysler at the tune of $1.5 billion; Continental Illinois, $4.5 billion; Farm Credit System, $4.5 billion; First Republic Bank, $1 billion. Major airlines got $5 billion, the steel companies got $7 billion.

Where was the argument about Bear Stearns that was never brought to the floor? I have heard about a letter that has been circulated. Why didn't you bring the argument to the floor? Let's talk about the Bear facts, the Bear Stearns facts. Bear Stearns got $29 billion in a bailout and a $13 billion loan.

So if you really talk about the Bear facts, the Bear Stearns facts, you are talking about $42 billion. We live in a world where it is not enough for things to be right, they must look right.

It doesn't look right for this country to continually bail out major corporations. When the American people, little people as we sometimes call them here—they are big in my heart—but the little person needs some help, we don't find it within our hearts and our power to help them.

We have the ability to make a difference in the lives of people today. This is why I am encouraging my colleagues to vote for this bill.

Mr. HENSARLING. Mr. Speaker, I continue to reserve.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman who helped put this bill together, the gentleman from California (Mr. MCNERNEY).

Mr. MCNERNEY. Mr. Speaker, I represent Stockton, California, which unfortunately has the highest foreclosure rates in the country. Many families in northern California have lost their homes and the foreclosures have lead to personal hardships, community instability and national economic risk.

When my constituents asked me what Congress was doing to fix the economy, I told them we are pushing to create family-wage jobs and put money back in people's pockets. Today we are building on these efforts by considering legislation that will provide fiscally responsible options for families struggling to stay in their homes.

Last December I hosted a workshop for foreclosures in Stockton with my colleague, DENNIS CARDOZA, to provide housing counseling to local families. While we expected the turnout to be high, participants started lining up 2 hours early and, ultimately, more than 500 people showed up.

I heard heart-breaking stories from my constituents, and this is just one single illustration of why today's legislation is so important. One of the biggest challenges facing the housing market is in the high-cost States, like California, that housing programs have not kept pace with the times. Unrealistically low limits for Fannie Mae, Freddie Mac and FHA mean people living in the high-cost States have not fully benefited from these programs.

The economic stimulus package, temporary loan limit increase to $730,000, raising the loan limit, injects liquidity into the mortgage market to provide access to credit and opens new opportunities for refinancing.

However, since these increases are only temporary, it is clear that making them permanent will have beneficial effects for the housing market. I introduced the Homeowner Opportunity Act to permanently raise the loan limits, and I am pleased that today's legislation includes my bill.

I want to thank Chairman FRANK for all of his support and assistance. This change will benefit my constituents and the entire country.

Mr. NEUGEBAUER. Mr. Speaker, I continue to reserve.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to a very active member of the committee, the gentleman from Colorado (Mr. PERLMUTTER).

Mr. PERLMUTTER. I just want to thank you and the committee for bringing a very focused piece of legislation to the House floor.

Mr. Speaker, to my friends from Texas, who have heard stories that this is a bailout, this is no bailout. This is about Strasbourg, Colorado, where there have been foreclosures around a neighborhood, and one person trying to sell their property can no longer do that because the value of their house is less than their mortgage. They are innocent. They didn't deserve this.

Secondly in Edgewater, Colorado, where the lender, the appraiser and the building owner got into cahoots, and a young couple buys a condominium, and now the properties around them are foreclosed. They are going to lose this property. They need assistance. They are innocent. They deserve some help from this government.

Same thing in Commerce City, Colorado. I heard all of these stories last night on a telephone town hall meeting while we were debating the Neighborhood Stabilization Act. That's what this bill is about. It's about the community as a whole.

Mr. MARSHALL from Georgia understands what this bill is about. It's about looking after our neighborhoods and protecting our neighborhoods and averting 500,000 foreclosures across this country.

Our neighborhoods, our cities, our towns are going to pay for this if the Federal Government doesn't assist in some fashion. This is a nationwide problem. The Nation has to stand up. We have to deal with this. This bill does it in so many ways, and I just appreciated coming to the floor.

Vote ''yes'' on this bill.

Mr. NEUGEBAUER. Mr. Speaker, I continue to reserve my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I now yield 2 minutes to the chairwoman of the Housing Subcommittee, who makes her second appearance today, having carried through passage of a very important bill earlier today, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. I would first like to thank our chairman, BARNEY FRANK, for the leadership that he has provided on dealing with a serious problem in America. I would like to thank the Members once more for the support that they gave me on the Neighborhood Stabilization Act that we passed today. That, coupled with what is being done now, will go a long way to providing real assistance to our cities, to our counties, to our States and to our citizens.

I know that it has been said over and over again today that people are suffering, that there are people who got into these loans that did not understand what a no-doc loan, a no interest rate loan was, an ARM that was going to reset within 6 months, 1 year or 2 years, and that the mortgage would double, triple or quadruple.

They are innocent, hardworking Americans out there every day who simply want to live the American Dream. Many of them were steered into these loans because there was this big, big housing bubble.

We had these local initiators of loans through our banks and our mortgage brokers who discovered that they could package them, they could securitize them, they would be invested in Wall Street, and the Wall Street people invested mightily in them, and now the services have them all. The only thing that the services can do is foreclose on these properties.

Well, we can do something about it. I don't know why we have to argue and fight about whether or not we can help the American people. They sent us here to look after their best interests.

I don't understand why anybody can call this a bailout when, in fact, nobody has said anything about the bailout of the almost $30 billion for Bear Stearns. If we can help Wall Street, we certainly can help the people who vote for us every day and who sent us here.

We help people all over this Nation in different ways. Some people are confronted with a hurricane, or a flood or an earthquake. American citizens expect us to be there for the citizens when we are needed in different ways. This is a different way.

I ask everyone to support the bill.

Mr. NEUGEBAUER. Mr. Speaker, it's my honor now to yield 2 minutes to the gentlewoman from Virginia (Mrs. DRAKE), who has an extensive amount of experience in the housing industry and brings great expertise to this process.

Mrs. DRAKE. Mr. Speaker, housing is a very complex issue. We are talking about a person's home, real people with a real problem. Prior to Congress I was a realtor for over 20 years.

I have worked with many families to help them realize their dream of homeownership. I have served as chairman of the Virginia Housing Study Commission. I have seen good markets and bad and many changes to the mortgage industry. I have struggled with how to define and protect against predatory lending practices. I have seen interest rates and loan products that seem too good to be true.

Unfortunately, we have seen they were too good to be true. There are many components of this bill, which I think are excellent. Enacting those reforms now would have a huge impact on the housing market and be helpful to American families.

My concerns with today's package include the establishment of a new, affordable housing fund and a $300 billion Federal loan guarantee program. A lender with troubled loans could contact those homeowners, offer a federally backed loan and refinance at a loss.

But now he has moved that loan from a complete loss to 85 percent current value that will be guaranteed by the Federal Government. He now has no reason to work with that borrower. Neighbor A bought at the height of the market. He struggles but pays. Neighbor B negotiates 85 percent of current value, a huge impact on the value of surrounding properties.

This is a voluntary program. Can't we develop incentives for the private sector and not obligate the American taxpayers with $300 billion in loan guarantees? There are several things that are currently making a difference. The FHA Secure loan program, HOPE NOW, an alliance to prevent foreclosure through outreach to delinquent borrowers. Fannie Mae is currently working on a streamlined short-sale program to allow the sale of properties that are overmortgaged.

□ 1530

The fact is, one out of two people never contact their lender for help. Both the administration and the private sector need to explain what is available. Neither has done a good job.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SESTAK).

Mr. SESTAK. Mr. Speaker, much has been said about how we got into this situation, although someone said it best, I thought: too little oversight, too much greed, too little understanding.

But there are several things we do understand. There is no single cause for why we got into this housing crisis, so there is no single solution.

But second, we must act now. This March, there was a 57 percent increase in the number of defaults than the previous March a year ago. And of all of the adjustable rate mortgages that will be reset this year to a higher interest rate, 80 percent are the subprime category. Those subprime categories are at a delinquency twice that of a fixed rate. In short, even before the interest rates go up, we have so many people who are already in trouble with their loans.

Third, and most importantly, this is not just about the homeowner or the mortgage lender, this is about all of us. What we have seen is not just harming the housing and manufacturing industries, it has seeped over into the bond market for municipal bonds and even for education to where, because of the exposure of bond insurers, we cannot have bonds that are being given in these categories. So, therefore, I think very highly of this bill.

I think this bill is done in the right way. It is providing relief to actual, real people, those living in homes, not speculators. Second, it steps over and it doesn't give any bailout to lenders. It says you must write down your loans and you must pay into a reserve fund and do closing costs.

Most importantly, it has the government reaping the rewards when the houses inevitably go back up in value. I think this is great for the economy.

Mr. Speaker, I would ask one thing to consider as we go forward. I am taken by incentivizing people to come forward. And as someone on the other side said, incentivizing them even by being exposed to more risk. The CBO said that out of the 2.8 million foreclosures expected to occur if nothing happens between now and 2013, about 500,000 loans will be refinanced.

CBO believes that many original and secondary lenders will be reluctant to participate.

This is a problem that must be addressed. To be most effective, I believe that there must be greater incentives for the original lien holders—who take the haircut up front—to have the option to share in some portion of potential profits on resale.

For those lenders willing to take a bigger piece of the risk upfront (beyond the 85 percent of current market value limit in the bill), there should be added incentive to participate in the upside potential.

Overall, I support this bill because it addresses many of the issues that need to be solved quickly. But I believe that more needs to be done to provide proper incentives to ensure that lenders, who will play a critical role in the economic and housing recovery, will fully participate, and I am prepared to work with the Chairman and House leadership for an appropriate resolution.

Mr. NEUGEBAUER. Mr. Speaker, I continue to reserve.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of the underlying bill, H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act of 2008, and in particular H.R. 5830, the FHA Housing Stabilization and Homeownership Retention Act of 2008, which is part of this housing rescue package.

I am proud to be a cosponsor of H.R. 5830. I believe that it is a well-balanced measure that will go a long way towards turning around the housing crisis and address the issues that have resulted in a nationwide economic crisis.

Mr. Speaker, I am especially pleased with title II of the bill which establishes a long-needed Office of Housing Counseling within the Department of Housing and Urban Development. I commend Chairman FRANK and Ranking Member WATERS for including it in their bill.

I sincerely appreciate the fact that community-based organizations with expertise in the field of housing counseling will be given a voice in the development of such policies. I am pleased that the bill provides for the building of capacity to provide housing counseling services in areas that lack sufficient services such as large parts of my district in the Rio Grande Valley and in rural America in general.

Moreover, I applaud Chairman FRANK and Congresswoman WATERS for including in the bill the authorization of $3 million for public service announcements as part of the act's national public service multimedia campaign. This campaign will help persons facing mortgage foreclosure, elderly persons, persons who face language barriers, and low-income persons.

I want to take this opportunity to thank them for increasing the availability, affordability, and quality of housing in rural America. And I believe this bill will do more of the same.

Mr. Speaker, I believe the product Chairman FRANK and Congresswoman WATERS have brought to the floor will result in more homeowners remaining in their homes and help stabilize the housing market. I strongly urge my colleagues to vote in favor of this bill.

Mr. NEUGEBAUER. Mr. Speaker, may I inquire as to the time remaining.

The SPEAKER pro tempore. The gentleman from Texas has 4½ minutes remaining. The gentleman from Massachusetts has 13½ minutes.

Mr. NEUGEBAUER. Mr. Speaker, I continue to reserve.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, last year 1.5 million American households entered foreclosure, and this year the number of American families in danger of losing their homes could be as high as 2 million. These foreclosures could reduce overall economic activity by $166 billion this year as the effects of the mortgage crisis spill over into other sectors of the economy.

In my State of Oregon, the foreclosure rate among subprime borrowers increased by 28 percent in the fourth quarter of 2007. Over 5,000 Oregon families are currently in foreclosure, more than half of whom hold subprime mortgages.

But this debate is not about facts and statistics. If it were, it would be over by now. By requiring that the holders of debt take a haircut down to 85 percent of current market value, we are

sharing the pain. By requiring that people who are working in order to be eligible for this program are paying at least 35 percent of their income in order to be eligible, we are exercising responsibility.

What this debate is really about is a matter of values. The values being expounded on the other side of this debate are absolutely astounding, and nothing illustrates it better than a movie I love, ''It's a Wonderful Life.'' George Bailey was the hero of that movie, and he was dealing with a hard-hearted old man named Mr. Potter. Mr. Potter said to George Bailey as he was trying to save American households, ''Have you put any real pressure on these people to pay their mortgages?''

And George Bailey relied, ''Times are bad, Mr. Potter. A lot of these people are out of work.''

''Then foreclose.''

George Bailey answers, ''I can't do that. These families have children.''

''Not my children,'' said Mr. Potter.

Well, what we hear from the other side is: not my children, these folks are irresponsible, throw them out.

We clearly have the upper hand in this debate.

Mr. NEUGEBAUER. Mr. Speaker, I continue to reserve.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, let me thank Chairman FRANK and Chairwoman WATERS for bringing this badly needed legislation to the floor today. Millions of families in America are seeing their dream of homeownership turning into a nightmare. Foreclosure rates have reached crisis levels. In California and in many parts of my district, too many families are facing devastation, and entire neighborhoods are on the brink of collapse.

Homeownership has been the primary means that most Americans have to accumulate any kind of wealth, to send their kids to college, to start a small business, or to do whatever they want to do to be part of the American dream.

I want to thank Chairman FRANK for including language in this legislation which I introduced with Senator MCCASKILL to address the Reverse Mortgage Proceeds Protection Act which protects seniors from losing their homes.

We are beginning to see some of the same abuses in the advertising and high-pressure sales of reverse mortgages as we saw in the subprime mortgage crisis. These provisions will ensure that vulnerable seniors are fully informed of hidden costs and pitfalls of reverse mortgages before they sign.

Mr. NEUGEBAUER. Mr. Speaker, it is my honor to introduce the gentlewoman from Tennessee (Mrs. BLACKBURN) who is also on the Committee on Financial Services, and I yield 2 minutes to her.

Mrs. BLACKBURN. Mr. Speaker, I heard from one of my constituents who said they felt like this bill was not really about rescuing homeowners, they felt like it was another attempt at wealth redistribution. They felt that the risk and the costs that are borne and should be borne by irresponsible lenders, investors, and borrowers are going to end up being transferred to the Federal Government and thereby to the American taxpayer once again. And this time, it is to the tune of $300 billion.

What the bill does is the good actors, the 92 percent of all mortgage holders who are paying their mortgage on time, they are going to end up being liable for the irresponsible actions of lenders and speculators. The way my constituencies see it, this is a risky business. This Congress should not send a message that it is acceptable to give up on an obligation because you're going to have a government buyout or a bailout and you are going to be able to cut your personal losses.

Last week I did a seminar in my district. I worked with some government and private sector initiatives such as Hope Now, working to help homeowners weather the storm, to get the information to them that they needed.

Mr. Speaker, that is what we should be doing, educating homeowners on the options at their disposal, as opposed to passing measures that reward recklessness and provide a safety net for irresponsibility. Congress does not need to bail out the housing market, it needs to encourage a kick start. I hope that my colleagues will join me and that together we will vote this bill down.

Mr. FRANK of Massachusetts. I yield 2 minutes to another very active member of our committee who has been very active on the loan issue, the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, the facts are these: Homeowners have signed mortgages where they can't afford to make the payments, especially as they are adjusted upwards. We need to write-down the principal amount to something that these good homeowners can afford. But we are told ''don't bail out the lenders.''

There are two ways to write-down the principal amount of a loan: an involuntary way through the bankruptcy court, and we had a bill before this House which authorized the bankruptcy court in very limited circumstances, very tailored, to write-down the balance of the loan. Don't bail out the lender, just tell the lender they have to take less. That bill is not going to pass. It is opposed by Republicans in the Senate.

The second way is a voluntary way. You make a fair offer to the lender that, if they will write-down the principal amount, then they will get a guarantee of that lesser amount from the government—so at least they will get paid something. Now we are told to vote against this bill because it bails out lenders.

Some are giving hypocrisy a bad name.

If you are going to help homeowners, you have to write-down the balance of the loan. And people come to this floor and they say well, we can't do it the voluntary way, and we can't do it the involuntary way; but just as soon as we find some other way, they will be happy to bail out homeowners.

The fact is they have voted against using the bankruptcy court to write-down the principal amount and not give the lenders anything. And now they are saying when we make a fair offer to the lenders to do the same thing, we are bailing out the lenders.

I have a lot of ''respect'' for anybody who can come to this floor and just say they don't want to help these homeowners at all. That's an honest position. But to say you are against the voluntary and involuntary, that's wrong.

Mr. FRANK of Massachusetts. I have one request for a unanimous consent, and then I'm going to close, so I would yield to the gentlewoman from New York for a UC.

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. I thank the gentleman for yielding to me and for his extraordinary leadership on this extremely important housing stimulus package. It is good for the country and good for my constituents in New York City. I strongly support it.

Mr. Speaker, I rise in strong support for this Housing Stimulus Package.

It is good for our country and it is good for my constituents in New York.

We all know we are facing a housing crisis.

Foreclosures are at record highs, wages are stagnant and the markets continue to be volatile.

This housing package will help restore order and provide the roadmap forward.

In addition to the $300 billion voluntary program that would permit FHA to provide up to $300 billion in new guarantees to help refinance at-risk borrowers into viable mortgages, we are doing a number of things to help the mortgage market.

We are making permanent the current FHA and GSE loan limits we passed as part of our first stimulus package.

Without this limit, the FHA limit in New York City would drop from $729,750 to $362,000 and the Fannie Mae/Freddie Mac limit would drop from $729,000 to $417,000.

This bill modernizes the reverse mortgage provision administered by FHA, allowing co-ops to be included for the first time.

We are preserving affordable FHA-insured foreclosed multifamily projects. Including language important to New York City.

This bill includes an amendment I offered that will provide for higher loan limits on homes that include a licensed child care facility.

This bill is needed. It helps our communities and I urge its adoption.

Mr. FRANK of Massachusetts. I intend to close with our remaining time as our last speaker.

Mr. NEUGEBAUER. Mr. Speaker, I rise in strong opposition to this bill. I

think we have had a good discussion here today. Unfortunately, it was a discussion only and there was not opportunity for our side, or really any other Members to participate in this process of offering amendments that could have most likely made this a better piece of legislation.

There are several reasons I oppose this bill. Number one is the flawed process. In my tenure in Congress, I have never had a major piece of legislation like this where I am not even going to get an opportunity to cast my vote. I know people who are watching this process are wondering, you mean we have been talking all day about this important piece of legislation that the other side says is very important to the American people, yet their Member of Congress is not going to get a vote on this process. It is a flawed process.

We brought an energy bill over, stripped all of the energy provisions out of it, and we are putting housing into an energy bill. I still don't understand the mechanics of that, and maybe someone later on can explain that to me.

This is also about not saddling the American people who are already struggling to make their own house payments, to make their own rental payments, to pay the highest gasoline prices in the history of this country, and the highest electricity costs and natural gas costs, it is about saddling them now with the payments for their neighbor.

What the 110 million people who are doing the best they can and want the United States Congress to do is to leave them alone and really start addressing the major issues that are important to the American people.

□ 1545

It's about not rewarding bad behavior. We have some lenders, and we have some borrowers that went out and bet that the housing market was going to go up. It didn't go up, and, in fact, unfortunately, in some places, it went down. And now people are faced with a negative equity or a smaller equity in their home. And we are sympathetic to that.

As I said earlier, I've been in the real estate business for a very long time. I've seen the markets go up. I've seen the markets go down. And sometimes it causes a situation where people don't have as much equity.

But what you have to understand is a lot of people went into this process with no equity. And now this bill says, you know what? We've got a deal for you, because now we're going to help create equity in your house by putting your neighbors at risk.

This is a bad bill. I encourage Members to vote against this bill. I'm sorry. We can't vote against it. Vote against the amendments.

Mr. FRANK of Massachusetts. How much time is there remaining, Mr. Speaker?

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The gentleman from Massachusetts has 8½ minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I understand the complaints about the process. Remember, though, that several of the bills being reenacted today have already been fully debated and amended on the floor. There is one that was not subject to the normal—and I'm a general defender of the normal—process. It's the FHA rescue bill.

And I will say, in this case, I think it is fair to ask Members to vote for it up or down. It is a very interrelated piece of legislation. It tries to balance cost and incentive. It would be easy to put it out of whack. And in this one case I think it is fair to say you can vote it up or you can vote it down. Members will have a chance to vote on it. While it's in the form of an amendment, if that amendment is defeated, it dies.

I also want to address the issue of the amendment offered by the gentleman from North Carolina and the gentleman from Ohio regarding preemption, because there may be some confusion.

I personally spoke, today, with representatives of the banking organizations, the American Bankers Association, the Independent Community Bankers, and the Mortgage Bankers. They took the position that if we were able to adopt the language offered by the gentleman from Ohio, they would find this a bill that they would accept and would not seek to defeat.

Because of an objection, we weren't able to do this, so technically, yes, they had previously said they were opposed to it in that form. They have also said, after we outlined the procedure that was followed by the gentleman from Ohio (Mr. LATOURETTE), the gentleman from North Carolina (Mr. MILLER) and myself, that it is now acceptable; that is, while we were blocked by an objection from adopting the actual language, the language that was agreed to by them, by the Attorneys General, by the State bank supervisors, by advocacy groups, will be the language that's in the bill. So let there be no doubt about that. There is no substantive objection to what will happen.

Now, let me talk about the bill. I guess I want to, not damn my bill today with faint praise, but support it. It comes from the economists.

Now, the gentleman from Arizona (Mr. FLAKE), for whom I have a great deal of respect, a man of very high intellectual integrity, he chided me because I have taken a free market position, but not here. And I'll respond this way.

I have opposed systemic interventions in the market. I think it is generally unwise for us to enact legislation which, in an ongoing way, displaces the market. But that's not what we do here. There is a part of the reality of the market that is called market failure. People have won Nobel Prizes, Joe Stiglitz, for work about market failure. Clearly there has been market failure with regard to mortgages. The market failure was the breaking of the lender-borrower relationship and the substitution of securitization without appropriate countervailing incentives.

This bill today is no ongoing intervention in the market. It is time limited, and limited in specifics to a subset of mortgages. It seeks to undo, to some extent, to mitigate a market failure. It will leave the market, I believe, stronger going forward.

So I accept the gentleman from Arizona's reminding me that I should stay true to free market principles. This bill is true to free market principles.

And let me quote one of the leading advocates of free market principles in the English-speaking world, the Economist, called to my attention by the staff of the Financial Services Committee, which has done enormously good work in substantively putting this bill together, and in listening to me talk about it in various ways. And I appreciate both aspects of that.

Here's what the Economist said: ''The plan is hardly a bailout,'' talking about this bill. This is a current Economist. ''Lenders would have to write down their loans to 85 percent of the current value of a house.'' By the way, under FHA Security Administration's plan, they can get a 100 percent loan put in. They can get somebody who's defaulted and get them a 100 percent loan. We require an 85 percent writedown to the value.

''Borrowers would pay a fee for the insurance and give up a share of any later price rise to the government.'' By the way, they would also be barred for 5 years from taking out a second mortgage. So the borrowers under this, if there was an increase in equity, would have to share much of it with the Government, and the earlier in the process in which they sold out, the more the Government would get. That's not the bailout that people have described.

People worry about moral hazard. I would assure people, no borrower who goes through this process will say at the end of it, ''Boy, that was fun. Where do I buy a ticket to get back on Space Mountain?'' They will be deterred.

But we're not relying solely on this. Two-thirds plus of this House, many of my Republican colleagues didn't do it, but many of my Republican colleagues did. We voted for a bill to regulate subprime mortgages going forward. We're not simply relying on people's bad experience. We have put some restrictions on that.

I believe this is pro-market. The markets now are in trouble because a lot of people who were very smart bought things they shouldn't have bought, including subprime mortgages. And having bought things they shouldn't have bought, they now don't want to buy things they should buy.

We all know the little story about the child who touches the hot stove,

and having touched a hot stove and being burned, won't go near the stove. We have investors today who, having touched the hot stove, are staying away from the refrigerator, the sink and the shower because they have been so badly burned.

If we do not adopt appropriate responses to this market failure, we will not cure it, and the lag in investments will continue.

We are working through the market here. It is voluntary that a lender says we're going to cut it down. People say, well, they'll dump all their bad loans. Have the Republicans who say that, because many Republicans are with us, so little confidence in the FHA?

Nothing in this bill coerces the FHA to accept a single loan that it finds unlikely to be repaid. And CBO accepts that, because they say of 500,000 loans that they expect to be accepted, the failure rate will be, average out to $4,800 per loan. Do you really think if the loan failed it would only cost us $4,800?

That figure, that $2.4 billion is CBO saying that there won't be many failures because of the criteria that are in this bill.

And people have said, what about the people who paid their mortgages? Well, if they live in a neighborhood where there is foreclosure, they're getting hurt. If they live in a city where the property tax revenues are going down, they're getting hurt. And if they live in America, they are in the midst of a recession in which we are losing jobs when we should be gaining them, in which real wages have been pulled down, and the single biggest cause of this recession is the subprime crisis and its reverberations.

This is a rare case of a microeconomic factor causing a macroeconomic problem. And the market got us into this. And we don't say junk the market. And I know people who have said, oh, the market's way too smart. And people have said to me, you know, some smart people don't agree with this proposal. Well, I agree with that.

But I also have to note that no dumb people got America into this problem. You had to be really smart to understand collateralized debt obligation derivatives. And the problem is that we need to restrain some of their instincts and let the market function again. And it simply will not happen if you simply let it go.

Here's what we say. And, by the way, I supported Hope Now when it came out. But Hope Now had a flaw. It was based on the notion—Members don't even pay attention to this—it was based on the notion that the problem was when the mortgage reset to a higher rate under adjustable rate mortgages, that would be the problem. That hasn't been the problem.

The problem has been people who owe more than the loan is worth. Some of them were irresponsible in the first place. Some of them made the mistake that almost everybody else made of not foreseeing the depth of the drop in house prices. So Hope Now has been overtaken by events.

We here are responding to reality in a way that is pro-market and minimizes the outlay. I hope the bill is passed.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1175, the previous question is ordered.

The question of adoption of the motion is divided among the three House amendments.

The first portion of the divided question is: Will the House concur in the amendment of the Senate with House amendment No. 1 printed in House Report 110–622?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NEUGEBAUER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on concurring in the Senate amendment with amendment No. 1 will be followed by 5-minute votes on concurring in the Senate amendment with amendment No. 2, concurring in the Senate amendment with amendment No. 3, adopting the motion to instruct offered by Mr. FLAKE, and adopting the motion to instruct offered by Mr. CANTOR.

The vote was taken by electronic device, and there were—yeas 266, nays 154, not voting 13, as follows:

[Roll No. 301]

YEAS—266

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chandler
Clarke
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Gerlach
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Graves
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Klein (FL)
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Reichert
Rodriguez
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth
Young (FL)

NAYS—154

Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Carter
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Doolittle
Drake
Dreier
Duncan
Emerson
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Goode
Goodlatte
Granger
Hastings (WA)
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jordan
King (IA)
Kingston
Kline (MN)
Kuhl (NY)
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Price (GA)
Putnam
Radanovich
Regula
Rehberg
Rogers (AL)
Rogers (KY)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Walberg
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)

NOT VOTING—13

Aderholt
Campbell (CA)
Cohen
Gutierrez
Larsen (WA)
Musgrave
Renzi
Reyes
Reynolds
Richardson
Rush
Tancredo
Tanner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Let me advise Members that there are approximately 2 minutes remaining in this vote.

□ 1619

Messrs. TURNER, WALSH of New York and HALL of Texas changed their vote from ''nay'' to ''yea.''

So the first portion of the divided question was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair will now put the question on the second portion of the divided question.

The question is: Will the House concur in the amendment of the Senate with House amendment No. 2 printed in House Report 110–622?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 322, noes 94, not voting 17, as follows:

[Roll No. 302]

AYES—322

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Bono Mack
Boozman
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Camp (MI)
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Filner
Forbes
Fortenberry
Fossella
Foster
Frank (MA)
Gerlach
Giffords
Gilchrest
Gillibrand
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Klein (FL)
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McKeon
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Rodriguez
Rogers (MI)
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Tiahrt
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NOES—94

Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Biggert
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buyer
Calvert
Cantor
Carter
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Doolittle
Everett
Fallin
Feeney
Ferguson
Flake
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Granger
Hastings (WA)
Hensarling
Herger
Hobson
Inglis (SC)
Issa
Johnson (IL)
Jordan
King (IA)
Kirk
Kline (MN)
Kuhl (NY)
Lamborn
Latta
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCrery
McHenry
Mica
Miller (FL)
Myrick
Neugebauer
Paul
Pearce
Pence
Pitts
Poe
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rogers (AL)
Rogers (KY)
Rohrabacher
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Smith (NE)
Smith (TX)
Stearns
Sullivan
Thornberry
Tiberi

NOT VOTING—17

Aderholt
Campbell (CA)
Cannon
Cohen
Gutierrez
Larsen (WA)
McMorris Rodgers
Moore (WI)
Musgrave
Nunes
Renzi
Reynolds
Richardson
Rush
Tancredo
Tanner
Walden (OR)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1627

Mr. SHAYS changed his vote from ''no'' to ''aye.''

So the second portion of the divided question was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair will now put the question on the third portion of the divided question.

The question is: Will the House concur in the amendment of the Senate with House amendment No. 3 printed in House Report 110–622?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PRICE of Georgia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 256, noes 160, not voting 17, as follows:

[Roll No. 303]

AYES—256

Abercrombie
Ackerman
Allen
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chandler
Clarke
Clay
Cleaver
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fortenberry
Foster
Frank (MA)
Gerlach
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hare
Harman
Hastings (FL)
Hayes
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Klein (FL)
Kucinich
Lampson
Langevin
Larson (CT)
LaTourette
Lee
Levin

Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Perlmutter
Peterson (MN)
Peterson (PA)
Platts
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOES—160

Akin
Alexander
Altmire
Bachmann
Bachus
Barrett (SC)
Barton (TX)
Biggert
Bilbray
Bilirakis
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Cantor
Capito
Carter
Chabot
Coble
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Drake
Dreier
Duncan
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Neugebauer
Pearce
Pence
Petri
Pickering
Pitts
Poe
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Walberg
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Aderholt
Campbell (CA)
Cannon
Clyburn
Cohen
Gutierrez
Larsen (WA)
Musgrave
Nunes
Renzi
Reynolds
Richardson
Rush
Tancredo
Tanner
Walden (OR)
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there is 1 minute remaining in this vote.

□ 1633

So the third portion of the divided question is adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 1175, the motion that the House concur in the Senate amendment to the title is adopted.

MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

The SPEAKER pro tempore. The unfinished business is the vote on the motion to instruct on H.R. 2419 offered by the gentleman from Arizona (Mr. FLAKE) on which the yeas and nays were ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 128, nays 274, not voting 31, as follows:

[Roll No. 304]

YEAS—128

Akin
Alexander
Bachmann
Bartlett (MD)
Bean
Biggert
Bilbray
Blackburn
Blumenauer
Blunt
Boehner
Boustany
Brady (TX)
Broun (GA)
Burgess
Camp (MI)
Cantor
Capuano
Chabot
Chandler
Coble
Cooper
Crenshaw
Culberson
Davis, David
Davis, Tom
Deal (GA)
Dent
Doggett
Doolittle
Drake
Dreier
Duncan
English (PA)
Feeney
Ferguson
Flake
Forbes
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gingrey
Harman
Hastings (WA)
Hensarling
Herger
Hobson
Hoekstra
Holt
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jordan
Keller
Kind
Kingston
Kirk
Kline (MN)
Knollenberg
Lamborn
Latham
Latta
Linder
Mack
Manzullo
McCotter
McCrery
McDermott
McGovern
McHenry
McMorris Rodgers
Mica
Michaud
Miller (FL)
Moore (WI)
Moran (KS)
Murphy (CT)
Myrick
Obey
Paul
Payne
Pence
Petri
Pitts
Price (GA)
Pryce (OH)
Radanovich
Ramstad
Reichert
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Rothman
Royce
Ruppersberger
Ryan (WI)
Sali
Scalise
Schmidt
Sensenbrenner
Sestak
Shadegg
Shays
Smith (NJ)
Smith (WA)
Souder
Stark
Stearns
Tiahrt
Tiberi
Tierney
Upton
Walberg
Wamp
Waxman
Weller
Westmoreland
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—274

Abercrombie
Allen
Altmire
Andrews
Arcuri
Baca
Baldwin
Barrett (SC)
Barrow
Becerra
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burton (IN)
Butterfield
Buyer
Capito
Capps
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Cazayoux
Clarke
Clay
Cleaver
Clyburn
Cole (OK)
Conaway
Costa
Costello
Courtney
Cramer
Crowley
Cubin
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, Lincoln
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly
Doyle
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Fortenberry
Foster
Frank (MA)
Gallegly
Gerlach
Giffords
Gilchrest
Gillibrand
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hall (TX)
Hare
Hastings (FL)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
King (IA)
King (NY)
Klein (FL)
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mahoney (FL)
Maloney (NY)
Marchant
Markey
Marshall
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moran (VA)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Neugebauer
Oberstar
Olver
Ortiz
Pallone
Pascrell
Pastor
Pearce
Perlmutter
Peterson (MN)
Peterson (PA)
Pickering
Platts
Poe
Pomeroy
Porter
Price (NC)
Putnam
Rahall
Rangel
Regula
Rehberg
Reyes
Rodriguez
Rogers (AL)
Ros-Lehtinen
Ross
Roybal-Allard
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sessions
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (TX)
Snyder
Solis
Space
Speier
Spratt
Stupak
Sutton
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Watson
Watt
Weiner
Welch (VT)
Weldon (FL)
Wexler
Whitfield (KY)
Wilson (OH)
Woolsey
Yarmuth

NOT VOTING—31

Ackerman
Aderholt
Bachus
Baird
Barton (TX)
Braley (IA)
Brown (SC)
Calvert
Campbell (CA)
Cannon
Cohen
Conyers
DeFazio
Filner
Gutierrez
Jefferson
Matheson
McKeon
Miller, Gary
Musgrave
Nunes
Renzi
Reynolds
Richardson
Rush
Sullivan
Tancredo
Tanner
Walden (OR)
Waters
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 1 minute remains in this vote.

□ 1639

Mr. LEVIN changed his vote from ''yea'' to ''nay.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall 304, I was unable to vote because of pressing business with my constituents in my home district. Had I been present, I would have voted "no."

MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

The SPEAKER pro tempore. The unfinished business is the vote on the motion to instruct on H.R. 2419 offered by the gentleman from Virginia (Mr. CANTOR) on which the yeas and nays were ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 169, nays 222, not voting 42, as follows:

[Roll No. 305]

YEAS—169

Akin
Alexander
Bachmann
Baldwin
Barrett (SC)
Bartlett (MD)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jones (NC)
Jordan
Keller
Kind
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
Kuhl (NY)
Lamborn
Larson (CT)
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McMorris Rodgers
Mica
Miller (FL)
Moore (WI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Obey
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Sherman
Shimkus
Shuster
Smith (NE)
Smith (TX)
Souder
Stark
Stearns
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Wamp
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NAYS—222

Abercrombie
Allen
Altmire
Andrews
Arcuri
Baca
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Brown, Corrine
Butterfield
Camp (MI)
Capps
Cardoza
Carnahan
Carney
Carson
Castor
Cazayoux
Chandler
Clarke
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Foster
Frank (MA)
Frelinghuysen
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kennedy
Kildee
Kilpatrick
Kirk
Klein (FL)
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Pallone
Pastor
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rehberg
Reichert
Reyes
Rodriguez
Rogers (AL)
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stupak
Sutton
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Watson
Watt
Weiner
Welch (VT)
Weldon (FL)
Weller
Wexler
Wilson (OH)
Woolsey
Wynn
Yarmuth

NOT VOTING—42

Ackerman
Aderholt
Bachus
Baird
Barton (TX)
Braley (IA)
Brown (SC)
Calvert
Campbell (CA)
Cannon
Capuano
Cohen
Davis, Lincoln
DeFazio
Filner
Gutierrez
Jefferson
Kaptur
Manzullo
Matheson
McKeon
Miller, Gary
Musgrave
Nadler
Nunes
Pascrell
Paul
Payne
Pickering
Renzi
Reynolds
Richardson
Rush
Shadegg
Shuler
Sullivan
Tancredo
Tanner
Walden (OR)
Waters
Waxman
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1646

Mr. SHERMAN changed his vote from ''nay'' to ''yea.''

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall 305, I was unable to vote because of pressing business with my constituents in my home district. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber today. Had I been present, I would have voted "yea" on rollcall votes 299, 300, 301, 302 and 303 and "no" on rollcall votes 298, 304 and 305.

COMMUNICATION FROM THE HONORABLE JOHN A. BOEHNER, REPUBLICAN LEADER

The SPEAKER pro tempore (Mr. KLEIN of Florida) laid before the House the following communication from the Honorable John A. Boehner, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 8, 2008.

Hon. NANCY PELOSI
Speaker, U.S. Capitol,
Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to Section 1853(a) of the Implementing Recommendations of the 9–11 Commission Act of 2007 (P.L. 110–53), I am pleased to appoint Mr. Henry Sokolski of Arlington, Virginia and Mr. Stephen Rademaker of McLean, Virginia to the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Both Mr. Sokolski and Mr. Rademaker have expressed interest in serving in this capacity and I am pleased to fulfill their requests.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

LEGISLATIVE PROGRAM

(Mr. BLUNT asked and was given permission to address the House for 1 minute.)

Mr. BLUNT. Mr. Speaker, I yield to my friend from Maryland, the majority leader, to tell us about next week's scheduled bills.

Mr. HOYER. I thank the Republican whip for yielding.

On Monday the House will meet in pro forma session at 2 p.m. On Tuesday the House will meet at 12:30 p.m. for morning hour and at 2 p.m. for legislative business, with votes postponed until 6:30 p.m. On Wednesday and Thursday, the House will meet at 10 a.m. for legislative business. On Friday no votes are expected at this time.

We will consider several bills under suspension of the rules. A final list of suspension bills will be announced, as is the custom, by the close of business tomorrow. We expect to consider the Iraq/Afghanistan supplemental appropriations bill. In addition, we also hope to consider the farm bill conference report. And it is possible, if the budget conference were completed, that we might consider that as well.

Mr. BLUNT. I thank my friend for that information.

Is it likely on the two conference reports you mentioned that the farm bill conference report will come before the budget conference report?

Mr. HOYER. It's likely that that will happen. I can't assert that, but I think it's likely.

As you know, the farm bill has been up to agreement and then back. I understand it is now agreed to and that Mr. PETERSON would like to bring it to the floor, assuming that the agreement holds, on Wednesday. So I think it's likely.

Mr. BLUNT. I am told if we went to the new budget, there might be some additional PAYGO items, but the current budget makes that farm bill more workable. So I think that might be the case.

Mr. HOYER. If the gentleman will yield, I see the chairman on the floor. The chairman and I have discussed that issue, and that's why I indicate that it is likely. Mr. PETERSON has worked extraordinarily hard, along with a lot of others. But because he's on the floor, I want to commend Chairman PETERSON for the work that he has put in on this. It's been a very rough conference and a very rough agreement. But he and Mr. LATOURETTE have worked closely together, and I congratulate them both.

Mr. BLUNT. That's right. Mr. GOODLATTE and Mr. PETERSON have talked to both of us a lot about this bill, and I think it's coming to some conclusion now.

Mr. HOYER. I said Mr. LATOURETTE. I'm sure he's worked hard, too, but Mr. GOODLATTE is the ranking member.

Mr. BLUNT. Mr. LATOURETTE was probably working on the Coast Guard issues in the farm bill.

I would like to ask the gentleman on the supplemental, I noticed in a number of printed reports that one of the reasons we didn't get to the supplemental was that the Blue Dogs were claiming some credit that the PAYGO issue, which you and I actually discussed last week, was a problem. At that time you thought that we might be able to waive PAYGO for both the GI portion of the supplemental and the unemployment insurance portion of the supplemental. I wonder where we are on that topic of PAYGO as it relates to those two issues.

Is that a decided issue yet, and how would you expect that it may be decided?

Mr. HOYER. First, let me say that I don't believe that the PAYGO, under the proposal that has been made, applies to the GI Bill, to the Webb bill, or to whatever bill there might be. STEPHANIE HERSETH SANDLIN has a bill as well. Mr. MITCHELL has worked very hard on his bill. But however that might be considered, we believe that technically it does not need a waiver of PAYGO. But, clearly, the unemployment insurance, which would be considered as an emergency, as was the stimulus for stimulating the economy, would be dealt with as an emergency.

Mr. BLUNT. I was fortunate enough to have a meeting with Secretary Gates this week, and he, of course, encourages us to get this supplemental done quickly because, otherwise, they immediately get into trying to transfer funds around and things that may be available but do create huge management problems. I do hope we can get this done before the Memorial Day break, as you suggested we would.

Mr. HOYER. Will my friend yield?

Mr. BLUNT. I yield.

Mr. HOYER. We were trying to get it done quickly this week. There were some delays, as I recall, in the process. That was not the only reason, as the gentleman has observed. But we hope to get it done quickly.

Mr. BLUNT. You mentioned the other alternatives to the so-called Webb bill, and the Herseth Sandlin bill that is cosponsored by Mr. BOOZMAN on this side, I'm told by our Members and frankly some people from the Pentagon that it has some real merit over the other bill. Since we don't have any options in that bill, at least the bill we were talking about this week, no options to bring alternatives to the floor, I would hope that we could look at all of the alternatives in that part that benefit our servicemen and women and be sure we're bringing the best alternative the House has available to it to the floor next week.

Mr. HOYER. I appreciate the gentleman's comments.

I will say that Congresswoman HERSETH SANDLIN has worked very hard on that. I'm sure Mr. BOOZMAN has as well. The committee has addressed that bill. It's a good bill. It's not as extensive, as you know, as the Webb bill, which has also been worked on pretty hard by former Secretary of the Navy WEBB, JIM WEBB, the Senator from Virginia. Both bills obviously seek to make sure that our warriors who come back, those who have defended freedom in Iraq and Afghanistan, that when they come back, we invest in their education so they, in turn, can grow our economy and our country and do what the veterans of World War II did. But we're looking at those and they're under discussion.

Mr. BLUNT. I thank the gentleman for that.

When you look at the anticipated spending and the scoring on those bills, both of them add so many new things to the benefit area that there's very little money spent in the first year. And since it takes that long to really get the new system up and running, I would just suggest again that the closer we are to a system that the military can be supportive of, both individuals in the military and the institutions, I think all of us want to take a step forward on those things that relate to servicemen and women and particularly those servicemen and women that may have been left out of past benefits for those who served. That would relate most directly to the National Guard and the reserves who are called up maybe for multiple periods of time but never for a long enough period of time at one consecutive time of full-time service to qualify for past benefits. We want to do that, but certainly we want to do that in the very best way, particularly when you look at how long it takes to retool the way that these benefits are made available for that to happen. Since it appears at this point that we'd have no alternative to bring, in this case, a better House alternative to the floor, I hope we are putting the right set of building blocks together to really build a better future for those who serve and are willing to put their lives at risk and their other activities on hold for us.

Mr. HOYER. Will the gentleman yield?

Mr. BLUNT. I would.

Mr. HOYER. I thank the gentleman for yielding and certainly agree with the sentiments he has just expressed, which is why, of course, we want to see this move forward quickly in the supplemental. But the alternatives that the gentleman has expressed are being looked at.

Mr. BLUNT. I'm also wondering, as we approach the Memorial Day recess and we have had this series now of days of the highest gasoline prices ever, will there be any legislation on the floor to reduce the price of gasoline as we go into Memorial Day and the other summer driving seasons?

Mr. HOYER. We certainly, as you know, passed a number of pieces of legislation which have attempted to look at a number of different issues. One, of course, was the manipulation by the OPEC nations to artificially inflate prices. The other thing we have looked at is price gouging at the pump. We passed that. The other item we looked at, of course, was the energy bill itself. And the other was we asked the FTC to look at manipulation. We wrote to the FTC about 3 weeks ago. The FTC gave

attention to our letter and is now exercising, as I understand, its jurisdiction under the legislation that we passed to look at prices.

In addition, we have numerous hearings scheduled. We've had some this week, next week, and the week after looking at various different aspects of this. Clearly, our consuming public, whether they be commercial, which are probably having the most critical problem because that's their livelihood, as well as those of us who are not driving for commercial sake but for important sake, to get to school, to get to work, to get to hospitals, to do all those things, we are very cognizant, as I know all of us are, of the strain that is being put on the consumers of our country.

□ 1700

Not only are they seeing an economic downturn, but at the same time that they are having reduced capacity to purchase things critical to them, gasoline and home heating oil are going up almost every week 5 to 10 cents. And so we are addressing that. We met with all the chairmen who reported out the energy bill last year and asked them to address this issue short term, medium term and long term.

Mr. BLUNT. I thank the gentleman for that.

I would like to find something to do that would have this impact as we get into this driving season. I know that Mr. RYAN introduced a bill today that would take the money that otherwise would have been used for earmarks on both sides of the aisle and use that to offset the loss of revenue to the highway trust fund of a gas tax holiday. That would be one of the things that we could do in the next 2 weeks that should have immediate impact at the pump by Memorial Day if we did it before that Memorial Day break. But if we could do something to reduce gas prices, that would be a major thing.

Mr. HOYER. Will the gentleman yield on that?

Mr. BLUNT. I would yield.

Mr. HOYER. One of the things I know I am personally for, and I think the Speaker is for that, as well, and we have urged the administration to take action, is not purchase additional oil for the Strategic Petroleum Reserve at this time. I would be opposed to taking oil out of the reserve. But if we stop purchasing oil for a period of time, reduce our demand as we fill the SPR, not only will we reduce demand, economists tell us that would have an effect on price, perhaps about the same as the gasoline tax holiday that you refer to.

There are a number of pieces of legislation. Mr. WELCH has a bill. Mr. LAMPSON has a bill. And many, many other Members have a bill. The administration, we believe, can do this on its own. We think that would be good policy while we have this crisis to stop filling up, not reducing, but to stop filling up our own reserve and reduce demand. Economists tell us that would have a positive effect on bringing prices down as well.

Mr. BLUNT. Based on the increase in prices, if in fact that would have the same impact as a gas tax holiday, maybe we should do both. I suspect there would be substantial support on the floor to do both.

The only other item I am going to mention today is the Colombia Free Trade Agreement. It was 1 year ago tomorrow that the House, the Senate and the administration made an agreement on trade. That was about a year after the Colombia Free Trade Agreement had been negotiated. We have not passed that agreement yet and don't have any schedule on the floor. I would hope that we will continue work to get the Colombia Free Trade Agreement and the other trade agreements but particularly the Colombia agreement to the floor and do that in the spirit of the agreement that the Speaker and administration and Senate negotiators announced a year ago.

I would yield.

Mr. HOYER. I thank the gentleman for yielding.

I want to say that both the Speaker and I believe that the administration, in reaching an agreement that you refer to, made a positive step in terms of incorporating within trade agreements a consideration of workers' rights and environmental concerns so that our manufacturers and our job producers in the United States had a fair, more level playing field in which to compete and that our workers were competing with workers who had the right to organize and were getting decent wages.

The Colombia agreement, as you know, was not sent down here after agreement between the administration and the House leadership. The response was to simply not take it off the agenda but take the time limit during which we might consider that. That was an interim step which did not, as the Speaker has pointed out, take Colombia off the agenda. It simply didn't put it on the agenda for immediate consideration. But that is still on the agenda. It is still available, a force, and it is still under discussion.

Mr. BLUNT. I hope we can get it done.

ADJOURNMENT TO MONDAY, MAY 12, 2008

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next, and further, that when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, May 13, for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5818, NEIGHBORHOOD STABILIZATION ACT OF 2008

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 5818 and amendments to H.R. 3221, to include corrections in spelling, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. UPTON. Mr. Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Upton moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 (an Act to provide for the continuation of agricultural programs through fiscal year 2012) be instructed to recede to the provisions proposed to be added to Section 9001 of the Farm Security and Rural Investment Act of 2002 in the form of a definition of ''Renewable Biomass.''

Mr. UPTON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Pennsylvania (Mr. HOLDEN) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Michigan.

Mr. UPTON. Mr. Speaker, I will say I know that the hour is late. Many of us are trying to get home for the weekend, and there is business after me. So I don't at all intend to take too much of my 30 minutes that I have. But let me yield myself as much time as I may consume now.

Mr. Speaker, we are woefully unprepared to meet our energy needs for the next 30 years. Some estimates say that our needs in this country are going to increase as much as 50 percent by the year 2030. So we are going to have to do a much better job on not only looking at alternative forms of energy, we are also going to need to do much more on conservation, nuclear and a whole host of things. And as the majority leader indicated a short time ago, we are looking for some long-term strategies.

What this instruction to the conferees does is it takes, in essence, a piece of legislation, a bipartisan piece

of legislation that the Energy Subcommittee held hearings on earlier this week, a bill offered by the gentlelady, STEPHANIE HERSETH SANDLIN, which is bipartisan, and it expands the definition of renewable fuel and biomass to include wood removed as byproducts from National Forest System land or any organic matter that is available on a renewable basis from non-Federal land, including renewable plant material which includes feed grain, other agricultural commodities, other plants and trees, waste material, including crop residue, et cetera, food and yard waste. And it would instruct the conferees to include this on the farm bill.

Of course, the farm bill is a bill that is moving along. The farm legislation is a bill that is going to be on the President's desk we hope in the not too distant future. So this is a bill that is going to move.

Why not take a piece of bipartisan legislation that deals with alternative fuels like ethanol, expand that, and actually get it to the President's desk so we can do it right away rather than wait for more hearings, markups and dealing with the Senate? Who knows what happens over there. We can actually get this thing done and then address part of the needs that we have in this country to expand our alternative fuel base.

So I would like to think that we could adopt this. I know that there is quite a bit of support on it based on the hearing that we held earlier this week.

Madam Speaker, I would reserve the balance of my time.

Mr. HOLDEN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it appears that my friend from Michigan's motion is to instruct the House to recede to the Senate's definition of renewable biomass. The House conferees have receded to the Senate on their definition of renewable biomass. That definition of renewable biomass that is included in the farm bill applies only to farm bill programs. This definition does not apply to H.R. 6.

The farm bill conferees report does not amend H.R. 6, that despite the fact that several members of the Agriculture Committee, including myself, are supporting efforts to amend the shortcomings we see in that bill. And I say to my friend from Michigan that I am going to have to oppose this motion to instruct at this time. And I agree with your position on this. But yet you know there are multijurisdictional concerns that have to be addressed with the Energy and Commerce Committee. And we are trying to work through all of these.

The farm bill conference is all but done. Over the last few weeks, I have been saying we need to dot our I's and cross our T's. The I's are dotted and we are crossing our T's. So even though I agree that the argument that my friend is making on the problems of H.R. 6 are correct and on target, we cannot do it on this farm bill. The hour is too late. So I would oppose my good friend's amendment at this time.

I reserve the balance of my time.

Mr. UPTON. Madam Speaker, I have no further speakers. I am prepared to close if the gentleman yields back his time.

Mr. HOLDEN. Again, the argument that my friend makes is credible. But at this time, we just cannot accept it. The conference is all but over. And I would oppose my friend's motion.

I yield back the balance of my time.

Mr. UPTON. Madam Speaker, I just might say in closing as a member of the Energy and Commerce Committee, we had what I thought was a very favorable hearing earlier this week. I would like to think this is a vehicle we can move this legislation on very quickly rather than resort to the normal process, particularly as we look long term. We can do this in the short term. It makes a lot of sense.

I would urge a ''yes'' vote on the motion to instruct the conferees to include this in the farm bill.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. CLARKE). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. UPTON. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. SHIMKUS. Madam Speaker, I have a motion to instruct at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Shimkus moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 (an Act to provide for the continuation of agricultural programs through fiscal year 2012) be instructed to recede to the provisions contained in section 9021 of the Senate amendment (relating to the E 85 Fuel Program).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Colorado (Mr. SALAZAR) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Illinois.

Mr. SHIMKUS. Madam Speaker, I yield myself such time as I may consume.

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, as many people who have observed the House floor over the past month, I have continuously come down to address the high cost of energy and the importance of bringing the supply issue to this debate.

One of the things that we have been successful with, which is now under attack, it was once a success story, was E–85, ethanol and the entire debate of bringing more supply to this debate.

This motion to instruct highlights the importance of E–85 fueling stations and developing that. For example, in my home State of Illinois, I am very fortunate. We have 171 E–85 fueling stations. In my congressional district, I can go all throughout my 30 counties and fuel up with my flex-fuel vehicle E–85.

□ 1715

There are States in the Union that cannot. An example, Maine, we couldn't get any information on. Rhode Island has zero, Vermont has zero, Delaware has one, where other States, like Minnesota, has 346.

One of the issues of more supply is also more supply locations. When we move to new fuels, as other people talk about, if we move to a hydrogen economy, we are going to need hydrogen-fueling stations, and that's all part of the importance.

This motion to instruct says let's do what the Senate did on the farm bill, and let's talk about developing an E–85 infrastructure around this country so we can help decrease our reliance on imported crude oil. Why? Because everything we talk about on this floor revolves around energy and the high cost of energy, especially for the producers of our food.

For example, manufacturer inputs have increased 14 percent in 2008 on top of a 12 percent increase last year. That's inputs to grow our food. Corn fertilizer costs $140 per acre for 2008, compared to $115 price in 2007, contrasted to $63 per acre from 2001–2005.

What is driving up high farmers' input costs? No additional supply. A lot of fertilizers are affected, all buy natural gas. As we continue to restrict our ability to go after more supply, we push up the input costs, which drives up the price for food and this whole debate.

I can go through all the huge increases that our farmers have had to do. DAP, prices rose from $252 per ton in January, 2007, to $752 gulf price. Urea rose from $272 to $415, muriate of potash rose from $173 to $252. We can just go on. It's a huge, huge increase.

Now we don't want to come down to the floor without bringing alternatives and solutions. What's the solution? The solution is more supply.

Look at what's happened. It's not disputable. Under this majority, crude oil has gone from $58 a barrel to $123. I come down almost every day. This price has not gone down. This price continues to go up.

We have had promises made by Democrat leadership. In 2006, I quoted them before, Speaker PELOSI saying, ''We have a plan to drive down energy costs.'' Majority Leader HOYER who just spoke: ''We have a plan to bring down energy costs.'' JIM CLYBURN: ''We have a plan to drive down energy costs.''

The reality is, energy costs have gone up, not down, $58 a barrel to $123. What has that done for us at the pump? When the Democrat majority took over, the price for a gallon of gasoline was $2.33 on average. What is it today, on average, $3.66.

Put in climate change tax, 50 cents, $4.16 is what we would be paying today with climate change. That's not a plan. In fact, it's a plan to fail. If you don't have a plan, you plan to fail, and that's the difficulty of our farmers getting into the field. Diesel costs have doubled, rising the price. Ethanol gets blamed. Ethanol gets blamed because energy costs to get the corn out of the fields has gone up. You want corn prices down? We have got to lower this.

We have got to get back to the day of $58 a barrel crude oil. We can't get there with no plan. We can't get there by every week saying we have got a plan, and there is no plan.

There is a plan. We have brought them onto the floor numerous times. What can we do? One is use our great natural resources on coal in this country, 250 years worth of coal to be used using coal-to-liquid technology. Get coal from our underground, build a coal-to-liquid refinery, pipe it, in this case, to an Air Force base, pipe it to a commercial airline. We have lost all these airline jobs because of high costs. This is what we do.

Guess what you can make: Diesel fuel. Diesel fuel. What is the farmers' major input? Diesel fuel, because that's what goes in the tractors when you have got to plant the corn. That's what goes in the tractor when you have got to harvest the corn or the beans, and diesel fuel has cost. Truckers are going on strike. Independent truckers are going on strike.

A lot of these independent truckers are hauling the beans, hauling the corn to the elevator. Without a plan to lower cost of energy, you plan to fail. Coal-to-liquid is a solution.

What is another solution? See all this red area? We don't have Alaska on there. Off-limits. Off-limits for natural gas. Off-limits for crude oil. Let's open up these areas. The environmentalists will say, oh, no, we can't do that. One of our major areas for crude oil and natural gas is the gulf.

Guess what happened here? Katrina, big storm, devastated New Orleans. A major oil spill in the gulf? No, no major oil spill.

We can do it cleanly, we can do it efficiently, we can bring more supply to the market. You want to know how to lower prices for the farmers? Lower energy prices.

But what's our policy here? Can we drill in ANWR?

''Forget it.''

What about offshore?

''Are you crazy?''

Clean coal?

''Out of the question.''

Nuclear power?

''You're just joking.''

Well, what are we going to do about the high price of energy? When you have no plan, you plan to fail. My farmers, who are getting accused for high prices, have high prices because we have high energy costs, and we have high energy costs because we won't get to supply.

That's why we want ethanol to succeed. That's the only thing we have done to bring more supply to this debate.

If we don't address the high input cost, what's going to happen is this fuel-food debate is going to go crazy. I was at the hearing. Guess what, there is a call to roll back the ethanol renewable fuel standard.

Now, that really helps our energy independence, doesn't it?

Madam Speaker, I reserve the balance of my time.

Mr. SALAZAR. Madam Speaker, well, it appears that the gentleman's motion to instruct will direct the House conferees to accept the provision of the Senate version of the farm bill.

The Senate farm bill contains a provision, section 9021, that would have created a grant program to install E–85 pumps. The Energy and Commerce Committee, who are also conferees in the farm bill energy title, indicate that had this plan is duplicative of section 244 that was included in H.R. 6, the Energy Independence and Security Act of 2007. We tried to avoid this duplication of programs between the farm bill and the energy bill that was passed last year.

While I agree with the gentleman that ethanol is a very vital part of our energy independence program, we still have to make sure that we continue to move forward and that we do not derail this current farm bill that we are presently working on. It is my understanding that my colleagues in the conference committee for the food conservation and energy act have already come to an agreement that is already to be reported.

Nonetheless the chairman reminds us, all Members, that all motions to instruct are really out of order because the conference committee report is ready to be filed. I know that adopting this motion would obviously delay passage of the farm bill.

With that, Madam Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Madam Speaker, I would like to recognize my colleague from Texas (Mr. GOHMERT) for 5 minutes.

Mr. GOHMERT. Madam Speaker, this is such a critical issue. You know, there are so many important things facing this country, whether it's the war on terror, the importance of FISA. But when you talk to people at home, it's getting desperate. It is getting very desperate, and they need help on the price of gasoline. They need help on the price of diesel fuel.

What are we doing? We are hearing people say, oh, we couldn't possibly drill ANWR. I am from Texas. Texas, Oklahoma, Louisiana, we have got States where we are doing everything we can to pump up all the energy we can to help the rest of the country.

We need some help. We have got all of these other resources, and they are being put off-limits. They are being kept off-limits, and we have heard from some on the other side, well, drilling doesn't really bring down the price of fuel.

You know what? We are told from some of the experts, 20, 30 percent is speculation. These speculators are smart. They see that every bill that's come out of this House for the last 16 months does not provide any answers to getting us more energy any time soon.

Talk about ANWR. Now, it was pointed out yesterday in our Resources Committee that really this area that is proposed for drilling is not part of ANWR. It was a section set aside by Jimmy Carter to make sure that we had an area that we could develop.

Now we are told that perhaps once a year caribou may come through this area of ANWR, and, oh, my goodness, if we put a drilling rig out there, it may destroy our caribou. We heard the same thing back some years back, that if we put a pipeline through some of this area up north it was going to kill off the last 27 head of caribou.

You know what happened? The pipeline went in, that oil is warm going through that pipeline, and what happened is it makes the caribou amorous. Now when caribou want to go on a date, they invite each other to go over to the pipeline. We are up to 30,000 head of caribou now because of what the warm pipe has done for the good of the caribou community, so it's going well.

We are told we can't drill the Outer Continental Shelf. About 97 of our coastlines are unavailable. We heard the same thing in Texas years back. Oh, please, don't put a drilling rig, not a platform out in the water. Oh, my goodness, you get beyond 30 miles, nobody can see it from the beach.

But what we found in the Texas coast is, despite all the naysayers saying it was going to kill off the fish, what's happened, if you want to go fishing and really go where the fish are, they go around the platforms because they have become wonderful artificial reefs. Man and environment can work together to help each other. The Outer Continental Shelf, we may have the highest second supply of natural gas in the world, some think we might even have the most, but we have put it off-limits and won't go after it.

We have lost so many wonderful union jobs because of the price of natural gas. I lost several hundred jobs out of my district when a paper mill closed

because it ran on natural gas, and we were paying the highest price in the world because we wouldn't utilize what we have.

My friend has pointed out coal. We are the Saudi Arabia of coal, according to a lot of experts, and yet we put it off-limits. President Carter put a huge amount of our coal off-limits. We are the only advanced nation that takes our greatest resources of energy and puts them off-limits.

Nuclear. Now I am not one to advocate mimicking France over anything, but they have about got it down on nuclear. We could follow their example and provide so much energy. Refineries, the bills we keep passing out of this Congress, out of this committee I am on, it makes it harder to open refineries. That makes the price go up. Speculators see that.

If we had an announcement today, tomorrow, from Speaker PELOSI and Leader REID that, by golly, next week we're going to drill ANWR, we're going to drill Outer Continental Shelf, we're going to start supplying more of our energy needs until we can bring all these alternatives on line, that 20 to 30 percent would go down.

I would be willing to bet you that we would lose a dollar off the price of gasoline within a week's time because the speculators would say, whoa, they are really serious about providing their own energy needs.

We had a report last week, that it turns out a lot of the experts believe that we may be able to get three to five times the amount of oil left in the entire Middle East from our shale in Utah, Colorado, and Wyoming, three to five times. They are saying there are maybe 900 billion barrels of oil left in the Middle East, maybe a trillion, and we may get 3 to 5 trillion barrels recoverable from shale in areas so much of which is off-limits.

□ 1730

In some cases they say, well, we'll give you an 8-year lease, but it will take over 7 years to get the permits. Folks, we have to help our people. They are crying out, and we need to do something now.

Mr. SALAZAR. Madam Speaker, I just wanted to remind the members on the other side of the aisle that the Future Gen project which was actually on track to be built in Illinois was actually pulled from being built because of its costly forecast.

So I would remind our Members on the other side of the aisle that coal is a very large part of our energy independent America formula; however, we have to do it in a clean way to make sure that we use clean coal-burning technology. However, that technology has not been perfected yet.

Mr. SHIMKUS. Would the gentleman yield since you mentioned Future Gen which is in central Illinois?

Mr. SALAZAR. I will yield.

Mr. SHIMKUS. I appreciate your yielding.

I was one of the few Members who actually talked to the President registering my disgust, frustration and anger. I will say it is now up to my friends on your side of the aisle, both in the House and on the other side of the Capitol to help move on a strategy to keep Future Gen on track.

We have a strategy. We are working in a bipartisan manner. Coal is critical to our national security, low cost fuel. I am begging the legislative leaders on your side, which they can do by putting Future Gen legislation on must-pass legislation, funding it, and Future Gen can stay alive. But I am not in the majority now. I am glad you mentioned it, and I call upon your side to make it so.

Mr. SALAZAR. I agree with the gentleman. I agree this is something that we have to move forward on, and it can be done in a bipartisan fashion, making sure our environment is taken care of.

We also have to employ other nations as well. In China, they are building a coal-fired plant once a week, that's what I hear. Maybe even more. So we have to do it in a worldwide fashion type of legislation that would actually create that clean coal burning technology.

Madam Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Madam Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman has 16 minutes.

Mr. SHIMKUS. I yield the gentleman from Tennessee (Mr. WAMP) 10 minutes.

Mr. WAMP. Madam Speaker, the reality of 2008 is that the nexus between national security, energy, and the environment is the most important public policy issue that we face in this country. The nexus has a lot of different angles to it, but these three issues together is the greatest policy challenge that we face.

The farm bill is now in a sense an energy bill. The national security challenges that we face are indeed tied to the cost of oil. Unfortunately, these are the realities of what we face today.

Tomorrow in Oak Ridge, Tennessee, at the Oak Ridge National Laboratory which is one of the lead laboratories in our country on alternative fuels, biofuels, research, mostly looking at cellulosic ethanol research and how to best bring that about, tomorrow at that laboratory my senior Senator, Senator LAMAR ALEXANDER, will lay out a Manhattan Project style approach to energy.

I don't want to preempt what he is saying there tomorrow, but he is joined tomorrow by Congressman BART GORDON, a Democrat from our State who happens to be the chairman of the Science and Technology Committee here in the House on a Manhattan-style approach because of this nexus, because there is a lot of clamor about global warming and because people are looking to our country to take some leadership, and the President of the United States has said we do need to lead. I believe this is an opportunity for us.

But I will tell you what my position is on energy, and this is after 8 years as the Republican co-chairman of the Renewable Energy and Energy Efficiency Caucus in the House of Representatives, which is over half of the House, it is about 60 percent Democratic members and 40 percent Republican members. I have chaired it for 8 years with MARK UDALL. I am the chairman of that, but my position on energy is an all-of-the-above position. It has to be an all-of-the-above position. We cannot pick winners and losers. They did that in California and the lights went out. You can't pick winners and losers, not when we have the capacity challenges that we have today. And we do have capacity challenges everywhere.

At $122 a barrel, this is a supply-and-demand problem. If the people who don't like us around the world that produce oil would increase the supply, the price would go down. Or if the demand would reduce by conservation and not so much growth in India and China, the price would go down. But this is a supply-and-demand problem. We have to have an all-of-the-above solution.

Let me talk about a few things because transportation is the big driver, and gasoline is the most painful thing for the average consumer. I would suggest to you today, and Members say this a lot, but I know a lot about this, alternative fuels are only a bridge to the future. They are not the end all. That is not where we are going to end up in terms of transportation.

We have such quick development in ion lithium batteries that the people in the auto industry will tell you that we will be plugging in our automobiles very, very soon at a cost-competitive price point, not like the hydrogen fuel cell which is a 25-year proposal because the cost is prohibitive today, we can't pay $300,000 for a car, so we can't have hydrogen fuel cell cars yet, but that technology is out there. And maybe it will work.

But I will tell you what will work right now in the marketplace is electric cars, and they are coming quick. Plug-in hybrids, GM and Toyota, the year after next, will be commercially viable at a price point such that consumers will use them. So fuels are important, but technology is going to develop. Transportation is two-thirds of our oil consumption, and we have to move quickly there because this is very, very painful.

But here is the technology opportunity for the United States of America, and I call this the in-tech agenda. How did the budget get balanced for 4 years here? I was here. I think SHIMKUS was here. Four years ago, LEE TERRY was here. For 4 years in a row it got balanced, not by cutting spending. We did slow the growth of spending below inflation for 4 years which was very admirable because that hadn't been done in 40 years. But what we did do is we

had such a robust, export-driven U.S. economy that revenues surpassed expenses. That's how the budget got balanced.

Now what drove the revenues up? Well, guess what, we led in an area of the economy, and it boomed with our leadership, called the information world. Bill Gates and people like him so led the world that if you wanted the best in software and computers, for a long period of time they were from this country. I grew up when you didn't want to drive an American-made car. You didn't want to have an American-made television; for a while it had to be Japanese. Cars had to be German. Things changed. We led in the information world, and revenues surpassed expenses.

Guess what can happen early in the 21st century if we get off our tails: we can lead in energy technologies. We can solve the world's problem by being proactive and not even beat a retreat on climate change. I don't want to argue about how much man contributes to climate change because, frankly, the science is not clear on that. But it is an opportunity for us because if we provide these technology solutions to the world, the budget will get balanced again with a robust manufacturing-driven U.S. economy. Part of an all of the above.

We should provide the nuclear solutions to the world and not be afraid of it because, like the speaker said, in France and Great Britain and the Netherlands and other countries, nuclear is very much a part of their portfolio because they have a balanced portfolio, because they know they need to do these things in order to reduce their emissions.

While we are going to vigorously debate next year this issue of global warming, anybody in this place who says they are for cleaning up the air globally and making progress on zero emissions and carbon sequestration and reducing the carbon footprint and they are not for nuclear, they are kidding themselves because it has got to be a part of the portfolio given the capacity demands of today and tomorrow.

And if we are going to plug our cars in, capacity has to increase on energy. It is an all-of-the-above strategy.

Just today in the House, Congressman STEVE BUYER, with me as an original co-sponsor, introduced the Main Street U.S.A. Energy Security Act. It opens the Outer Continental Shelf to responsible energy production. It allows energy development within the ANWR. It streamlines the refinery permitting process assisting new refineries to be built in the United States for the first time in 30 years. It supports the development of coal-to-liquid plants. It supports the building of more nuclear plants. It provides a 3-year production tax credit extension for wind, biomass, geothermal, and many of the renewable investments. It invests in research and development programs for the energy needs of tomorrow.

You say, What are you doing introducing that today? Well, that is just a package of things that we are reintroducing again that we voted on in this House over and over and over and over again in the last 14 years because I counted, and it is dozens and dozens of times that we have had these votes, and the people who were for more capacity lost. On the floor of this House, on the floor of the Senate, we lost.

Bill Clinton vetoed the bill to open up oil production in Alaska. I'm not picking on him. Maybe that is what people wanted then, but they sure don't now. Why are we not responding? Why is our head buried in the sand? We have to have an all-of-the-above policy to compete. And we can balance the budget again. It is good for us. The world sees us reducing our carbon footprint, leading with new energy technologies and solving the world's problems.

We sat on the couch from 1973 to 2008. Since the oil embargoes of 1973, we sat on the couch as Americans and didn't make the changes we needed to make. And now we are in a mess. A $122 a barrel mess. But we sat on the couch. Guess what happens when you sit on the couch and you don't exercise and you don't get ready; that's where we are. We have to change.

You cannot vote against energy capacity in any segment of our economy or energy production without ending up either the lights go out or the price is too high, access is not there, and people are hurting. That's where we are today. It is an all-of-the-above strategy.

Let me close on this note. I am a conservative, and conservation is a good thing. People can begin to reduce demand by conserving, and consumers can join us. We need to do better, and so does the consumer in this country. Use less, be sensitive to lights, drive less, move to smaller vehicles; demand goes down and price goes down. We need to do that, and it is not wimpish to propose that. It is a good, solid, pro-American thing. Let's be more efficient, let's move to alternatives. But I'm saying an all-of-the-above strategy. Don't say we can do all of this with renewables. It is not there to meet tomorrow's demand. We have to have all of the above. Some things are long term and I know that, but right now we have to respond. This takes a balanced approach.

I thank Members from both sides who have that attitude, and I look forward to tomorrow at the Oak Ridge National Laboratory.

Mr. SALAZAR. Madam Speaker, I commend the gentleman for his leadership in the Renewable Energy Caucus and his efforts to try and develop future products that come from renewable energies.

Madam Speaker, I would like to yield 5 minutes to my good friend from New York (Mr. HALL).

Mr. HALL of New York. Madam Speaker, I thank the gentleman and I thank my friend from across the aisle for his comments on conservation and the sharing of the same root between conservatism and conservation. Perhaps he would be willing to tell our Vice President who said a few years ago that conservation may be a personal virtue, but it is no way to build a national energy policy, that he is wrong. I am pleased to hear Members of this body on both sides of the aisle voicing that opinion, that conservation efficiency in effect has to be part of our national energy policy.

I also was happy to hear his comments on electric cars. In Israel, which I visited last August, and which I would like to wish a happy 60th birthday to, Israel is leading the way on not just solar energy in which they are collaborating with a California company on a huge solar photovoltaic project which will provide today, this is not some distant time in the future, today will provide enough electricity for 400,000 homes. Solel, Inc., is the Israeli company and Pacific Gas and Electric is the partner here in the United States. Not only are they a leader in photovoltaic solar electric power, but they are pioneering in Israel, as we could be in this country, electric cars that travel from one station to another and instead of charging the battery, they just switch it. They are working on a battery that will be interchangeable between all cars. So one can drive up to the gas station which will now be an electric station or whatever fuel one moves toward, remove the old battery that is run down, immediately get a new one installed and drive away in a matter of minutes rather than waiting for it to be charged up.

□ 1745

All these options are available, and I'm here to say they're available today.

I would also dispute, however, the assertion that nuclear power is non-emitting, that nuclear power is clean. First of all, nuclear power does give off greenhouse gas emissions because, in the process of mining and milling and transporting nuclear fuel, there are fossil fuels burned.

There are, in my very district, in fact, strontium, nydium, tritium, among other cancer-causing radioactive particles being released into the groundwater and even under normal operations, into the air.

And lastly, of course, the spent fuel has to be transported, again using fossil fuels, to a repository, which may be Yucca Mountain whenever that happens to be opened.

In the meanwhile, every nuclear plant and every nuclear shipment is a potential terrorist target. We know that Mohammad Atta wrote, for instance, in the papers that were found after 9/11, about canvassing New York City, flying on commercial airliners, and that he took notes about a nuclear plant that he flew over as a potential target that we believe to be Indian Point.

So I would remind those on both sides of the aisle that our diplomatic stance around the world has been one of trying to stop other countries from taking a ''peaceful nuclear program and turning it into a military nuclear program.'' It's a very gray area and a blurry line once one learns how to enrich fuel. It's only a matter of how far one enriches that fuel.

So there are some things that we agree about. I totally agree that we need a moon shot technology revolution. We need to put all the resources of this country that we can behind this, and that American ingenuity can solve these problems.

But speaking as one who's burning 20 percent biodiesel in my home heating oil, who's getting 1,500 kilowatt hours a month from wind power, who's driving an American-made hybrid today that gets 33 miles per gallon, and an SUV with 4-wheel drive, not a little tin can, but actually a pretty sizeable vehicle, I think these technologies are available if they're given the proper incentives, tax breaks and subsidies today, and if we lead the way in government with preferential purchasing and the decision-making that we make as the powerful government that we are.

So I'm happy to be a part of this exciting time in our energy history.

Mr. SHIMKUS. Madam Speaker, I would like to save my time to close, so I would reserve the balance of my time.

Mr. SALAZAR. Madam Speaker, I would also like to thank my colleague on the other side of the aisle for many of his comments. I understand that this is a very important issue here in America today moving America forward towards an energy independent America.

Madam Speaker, however, it is my understanding that my colleagues on the conference committee for the Food Conservation and Energy Act have already come to an agreement that is ready to be reported. We have a title, which is the energy title of the farm bill, which directly deals with agricultural issues and renewable energy and cellulosic-based ethanol.

As a matter of fact, the energy title creates a $1.01 per gallon cellulosic ethanol tax credit to 2010. It also has in $1.01 per gallon is based on a 56 cents per gallon tax credit, producers credit, and it has a 45 cents per gallon blenders credit. The total tax benefit is $400 million.

And as the gentleman knows, we are currently in a budgetary strain. We have PAYGO rules which we must abide by. I think that adopting this motion would delay the passage of the farm bill. And the chairman reminds all Members that motions to instruct are basically out of order at this time, being that my colleagues in the conference committee have come up with an agreement and they are ready to report this.

Madam Speaker, I yield back the balance of my time.

Mr. SHIMKUS. Madam Speaker, I want to commend my colleague from Colorado. I'm an aggie. I don't serve on the committee. And the agricultural sector is one of the few sectors that we have increased supply. So I do this with all due respect.

My concern is that when we disincentivize the E85 fuel stations, the cellulosic debate, which is the next bridge to get us to the RFS standard that we passed in December, we can't get there without RFS, without cellulosic. And we're sending a bad signal when we have States without any fueling stations and we have States that do. And so that's what brings me down.

And I'm glad my colleague from New York talked about nuclear power. The former head of Greenpeace now supports nuclear power. The former head of Greenpeace now supports nuclear power.

Coal generating electricity is 50 percent of our electricity generation in this country. 50 percent. Nuclear's 20. Our demand's going to increase 30 percent in the next 20 years.

Texas tried wind power. They had brownouts. ZACK WAMP is right. We need more supply. This is what China's doing. China is building 40 nuclear plants in the next 15 years, not one. We haven't done one in 30. China's going to build 40.

China's invested $24 billion in large scale coal liquification technology. China is rapidly expanding its refining capacity. One of the reasons we compete is because we had low cost power. We don't have low cost power anymore. Those days aren't here. Renewable fuels aren't going to fill the gap that we have.

So we have to do, as Zach said, all of the above. In a column, Robert Samuelson said, what to do about oil? The first thing, start drilling. It's the easiest, quickest thing we can do. Unless you want to put up with this. Unless you want more, and, you know, you're a rural farm boy in Colorado.

I try to remind people here that in rural America we like big trucks. We have to have working trucks. We can't haul a horse trailer with an electric engine, with a four-cylinder engine. It won't go anywhere. We need powerful trucks. We need trailers. We need working trucks.

That's fossil fuels. That's diesel. We can't pay these gas prices anymore. And we're going to. Don't get me on climate change. All I want is transparency.

If we're going to tax the American public they need to know they're going to pay 50 cents more a gallon. And my charts are way over.

Why can't we go here? Why? Why can't we access these areas to get natural gas? Anhydrous ammonia, the Number 1 commodity input, natural gas.

And what has your majority done? You put areas off-limits. We've got areas in your State in the last year we put off-limits. We didn't bring on more supply.

Great solution. China's doing it, taking coal, gasifying it. When you gasify it you can burn electricity. You can capture the carbon. It's a clean way to do it. We can't do it.

For every dollar increase in a barrel of crude oil, do you know how much the taxpayers have to pay to fund the Air Force? 60 million additional dollars. Our Air Force is the number one jet fuel user in the world. They're begging for help. It's crazy.

We are relying on imported crude oil. Our national security depends on aviation fuel, and we are constrained by imported crude oil. Don't you think it'd be better to use our known natural resources to help our Air Force to fly our planes?

Coast Guard authorization bill, $1 increase. $1 dollar increase in Coast Guard authorization diesel added $24 million to the cost of the Coast Guard to protect our border.

Mr. SALAZAR. Will the gentleman yield?

Mr. SHIMKUS. Yes, sir.

Mr. SALAZAR. I just wanted to ask the gentleman, what does this have to do with the farm bill?

Mr. SHIMKUS. These are input costs. You know the diesel price has doubled. I mean, my farmers, when they plant the corn, they're in a tractor. When they harvest the corn or the beans, they're in a tractor. It's run by diesel fuel.

There's an attack on ethanol today. I was in committee today, I mean, 2 days ago, let's stop the RFS. It's the only thing that we have. And why is it under attack? Because input cost to production of commodity grain has gone up because we can't get low price diesel fuel.

When we harvest the corn we take it to a grain elevator. We do that with a big diesel truck, a big tractor trailer. We have independent truckers striking. They drove around here a couple of weeks ago, big signs. We can't afford the high cost of diesel.

And we know costs get passed on. What's some Democrats' response? Oh, we've got a great idea. Let's tax the energy companies more.

My challenge is, when have we ever raised a tax that's lowered the price to a consumer? And I've challenged people; give me one example where we raised the tax and costs went down. No one's challenged me. And I'm sure people will look at that.

Another thing is let's demand that the people we're reliant on, pump more crude oil. Oh, that helps us not become reliant on imported cried oil. Let's demand that the people who are providing us oil pump more. That's why I'm so frustrated with this. I hope you understand. We need to lower prices.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SHIMKUS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. TERRY. Madam Speaker, I have a motion to instruct at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Terry moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 (an Act to provide for the continuation of agricultural programs through fiscal year 2012) be instructed to recede to the provisions contained in section 12312 subtitle C of title XII of the Senate amendment (relating to a cellulosic biofuel production tax credit).

Mr. TERRY (during the reading). Madam Speaker, I ask unanimous consent to waive the reading of the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. TERRY) and the gentleman from Colorado (Mr. SALAZAR) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Nebraska.

Mr. TERRY. Madam Speaker, I rise today with my motion to instruct to make sure that we keep a tax credit that the Senate has in its version of the farm bill for cellulosic energy and the blending. It's a dollar tax credit, and that's important that we have the higher number because cellulosic energy or cellulosic ethanol, I think, is where we are going to move to for our midterm energy strategy in this country, and that we really are at the very embryonic stages of its development, as I'm going to show here in a few minutes, and that because we are at the beginning stages of cellulosic energy, taking it literally from the research laboratories to the experimental market, trying to produce it more than at 1 gallon at a time, that we will need to, more heavily subsidize these beginning processes.

□ 1800

Now, I'm going to build our argument here of why I feel that cellulosic energy or cellulosic ethanol is important and why we need the $1 credit versus the lower number that was in the House version to get to our ultimate goal here, which is energy independence.

And by the way, I define ''energy independence'' as not relying on OPEC countries. We will need to use the natural gas and oil from Canada, and we will need to, for a variety of reasons, use the oil from Mexico; but wouldn't it be great if we were in a position that we didn't have to use the oil that's produced by countries that don't like us, that really hinders, as the gentleman from Tennessee, ZACH WAMP, mentioned. Our foreign policy, we have to counsel, we have to do things for countries that really are trying to harm us economically, like Venezuela is right now.

Now, the bottom line here, the bottom line here is that every citizen of the United States is paying higher prices at the pump. They are paying more of their family budget to get to and from work, to and from the grocery store, and they're upset and rightfully so. So I am asked frequently, what is the plan. Well, the problem is there really isn't a cohesive plan. We do know that it is an issue of supply and demand.

Now, we've nibbled at the edges in an earlier bill this year that was signed by the President in December on the demand part. We did things to help incent electric cars, hybrids, battery technology; and probably the key component or foundation of that demand bill or lowering demand of oil was increasing the fuel efficiency of cars and light trucks. That was called the Hill-Terry bill. So I was one of the co-authors of that bill, and we got that in there. And that will increase fuel efficiency by 40 percent, in stages, to 2020, where I really see that we're going to end up earlier meeting those goals because of battery technology and ethanol.

We already have some vehicles out on the road today using ethanol blends as high as 85 percent that are hybrid. So you're combining ethanol, lowering the amount of oil that we have to use and refine, and battery technologies at lower speeds: for example, the Ford Escape.

Now, let me broach into an area here that I think is important for people to understand because our midterm strategy, at least as I envision it, is going to involve ethanol. And for some reason, ethanol has been blamed for every ill that has occurred globally. There has been severe droughts that have affected rice crops, and yet I read in U.S. papers that that's caused by ethanol. It's baffling how they make this connection, and it's wrong; but yet it seems like ethanol is causing more problems, as related by the media, than President Bush is. Maybe President Bush is happy that ethanol is pushing him off the front page. I don't know.

All I know is most of what you're reading about ethanol is completely bogus. And even people in the Corn Husker State are now starting to tell me, We can't rely on ethanol. We're learning that this is bad, because I am paying more at the grocery store. My eggs are more expensive because of ethanol. Huh? Well, okay. Maybe some of the grain-related foods have been impacted by ethanol.

I want to show you a few charts here. And by the way, these studies are done by the government. They've been reported in The Wall Street Journal and other major business magazines.

First of all, the problem with the higher prices at the grocery store in total is because of increased energy costs. The price per barrel of oil closed short of a $124 today. It's grown dramatically, and ethanol is actually helping with those energy costs. Every report that I have seen, and we will use this chart, has shown that we would be paying much more at the pump today if it were not for the ethanol that we're blending.

Here is a chart that shows today's average price at the pump of $3.65. That would be $4.20 at the pump today if we didn't have the ethanol to blend.

Now, you're saying, well, that's great but, you know, it's driving up the food costs so I'm actually paying more. Well, that's not true, but we're not hearing about it in our media.

The reality is that today, because of ethanol being blended into gasoline and that major difference of what you would pay at the pump, it would be as much as 40 cents more, maybe 60 cents more, according to that information. So actually the consumer is saving around $305 to as much as $420 a year because of ethanol.

Now, every study that I have seen has shown that the direct impact of ethanol, that part of the corn crop that's diverted from feed or shipped to be manufactured into food, impacts about 5 cents on a box of cereal. Every study that I have seen from Texas A&M, the government, University of Nebraska has said it is about 3 percent on grain-related foods. 3 percent. But yet you're saving 15 to 20 percent at the pump, and it is helping you in today's world.

Now, let's talk about cellulosic. Cellulosic is where you take a biofeed stock, it can be just about any living, growing thing, and you use an extra step in the process to take this and break down the gluten, kind of the glue that holds the cells together, that holds the sugars; and when we are able to dissolve those, then you can extract that and create ethanol.

Now this type of ethanol, by the way, has a higher Btu rating and has more energy involved in it. So actually this ethanol goes further for us.

What type of products can we use? Well, you can use things like switchgrass. You can use wood pulp. You can use sweet sorghum. You can use anything as long as it's a living, growing organism. You don't have to use food. So that's why it's important.

Now, I'm going to say that ethanol is here to stay, but I do believe ethanol, based on corn, is going to hit a ceiling; and so cellulosic, if we can then use these types of bioproducts and create more energy or liquid fuel, then that is more that we can displace. And we will need a complete national energy strategy, and that's why I was curious when ZACH WAMP came up here and talked about LAMAR ALEXANDER announcing

his energy plan using one of our biolabs that's doing work on the cellulosic area. And I think their focus in that lab has been on switchgrass and wood pulp. And so that will be interesting.

But the beauty of cellulosic is not only that it gets us much closer to energy independence but that every region of the country has something to offer, whether it is wood in the northeast or northwest, or algae; switchgrass, and even in my State you can go from switchgrass in the Missouri Valley area where I live to corn to sweet sorghum out in the dry parts because sweet sorghum grows stalks 12 feet tall and requires less than 12 inches of rain.

Where are we, and I'm getting back to my friend from Colorado to why we need the higher, the $1, the higher amount for the blending credit.

USDA and Department of Energy are partnering together—it's nice to see two of our agencies actually working together—to open up several cellulosic ethanol plants over the next 2 years. They will produce a small amount, maybe 10 million gallons to start with, but if we can't use this product in the market and blend it, because we all know this is first generation so it's going to be expensive. It's going to be about $5.50 a gallon to produce this with the first-generation technology. They will get it down to $3, but if we can't get past this first generation stage, we're never going to get to second, third, fourth generation. So we need that higher level of subsidy or blending credit to make sure that the product that comes out of the new cellulosic ethanol plants is being used within the market.

Now, my expectation is while maybe 2 to 3 years from now we're producing maybe 50 million, that's a drop in the barrel, by the way, 50 million gallons; I really think that with this type of a blending credit that we can then double and triple and quadruple and maybe tenfold that 5 to 10 years later. And then we couple that with hybrid and electric technology, and man, I really am optimistic about the future of our country.

Now, the gentleman from Colorado, I have one speaker that would like to say a few things. Do you want to take some time right now or let us finish up and you can have some time and I will take 1 minute for close?

I yield to the gentleman from Colorado.

Mr. SALAZAR. I appreciate the gentleman.

Let me just say I agree with you on everything that you have said to this point. Ethanol is being blamed for the high cost of food prices. But what the news media forgets to tell you is that we've had the shortest wheat crop on record worldwide for many, many years. They also forget to tell you that because this country continues to borrow money from China, the value of the dollar continues to go down, and so developing countries, like China and India, can now afford American food products. So it creates a larger demand.

The Congressional Research Service issued a report that shows that between 40 and 50 percent of the price of food at the grocery store is dependent, directly dependent on the cost of transportation. I agree with you on that.

You also talked about the issue of holding the $1 tax credit, which the Senate has approved. It is my understanding that the Conference Committee has agreed upon that. As a matter of fact, what has been created is $1.01 per gallon cellulosic ethanol tax credit through 2010. The $1.01 per gallon is based on the 56-cents-per-gallon producer's credit, and then the 45-cents-per-gallon blender's credit. This should incentivise people to start or companies to start producing ethanol from cellulosic material.

I believe that the Nation is capable of producing a sustainable supply of about 1.3 billion tons of biomass per year. As you know, across the Western States of America, many trees have died because of the bark beetle problems. This is biomass that we can actually utilize to produce alcohol to fuel our vehicles.

□ 1815

I believe that the 1 billion tons of biomass would be sufficient to probably displace 30 percent of our country's present petroleum consumption.

So I do agree with the gentleman.

Mr. TERRY. Thank you. I do appreciate those comments. It's good to know that that is what is in the report. Many of us have not been able to see the report language yet to know what's in or what's not. So I appreciate you letting me know that's in there.

At this time, I would like to yield to the gentlelady from North Carolina (Ms. FOXX).

Ms. FOXX. Madam Speaker, I thank my colleague for yielding, and I really appreciate the good work that was done by my colleague from Tennessee, ZACH WAMP, and my colleague from Illinois, JOHN SHIMKUS, on this issue of what do we do about energy independence, what do we do about ethanol, what do we do about the alternatives that we have.

And I think it's important that we continue to point out the problems that we're facing in this country on achieving energy independence and to point out that we are dealing with basically a do-nothing Congress in terms of this issue. We are not dealing with this issue now, and I share the concern that my colleague from Nebraska Mr. TERRY expressed about how everything's being blamed on ethanol and George Bush.

The Congress likes to blame George Bush for everything, thinking that's the mood of the American people, and the leadership thinks it can deflect any responsibility for the problem that we're seeing now.

But I want to point out that right now gasoline is $3.64 a gallon on average. That's 56 percent higher than when Speaker PELOSI was sworn in, and it is 745 days after she promised this: ''Democrats have a commonsense plan to help bring down skyrocketing gas prices.'' And that was when gas was just about $2 a gallon, not $3.64.

It's also 948 days after Majority Leader STENY HOYER said, ''Democrats believe that we can do more for the American people who are struggling to deal with high gas prices.''

And it's 653 days after Democrat Whip JIM CLYBURN said, ''House Democrats have a plan to help curb rising gas prices.''

All of these statements were made in 2006 when the Democrats were making statements to fool the American people on what they could do to make things different.

Well, they got elected. They're now in leadership and what do we have? Blaming. We're looking for this secret plan that they have. They've never brought it forward, and we're still waiting for it, months, years after they promised it, 2 years actually after Speaker PELOSI promised that they had a plan to do this.

We have all the quotes on this and the dates. Again, April 2006, October 2005, July 2006 are the dates, but what they've done is they've raised taxes four times since they've been in office on energy in this country, and what they do then is blame the President.

Most people know, I think, that the President can't pass laws. All the President can do is sign them or veto them. It is our responsibility to do something about the way this country is operated in terms of laws. We operate under the rule of law, and it's no coincidence that article I of the Constitution is about the Congress and about our responsibilities, but the Democratic leadership has failed miserably in dealing with those responsibilities.

I also agree with Congressman WAMP that this is a national security issue, and that in addition to providing additional supplies of energy, we must do conservation and we must be more efficient. I don't think anybody on our side of the aisle disagrees with that. However, we have to do something to increase the supply.

We are dealing with a short-term and mid-term and long-term issue, and part of the problem that we're dealing with is the fact that in 1995 President Clinton vetoed the bill that would have allowed us to drill in ANWR. We have radical environmentalists who basically believe, if all the human beings in the world were to disappear, the world would be a better place because we're the ones to blame for all of the problems that we have in this country and in the world.

I don't believe that. I believe the good Lord gave us the resources that we need and the brains to use those resources and extract them. We should be drilling in ANWR. I've been to ANWR, I've been to Alaska, I've seen what happens there. The people who are opposed

to drilling there won't even go to Alaska to see the situation there. I think that's terribly, terribly shortsighted.

We could have started doing that many years ago, and we wouldn't be in this situation that we're in now because that, along with other things that we could do, such as drilling in the outer continental shelf, such as creating other resources, such as cellulosic ethanol, would be providing us what we need.

And I also agree, again, with Representative WAMP that energy independence means to me we are not going to be dependent on OPEC countries. We don't want to be dependent on people who hate us. We don't want to help fuel the terrorists. One of the things that we're doing is providing money for the terrorists to fight us, and we don't need to be doing that.

We do need to conserve. We do need to use every resource available to us in this country, and it is time that the Democrats exert some leadership in this area instead of blaming George Bush and blaming others for the problem that we're facing. They absolutely refuse to take charge of what's happening here.

I heard today on a radio program that there is a theory that they want to make the American people as miserable as they possibly can because President Bush is still our President, and they are so good at blaming him for things rather than accepting responsibility for their own actions. I think that has to be one of the most cynical things that anybody could possibly be doing in this country. It's our responsibility here to do everything that we can to help the American people, not do everything that we can to make them miserable.

I want to give you a quote from Investors Business Daily from April 29, 2008. The title of the article is ''Congress vs. You,'' and one of the quotes, ''The current Congress, led on the House side by a Speaker who promised a 'common sense plan' to cut energy prices 2 years ago, has shown itself to be incompetent and irresponsible.''

Again, we have quote after quote after quote from business journals and from responsible people to show us that the problems that we're facing now are not based in our situation with the war but is based in the incompetence and the do-nothing of this Congress.

And again, let me point out, President Clinton vetoed H.R. 2491, the Balanced Budget Act of 1995, which would have allowed environmentally responsible exploration for an estimated 10.4 billion barrels of oil in a tiny sliver of ANWR. Senate Democrats have twice blocked energy exploration in ANWR via the Energy Policy Acts of 2003 and 2005. They have voted ''no'' on the American-Made Energy and Good Jobs Act which would open ANWR to exploration, over and over again. They've said no to new refineries. They've said no to the Energy Policy Act. As others have pointed out, they've said no use to using coal. They've said no to using nuclear. Everything they've done is say no, while Republicans have repeatedly said yes. Yes to Americans who drive to work and school. Yes to gasoline prices that Americans can afford. Yes to American oil. Yes to American common sense in the rules, and yes to an American future of abundant, affordable energy that working people can afford to buy.

I don't think the Democrats are going to be able to continue to fool the American people that someone else is responsible for the problem that we're now facing. They're squarely responsible. They continue to say no, Republicans continue to say yes, and I think the American people are going to understand that in the short-term and in the long-term.

Mr. SALAZAR. Madam Speaker, may I inquire how much time either side has?

The SPEAKER pro tempore (Ms. HIRONO). The gentleman from Colorado has 30 minutes remaining. The gentleman from Nebraska has 3½ minutes remaining.

Mr. SALAZAR. Is the gentleman prepared to close?

Mr. TERRY. I have closed, and I will probably use my 3½ minutes for closing.

Mr. SALAZAR. Madam Speaker, today I couldn't agree more with many of the comments that my friend from Nebraska has made. He comes from farming country like I do. We understand the value of the fuel that goes into your tractors and the value of the fuel that goes into your pick-up trucks to run a farming operation.

I believe that ethanol is a temporary fix to our energy independence in America. We need to start looking at new technologies such as cellulosic-based technology. We understand that relying on corn-based ethanol is only a short-term solution.

Everything that I believe that my colleague has in his motion has been addressed in what the conference committee has brought forward, the higher $1 per gallon cellulosic ethanol tax credit. I think that these are provisions that Mr. TERRY's motion has.

I only have one concern, Madam Speaker, is that if we were to adopt this motion, I believe that it could potentially delay the passage of the farm bill, and so I would ask my colleague, Mr. TERRY from Nebraska, to consider withdrawing his motion.

Mr. TERRY. Would the gentleman yield?

Mr. SALAZAR. Yes.

Mr. TERRY. I plan to mouth those words at the end of my ending comments.

Mr. SALAZAR. I would thank the gentleman, and with that, Madam Speaker, I yield back the balance of my time.

Mr. TERRY. Madam Speaker, I thank the gentleman from Colorado.

In closing, what we're faced with is restricted supply, ever increasing demand on oil products, on oil and gasoline, $124, just shy of $124 per barrel today, and my friends, it's just going to keep going up. And we need a plan to make sure that we protect our economy and your budget.

We know that we can't continue to pay these type of prices at the pump. We know that what we're experiencing with our inflation at the grocery store is about 80 percent related to those high costs of energy.

We have a solution before us with ethanol, corn-based ethanol. Again, just in a summary here, the ethanol that is blended into the gasoline today is actually making it cheaper. That's allowing you to save more. You're not going to be spending as much on gasoline if it were not for the blend of ethanol in it.

□ 1830

The argument that food has increased because of ethanol is not accurate. In fact, these are just several of the publications that have gone on record, Wall Street Journal, CNN, have all said that it's a fallacy that food prices are going up because of ethanol.

So net, it's helping our citizens, but the future isn't with corn-based ethanol, it's with cellulosic. Cellulosic is going to supplement this ethanol. And its potential is immense.

So I'm proud to learn from the gentleman from Colorado that the dollar producers credit—I think I called it blenders credit a couple of times during the statement—but that 101 producers credit, coupled with the blending credit, is what's going to lift cellulosic ethanol for us into the market and make it a viable way that we can secure our independence from the OPEC producers.

Knowing that that is in the farm bill conference report, I feel comfortable, then, not instructing the farm conference, especially since there is no more conference.

I ask unanimous consent to withdraw my motion to instruct.

The SPEAKER pro tempore. Without objection, the motion is withdrawn.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GENE GREEN) is recognized for 5 minutes.

(Mr. GENE GREEN of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. WELLER) is recognized for 5 minutes.

(Mr. WELLER of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

(Mr. RYAN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SUNSET MEMORIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. Franks) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Madam Speaker, I stand once again before this House with yet another Sunset Memorial.

It is May 8, 2008, in the land of the free and the home of the brave, and before the sun set today in America, almost 4,000 more defenseless unborn children were killed by abortion on demand. That's just today, Madam Speaker. That's more than the number of innocent lives lost on September 11 in this country, only it happens every day.

It has now been exactly 12,890 days since the tragedy called Roe v. Wade was first handed down. Since then, the very foundation of this Nation has been stained by the blood of almost 50 million of its own children. Some of them, Madam Speaker, died and screamed as they did so, but because it was amniotic fluid passing over the vocal cords instead of air, no one could hear them.

And all of them had at least four things in common. First, they were each just little babies who had done nothing wrong to anyone, and each one of them died a nameless and lonely death. And each one of their mothers, whether she realizes it or not, will never be quite the same. And all the gifts that these children might have brought to humanity are now lost forever. Yet even in the glare of such tragedy, this generation still clings to a blind, invincible ignorance while history repeats itself and our own silent genocide mercilessly annihilates the most helpless of all victims, those yet unborn.

Madam Speaker, perhaps it's time for those of us in this Chamber to remind ourselves of why we are really all here. Thomas Jefferson said, "The care of human life and its happiness and not its destruction is the chief and only object of good government." The phrase in the 14th amendment capsulizes our entire Constitution, it says, "No State shall deprive any person of life, liberty or property without due process of law." Madam Speaker, protecting the lives of our innocent citizens and their constitutional rights is why we are all here.

The bedrock foundation of this Republic is the clarion declaration of the self-evident truth that all human beings are created equal and endowed by their Creator with the unalienable rights of life, liberty and the pursuit of happiness. Every conflict and battle our Nation has ever faced can be traced to our commitment to this core, self-evident truth.

It has made us the beacon of hope for the entire world. Madam Speaker, it is who we are. And yet today another day has passed, and we in this body have failed again to honor that foundational commitment. We have failed our sworn oath and our God-given responsibility as we broke faith with nearly 4,000 more innocent American babies who died today without the protection we should have given them.

Madam Speaker, let me conclude in the hope that perhaps someone new who heard this Sunset Memorial tonight will finally embrace the truth that abortion really does kill little babies; that it hurts mothers in ways that we can never express; and that 12,890 days spent killing nearly 50 million unborn children in America is enough; and that the America that rejected human slavery and marched into Europe to arrest the Nazi Holocaust is still courageous and compassionate enough to find a better way for mothers and their unborn babies than abortion on demand.

So tonight, Madam Speaker, may we each remind ourselves that our own days in this sunshine of life are also numbered and that all too soon each one of us will walk from these Chambers for the very last time.

And if it should be that this Congress is allowed to convene on yet another day to come, may that be the day when we finally hear the cries of innocent unborn children. May that be the day when we find the humanity, the courage, and the will to embrace together our human and our constitutional duty to protect these, the least of our tiny, little American brothers and sisters from this murderous scourge upon our Nation called abortion on demand.

It is May 8, 2008, 12,890 days since Roe versus Wade first stained the foundation of this Nation with the blood of its own children, this in the land of the free and the home of the brave.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

(Mr. BILIRAKIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. TIM MURPHY) is recognized for 5 minutes.

(Mr. TIM MURPHY of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

(Mr. GARRETT of New Jersey addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KLINE) is recognized for 5 minutes.

(Mr. KLINE of Minnesota addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

U.S. FOREIGN POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from California (Mr. SHERMAN) is recognized for 60 minutes as the designee of the majority leader.

Mr. SHERMAN. Madam Speaker, I thank the leadership for allocating 1 hour to me of floor time.

As a senior member of the Foreign Affairs Committee and as Chair of the Subcommittee on Terrorism and Nonproliferation, I will take the next hour to focus on our foreign policy and to see whether it is focused correctly on the threats that face us in the first quarter of the 21st century. Then, if time permits, I will discuss an issue—some would say a threat—that will face us in the second and third quarters of the 21st century.

Madam Speaker, I believe that our foreign policy has been adrift since the end of the Cold War because we have

been unable and unwilling to prioritize. Our national case of ADD forces us to focus on whatever international objective flits across our consciousness.

We have an enormous national ego which causes us to believe that we can simultaneously and successfully pursue all our objectives, and that we can defeat evil everywhere we choose to notice it. As a Nation, we punish politicians and pundits who dare to deflate our enormous national ego.

Our bureaucracy opposes any effort to prioritize our objectives because that effort conflicts with the bureaucratic imperative to please every one of its bureaus. Imagine having to go to the Moldova desk in the State Department and say that Moldova's sovereignty over its Transdniestra region cannot be a major national priority. The State Department is pretty much on autopilot, with each of its bureaus focusing on the bureau's function, the bureau's priority, with no one setting overall national priorities.

As a Nation, we have sacrificed 4,000 of our finest, and untold treasure. We did so in Iraq because our leaders told us it was necessary in order to protect ourselves from weapons of mass destruction, weapons that did not exist. But just because we are able to sacrifice treasure and lives to protect ourselves from a nuclear program that did not exist does not mean that we can sacrifice our national ego and our bureaucratic imperatives to focus on real threats that do exist.

Now, in addition to these long-standing institutional and psychological barriers to prioritization, at present we face three practical barriers that also prevent us from focusing on the national threats that we should really focus on, that we should give our priority to. The first of these is our unhealthy fixation on Iraq. This fixation began with President Bush. It now afflicts us all.

Now, we are told that morally we must stay in Iraq because we ''broke it,'' but we are told this by the same people who rightfully point out that whatever shape Iraq is in today and whatever shape we leave it in is still superior to where it was under Saddam. Remember, Saddam killed hundreds and hundreds of thousands of Iraqis through his policies. We're told we must stay in Iraq because we risk a humanitarian problem if we leave, while at the same time this Nation ignores actual humanitarian holocausts that are going on in places like Somalia, Chad and Congo. Those humanitarian holocausts don't count because CNN isn't there. And CNN isn't there because our troops aren't there. So our troops must stay in Iraq because CNN is in Iraq, and CNN is in Iraq because our troops are in Iraq. So we must stay there because we are there. This is no way to prioritize our foreign policy.

We are told that if we leave Iraq, terrorists could meet there and plot against us. Imagine how big a national ego we must have to think that we could possibly deprive our enemies of a conference room. The fact is that terrorists can and do plot against us in Somalia, in Yemen, in countless other places, but of course these don't count because CNN isn't there. Remember, however, that 9/11 was plotted in an apartment building in Hamburg, Germany, which makes you wonder why we are staying in Iraq to make sure that terrorists don't have a place to plot against us. So our fixation with Iraq prevents us from prioritizing our foreign policy, prioritizing the need to protect Americans from nuclear attack. But that is just one of the obstacles we face.

The second obstacle we face is an unhealthy fixation on our reflexive, unthinking and implacable anti-Russian attitude. Now, I don't mind being anti-Russian. I do mind being implacably, unthinkingly, and reflexively anti-Russian. Now, part of this stems from our great national hubris. Our foreign policy establishment doesn't like Mr. Putin or his so-called successor, and we don't think that we should have to accommodate anybody we don't like. The fact is that sometimes you do have to do business with people you don't like if you want to carry out a reasonable, prioritized foreign policy. Our politicians tell us that we are at war. Well, the last truly great wartime leader of the United States was President Roosevelt, and he did business with Putin's most venal predecessor.

Now, this reflexive, anti-Russian attitude grew up in large part because of the individuals who are making our foreign policy decisions today. These are people who spent their lives planning and studying and writing their theses on how to surround and defeat the Soviet Union. Old habits die hard, but yesterday's priorities should not dictate tomorrow's priorities.

Now, Putin has given us much to be angry about, but let us take a look at whether this new Cold War, at worst, or very cold peace, at best, started with Moscow or started in Washington.

Now, one issue that has faced us throughout foreign policy is the doctrinal battle between the doctrines of self-determination and territorial integrity. Self-determination, the right of a group of people within a country to split up, split off, and form their own country; territorial integrity, the right of a nation to continue to have and to possess and to control its territory.

In fact, the two great wars fought on American soil were on opposite sides of this doctrinal distinction. Our first great war on our own soil was our war for self-determination, our war for independence. The second great war was the war to protect our territorial integrity from those who sought southern independence. So we have been on both sides of this doctrinal divide. We face this same divide now, territorial integrity versus self-determination.

Let us examine eight places in the general neighborhood of Russia where this doctrinal conflict has come up. You see, we are for self-determination of Kosovo just as we were for the self-determination of the Slovenes and the Croats, which led to the split up of Yugoslavia, and we were for the self-determination of the various republics that made up the Soviet Union. Four times that we were for self-determination—Kosovo, Slovenia, Croatia, and the Soviet Union itself.

But we are against self-determination and instead for territorial integrity in at least four areas also close to Russia. We are against self-determination of the Transdniestra region of Moldova. We are against self-determination for the northern part of Kosovo that would like to self-determine itself out of Kosovo and rejoin Serbia. And we are against self-determination for two regions of the Republic of Georgia, Abkhazia and South Ossetia. Eight conflicts; four times we support self-determination, four times we support territorial integrity.

Some would say we are inconsistent. This is not the case. We are consistently anti-Russian; consistently, unthinkingly, and reflexively anti-Russian. In all eight of these conflicts, Russia had a strong interest. In most of these conflicts, we had virtually no interest. Who amongst our constituents talks to us about Abkhazia or South Ossetia? Yet every time, in all eight instances, we took a very strong and determined anti-Russian position.

We also have a conflict with Russia over the proposal to build a missile defense system in the Czech Republic and in Poland.

□ 1845

Russia believes that we are rushing to install these installations to create anti-Russian facts on the ground in Eastern Europe. Our position is that those missile defenses will protect Europe from a possible Iranian nuclear-tipped missile. But the Europeans don't particularly want our missile defense system. We have to bribe the Czechs and the Poles to let us put them there. The Germans and the French would just as soon we not build them.

Why are we taking this aggressively anti-Russian position? One would say that the goal is to protect Europe from Iranian nuclear weapons. But wait a minute. We have not even tried to bargain with Russia, to seek their help in preventing Iran from getting the nuclear weapons in the first place. Perhaps in return for not building a missile defense system, we could achieve greater cooperation from Moscow in stopping Iran's nuclear program. But we are unwilling to prioritize. We have as a priority creating anti-Russian facts on ground in the Czech Republic and Poland; and, accordingly, we cannot sacrifice the opportunity to build missile defense systems in those countries just to get Moscow's critical help in preventing Iran from developing nuclear weapons.

I could give you a number of other examples. Let me just focus on one,

and that is the recent commercial disputes between Ukraine and Russia. In those disputes we have told these two groups of former Communists of these formerly Communist countries that it is wrong to sell goods, in this case, natural gas, for its fair market value. We have told former Communists that capitalism is wrong. Why? Because capitalism would allow Russia to get more for its natural gas, and our tendency to be reflexively anti-Russian exceeds our tendency to support capitalism. So we face a second practical block to prioritizing our foreign policy, and that is our instinctively anti-Russian attitude.

But we also face a third block to prioritization, which is our failure to recognize how important it is to get the support of world opinion, particularly opinion in Western Europe, in order to achieve what should be our number one national priority, which is protecting the American people from nuclear weapons.

Now, think back to 9/11. We had the sympathy of the whole world. People were ready to follow our leadership. People demonstrated in favor of America in places where they had not demonstrated in favor of America before or since. But then what did we do? We ignored Kyoto. We invaded Iraq. We disdained the International Court of Justice. We built Guantanamo. We angered our friends and our allies with unilateral approaches on the wrong set of issues. Today, who would say that the United States has the support or the sympathy of the world? We need to prioritize. The real threat is nuclear weapons in the wrong hands.

Now, I am going to avoid using the term ''weapons of mass destruction'' because that has been a phony and misleading term. It puts nuclear weapons in the same category as chemical or biological weapons. Only nuclear weapons could kill millions of Americans.

Now, I don't want this speech to be too depressing. We are vulnerable. We are institutionally and psychologically unable to focus on how to reduce our vulnerability. But we are still far safer than we have been at other times in our history. In the 1960s we faced a far greater threat. At that time we faced the risk of thousands of Soviet nuclear weapons, 10 megatons or more each. Now we face less than one five-hundredth the arsenal of the Soviet Union in terms of number and less than one five-hundredth in terms of the strength of each nuclear device. So we are far safer now than we were when we, as baby boomers, as elementary school students, were ducking under our desks in air raid drills in order to learn how to protect ourselves from a massive Soviet nuclear attack.

Now, let us say that we could overcome our obstacles to a rational, prioritized foreign policy. What would be our response to the nuclear threat that we face? There are four possible responses to a nuclear threat: Prevention, deterrence, interception, and survival. I will deal briefly with the last three of these and then focus on the first, prevention. And by ''prevention'' I mean preventing the wrong people from getting the most powerful weapons.

Now, deterrence and interception are, I think, false hopes because they miss the mark on the delivery system that is most likely to be used by those who wish us harm. For 20 and 30 years, we have talked on this floor about Star Wars or national missile defense, how we're going to hit a bullet with a bullet in outer space. Maybe someday it will work. But missile defense can be rendered irrelevant. It doesn't take a rocket scientist to deliver a nuclear weapon to an American city. A nuclear weapon is a bit smaller than a person, in most cases. You could smuggle one inside a bale of marijuana.

Now, we have had a lot of talk on this floor about how to make our borders more secure and deal with the issue of illegal immigration. To date, our efforts have increased the fee charged by the so-called coyotes to smuggle an illegal immigrant into the United States up from $1,000 to $1,500. This may have a substantial impact on those people who aspire to work in the United States for minimum wage. But whether the cost of bringing in something the size of a person is $1,000 or $10,000 or $100,000 is not going to matter much to the Iran Revolutionary Guard Corps. We are not going to have borders so secure that a truly sophisticated terrorist group or intelligence agency will not be able to bring a bomb across our borders. Keep in mind we have 300 million legal border crossings every year. We have zero patrol officers, zero on the entire border between Alaska and Canada. Between Canada and the lower 48, we have roughly one security official every 30 or 40 miles, and that person is only working 8 hours a day. So smuggling a nuclear weapon will not be difficult for any adversary sophisticated enough to get its hands on a nuclear weapon in the first place.

Not only is smuggling easier, it gives the perpetrator plausible deniability. If you send an intercontinental ballistic missile into the United States, we will know where it came from. On the other hand, if you smuggle one here, you can always deny that you did it or leave some plausible deniability, and deterrence will be undermined, and, as is obvious, interception is made irrelevant if weapons are smuggled into the United States.

Now, I know that the great dictators really want an intercontinental ballistic missile. It's the Viagra of tyrants. But as a practical matter, our enemies will determine that smuggling a nuclear weapon makes more sense for them. It provides them with plausible deniability to deter deterrence. It makes irrelevant all of our missile defenses. The other problem with deterrence is that Iran may not be deterrable, and I will get to that in just a few minutes.

So I have dealt with deterrence and interception. Let us turn to survival, civil defense. This is a subject you are not allowed to talk about on the House floor or anywhere else in polite society. The First Amendment protects many kinds of speech but not talking about civil defense because you have to turn to Americans and say your government may not be able to protect you from nuclear attack. We may be in a circumstance where we can reduce casualties from 200,000 down to 100,000. Our problem is that the American electorate finds the death of even 100 Americans to be unthinkable.

Now, we could cut casualties in half or by more than half if we prepare civil defense. But if a nuclear weapon the size of the one tested by North Korea went off at the White House, about 2 miles away, the people in this room would survive, but none of us would know what to do or where to turn for information. Should we shelter in place? Should we flee, and if so, in what direction? We need a system to tell Americans what to do. And we have to take Americans into our confidence and tell them that this is a real threat, that we are working to reduce the threat, and that we are working to prepare for the threat.

Now, I know that survival is something that we dealt with in the 1960s when we did those bomb drills I was talking about. What might have been absurd when we did it is now laughed at when it would be useful because in the 1960s, had we been hit by our adversary, it might well have been a thousand 10-megaton weapons. No one could have received medical care. There would be no relief into the city from outside the city. The living would envy the dead.

In contrast, Iran might develop one or two 15-kiloton weapons, 1 to 2 percent the size of the weapons of the Soviet Union, less than 1 percent of the number. We would be able to bring in medical care from outside. We should talk about it. We should plan for it. But I know that no politician or pundit is allowed to do so; so I will stop and instead shift to a discussion of prevention, keeping nuclear weapons out of the worst hands.

Now, I know that we should prevent the worst regimes and organizations from obtaining nuclear weapons. How do we do that? Maximum carrots, maximum sticks, maximum focus. We need to prioritize. We need to maximize our options. And, finally, maximum linkage, by which I mean connecting our objective of deterring a nuclear Iran or a nuclear North Korea with objectives that are important to other countries, not only North Korea and Iran themselves but Russia and China.

Let's first look at North Korea. I think North Korea is less important than Iran because North Korea is not ambitious. It wishes only to survive and to oppress its people in its own territory. What we need in order to deal with North Korea is the carrot of offering a nonaggression pact, a treaty in

which we would agree not to invade North Korea.

That's what the North Koreans have asked for. If the North Koreans are going to get rid of their nuclear weapons, you would think at a minimum they would want a promise from the United States that we're never going to invade. Believe it or not, the American response has been no. Why? Because the neocons never want to give up their dream of invading North Korea. This has made progress at the six-party talks uncertain at best. We are unable to prioritize our need to eliminate North Korea's nuclear weapons program over the psychological need of neocons to dream of invading North Korea. Instead, we need maximum carrots for the North Korean regime if they will verifiably and permanently get rid of their entire nuclear program.

We also need maximum sticks. We don't have many sticks. China has the sticks. North Korea is utterly dependent on Chinese aid, and yet we have failed to use linkage. In all our discussions with China, we have told them that our attitudes toward trade and their currency manipulation will not be affected by their attitudes on nonproliferation. We are a nation that has lost 4,000 lives to protect us from Saddam's nuclear program that did not exist, but we are unwilling to link our policy on currency values to China's behavior with regard to weapons, not weapons of mass destruction, but the real important ones, the nuclear weapons.

Our State Department opposes linkage because they find it more convenient to just deal with one issue at a time in separate bureaus, in separate boxes. We need to link China's policies toward proliferation with our policies on issues important to China.

□ 1900

Now let's turn to Iran. Iran is more dangerous than North Korea because it is ambitious. It is already responsible for terrorist attacks as far away as Buenos Aires, which is as far as you can get from Tehran. It seeks to remake the Muslim world and then the entire world. An Iran with nuclear weapons is truly dangerous.

Let's go through all the different ways it imperils the United States. First, an Iran with nuclear weapons means that you can say goodbye to the nonproliferation regime which has restricted the number of nuclear states since 1945. The Gulf Cooperation Council or Saudi Arabia acting individually will certainly develop nuclear weapons if Iran does. Egypt will not be far behind. And once nuclear weapons become popular for medium-sized countries and countries that do not face existential threats to their existence, once nuclear weapons become something that every country the size of Egypt has, how do you say no to Nigeria or Brazil?

Not only would we lose the nonproliferation regime, but what affect would it have on Iran's policies? Imagine terrorism with impunity. Iran is already rated by our State Department as the number one state sponsor of terrorism. Imagine what happens if Iran has nuclear weapons. It puts us in a position where we cannot respond, even if we know that Iran is responsible for terrible terrorist acts.

Now not only do you provide impunity for Iran to engage in terrorism, but you put us for the first time since the end of the Cold War eyeball to eyeball with a hostile and aggressive nuclear power. You are going to end up with a Cuban missile crisis every week, or at least several a year. Whether it is IEDs smuggled from Iran into Iraq or whether it is Iranian gunboats challenging American ships in the Persian Gulf, Iran will provoke us and will test us. We will go eyeball to eyeball with a regime considerably less sane than the regime presided over by Khrushchev.

Now even if we survive dozens of confrontations with a hostile nuclear Iran, there may come a day, and we pray for this day, when the Iranian Government will see itself about to be overthrown. Do you think those mullahs are going to imitate the Soviet Communists, shrug their shoulders and walk off the world stage? Gorbachev wrote a book and went on a speaking tour. Do you think that is what is going to happen? No. If these extremists in Tehran feel that they are about to be overthrown, among their options will be to use their nuclear weapons against Israel in an effort to regain popularity on the streets of Tehran or to use their weapons on the United States figuring if they are going to go out, they might as well go out with a bang.

Now I know that there was that NIE, that National Intelligence Estimate, released late last year that was deliberately designed to be misread. It said that Iran had abandoned its nuclear weaponization program. But if you read that report carefully, and I am not talking about the classified version, which I wouldn't talk about here, but just the two-page unclassified version, if you read it carefully, if you read the footnote, you realize that the real bottom line in that report is that Iran is well on target to have a nuclear weapon by the middle of next decade.

You see, the key difficulty in producing a nuclear weapon is to get your hands on the fissile material. And the NIE says that Iran will likely have that fissile material by the middle of next decade. Now the easier part of building a nuclear weapon is to take that fissile material and do the engineering work to turn it into a weapon. This is called ''weaponization.'' The NIE, this big national intelligence report which got headlines around the world, says that for at least a while, Iran seems to have stopped its weaponization program. But what does that mean? The weaponization program could be completed in just a year, year and a half. There is no reason for Iran to build the cart if they are still breeding the horse. All they have to do is continue to create the fissile material and then restart their weaponization program even a year or two from now and they will be well on target to have a nuclear weapon by the middle of next decade.

So how do we know that they are developing the fissile material technology? Because this is the one thing the whole world agrees on. The centrifuges are turning at Natanz. Iran says so. And they brought in the IAEA to look at it, and the IAEA says so. And Bush says so. Iran's enemies and Iran's friends say so. And we have seen the pictures. Iran is creating the technology to enrich uranium and create that fissile material.

Of course, Iran says it is all about generating peaceful electricity. Wait a minute. Iran, as we know, creates an awful lot of petroleum. As a byproduct of pumping petroleum, you often get natural gas. Iran has no way to export that natural gas. That natural gas is a useless byproduct. Iran flares the natural gas. Iran flares enough natural gas to generate more electricity than you could generate at ten Bushehr-style reactors. Well, if you have free flared natural gas, that is by far the cheapest way to generate electricity. But Iran isn't interested so much in generating electricity. They are interested in pursuing their nuclear program to create the fissile material which is the most essential element of creating a nuclear weapon. So Iran is developing the fissile material needed for a bomb.

Now there are those who say that our response should be a military response. They point out that Saddam Hussein's real nuclear program was destroyed by Israel in 1981. Saddam put it all in one place, above ground, easy to see. Syria made a similar mistake. They put their whole program, or the essential elements of that program, all in one place, above ground. They tried to make it a little bit more difficult to see. And if news reports are to be credited, that program was destroyed late last year by an Israeli bombing effort.

The Iranians are not nearly so incompetent. Their program is dispersed. It is underground. And it is hidden from our intelligence assets. A military strike would not destroy their whole program. It would set them back a few years. It would also cause a number of problems. But even if you believe that a military strike is a good idea, we ought to first exhaust our nonlethal alternatives if for nothing else than out of a decent respect for the opinion of the world.

I will talk about those nonlethal alternatives in a second. But I want to respond to those who take the other approach and say, well, shouldn't we pass a law here in Congress to prohibit any bombing of Iran's nuclear facilities? That is, I think, a mistake. I call it Ambien for Ahmadinejad. It would help him sleep better.

There is no reason for us to tell the Iranians that we have taken any of our

options off the table. In fact, the more reasonable Iranian leaders will tell their colleagues that one of the reasons to give up the nuclear program is that in the end, it may be destroyed by an American bombing raid before it bears fruit. So you strengthen the hand of the realists in Tehran if you leave all options on the table.

But now let's focus on those nonlethal options. We have got to get a message through to the Iranian elites and the Iranian people. And that message is very simple. You face total economic and diplomatic isolation unless you verifiably and permanently give up your nuclear weapons program. Well, we have the broadcasting resources to get this message through. Radio Farda is broadcasting into Iran right now. Why can't we get this message through? Because I can't lie that well in Farsi. The real facts are that Iran faces nothing close to economic or diplomatic isolation if it continues its nuclear program. They face only the tiniest sanctions, and they can do business as usual with the entire world.

So what do we do to create the reality so that we can truthfully tell the Iranian people and Iranian elites that they must give up their nuclear program or they face economic and diplomatic isolation? Well, before I go forward, when we talk about the Iranian economy, we must recognize that special debt of gratitude we owe to Iran's mullahs whose mismanagement, corruption and oppression have made Tehran vulnerable to economic pressure even in a $130-a-barrel world. So what do we do?

What have we done? First on the economic side, and then on the diplomatic side. Now there was great fanfare on October 21 of last year when we announced big sanctions on Iran until you realized there was virtually nothing there. The first part of that sanction was to ban four Iranian banks. We had banned some of them earlier, bringing to a total of four the number of Iranian banks that were not allowed to execute transactions with the New York branch of the United States Federal Reserve. That means large dollar transactions, including oil sales, will either have to be executed through other Iranian banks or through non-Iranian banks or priced in euros rather than dollars. The most this could possibly do is to cut maybe one-tenth of 1 percent of Iran's oil revenue at very worst. And that is if many of the European banks really hit them with huge fees.

The fact is that there are plenty of banking channels. Iran can easily shift, and has shifted, to selling its oil for dollars. Instead it sells for Euros. And there are many ways that they can do dollar transactions if they want to. We have not taken the step of even banning all Iranian banks from doing business with the Federal Reserve Board because we have been unwilling to inconvenience international corporations even in that slight way.

We also announced rather recently that we would put the Iranian Revolutionary Guard Corps on the terrorist list. And for a few hours, people said what does that mean? Does that mean that if Mercedes chooses to sell trucks to the Iranian Revolutionary Guard Corps that the United States might shut down Mercedes operations in the United States? Two hours later, the Treasury issued a press release saying they had no intention of pursuing secondary sanctions. What that means is that every European company is free to do business with the Iranian Revolutionary Guard Corps any way they want without facing any consequences in the United States.

So what should we be doing? The good news and the bad news is that we have a lot of tools in our economic toolbox. The good news is we have got tools in the toolbox. The bad news is we have known of this threat for a decade, and we have left our tools in the toolbox, except for, you know, a little screwdriver we have used to have the slightest possible effect.

□ 1915

The first thing we should do is follow the law. We should enforce the Iran Sanctions Act. Now, the Iran Sanctions Act was formerly known as the Iran-Libya Sanctions Act.

We used the sanctions against Libya, we forced Qaddafi to change his behavior, he gave up his nuclear program, we dropped Libya from the act, we renamed the act, and we resumed our policy of never applying it against Iran.

Since 1998, despite overwhelming evidence, we haven't taken the first step we are supposed to take under the Iran Sanctions Act, but what are we supposed to do? The purpose of the act is to deter companies from investing $20 million or more in the Iran oil sector.

The first step in that is for us to take note of which companies have invested $20 million in the Iran oil sector, and that triggers the act. At that point, the President is supposed to impose sanctions on that firm or at least name them and shame them and then waive the sanctions. Minimum compliance with the law requires the President to at least name the companies that we know are investing $20 million or more in the Iran oil sector.

What has actually happened? The State Department, the Administration, refuses to open its copy of the Wall Street Journal on any day in which there is an announcement of an additional significant investment in the Iran oil sector.

I had to turn to CRS, the Congressional Research Service, to give me a chart of all of the large investments being made in the Iran oil sector. We have got not just one chart, we have got another chart. But if you ask the State Department to name even one company that is investing, they will say we refuse to speak. Why? Because they don't even want to acknowledge that the investment is being made. That would trigger the act.

This is like hiring a police officer who disagrees with the law, a narcotics officer who just walks around and everybody is using whatever drugs, and this officer does nothing—what good is to pass the law if the Executive Branch refuses to apply it?

Now, we have a bill that has passed this House, it's stymied by Republicans in the Senate, it is opposed by the Administration, it's called the Iran Counter-Proliferation Act. What does this legislation do? The legislation strengthens the Iran Sanctions Act, it imposes a total embargo on imports to the United States of Iran's goods.

Believe it or not, we import from Iran. We don't import oil, we only import the stuff they don't need and they would have trouble selling anywhere else, caviar and carpets, et cetera.

The bill we would pass through this House would at least turn to Iran and say well you can't sell those goods here in the United States, which would have a significant impact on some of the most powerful families and clans in Iran, particularly those that play a decisive role in their government.

The Iran Counter-Proliferation Act would also end the obscene practice of U.S. oil companies doing business with Iran through their foreign subsidiaries. So far that bill remains bottled up, in large part because the Administration opposes it. The same Administration that refuses to enforce the existing law.

What about the World Bank? The World Bank has lent some $1.36 billion to Iran since Iran began its nuclear weapons program. Some $700 million of that hasn't been disbursed yet, but the United States has done nothing to prevent those loans from being authorized or the funds disbursed, except one thing.

The Administration cast a token vote at the World Bank knowing they would be outvoted, and they only did that because it was required by law. At least they followed the law. They are willing to follow the law when it's utterly inconsequential.

To date, the Secretary of the Treasury has refused to even call any of his counterparts in European capitals to urge them to withdraw their support for these World Bank loans.

Now, why are these World Bank loans so important? Because we know what it takes to stay in power. One of the things it takes is delivering projects to people, bringing home the bacon, if you will. Now, I know it's not kosher, it's not Halal, but it is what Iranian politicians around the world do. Imagine what it is for them to cut the ribbon on a water project and say we have given this to you. That's enough to help them stay in power just a little bit. But imagine how much more meaningful it is when they say the whole world, the World Bank, has sent us this money. This is proof that the United States can do nothing to hurt us. This

is proof that the whole world is on our side about developing nuclear weapons.

The World Bank loans to Iran are harmful not just from an economic perspective, they are harmful to us from a political perspective as well. We should change our laws dealing with Federal procurement, State procurement and Federal corporate assistance to achieve one thing. We should turn to any corporation seeking a big contract with the Federal Government or seeking the assistance of any of our programs designed to help business, whether it be the Export-Import Bank or a whole host of other programs.

We should ask the other question, does your corporation or any of its affiliates invest in the Iran oil sector, loan money to the Iranian government, sell munitions to the Iranian government? Imagine the effect this will have if we make it clear that if you are a Nebraska corporation owned by an Italian corporation, and the Italian corporation is investing in the oil sector of Iran, that means we are not going to give you the contract, we will give it to somebody else.

A number of States have tried to do this, and they have been threatened by the Federal Government. We have passed through this House, and it has made it through the Foreign Relations Committee in the Senate, a bill dealing with OPIC, the most unfortunately titled Federal agency, the Overseas Private Investment Corporation, and said that if you want the assistance of this agency, you have to certify that neither your corporation nor any of its affiliates are engaging in those wrongful transactions with the Iranian government. Clearly, we should not be giving assistance to those who are aiding Iran's nuclear program or aiding the Iranian government in one of the key pressure point areas, munitions, investment in the oil sector, loans to the government.

Now we have the issue of divestiture. We need to encourage private investors and government pension plans and private pension plans to sell their stock in corporations that are engaging in those transactions with the Iranian government, investments in the oil sector, loans to the government, sale of munitions.

A number of States, especially the State of Florida, my own State of California, have decided to divest from such companies. But when they do so, they face frivolous lawsuits, lawsuits from people saying, ''oh, you have to invest for the maximum possible return, and you can't think of national interest when you do so.''

Now, get this, because my colleagues have seen how the Administration has been opposed to frivolous lawsuits and any lawsuit they claim is frivolous, they have been against lawsuits on everything except one thing, they are in favor of frivolous lawsuits against State governments who choose to divest, against private pension plans that choose to divest. Why? Because their hatred of trial lawyers is exceeded by their hatred of investors who would try to influence the very companies in which they have made an investment.

It is absolutely shameful for us to make it more difficult for good Americans to push the companies that they partially own into doing the right thing. We should go further.

Later this month, I will introduce legislation to change our tax code so that those who are divesting from companies doing business in those bad areas, as I have identified, or those areas we would like to discourage with regard to Iran, we will say, if you sell your stock in such a company, and reinvest the proceeds in a company that is clean, then you should get a carryover basis. We are not going to use that as a taxable event, because divestiture should be encouraged, not taxed. We need to turn to all the corporations in the world and say do not invest in the Iran oil sector, do not lend money to that government, do not sell the munitions, otherwise, we will encourage our companies, we will encourage our investors, we will encourage our pension plans, we will encourage our individual investors to stop investing in your company. We will not give aid to any of your subsidiaries, and we will not make them eligible for Federal contracts. This will provide real pressure on the Iranian government.

But that's just the economic toolbox. We also have the diplomatic toolbox as well. It is even more powerful, it is even less used. We have never offered Russia anything in return for real cooperation on the issue of Iran's nuclear program. We have not provided linkage between issues Russia cares about and what we care about, which ought to be preventing Iran from developing nuclear weapons.

We have made it clear to Russia that what we do with regard to Chechnya, Abkhazia, Moldova, Estonia or anything else is not linked to what Russia does with regard to Iran.

Likewise, we have made it clear to China that what we do with regard to Taiwan or currency manipulation or trade will have nothing to do with what China does in the U.N. or elsewhere with regard to Iran's nuclear program.

If we could get Russia and China to support us at the U.N., then instead of stupid little sanctions designed to fool people around the world, we could get real U.N. sanctions. What would that mean? Imagine a U.N. ban on sending refined oil products into Iran. Now, Iran has plenty of petroleum, but they don't have the refinery capacity. They import nearly half of the gasoline they burn.

If the United Nations would prohibit every country in the world from sending them that refined petroleum, you would have an immediate impact on the streets of Tehran. You would be able then to turn to the Iranian people, to turn to the Iranian elites and say that you, indeed, face economic and diplomatic isolation unless you abandon your nuclear weapons program.

We need to prioritize. We need to link what is important to us to what is important to others. We need to use all the tools in our toolbox, and we need to use them immediately. Otherwise, we will not achieve the level of security from nuclear attack that the American people deserve.

I am not saying that we can make America invulnerable, but I am saying that it is our duty here in the Federal Government and as foreign policymakers to do everything we can to achieve that objective.

I have concluded. I did mention that I would perhaps talk about threats that face us in the second and third quarters of the 21st century. I will leave that to another speech. I yield back.

□ 1930

PEAK OIL

The SPEAKER pro tempore (Mr. MAHONEY of Florida). Under the Speaker's announced policy of January 18, 2007, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the minority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, several days ago I came into the office early and I found at my door the usual package of newspapers and I opened them up and was placing them out on the table, and I noticed the headlines. And this is every paper that was at my door that morning. There were four newspapers and there were three inside-the-Beltway newspapers intended primarily for those interested in the Congress. I want to go through the headlines in every one of those papers.

Here is the Baltimore Sun, and they had two headlines above the fold both related to energy, ''Demand Eats Supply,'' and ''Energy Bill Aids Payouts on Rise.''

Then I went to the Washington Times and there was a headline, ''Bush Lays Gas Blame on Congress.''

And then I went to the Wall Street Journal and the Wall Street Journal headline was ''Grain Companies' Profits Soar as Global Food Crisis Mounts.''

Then I turned to the U.S. News part of the Wall Street Journal and what do you know, above the fold there were two more headlines, ''Bush Prods Lawmakers on Economy and Energy Prices,'' and ''GOP Senators Urge Halt to Oil Reserve.''

Then I noted the three papers that are kind of inside the Beltway papers: Roll Call, ''Alexander Eyes Energy Agenda''; The Hill, ''Politics At the Pump''; and Politico had ''Gas Prices Fuel Effort to Jam the GOP.''

So every one of these seven papers that were on my doorstep that morning had headlines talking about energy. Now I noted just a few days before that

there was a New York Times op-ed piece by Thomas Friedman. This is what he says about energy. Here is what is scary. Our problem is so much worse than you think. We have no energy strategy. If you are going to use tax policy to shape energy strategy, then you want to raise taxes on the things that you want to discourage—gasoline consumption and gas-guzzling cars—and you want to lower taxes on the things you want to encourage—new renewable energy technologies. We are doing just the opposite, he says.

The gas holiday proposal is a perfect example of what energy expert Peter Schwartz of Global Business Network describes as the true American energy policy today, and I quote, ''Maximize demand, minimize supply, and buy the rest from the people who hate us most.''

This is not an energy policy. This is money laundering, he says. We borrow money from China and ship it to Saudi Arabia and take a little cut for ourselves as it goes through our gas tanks. No, no, no, we will just get the money by taxing Big Oil. Even if you could do that, what a terrible way to spend precious tax dollars, he says.

For almost a year now, Congress has been bickering over whether and how to renew the investment tax credit to stimulate investment in solar energy and the production of tax credit to encourage investment in wind energy. And a little later I will go over this bill that has already passed the Senate, and we have introduced it in the House now.

The Democrats wanted the wind and solar credits to be paid for by taking away tax credits from the oil industry. President Bush said he would veto that. Neither side would back down. Stalemate, he says.

I first came to this floor to talk about this subject more than 3 years ago. It was, I believe, the 14th day of March in 2005. I noted then that we have known, we had known at that time for 25 years that we would be facing this crisis. Now it is 28 years. We have known for 28 years that we would be facing this crisis. I will present the evidence for that in just a moment, and I think the evidence is absolutely unassailable. Anybody who looked at the evidence would have to conclude that there was a reasonable, indeed probably a high probability that we would be here today with oil at over $100 a barrel.

This all started in 1956 on March 8 when an oil geologist from the Shell Oil Company gave a speech that I think may shortly be recognized as the most important speech given in the last century. He gave that speech in San Antonio, Texas, to an audience of people interested in oil. What he told them was at that time absolutely audacious and incredible. He told them in just 14 years the United States is going to reach its maximum oil production and no matter what you do, after that the production of oil will decrease year by year.

At that time the United States was the largest producer of oil in the world, the largest consumer of oil in the world, and I think the largest exporter of oil in the world. So this was absolutely audacious to suggest that the king of oil in just 14 short years would reach its maximum ability to produce oil.

He was a pariah for a number of years, and then in 1970, when right on schedule as this chart shows, when right on schedule the United States reached its maximum oil production, he became a legend in his own time. He made his prediction in 1956. You see how much oil we were producing then. In 1970 we were producing a lot more oil. And right on schedule, just as he predicted, the United States after that produced less and less oil each year, in spite of several things, Mr. Speaker. In spite of finding a lot of oil in Alaska. And notice just a little blip down the slide of what is called Hubbert's peak as a result of this enormous find in Alaska. I have been to Prudhoe Bay, a 4-foot pipeline through which for a number of years a full 25 percent of all our domestic production flowed. And then a big find some years later in the Gulf of Mexico. I remember the hype over that find. You see the yellow there, just a blip in the slide down the other side of Hubbert's peak.

So not only did we find a lot of oil that M. King Hubbert had not included in his prediction, his prediction included only the lower 48 States, in spite of this large find of oil in Alaska and the large find of oil in the Gulf of Mexico, and in spite of increasing amounts of natural gas liquids, we today produce about half of the oil that we did in 1970.

Another thing that we have done, we have drilled more oil wells than all of the rest of the world put together. In spite of doing that, in spite of ever-better techniques for finding oil, computer modeling and 3–D seismic, in spite of ever-better techniques for getting the oil, enhanced oil recovery, nothing we have done has proved M. King Hubbert a liar. He said we would peak in oil production in 1970, and we did. And we have been sliding down the other side of Hubbert's peak ever since.

In 1979 he predicted using the same analytical techniques which aren't all that hard to understand. He noted that in an individual oil field, that the production of the field increased and increased and increased until it reached a maximum which was when about half the oil was exhausted. After that, the last half which reasonably would be more difficult to get, was more difficult to get and production was slower. And so he rationalized that if he could add up all of the little oil fields in the United States and make a good prediction as to how many more we would find, he could have one big bell curve which is basically the shape of that curve, and he could then predict when the United States would reach its maximum oil production. He was right on target.

Using that same technique, he predicted that the world would be peaking in oil production about now. Now I say that we have known this for 28 years. I say that because by 1980 it was very obvious that M. King Hubbert was right about the United States. We were already well over the peak and sliding down the other side of what is called Hubbert's peak. What did we do? We have done as a world, as a country, absolutely nothing to prepare for the inevitability that M. King Hubbert would probably be right about the world because he was right about the United States.

Now as the next chart shows, the two entities which track oil production and consumption, and it is essentially the same thing, very little oil is stored in the world compared to the amount that we use, that is the EIA, the Energy Information Administration, a part of our Department of Defense, and the IEA, the International Energy Association, both of those track very well the production of oil. And you can see they have the production of oil about flat for the last 3 years.

Now when I first came here, and I think that was 43 times ago, I think this is the 44th time I have been to the floor, when I was here in 2005, oil was about $50 a barrel, a little over $50 a barrel. Using the predictions of M. King Hubbert, I with some confidence have been saying now for these 43 times, 44 times including tonight, that we were going to get here, that the world was going to reach maximum oil production.

□ 1945

And we ought to have been preparing for this. And since we hadn't been preparing in the past, we ought to start preparing for this with some realistic measures.

Notice what happened to the price of oil. Of course, when you have a static production and an increasing demand, the supply/demand mechanism which controls the pricing of almost everything in our world, caused an increase in the price of oil. Now, it would be well off the top of our chart here. We're now at $123, $124 a barrel. That's well off the top of the chart here. As far as I know, these lines are extending out flat. There is no increase in oil production.

The next chart, this chart shows the discoveries of oil through the years, and it shows the use of oil through the years. Now, if you had only one chart that you could look at, this chart, I think, conveys more information than any other. And even without M. King Hubbert's predictions, I think that you would conclude that we're probably going to max out in oil production about now. Because look what we have here.

We have discoveries back through the 1940s and the 1950s, and boy did we discover it in the 1960s and the 1970s, and then another surge around the 1980s. But down, down, down since then. And

that's in spite of ever better technologies for discovering oil, ever more interest in discovering oil. It's been down, down, down.

Now, obviously, if you add up all of these bars, you will know the total amount of oil that we have discovered. That is frequently done by simply drawing a smooth curve over those bars. That tells you that the area under the curve represents the total volume. I say that because there's another curve here which is very important, and that is the consumption curve.

Notice that early on in the 1960s, boy, in the 1970s, we were finding enormously more oil than we were using. So every year we had bigger and bigger reserves behind us that we could rely on. And then about 1980, when the discovery of oil was down, and we were using more and more oil, ever since about 1980, we have been using more oil than we found. Well, we could do that because we had extra back here that we hadn't used. So we simply could borrow from this and pump it here and fill that volume with it.

I want to point out something about this curve which is really very interesting. You notice how steep the curve is here. This is up through the Carter years. Now, had we continued on that trajectory, we would now be well off the top of this chart.

The oil price spike hikes of the 1970s, and the recession that occurred then, notice the little dip there, were really blessings in disguise. There's an old saying that it's an ill wind that blows no good.

I lived through all of those gas lines, even, odd, the end of your license plate, the day you could fill up your tank.

But look what happened as a result of that wake up call. Boy, are we more efficient now than we were then. Look at the slope of this curve as compared to the slope of this curve. And we're getting even more and more efficient. This is an exponential rise. And it would be off the top of the chart.

As a matter of fact, there was a stunning statistic during the Carter years. Every decade the world used as much oil as it had used in all of previous history. Now, that's stunning, because what that says is that when you used half of it, only 10 years will remain. We're very much better off.

By the way, oil's not going to run out in 10 years or 20 or 30. We have another 150 years of oil, gas and coal, but at ever decreasing amounts, ever more difficult to find, ever more expensive.

When we talk about peak oil and the energy crisis, that does not mean we're running out of oil. What that means is we're running out of our ability to produce oil as fast as we would like to use it.

Well, what will the future look like?

Now, I said if you had only this chart to look at you could make some really educated guesses about what the future is going to look like, because you cannot pump what you have not found. And unless you think that there's going to be some startling new discoveries in the future, it's been down, down, down, for 30 years. Unless you think there's going to be some startling new discoveries in the future, these are the reserves that we have to fill in the volume here about what this chart suggests we might find.

Now, it won't be smooth like that. It will be up and down, but it might be reasonably that kind of a slope.

So I think that even without the predictions of M. King Hubbert, just looking at this oil chart, it would be very easy to conclude that we probably, very soon, if not now, would have reached the maximum production of oil.

The next chart looks at some of the geopolitical consequences of this. This is the world according to oil. This is what the geography of the world would look like if the size of the country was related to how much oil it had. Some really interesting things here.

Saudi Arabia dominates the landscape. They should. They have 22 percent of all the known reserves of oil in all the world. And notice, their near neighbors, Iraq, Kuwait, Iran, second, third and fourth. United Arab Emirates. You almost have to have a magnifying glass to find them on the map, and there they are. Look how huge they are in terms of the amount of oil they have. And then Northern Africa.

Here we are, the United States. The yellow means that we're a big user of oil. Our small size means we don't have much. And notice the people from whom we get most of our oil. Canada is our Number 1 supplier. They have much less oil than we. But they don't have very many people so they can ship oil to us.

Mexico, until about a month ago, was our Number 2 supplier. But their largest oil field, which is the second largest oil field in the world, Cantoral, is now in steep decline, about 8, 10 percent a year. Now our Number 2 supplier is Saudi Arabia.

Mexico. But notice that Mexico and Canada together have little more oil than we have. And we have only 2 percent of the known reserves in the world. Maybe they have 3 percent. Maybe all three of us together here have 4, 5, 6 percent of the oil in the world. That's all.

Even more alarming, notice the size of China and India. Here they are. 1.3 billion people and 1.1 billion people, more than a third of the world's population, and they have less oil than the United States has.

When you go to China, and I did with 8 other Members of Congress about 16 months ago, and they begin their discussion of energy by talking about post-oil. So China knows that they have to transition.

The next chart is kind of a bar chart which shows the same thing, pretty much, that we saw in that chart. If you take the 10 largest owners of oil in the world, 98 percent of all that oil belongs to countries rather than companies. Saudi Aramco, National Iranian, Iraqi National Oil, Kuwait Petroleum Company and so forth. Only 2 percent by Lukoil, that's a big Russian oil company.

Now, if you look at the 10 producers of oil, 78 percent of the first 10 producers of oil, all that oil comes from countries, not companies, again, these nationally owned oil companies. And only 22 percent comes from the big three.

There's obviously a lot of angst over the high price of oil, and people are looking around for who to blame. And there are a lot of people who blame the big oil companies. They're gouging us.

There are a lot of people who blame the OPEC countries, and many of them are here; because they say they're holding back on oil to drive the prices up. Probably neither one of those things are true. There is pretty good evidence that OPEC is pumping oil about as fast as it can pump oil.

Russia, not a part of OPEC, but a big producer, noted several weeks ago that they had reached their maximum oil production.

Saudi Arabia, just last week admitted to maximizing out on oil production. They're trying to bring a new field on-line, the Kuras field. It's a very technical field. It may get 1.2 million barrels a day. That's a lot. But they may get nothing. They've spent billions of dollars drilling wells. They're going to have to flood the field with seawater under pressure because that oil is so tightly held in the rocks that it won't flow. And if they do is just right they can get the oil to flow in large amounts, and they may get for quite a number of years, 1.2 million barrels a day. But that's kind of iffy.

But even if they get that and get it on-line, it will barely maintain their present oil production. It will not increase their oil production.

The next chart speaks again to this geopolitical situation. This is the chart which shows who is buying oil where in the world. And you see these symbols for Russia. Here they tried to buy UniCal in our country. They have bought a lot of the production from Canada, South America, the Middle East, Northern Africa. You see their symbol all over the map.

Why are they buying oil? Today it doesn't make any difference who owns the oil. The person who comes, the country, the company that comes with the dollars buys the oil. It doesn't make a bit of difference.

We own only 2 percent of the oil in the world, and we use 25 percent of the oil in the world because we come with our dollars and we buy the oil from those who have it for sale.

So why would China be buying oil? You can't get inside their head, but you can make some prognostications from what you see. You go to China, by the way, and they talk about post-oil. There will be a post-oil world. It's not forever. It is finite. It will run out. And China is talking about post-oil.

But while we still have some oil, they have a policy, a 5-point plan, and everybody knows it over there, all of their leaders know it, not just the people in energy and oil and coal know it. Everybody over there talked to us about the 5-point plan.

Number 1 is conservation. That's where whatever country, and this is where it's got to begin. We have now run out of time. We have run out of excess energy. We can buy some time and free up some energy if we have an aggressive program in conservation.

Number 2 and Number 3 were alternatives, and as many of those as you can from your own country.

Number 4 may surprise you. Be kind to the environment. They know they're awful polluters, but they have 900 million people in rural areas that, through the miracle of communications, know the benefits of industrialization. And I think they see their empire unraveling the way the Soviet empire unraveled if they cannot meet the demands of these people.

So why are they buying all the oil? At the same time they're buying this, oh by the way, they're not just buying oil; they're buying good will. Would you like a soccer stadium? Is it hospitals you need, roads? So in addition to buying the oil they're buying goodwill.

At the same time that they're doing this, they are aggressively building a blue water navy. They launched many times, I don't know the exact number, maybe 10, submarines last year. We launched one.

Now, their submarines aren't ours yet, but I would note that they are graduating six times as many engineers as we graduate, and about half of our engineers are Chinese students.

I was stunned the other day when I learned that in our patent office more than 60 percent of the applications for a new patent come from Asia.

They are very aggressively building a blue water navy. Might the day come that they would say well, gee, I'm sorry, guys, but we have 1.3 billion people, the oil is ours and we can't share it.

Today there's no alternative, the way the marketplace works but that you're going to share your oil.

The next chart, and I've already mentioned some of these numbers. We have only 2 percent of the world's reserves of oil. By the way, these numbers encouraged 30 of our prominent leaders, Jim Woolsey and McFarland and Boyden Gray and 27 others, several retired 4–Star admirals and generals to write a letter to the President saying, Mr. President, the fact that we have only 2 percent of the world's reserves of oil, and we use 25 percent of the world's oil and import almost two-thirds of what we use is really a totally unacceptable national security risk.

□ 2000

We've got to do something about that. That little 2 percent we have, by the way, from that we produce 8 percent of the world's oil. So we're good at pumping oil.

As I mentioned earlier, we have drilled more oil wells than all the rest of the world put together. So it is not surprising that we're pumping down our oil reserves four times faster than the rest of the world. We have a bit less than 5 percent than the world's population, and we use 25 percent of the worlds' oil.

I'm going to next look at some of the things that I personally have been doing and some of the things that Congress has been doing, and then I am going to recognize my very good friend, Zach Wamp from Tennessee, who has come with us to share some of this time with us.

Mr. WAMP. I thank the gentleman for yielding, and I want to thank Mr. BARTLETT for this lesson. I should say Dr. BARTLETT. It is rare that a person has been in Congress for as long as you have. I first met you, Congressman BARTLETT, when you and I were running for Congress in the 1992 cycle. I did not prevail, and you did, so you got a 2-year jump on me here.

And I've been here on the floor in the past when we talked about this challenge, and my only regret tonight is that all of the Members of the House were not here to hear again your comprehensive explanation of some of these problems and the solutions and the realities, and that everyone in our country could not understand as well as you understand the realities of what we are seeing today.

I want to begin elementally by saying that the nexus between energy and national security and our environment is the most important policy challenge of our time. And all of the conflicts of the world have some relation to those three challenges. There's obviously religious undertones and whatnot, but those have been around forever. These challenges now all kind of collide. That's this nexus that I am talking about.

On the national security front, you mentioned Thomas Friedman's column, and there is one quote in it that I wanted to point out where he says, ''There are 23 countries in the world that derive at least 60 percent of their exports from oil and gas and not a single one is a real democracy. Russia, Venezuela, Iran, and Nigeria are the poster children' for this trend where leaders grab the oil tap to ensconce themselves in power.''

That makes this peak oil challenge a critical national security problem for the United States of America.

When I talk about the environment, one of the most important issues now as we face the next Congress and the next administration after this fall's election will be the American response to this global warming challenge. And I would argue this: We can't deny the problem. We can't bury our head in the sand from the problem. We should not ignore it, but we better be very careful that we don't over-regulate our free society as we respond to it.

The world needs to see us proactively addressing this problem, but I would say the best way we can do it is deploy the technologies, use the innovation, parlay and capitalize on our free-enterprise system to solve these problems for the world, much in the same way that the information revolution in the last 30 years in this country was led by the United States of America and the likes of Microsoft; and in doing so, a robust U.S. economy erupted that led to a balanced budget in this modern era that was unprecedented where revenues actually surpassed expenses.

So we see energy and the environment and national security all come together.

Now, earlier tonight I talked about an all-of-the-above approach that I promote that we should promote because the capacity needs, both from transportation and fuels and electricity are so great, even today but even more so in the future, the capacity needs are so great with this demand that we have to not, in my view, leave anything off the table but have an all-of-the-above solution.

But I want to zero in, because you have rightly talked about these issues of conservation, efficiency, new technologies, renewables; and I want to highlight a few because I said earlier tonight on the floor, I'm a conservative. I think conservatives should promote conservation. That's a logical thing to say and to do. And that should be first and foremost, and it is not wimpish, as I said earlier, for us to promote conservation. It's smart. It reduces demand and lowers price. That's what we have to see. And it should be led by the top, and it should be a grassroots call for us to be as efficient as possible in all aspects of our life, frankly.

We have sat on the couch for a generation knowing these problems existed, and we haven't acted, and there's plenty of blame to go around. I don't want to come to the floor and blame everybody. There's a lot of that that goes on. Frankly, that's one reason people tune out Washington so much is there's too much of a blame game going on here. American people want these problems solved, but I really believe we should look at these incredible technologies that we have.

So let's talk a little bit about transportation because there's a Farm Bill coming. There's a lot of talk about alternative fuels.

I believe in the south that cellulosic ethanol will be part of the solution, but it's a bridge, in my view. Even at best, it's a bridge to the future. It's not the permanent solution. The fuel mix could certainly be improved, and cellulosic ethanol doesn't destroy our agriculture and our food capabilities and pricing like corn-based ethanol does, so that obviously has been a net loser for the environment; it has been a net loser for agriculture; it has been a net loser economically in some ways.

But cellulosic ethanol, say switchgrass that you don't eat, it could actually be productive in creating an alternative fuel. But that's a bridge to the future because if you ask the automotive industry leaders, they will tell you that in a couple of years, the price points on plug-in hybrids will be such that Toyota and General Motors in 2010 will have a cost-competitive plug-in hybrid.

So the vehicles of the future are going to run probably for a while on some form of electricity, some kind of a battery, an ion lithium battery. The technologies are developing very quickly. Imagine plugging your car in in your garage overnight and having it charged where you can take it 400 miles before recharging it and getting an equivalent horsepower of 260 to 280 horsepower. People would be excited about that if they could afford it. Right now the price point on a hydrogen fuel cell car is not cost effective. It's a couple hundred thousand dollars at best, which obviously is not ready for the marketplace. That may be 15 to 25 years from now.

And there is a silver lining in the cloud. You talked, Dr. BARTLETT, about the silver lining during the Carter years, that it caused us to blunt the sharp increase in consumption. The silver lining today with these price points is that technologies are rapidly being deployed because the marketplace knows there's opportunity there.

And we were with the President of the United States yesterday discussing this, and he talked about that specifically that you're seeing the most rapid movement towards alternative transportation systems and technologies that we've seen in the modern era because people cannot afford gasoline today, and therefore, alternatives will hit the marketplace faster. And surely we could have done better in the past, but we've got to find these solutions so we're going to have some kind of electricity.

Now that brings all of the energy problems together when you're talking about electric cars because two-thirds of the oil consumption's in the transportation sector, and we've got some capacity problems in the electricity sector, and we are not bringing on nuclear plants at anywhere near the rate of European countries because we're still caught in this Three Mile Island time warp of safety and security. And the waste stream is such here that you can't permit a place to bury it, like Yucca Mountain, in a timely manner.

So we need to look at the proposition that they do in France of recycling the spent fuel back into energy. Reprocessing spent fuel. It's a closed-fuel cycle. We can do that. We should look at that. And we should bring nuclear up.

But I want to throw a new technology into the electricity production which could very well help us on transportation as we move towards battery-powered cars if they're cost effective. See, I believe the market will determine which ones come first and which one consumers will buy and which ones hit the price points quickest, and that's where people, I think, will buy.

So I think if electric cars or the plug-in hybrid is the first one there at $25,000, $35,000 for a new car, that's where consumers will go. But where is the electricity going to come from if we do this? We don't have the capacity right now to meet today's demand based on commerce and industry, let alone new transportation systems that need electricity.

And we are the most abundant source of coal. We're the Saudi Arabia of coal for the world. But we have got to, if we're going to take this leadership position on climate change and not bury our head in the sand, we've got to have clean coal technology, we've got to have carbon capture. We've got to invest there. We've got to still use coal, but it's also a finite resource, which you have identified.

Let me tell you about a new technology that's really got potential. It comes out of the Silicon Valley and the Tennessee Valley, interestingly enough, where I live. We're in a partnership with them. We have built a stationary solid oxide fuel cell system. It looks like the HVAC unit in your home. We now have a 100 kilowatt system, meaning it generates 100 kilowatts of electricity, and it runs off of one feedstock going in but no transmission system. So unlike the electricity that comes to your house, it is not connected on a grid somewhere to a power source. It's a standalone system for electricity production, but you do have to have a feedstock going in.

But this unit runs off of the feedstock as natural gas, can run off ethanol, it can run off of solar, it can run off of a variety of renewable sources; but it has to have a feedstock as you know—are you a physicist?

Mr. BARTLETT of Maryland. Physiologist.

Mr. WAMP. Physiologist. As you know it has to have a feedstock, but it has tremendous potential.

And just recently here in the House, I have promoted, and much to his credit, Dan Beard, the chief operating officer of the House, has been and viewed these systems as has the chairwoman of the Legislative Branch Appropriations Subcommittee, DEBBIE WASSERMAN SCHULTZ, been in consultation with us about the notion that in just a couple of years, we could take an entire House office building in Washington, D.C. and take it off of the fossil-fired powerhouse here on Capitol Hill, take it off of that coal powerhouse and put it on a solid oxide stationary fuel cell to demonstrate to the country that emissionless, completely emissionless, not nuclear, but through a new technology called a stationary solid oxide fuel cell, you could completely power and cool and heat and cool the water in a huge House office building or a 100,000 square foot commercial center with this new technology. Tremendous.

You would think every utility in the country would be interested in that because there is no transmission grid. It makes us more terrorist-proof because you can't shut down the transmission grid because everybody's got their own electricity source. And if transportation is moving towards electricity, it has tremendous potential.

I would just say that your energy efficiency, renewable energy, conservation programs should be at the forefront followed by a real understanding that we have capacity needs in this country. I, too, was in China in January. I have a great concern because what I heard and saw in China about their attitudes towards the environment is that this is indeed their industrial revolution and they're entitled to it.

The problem with them having an industrial revolution in 2008 is they're almost one-fourth of the world's population, and if they have an industrial revolution without environmental responsibility at the same time the rest of the world is being called on to reduce carbon and their carbon footprint, it's a regulatory burden to the industrialized world and it lets these developing nations, including China, off without those regulations.

That levelizes the world at our expense. That's a dangerous notion.

So back to the nexus. This is critical. You're taking excellent leadership. I want to thank you for that, and I want to thank you for the time tonight.

Mr. BARTLETT of Maryland. Thank you very much for your observations.

We're doing a number of things in the Congress. It would have been a whole lot better if we were doing them 25, 28 years ago, by the way, because what we're doing in the Congress will not be adequate to meet the challenge. But it's a start. It's what we can do.

I have a book here that came across my desk: ''A Very Unpleasant Truth . . . Peak Oil Production and Its Global Consequences'' by two very credentialed authors, both Ph.Ds from one of our large oil companies. And they say in this book, The first and most important thing that needs to be done is to educate and convince the public that a problem even exists; and that's what I have been trying to do for more than 3 years now. The public must accept, they say, that the current system based on cheap oil is not sustainable and cannot be kept intact regardless of what politicians promise.

□ 2015

Let me mention quickly four things that I'm personally involved with and personally doing.

We have a new bill just introduced last evening. It is a companion bill to S. 2821 that has enormous support that I will mention very briefly. Our bill is H.R. 5984.

In one of his columns last week, New York Times' Thomas Friedman decried the stalemate that has so far prevented the extension of renewable energy tax

credits that would otherwise expire this year. I noted that in some opening comments this evening, and this was one of the things that inspired us to pick up this Senate bill and to file it in the House.

This bill does several things: Extension and modification of the renewable energy production tax credit; extension and modification of the solar energy and fuel cell investment tax credit; clean renewable energy bonds; extension of the special rule to implement FERC restructuring policy; extension and modification of the credit for energy efficiency improvements to existing homes; extension of the tax credit for energy efficient new homes; extension of the energy efficient commercial buildings deduction; modification and extension of the energy efficient appliance credit.

So it's a broad-based bill. It has passed the Senate by 88–8. It has 43 cosponsors in the Senate. We have 35 original cosponsors in the House and two more have been added to that today.

This bill has gotten a lot of support from the community out there. The Christian Science Monitor has an article on it supporting the bill. ''Big Oil's Friends in the Senate'' is an editorial by New York Times on this subject, and here I have a list and I want to just mention a few of those because it's so important. It notes how broad the support is for this bill.

Here are letters from the National Association of Manufacturers, the United States Chamber of Commerce, the Retail Industry Leaders Association. And then I have here a letter signed by more than three pages of double column organizations, more than three pages, double column, and let me just mention a few of them.

American Council on Renewable Energy, Alliance to Save Energy, Alternative Fuels Renewable Energies Council, American Council for an Energy Efficient Economy, American Solar Energy Society, American Wind Energy Association, the Audubon Society, Babcock and Brown, Bloom Energy, Business Council for Sustainable Energy, California Energy Commission, Center for Energy and Environmental Sustainability at James Madison University. Constellation Energy, well-known locally. They provide much electricity for the Baltimore area. The Dow Chemical Company, Duke Energy, Earthjustice, Edison Electric Institute.

And so you notice the broad, broad spectrum of support for this bill from a lot of those who are concerned about the environment and those who are concerned about the simple fact that we have got to have more energy.

Environmental Defense Fund, Exelon Corporation, GE Energy, Geothermal Energy Association. Greenpeace? The Home Depot, Honeywell, Idaho Rural Council, John Deere Renewables, JP Morgan, League of Conservation Voters, Lowe's Companies, Michigan Alliance of Cooperatives. National Association of Home Builders, a very conservative organization to which I belonged in another life. National Association of State Energy Officials, National Electrical Manufacturers Association.

I'm reading, by the way, about one-tenth of all of those who have signed on.

National Wildlife Federation, Natural Resources Defense Council, Northeast Public Power Association.

Oh, my, more pages, one-and-a-half more pages. I won't bother reading those, but it's the same kinds of broad, broad spectrum.

Like Suntech, I'll mention Suntech, second largest solar cell manufacturing company in the world. Six years ago it didn't exist. I was privileged to have lunch with the young Chinese man who started it just 6 years ago, and now, it's number two in all of the world.

Another thing that I am doing personally, we are having a SMART Green Showcase in conjunction with the SMART Organization. This will be on July 18 in Frederick, Maryland, and we're going to showcase there a number of smart energy solutions for many of the problems that homeowners and small businesses have. It has its own Web site, www.smartgreenconference.com. So you can find more information on it there.

I have a bill, the Self-Powered Farm Energy Bill. We're going to give a prize to the first farm that can demonstrate that they're capable of independence from off-site sources of energy, fuel, and raw materials; a community resource for food and energy. They will have food and energy left over to provide for the community or raw materials for food. It minimizes or eliminates ongoing operating expenditures to off-site entities for fossil fuel-derived energy; employs sustainable farming practices for long-term soil fertility; and produces at least two times as much energy, including fuel or raw materials for fuel, as it consumes.

Now, if we can't do this, we're in trouble. If our farms can't be energy independent, and I think they can, and we have a prize for that farm that will get there first.

The next chart speaks to the fourth thing that I'm personally involved in. This is the DRIVE Act. The Dependence Reduction through Innovation in Vehicles and Energy is what DRIVE stands for. The purpose of the bill is to achieve liquid fuel independence through alternative energy sources. Some of the key points include incentives for the auto industry to produce flexible fuel, hybrid and electric vehicles; the conversion of gas stations to fuel stations, where consumers can plug into an electric car to fill up on ethanol; as well as tax credits for Americans who buy flexible fuel cars.

It costs so little, maybe less than $100 to build a flex-fuel car. Every car in Brazil is flex-fuel. They could be, I think should be in our country, and we have a bill, H.R. 670, on flex-fuel vehicles, incenting the industry to move to flex-fuel vehicles. When we have the new fuels we'll be ready for it. If we haven't done that, there will only be a small percentage of the cars that could use the new fuels.

In addition to these things, I'm working with my colleague, Democratic Congressman MARK UDALL from Colorado, to distribute a new report about green collar jobs from energy efficiency and renewable energy technology. This industry is small but it is really growing. The report is called Renewable Energy and Energy Efficiency: Economic Drivers for the 21st Century. It's available for free. You can download it at www.ases.org.

Solar power grew worldwide by an average of 18 percent between 1980 and 2000. It's accelerated dramatically in recent years, growing by close to 50 percent annually since 2002. In spite of that dramatic growth, it still produces a tiny, tiny percentage of our electricity. That's because we get electricity production in huge, huge amounts, primarily from coal, 50 percent in our country, and from nuclear power and hydro power. Those are the three largest sources of energy for coal.

From a significantly larger base, wind power has also been growing rapidly. U.S. wind power capacity surged 45 percent in 2007. So lots of new jobs are being created. We need to create more.

I want to spend the remaining time, and it won't be very long, looking at the alternatives that we have and what reasonable expectations should be. And I need to come back, and we'll spend a full hour just looking at reasonable expectations.

I'd like to point to two expectations that did not turn out to be reasonable. It kind of represented the irrational exuberance that Alan Greenspan spoke about in the market.

The first of these was hydrogen, not hydrogen from renewables as the chart indicates here but hydrogen from any source. Remember, we were going to have a hydrogen economy? The President mentioned this in his State of the Union. I think we spent $1.5 billion on it. You don't hear anybody talk about hydrogen today, and that's because I think we've finally figured out that hydrogen is not an energy source. It is simply a way to carry energy from one place to another place.

There is no hydrogen out there free for the having. You have got to produce it by using more energy than you will get out of hydrogen. That is the immutable second law of thermodynamics. If you can repeal that law, you can repeal the law of gravity, and then we have a whole different world, don't we? So hydrogen is rarely, rarely mentioned now because that bubble broke.

Another bubble that broke very recently was the corn ethanol bubble. High, high hopes were held out for corn ethanol, very unrealistic expectations. I did some computations with Dr. John

Darnell, the most broadly knowledgeable scientist that I know and I'm privileged to have on my staff. We did some back-of-the-envelope computations several years ago and convinced ourselves that ethanol from corn could never make any meaningful contribution to freeing us from our need for oil.

The National Academy of Sciences has now said that if we use all of our corn for ethanol, every bit of it, and discounted it for fossil fuel input, which is huge, at least 80 percent—and you're just kidding yourself if you're burning fossil fuel in another form and pretending that you're displacing gasoline. If we used all of our corn for ethanol, discounted it for fossil fuel input, it would displace 2.4 percent of our gasoline. They noted that if you tuned up your car and put air in the tires you could save as much gas.

Well, now there's a backlash over corn ethanol. A U.N. official said that what we had done was a crime against humanity. There are other factors involved. One of the major ones is the very high cost of oil as energy, but certainly, our diversion of corn to ethanol is one of the factors that has increased the cost of food around the world. And I was shocked at how quickly these food shortages developed, and just a couple of weeks ago, you remember reading about food riots in a number of the countries in the world.

There is a new bubble that I think will break, and that is the cellulosic ethanol bubble. We will get something from cellulosic ethanol.

Oh, the National Academy of Sciences has also looked at soybeans for soy diesel, and they said that if we use all of our soybeans for soy diesel, no soybean oil for our cooking, no soy protein for feeding our cattle and so forth, if we use it all for soy diesel, it would displace 2.9 percent of our diesel.

Now, I'm going to make an observation, just an intuitive observation, the kind of thing that I think a rational person might conclude. We grow our corn and our soybeans on our best land. It's level, it's fertile. We dump all sorts of fertilizers and herbicides and insecticides on it to nurse out these huge, huge yields of corn, 250-bushels per acre.

Now, we are going to get this cellulosic ethanol from our wasteland. It's not good for growing corn or soybeans or wheat or any of these things. And just intuitively, I wonder how much more energy we could get from our wasteland, which isn't good for growing any of these crops, and we're going to get it without fertilizer, how much energy can we get from that sustainably? Well, we can get a lot the first year and the second year by simply going in and in effect raping the soil, taking off all the organic material.

But to at least some measure and in some soils to a very large measure, this year's weeds and grasses grow because last year's weeds and grasses died and are fertilizing them. It's a recycling of the nutrients that is really, really apparent in a tropical rain forest. If you take the tropical rain forest vegetation away in many places, you leave what's called laterite soils which grow very little because all of the nutrients were in circulation, in growth, death, decay, rebirth and growing again. It's all recycling.

So we're going to get some energy from cellulosic ethanol, but it is not a silver bullet. It will not solve our problem.

Here I have a look at all of the different places from which we might get energy, and I'm going to put the last chart up now because our time is just about out. I want to come back and I want to spend the full hour talking about realistic expectations from tar sands, more potential oil than all the oil in the world. Oil shales, again, in our country, more potential oil than all of the oil deposits in the world.

□ 2030

How much can we realistically expect to get from them? I'll make a very quick observation. We are very much like the young couple that has gotten a big inheritance from their grandparents and they're living lavishly. Eighty-five percent of the money they spend comes from their grandparents' inheritance and only 15 percent from what they earn. And it's going to run out before they die, so obviously they've got to do something, they've got to earn more or spend less.

That's precisely where we are. Eighty-five percent of all of the energy we use comes from fossil fuels. It will run out. It is not forever. And so this 15 percent is going to have to grow. And about half of that is nuclear, the rest of it is a broad spectrum of potential renewables here. That's going to have to grow.

By the way, I think that this is an enormously exciting challenge. I am excited about this. America is the most creative, innovative society in the world. With proper understanding and proper leadership, we really can do miracles. We put a man on the moon in less than a decade.

I think we need a program that has a total commitment of World War II. I lived through that war, I know what it was. Daylight savings time, victory guard, nobody told you you had to do it, that's just what you did because you were a patriotic American.

We need the technology focus of putting a man on the moon—and many of us remember that exciting decade—and we need the urgency of the Manhattan Project. I think once again America has become a major manufacturing and exporting country, manufacturing and exporting to the rest of the world the technologies for sustainable renewables.

Mr. Speaker, I think this is a challenging opportunity, but it will not be easy. And we have very unrealistic expectations about what we can get from many of these things. Two of the bubbles have already broken. I will predict the next bubble that will break is the cellulosic ethanol bubble. We will get something from that; it will not be the huge amounts that people expect that we will get from that. So I look forward to coming back and talking for another hour about realistic expectations: What can we realistically get from these renewable sources?

WORLD PRESS FREEDOM DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from California (Mr. SCHIFF) is recognized for 60 minutes.

Mr. SCHIFF. Mr. Speaker, last Saturday, May 3, was World Press Freedom Day. Two years ago, in conjunction with World Press Freedom Day, Congressman MIKE PENCE, Senator CHRIS DODD, Senator DICK LUGAR and I established the Congressional Caucus for Freedom of the Press. Since then, this bipartisan, bicameral caucus has sought to highlight the importance of free expression around the world. The caucus is a forum where Members of Congress can work to combat and condemn media censorship and the persecution of journalists worldwide.

Our caucus works to send a strong message that Congress will defend democratic values and human rights wherever they're threatened. We work to highlight abuses of press freedom and foster reforms in support of press freedom around the world. We have hosted panel discussions with press freedom experts, journalists and victims of press freedom crimes. We have written to the leaders of countries which jail journalists, impose censorship, and allow harassment, attacks and threats to occur with impunity. And we've spoken out here on the House floor and in the media to call for reforms in countries that seek to censor freedom of speech and expression.

The caucus enjoys the support of a wide range of organizations, including Reporters Without Borders, Freedom House, the Committee to Protect Journalists, the National Endowment for Democracy's Center for International Media Assistance, as well as the legendary Walter Cronkite.

World Press Freedom Day was first designated by the United Nations Educational, Scientific and Cultural Organization in 1993 as an occasion to pay tribute to repressed journalists and to reflect upon the role of the media in general in advancing fundamental human rights as codified in international law, regional conventions, and national constitutions. In keeping with that tradition, we have hosted a Special Order hour in honor of World Press Freedom Day each year since the inception of the caucus.

The Universal Declaration of Human Rights, which is a foundation of the postwar human rights movement, guarantees freedom of expression in article 19. ''Everyone has the right to freedom

of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of any frontiers.'' It may not be as elegant as our first amendment, but its effect and its desire and goal are the same.

For Americans, this day should spur us to consider the role that journalists play in our society and to ponder what our Nation would be like if this cornerstone of liberty were to be curtailed. Many Americans take the concept of a free press for granted and don't realize that an unfettered press is vital to America's national security and to our democracy here at home.

Freedom of the press is so central to our democracy that the Framers enshrined it in the very first amendment to our Constitution. Thomas Jefferson so valued the principle of press freedom that he said, given the choice between a free government or a free press, he would choose a free press. He said, ''The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspaper without a government, I should not hesitate a moment to prefer the latter.''

Journalists have jealously guarded their rights and American courts have, in the main, carved out broad protections for the press. In the United States, the press operates almost as a fourth branch of government, the Fourth Estate, independent of the other three, and positioned as an agent of the free people.

Winston Churchill agreed with the idea that a free press was almost another independent branch of government saying, ''A free press is the unsleeping guardian of every other right that free men prize; it is the most dangerous foe of tyranny. Under dictatorship the press is bound to languish, and the loudspeaker and the film to become more important. But where free institutions are indigenous to the soil and men have the habit of liberty, the press will continue to be the Fourth Estate, the vigilant guardian of the rights of the ordinary citizen.''

From the pioneering work of journalists during the Civil War, to the ''muckrakers'' who were committed to exposing the social, economic and political ills of industrial life in the early 20th century, to the work of the Washington Post reporters Bob Woodward and Carl Bernstein in uncovering the Watergate scandal a year later, journalists have performed a crucial role as watchdogs of American freedom.

But in order for the press to do its work properly, it must be free, and journalists must be able to do their work without fear of retribution. Information is power, which is precisely why many governments attempt to control the press to suppress opposition and preempt dissent.

Far too often, the reporters and editors who demand reform, accountability and greater transparency find themselves at risk. The censorship, intimidation, imprisonment, and murder of these journalists are not only crimes against these individuals, they also impact those who are denied access to their ideas and information.

Freedom of expression and a free press is not just a cornerstone of democracy, it has also proven to play an important role in economic and social development. James Wolfensohn, former President of the World Bank, has long argued that ''a free press is not a luxury, it is at the core of equitable development.''

The media exposes corruption, helps build a public consensus to bring about change, and facilitates the transmission of innovative ideas and valuable information that empowers people to share and shape their own destinies. There is an emerging consensus among development institutions that a skilled and a viable media sector is a society's most promising tool for motivating government reform and poverty reduction.

Regrettably, censorship, intimidation, imprisonment, and even murder of journalists are far too common in countries all around the world. The map to my right provides a visual representation of press freedom rights by country. This map was provided by Freedom House, which releases an annual index called Freedom of the Press: A Global Survey of Media Independence. The countries that are highlighted in green are listed as having a ''free'' press. The countries in yellow represent countries that are ''partly free.'' And the countries colored purple are countries they describe as ''not free'' in terms of press freedom rights. And as you can see, in addition to problems here, we have vast expanses in Africa, in Asia, in the Middle East, and in South Asia.

To break it down a little more, when taking population into account, 42 percent of the world's people live in countries that have a press that is ''not free.'' Forty percent of the world's population live in countries that have only a ''partly free'' press. That is exhibited here in yellow. And in green we see that only 18 percent of the world's citizens enjoy a ''free press.'' Quite remarkable; 18 percent ''free,'' 42 percent ''not free,'' and the additional 40 percent only ''partly free.''

More than 80 percent of the world's people, therefore, are denied full access to information. This is not for economic reasons, as you might expect, such as printing costs, lack of Internet connections or illiteracy, all of which are problems in their own right. Eighty-two percent of the world's population, 82 percent of the world is being denied access to information because their governments don't want them to have that access.

It's also important to note that even as the world continues to globalize, tragically press freedom continues to slip. This was the sixth consecutive year that Freedom House's index showed a reduction in global press freedom, a worrisome trend.

As I mentioned, this is the third Special Order hour we have held in recognition of World Press Freedom Day. The first year we launched our caucus, we outlined the intention of our caucus and press freedom abuses around the entire world. Last year, we decided that each year we would focus on a particular hot spot and highlight a single country where press freedom rights are particularly limited.

Last year, we focused on Russia. We profiled 18 journalists murdered in Russia during the administration of outgoing President Vladimir Putin. All of these journalists were believed to be killed due to their work. Most of these murders remain unsolved to this day.

Tonight, I will focus on the lack of press freedom in China leading up to the 2008 Summer Olympic games in Beijing this August. I have chosen to highlight press freedom in China for a number of reasons, including its failure to implement promised press freedom reforms before the Olympics, its incarceration of more journalists than any other country, its lack of independent media, and its censorship of the Internet, all of which I will be discussing tonight.

As the world's most populous country, China denies more citizens access to a free press than any other country. It is also tied for 181st place out of 195 countries in press freedom rights in Freedom House's survey. To give you a bit of perspective, China ranks between Syria and Iran in the survey. And Russia, which as I just mentioned lost 18 journalists, murdered journalists, during one president's administration, that country is ranked ahead of China on the survey.

As I speak here tonight, the Chinese Government limits more than 1 billion people's access to an open Internet and an independent media, despite the fact that article 35 of the Chinese Constitution guarantees freedom of speech, assembly, association and publication. Unfortunately, other articles in its Constitution subordinate these rights to what is called the ''national interest.'' This allows the ruling communist party to maintain direct control over the news media through the Central Propaganda Department, the CPD.

The Chinese Government has even proposed fines for domestic and foreign news organizations that report ''sudden events,'' such as protests, disease outbreaks, or national disasters without government authorization. Some of these are public health emergencies, epidemics that the Chinese government wants to have the ability to hide. These are just a few of the examples that I've chosen to highlight China tonight.

China is an enormously important country. China has emerged in a big way on the world stage. And China is a

country of immense promise. It is important both to the Chinese Government and to the Chinese people, as well as to the rest of the world, that we help to promote press freedom in our largest neighbor in the world, and one that will take a position of increasing importance in the years to come.

□ 2045

Before I continue, I want to thank all the press freedom advocacy organizations that helped provide this information for tonight's discussion: The Committee to Protect Journalists, Reporters Without Borders, the National Endowment For Democracy, and Freedom House have all been chronicling press freedom abuses in China, and much of what I will share with you tonight is a product of these groups' research, investigation, and reporting. I want to thank them not just for their efforts in helping us here tonight but, more importantly, for all of their work to defend journalists and journalism around the world. And I also want to take a moment to thank Sean Oblack of my staff for all of his effort and leadership in helping to put this caucus together and the presentation tonight.

During the Olympic bidding process, as international opposition grew to rewarding the Olympics to China, the Chinese Government promised to strengthen human rights in China. This included a commitment to press freedom. In the days leading up to the Olympic vote, Wang Wei, Secretary General of the Beijing Olympic Bidding Committee, said, ''We will give the media complete freedom to report when they come to China.''

Regrettably, though, China has not delivered ''complete freedom'' to its own reporters. In September, 2007 Teng Biao and Hu Jia, two of China's most celebrated human rights activists, in an open letter to the international community, detailed China's failure to live up to its Olympic commitments, including press freedom. Teng and Hu wrote:

''As of this writing, 35 Chinese journalists and 51 writers are still in prison. Over 90 percent were arrested or tried after Bejing's successful bid for the Olympics in July of 2001. For example, Dr. Xu Zerong, a scholar from Oxford University who researched the Korean War, was sentenced to 13 years' imprisonment for 'illegally providing information abroad.' Qingshuijun, Huang Jinqiu, a freelance writer, was sentenced to a 12-year term of imprisonment for his online publications. Some writers and dissidents are prohibited from going abroad; others from returning to China.''

Due to this letter, due to this letter, Hu Jia now sits in jail. I will be profiling his case later in the hour.

Human Rights Watch reports that Chinese journalists remain closely observed by state security agencies to ensure that their reporting reflects the official government position. The government's Publicity Department heavily influences the weekly editorial content for print, radio, and television platforms by preventing the reporting of sensitive topics that fall under the vague metric of issues affecting ''social stability.'' Journalists that stray from the government line, as Teng and Hu noted, face imprisonment, travel restrictions, or are effectively deported.

Foreign correspondents do not experience ''complete freedom'' either when reporting in China. On January 1, 2007, the Chinese Government introduced a temporary measure that was intended to increase foreign reporters' freedom in China before, during, and after the Olympic games. This measure was set to expire in October, 2008. While some foreign correspondents have experienced increased journalistic freedom since the measure went into effect, most have not.

A Foreign Correspondents Club in China's survey showed that 40 percent of foreign correspondents have experienced harassment, detention, or an official warning during the news gathering in Beijing and other areas.

One foreign reporter in China that Human Rights Watch interviewed experienced harassment and had difficulty renewing her work visa after covering political dissidents and the highly publicized murder of Chinese journalist Lan Chengzhang. She told Human Rights Watch, ''I know the stories we have done have angered the Chinese Government, and my visa renewal problems began after,'' after those reports.

Other foreign correspondents have been detained for legal reporting activities. The New York Times Shanghai-based correspondent David Barboza, his Chinese assistant, and a photographer were detained for more than 10 hours by staff at a factory in Guangdong province while doing a story about toxic lead paint discovered in the factory's exports to the United States. Barboza was eventually let go after writing a statement explaining the reason for his factory visit and stating that he hadn't obtained permission to take the photographs.

At particular risk are the assistants and sources of foreign reporters as they're helping on stories that domestic reporters cannot cover. One local assistant of a foreign press correspondent was told by security agents that it was his responsibility to notify the agents if the reporter was uncovering anything sensitive and warned him and his family of possible legal action if he did not. Sipa Press photographer Natalie Behring described to Human Rights Watch the obstacles foreign reporters face in finding a cooperative source: ''In light of the new rules, the Chinese Government can't stop us from talking to anyone; so they intimidate the subjects of our reporting rather than intimidating the reporters.''

In the fall of last year, I, along with my Congressional Caucus For Freedom of the Press co-Chair Mike Pence, wrote a letter to Liu Qin, president of the Beijing Organizing Committee of the Olympic games, expressing our deep disappointment in the government's failure to live up to the promises that it made before the Olympic vote in 2001. The letter expressed our frustration that Chinese journalists face imprisonment for reporting stories unfavorable to the state, are forced to toe the government line, and the ever-increasing restrictions on accessible material on the Internet.

In the past the Olympic games have helped establish freedoms in countries struggling to emerge from authoritarian rule. Most notably, the 1988 summer Olympics in Seoul, Korea played a critical role in helping to bring democracy to that country. It's my hope that China begins to live up to its promise of complete freedom for journalists, that it will cease the harassment and imprisonment of journalists, and allow the Chinese people to experience the full communicative and economic powers of the Internet and that the games will usher in a newer, freer era in Chinese public life.

I'm now going to spend a few minutes talking about one of the extreme measures that governments take to censor the media, and that is arrest and detention. Unfortunately, it's become commonplace for some governments to silence journalists simply by jailing them. And, regrettably, there is no bigger offender in this regard than China. And, again, this is one of the main reasons we have chosen to highlight China here tonight.

Before I discus China's imprisonment of journalists, I would like to give a brief overview of this problem around the world. And in fairness and in completeness, while we are focusing on China because of the magnitude of the problem there and because of the promises that were made in advance of the Olympics, it's important to recognize this is by no means a problem confined to China. Tragically, as we've seen in the diagrams we had up earlier, press freedom is very limited in many places around the world and under great assault in many places around the world. So China is not unique in this respect. It is unique in its size. It's unique in some of the technological instruments it has used to effectuate censorship in this era of Internet journalism, but it is not unique around the world for this problem.

According to the Committee to Protect Journalists, as of December 1, 2007, 127 journalists were in prison around the world as a consequence of their work. Of these more than 80 were being held by only five countries, however: China, Cuba, Eritrea, Azerbaijan, and Burma.

This statistic only includes journalists that the Committee to Protect Journalists can account for and that CPJ has confirmed are being jailed. It does not include another alarming category that the organization tracks, and that is journalists who have either disappeared or have been abducted by

nonstate entities, including criminal groups and gangs, rebels, and militant groups.

CPJ's research has found that nearly 17 percent of journalists jailed worldwide in 2007 were held without any publicly disclosed charge. Many for months, some for years, and some in secret locations.

The majority of journalists being imprisoned are being held on spurious antistate allegations such as subversion or divulging state secrets or acting against some undefined national interests. CPJ has found out that about 57 percent of journalists in their survey are jailed under these charges, and of those many are being held, regrettably, by the Chinese Government.

These statistics demonstrate that China is not the only offender in this practice but clearly one of the worst. As we have stated, we have set aside this time tonight to highlight China. But while we are on the subject of jailing journalists nationwide, I would like to take a brief moment to discuss one particular case in Eritrea that was brought to my attention by a constituent of mine who works with Amnesty International Group 22 in Pasadena.

Eritrea is a country of only 4.6 million people; yet it imprisons the third-most journalists of any country: 14. What's worse, the Government of Eritrea will not even confirm whether the journalists in its custody are alive or dead, and it also holds the most journalists in secret locations.

One such journalist being held in a secret location in Eritrea is Seyoum Tsehaye, a freelance reporter. His arrest and jailing was believed to be part of the government's crackdown to eliminate political dissent ahead of elections scheduled for December of 2001, which were later cancelled. He was arrested on the street in September of that year, the first day of a major round-up and imprisonment of reformers in Eritrea. There are concerns about his health, but the government has refused to provide details about his well-being. He has never been allowed a family visit or a lawyer. He has never been charged or appeared before any court. Last year Reporters Without Borders honored him as their ''2007 Journalist of the Year.'' And tonight we take a moment to think about Seyoum Tsehaye, freelance reporter in Eritrea, held in custody in a secret location since September of 2001.

So it's clear this is a problem not only associated with China. It is also clear there are more cases of imprisoned journalists around the world than we have time to discuss tonight or, for that matter, over the course of a great many nights.

It's important, though, to cast a spotlight tonight on China because of the significant role it plays on the international stage. It's one thing to talk about Eritrea and the role it plays; it's another to talk about one of the world's superpowers with all of its promise, with all of its future, and with a current policy extremely inhibiting of a free press.

In addition to hosting the summer's Olympic games, China's the world most populous nation, permanent member of the United Nations Security Council, and as I mentioned, an emerging superpower. Rightly or wrongly, many countries look to China to set an example that others can follow. In this case that is a great concern to the well-being of global citizenry.

As I mentioned here tonight, China promised the world community to improve press freedom in advance of the Olympics. For 9 years, however, it has held the distinction of being the world's largest jailer of journalists.

As the Internet continues to grow and more and more people around the world have access to the Internet, more people are getting their news online. Nowhere is this truer than in China. This is a fact that the Chinese Government has not overlooked. And that is why 18 of the 29 jailed journalists worked online, according to CPJ. Reporters Without Borders lists China as jailing an additional 50 ''cyber-dissidents.''

China's list includes imprisoned Internet journalist Shi Tao, an award-winning journalist who is serving a 10-year sentence for e-mailing details of a government propaganda directive to an overseas Web site. We'll talk more about Shi Tao later tonight.

But the list of China's unenviable distinctions when it comes to press freedom and the jailing of journalists includes one other significant fact: CPA lists China as having the longest-serving journalists in jail. Chen Renjie and Lin Youping were jailed in China in July, 1983, for publishing a pamphlet titled Ziyou Bao Freedom Report.

□ 2100

And their co-defendant, Chen Biling was executed. We will profile these journalists later tonight as well.

Journalists in China are also held in appalling conditions. Prison is never pleasant no matter what country you are in, but Reporters Without Borders reports that journalists in jail in China frequently experience the harshest of conditions. They are placed in overcrowded cells, subjected to forced labor and regularly beaten by their guards and fellow prisoners. This ill treatment is at its worst in the first weeks in custody when police try to extract confessions. Many of the charges weighed against journalists in China are trumped up. For Americans, these charges are pretty unimaginable. To give you some perspective on why some of the journalists are sitting in jail right now, I am going to briefly mention a few of their cases.

These cases are examples of journalists being jailed for what we in the West would consider responsible journalism. I wouldn't even get into some of the other journalism we see here, as well the rest of the world, but for laudable journalism, for journalism we would applaud in this country, these journalists are being jailed. Zhang Jianhong, for example, the former editor of the now closed news website Aegean Sea, was arrested in 2006 and charged with ''inciting subversion'' for posting an essay criticizing China's human rights record and the poor treatment of journalists, ironically ahead of the Olympic games.

Lawyer Yan Maodong, who also calls himself Guo Feixiong, and his picture is here as well in the upper right-hand corner, was arrested in September of 2006 because of his critical writings and human rights activism. He was officially accused of selling a book using a false publishing reference, but he says the book's content was what the government objected to. But imagine being jailed since September of 2006 on the charges of using a false publishing reference.

According to the New York Times, Guo had repeatedly called on China's Communist party leadership to liberalize the political system. His wife and supporters in the international human rights community have said that Guo has been tortured in custody and that the police coerced him to confess to a nonpolitical crime. He was sentenced to 5 years in prison in November of 2007 for ''illegal commercial activity.''

The New York Times has also reported that a Tibetan scholar, Dolma Kyab, Dolma's picture is here to my far right, has been jailed since 2005 after writing an unapproved history of Tibet. Reporters Without Borders reports that Dolma was sentenced to 10 years in prison at a secret trial on September 16, 2005, by the Lhasa People's Intermediate Court for ''endangering state security'' and for alleging spying. He managed to smuggle a letter out of prison in September 2005 to the U.N. Human Rights Commission saying he had been jailed for writing about democracy, freedom and the situation in Tibet.

Zheng Yichun is another illustration of the problem in China. He was sentenced to 7 years in prison followed by 3 years of deprivation of political rights for writing a series of editorials that directly criticized the Communist party and its control of the media.

Li Changqing, a journalist for the Fuzhou Daily, was sentenced to 3 years in prison for ''spreading false and alarmist information'' when he reported about a 2004 dengue fever outbreak.

In May 2006, Internet writer Yang Tongyan was sentenced to 12 years in prison for posting articles on overseas Web sites in which he simply called for the release of Chinese dissidents.

In July 2006, Li Yuanlong, a reporter for the Bijie Daily, was sentenced to 2 years in prison after he posted essays on foreign Web sites in which he discussed the harsh living conditions of peasants in the Guizhou province.

Yu Huafeng, I believe we have Yu's picture right here to my immediate

right, was the deputy editor and general manager of the Nanfang Dushi Bao, Southern Metropolitan News. He was detained less than a month after the newspaper reported a suspected SARS case in Guangzhou, the first case since the epidemic died out in July 2003. Thankfully, Mr. Huafeng was released earlier this year when his sentence was reduced.

Zi Beijia, of Beijing TV, was sentenced by the Beijing Number 2 Intermediate Court to a year in prison for the unusual crime of ''infringing on the reputation of a commodity.'' That is really quite remarkable. Zi's arrest came amid widespread international reports about food and product safety defects in China. After the arrest, CPJ research found that domestic news reports about consumer safety were noticeably tamer.

Imagine in this country if you could jail a journalist for infringing on the reputation of a commodity, for taking issue with the safety of a child's toy, lead paint, the safety of a train or an air bag. Imagine if you could be jailed for that. And you can imagine the situation that occurs in present day China.

Wu Lihong, an environmental activist, was jailed after criticizing the ongoing polluting of Lake Taihu, the country's third biggest lake and a major source of drinking water in the eastern province of Jiangsu. He also denounced the uncontrolled dumping of industrial waste by privatized city-owned firms. After being hounded by police and local organizations, he was arrested in April 2007 and thrown in jail, accused of demanding money from the firms. He was tortured during interrogations and not allowed any defense witnesses at his trial. He was sentenced to 3 years in prison for theft and extortion.

And again, it is hard to imagine what it would be like in this country if reporting about contamination of drinking water or dumping of toxics into a lake would end you up in prison for a matter of years without any ability to present the defense. And unfortunately, that is the situation that Wu Lihong found himself in.

An outbreak of disease, government corruption, public safety concerns, to me these are stories that the press should be reporting. Indeed, in terms of the interests of the Chinese people, these are stories the Chinese people need to know. These are the stories that the public has the right to know about, and the press has an obligation to report. Articles like these were exactly what the framers of our Constitution had in mind when they drafted the First Amendment. This is exactly what Thomas Jefferson said and had in mind when he said that ''no government ought to be without censors,'' in his case he was meaning critics, ''and where the press is free, no one ever will.''

The Chinese Government is not censoring the press out of national security concerns, but instead to shield itself from what a free press might uncover about corruption, inefficiency, human rights abuses, environmental issues, health problems or any other afflictions that might accompany authoritarian rule.

China's censorship and intimidation of media are not limited to Chinese journalists. Freedom House has also highlighted the convictions of two Chinese journalists working for the Beijing bureau of the New York Times and Ching Cheong, a correspondent for Singapore's Straits Times in China. Their convictions may have been intended to intimidate foreign correspondents and newspapers. According to Reporters Sans Frontieres, there were at least 25 incidents of arrests, threats or assaults against members of the foreign press in 2006 alone.

So not only is the government in China jailing journalists to keep information from its own people, but it is also seeking to censor information to the rest of the world.

With this understanding of how and why the Chinese Government has sought to jail journalists, I think it is important now to profile some of the most egregious cases. The reporters involved here are true profiles in courage. These journalists knew the consequences of their writings in advance of their publication. And yet these Chinese journalists believe so strongly that all citizens deserve access to information, that they are willing to put their freedom on the line to better inform the public. These journalists ought to be commended for their work, not jailed. And that is what we are doing here tonight. We are saying ''thank you'' to all the brave Chinese journalists, Eritrean journalists, Cuban journalists, and all other journalists around the world who have risked their safety and freedom to spread valuable information around their countries and around the world, information that we benefit from.

The concept of censorship of the media can be so strange to us here in America that we often don't realize that journalism can cost one his or her freedom or even their life, as we have seen in Russia and indeed in China. So let's go to some of these profiles.

I would like to start the profiles tonight with the leading activist named Hu Jia who called for greater attention to human rights around the Olympics and was arrested on January 30 of this year according to Human Rights Watch. Press Freedom—and Hu is pictured to my right—and human rights organizations are concerned that Hu is being prosecuted simply for exercising his rights to freedom of opinion and expression. At issue is an open letter that he co-authored calling for the international community to look beyond the veneer put in place in Beijing for the Olympics and to seriously examine the extent to which China had fulfilled the promises it made to improve human rights in advance of the games.

Three months after publication of this letter, Hu was arrested at his home. On April 3, 2008, he was sentenced to 3 years' imprisonment for ''incitement to subvert state power,'' a charge regularly leveled against activists and dissidents.

Reporters Without Borders has reported that Chinese authorities have prevented Hu from appealing his sentence. One of his lawyers, Li Fangping, was refused permission to see him 10 days after the sentence was handed down. The authorities said he was undergoing a ''medical examination'' prior to entering prison. He was again refused permission to see him on a later date on the grounds that the deadline for filing the appeal had already expired.

According to Reporters Without Borders, Li wanted to give him official documents related to his appeal which he urgently needed for him to sign. But the guards refused without giving any reason. Hu has not been allowed to take any telephone calls, and his family is very worried about the state of his health. The plight of Hu has been recognized by leaders around the world. Earlier this year, it was reported then when our Secretary of State, Condoleezza Rice, met with President Hu Jintao and Prime Minister Wen Jiabao in Beijing, she raised human rights issues and voiced concern about the situation of political prisoners of Hu and Shi Tao, whom I will speak about next. The following day, Chinese foreign ministry spokesman Liu Jianchao insisted that Hu was being detained legally.

Earlier this year, the Paris City Council named Hu an honorary citizen of Paris. This title was bestowed on Hu for his work as an activist on behalf of human rights, free expression, the environment, and HIV/AIDS sufferers.

Other people to have been declared honorary citizens of Paris include Ingrid Betancourt, a Colombian politician with French citizenship currently a hostage of FARC guerillas, and Burmese opposition leader Aung San Suu Kyi.

Next I would like to profile Shi Tao. The Chinese Government often uses vaguely worded laws to detain journalists, dissidents and others in the peaceful exercise of their right of free expression, including those arrested for the legitimate use of the Internet. This is despite the fact that the right to freedom of expression is protected in China's constitution.

One of the many unfortunate examples of this practice is the continued imprisonment of Shi Tao—his photograph exhibited here—a journalist and poet imprisoned solely for exercising his right to freedom of expression and his right to seek, receive and impart information.

Shi, the former editorial director at the Changsha-based newspaper Dangdai Shang Bao, was detained near his home in Taiyuan in the Shanxi province. In April 2004, Mr. Tao sent an e-mail from his Yahoo account to a U.S.-based pro-democracy website in which he summarized a government order directing

media organizations in China to downplay the upcoming 15th anniversary of the Tiananmen crackdown.

In the anonymous e-mail sent several months before his arrest, Shi transcribed his notes from the local propaganda department instructions to the newspaper which included directives on coverage of the Falun Gong and the upcoming 15th anniversary of the military crackdown on demonstrators at Tiananmen Square. The official Xinhua News Agency reported that the National Administration for the Protection of State Secrets later certified the contents of the e-mail as classified, later certified them as classified.

□ 2115

On the basis of this e-mail, police arrested Shi 6 months later in November of 2004, charging him with ''illegally providing state secrets to foreign entities,'' as if Chinese efforts to downplay or fail to report on Tiananmen were somehow a state secret. On April 27, 2005 the Changsha Intermediate People's Court found Shi guilty and sentenced him to a 10-year prison term in June.

In June, the Hunan Province High People's Court rejected his appeal without granting a hearing. Court documents in the case revealed that Yahoo had supplied information to Chinese authorities that helped them identify Shi as the sender of the e-mail. In November of 2005 CPJ honored Shi with its annual Internation Press Freedom Award for his courage and defending the ideals of free expression.

On June 4, 2007 the 18th anniversary of Tiananmen Square, Shi received an additional honor, the Golden Pen of Freedom Award. The award is the annual press freedom prize from the World Association of Newspapers, which is based in Paris and is the global organization for the newspaper industry. It has awarded the Golden Pen annually since 1961.

Shi also was presented with PEN New England's Vasyl Stus Award in 2006. The award is presented to a writer who has been persecuted for the peaceful expression of his or her views and whose courage in the face of censorship and oppression has been exemplary.

This award is named after the poet, Vasyl Stus, who became a leading voice of his generation and who was also the last Ukranian writer to die in the Soviet Gulag. Unfortunately, all of these awards are presented in absentia due to Mr. Shi's continued incarceration. His mother accepted the Golden Pen of Freedom award from WAN on his behalf in June of last year.

At the awards ceremony she expressed what the award meant to both her and her son when she stated, ''In China, he was taken as a criminal, but today WAN, made up of over 100 newspaper organizations, awards him the Golden Pen of Freedom. It is not only an honor but also a huge comfort to Shi Tao.

''It proves that my son is indeed innocent. He has only done what a courageous journalist should do. That is why he has got the support and the sympathy from his colleagues all over the world who uphold justice.

''Here and now, I am able to stand on the stage on behalf of my son.''

What an arduous journey it has been to tell you the truth. I can't believe it is true, and even the best human language in the world cannot express the gratitude from the mother and son.

It's good to know that awards like these help provide at least a little comfort for journalists like Shi. But, more importantly, these awards should raise awareness surrounding press freedom abuses around the world. Mr. Shi is clearly deserving of all these accolades. The Chinese people and citizens around the world are thankful for his dedication to true journalism.

Next I am going to speak about two dedicated Chinese journalists who have been detained longer than any journalists in the world today, Chen Renjie and Lin Youping. Twenty-four years after their imprisonment in the early days of China's economic reform, Chen Renjie and Lin Youping have been in prison longer than any journalists in CPJ's worldwide census.

The two men, along with Chen Biling, wrote and published a pamphlet entitled Ziyou Bao (Freedom Report). They distributed 300 copies of the pamphlet in the southern Chinese City of Fuzhou, Fujian province, in September, 1982.

The following July, they were arrested and accused of making contact with Taiwanese spy groups and publishing a counterrevolutionary pamphlet. According to government official records of the case, the men used ''propaganda and incitement to encourage the overthrow of the people's democratic dictatorship and the socialist system.''

In August, 1983, Chen was sentenced to life in prison and Lin was sentenced to death with reprieve. Chen Biling was sentenced to death and later executed.

Their case is so old, and with the lack of an independent and open media, we have had a hard time finding out more information about Chen Renjie and Lin. However, I would be remiss if I did not pay special attention to highlight these two reporters who have endured more time in jail, due to their effort to share information, than any other journalist today.

The last topic I want to focus on tonight is Internet censorship. According to Freedom House, China is the world's second largest population of Internet users after the United States, with an estimated 210 million people online, or just under 16 percent of the country's population.

However, access to China, to the Internet in China, is not the same as access to the Internet here in America. Freedom House's 2008 press freedom survey reported that last year in China was marked by additional Internet restrictions, as well as the jailing of more online journalists and bloggers.

According to their findings in 2007, at least nine additional journalists and online writers were detained during the year for information they had published on the Internet, particularly on U.S.-based independent Chinese news Web sites. In China, Web sites that have not established or not been established by an official news outlet such as a newspaper or broadcaster are forbidden from gathering or editing their own news or commentary.

Legally, they can only reproduce material that has passed through sensors at approved media organizations. As we have mentioned tonight, all media in China are government controlled.

China is not the only country to manage public opinion by controlling the Internet. As of 2007, CPJ had documented Internet censorship in 22 countries worldwide, but China was first to launch a comprehensive program to censor online speech and to monitor e-mail and text messaging. Its censorship program is so expansive and technically sophisticated that countries such as Vietnam, Zimbabwe, and Thailand have adopted its practices.

This gets back to what I have referred to earlier tonight, the fact that because of its prominence China sets an example, for good or for bad, in this case, regrettably, for ill. Due to technological advancements and the efforts of overseas activists, the Chinese government attempt to suppress information has become more difficult, but that has not stopped the government's efforts to censor online information.

Many have referred to Internet restrictions in China as the ''Great Firewall of China.'' The government employs extensive surveillance and filtering systems to prevent Internet users from accessing material that the government considers obscene, harmful to national unity or politically subversive.

In May of 2007 Reporters Without Borders launched a Web site in Chinese, and it was blocked within hours of going live. Additionally, all IP addresses linked to a Web site deemed undesirable are blocked without warning.

As the web has become a new forum to distribute information, the Chinese government continues to create new laws to suppress the free flow of information on the Internet. In the 5 years after China first allowed private Internet accounts in 1995, it has issued more than 60 sets of regulations to tighten its control of online content.

These regulations continue today. In 2005 the government introduced new regulations that bar Web sites from distributing information that violates Chinese constitutional provisions, endangers national security, encourages illegal strikes or promotes unrecognized religious groups. In March of 2007 the Ministry of Culture and the Ministry of Information Industries banned the opening of new Internet cafes, 113,000 were in existence at the time.

Many times Internet censorship is used as a political tool. Internet censorship in China increased prior to and

during the 17th Party Congress in October of last year, during which the party leadership for the next 5 years was endorsed. Between April and September, access to over 18,000 Web sites was blocked.

The Committee to Protect Journalists reported that in September of 2007, security agencies in several regions ordered Internet data centers, which host large numbers of Web sites and blogs, to suspend their service, or disable interactive features such as bulletin boards and comment sections during the Congress' meeting.

In an apparent effort to overcome difficulties monitoring audio-visual content with automated filtering technology, the government issued a regulation requiring Web sites with audio visual context to apply for permits. I guess that would pretty well put YouTube and other like Web sites out of business.

The regulation, which affects approximately 60,000 sites in China, also banned audio-visual content deemed to fall into vaguely defined categories such as opposing the principles of the People's Republic of China constitution, harming national unity, contributing to ethnic divisions or disrupting social harmony.

So if there were entrepreneurs who wanted to start a Chinese version of YouTube, unless they register, unless YouTube registers, that would be prohibited. Indeed the content on those sites would be strictly scrutinized by the Chinese government. According to Freedom House, in some instances restrictions were imposed on a local level, after bloggers supported a protest against construction of a chemical factory.

Near the southern City of Xiamen, the local government adopted measures requiring Internet users to provide their real names when posting material on more than 100,000 Web sites registered in the city. The Chinese government demands that individual service providers monitor content. These providers filter searches, block Web sites, delete content and monitor e-mail traffic.

The Chinese language search engines of many U.S. firms filter search results and restrict access to information about topics deemed sensitive by the government. These include searches such as Falun Gong, Tibetan independence, and human rights.

U.S. filters have to adopt certain restrictions. U.S. sites, like YouTube and others, are subject to the same scrutiny. In 2007, more than 20 companies, some American, were forced to sign a self-disciplined pact which forces them to censor the content to blogs they host in China as bloggers to provide their real identity and to delete postings considered illegal and unhealthy.

Despite all this discouraging news there is a silver lining, though, the government's efforts are not foolproof. Brave and determined bloggers continually pop up, change addresses, hide behind proxy servers, and use a range of tactics to side-step government censorship and spread good information to the Chinese public.

But it's our hope that these bloggers and our journalists someday will not have to use these extreme measures. We would like to see China reconsider its regulation and censorship of the media. As we mentioned at the outset tonight, press freedom provides a valuable, economic and social benefit that is in China's best interest to ensure free and independent media.

We in this country have a great admiration for the Chinese people. They are extraordinarily talented, gifted, resourceful people with a great future ahead of them. It's our sincere view that we do no service to our relationship with China not to encourage in the most forceful way freedom of the press in that country.

We hope, many of us, that the Olympic Games would give China that opportunity to move forward and make progress, and we are disappointed that we have not seen that progress that the Chinese government representative would make, and, yet, we push forward.

Tonight we think about those journalists, some held longer than any others in China, and we urge the Chinese government to step forward to recognize the benefits to China itself of a free press and free media, to free journalists who are imprisoned for doing work important to the Chinese people.

We hope that these efforts will be undertaken soon, that some of the journalists that we profiled here tonight will be released back into the warmth of their own families and their own homes, whether they are in China or Eritrea or in Cuba or in so many parts of the world. That is our fond hope and desire and the raison d'etre of our caucus on freedom of the press.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COHEN (at the request of Mr. HOYER) for today on account of attending funeral.

Ms. MCCOLLUM of Minnesota (at the request of Mr. HOYER) for today from 12:15 p.m. to 2:30 p.m.

Mr. CAMPBELL of California (at the request of Mr. BOEHNER) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. TERRY) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, May 15.

Mr. JONES of North Carolina, for 5 minutes, May 15.

Mr. KELLER of Florida, for 5 minutes, May 14.

Mr. GOHMERT, for 5 minutes, May 14.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 72. Concurrent resolution supporting the goals and ideals of the International Year of Sanitation, the Committee on Foreign Affairs.

ADJOURNMENT

Mr. SCHIFF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 28 minutes p.m.), under its previous order, the House adjourned until Monday, May 12, 2008, at 2 p.m.

OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Rodney Alexander, Thomas H. Allen, Jason Altmire, Robert E. Andrews, Michael A. Arcuri, Joe Baca, Michele Bachmann, Spencer Bachus, Brian Baird, Richard H. Baker, Tammy Baldwin, J. Gresham Barrett, John Barrow, Roscoe G. Bartlett, Joe Barton, Melissa L. Bean, Xavier Becerra, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Brian P. Bilbray, Gus M. Bilirakis, Rob Bishop, Sanford D. Bishop, Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, John A. Boehner, Jo Bonner, Mary Bono, John Boozman, Madeleine Z. Bordallo, Dan Boren, Leonard L. Boswell, Rick Boucher, Charles W. Boustany, Jr., Allen Boyd, Nancy E. Boyda, Kevin Brady, Robert A. Brady, Bruce L. Braley, Paul C. Broun, Corrine Brown, Henry E. Brown, Jr., Ginny Brown-Waite, Vern Buchanan, Michael C. Burgess, Dan Burton, G.K. Butterfield, Steve Buyer,

Ken Calvert, Dave Camp, John Campbell, Chris Cannon, Eric Cantor, Shelley Moore Capito, Lois Capps, Michael E. Capuano, Dennis A. Cardoza, Russ Carnahan, Christopher P. Carney, André Carson, Julia Carson, John R. Carter, Michael N. Castle, Kathy Castor, Donald J. Cazayoux, Jr., Steve Chabot, Ben Chandler, Donna M. Christensen, Yvette D. Clarke, Wm. Lacy Clay, Emanuel Cleaver, James E. Clyburn, Howard Coble, Steve Cohen, Tom Cole, K. Michael Conaway, John Conyers, Jr., Jim Cooper, Jim Costa, Jerry F. Costello, Joe Courtney, Robert E. (Bud) Cramer, Jr., Ander Crenshaw, Joseph Crowley, Barbara Cubin, Henry Cuellar, John Abney Culberson, Elijah E. Cummings, Artur Davis, Danny K. Davis, David Davis, Geoff Davis, Jo Ann Davis, Lincoln Davis, Susan A. Davis, Tom Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa

L. DeLauro, Charles W. Dent, Lincoln Diaz-Balart,

Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Joe Donnelly, John T. Doolittle, Michael F. Doyle, Thelma D. Drake, David Dreier, John J. Duncan, Jr., Chet Edwards, Vernon J. Ehlers, Keith Ellison, Brad Ellsworth, Rahm Emanuel, Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Terry Everett, Eni F.H. Faleomavaega, Mary Fallin, Sam Farr, Chaka Fattah, Tom Feeney, Mike Ferguson, Bob Filner, Jeff Flake, J. Randy Forbes, Jeff Fortenberry, Luis G. Fortuño, Vito Fossella, Bill Foster, Virginia Foxx, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Elton Gallegly, Scott Garrett, Jim Gerlach, Gabrielle Giffords, Wayne T. Gilchrest, Kirsten E. Gillibrand, Paul E. Gillmor, Phil Gingrey, Louie Gohmert, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Kay Granger, Sam Graves, Al Green, Gene Green, Raúl M. Grijalva, Luis V. Gutierrez, John J. Hall,

Ralph M. Hall, Phil Hare, Jane Harman, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robin Hayes, Dean Heller, Jeb Hensarling, Wally Herger, Stephanie Herseth, Brian Higgins, Baron P. Hill, Maurice D. Hinchey, Ruben Hinojosa, Mazie K. Hirono, David L. Hobson, Paul W. Hodes, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Bob Inglis, Jay Inslee, Steve Israel, Darrell E. Issa, Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Jefferson, Bobby Jindal, Eddie Bernice Johnson, Henry C. ''Hank'' Johnson, Jr., Sam Johnson, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Jim Jordan, Steve Kagen, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Patrick J. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Peter T. King, Steve King, Jack Kingston, Mark Steven Kirk, Ron Klein, John Kline, Joe Knollenberg,

John R. ''Randy'' Kuhl, Jr., Ray LaHood, Doug Lamborn, Nick Lampson, James R. Langevin, Tom Lantos, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, Robert E. Latta, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, Daniel Lipinski, Frank A. LoBiondo, David Loebsack, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Daniel E. Lungren, Stephen F. Lynch, Carolyn McCarthy, Kevin McCarthy, Michael T. McCaul, Betty McCollum, Thaddeus G. McCotter, Jim McCrery, James P. McGovern, Patrick T. McHenry, John M. McHugh, Mike McIntyre, Howard P. ''Buck'' McKeon, Cathy McMorris Rodgers, Jerry McNerney, Michael R. McNulty, Connie Mack, Tim Mahoney, Carolyn B. Maloney, Donald A. Manzullo, Kenny Marchant, Edward J. Markey, Jim Marshall, Jim Matheson, Doris O. Matsui, Martin T. Meehan, Kendrick B. Meek, Gregory W. Meeks,

Charlie Melancon, John L. Mica, Michael H. Michaud, Juanita Millender-McDonald, Brad Miller, Candice S. Miller, Gary G. Miller, Jeff Miller, Harry E. Mitchell, Alan B. Mollohan, Dennis Moore, Gwen Moore, James P. Moran, Jerry Moran, Christopher S. Murphy, Patrick J. Murphy, Tim Murphy, John P. Murtha, Marilyn N. Musgrave, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, Randy Neugebauer, Eleanor Holmes Norton, Charlie Norwood, Devin Nunes, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Stevan Pearce, Nancy Pelosi, Mike Pence, Ed Perlmutter, Collin C. Peterson, John E. Peterson, Thomas E. Petri, Charles W. ''Chip'' Pickering, Joseph R. Pitts, Todd Russell Platts, Ted Poe, Earl Pomeroy, Jon C. Porter, David E. Price, Tom Price, Deborah Pryce, Adam H. Putnam, George Radanovich,

Nick J. Rahall II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, David G. Reichert, Rick Renzi, Silvestre Reyes, Thomas M. Reynolds, Laura Richardson, Ciro D. Rodriguez, Harold Rogers, Mike Rogers (AL), Mike Rogers (MI), Dana Rohrabacher, Peter J. Roskam, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C.A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Tim Ryan, John T. Salazar, Bill Sali, Linda T. Sánchez, Loretta Sanchez, John P. Sarbanes, Jim Saxton, Steve Scalise, Janice D. Schakowsky, Adam B. Schiff, Jean Schmidt, Allyson Y. Schwartz, David Scott, Robert C. ''Bobby'' Scott, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, Joe Sestak, John B. Shadegg, Christopher Shays, Carol Shea-Porter, Brad Sherman, John Shimkus, Heath Shuler, Bill Shuster,

Michael K. Simpson, Albio Sires, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Adrian Smith, Christopher H. Smith, Lamar Smith, Vic Snyder, Hilda L. Solis, Mark E. Souder, Zachary T. Space, John M. Spratt, Jr., Jackie Speier, Cliff Stearns, Bart Stupak, John Sullivan, Betty Sutton, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, Gene Taylor, Lee Terry, Bennie G. Thompson, Mike Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Edolphus Towns, Niki Tsongas, Michael R. Turner, Mark Udall, Tom Udall, Fred Upton, Chris Van Hollen,

Nydia M. Velázquez, Peter J. Visclosky, Tim Walberg, Greg Walden, James T. Walsh, Timothy J. Walz, Zach Wamp, Debbie Wasserman Schultz, Maxine Waters, Diane E. Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Peter Welch, Dave Weldon, Jerry Weller, Lynn A. Westmoreland, Robert Wexler, Ed Whitfield, Roger F. Wicker, Charles A. Wilson, Heather Wilson, Joe Wilson, Robert J. Wittman, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, John A. Yarmuth, C.W. Bill Young, Don Young.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, April 16, 2008.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Section 304(b)(1) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(1), requires that, with regard to the initial proposal of substantive regulations under the CAA, the Board ''shall publish a general notice of proposed rulemaking'' and ''shall transmit such notice to the Speaker of the House of Representatives and the President Pro Tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.''

The Board of Directors of the Office of Compliance is transmitting herewith the enclosed Notice of Proposed Rulemaking. The Board requests that the accompanying Notice be published in both the House and Senate versions of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal.

Any inquiries regarding the accompanying Notice should be addressed to Tamara E. Chrisler, Executive Director of the Office of Compliance, 110 2nd Street, SE., Room LA–200, Washington, DC 20540; 202–724–9250, TDD 202–426–1912, tchr@loc.gov.

Sincerely,

SUSAN S. ROBFOGEL,
Chair, Board of Directors.

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE:

NOTICE OF PROPOSED RULEMAKING,

and request for comments from interested parties.

NEW PROPOSED REGULATIONS IMPLEMENTING CERTAIN SUBSTANTIVE EMPLOYMENT RIGHTS AND PROTECTIONS FOR VETERANS, AS REQUIRED BY 2 U.S.C. 1316, THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995, AS AMENDED ("CAA").

BACKGROUND:

The purpose of this Notice is to issue proposed substantive regulations which will implement Section 206 of the CAA which applies certain veterans' employment and reemployment rights and protections to employing offices and employees covered by the CAA.

What is the authority under the CAA for these proposed substantive regulations?
The authority under the CAA for these proposed substantive regulations is found in two sections of the CAA. Section 206 of the CAA, 2 USC §1316, applies certain provisions of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits. Subsection 1316(c) requires the Board not only to issue regulations to implement these protections, but to issue regulations which are "the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . ." This section provides that the Board may only modify the Department of Labor regulations if it can establish good cause as to why a modification would be more effective for application of the protections to the legislative branch.

The second section that provides authority to the Board to propose these regulations is found in section 1384. Section 1384 provides procedures for the rulemaking process in general.

Will these regulations, if approved, apply to all employees otherwise covered by the CAA?
Yes. USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation against eligible employees, who are defined by the CAA as covered employees performing service in the uniformed services. Section 207(a) of the CAA prohibits retaliation against covered employees under the CAA, regardless of whether they have performed service in the uniformed services. The distinction between eligible employees and covered employees is the performance of service in the uniformed services: eligible employees have performed service in the uniformed services; covered employees have not.

Do other veterans' employment rights apply via the CAA to legislative branch employing offices and covered employees?
No. However, another statutory scheme regarding uniformed service members' employment rights is incorporated, in part, through section 1316a of the CAA. Section 1316a applies sections 2108, 3309 through 3312 of the Veterans Employment Opportunities Act ("VEOA"), and subchapter I of chapter 35 of Title 5. These provisions accord certain hiring and retention rights to veterans of the uniformed services. The VEOA language of the CAA also requires the Board of Directors to issue substantive regulations patterned upon the most relevant substantive regulations (applicable with respect to the executive branch) which are promulgated to implement the provisions of VEOA. After engaging in extensive discussions with various stakeholders across Congress and the legislative branch to determine how best to address certain provisions within the regulations, the Board adopted the VEOA regulations and submitted them to Congress on March 21, 2008. Section 1316a of the CAA becomes effective once the regulations for this section are passed by Congress.

Which employment and reemployment protections are applied to eligible employees in 2 U.S.C. 1316?
USERRA was enacted in December 1994, and the Department of Labor final regulations for the executive branch became effective in 2006. USERRA's provisions ensure that entry and re-entry into the civilian workforce are not hindered by participation in military service. USERRA provides certain reemployment rights, protection from discrimination based on military service, denial of an employment benefit as a result of military service, and retaliation for enforcing USERRA protections.

The selected statutory provisions which Congress incorporated into the CAA and determined "shall apply" to eligible employees in the legislative branch include nine sections: sections 4303(13), 4304, 4311 (a)(b), 4312, 4313, 4316, 4317, 4318, and paragraphs (1), (2)(A), and (3) of 4323(c)[1] of title 38.

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[1] As written in Section 206 of the CAA, reference is made to application of paragraphs (1), (2)(A), and (3) of section 4323(d). However, in USERRA, section 4323(d) is not comprised of paragraphs (1), (2)(A), and (3) - - section 4323(c) is comprised of those paragraphs. Because of this apparent typographical error, where the CAA references paragraphs (1), (2)(A), and (3) of section 4323(d), the Board refers to section 4323(c).

The first section, section 4303 (13), provides a definition for "service in the uniformed services." This is the only definition in USERRA that Congress made applicable to the legislative branch. Section 4303(13) references Section 4304, which describes the "character of service" and illustrates situations which would terminate eligible employees' rights to USERRA benefits.

Congress applied section 4311 to the legislative branch in order to provide discrimination and retaliation protections, respectively to eligible and covered employees. Interestingly, although Congress adopted these protections, it did not adopt the legal standard by which to establish a violation of this section of the regulations.

Sections 4312 and 4313 outline the reemployment rights that are provided to eligible employees. These rights are automatic under the statute, and if an employee meets the eligibility requirements, he or she is entitled to the rights provided therein.

Sections 4316, 4317, and 4318 provide language on the benefits given to eligible employees. The language in these sections is largely statutory and has been altered very little by the Board.

Are there veterans' employment regulations already in force under the CAA? No. The Board has issued to the Speaker of the House and the President Pro Tempore of the Senate its Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval for VEOA. The Board awaits Congressional approval of those regulations.

Procedural Summary:

How are substantive regulations proposed and approved under the CAA?
Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for proposing and approving such substantive regulations provides that:

> (1) the Board of Directors propose substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record;
> (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking;
> (3) after consideration of comments by the Board of Directors, the Board adopt regulations and transmit notice of such action (together with the regulations and a recommendation regarding the method for Congressional approval of the regulations) to the Speaker of the House and President [P]ro [T]emporeof the Senate for publication in the Congressional Record;
> (4) there be committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and
> (5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication.

For more detail, please reference the text of 2 U.S.C. 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the Senate, and the Deputy Executive Director for the House of Representatives?
As required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations is also recommended by the Executive Director, the Deputy Executive Director for the Senate and the Deputy Executive Director for the House of Representatives.

Has the Board of Directors previously proposed substantive regulations implementing these veterans' employment rights and benefits pursuant to 2 U.S.C. 1316?
No.

What is the approach taken by these proposed substantive regulations?
The Board will follow the procedure as enumerated above and as required by statute. Once these regulations are proposed, the Board anticipates engaging in extensive discussion with stakeholders to ensure that the regulations contemplate and reflect the practices and policies particular to the legislative branch.

What responsibilities would employing offices have in effectively implementing these regulations?

The Board charges the employing offices with the responsibility to implement the applicable USERRA provisions, including the prohibitions on discrimination and retaliation, the obligation to reemploy service members who timely apply for reemployment, and to provide the eligible, covered employee with the employment benefits to which he or she is entitled under USERRA, as applied by the CAA.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?
No. The Board of Directors has identified no "good cause" for varying the text of these regulations. Therefore, if these regulations are approved as proposed, there will be one text applicable to all employing offices and covered employees.

Are these proposed substantive regulations available to persons with disabilities in an alternate format?
This Notice of Proposed Regulations is available on the Office of Compliance web site, www.compliance.gov, which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Annie Leftwood, Executive Assistant, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9250; TDD: 202-426-1912; FAX: 202-426-1913.

30 Day Comment Period Regarding the Proposed Regulations

How long do I have to submit comments regarding the proposed regulations?
Comments regarding the proposed regulations of the Office of Compliance set forth in this Notice are invited for **a period of thirty (30) days** following the date of the appearance of this Notice in the *Congressional Record.*

How do I submit comments?
Comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA-200, Washington, D.C. 20540-1999. It is requested, but not required, that an electronic version of any comments be provided either on an accompanying computer disk or e-mailed to the Office of Compliance via its web site. Comments may also be submitted by facsimile to the Executive Director at 202-426-1913 (a non-toll-free number). Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission.

Am I allowed to view copies of submitted comments by others?
Yes. Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540-1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information:
The Congressional Accountability Act of 1995, PL 104-1, was enacted into law on January 23, 1995. The CAA, as amended, applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the legislative branch of the federal government. Included among those rights are the protections provided, in Section 206 of the CAA, to employees performing service in the uniformed services. These protections are the subject of these regulations.

Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the legislative branch.

More Detailed Discussion of the Text of the Proposed Regulations

Please note in the accompanying regulations that USERRA is applied by the CAA almost in its entirety. The subparts on eligibility and reemployment rights (subparts C, D, and E) were applied with minimal, if any, changes by the Board. The Board relied heavily on Section 1316(c) of the CAA which requires that these regulations be the same as those promulgated by the Secretary of Labor unless the Board finds and demonstrates good cause as to why a modification is needed to be more effective for implementation in the legislative branch. Where the Board determined that good cause existed to require a modification, the Board so modified. Otherwise, pursuant to Section 1316(c) of the CAA, the Board made no changes to the Department of Labor regulations.

Subpart A—Introduction to the Regulations under the Uniformed Services Employment and Reemployment Rights Act of 1994 General Provisions

The Purpose of Subpart A

This subpart gives an introduction to USERRA as applied by the CAA and clarifies the rights and benefits USERRA establishes for employees, and the duties it places on employing offices. USERRA affects employment, reemployment, and retention in employment, when employees serve or have served in the uniformed services.

It is noted that nothing in these regulations shall be construed to require an employing office to reduce any returning service members' employment and reemployment rights and protections that the office may currently afford to eligible employees. Nor does USERRA serve to place an eligible employee in a better position than he or she would have been in had he or she not performed service in the uniformed services.

It is also important to note that Section 1316(d)(2) of the CAA applies these protections to the Government Accountability Office and the Library of Congress. Should Congress extend Board jurisdiction over the Government Printing Office ("GPO") in the future, Congress should take GPO's existing veterans' preference policies into account, which may be based on independent statutory mandates.

USERRA is not new law

USERRA, as applied by the CAA, became effective as of January 23, 1996. Its purpose was to strengthen previous veterans' rights laws, such as the Veterans' Reemployment Rights Act ("VRRA"), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. The Department of Labor issued its USERRA regulations, effective January 18, 2006.

Role of the Executive Director of the Office of Compliance

The role of the Executive Director of the Office of Compliance, under USERRA as applied by the CAA, differs from the role of the Secretary of Labor under the DOL regulations. The Executive Director provides a program of education and information to employees and employing offices regarding the application of the USERRA provisions and the Office of Compliance, and the Executive Director provides administrative procedures for the consideration of alleged violations. Because the Office of Compliance is an entity of the legislative branch, the Executive Director is not guided by Secretary's order 1-83, which allows the Secretary of Labor to delegate authority for the administration of the veterans reemployment rights program. (Memorandum of April 22, 2002 (67 FR 31827) Nor is the Executive Director responsible for carrying out the same functional authority vested in the Secretary of Labor, pursuant to USERRA.. Similarly, unlike the Secretary of Labor, the Board of Directors of the Office of Compliance has rulemaking authority, not the Executive Director.

Applicable Definitions

Section 206 of the CAA specifically makes applicable only one definition from USERRA to the CAA: service in the uniformed services. Rules of construction found in Section 225 (f)(1) of the CAA allow that except where inconsistent with definitions and exemptions provided elsewhere in the CAA, the definitions and exemptions found in USERRA will apply. Therefore, the definitions that are provided in these regulations are derived either from USERRA or from similar definitions under the CAA.

Types of Service in the Uniformed Services that are covered by USERRA

Because the definition of "service in the uniformed services" was applied directly to the legislative branch as it was written in USERRA, the types of service which receive protection under the CAA are the same types of service which receive protection under DOL regulations: all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war; persons serving in the active components of the Armed Forces; and certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System. However, the CAA limits protections to covered employees who are deemed eligible under Section 206(a).

USERRA vis-a-vis other laws, public contracts, and employing office practices

This subpart underscores the fact that USERRA allows an employing office to provide rights and benefits that are greater than those required by USERRA, but not lesser. It clarifies that an

employing office is not required to place an eligible employee in a better place than he/she would have been had he/she not served in the uniformed services. It clarifies that USERRA supersedes any State law, contract, agreement, policy, plan, practice, or other matter that reduces any right or benefit provided by USERRA. It does not, however, supersede, nullify, or diminish any Federal or State law, contract, agreement, policy, plan, practice, or other matter that establishes an employment right or benefit that is more beneficial than that provided under USERRA.

Subpart B - Anti-discrimination and Anti-retaliation; Protection from Employer Discrimination and Retaliation

This subpart provides protections for eligible employees against discrimination, as well as protections for both eligible and covered employees against retaliation. The Board has maintained the general application of this subpart and has determined that the prohibitions against discrimination and retaliation apply to all positions. Also consistent with DOL regulations, the Board maintains that reemployment rights and benefits do not apply to brief, nonrecurrent positions. The Board found good cause, however, to differentiate from the DOL regulations in certain sections of this subpart. Consequently, the Board has modified this subpart to be more effective for implementation in the legislative branch.

Unlike DOL, the Board makes a distinction between discrimination and retaliation. By not including in the CAA the USERRA standard to establish a violation of this subpart, Congress specifically excluded the "but for" standard which is applied in DOL's USERRA regulations. Notably, the Board chose a different standard for 207(a) retaliation in its decision in *Britton v. Office of the Architect of the Capitol*, 02-AC-20 (CV, RP). In *Britton*, the Board considered Congress' intentional exclusion of the "but for" standard in USERRA. As a result, the Board applied the *McDonnell Douglas* three-part standard[2], which it applies to 207 claims of retaliation.

Because Congress adopted a uniform remedy for most retaliation claims under the CAA, the Board has rejected an *ad hoc* approach and has chosen to apply this *Britton* standard to all claims of retaliation brought under Section 207(a) of the CAA. The Board also has chosen to apply the *Britton* standard for cases of retaliation brought under section 206. The Board does not propose a particular standard for claims of discrimination or retaliation brought by eligible employees under section 206.

As the Board has found good cause to make significant changes to this subpart, the numbering of the particular sections contained therein differs from those found in DOL's regulations. To aide

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[2] See *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed. 2d 668 (1973).(Complainant in a Title VII case carries the initial burden of establishing a prima facie case of racial discrimination; the burden then shifts to the employer to articulate a legitimate, nondiscriminatory reason for the action; complainant then may show that employer's stated reason for the action was a pretext.)

in a comparative review of the two sets of regulations, the Board has included an index, comparing DOL's numbering and the Board's numbering within each subpart.

USERRA's Discrimination protections

This subpart sets out that basic non-discrimination and non-retaliation protections of USERRA are applied to the legislative branch through these regulations. An employing office may not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or her membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

USERRA's Retaliation Protections

An employing office may not take any adverse employment action that is reasonably likely to deter future protected activity because of an eligible employee's service in the uniformed services or an eligible or covered employee's exercise of their rights under the statute. These protections are similar to those found in DOL's regulations, except that they are broadened to include retaliation protections as found in section 207(a) of the CAA.

USERRA's application to covered employees who do not actually perform service in the uniformed services

The CAA makes the protections under Section 206 of the CAA strictly applicable to "eligible employees." Such "eligible employees" are defined as those performing service in the uniformed services as defined by USERRA. Section 207 of the CAA provides protections against retaliation to those employees who are not eligible but who are otherwise covered by the CAA. So, there are three types of protection an "eligible employee" may receive under the CAA: discrimination protection as provided by 206 of the CAA, retaliation protection as provided by Section 206 of the CAA, and retaliation protection as provided by Section 207 of the CAA. Those employees who are not eligible for protection under Section 206 because they have not performed service in the uniformed services, but who otherwise are covered by the CAA, receive retaliation protections as provided by Section 207 of the CAA.

Subpart C - Eligibility for Reemployment

This subpart closely follows the Department of Labor regulations, as well as Section 4316 of USERRA. The Board saw no good cause to modify the regulations from those promulgated by the Secretary of Labor.

One item to note, however, is the multi-employer language. The Board recognizes that it is possible for an employee to work for two employing offices of the legislative branch, although it is not permitted for an employee to work for a Member office and a Committee at the same time. However, Section 1002.101 was included to discuss the five-year service limit requirement.

Subpart D—Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services

This subpart closely follows the Department of Labor regulations, as well as Section 4316 of USERRA. The Board saw no good cause to modify the regulations from those promulgated by the Secretary of Labor.

Subpart E—Reemployment Rights and Benefits

This subpart closely follows the Department of Labor regulations, as well as Section 4316 of USERRA. The Board saw no good cause to modify the regulations from those promulgated by the Secretary of Labor, with the exception of deleting language regarding assistance to employees from the Office of Personnel Management.

The DOL regulations explain that the Office of Personnel Management would assist an agency in obtaining suitable employment for a returning employee who was unable to qualify for the pre-service position or any other position. The corresponding statutory section is not one of the sections Congress applied to the legislative branch through Section 1316 of the CAA. Therefore, this language was removed from the text of the proposed regulations.

Subpart F—Compliance Assistance, Enforcement and Remedies

Compliance Assistance

This section discusses the role of the Office of Compliance in providing assistance to the covered community regarding the rights and benefits under USERRA, as applied by the CAA. The Board found "good cause" to modify the regulations in this subpart. The DOL regulations delineate the responsibilities of the Veterans' Employment and Training Service ("VETS") in providing assistance to persons and entities regarding their rights and benefits under USERRA. The Board realizes that this service is available to all service members by virtue of their service in the uniformed services and section 225(d)(2) of the CAA specifies that eligible employees may utilize any provisions of chapter 43 of title 38, USERRA, that are applicable.

The CAA, however, limits the application of USERRA to certain provisions, and provides a unique enforcement mechanism for eligible covered employees to remedy violations of USERRA, as applied by the CAA. Section 301(h) of the CAA charges the Office with providing a program of education and information for covered employees and employing offices. This subpart clarifies that covered employees and employing offices may seek education and information on USERRA, as applied by the CAA, from the Office of Compliance pursuant to section 301(h) of the CAA.

Initiating a Claim

The Board, in this subpart, sets out the procedures available for consideration of an allegation of a violation of USERRA brought under the CAA. The procedures are substantially the same as those followed by an employee who initiates a claim of discrimination under the CAA.

Enforcement of Rights and Benefits Against an Employing Office

The Board makes clear that eligible covered employees must utilize the procedures outlined in the CAA to bring a USERRA claim against a covered employing office. The Board modified these regulations where the CAA gives standing to bring an action under section 206 only to "eligible employees." The Board makes clear that covered employees who are not also eligible, as defined in Subpart A, are protected from retaliation under section 207 of the CAA.

With respect to a necessary party in an action under CAA's USERRA provisions, the Board found that only a covered employing office may be a necessary party respondent and that the confidentiality requirements of the CAA provide good cause to modify the regulation to disallow interested parties to intervene in an action at the hearing stage. However, the hearing officer has authority to require the filing of briefs, memoranda of law and the presentation of oral argument, as well as order the production of evidence and the appearance of witnesses.

The Board found that DOL regulations permitting an award of fees and court costs for an individual who has obtained counsel and prevailed in their claim against their employer is consistent with Section 225(a) of the CAA that permits a prevailing covered employee to be awarded reasonable fees and costs. However, to be more fully consistent with the CAA, the Board modified the language removing the requirement that the individual retain private counsel as a condition of such an award. The Board saw no cause to modify the USERRA regulation that does not permit costs to be assessed against an individual who has made a claim under USERRA, regardless of whether or not they prevailed in their claim.

The Board clarifies that while USERRA does not have a statute of limitations, the procedures for bringing a claim under part A of subchapter II which incorporates USERRA, requires that an action be commenced by requesting counseling by the Office of Compliance not later than 180 days after the date of the alleged violation.

The Board found that the remedies available under USERRA, as applied by the CAA, are the same as those available to other claimants under USERRA because the CAA adopts USERRA's equitable and legal remedies and directs the hearing officer to award such remedies as are provided in the statute. In order to vest this authority in the hearing officer, the Board found that the authority of the hearing officer under the CAA is the same as the authority of the court under the DOL regulations in that the hearing officer, and not the Board, has the responsibility and authority to develop the record of proceedings and issue a decision that is the final agency decision, unless it is appealed to the Board. The Board's authority to review a hearing officer's decision is limited to a review of the record.

The Board deleted from its regulations the section on initiating actions in the name of the United States because such actions are not permissible under the CAA. And, in the final section of this subpart, the Board found no cause to modify the equity powers permitted under USERRA, as they are consistent with the authority permitted under the CAA, as stated above.

DOL'S SECTIONS

Subpart A

Sec. 1002.1 What is the purpose of this subpart?
Sec. 1002.2 Is USERRA new law?
Sec. 1002.3 When did USERRA become effective?
Sec. 1002.4 What is the role of the Secretary of Labor under USERRA?
Sec. 1002.5 What definitions apply to USERRA?
Sec. 1002.6 What types of service in the uniformed services are covered by USERRA?
Sec. 1002.7 How does USERRA relate to other laws, public and private contracts, and employer practices?

Subpart B

Sec. 1002.18 What status or activity is protected from employer discrimination by USERRA?
Sec. 1002.19 What activity is protected from employer retaliation by USERRA?
Sec. 1002.20 Does USERRA protect an individual who does not actually perform service in the uniformed services?
Sec. 1002.21 Do the Act's prohibitions against discrimination and retaliation apply to all employment positions?
Sec. 1002.22 Who has the burden of proving discrimination or retaliation in violation of USERRA?
Sec. 1002.23 What must the individual show to carry the burden of proving that the employer discriminated or retaliated against him or her?

OOC'S SECTIONS

Subpart A

Sec. 1002.1 What is the purpose of this subpart?
Sec. 1002.2 Is USERRA new law?
Sec. 1002.3 When did USERRA become effective?
Sec. 1002.4 What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?
Sec. 1002.5 What definitions apply to USERRA?
Sec. 1002.6 What types of service in the uniformed services are covered by USERRA?
Sec. 1002.7 How does USERRA relate to other laws, public and private contracts, and employer practices?

Subpart B

Sec. 1002.18 What status or activity is protected from employer discrimination by USERRA?
Sec. 1002.19 What activity is protected from employer retaliation by USERRA?
Sec. 1002.20 Do the Act's prohibitions against discrimination and retaliation apply to all employment positions?
Sec. 1002.21 Does USERRA protect an individual who does not actually perform service in the uniformed services?

Sections 1002.22-23 deleted by Board.

Subpart C
Sections 1002.34-1002.139 are the same in both sets of regulations.

Subpart D
Sections 1002.149-171 are the same in both sets of regulations.

Subpart E
Sections 1002.180-267 are the same in both sets of regulations.

Subpart F
Section 1002.277 What assistance does the Department of Labor provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?
Section 1002.288 How does an individual file a USERRA complaint?
Section 1002.289 How will VETS investigate a USERRA complaint?
Section 1002.290 Does VETS have the authority to order compliance with USERRA?
Section 1002.291 What actions may an individual take if the complaint is not resolved by VETS?
Section 1002.292 What can the Attorney General do about the complaint?
Section 1002.303 Is an individual required to file his or her complaint with VETS?
Section 1002.304 If an individual files a complaint with VETS and VETS' efforts do not resolve the complaint, can the individual pursue the claim on his or her own?
Section 1002.305 What court has jurisdiction in an action against a State or private employer?
Section 1002.306 Is a National Guard civilian technician considered a State or Federal employee for purposes of USERRA?
Section 1002.307 What is the proper venue in an action against a State or Private

Subpart C
Sections 1002.34-1002.139 are the same in both sets of regulations.

Subpart D
Sections 1002.149-171 are the same in both sets of regulations.

Subpart E
Sections 1002.180-267 are the same in both sets of regulations.

Subpart F
Section 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?
Section 1002.288 How does a covered employee initiate a claim alleging a violation of USERRA under the CAA?

Sections 1002.289-292 deleted by Board.

Section 1002.303 Is a covered employee required to bring his or her claim to the Office of Compliance?

Sections 1002.24-.307 deleted by Board.

employer?

Section 1002.308 Who has legal standing to bring an action under USERRA?

Section 1002.309 Who is a necessary party in an action under USERRA?

Section 1002.310 How are fees and court costs charged or taxed in an action under USERRA?

Section 1002.311 Is there a statute of limitations in an action under USERRA?

Section 1002.312 What remedies may be awarded for a violation of USERRA?

Section 1002.313 Are there special damages provisions that apply to actions initiated in the name of the United States?

Section 1002.314 May a court use its equity powers in an action or proceeding under the Act?

Section 1002.308 Who has legal standing to bring a USERRA claim under the CAA?

Section 1002.309 Who is a necessary party in an action under USERRA?

Section 1002.310 How are fees and court costs charged or taxed in an action under USERRA?

Section 1002.311 Is there a statute of limitations in an action under USERRA?

Section 1002.312 What remedies may be awarded for a violation of USERRA?

Section 1002.313 Deleted by Board

Section 1002.314 May a court use its equity powers in an action or proceeding under the Act?

TEXT OF PROPOSED UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT REGULATIONS

Subpart A—Introduction to the Regulations under the Uniformed Services Employment and Reemployment Rights Act of 1994 General Provisions

§ 1002.1 What is the purpose of this part?

This part implements certain provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA'' or ''the Act''), as applied by the Congressional Accountability Act ("CAA"). 2 U.S.C. 1316. USERRA is a law that establishes certain rights and benefits for employees, and duties for employers. USERRA affects employment, reemployment, and retention in employment, when employees serve or have served in the uniformed services. There are five subparts to these regulations. Subpart A gives an introduction to the USERRA regulations. Subpart B describes USERRA's anti-discrimination and anti-retaliation provisions. Subpart C explains the steps that must be taken by a uniformed service member who wants to return to his or her previous civilian employment. Subpart D describes the rights, benefits, and obligations of persons absent from employment due to service in the uniformed services, including rights and obligations related to health plan coverage. Subpart E describes the rights, benefits, and obligations of the returning veteran or service member. Subpart F explains the role of the Office of Compliance in administering USERRA as applied by the CAA.

§ 1002.2 Is USERRA a new law?

USERRA is the latest in a series of laws protecting veterans' employment and reemployment rights going back to the Selective Training and Service Act of 1940. USERRA's immediate predecessor was commonly referred to as the Veterans' Reemployment Rights Act ("VRRA"), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. In enacting USERRA, Congress emphasized USERRA's continuity with the VRRA and its intention to clarify and strengthen that law. Congress also emphasized that Federal laws protecting veterans' employment and reemployment rights for the past fifty years had been successful and that the large body of case law that had developed under those statutes remained in full force and effect, to the extent it is consistent with USERRA. USERRA authorized the Department of Labor to publish regulations implementing the Act for State, local government, and private employers. USERRA also authorized the Office of Personnel Management to issue regulations implementing the Act for Federal executive agencies, with the exception of certain Federal intelligence agencies. For those Federal intelligence agencies, USERRA established a separate program for employees. Section 206 of the CAA requires the Board of Directors of the Office of Compliance to issue regulations to implement the statutory provisions relating to employment and reemployment rights of members of the uniformed services. The regulations are required to be the same as substantive regulations promulgated by the Secretary of Labor, except where a modification of such regulations would be more effective for the implementation of the

rights and protections of the Act. The Department of Labor issued its regulations, effective January 18, 2006. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated for the legislative branch, for the implementation of the USERRA provisions of the CAA. All references to USERAA in these regulations, means USERRA, as applied by the CAA.

§ 1002.3 When did USERRA become effective?

USERRA, as applied by the CAA, became effective for employing offices of the legislative branch on January 23, 1996. These regulations will become effective upon approval by Congress.

§ 1002.4 What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?

(a) As applied by the CAA, the Executive Director of the Office of Compliance is responsible for providing education and information to any covered employing office or employee with respect to their rights, benefits, and obligations under the USERRA provisions of the CAA.

(b) The Office of Compliance, under the direction of the Executive Director, is responsible for the processing of claims filed pursuant to these regulations. More information about the Office of Compliance's role is contained in Subpart F.

§ 1002.5 What definitions apply to these USERRA regulations?

(a) **Act or USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994, as applied by the CAA.

(b) **Benefit, benefit of employment, or rights and benefits** means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues to the employee because of an employment contract, employment agreement, or employing office policy, plan, or practice. The term includes rights and benefits under a pension plan, health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and, where applicable, the opportunity to select work hours or the location of employment.

(c) **Board** means Board of Directors of the Office of Compliance.

(d) **CAA** means the Congressional Accountability Act of 1995, as amended (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

(e) **Covered employee** means any employee, including an applicant for employment, of (1) the

House of Representatives; (2) the Senate; (3) the Capitol Guide Board or the Capitol Guide Service; (4) the Capitol Police Board or the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Government Accountability Office; (9) the Library of Congress; and (10) the Office of Compliance.

(f) **Eligible employee** means a covered employee performing service in the uniformed services, as defined in 1002.5 (u) of this subpart, whose service has not been terminated upon occurrence of any of the events enumerated in section 1002.135 of these regulations.

(g) **Employee of the Office of the Architect of the Capitol** includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(h) **Employee of the Capitol Police Board** includes any member or officer of the Capitol Police.

(i) **Employee of the House of Representatives** includes an individual occupying a position for which the pay is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (2) through (10) of paragraph (e) above.

(j) **Employee of the Senate** includes an individual occupying a position for which the pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (1) and (3) through (10) of paragraph (e) above.

(k) **Employing office** means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives; (4) any other office headed by a person with the final authority to appoint, or be directed by a Member of Congress to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; (5) the Capitol Guide Board; (6) the Capitol Police Board; (7) the Congressional Budget Office; (8) the Office of the Architect of the Capitol; (9) the Office of the Attending Physician; (10) the Government Accountability Office; (11) the Library of Congress; (12) or the Office of Compliance.

(l) **Health plan** means an insurance policy, insurance contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(m) **Notice**, when the employee is required to give advance notice of service, means any written

or oral notification of an obligation or intention to perform service in the uniformed services provided to an employing office by the employee who will perform such service, or by the uniformed service in which the service is to be performed.

(n) **Office** means the Office of Compliance.

(o) **Qualified**, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(p) **Reasonable efforts**, in the case of actions required of an employing office, means actions, including training provided by an employing office that do not place an undue hardship on the employing office.

(q) **Seniority** means longevity in employment together with any benefits of employment that accrue with, or are determined by, longevity in employment.

(r) **Service in the uniformed services** means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. Service in the uniformed services includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty as authorized by law (10 U.S.C. 12503 or 32 U.S.C. 115). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. 107– 188, provides that service as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (NDMS) or as a participant in an authorized training program is deemed "service in the uniformed services." 42 U.S.C. 300hh– 11(e)(3).

(s) **Undue hardship**, in the case of actions taken by an employing office, means an action requiring significant difficulty or expense, when considered in light of—

(1) The nature and cost of the action needed under USERRA and these regulations;
(2) The overall financial resources of the employing office; the overall size of the business of an employing office with respect to the number of its employees; the number, type, and location of its facilities; and,
(3) The type of operation or operations of the employing office, including the composition, structure, and functions of the work force of such employing office; the geographic separateness, administrative, or fiscal relationship of the State, District, or satellite office in question to the employing office.

(t) **Uniformed services** means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons

designated by the President in time of war or national emergency. For purposes of USERRA coverage only, service as an intermittent disaster response appointee of the National Disaster Medical System (NDMS) when federally activated or attending authorized training in support of their Federal mission is deemed ''service in the uniformed services,'' although such appointee is not a member of the ''uniformed services'' as defined by USERRA.

§ 1002.6 What types of service in the uniformed services are covered by USERRA?

The definition of ''service in the uniformed services'' covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA.

§ 1002.7 How does USERRA, as applied by the Congressional Accountability Act, relate to other laws, public and private contracts, and employing office practices?

(a) USERRA establishes a floor, not a ceiling, for the employment and reemployment rights and benefits of those it protects. In other words, an employing office may provide greater rights and benefits than USERRA requires, but no employing office can refuse to provide any right or benefit guaranteed by USERRA, as applied by the CAA.

(b) USERRA supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA, including the establishment of additional prerequisites to the exercise of any USERRA right or the receipt of any USERRA benefit. For example, an office policy that determines seniority based only on actual days of work in the place of employment would be superseded by USERRA, which requires that seniority credit be given for periods of absence from work due to service in the uniformed services.

(c) USERRA does not supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes an employment right or benefit that is more beneficial than, or is in addition to, a right or benefit provided under the Act. For example, although USERRA does not require an employing office to pay an employee for time away from work performing service, an employing office policy, plan, or practice that provides such a benefit is permissible under USERRA.

(d) If an employing office provides a benefit that exceeds USERRA's requirements in one area, it cannot reduce or limit other rights or benefits provided by USERRA. For example, even though USERRA does not require it, an employing office may provide a fixed number of days of paid military leave per year to employees who are members of the National Guard or Reserve. The fact that it provides such a benefit, however, does not permit an employing office to refuse to

provide an unpaid leave of absence to an employee to perform service in the uniformed services in excess of the number of days of paid military leave.

Subpart B—Anti-Discrimination and Anti-Retaliation

Protection From Employer Discrimination and Retaliation

§ 1002.18 What status or activity is protected from employer discrimination by USERRA?

An employing office must not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or her membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

§ 1002.19 What activity is protected from employer retaliation by USERRA?

An employing office must not retaliate against an individual by taking any adverse employment action against him or her because the individual has taken an action to enforce a protection afforded any person under USERRA; testified or otherwise made a statement in or in connection with a proceeding under USERRA; assisted or participated in a USERRA investigation; exercised a right provided for by USERRA; or is performing service in the uniformed services within the meaning of 1002.5 of Subpart A of these regulations.

§ 1002.20 Do the Act's prohibitions against discrimination and retaliation apply to all employment positions?

Under USERRA, as applied by the CAA, the prohibitions against discrimination and retaliation apply to all positions within covered employing offices, including those that are for a brief, nonrecurrent period, and for which there is no reasonable expectation that the employment position will continue indefinitely or for a significant period. However, USERRA's re-employment rights and benefits do not apply to such brief, non-recurrent positions of employment.

§ 1002.21 Does USERRA protect a covered employee who does not actually perform service in the uniformed services?

USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation against eligible employees. Section 207(a) of the CAA prohibits retaliation against those non-eligible, covered employees under the CAA who have not performed service in the uniformed services.

Subpart C—Eligibility For Reemployment

General Eligibility Requirements for Reemployment

§ 1002.32 What criteria must the employee meet to be eligible under USERRA for reemployment after service in the uniformed services?

(a) In general, if the employee has been absent from a position of civilian employment by reason of service in the uniformed services, he or she will be eligible for reemployment under USERRA by meeting the following criteria:

(1) The employer had advance notice of the employee's service;
(2) The employee has five years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employer;
(3) The employee timely returns to work or applies for reemployment; and,
(4) The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

(b) These general eligibility requirements have important qualifications and exceptions, which are described in detail in §§ 1002.73 through 1002.138. If the employee meets these eligibility criteria, then he or she is eligible for reemployment unless the employer establishes one of the defenses described in § 1002.139. The employment position to which the employee is entitled is described in §§ 1002.191 through 1002.199.

§ 1002.33 Does the covered employee have to prove that the employing office discriminated against him or her in order to be eligible for reemployment?

No. The covered employee is not required to prove that the employing office discriminated against him or her because of the employee's uniformed service in order to be eligible for reemployment.

Coverage of Employers and Positions

§ 1002.34 Which employing offices are covered by these regulations?

(a) USERRA applies to all covered employing offices of the legislative branch as defined in Subpart A, section 1002.5, subsection (e) of these regulations.

§ 1002.40 Does USERRA protect against discrimination in initial hiring decisions?

Yes. The definition of employer in the USERRA provision as applied by the CAA includes an employing office that has denied initial employment to an individual in violation of USERRA's anti-discrimination provisions. An employing office need not actually employ an individual to be his or her "employer" under the Act, if it has denied initial employment on the basis of the individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. Similarly, the employing office would be liable if it denied initial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or her testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, or the exercise of any other right provided by the Act. For example, if the individual has been denied initial employment because of his or her obligations as a member of the National Guard or Reserves, the employing office denying employment is an employer for purposes of USERRA. Similarly, if an employing office withdraws an offer of employment because the individual is called upon to fulfill an obligation in the uniformed services, the employing office withdrawing the employment offer is an employer for purposes of USERRA.

§ 1002.41 Does an employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?

USERRA rights are not diminished because an employee holds a temporary, part-time, probationary, or seasonal employment position. However, an employing office is not required to reemploy an employee if the employment he or she left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period. The employing office bears the burden of proving this affirmative defense.

§ 1002.42 What rights does an employee have under USERRA if he or she is on layoff or on a leave of absence?

(a) If an employee is laid off with recall rights, or on a leave of absence, he or she is an employee for purposes of USERRA. If the employee is on layoff and begins service in the uniformed services, or is laid off while performing service, he or she may be entitled to reemployment on return if the employing office would have recalled the employee to employment during the period of service. Similar principles apply if the employee is on a leave of absence from work when he or she begins a period of service in the uniformed services.

(b) If the employee is sent a recall notice during a period of service in the uniformed services and cannot resume the position of employment because of the service, he or she still remains an employee for purposes of the Act. Therefore, if the employee is otherwise eligible, he or she is entitled to reemployment following the conclusion of the period of service, even if he or she did not respond to the recall notice.

(c) If the employee is laid off before or during service in the uniformed services, and the employing office would not have recalled him or her during that period of service, the employee is not entitled to reemployment following the period of service simply because he or she is a covered employee. Reemployment rights under USERRA cannot put the employee in a better position than if he or she had remained in the civilian employment position.

§ 1002.43 Does an individual have rights under USERRA even if he or she is an executive, managerial, or professional employee?

Yes. USERRA applies to all covered employees. There is no exclusion for executive, managerial, or professional employees.

§ 1002.44 Does USERRA cover an independent contractor?

(a) No. USERRA, as applied by the CAA, does not provide protections for an independent contractor.

Coverage of Service in the Uniformed Services

§ 1002.54 Are all military fitness examinations considered "service in the uniformed services?"

Yes. USERRA's definition of "service in the uniformed services" includes a period for which an employee is absent from a position of employment for the purpose of an examination to determine his or her fitness to perform duty in the uniformed services. Military fitness examinations can address more than physical or medical fitness, and include evaluations for mental, educational, and other types of fitness. Any examination to determine an employee's fitness for service is covered, whether it is an initial or recurring examination. For example, a periodic medical examination required of a Reserve component member to determine fitness for continued service is covered.

§ 1002.55 Is all funeral honors duty considered "service in the uniformed services?"

(a) USERRA's definition of "service in the uniformed services" includes a period for which an employee is absent from employment for the purpose of performing authorized funeral honors duty under 10 U.S.C. 12503 (members of Reserve ordered to perform funeral honors duty) or 32 U.S.C. 115 (Member of Air or Army National Guard ordered to perform funeral honors duty).

(b) Funeral honors duty performed by persons who are not members of the uniformed services, such as members of veterans' service organizations, is not "service in the uniformed services."

§ 1002.56 What types of service in the National Disaster Medical System are considered "service in the uniformed services?"

Under a provision of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 300hh 11(e)(3), "service in the uniformed services" includes service performed as an intermittent disaster-response appointee upon activation of the National Disaster Medical System or participation in an authorized training program, even if the individual is not a member of the uniformed services.

§ 1002.57 Is all service as a member of the National Guard considered "service in the uniformed services?"

No. Only Federal National Guard Service is considered "service in the uniformed services." The National Guard has a dual status. It is a Reserve component of the Army, or, in the case of the Air National Guard, of the Air Force. Simultaneously, it is a State military force subject to call-up by the State Governor for duty not subject to Federal control, such as emergency duty in cases of floods or riots. National Guard members may perform service under either Federal or State authority, but only Federal National Guard service is covered by USERRA.

(a) National Guard service under Federal authority is protected by USERRA. Service under Federal authority includes active duty performed under Title 10 of the United States Code. Service under Federal authority also includes duty under Title 32 of the United States Code, such as active duty for training, inactive duty training, or full-time National Guard duty.

(b) National Guard service under authority of State law is not protected by USERRA. However, many States have laws protecting the civilian job rights of National Guard members who serve under State orders. Enforcement of those State laws is not covered by USERRA or these regulations.

§ 1002.58 Is service in the commissioned corps of the Public Health Service considered "service in the uniformed services?"

Yes. Service in the commissioned corps of the Public Health Service (PHS) is "service in the uniformed services" under USERRA.

§ 1002.59 Are there any circumstances in which special categories of persons are considered to perform "service in the uniformed services?"

Yes. In time of war or national emergency, the President has authority to designate any category of persons as a "uniformed service" for purposes of USERRA. If the President exercises this authority, service as a member of that category of persons would be "service in the uniformed services" under USERRA.

§ 1002.60 Does USERRA cover an individual attending a military service academy?

Yes. Attending a military service academy is considered uniformed service for purposes of USERRA. There are four service academies: The United States Military Academy (West Point, New York), the United States Naval Academy (Annapolis, Maryland), the United States Air Force Academy (Colorado Springs, Colorado), and the United States Coast Guard Academy (New London, Connecticut).

§ 1002.61 Does USERRA cover a member of the Reserve Officers Training Corps?

Yes, under certain conditions:

(a) Membership in the Reserve Officers Training Corps (ROTC) or the Junior ROTC is not ''service in the uniformed services.'' However, some Reserve and National Guard enlisted members use a college ROTC program as a means of qualifying for commissioned officer status. National Guard and Reserve members in an ROTC program may at times, while participating in that program, be receiving active duty and inactive duty training service credit with their unit. In these cases, participating in ROTC training sessions is considered ''service in the uniformed services,'' and qualifies a person for protection under USERRA's reemployment and anti-discrimination provisions.

(b) Typically, an individual in a College ROTC program enters into an agreement with a particular military service that obligates such individual to either complete the ROTC program and accept a commission or, in case he or she does not successfully complete the ROTC program, to serve as an enlisted member. Although an individual does not qualify for reemployment protection, except as specified in (a) above, he or she is protected under USERRA's anti-discrimination provisions because, as a result of the agreement, he or she has applied to become a member of the uniformed services and has incurred an obligation to perform future service.

§ 1002.62 Does USERRA cover a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the Civil Air Patrol, or the Coast Guard Auxiliary?

No. Although the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) is a ''uniformed service'' for some purposes, it is not included in USERRA's definition of this term. Service in the Civil Air Patrol and the Coast Guard Auxiliary similarly is not considered ''service in the uniformed services'' for purposes of USERRA. Consequently, service performed in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), the Civil Air Patrol, and the Coast Guard Auxiliary is not protected by USERRA.

Absence From a Position of Employment Necessitated by Reason of Service in the Uniformed Services

§ 1002.73 Does service in the uniformed services have to be an employee's sole reason for leaving an employment position in order to have USERRA reemployment rights?

No. If absence from a position of employment is necessitated by service in the uniformed services, and the employee otherwise meets the Act's eligibility requirements, he or she has re-employment rights under USERRA, even if the employee uses the absence for other purposes as well. An employee is not required to leave the employment position for the sole purpose of performing service in the uniformed services, although such uniformed service must be the main reason for departure from employment. For example, if the employee is required to report to an out of State location for military training and he or she spends off-duty time during that assignment moonlighting as a security guard or visiting relatives who live in that State, the employee will not lose reemployment rights simply because he or she used some of the time away from the job to do something other than attend the military training. Also, if an employee receives advance notification of a mobilization order, and leaves his or her employment position in order to prepare for duty, but the mobilization is cancelled, the employee will not lose any reemployment rights.

§ 1002.74 Must the employee begin service in the uniformed services immediately after leaving his or her employment position in order to have USERRA reemployment rights?

No. At a minimum, an employee must have enough time after leaving the employment position to travel safely to the uniformed service site and arrive fit to perform the service. Depending on the specific circumstances, including the duration of service, the amount of notice received, and the location of the service, additional time to rest, or to arrange affairs and report to duty, may be necessitated by reason of service in the uniformed services. The following examples help to explain the issue of the period of time between leaving civilian employment and beginning service in the uniformed services:

(a) If the employee performs a full overnight shift for the civilian employer and travels directly from the work site to perform a full day of uniformed service, the employee would not be considered fit to perform the uniformed service. An absence from that work shift is necessitated so that the employee can report for uniformed service fit for duty.

(b) If the employee is ordered to perform an extended period of service in the uniformed services, he or she may require a reasonable period of time off from the civilian job to put his or her personal affairs in order, before beginning the service. Taking such time off is also necessitated by the uniformed service.

(c) If the employee leaves a position of employment in order to enlist or otherwise perform service in the uniformed services and, through no fault of his or her own, the beginning date of the service is delayed, this delay does not terminate any reemployment rights.

Requirement of Notice

§ 1002.85 Must the employee give advance notice to the employing office of his or her service in the uniformed services?

(a) Yes. The employee, or an appropriate officer of the uniformed service in which his or her service is to be performed, must notify the employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below. In cases in which an employee is employed by more than one employing office, the employee, or an appropriate officer of the uniformed service in which his or her service is to be performed, must notify each employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below.

(b) The Department of Defense USERRA regulations at 32 CFR 104.3 provide that an ''appropriate officer'' can give notice on the employee's behalf. An ''appropriate officer'' is a commissioned, warrant, or non-commissioned officer authorized to give such notice by the military service concerned.

(c) The employee's notice to the employing office may be either oral or written. The notice may be informal and does not need to follow any particular format.

(d) Although USERRA does not specify how far in advance notice must be given to the employing office, an employee should provide notice as far in advance as is reasonable under the circumstances. In regulations promulgated by the Department of Defense under USERRA, 32 CFR 104.6(a)(2)(i)(B), the Defense Department ''strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so.''

§ 1002.86 When is the employee excused from giving advance notice of service in the uniformed services?

The employee is required to give advance notice of pending service unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.

(a) Only a designated authority can make a determination of ''military necessity,'' and such a determination is not subject to judicial review. Guidelines for defining ''military necessity'' appear in regulations issued by the Department of Defense at 32 CFR 104.3. In general, these regulations cover situations where a mission, operation, exercise or requirement is classified, or could be compromised or otherwise adversely affected by public knowledge. In certain cases, the Secretary of Homeland Security, in consultation with the Secretary of Defense, can make a determination that giving of notice by intermittent disaster-response appointees of the National Disaster Medical System is precluded by ''military necessity.'' See 42 U.S.C300hh–11(e)(3)(B).

(b) It may be impossible or unreasonable to give advance notice under certain circumstances. Such circumstances may include the unavailability of the employee's employing office or the employing office's representative, or a requirement that the employee report for uniformed service in an extremely short period of time.

§ 1002.87 Is the employee required to get permission from his or her employer before leaving to perform service in the uniformed services?

No. The employee is not required to ask for or get the employing office's permission to leave to perform service in the uniformed services. The employee is only required to give the employing office notice of pending service.

§ 1002.88 Is the employee required to tell the employing office that he or she intends to seek reemployment after completing uniformed service before the employee leaves to perform service in the uniformed services?

No. When the employee leaves the employment position to begin a period of service, he or she is not required to tell the employing office that he or she intends to seek reemployment after completing uniformed service. Even if the employee tells the employing office before entering or completing uniformed service that he or she does not intend to seek reemployment after completing the uniformed service, the employee does not forfeit the right to reemployment after completing service. The employee is not required to decide in advance of leaving the civilian employment position whether he or she will seek reemployment after completing uniformed service.

Period of Service

§ 1002.99 Is there a limit on the total amount of service in the uniformed services that an employee may perform and still retain reemployment rights with the employer?

Yes. In general, the employee may perform service in the uniformed services for a cumulative period of up to five (5) years and retain reemployment rights with the employing office. The exceptions to this rule are described below.

§ 1002.100 Does the five-year service limit include all absences from an employment position that are related to service in the uniformed services?

No. The five-year period includes only the time the employee spends actually performing service in the uniformed services. A period of absence from employment before or after performing service in the uniformed services does not count against the five-year limit. For example, after the employee completes a period of service in the uniformed services, he or she is provided a certain amount of time, depending upon the length of service, to report back to work or submit an application for reemployment. The period between completing the uniformed service and

reporting back to work or seeking reemployment does not count against the five-year limit.

§ 1002.101 Does the five-year service limit include periods of service that the employee performed when he or she worked for a previous employing office?

No. An employee is entitled to a leave of absence for uniformed service for up to five years with each employing office for whom he or she works or has worked. When the employee takes a position with a new employing office, the five-year period begins again regardless of how much service he or she performed while working in any previous employment relationship. If an employee is employed by more than one employing office, a separate five-year period runs as to each employing office independently, even if those employing offices share or co-determine the employee's terms and conditions of employment. For example, an employee of the legislative branch may work part-time for two employing offices. In this case, a separate five-year period would run as to the employee's employment with each respective employing office.

§ 1002.102 Does the five-year service limit include periods of service that the employee performed before USERRA was enacted?

It depends. Under the CAA, USERRA provides reemployment rights to which a covered employee may become entitled beginning on or after January 23, 1996, but any uniformed service performed before January 23, 1996, that was counted against the service limitations of the previous law (the Veterans Reemployment Rights Act), also counts against USERRA's five-year limit.

§ 1002.103 Are there any types of service in the uniformed services that an employee can perform that do not count against USERRA's five-year service limit?

(a) USERRA creates the following exceptions to the five-year limit on service in the uniformed services:

> (1) Service that is required beyond five years to complete an initial period of obligated service. Some military specialties require an individual to serve more than five years because of the amount of time or expense involved in training. If the employee works in one of those specialties, he or she has reemployment rights when the initial period of obligated service is completed;
> (2) If the employee was unable to obtain orders releasing him or her from service in the uniformed services before the expiration of the five-year period, and the inability was not the employee's fault;
> (3)(i) Service performed to fulfill periodic National Guard and Reserve training requirements as prescribed by 10 U.S.C. 10147 and 32 U.S.C. 502(a) and 503; and, (ii) Service performed to fulfill additional training requirements determined and certified by a proper military authority as necessary for the employee's professional development, or to complete skill training or retraining;

(4) Service performed in a uniformed service if he or she was ordered to or retained on active duty under:

(i) 10 U.S.C. 688 (involuntary active duty by a military retiree);
(ii) 10 U.S.C. 12301(a) (involuntary active duty in wartime);
(iii) 10 U.S.C. 12301(g) (retention on active duty while in captive status);
(iv) 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);
(v) 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);
(vi) 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);
(vii) 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);
(viii) 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);
(ix) 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);
(x) 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);
(xi) 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); and
(xii) 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters).

(5) Service performed in a uniformed service if the employee was ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(6) Service performed in a uniformed service if the employee was ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304, as determined by a proper military authority;

(7) Service performed in a uniformed service if the employee was ordered to active duty in support of a critical mission or requirement of the uniformed services as determined by the Secretary concerned; and,

(8) Service performed as a member of the National Guard if the employee was called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States.

(b) Service performed in a uniformed service to mitigate economic harm where the employee's employing office is in violation of its employment or reemployment obligations to him or her.

§ 1002.104 Is the employee required to accommodate his or her employer's needs as to the timing, frequency or duration of service?

No. The employee is not required to accommodate his or her employing office's interests or concerns regarding the timing, frequency, or duration of uniformed service. The employing office cannot refuse to reemploy the employee because it believes that the timing, frequency or duration

of the service is unreasonable. However, the employing office is permitted to bring its concerns over the timing, frequency, or duration of the employee's service to the attention of the appropriate military authority. Regulations issued by the Department of Defense at 32 CFR 104.4 direct military authorities to provide assistance to an employer in addressing these types of employment issues. The military authorities are required to consider requests from employers of National Guard and Reserve members to adjust scheduled absences from civilian employment to perform service.

Application for Reemployment

§ 1002.115 Is the employee required to report to or submit a timely application for re-employment to his or her pre-service employer upon completing the period of service in the uniformed services?

Yes. Upon completing service in the uniformed services, the employee must notify the pre-service employing office of his or her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:

(a) Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than 31 days, or the employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the employee must report back to the employing office not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence. For example, if the employee completes a period of service and travel home, arriving at ten o'clock in the evening, he or she cannot be required to report to the employing office until the beginning of the next full regularly-scheduled work period that begins at least eight hours after arriving home, i.e., no earlier than six o'clock the next morning. If it is impossible or unreasonable for the employee to report within such time period through no fault of his or her own, he or she must report to the employing office as soon as possible after the expiration of the eight-hour period.

(b) Period of service more than 30 days but less than 181 days. If the employee's period of service in the uniformed services was for more than 30 days but less than 181 days, he or she must submit an application for reemployment (written or oral) with the employing office not later than 14 days after completing service. If it is impossible or unreasonable for the employee to apply within 14 days through no fault of his or her own, he or she must submit the application not later than the next full calendar day after it becomes possible to do so.

(c) Period of service more than 180 days. If the employee's period of service in the uniformed

services was for more than 180 days, he or she must submit an application for reemployment (written or oral) not later than 90 days after completing service.

§ 1002.116 Is the time period for reporting back to an employing office extended if the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service?

Yes. If the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he or she must report to or submit an application for reemployment to the employing office at the end of the period necessary for recovering from the illness or injury. This period may not exceed two years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the employee's control that make reporting within the period impossible or unreasonable. This period for recuperation and recovery extends the time period for reporting to or submitting an application for reemployment to the employing office, and is not applicable following reemployment.

§ 1002.117 Are there any consequences if the employee fails to report for or submit a timely application for reemployment?

(a) If the employee fails to timely report for or apply for reemployment, he or she does not automatically forfeit entitlement to USERRA's reemployment and other rights and benefits. However, the employee does become subject to any conduct rules, established policy, and general practices of the employing office pertaining to an absence from scheduled work.

(b) If reporting or submitting an employment application to the employing office is impossible or unreasonable through no fault of the employee, he or she may report to the employing office as soon as possible (in the case of a period of service less than 31 days) or submit an application for reemployment to the employing office by the next full calendar day after it becomes possible to do so (in the case of a period of service from 31 to 180 days), and the employee will be considered to have timely reported or applied for reemployment.

§ 1002.118 Is an application for reemployment required to be in any particular form?

An application for reemployment need not follow any particular format. The employee may apply orally or in writing. The application should indicate that the employee is a former employee returning from service in the uniformed services and that he or she seeks reemployment with the pre-service employing office. The employee is permitted but not required to identify a particular reemployment position in which he or she is interested.

§ 1002.119 To whom must the employee submit the application for reemployment?

The application must be submitted to the pre-service employing office or to an agent or

representative of the employing office who has apparent responsibility for receiving employment applications. Depending upon the circumstances, such a person could be a personnel or human resources officer, or a first-line supervisor.

§ 1002.120 If the employee seeks or obtains employment with an employer other than the pre-service employing office before the end of the period within which a reemployment application must be filed, will that jeopardize reemployment rights with the pre-service employing office?

No. The employee has reemployment rights with the pre-service employing office provided that he or she makes a timely reemployment application to that employing office. The employee may seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. However, such alternative employment during the application period should not be of a type that would constitute cause for the employing office to discipline or terminate the employee following reemployment. For instance, if the employing office forbids outside employment, violation of such a policy may constitute cause for discipline or even termination.

§ 1002.121 Is the employee required to submit documentation to the employing office in connection with the application for reemployment?

Yes, if the period of service exceeded 30 days and if requested by the employing office to do so. If the employee submits an application for reemployment after a period of service of more than 30 days, he or she must, upon the request of the employing office, provide documentation to establish that:

(a) The reemployment application is timely;

(b) The employee has not exceeded the five-year limit on the duration of service (subject to the exceptions listed at § 1002.103); and,

(c) The employee's separation or dismissal from service was not disqualifying.

§ 1002.122 Is the employing office required to reemploy the employee if documentation establishing the employee's eligibility does not exist or is not readily available?

Yes. The employing office is not permitted to delay or deny reemployment by demanding documentation that does not exist or is not readily available. The employee is not liable for administrative delays in the issuance of military documentation. If the employee is re-employed after an absence from employment for more than 90 days, the employing office may require that he or she submit the documentation establishing entitlement to reemployment before treating the

employee as not having had a break in service for pension purposes. If the documentation is received after reemployment and it shows that the employee is not entitled to reemployment, the employing office may terminate employment and any rights or benefits that the employee may have been granted.

§ 1002.123 What documents satisfy the requirement that the employee establish eligibility for reemployment after a period of service of more than thirty days?

(a) Documents that satisfy the requirements of USERRA include the following:

(1) DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty;
(2) Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;
(3) Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority;
(4) Certificate of completion from military training school;
(5) Discharge certificate showing character of service; and,
(6) Copy of extracts from payroll documents showing periods of service;
(7) Letter from NDMS Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.

(b) The types of documents that are necessary to establish eligibility for reemployment will vary from case to case. Not all of these documents are available or necessary in every instance to establish reemployment eligibility.

Character of Service

§ 1002.134 What type of discharge or separation from service is required for an employee to be entitled to reemployment under USERRA?

USERRA does not require any particular form of discharge or separation from service. However, even if the employee is otherwise eligible for reemployment, he or she will be disqualified if the characterization of service falls within one of four categories. USERRA requires that the employee not have received one of these types of discharge.

§ 1002.135 What types of discharge or separation from uniformed service will make the employee ineligible for reemployment under USERRA?

Reemployment rights are terminated if the employee is:

(a) Separated from uniformed service with a dishonorable or bad conduct discharge;
(b) Separated from uniformed service under other than honorable conditions, as characterized by

regulations of the uniformed service;
(c) A commissioned officer dismissed as permitted under 10 U.S.C. 1161(a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
(d) A commissioned officer dropped from the rolls under 10 U.S.C. 1161(b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

§ 1002.136 Who determines the characterization of service?

The branch of service in which the employee performs the tour of duty determines the characterization of service.

§ 1002.137 If the employee receives a disqualifying discharge or release from uniformed service and it is later upgraded, will reemployment rights be restored?

Yes. A military review board has the authority to prospectively or retroactively upgrade a disqualifying discharge or release. A retroactive upgrade would restore reemployment rights providing the employee otherwise meets the Act's eligibility criteria.

§ 1002.138 If the employee receives a retroactive upgrade in the characterization of service, will that entitle him or her to claim back wages and benefits lost as of the date of separation from service?

No. A retroactive upgrade allows the employee to obtain reinstatement with the former employing office, provided the employee otherwise meets the Act's eligibility criteria. Back pay and other benefits such as pension plan credits attributable to the time period between discharge and the retroactive upgrade are not required to be restored by the employing office in this situation.

Employer Statutory Defenses

§ 1002.139 Are there any circumstances in which the pre-service employing office is excused from its obligation to reemploy the employee following a period of uniformed service? What statutory defenses are available to the employing office in an action or proceeding for reemployment benefits?

(a) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if the employing office establishes that its circumstances have so changed as to make reemployment impossible or unreasonable. For example, an employing office may be excused from re-employing the employee where there has been an intervening reduction in force that would have included that employee. The employing office may not,

however, refuse to reemploy the employee on the basis that another employee was hired to fill the reemployment position during the employee's absence, even if reemployment might require the termination of that replacement employee;

(b) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that assisting the employee in becoming qualified for reemployment would impose an undue hardship, as defined in § 1002.5(s) and discussed in § 1002.198, on the employing office; or,

(c) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that the employment position vacated by the employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.

(d) The employing office defenses included in this section are affirmative ones, and the employing office carries the burden to prove by a preponderance of the evidence that any one or more of these defenses is applicable.

Subpart D—Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services

Furlough and Leave of Absence

§ 1002.149 What is the employee's status with the employing office while performing service in the uniformed services?

During a period of service in the uniformed services, the employee is deemed to be on leave of absence from the employing office. In this status, the employee is entitled to the non-seniority rights and benefits generally provided by the employing office to other employees with similar seniority, status, and pay that are on leave of absence. Entitlement to these non-seniority rights and benefits is not dependent on how the employing office characterizes the employee's status during a period of service. For example, if the employing office characterizes the employee as ''terminated'' during the period of uniformed service, this characterization cannot be used to avoid USERRA's requirement that the employee be deemed on leave of absence, and therefore, entitled to the non-seniority rights and benefits generally provided to employees on leave of absence.

§ 1002.150 Which non-seniority rights and benefits is the employee entitled to during a period of service?

(a) The non-seniority rights and benefits to which an employee is entitled during a period of service are those that the employing office provides to similarly situated employees by an agreement, policy, practice, or plan in effect at the employee's workplace. These rights and benefits include those in effect at the beginning of the employee's employment and those established after employment began. They also include those rights and benefits that become effective during the employee's period of service and that are provided to similarly situated employees on leave of absence.

(b) If the non-seniority benefits to which employees on leave of absence are entitled vary according to the type of leave, the employee must be given the most favorable treatment accorded to any comparable form of leave when he or she performs service in the uniformed services. In order to determine whether any two types of leave are comparable, the duration of the leave may be the most significant factor to compare. For instance, a two-day funeral leave will not be ''comparable'' to an extended leave for service in the uniformed service. In addition to comparing the duration of the absences, other factors such as the purpose of the leave and the ability of the employee to choose when to take the leave should also be considered.

(c) As a general matter, accrual of vacation leave is considered to be a non-seniority benefit that must be provided by an employing office to an employee on a military leave of absence only if the employing office provides that benefit to similarly situated employees on comparable leaves of absence.

(d) Nothing in this section gives the employee rights or benefits to which the employee otherwise would not be entitled if the employee had remained continuously employed with the employing office.

§ 1002.151 If the employing office provides full or partial pay to the employee while he or she is on military leave, is the employing office required to also provide the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?

Yes. If the employing office provides additional benefits such as full or partial pay when the employee performs service, the employing office is not excused from providing other rights and benefits to which the employee is entitled under the Act.

§ 1002.152 If employment is interrupted by a period of service in the uniformed services, are there any circumstances under which the employee is not entitled to the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?

If employment is interrupted by a period of service in the uniformed services and the employee knowingly provides written notice of intent not to return to the position of employment after service in the uniformed services, he or she is not entitled to those non-seniority rights and benefits. The employee's written notice does not waive entitlement to any other rights to which he or she is entitled under the Act, including the right to reemployment after service.

§ 1002.153 If employment is interrupted by a period of service in the uniformed services, is the employee permitted upon request to use accrued vacation, annual or similar leave with pay during the service? Can the employer require the employee to use accrued leave during a period of service?

(a) If employment is interrupted by a period of service, the employee must be permitted upon request to use any accrued vacation, annual, or similar leave with pay during the period of service, in order to continue his or her civilian pay. However, the employee is not entitled to use sick leave that accrued with the employing office during a period of service in the uniformed services, unless the employing office allows employees to use sick leave for any reason, or allows other similarly situated employees on comparable furlough or leave of absence to use accrued paid sick leave. Sick leave is usually not comparable to annual or vacation leave; it is generally intended to provide income when the employee or a family member is ill and the employee is unable to work.

(b) The employing office may not require the employee to use accrued vacation, annual, or similar leave during a period of service in the uniformed services.

Health Plan Coverage

§ 1002.163 What types of health plans are covered by USERRA?

(a) USERRA defines a health plan to include an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or arrangement under which the employee's health services are provided or the expenses of those services are paid.

(b) USERRA covers group health plans as defined in the Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. 1191b(a). USERRA applies to group health plans that are subject to ERISA, and plans that are not subject to ERISA, such as those sponsored by State or local governments or religious organizations for their employees.

(c) USERRA covers multi-employer plans maintained pursuant to one or more collective bargaining agreements between employers and employee organizations. USERRA applies to multi-employer plans as they are defined in ERISA at 29 U.S.C. 1002(37). USERRA contains provisions that apply specifically to multi-employer plans in certain situations.

§ 1002.164 What health plan coverage must the employing office provide for the employee under USERRA?

If the employee has coverage under a health plan in connection with his or her employment, the plan must permit the employee to elect to continue the coverage for a certain period of time as described below:

(a) When the employee is performing service in the uniformed services, he or she is entitled to continuing coverage for himself or herself (and dependents if the plan offers dependent coverage) under a health plan provided in connection with the employment. The plan must allow the employee to elect to continue coverage for a period of time that is the lesser of:

> (1) The 24-month period beginning on the date on which the employee's absence for the purpose of performing service begins; or,
>
> (2) The period beginning on the date on which the employee's absence for the purpose of performing service begins, and ending on the date on which he or she fails to return from service or apply for a position of employment as provided under sections 1002.115–123 of these regulations.

(b) USERRA does not require the employing office to establish a health plan if there is no health plan coverage in connection with the employment, or, where there is a plan, to provide any particular type of coverage.

(c) USERRA does not require the employing office to permit the employee to initiate new health plan coverage at the beginning of a period of service if he or she did not previously have such coverage.

§ 1002.165 How does the employee elect continuing health plan coverage?

USERRA does not specify requirements for electing continuing coverage. Health plan administrators may develop reasonable requirements addressing how continuing coverage may be elected, consistent with the terms of the plan and the Act's exceptions to the requirement that the employee give advance notice of service in the uniformed services. For example, the employee cannot be precluded from electing continuing health plan coverage under circumstances where it is impossible or unreasonable for him or her to make a timely election of coverage.

§ 1002.166 How much must the employee pay in order to continue health plan coverage?

(a) If the employee performs service in the uniformed service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health plan coverage.

(b) If the employee performs service in the uniformed service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employing office's share plus the employee's share, plus 2% for administrative costs.

(c)USERRA does not specify requirements for methods of paying for continuing coverage. Health plan administrators may develop reasonable procedures for payment, consistent with the terms of the plan.

§ 1002.167 What actions may a plan administrator take if the employee does not elect or pay for continuing coverage in a timely manner?

The actions a plan administrator may take regarding the provision or cancellation of an employee's continuing coverage depend on whether the employee is excused from the requirement to give advance notice, whether the plan has established reasonable rules for election of continuation coverage, and whether the plan has established reasonable rules for the payment for continuation coverage.

(a) No notice of service and no election of continuation coverage:

If an employing office provides employment-based health coverage to an employee who leaves employment for uniformed service without giving advance notice of service, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service. However, in cases in which an employee's failure to give advance notice of service was excused under the statute because it was impossible, unreasonable, or precluded by military necessity, the plan administrator must reinstate the employee's health coverage retroactively upon his or her election to continue coverage and payment of all unpaid amounts due, and the employee must incur no administrative reinstatement costs. In order to qualify for an exception to the requirement of timely election of continuing health care, an employee must first be excused from giving notice of service under the statute.

(b) Notice of service but no election of continuing coverage:

Plan administrators may develop reasonable requirements addressing how continuing coverage may be elected. Where health plans are also covered under the Consolidated Omnibus Budget Reconciliation Act of 1985, 26 .S.C. 4980B (COBRA), it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding election of continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule. If an employing office provides employment-based health coverage to an employee who leaves employment for uniformed service for a period of service in excess of 30 days after having given advance notice of service but without making an election regarding continuing coverage, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service, but must reinstate coverage without the imposition of administrative reinstatement costs under the following conditions:

(1) Plan administrators who have developed reasonable rules regarding the period within which an employee may elect continuing coverage must permit retroactive reinstatement of uninterrupted coverage to the date of departure if the employee elects continuing coverage and pays all unpaid amounts due within the periods established by the plan;

(2) In cases in which plan administrators have not developed rules regarding the period within which an employee may elect continuing coverage, the plan must permit retroactive reinstatement of uninterrupted coverage to the date of departure upon the employee's election and payment of all unpaid amounts at any time during the period established in section 1002.164(a).

(c) Election of continuation coverage without timely payment:

Health plan administrators may adopt reasonable rules allowing cancellation of coverage if timely payment is not made. Where health plans are covered under COBRA, it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding payment for continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule.

§ 1002.168 If the employee's coverage was terminated at the beginning of or during service, does his or her coverage have to be reinstated upon reemployment?

(a) If health plan coverage for the employee or a dependent was terminated by reason of service in the uniformed services, that coverage must be reinstated upon reemployment. An exclusion or waiting period may not be imposed in connection with the reinstatement of coverage upon reemployment, if an exclusion or waiting period would not have been imposed had coverage not been terminated by reason of such service.

(b) USERRA permits a health plan to impose an exclusion or waiting period as to illnesses or injuries determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated

during, performance of service in the uniformed services. The determination that the employee's illness or injury was incurred in, or aggravated during, the performance of service may only be made by the Secretary of Veterans Affairs or his or her representative. Other coverage, for injuries or illnesses that are not service-related (or for the employee's dependents, if he or she has dependent coverage), must be reinstated subject to paragraph (a) of this section.

§ 1002.169 Can the employee elect to delay reinstatement of health plan coverage until a date after the date he or she is reemployed?

USERRA requires the employing office to reinstate health plan coverage upon request at re-employment. USERRA permits but does not require the employing office to allow the employee to delay reinstatement of health plan coverage until a date that is later than the date of re-employment.

§ 1002.170 In a multi-employer health plan, how is liability allocated for employer contributions and benefits arising under USERRA's health plan provisions?

Liability under a multi-employer plan for employer contributions and benefits in connection with USERRA's health plan provisions must be allocated either as the plan sponsor provides, or, if the sponsor does not provide, to the employee's last employer before his or her service. If the last employer is no longer functional, liability for continuing coverage is allocated to the health plan.

§ 1002.171 How does the continuation of health plan benefits apply to a multi-employer plan that provides health plan coverage through a health benefits account system?

(a) Some employees receive health plan benefits provided pursuant to a multi-employer plan that utilizes a health benefits account system in which an employee accumulates prospective health benefit eligibility, also commonly referred to as "dollar bank," "credit bank," and "hour bank" plans. In such cases, where an employee with a positive health benefits account balance elects to continue the coverage, the employee may further elect either option below:

(1) The employee may expend his or her health account balance during an absence from employment due to service in the uniformed services in lieu of paying for the continuation of coverage as set out in § 1002.166. If an employee's health account balance becomes depleted during the applicable period provided for in § 1002.164(a), the employee must be permitted, at his or her option, to continue coverage pursuant to § 1002.166. Upon re-employment, the plan must provide for immediate reinstatement of the employee as required by § 1002.168, but may require the employee to pay the cost of the coverage until the employee earns the credits necessary to sustain continued coverage in the plan.

(2) The employee may pay for continuation coverage as set out in § 1002.166, in order to maintain intact his or her account balance as of the beginning date of the absence from employment due to service in the uniformed services. This option permits the employee to

resume usage of the account balance upon reemployment.

(b) Employers or plan administrators providing such plans should counsel employees of their options set out in this subsection.

Subpart E—Reemployment Rights and Benefits

Prompt Reemployment

§ 1002.180 When is an employee entitled to be reemployed by the employing office?

The employing office must promptly reemploy the employee when he or she returns from a period of service if the employee meets the Act's eligibility criteria as described in Subpart C of these regulations.

§ 1002.181 How is "prompt reemployment" defined?

"Prompt reemployment" means as soon as practicable under the circumstances of each case. Absent unusual circumstances, reemployment must occur within two weeks of the employee's application for reemployment. For example, prompt reinstatement after a weekend National Guard duty generally means the next regularly scheduled working day. On the other hand, prompt reinstatement following several years of active duty may require more time, because the employing office may have to reassign or give notice to another employee who occupied the returning employee's position.

Reemployment Position

§ 1002.191 What position is the employee entitled to upon reemployment?

As a general rule, the employee is entitled to reemployment in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. This position is known as the escalator position. The principle behind the escalator position is that, if not for the period of uniformed service, the employee could have been promoted (or, alternatively, demoted, transferred, or laid off) due to intervening events. The escalator principle requires that the employee be reemployed in a position that reflects with reasonable certainty the pay, benefits, seniority, and other job perquisites, that he or she would have attained if not for the period of service. Depending upon the specific circumstances, the employing office may have the option, or be required, to reemploy the employee in a position other than the escalator position.

§ 1002.192 How is the specific reemployment position determined?

In all cases, the starting point for determining the proper reemployment position is the escalator position, which is the job position that the employee would have attained if his or her continuous employment had not been interrupted due to uniformed service. Once this position is determined, the employing office may have to consider several factors before determining the appropriate reemployment position in any particular case. Such factors may include the employee's length of service, qualifications, and disability, if any. The actual reemployment position may be either the escalator position; the pre-service position; a position comparable to the escalator or pre-service

position; or, the nearest approximation to one of these positions.

§ 1002.193 Does the reemployment position include elements such as seniority, status, and rate of pay?

(a) Yes. The reemployment position includes the seniority, status, and rate of pay that an employee would ordinarily have attained in that position given his or her job history, including prospects for future earnings and advancement. The employing office must determine the seniority rights, status, and rate of pay as though the employee had been continuously employed during the period of service. The seniority rights, status, and pay of an employment position include those established (or changed) by a collective bargaining agreement, employer policy, or employment practice. The sources of seniority rights, status, and pay include agreements, policies, and practices in effect at the beginning of the employee's service, and any changes that may have occurred during the period of service. In particular, the employee's status in the reemployment position could include opportunities for advancement, general working conditions, job location, shift assignment, rank, responsibility, and geographical location.

(b) If an opportunity for promotion, or eligibility for promotion, that the employee missed during service is based on a skills test or examination, then the employing office should give him or her a reasonable amount of time to adjust to the employment position and then give a skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. If the employee is successful on the makeup exam and, based on the results of that exam, there is a reasonable certainty that he or she would have been promoted, or made eligible for promotion, during the time that the employee served in the uniformed service, then the promotion or eligibility for promotion must be made effective as of the date it would have occurred had employment not been interrupted by uniformed service.

§ 1002.194 Can the application of the escalator principle result in adverse consequences when the employee is reemployed?

Yes. The Act does not prohibit lawful adverse job consequences that result from the employee's restoration on the seniority ladder. Depending on the circumstances, the escalator principle may cause an employee to be reemployed in a higher or lower position, laid off, or even terminated. For example, if an employee's seniority or job classification would have resulted in the employee being laid off during the period of service, and the layoff continued after the date of reemployment, reemployment would reinstate the employee to layoff status. Similarly, the status

of the reemployment position requires the employing office to assess what would have happened to such factors as the employee's opportunities for advancement, working conditions, job location, shift assignment, rank, responsibility, and geographical location, if he or she had remained continuously employed. The reemployment position may involve transfer to another shift or location, more or less strenuous working conditions, or changed opportunities for advancement, depending upon the application of the escalator principle.

§ 1002.195 What other factors can determine the reemployment position?

Once the employee's escalator position is determined, other factors may allow, or require, the employing office to reemploy the employee in a position other than the escalator position. These factors, which are explained in §§ 1002.196 through 1002.199, are:

(a) The length of the employee's most recent period of uniformed service;

(b) The employee's qualifications; and,

(c) Whether the employee has a disability incurred or aggravated during uniformed service.

§ 1002.196 What is the employee's reemployment position if the period of service was less than 91 days?

Following a period of service in the uniformed services of less than 91 days, the employee must be reemployed according to the following priority:

(a) The employee must be reemployed in the escalator position. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position.

(b) If the employee is not qualified to perform the duties of the escalator position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began. The employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position.

(c) If the employee is not qualified to perform the duties of the escalator position or the pre-service position, after reasonable efforts by the employing office, he or she must be re-employed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position.

§ 1002.197 What is the reemployment position if the employee's period of service in the uniformed services was more than 90 days?

Following a period of service of more than 90 days, the employee must be reemployed according to the following priority:

(a) The employee must be reemployed in the escalator position or a position of like seniority, status, and pay. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position.

(b) If the employee is not qualified to perform the duties of the escalator position or a like position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began or in a position of like seniority, status, and pay. The employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position.

(c) If the employee is not qualified to perform the duties of the escalator position, the pre-service position, or a like position, after reasonable efforts by the employing office, he or she must be re-employed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position.

§ 1002.198 What efforts must the employing office make to help the employee become qualified for the reemployment position?

The employee must be qualified for the reemployment position. The employing office must make reasonable efforts to help the employee become qualified to perform the duties of this position. The employing office is not required to reemploy the employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(a)(1) "Qualified" means that the employee has the ability to perform the essential tasks of the position. The employee's inability to perform one or more non-essential tasks of a position does not make him or her unqualified.

(2) Whether a task is essential depends on several factors, and these factors include but are not limited to:

(i) The employing office's judgment as to which functions are essential;
(ii) Written job descriptions developed before the hiring process begins;
(iii) The amount of time on the job spent performing the function;
(iv) The consequences of not requiring the individual to perform the function;

(v) The terms of a collective bargaining agreement;
(vi) The work experience of past incumbents in the job; and/or
(vii) The current work experience of incumbents in similar jobs.

(b) Only after the employing office makes reasonable efforts, as defined in § 1002.5(p), may it determine that the employee is not qualified for the reemployment position. These reasonable efforts must be made at no cost to the employee.

§ 1002.199 What priority must the employing office follow if two or more returning employees are entitled to reemployment in the same position?

If two or more employees are entitled to reemployment in the same position and more than one employee has reported or applied for employment in that position, the employee who first left the position for uniformed service has the first priority on reemployment in that position. The remaining employee (or employees) is entitled to be reemployed in a position similar to that in which the employee would have been re-employed according to the rules that normally determine a reemployment position, as set out in §§ 1002.196 and 1002.197.

Seniority Rights and Benefits

§ 1002.210 What seniority rights does an employee have when reemployed following a period of uniformed service?

The employee is entitled to the seniority and seniority-based rights and benefits that he or she had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if he or she had remained continuously employed. The employee is not entitled to any benefits to which he or she would not have been entitled had the employee been continuously employed with the employing office. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employing office and those required by statute.

For example, under USERRA, a reemployed service member would be eligible for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601–2654 (FMLA), if the number of months and the number of hours of work for which the service member was employed by the employing office, together with the number of months and the number of hours of work for which the service member would have been employed by the employing office during the period of uniformed service, meet FMLA's eligibility requirements. In the event that a service member is denied FMLA leave for failing to satisfy the FMLA's hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under the FMLA.

§ 1002.211 Does USERRA require the employing office to use a seniority system?

No. USERRA does not require the employing office to adopt a formal seniority system. USERRA defines seniority as longevity in employment together with any employment benefits that accrue with, or are determined by, longevity in employment. In the absence of a formal seniority system, such as one established through collective bargaining, USERRA looks to the custom and practice in the place of employment to determine the employee's entitlement to any employment benefits that accrue with, or are determined by, longevity in employment.

§ 1002.212 How does a person know whether a particular right or benefit is a seniority-based right or benefit?

A seniority-based right or benefit is one that accrues with, or is determined by, longevity in employment. Generally, whether a right or benefit is seniority-based depends on three factors:

(a) Whether the right or benefit is a reward for length of service rather than a form of short-term compensation for work performed;

(b) Whether it is reasonably certain that the employee would have received the right or benefit if he or she had remained continuously employed during the period of service; and,

(c) Whether it is the employing office's actual custom or practice to provide or withhold the right or benefit as a reward for length of service.

Provisions of an employment contract or policies in the employee handbook are not controlling if the employing office's actual custom or practice is different from what is written in the contract or handbook.

§ 1002.213 How can the employee demonstrate a reasonable certainty that he or she would have received the seniority right or benefit if he or she had remained continuously employed during the period of service?

A reasonable certainty is a high probability that the employee would have received the seniority or seniority-based right or benefit if he or she had been continuously employed. The employee does not have to establish that he or she would have received the benefit as an absolute certainty. The employee can demonstrate a reasonable certainty that he or she would have received the seniority right or benefit by showing that other employees with seniority similar to that which the employee would have had if he or she had remained continuously employed received the right or benefit. The employing office cannot withhold the right or benefit based on an assumption that a series of unlikely events could have prevented the employee from gaining the right or benefit.

Disabled Employees

§ 1002.225 Is the employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?

Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employing office must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employing office to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employing office must make reasonable efforts to accommodate the employee's disability and to help him or her to become qualified to perform the duties of one of these positions:

(a) A position that is equivalent in seniority, status, and pay to the escalator position; or,

(b) A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the employee's case, in terms of seniority, status, and pay.

A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

§ 1002.226 If the employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employing office make to help him or her become qualified for the reemployment position?

(a) USERRA requires that the employee be qualified for the reemployment position regardless of any disability. The employing office must make reasonable efforts to help the employee to become qualified to perform the duties of this position. The employing office is not required to reemploy the employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(b) "Qualified" has the same meaning here as in § 1002.198.

Rate of Pay

§ 1002.236 How is the employee's rate of pay determined when he or she returns from a period of service?

The employee's rate of pay is determined by applying the same escalator principles that are used to determine the reemployment position, as follows:

(a) If the employee is reemployed in the escalator position, the employing office must compensate him or her at the rate of pay associated with the escalator position. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service. In addition, when considering whether merit or performance increases would have been attained with reasonable certainty, an employing office may examine the returning employee's own work history, his or her history of merit increases, and the work and pay history of employees in the same or similar position.

For example, if the employee missed a merit pay increase while performing service, but qualified for previous merit pay increases, then the rate of pay should include the merit pay increase that was missed. If the merit pay increase that the employee missed during service is based on a skills test or examination, then the employing office should give the employee a reasonable amount of time to adjust to the reemployment position and then give him or her the skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. The escalator principle also applies in the event a pay reduction occurred in the reemployment position during the period of service. Any pay adjustment must be made effective as of the date it would have occurred had the employee's employment not been interrupted by uniformed service.

(b) If the employee is reemployed in the pre-service position or another position, the employing office must compensate him or her at the rate of pay associated with the position in which he or she is reemployed. As with the escalator position, the rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service.

Protection Against Discharge

§ 1002.247 Does USERRA provide the employee with protection against discharge?
It depends. If the employee's most recent period of service in the uniformed services was more than 30 days, a discharge without cause may create a rebuttable presumption that there has been a violation of USERRA—

(a) For 180 days after the employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,

(b) For one year after the date of reemployment if the employee's most recent period of uniformed service was more than 180 days.

§ 1002.248 What constitutes cause for discharge under USERRA?

The employee may be discharged for cause based either on conduct or, in some circumstances, because of the application of other legitimate nondiscriminatory reasons.

(a) In a discharge action based on conduct, the employing office bears the burden of proving that it is reasonable to discharge the employee for the conduct in question, and that he or she had notice, which was express or can be fairly implied, that the conduct would constitute cause for discharge.

(b) If, based on the application of other legitimate nondiscriminatory reasons, the employee's job position is eliminated, or the employee is placed on layoff status, either of these situations would constitute cause for purposes of USERRA. The employing office bears the burden of proving that the employee's job would have been eliminated or that he or she would have been laid off.

Pension Plan Benefits

§ 1002.259 How does USERRA protect an employee's pension benefits?

On reemployment, the employee is treated as not having a break in service with the employing office maintaining a pension plan, for purposes of participation, vesting and accrual of benefits, by reason of the period of absence from employment due to or necessitated by service in the uniformed services.

(a) Depending on the length of the employee's period of service, he or she is entitled to take from one to ninety days following service before reporting back to work or applying for reemployment (See § 1002.115). This period of time must be treated as continuous service with the employing office for purposes of determining participation, vesting and accrual of pension benefits under the plan.

(b) If the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, service, he or she is entitled to report to or submit an application for reemployment at the end of the time period necessary for him or her to recover from the illness or injury. This period, which may not exceed two years from the date the employee completed service, except in circumstances beyond his or her control, must be treated as continuous service with the employing office for purposes of determining the participation, vesting and accrual of pension benefits under the plan.

§ 1002.260 What pension benefit plans are covered under USERRA?

(a) The Employee Retirement Income Security Act of 1974 (ERISA) defines an employee pension benefit plan as a plan that provides retirement income to employees, or defers employee income to a period extending to or beyond the termination of employment. Any such plan maintained by the employing office is covered under USERRA. USERRA also covers certain pension plans not covered by ERISA, such as those sponsored by a State, government entity, or church for its employees.

(b) USERRA does not cover pension benefits under the Federal Thrift Savings Plan; those benefits are covered under 5 U.S.C. 8432b.

§ 1002.261 Who is responsible for funding any plan obligation to provide the employee with pension benefits?

With the exception of multi-employer plans, which have separate rules discussed below, the employing office is liable to the pension benefit plan to fund any obligation of the plan to provide benefits that are attributable to the employee's period of service. In the case of a defined contribution plan, once the employee is reemployed, the employing office must allocate the amount of its make-up contribution for the employee, if any; the employee's make-up contributions, if any; and the employee's elective deferrals, if any; in the same manner and to the same extent that it allocates the amounts for other employees during the period of service. In the case of a defined benefit plan, the employee's accrued benefit will be increased for the period of service once he or she is reemployed and, if applicable, has repaid any amounts previously paid to him or her from the plan and made any employee contributions that may be required to be made under the plan.

§ 1002.262 When is the employing office required to make the plan contribution that is attributable to the employee's period of uniformed service?

(a) The employing office is not required to make its contribution until the employee is re-employed. For employer contributions to a plan in which the employee is not required or permitted to contribute, the employing office must make the contribution attributable to the employee's period of service no later than ninety days after the date of reemployment, or when plan contributions are normally due for the year in which the service in the uniformed services was performed, whichever is later. If it is impossible or unreasonable for the employing office to make the contribution within this time period, the employer must make the contribution as soon as practicable.

(b) If the employee is enrolled in a contributory plan, he or she is allowed (but not required) to make up his or her missed contributions or elective deferrals. These makeup contributions, or elective deferrals, must be made during a time period starting with the date of reemployment and continuing for up to three times the length of the employee's immediate past period of uniformed

service, with the repayment period not to exceed five years. Makeup contributions or elective deferrals may only be made during this period and while the employee is employed with the post-service employing office.

(c) If the employee's plan is contributory and he or she does not make up his or her contributions or elective deferrals, he or she will not receive the employer match or the accrued benefit attributable to his or her contribution. This is true because the employing office is required to make contributions that are contingent on or attributable to the employee's contributions or elective deferrals only to the extent that the employee makes up his or her payments to the plan. Any employing office contributions that are contingent on or attributable to the employee's make-up contributions or elective deferrals must be made according to the plan's requirements for employer matching contributions.

(d) The employee is not required to make up the full amount of employee contributions or elective deferrals that he or she missed making during the period of service. If the employee does not make up all of the missed contributions or elective deferrals, his or her pension may be less than if he or she had done so.

(e) Any vested accrued benefit in the pension plan that the employee was entitled to prior to the period of uniformed service remains intact whether or not he or she chooses to be reemployed under the Act after leaving the uniformed service.

(f) An adjustment will be made to the amount of employee contributions or elective deferrals that the employee will be able to make to the pension plan for any employee contributions or elective deferrals he or she actually made to the plan during the period of service.

§ 1002.263 Does the employee pay interest when he or she makes up missed contributions or elective deferrals?

No. The employee is not required or permitted to make up a missed contribution in an amount that exceeds the amount he or she would have been permitted or required to contribute had he or she remained continuously employed during the period of service.

§ 1002.264 Is the employee allowed to repay a previous distribution from a pension benefits plan upon being reemployed?

Yes, provided the plan is a defined benefit plan. If the employee received a distribution of all or part of the accrued benefit from a defined benefit plan in connection with his or her service in the uniformed services before he or she became reemployed, he or she must be allowed to repay the withdrawn amounts when he or she is reemployed. The amount the employee must repay includes any interest that would have accrued had the monies not been withdrawn. The employee must be allowed to repay these amounts during a time period starting with the date of reemployment and continuing for up to three times the length of the employee's immediate past period of uniformed

service, with the repayment period not to exceed five years (or such longer time as may be agreed to between the employing office and the employee), provided the employee is employed with the post-service employing office during this period.

§ 1002.265 If the employee is reemployed with his or her pre-service employing office, is the employee's pension benefit the same as if he or she had remained continuously employed?

The amount of the employee's pension benefit depends on the type of pension plan.

(a) In a non-contributory defined benefit plan, where the amount of the pension benefit is determined according to a specific formula, the employee's benefit will be the same as though he or she had remained continuously employed during the period of service.

(b) In a contributory defined benefit plan, the employee will need to make up contributions in order to have the same benefit as if he or she had remained continuously employed during the period of service.

(c) In a defined contribution plan, the benefit may not be the same as if the employee had remained continuously employed, even though the employee and the employing office make up any contributions or elective deferrals attributable to the period of service, because the employee is not entitled to forfeitures and earnings or required to experience losses that accrued during the period or periods of service.

§ 1002.266 What are the obligations of a multi-employer pension benefit plan under USERRA?

A multi-employer pension benefit plan is one to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. The Act uses ERISA's definition of a multi-employer plan. In addition to the provisions of USERRA that apply to all pension benefit plans, there are provisions that apply specifically to multi-employer plans, as follows:

(a) The last employer that employed the employee before the period of service is responsible for making the employer contribution to the multi-employer plan, if the plan sponsor does not provide otherwise. If the last employer is no longer functional, the plan must nevertheless provide coverage to the employee.

(b) An employer that contributes to a multi-employer plan and that reemploys the employee pursuant to USERRA must provide written notice of reemployment to the plan administrator within 30 days after the date of reemployment. The returning service member should notify the reemploying employer that he or she has been reemployed pursuant to USERRA. The 30-day period within which the reemploying employer must provide written notice to the multi-employer

plan pursuant to this subsection does not begin until the employer has knowledge that the employee was re-employed pursuant to USERRA.

(c)) The employee is entitled to the same employer contribution whether he or she is reemployed by the pre-service employer or by a different employer contributing to the same multi-employer plan, provided that the pre-service employer and the post-service employer share a common means or practice of hiring the employee, such as common participation in a union hiring hall.

§ 1002.267 How is compensation during the period of service calculated in order to determine the employee's pension benefits, if benefits are based on compensation?

In many pension benefit plans, the employee's compensation determines the amount of his or her contribution or the retirement benefit to which he or she is entitled.

(a) Where the employee's rate of compensation must be calculated to determine pension entitlement, the calculation must be made using the rate of pay that the employee would have received but for the period of uniformed service.

(b) (1) Where the rate of pay the employee would have received is not reasonably certain, the average rate of compensation during the 12-month period prior to the period of uniformed service must be used.

(2) Where the rate of pay the employee would have received is not reasonably certain and he or she was employed for less than 12 months prior to the period of uniformed service, the average rate of compensation must be derived from this shorter period of employment that preceded service.

Subpart F—Compliance Assistance, Enforcement and Remedies

Compliance Assistance

§ 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?

The Office of Compliance provides assistance to any person or entity who is covered by the CAA with respect to employment and reemployment rights and benefits under USERRA as applied by the CAA. This assistance includes responding to inquiries, and providing a program of education and information on matters relating to USERRA.

Investigation and Referral

§ 1002.288 How does a covered employee initiate a claim alleging a violation of USERRA under the CAA?

(a) If an individual is claiming entitlement to employment rights or benefits or reemployment rights or benefits and alleges that an employing office has failed or refused, or is about to fail or refuse, to comply with the Act, the individual may file a complaint with the Office of Compliance, after a required period of counseling and mediation.

(b) To commence a proceeding, a covered employee alleging a violation of the rights and protections of USERRA must request counseling by the Office of Compliance no later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the claim may be time barred under the CAA.

(c) The following procedures are available under subchapter IV of the CAA for covered employees who believe their rights under USERRA as made applicable by the CAA have been violated:

(1) counseling;
(2) mediation; and
(3) election of either -
(A) a formal complaint filed with the Office of Compliance (which must meet the requirements as set forth in the Office of Compliance Procedural Rules, Section 5.01(c)), and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or
(B) a civil action in a district court of the United States.

(d) Regulations of the Office of Compliance describing and governing these procedures can be found at 141 Cong. Rec. H15645-H15655 (December 22, 1995) and 141 Cong. Rec. §19239,

143 Cong. Rec. H8316-H8317 (as amended, applying USERRA to the Government Accountability Office and the Library of Congress).

Enforcement of Rights and Benefits Against an Employing Office

§ 1002.303 Is a covered employee required to bring his or her claim to the Office of Compliance?

Yes. All covered employees who file claims under Part A of subchapter II of the CAA, which includes USERRA, are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance.

§ 1002.308 Who has legal standing to bring a USERRA claim under the CAA?

An action under Section 206 of the CAA may be brought by an eligible employee, as defined by Section 1002.5 (f) of Subpart A of these regulations. An action under 207(a) of the CAA may be brought by a covered employee, as defined by section 1002.5 (e) of Subpart A of these regulations. An employing office, prospective employing office or other similar entity may not bring an action under the Act.

§ 1002.309 Who is a necessary party in an action under USERRA?

In an action under USERRA, only the covered employing office or a potential covered employing office, as the case may be, is a necessary party respondent. Under the Office of Compliance Procedural Rules, a hearing officer has authority to require the filing of briefs, memoranda of law, and the presentation of oral argument. A hearing officer also may order the production of evidence and the appearance of witnesses.

§ 1002.310 How are fees and court costs charged or taxed in an action under USERRA?

No fees or court costs may be charged or taxed against an individual if he or she is claiming rights under the Act. If a covered employee is a prevailing party with respect to any claim under USERRA, the hearing officer, Board, or court may award reasonable attorney fees, expert witness fees, and other litigation expenses.

§ 1002.311 Is there a statute of limitations in an action under USERRA?

USERRA does not have a statute of limitations. However, Section 402 of the CAA requires an individual to bring a request for counseling alleging a violation of the CAA no later than 180 days after the date of the alleged violation. A claim alleging a USERRA violation as applied by the

CAA would follow this requirement

§ 1002.312 What remedies may be awarded for a violation of USERRA?

In any action or proceeding the following relief may be awarded:

(a) The court and/or hearing officer may require the employing office to comply with the provisions of the Act;

(b) The court and/or hearing officer may require the employing office to compensate the individual for any loss of wages or benefits suffered by reason of the employing office's failure to comply with the Act;

(c) The court and/or hearing officer may require the employing office to pay the individual an amount equal to the amount of lost wages and benefits as liquidated damages, if the court and/or hearing officer determines that the employing office's failure to comply with the Act was willful. A violation shall be considered to be willful if the employing office either knew or showed reckless disregard for whether its conduct was prohibited by the Act.

(d) Any wages, benefits, or liquidated damages awarded under paragraphs (b) and (c) of this section are in addition to, and must not diminish, any of the other rights and benefits provided by USERRA (such as, for example, the right to be employed or reemployed by the employing office).

§ 1002.314 May a court and/or hearing officer use its equity powers in an action or proceeding under the Act?

Yes. A court and/or hearing officer may use its full equity powers, including the issuance of temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate the rights or benefits guaranteed under the Act.

END OF TEXT OF PROPOSED USERRA REGULATIONS

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6474. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — 1-Methylcyclopropene; Amendment to an Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2007-0433; FRL-8357-5] received April 8, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6475. A letter from the Secretary of the Army, Department of Defense, transmitting notification that the Average Procurement Unit Cost (APUC) metric for the Javelin Advanced Anti-Tank Missile has exceeded the 15 percent significant cost growth threshold, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

6476. A letter from the Acting General Counsel, Department of Defense, transmitting a copy of legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2009; to the Committee on Armed Services.

6477. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of March 31, 2008, entitled, ''Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account,'' pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

6478. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Iowa [EPA-R07-OAR-2008-0241; FRL-8533-1] received April 8, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6479. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Standards of Performance for Petroleum Refineries [EPA-HQ-OAR-2007-0011; FRL-8563-2] (RIN: 2060-AN72) received April 31, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6480. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Interstate Transport of Pollution [EPA-R01-OAR-2007-0452; A-1-FRL-8562-9] received April 31, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6481. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Transportation Conformity Requirement [EPA-R03-OAR-2007-1146; FRL-8561-2] received April 31, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6482. A letter from the District of Columbia Auditor, Office of the District of Columbia Auditor, transmitting a report entitled, ''Performance Measurement System Needs Long-Term Stability and Commitment to Maximize Effectiveness,'' pursuant to D.C. Code section 47-117(d); to the Committee on Oversight and Government Reform.

6483. A letter from the Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting the Agency's Fiscal Year 2007 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, Pub. L. 107-174; to the Committee on Oversight and Government Reform.

6484. A letter from the Director, Office of Economic Impact and Diversity, Department of Energy, transmitting the Department's annual report for Fiscal Year 2007, prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

6485. A letter from the White House Liaison, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6486. A letter from the White House Liaison, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6487. A letter from the White House Liaison, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6488. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6489. A letter from the Chairman, U.S. Parole Commission, Department of Justice, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for the calendar year 2007, pursuant to 5 U.S.C. 552b(j); to the Committee on Oversight and Government Reform.

6490. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6491. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6492. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6493. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6494. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6495. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6496. A letter from the Chairperson, National Council on Disability, transmitting the Council's Annual Performance Report to the President and Congress Fiscal Year 2007, as required by the Government Performance and Results Act, pursuant to 31 U.S.C. 1116; to the Committee on Oversight and Government Reform.

6497. A letter from the Chairman, National Endowment for the Arts, transmitting the Endowment's report for Fiscal Year 2007, in accordance with Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

6498. A letter from the Commissioner, Social Security Administration, transmitting notification of the details of a public-private competition to be initiated by the Administration, pursuant to Public Law 110-81, section 327; to the Committee on Oversight and Government Reform.

6499. A letter from the Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6500. A communication from the President of the United States, transmitting an Agreement between the United States of America and the Czech Republic on Social Security, with a principal agreement and an administrative arrangement, both signed in Prague on September 7, 2007, pursuant to 42 U.S.C. 433(e)(1); (H. Doc. No. 110–110); to the Committee on Ways and Means and ordered to be printed.

6501. A letter from the Chair of the Board of Directors, Office of Compliance, transmitting notice of proposed procedural rulemaking regulations under Section 304(b)(1) of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C. 1384(b)(1); jointly to the Committees on Education and Labor and House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. GEORGE MILLER of California: Committee on Education and Labor. H.R. 3021. A bill to direct the Secretary of Education to make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes; with an amendment (Rept. 110–623). Referred to the Committee of the Whole House on the State of the Union.

Mr. WAXMAN: Committee on Oversight and Government Reform. H.R. 5781. A bill to provide that 8 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes; with an amendment (Rept. 110–624 Pt. 1). Ordered to be printed.

Mr. WAXMAN: Committee on Oversight and Government Reform. H.R. 752. A bill to direct Federal agencies to donate excess and surplus Federal electronic equipment, including computers, computer components, printers, and fax machines, to qualifying small towns, counties, schools, nonprofit organizations, and libraries; with an amendment (Rept. 110–625). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 or rule XII the Committee on House Administration discharged from further consideration. H.R. 5781 referred to the Committee of the Whole on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JONES of North Carolina:

H.R. 5993. A bill to promote congressional and public awareness, understanding, and political accountability of presidential signing statements; to the Committee on the Judiciary.

By Mr. CONYERS (for himself and Ms. ZOE LOFGREN of California):

H.R. 5994. A bill to amend the Clayton Act with respect to competitive and nondiscriminatory access to the Internet; to the Committee on the Judiciary.

By Mr. RYAN of Wisconsin (for himself, Mr. BOEHNER, Mr. BLUNT, Mr. CANTOR, Mr. PUTNAM, Mr. HENSARLING, Mr. SENSENBRENNER, Mr. FLAKE, Mr. PENCE, Mrs. BLACKBURN, Mr. CAMPBELL of California, Mr. JORDAN, Mr. BROUN of Georgia, and Mr. MCCOTTER):

H.R. 5995. A bill to amend the Internal Revenue Code of 1986 to suspend the highway fuels taxes, to provide for a Joint Committee on Earmark Reform, and to prohibit earmarking for the remainder of the 110th Congress; to the Committee on Ways and Means, and in addition to the Committees on Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCOTTER:

H.R. 5996. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for tutoring expenses for elementary and secondary school students; to the Committee on Ways and Means.

By Mr. BARROW:

H.R. 5997. A bill to amend title 49, United States Code, to require a motor carrier, broker, or freight forwarder that collects a fuel surcharge to pay an amount equal to the surcharge to the person that bears the cost of the fuel, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE (for himself, Ms. SHEA-PORTER, Mr. ALTMIRE, Ms. BALDWIN, Mr. BRALEY of Iowa, Mrs. CAPPS, Mr. COURTNEY, Ms. DEGETTE, Ms. DELAURO, Mr. DINGELL, Mr. DOYLE, Mr. ELLISON, Mr. ENGEL, Ms. ESHOO, Mr. GENE GREEN of Texas, Ms. HARMAN, Mr. HODES, Ms. HOOLEY, Mr. INSLEE, Mr. LARSON of Connecticut, Mr. MARKEY, Mr. MURPHY of Connecticut, Mr. PATRICK MURPHY of Pennsylvania, Mr. RANGEL, Mr. RUSH, Ms. SCHAKOWSKY, Ms. SOLIS, Mr. STARK, Mr. STUPAK, Mr. TOWNS, Mr. WALZ of Minnesota, Mr. WAXMAN, and Mr. WELCH of Vermont):

H.R. 5998. A bill to nullify any effectiveness of the August 17, 2007, State health official letter issued by the Centers for Medicare & Medicaid Services; to the Committee on Energy and Commerce.

By Ms. HIRONO (for herself, Mr. ABERCROMBIE, and Ms. ROS-LEHTINEN):

H.R. 5999. A bill to authorize appropriations for the National Tropical Botanical Garden, and for other purposes; to the Committee on the Judiciary.

By Mr. KUCINICH (for himself, Mr. ABERCROMBIE, Mr. BERMAN, Mr. BRADY of Pennsylvania, Mrs. CAPPS, Mr. CLAY, Mr. CLEAVER, Mr. COHEN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mr. DELAHUNT, Mr. DOYLE, Mr. ELLISON, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HARE, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. HIRONO, Mr. HONDA, Mr. JACKSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY, Mr. KILDEE, Ms. KILPATRICK, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mrs. LOWEY, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. GEORGE MILLER of California, Ms. MOORE of Wisconsin, Mr. NADLER, Mrs. NAPOLITANO, Mr. OLVER, Mr. PAYNE, Mr. RAHALL, Mr. ROTHMAN, Mr. RYAN of Ohio, Ms. LINDA T. SÁNCHEZ of California, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mr. STUPAK, Ms. SUTTON, Mr. TIERNEY, Mr. TOWNS, Ms. WATSON, Mr. WAXMAN, Mr. WEXLER, Ms. WOOLSEY, Mr. YARMUTH, and Ms. ROYBAL-ALLARD):

H.R. 6000. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profit tax on oil and natural gas (and products thereof) and to allow an income tax credit for purchases of fuel-efficient passenger vehicles, and to allow grants for mass transit; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUYER (for himself, Mr. COLE of Oklahoma, Mr. GRAVES, Mr. PICKERING, Mr. HAYES, Mr. SHIMKUS, Mr. PENCE, Mr. BURTON of Indiana, Mr. KLINE of Minnesota, Mrs. BLACKBURN, Mr. WAMP, Mr. YOUNG of Alaska, Mr. HOEKSTRA, Mr. SHUSTER, Mr. MCHENRY, Mr. BARRETT of South Carolina, Mr. SOUDER, and Mr. SHADEGG):

H.R. 6001. A bill to rebalance the United States energy portfolio, to increase and utilize the Nation's domestic energy resources and supply, to strengthen energy security and independence, and for other purposes; to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Armed Services, and Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARY G. MILLER of California (for himself, Mr. DREIER, Mr. MCKEON, Mrs. NAPOLITANO, and Ms. SOLIS):

H.R. 6002. A bill to amend title 23, United States Code, to prohibit the collection of certain tolls on existing high occupancy vehicles; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself, Mr. MICA, Ms. CORRINE BROWN of Florida, Mr. SHUSTER, Mr. NADLER, Mr. COSTELLO, Mr. LIPINSKI, Mr. SIRES, Mr. DEFAZIO, Mr. CUMMINGS, Mrs. NAPOLITANO, Ms. NORTON, Mrs. TAUSCHER, Mr. ARCURI, Mr. SPACE, Mr. SALAZAR, Mr. BRALEY of Iowa, Mr. FILNER, Mr. RAHALL, Mr. BOSWELL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TAYLOR, Mr. WALZ of Minnesota, Mr. CARNEY, Ms. HIRONO, Mr. HIGGINS, Mr. BISHOP of New York, Mr. CARNAHAN, Mr. LARSEN of Washington, Mr. MICHAUD, Ms. MATSUI, Mr. HALL of New York, Mr. COHEN, Mr. MCNERNEY, Mr. ALTMIRE, Mr. CAPUANO, Mr. HOLDEN, and Mr. KAGEN):

H.R. 6003. A bill to reauthorize Amtrak, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself, Mr. MICA, Ms. CORRINE BROWN of Florida, and Mr. SHUSTER):

H.R. 6004. A bill to provide for the financing of high-speed rail infrastructure, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BECERRA (for himself, Mr. NUNES, Mr. RANGEL, Mr. BLUMENAUER, Mr. HONDA, and Mr. COLE of Oklahoma):

H.R. 6005. A bill to amend the Internal Revenue Code to provide for the treatment of Indian tribal governments as State governments for the purposes of the Public Charity-Private Foundation Classification; to the Committee on Ways and Means.

By Ms. BORDALLO (for herself, Mr. ABERCROMBIE, and Mr. HAYES):

H.R. 6006. A bill to amend title 10, United States Code, to authorize the Secretary of a military department, and the Secretary of Defense with respect to the Defense Agencies, to participate in conservation banking programs and in-lieu-fee mitigation programs; to the Committee on Armed Services.

By Ms. BORDALLO:

H.R. 6007. A bill to authorize the Secretary of Transportation to establish a Port of Guam Improvement Enterprise Program, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROUN of Georgia (for himself, Mr. AKIN, Mr. BARTLETT of Maryland, Mrs. MYRICK, and Mr. ISSA):

H.R. 6008. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to make permanent the E-Verify program, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. ALEXANDER):

H.R. 6009. A bill to leverage market forces to bring greater efficiency and capacity to domestic refineries, to bring new sources of domestic energy to market, and for other purposes; to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, the Judiciary, Ways and Means, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GONZALEZ (for himself and Mr. RODRIGUEZ):

H.R. 6010. A bill to require the Secretary of Defense to establish a National Trauma Institute Research Program; to the Committee on Armed Services.

By Ms. HERSETH SANDLIN (for herself and Mr. MORAN of Kansas):

H.R. 6011. A bill to amend the Public Health Service Act to facilitate emergency medical services personnel training and certification curriculums for military veterans; to the Committee on Energy and Commerce.

By Mr. ISRAEL:

H.R. 6012. A bill to require the Comptroller General to conduct a study of the consolidation of the refiners, importers, producers, and wholesalers of gasoline with the sellers of such gasoline at retail; to the Committee on Energy and Commerce.

By Mr. MELANCON (for himself, Mr. MCCRERY, Mr. ALEXANDER, Mr. BOUSTANY, and Mr. JEFFERSON):

H.R. 6013. A bill to provide for disaster assistance for power transmission and distribution facilities, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. SCHMIDT:

H.R. 6014. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for birthmothers whose children are adopted; to the Committee on Ways and Means.

By Mr. SESSIONS (for himself, Mr. FEENEY, and Mrs. BLACKBURN):

H.R. 6015. A bill to require hospitals and ambulatory surgical centers to disclose charge-related information and to provide price protection for treatments not covered by insurance as conditions for receiving protection from charge-related legal actions; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 6016. A bill to amend title 39, United States Code, to require post offices to have running water and sanitation facilities and prohibiting the closure of post offices based on a lack of running water and sanitation facilities; to the Committee on Oversight and Government Reform.

By Mr. STUPAK (for himself and Mrs. MILLER of Michigan):

H.R. 6017. A bill to ameliorate the effects of harmful algal blooms in the Great Lakes by reducing phosphorus inputs, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. TSONGAS (for herself, Mr. HAYES, Mr. BOOZMAN, Ms. HERSETH SANDLIN, Mr. MILLER of Florida, Ms. BORDALLO, Mr. BRADY of Pennsylvania, and Mr. MCGOVERN):

H.R. 6018. A bill to amend title 10, United States Code, to increase loan repayment limits for health professionals serving in the Armed Forces; to the Committee on Armed Services.

By Mr. UDALL of New Mexico:

H.R. 6019. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to grant Special Exposure Cohort designation to a specific group of individuals from a Department of Energy facility in Los Alamos, New Mexico; to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ZOE LOFGREN of California (for herself, Mr. THORNBERRY, Mr. CONYERS, Mr. PENCE, Ms. LORETTA SANCHEZ of California, Mr. TURNER, and Mr. REYES):

H.R. 6020. A bill to amend the Immigration and Nationality Act to protect the well-being of soldiers and their families, and for other purposes; to the Committee on the Judiciary.

By Mr. BROUN of Georgia:

H.J. Res. 82. A joint resolution proposing an amendment to the Constitution of the United States allowing castration after conviction for the rape of a child under 16 years of age; to the Committee on the Judiciary.

By Mr. BROUN of Georgia:

H.J. Res. 83. A joint resolution proposing an amendment to the Constitution of the United States providing that the Constitution does not preclude a penalty of death, including when it is imposed for the rape of a child under 16 years of age; to the Committee on the Judiciary.

By Mr. ALEXANDER:

H. Con. Res. 346. Concurrent resolution expressing the sense of Congress that American oil companies should build additional refining capacity on existing refinery campuses; to the Committee on Energy and Commerce.

By Mr. BACA:

H. Con. Res. 347. Concurrent resolution expressing the sense of Congress that the Secretary of the Department of Health and Human Services, through the Centers for Disease Control and Prevention and the Food and Drug Administration, should take action to educate the public on the importance of adequate iodine intake; to the Committee on Energy and Commerce.

By Mr. CROWLEY (for himself, Mr. FALEOMAVAEGA, Mr. SCHIFF, Mr. TOWNS, Mr. HOLT, Mr. DAVIS of Illinois, Mr. GRIJALVA, Mr. OLVER, Mr. KING of New York, Mr. PITTS, Mr. MCGOVERN, Mr. SMITH of New Jersey, Mr. MANZULLO, Mr. MCDERMOTT, Mrs. MCCARTHY of New York, Mr. HINCHEY, Mr. SESTAK, Mr. HONDA, Ms. ROS-LEHTINEN, Mr. BERMAN, Mr. BLUMENAUER, Ms. MCCOLLUM of Minnesota, and Mr. SOUDER):

H. Res. 1181. A resolution expressing condolences and sympathy to the people of Burma for the grave loss of life and vast destruction caused by Cyclone Nargis; to the Committee on Foreign Affairs.

By Mr. FILNER:

H. Res. 1182. A resolution expressing the sense of the House of Representatives that American flags flown on Federal Government buildings and on Federal property be made in the United States; to the Committee on the Judiciary.

By Mr. JONES of North Carolina (for himself and Mr. ROHRABACHER):

H. Res. 1183. A resolution amending the Rules of the House of Representatives to observe a moment of silence in the House on the first legislative day of each month for those killed or wounded in United States engagements in Iraq or Afghanistan; to the Committee on Rules.

By Mr. KING of New York:

H. Res. 1184. A resolution supporting the goals and ideals of the Knights of Pythias; to the Committee on Oversight and Government Reform.

By Mr. MCDERMOTT (for himself and Mr. PORTER):

H. Res. 1185. A resolution expressing the sense of the House of Representatives that Congress should recognize the important contributions of Americans who serve as foster parents and, in doing so, unselfishly open their homes and family lives to children in need; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H. Res. 1186. A resolution prohibiting the use of funds in a Members' Representational Allowance for the long-term lease of a vehicle; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. SMITH of New Jersey.

H.R. 241: Mr. INGLIS of South Carolina.

H.R. 552: Mr. BLUMENAUER, Mr. KILDEE, and Mr. BACHUS.

H.R. 594: Mr. PLATTS.

H.R. 741: Mrs. CAPPS.

H.R. 752: Mr. BLUMENAUER.

H.R. 768: Mr. GARRETT of New Jersey.

H.R. 784: Mr. KUHL of New York.

H.R. 864: Mr. COHEN.

H.R. 1022: Mr. PATRICK MURPHY of Pennsylvania.

H.R. 1023: Ms. MCCOLLUM of Minnesota and Mr. JEFFERSON.

H.R. 1032: Ms. BORDALLO, Ms. HIRONO, Mr. NADLER, and Mr. TOWNS.

H.R. 1093: Mr. GINGREY.

H.R. 1142: Ms. HIRONO and Mr. NADLER.

H.R. 1190: Mr. PAYNE.

H.R. 1194: Mr. ENGLISH of Pennsylvania and Mr. CARNAHAN.

H.R. 1222: Mr. SHULER.

H.R. 1223: Mr. SHULER.

H.R. 1343: Mr. HULSHOF.

H.R. 1353: Mr. BAIRD.

H.R. 1363: Mr. ANDREWS.

H.R. 1379: Mr. STARK.

H.R. 1386: Mr. RUSH.

H.R. 1540: Mr. LOEBSACK.

H.R. 1552: Mr. INSLEE, Mr. KENNEDY, Mr. DAVIS of Illinois, Mr. LOEBSACK, and Ms. NORTON.

H.R. 1576: Mr. KNOLLENBERG.

H.R. 1610: Ms. CASTOR, Mr. ARCURI, Mr. MCCARTHY of California, and Mr. OBERSTAR.

H.R. 1738: Mr. PLATTS.

H.R. 1869: Mr. POE.

H.R. 1919: Mr. RYAN of Ohio and Mr. WATT.

H.R. 2050: Mr. CARSON.

H.R. 2073: Mr. FATTAH.

H.R. 2125: Ms. MOORE of Wisconsin.

H.R. 2164: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2165: Mr. ROTHMAN.

H.R. 2188: Mr. MEEKS of New York, Ms. NORTON, Ms. CLARKE, and Mr. GORDON.

H.R. 2221: Mr. ISRAEL and Mr. BISHOP of New York.

H.R. 2231: Mr. BONNER.

H.R. 2244: Mr. VAN HOLLEN.

H.R. 2268: Mr. KUCINICH, Mr. AL GREEN of Texas, Mrs. LOWEY, Mrs. DAVIS of California, Ms. ROYBAL-ALLARD Mr. FILNER, Mr. YOUNG of Alaska, Mr. LEWIS of California, Mr. COOPER, Mr. CONAWAY, Mr. FALSOMAVAEGA, Mr. BISHOP of New York, Mr. COLE of Oklahoma, Mr. HOLT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY, Mr. LAMBORN, Mr. POE, Mr. SHULER, Mr. SPACE, Mr. ROHRABACHER, Mr. MCINTYRE, and Mr. HINOJOSA.

H.R. 2303: Mr. HALL of Texas, Mr. REYNOLDS, and Mrs. MILLER of Michigan.

H.R. 2332: Mr. TIAHRT, Mr. KLEIN of Florida, Mrs. MUSGRAVE, Mrs. MILLER of Michigan, Mr. HELLER, Mr. SAM JOHNSON of Texas, and Mr. RAMSTAD.

H.R. 2370: Mr. HINCHEY and Mr. WALBERG.

H.R. 2371: Mr. SIMPSON, Mr. GENE GREEN of Texas, and Mr. INSLEE.

H.R. 2380: Mr. SALI.

H.R. 2481: Mr. PLATTS.

H. R. 2485: Ms. SPEIER.

H. R. 2507: Mr. GERLACH.

H. R. 2572: Mr. CUMMINGS.

H.R. 2659: Mr. KAGEN.

H.R. 2784: Mr. DREIER.

H.R. 2827: Mr. POE.

H.R. 2851: Mr. MURTHA, Mr. GINGREY, and Mr. CONYERS.

H.R. 2897: Mr. BLUMENAUER.

H.R. 2914: Mr. WALBERG, Ms. BERKLEY, and Mr. BRALEY of Iowa.

H.R. 2933: Mr. ARCURI.

H.R. 2991: Mr. CONYERS, Mr. WILSON of Ohio, Mr. SHULER, Mr. RAMSTAD, and Mr. PENCE.

H.R. 3021: Ms. LORETTA SANCHEZ of California, Ms. LEE, Mr. MCNERNEY, Mr. CUMMINGS, Mr. WALZ of Minnesota, Mr. SCOTT of Georgia, Ms. TSONGAS, Mr. FORTUÑO, Mr. WYNN, Ms. WASSERMAN SCHULTZ, Mr. LANGEVIN, Mr. BOYD of Florida, and Mr. WILSON of Ohio.

H.R. 3022: Ms. LEE and Mr. TOWNS.

H.R. 3089: Mr. GINGREY and Mr. WOLF.
H.R. 3151: Mr. YOUNG of Alaska and Mr. BILBRAY.
H.R. 3202: Mr. FALEOMAVAEGA.
H.R. 3232: Mr. PAYNE, Mr. Foster, and Mr. KUHL of New York.
H.R. 3326: Mr. BLUMENAUER and Mr. FATTAH.
H.R. 3334: Mr. ALEXANDER, Mr. DICKS, Mr. SCOTT of Virginia, and Mr. WALBERG.
H.R. 3374: Mr. BOUCHER.
H. R. 3397: Ms. WATERS, Ms. WATSON, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WATT, Mr. BUTTERFIELD, Mr. JACKSON of Illinois, Mr. CLAY, Mr. MEEKS of New York, Mr. DAVIS of Illinois, Mr. THOMPSON of Mississippi, Mr. CARSON, Mr. BRALEY of Iowa, Ms. LINDA T. SÁNCHEZ of California, Mr. CRAMER, Mr. HALL of New York, Mr. ANDREWS, Mr. BAIRD, Mr. PRICE of North Carolina, and Ms. WOOLSEY.
H.R. 3404: Mr. SARBANES.
H.R. 3430: Mr. SHAYS.
H.R. 3533: Mr. FATTAH.
H.R. 3544: Ms. ESHOO.
H.R. 3622: Mr. REHBERG.
H.R. 3642: Mr. WU
H.R. 3652: Ms. SCHAKOWSKY.
H.R. 3750: Mr. FATTAH.
H.R. 3765: Mr. ABERCROMBIE.
H.R. 3817: Mr. SPACE.
H.R. 3818: Mr. CAMP of Michigan.
H.R. 3822: Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 4008: Mr. MCNERNEY.
H.R. 4026: Mr. THOMPSON of Mississippi and Mr. GRIJALVA.
H.R. 4061: Mr. CARNAHAN.
H.R. 4102: Mr. CONYERS.
H.R. 4109: Mr. MCDERMOTT.
H.R. 4138: Mr. FILNER.
H.R. 4173: Mr. ELLISON, Mr. RUPPERSBERGER, and Mr. BLUMENAUER.
H.R. 4188: Mr. GRIJALVA.
H.R. 4204: Mr. MITCHELL, Mr. CONYERS, and Mr. BLUMENAUER.
H.R. 4206: Mr. OLVER.
H.R. 4236: Mr. MCNERNEY, and Mr. UDALL of Colorado.
H.R. 4321: Mr. BOSWELL, Mr. MARKEY, Mr. SHAYS, and Mr. FEENEY.
H.R. 4344: Mr. SHAYS.
H.R. 4449: Ms. ROS-LEHTINEN.
H.R. 4453: Mr. DAVIS of Illinois.
H.R. 4900: Mr. MARIO DIAZ-BALART of Florida, Mr. BARTON of Texas, Mr. GORDON, Mr. RYAN of Wisconsin, and Mr. CHANDLER.
H.R. 4926: Mr. MARSHALL, Ms. SCHAKOWSKY, Mr. PERLMUTTER, Ms. SHEA-PORTER, Ms. LEE, Mr. REGULA, and Mr. ELLISON.
H.R. 5129: Mr. LOEBSACK.
H.R. 5136: Mrs. MALONEY of New York.
H.R. 5174: Mr. MARKEY.
H.R. 5180: Mrs. CAPPS.
H.R. 5223: Ms. HIRONO and Mr. BLUMENAUER.
H.R. 5244: Ms. GIFFORDS and Mr. WATT.
H.R. 5315: Mr. MICHAUD.
H.R. 5352: Mr. EMANUEL.
H.R. 5442: Mr. BLUMENAUER.
H.R. 5446: Mr. YARMUTH.
H.R. 5448: Ms. HIRONO and Mr. STARK.
H.R. 5465: Mr. WU and Mr. WALZ of Minnesota.
H.R. 5466: Mrs. JONES of Ohio.
H.R. 5496: Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 5506: Mr. FERGUSON, Mr. GARRETT of New Jersey, Mr. SAXTON, Mr. ANDREWS, Mr. SMITH of New Jersey, Mr. PALLONE, Mr. ROTHMAN, Mr. PAYNE, Mr. FRELINGHUYSEN, and Mr. HOLT.
H.R. 5515: Mr. ALEXANDER.
H.R. 5534: Mr. PLATTS and Ms. BALDWIN.
H.R. 5535: Mr. BOSWELL, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. CAPUANO, Mr. MORAN of Virginia, and Mr. KENNEDY.
H.R. 5547: Mr. COURTNEY and Mr. WELCH of Vermont.
H.R. 5549: Mr. TOWNS.
H.R. 5568: Mr. BILBRAY.
H.R. 5603: Mr. SIMPSON.
H. R. 5604: Mr. SNYDER.
H.R. 5629: Ms. LORETTA SANCHEZ of California.
H.R. 5632: Mr. TERRY and Mr. MARKEY.
H.R. 5636: Mr. GRIJALVA.
H.R. 5646: Mr. HELLER and Mr. WHITFIELD of Kentucky.
H.R. 5647: Mr. ALEXANDER.
H.R. 5656: Mrs. MCMORRIS RODGERS.
H.R. 5669: Mr. CHANDLER, Mr. NADLER, and Mr. RUSH.
H.R. 5673: Mrs. BONO MACK.
H.R. 5684: Mr. BROWN of South Carolina, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 5695: Mr. YOUNG of Alaska.
H.R. 5699: Mr. CULBERSON.
H.R. 5702: Mr. LEWIS of Georgia and Mr. KIND.
H.R. 5714: Mr. HENSARLING, Mr. FARR, Mr. CARNAHAN, Mrs. MCCARTHY of New York, Ms. MCCOLLUM of Minnesota, Mr. MITCHELL, Mr. WESTMORELAND, Mr. SCOTT of Georgia, Mr. DOGGETT, Mr. DELAHUNT, and Mr. BISHOP of Utah.
H.R. 5716: Ms. CORRINE BROWN of Florida and Mr. ABERCROMBIE.
H.R. 5721: Mr. SNYDER.
H.R. 5731: Mr. BILBRAY and Mr. CALVERT.
H.R. 5737: Mr. KUHL of New York and Ms. FALLIN.
H.R. 5740: Mr. WHITFIELD of Kentucky, Mr. BROWN of South Carolina, Mr. CUMMINGS, and Mr. RAHALL.
H.R. 5774: Mr. BERMAN, Ms. ZOE LOFGREN of California, and Mr. HONDA.
H.R. 5788: Mrs. TAUSCHER and Mr. FARR.
H.R. 5793: Mr. ISSA, Mr. GERLACH, Mr. GENE GREEN of Texas, Mr. PLATTS, and Mr. SESSIONS.
H.R. 5802: Mr. FATTAH, Mr. MEEK of Florida, and Mr. BRADY of Pennsylvania.
H.R. 5825: Mr. GARRETT of New Jersey.
H.R. 5831: Mr. TAYLOR.
H.R. 5833: Mr. FARR.
H.R. 5841: Mr. GONZALEZ and Mr. CARNAHAN.
H.R. 5846: Mr. CARTER.
H.R. 5854: Ms. GINNY BROWN-WAITE of Florida.
H.R. 5857: Mr. FRELINGHUYSEN.
H.R. 5878: Mr. GRIJALVA.
H.R. 5881: Mr. STARK.
H.R. 5886: Mr. KING of New York.
H.R. 5898: Mr. ALTMIRE, Mrs. BONO MACK, Mr. SHAYS, and Mr. WHITFIELD of Kentucky.
H.R. 5907: Mr. DENT.
H.R. 5944: Ms. GRANGER, Mr. LEWIS of California, and Mr. SOUDER.
H.R. 5958: Mr. AL GREEN of Texas.
H.R. 5960: Mr. WOLF.
H.R. 5971: Mr. GINGREY, Mr. SOUDER, Mr. PLATTS, Mr. LATTA, Mr. HERGER, and Mr. BILBRAY.
H.R. 5974: Mr. BONNER, Mr. FRELINGHUYSEN, and Mr. DANIEL E. LUNGREN of California.
H.R. 5976: Mr. WALSH of New York, Mr. HINCHEY, and Ms. SUTTON.
H.R. 5977: Mr. HOLDEN.
H.R. 5983: Ms. JACKSON-LEE of Texas.
H.R. 5984: Mr. SOUDER, Mr. FORBES, and Mr. SHADEGG.
H.J. Res. 1: Mr. BROUN of Georgia.
H.J. Res. 7: Mr. BROUN of Georgia.
H.J. Res. 39: Mr. FOSTER.
H. Con. Res. 2: Mr. MCGOVERN, Mr. CROWLEY, Mr. NADLER, Mr. MEEK of Florida, Ms. HARMAN, Mr. INSLEE, Mrs. MCCARTHY of New York, Mr. CLAY, Ms. CLARKE, Mr. TOWNS, Mr. THOMPSON of Mississippi, Mr. JOHNSON of Georgia, Mr. CLYBURN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON of Illinois, Mr. WATT, Mr. SCOTT of Virginia, Mr. HOLT, Ms. KILPATRICK, Mr. CARSON, Ms. MOORE of Wisconsin, Ms. WATSON, Mr. ELLISON, Mr. CUMMINGS, Mr. CLEAVER, Mr. BISHOP of Georgia, Ms. NORTON, Mrs. NAPOLITANO, Mr. GRIJALVA, Mr. KIND, Mr. KILDEE, Mr. MARKEY, Mr. BISHOP of Utah, and Mr. RAHALL.
H. Con. Res. 40: Mr. PETERSON of Pennsylvania and Mr. SALI.
H. Con. Res. 46: Mr. FILNER.
H. Con. Res. 244: Mr. MARIO DIAZ-BALART of Florida, Mr. REYNOLDS, and Mr. OLVER.
H. Con. Res. 296: Mr. SMITH of New Jersey, Mr. FORBES, Mr. HAYES, Mr. BILIRAKIS, Mr. MORAN of Kansas, Mr. AKIN, and Mr. PEARCE.
H. Con. Res. 299: Mr. TANNER and Mr. PORTER.
H. Con. Res. 305: Ms. MCCOLLUM of Minnesota, Mr. FRANK of Massachusetts, and Mr. PASTOR.
H. CON. RES. 331: MS. EDDIE BERNICE JOHNSON OF TEXAS AND MS. GINNY BROWN-WAITE OF FLORIDA.
H. Con. Res. 336: Mr. LIPINSKI, Mr. DONNELLY, Ms. MATSUI, Mr. LOBIONDO, Mr. ENGEL, Mr. PETERSON of Minnesota, Mr. ROSS, Ms. SCHWARTZ, Mr. MICHAUD, Mr. PATRICK MURPHY of Pennsylvania, Mr. BRALEY of Iowa, and Mr. UDALL of Colorado.
H. Con. Res. 337: Mrs. LOWEY.
H. Con. Res. 338: Mrs. JONES of Ohio.
H. Res. 111: Ms. TSONGAS.
H. Res. 282: Mr. MARSHALL.
H. Res. 353: Mr. ALTMIRE.
H. Res. 373: Mr. HONDA.
H. Res. 415: Mrs. TAUSCHER and Mr. ORTIZ.
H. Res. 653: Mr. CONYERS.
H. Res. 795: Mr. WOLF.
H. Res. 896: Mr. ALLEN, Mr. ANDREWS, Mr. ARCURI, Mr. BAIRD, Ms. BEAN, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BOREN, Mr. BOSWELL, Ms. CORRINE BROWN of Florida, Ms. CLARKE, Mr. CLEAVER, Mr. CLYBURN, Mr. CONYERS, Mr. COOPER, Mr. COSTA, Mr. CRAMER, Mr. CROWLEY, Mr. CUELLAR, Mr. DAVIS of Alabama, Ms. DEGETTE, Ms. DELAURO, Mr. DICKS, Mr. DONNELLY, Mr. DOYLE, Mr. EMANUEL, Mr. FRANK of Massachusetts, Mr. LARSON of Connecticut, Mr. MEEKS of New York, Mr. RODRIGUEZ, Mr. ROTHMAN, Mr. SALAZAR, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. BOYD of Florida, Mrs. BOYDA of Kansas, Mr. CUMMINGS, Mr. ELLSWORTH, Mr. FILNER, Mr. HALL of New York, Ms. HERSETH SANDLIN, Mr. KAGEN, Mr. MURTHA, Mr. OBEY, Mr. PERLMUTTER, Mr. SHERMAN, Mr. SHULER, Mr. SNYDER, Mr. TIERNEY, Ms. VELÁZQUEZ, Mr. WALZ of Minnesota, and Mr. SHIMKUS.
H. Res. 937: Mr. INGLIS of South Carolina, Mr. SMITH of New Jersey, Mr. DELAHUNT, Mr. TANCREDO, Mr. WILSON of South Carolina, Mr. BARRETT of South Carolina, and Mr. LOBIONDO.
H. Res. 970: Mr. DUNCAN, Mr. MCCOTTER, and Mr. HINOJOSA.
H. Res. 977: Mr. RAHALL, Mr. CARNEY, Mrs. DAVIS of California, Mr. DONNELLY, Ms. KILPATRICK, and Mr. MCNERNEY.
H. Res. 1012: Mr. LOEBSACK.
H. Res. 1022: Mrs. CUBIN, Mrs. SCHMIDT, Mrs. DRAKE, Mr. LAHOOD, Ms. SPEIER, Mrs. BLACKBURN, Mrs. MILLER of Michigan, Mrs. MUSGRAVE, Mr. SENSENBRENNER, Mr. DREIER, Ms. FOXX, Ms. BEAN, and Mr. MEEKS of New York.
H. Res. 1037: Mr. WOLF.
H. Res. 1089: Mr. LAMPSON.
H. Res. 1105: Mr. GRIJALVA.
H. Res. 1110: Mrs. WILSON of New Mexico.
H. Res. 1120: Mr. MATHESON.
H. Res. 1122: Mr. BARRETT of South Carolina and Mr. SIMPSON.
H. Res. 1124: Mr. FERGUSON.
H. Res. 1132: Mr. DONNELLY.
H. Res. 1134: Ms. SLAUGHTER, Mr. GERLACH, Ms. HERSETH SANDLIN, Mr. MCNERNEY, Mr. BISHOP of New York, Mr. LUCAS, Mr. DOOLITTLE, Mr. MCKEON, Mrs. MUSGRAVE, Ms. GRANGER, Mr. FRELINGHUYSEN, Mr. PETRI,

Mr. FEENEY, Mr. WALBERG, Mrs. MCMORRIS RODGERS, Mr. FORBES, Mr. LAMBORN, Mr. COBLE, Mr. GARY G. MILLER of California, Mr. DENT, and Mr. ENGLISH of Pennsylvania.

H. Res. 1135: Mr. WESTMORELAND and Mr. GINGREY.

H. Res. 1142: Mr. CRAMER.

H. Res. 1143: Mr. SHUSTER, Mr. WALSH of New York, and Mr. ARCURI.

H. Res. 1144: Mr. TIBERI, Mr. LEWIS of California, and Mr. SIMPSON.

H. Res. 1160: Mr. GERLACH.

H. Res. 1165: Mr. SENSENBRENNER, Mr. ALTMIRE, Mr. MARKEY, and Mr. JONES of North Carolina.

H. Res. 1179: Mr. TERRY, Mr. WELDON of Florida, Mr. SHULER, and Mr. LEWIS of Kentucky.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. MILLER OF FLORIDA

Bill Number: H.R. 5856.

Provision: Section 5.

Description of Request: Authorizes the Secretary of Veterans Affairs to carry out a major medical facility project to construct a new medical facility of the Department of Veterans Affairs in Okaloosa County, Florida, in an amount not to exceed $54,475,000. The facility authorized is to be constructed pursuant to option 2 of the report to Congress dated June 26, 2007, required to be submitted under section 823 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109–461; 120 Stat. 3449). This request is intended to provide Department of Veterans Affairs patients in and around Okaloosa County, Florida, the ability to more accessibly receive inpatient care through an agreement between the Department of Veterans Affairs and the Department of Defense.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Member added his name to the following discharge petition:

Petition 5, by Mrs. DRAKE on House Bill 4088: Mark E. Souder.