S. 1642

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1642, a bill to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1654

At the request of Mr. STEVENS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1654, a bill to ratify the authority of the Federal Trade Commission to establish a do-not-call registry.

S. CON. RES. 21

At the request of Mr. BUNNING, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Con. Res. 21, a concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 222

At the request of Mr. BIDEN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 222, a resolution designating October 17, 2003 as ''National Mammography Day''.

AMENDMENT NO. 1786

At the request of Mr. PRYOR, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Minnesota (Mr. DAYTON), the Senator from Michigan (Mr. LEVIN), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 1786 intended to be proposed to H.R. 2765, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 1656. A bill to address regulation of secondary mortgage market enterprises, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I rise to introduce The Federal Housing Enterprise Oversight Modernization Act of 2003, legislation to establish a new, world-class regulator for our housing Government Sponsored Enterprises (GSEs)—Fannie Mae and Freddie Mac—as an agency within the Department of Treasury.

There is no doubt that housing finance is essential to our economy and has been one of our Nation's few economic bright spots in recent years. Given its critical role, and the size and complex financial structures of the GSE's, which account for billions of mortgage-finance dollars, we need a credible, world-class regulator that can provide effective oversight.

Regrettably, the current system of GSE supervision fails to meet that standard.

This legislation has four primary objectives: establishing a new, independent regulator that is credible and capable; ensuring safe and sound capital; promoting market discipline and transparency through enhanced disclosures; and providing an incremental approach to ultimately consolidating supervision of the Federal Home Loan Banks under the regulatory framework contained in this legislation.

The proposal also recognizes the importance of the GSEs' underlying housing mission and leaves responsibility for establishing the GSEs annual housing goals and overseeing their compliance with fair housing laws with the Department of Housing and Urban Development (HUD).

The legislation would create a new agency, the Office of Federal Housing Enterprise Supervision (OFHES), as a bureau within the Department of the Treasury, with a structure similar to that of the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS).

The agency would have general regulatory, supervisory and enforcement authority with respect to the enterprises, be independent of Treasury with regard to its comments and congressional testimony, and have a director, appointed for a five-year term, who would be given a seat on the Federal Financial Institutions Examination Council (FFIEC). To ensure that the enterprises' activities remain consistent with the scope of their charter, the agency would be authorized to approve all new enterprise programs, but in close consultation with HUD.

Additionally, the agency would be given broad new authority to hire experienced personnel, a significant portion of whom will be designated specifically to carry out examinations and supervisory activities, to make certain that the agency can fulfill its safety and soundness responsibilities.

Central to that oversight function is ensuring that the enterprises maintain safe and sound capital through vigorous, continuous monitoring. The legislation therefore requires the new agency to ensure that the enterprises remain in continuous compliance with their statutorily prescribed minimum capital holding requirements.

By ensuring that the GSEs maintain adequate capital, we will mitigate the risks to the enterprises, and our financial markets, from unforeseen shocks that can, and do, occasionally occur in our financial markets. To accomplish this, the legislation takes a multi-pronged approach to the issue of risk-based capital.

First, the legislation requires the new agency to continually monitor the risk-based capital held by the enterprises, but it also provides the new agency's director with the flexibility to adjust the risk-based capital level of the enterprises in order to ensure their safe and sound financial operation.

The legislation also authorizes the new agency to conduct a comprehensive review of the enterprises' risk-based capital rule every five years. Part of the review would include a report to Congress entailing what, if any, proposed changes the new agency believes are needed to the risk-based capital rule to better align the capital held by the enterprises with risk, and reflect evolving best practices for risk-based capital standards for large, complex financial institutions. However, on a continual basis the Director would have the authority to adjust elements to the enterprises' stress test other than those specifically prescribed in the risk-based rule.

With regard to the GSE non-mortgage related investments, this legislation affirms the notion that those investments should be of the highest quality and within the scope of the enterprises' respective charters. It does so by requiring the new agency to continuously monitor the appropriateness of the investments in the liquid and non-liquid portfolios of the GSEs and by certifying that the liquidity management practices of the enterprises coinform with recommendations contained in the ''Sound Practices for Managing Liquidity in Banking Organizations'' established by the Basel Committee.

The capital and liquidity management provisions of this legislation are balanced. They ensure that the enterprises maintain appropriate minimum capital and are adequately capitalized relative to their risks. They also empower the new agency to take appropriate action if enterprises become undercapitalized, and promote sound liquidity management practices. At the same time, the bill is not so overly prescriptive that it would undermine the

essential liquidity the enterprises' provide, which has enabled America's housing markets to become the envy of the world.

The third element of this bill that should dramatically improve the GSE's regulatory framework promotes transparency through enhanced disclosures requirements.

This legislation statutorily requires Fannie Mae, Freddie Mac and the Federal Home Loan Banks to disclose a variety of information that will provide the public, investors, and Congress with a better understanding of the underlying financial health of our housing enterprises.

First, the legislation requires the GSEs to register their equities under the Securities Exchange Act of 1934, and to comply with SEC disclosure and reporting requirements contained under sections 12 (Registration Requirements for Securities), 14 (Proxy Voting Information) and 16 (Insider Sales) of the 1934 Act.

These disclosures are consistent with the highest standards of corporate governance and disclosure required of other public companies and in my mind there is no reason why the GSEs should not be required to do so as well.

Second, this legislation would require Fannie Mae and Freddie Mac to disclose information regarding their interest rate and credit risks. Specifically, each enterprise would regularly report the impact on their mortgage portfolios of a 50 basis point change in interest rates and a 25 basis point change in the slope of the yield curve. They would also be required to disclose, on a quarterly basis, the financial impact on each enterprise of an immediate 5 percent decline in U.S. home prices.

Additionally, the bill requires the GSEs to acquire credit ratings from an SEC-recognized credit rating agency to provide an assessment of the risk to the government and independent financial health of each enterprise. This ''stand-along'' rating would be derived from the underlying credit quality of each enterprise and assume no direct support from the Federal Government.

These disclosures will ensure that the standards of financial disclosure of the GSEs are in line with the rest of corporate America, making the enterprises subject to public scrutiny and market disciplinary forces.

Finally, the bill takes an incremental approach towards incorporating oversight of the Federal Home Loan Banks into the new regulatory framework created under this bill.

The bill requires Treasury, in consultation with HUD, to issue a report to Congress no later than six months after the date of the bill's enactment on the appropriate manner upon which to consolidate the responsibilities of the Federal Housing Finance Board, and oversight of the Federal Home Loan Banks (FHLBs), into the regulatory framework contained under this bill.

And as I mentioned earlier, the FHLBs would be required to immediately comply with financial disclosure and reporting requirements under the 1934 act in a manner similar to those required of Fannie Mae and Freddie Mac under this bill.

Lastly, the legislation would authorize the Secretary of the Treasury to designate an individual to serve as one of the five Federal Housing Finance Board members. This authority, transferred from HUD, would immediately involve Treasury in the regulatory rubric of the FHFB and ease the transition of the consolidation of the FHFBs regulatory responsibilities into this new agency.

In conclusion, the reforms contained in this proposal are very important. They would establish a new regulatory framework that promotes sound and safe financial operations at the GSEs. They would promote stability in our capital markets by providing investors with better information about the financial health of the enterprises. They would affirm the GSEs' critical role in our nation's housing market. And they would protect investors and taxpayers, while preserving the opportunity of millions of families to pursue the American dream of homeownership.

I urge my colleagues to support this, important legislation.

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

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

S. 1656

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Housing Enterprise Oversight Modernization Act of 2003''.

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

TITLE I—REFORM OF REGULATION OF FANNIE MAE AND FREDDIE MAC

Subtitle A—Improvement of Supervision

SEC. 101. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE SUPERVISION IN THE DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1311 and 1312 and inserting the following:

''SEC. 1311. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE SUPERVISION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the Office of Federal Housing Enterprise Supervision, which shall be an office in the Department of the Treasury.

''(2) AUTHORITY.—The Office shall succeed to the authority of the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the general regulatory and any other authority of the Secretary of Housing and Urban Development with respect to the enterprises (except as specifically provided otherwise in this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any other provision of Federal law).

''(b) PROHIBITION OF MERGER OF OFFICE.—Notwithstanding any other provision of law, the Secretary of the Treasury may not merge or consolidate the Office, or any of the functions or responsibilities of the Office, with any function or program administered by the Secretary.

''(c) SAVINGS PROVISION.—The authority of the Director to take actions under subtitles B and C does not in any way limit the general supervisory and regulatory authority granted to the Director under subsection (a).

''SEC. 1312. DIRECTOR.

''(a) ESTABLISHMENT OF POSITION.—There is established the position of the Director of the Office of Federal Housing Enterprise Supervision, who shall be the head of the Office.

''(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.

''(2) TERM.—The Director shall be appointed for a term of 5 years.

''(3) VACANCY.—

''(A) IN GENERAL.—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).

''(B) TERM.—The Director appointed to fill a vacancy under subparagraph (A) shall be appointed only for the remainder of such term.

''(4) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which the individual was 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 on the date of enactment of the Federal Housing Enterprise Oversight Modernization Act of 2003, shall serve as the Director until not later than 1 year after the date of enactment of that Act.

''(c) PROHIBITION ON FINANCIAL INTERESTS.—The Director shall not have a direct or indirect financial interest in any enterprise, nor hold any office, position, or employment in any enterprise.''.

(b) APPOINTMENT OF DIRECTOR.—Notwithstanding the effective date under section 162, or any other provision of law, the President may, at any time after the date of enactment of this Act, appoint an individual to serve as the Director of the Office of Federal Housing Enterprise Supervision, as established under this Act, in accordance with section 1312 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by subsection (a) of this section.

SEC. 102. DUTIES AND AUTHORITIES OF DIRECTOR AND HUD.

(a) IN GENERAL.—Section 1313 of the Housing and Community Development Act of 1992 (12 U.S.C. 4513) is amended to read as follows:

''SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.

''(a) DUTIES.—

''(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be to ensure that the enterprises—

''(A) operate in a financially safe and sound manner;

''(B) carry out their missions in a financially safe and sound manner, and only through activities that have been authorized under, and are consistent with the purposes of, the provisions of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), and the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), as applicable; and

''(C) remain adequately capitalized.

''(2) OTHER DUTIES.—To the extent consistent with paragraph (1), the Director shall be exercise general supervisory and regulatory authority over the enterprises, in accordance with this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and any other applicable provision of law.

''(b) AUTHORITY EXCLUSIVE OF SECRETARY.—Except as specifically provided under this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any other provision of Federal law, the authority of the Director with respect to the enterprises shall not be subject to the review, approval, or intervention of the Secretary of the Treasury.

''(c) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office any of the functions, powers, and duties of the Director, with respect to supervision and regulation of the enterprises, as the Director considers appropriate.''.

(b) PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.—Part 1 of Subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by adding at the end the following:

''SEC. 1319H. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS.

''(a) IN GENERAL.—The Director, in consultation with the Secretary of Housing and Urban Development, shall require each enterprise to obtain the approval of the Director, in the manner prescribed by regulation of the Director, for any new program of the enterprise before implementing the program.

''(b) STANDARD FOR APPROVAL.—The Director shall approve any new program of an enterprise for purposes of subsection (a), unless—

''(1) in the case of a new program of the Federal National Mortgage Association, the Director determines that the program is not authorized under section 304 or paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b));

''(2) in the case of a new program of the Federal Home Loan Mortgage Corporation, the Director determines that the program is not authorized under paragraph (1), (4), or (5) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.); or

''(3) the Director determines that the new program is inconsistent with or undermines the safe and sound operation of the enterprise, consistent with section 1313(a)(1).

''(c) PROCEDURE FOR APPROVAL.—

''(1) SUBMISSION OF REQUEST.—An enterprise shall submit to the Director a written request for approval of a new program under this section that describes the program in such form as prescribed by regulation of the Director.

''(2) RESPONSE.—

''(A) IN GENERAL.—Not later than 45 days after the date of submission of a request for approval under paragraph (1), the Director shall—

''(i) approve the request; or

''(ii) deny the request and submit a report explaining the reasons for the denial to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

''(B) EXTENSION.—The Director may extend the time period under subparagraph (A) for a single additional 15-day period only if the Director requests additional information from the enterprise.

''(3) FAILURE TO RESPOND.—If the Director fails to approve a request for approval under this section, or fails to submit a report under paragraph (2)(A)(ii) during the period provided, the request shall be considered to have been approved by the Director.

''(4) REVIEW OF DISAPPROVAL.—

''(A) SUBMISSION OF NEW INFORMATION.—If the Director submits a report under paragraph (2)(A)(ii) denying a request for reasons listed under paragraph (1) or (2) of subsection (b), the Director shall provide the enterprise submitting the request with a timely opportunity to review and supplement the administrative record.

''(B) NEW PROGRAMS NOT IN THE PUBLIC INTEREST.—If the Director submits a report under paragraph (2)(A)(ii) denying a request after finding that the program is inconsistent with or undermines the safe and sound operation of the enterprise, as described in subsection (b)(3), the Director shall provide the enterprise with notice and opportunity for a hearing on the record regarding such denial.''.

(c) REPEAL OF HUD AUTHORITY.—Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1321 and 1322.

(d) AUTHORITY OF HUD FOR HOUSING GOALS.—

(1) IN GENERAL.—Section 1331 of the Housing and Community Development Act of 1992 (12 U.S.C. 4561) is amended—

(A) in the first sentence of subsection (a), by inserting ''of Housing and Urban Development'' after ''The Secretary''; and

(B) by adding at the end the following:

''(d) DEFINITION.—For purposes of this part, the term 'Secretary' means the Secretary of Housing and Urban Development.''.

(2) ANNUAL REPORT ON HOUSING GOALS.—Section 1324 of the Housing and Community Development Act of 1992 (12 U.S.C. 4544) is amended by inserting ''of Housing and Urban Development'' after ''Secretary'' each place such term appears.

(e) TECHNICAL AND 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 by striking ''Secretary under section 1322'' and inserting ''Director under section 1319H''.

(2) FREDDIE MAC.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is amended by striking ''Secretary under section 1322'' and inserting ''Director under section 1319H''.

(3) FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.—Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(A) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(B) by adding at the end the following:

''(6) the Director of the Office of Federal Housing Enterprise Supervision.''.

SEC. 103. 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 the second sentence of subsection (c), by striking ''The'' and inserting ''During the 3-year period beginning on the date of enactment of the Federal Housing Enterprise Oversight Modernization Act of 2003, the''; and

(2) in subsection (d), by striking ''Federal Reserve banks'' and inserting ''Director of the Office of Thrift Supervision''.

(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:

''(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, AND EXAMINERS.—

''(1) APPLICABILITY.—This section applies with respect to any position of examiner, accountant, and economist at the Office, with respect to supervision and regulation of the enterprises, that is in the competitive service.

''(2) APPOINTMENT AUTHORITY.—

''(A) IN GENERAL.—The Director may appoint candidates to any position described in paragraph (1)—

''(i) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

''(ii) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.

''(B) RULE OF CONSTRUCTION.—The appointment of a candidate to a position under this paragraph shall not be considered to cause such position to be converted from the competitive service to the excepted service.

''(3) REPORTS.—

''(A) IN GENERAL.—Not later than 90 days after the end of fiscal year 2003 (for fiscal year 2003) and 90 days after the end of fiscal year 2005 (for fiscal years 2004 and 2005), the Director shall submit a report with respect to the exercise of the authority granted to the Director by paragraph (2) during such fiscal years to the—

''(i) Committee on Government Reform and the Committee on Financial Services of the House of Representatives; and

''(ii) Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate.

''(B) CONTENTS.—The reports submitted under subparagraph (A) shall describe the changes in the hiring process authorized by paragraph (2), including relevant information related to—

''(i) the quality of candidates;

''(ii) the procedures used by the Director to select candidates through the streamlined hiring process;

''(iii) the numbers, types, and grades of employees hired under the authority;

''(iv) any benefits or shortcomings associated with the use of the authority;

''(v) the effect of the exercise of the authority on the hiring of veterans and other demographic groups;

''(vi) the way in which managers were trained in the administration of the streamlined hiring system; and

''(vii) a list of the specific functional responsibilities of Office personnel (such as examinations, supervision, regulatory oversight, and risk analysis) and the percentage of the total personnel employed within the Office that are engaged in each such activity.''.

(c) ALLOCATION OF PERSONNEL RESOURCES.—Section 1315 of the Housing and Community Development Act of 1992 (12 U.S.C. 4515), as amended by this Act, is amended by adding at the end the following:

''(f) MAINTENANCE OF ADEQUATE EXAMINATION AND SUPERVISORY PERSONNEL.—In carrying out this Act, the Director shall ensure that a significant amount of the Office resources allocated for the hiring and support of personnel are applied to personnel engaged in the examination and supervision of the enterprises.''.

SEC. 104. REGULATIONS.

Section 1319G of the Housing and Community Development Act of 1992 (12 U.S.C. 4526) is amended in subsection (c), by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services''.

SEC. 105. 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:

''(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for all reasonable costs and expenses of the Office, including—

''(1) the expenses of any examination under section 1317; and

''(2) the expenses of obtaining any review or credit assessment under section 1319.'';

(2) in subsection (b), in paragraph (2), by moving the margin 2 ems to the right;

(3) in subsection (c), by adding at the end the following: ''The Director may adjust the amounts of any semiannual assessments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by an enterprise, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under subtitles B and C for an enterprise are borne only by that enterprise.'';

(4) in subsection (f), by striking ''Any assessments collected'' and all that follows through the end of the subsection and inserting the following: ''Notwithstanding any other provision of law, any assessments collected by the Director pursuant to this section shall be deposited in the Fund in an account for the Director. Any amounts in the Fund are hereby made available, without fiscal year limitation, to the Director (to the extent of amounts in the Director's account) for carrying out the supervisory and regulatory responsibilities of the Director with respect to the enterprises, including any necessary administrative and nonadministrative expenses of the Director in carrying out the purposes of this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), and the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.).''; and

(5) in subsection (g), by striking paragraphs (1) and (2) and inserting the following:

''(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

''(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.''.

SEC. 106. INDEPENDENCE OF DIRECTOR IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS.

Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting ''the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury,'' after ''the Federal Housing Finance Board,''.

SEC. 107. NONMORTGAGE-RELATED INVESTMENTS.

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 Enterprises, Special Enforcement Powers, and Nonmortgage-Related Assets'';

and

(2) by adding at the end the following:

''SEC. 1369E. NONMORTGAGE-RELATED ASSETS.

''(a) IN GENERAL.—

''(1) LIQUIDITY PORTFOLIO.—On a quarterly basis, the Director shall review and provide written comment to each enterprise on the nonmortgage-related assets held by each enterprise in the liquidity portfolio of such enterprise. The Director shall define the term 'nonmortgage-related asset' for purposes of this section.

''(2) ASSETS OUTSIDE OF LIQUIDITY PORTFOLIO.—The Director may review and provide written comment to each enterprise on the quality and appropriateness of nonmortgage-related assets held by an enterprise outside of the liquid portfolio of such enterprise.

''(b) REPORT.—On a biennial basis, the Director shall submit a report to Congress containing information on—

''(1) any written comments provided to the enterprises under subsection (a)(1) or (2); and

''(2) whether or not each enterprise is in compliance with the Sound Practices for Managing Liquidity in Banking Organisations established by the Basel Committee, or any successor thereto.''.

SEC. 108. REPORTS.

Sections 1327 and 1328 of the Housing and Community Development Act of 1992 (12 U.S.C. 4547, 4548) are amended by striking ''Secretary'' each place it appears and inserting ''Director''.

SEC. 109. REVIEWS OF ENTERPRISES.

Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended—

(1) by striking the heading and inserting the following:

''SEC. 1319. REVIEW OF ENTERPRISES.'';

(2) by inserting after ''any entity'' the following: ''that the Director considers appropriate, including an entity'';

(3) by inserting ''(a) AUTHORITY TO PROVIDE FOR REVIEWS.—'' before ''The''; and

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

''(b) BIENNIAL DETERMINATION OF CREDIT RATING.—

''(1) IN GENERAL.—On a biennial basis, the Director shall provide for 2 entities recognized by the Division of Market Regulation of the Securities and Exchange Commission as nationally recognized statistical rating organizations, each to conduct an assessment of the financial condition of each enterprise for the purpose of determining the level of risk that the enterprise will be unable to meet its obligations, taking into consideration the legal status evidenced by the statements required under—

''(A) the penultimate sentence of section 304(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(b));

''(B) the last sentence of section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d));

''(C) the penultimate sentence of section 304(e) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(e)); and

''(D) section 306(h)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(h)(2)).

''(2) CREDIT RATING.—The assessment under paragraph (1) shall include—

''(A) assigning a credit rating for each enterprise, using a scale similar to that used by such organization with respect to obligations of other financial institutions; and

''(B) the report regarding such assessment and the rating in the report of the Director under section 1319B(a).''.

SEC. 110. RISK-BASED CAPITAL TEST FOR ENTERPRISES.

Section 1361 of the Housing and Community Development Act of 1992 (12 U.S.C. 4611) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (c) the following:

''(d) PERIODIC REVIEW OF RISK-BASED CAPITAL TEST.—

''(1) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Housing Enterprise Oversight Modernization Act of 2003, and once every 5 years thereafter, the Director shall conduct a review of the risk-based capital test adopted in accordance with this subtitle and submit a report to Congress on the findings of such review, the appropriateness of the risk-based capital test, and any legislative recommendations that would, as necessary—

''(A) better align capital with risk; and

''(B) reflect evolving best practices for risk-based capital standards for large, complex financial institutions.''

''(2) SAVINGS PROVISION.—Notwithstanding paragraph (1), the Director shall retain all authority under this section to modify the current risk-based capital rule as the Director determines.

''(e) REVIEW OF RISK-BASED CAPITAL LEVEL.—Notwithstanding any other provision of law, if the Director determines that

the risk-based capital level of an enterprise is inadequate, the Director may make such adjustments to the risk-based capital level of that enterprise as the Director determines necessary to ensure the safe and sound financial operation of that enterprise.''.

SEC. 111. MINIMUM AND CRITICAL CAPITAL LEVELS.

Section 1362(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4612) is amended to read as follows:

''(b) AUTHORITY TO ISSUE REGULATIONS.—The Director shall issue such regulations as the Director determines necessary to ensure that the enterprises comply with the requirements of subsection (a).''.

SEC. 112. REQUIRED DISCLOSURES.

(a) FANNIE MAE AND FREDDIE MAC.—Part 1 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.), as amended by this Act, is amended by adding at the end the following:

''SEC. 1319I. REGISTRATION OF STOCK AND PUBLIC DISCLOSURES.

''(a) REGISTRATION OF STOCK UNDER THE SECURITIES EXCHANGE ACT.—

''(1) IN GENERAL.—Notwithstanding its status as an exempted security for purposes of the Securities Exchange Act of 1934 pursuant to section 311 of the Federal National Mortgage Association Charter Act and section 306 of the Federal Home Loan Mortgage Corporation Act, as applicable, the common stock of each enterprise shall be subject to—

''(A) section 12(g) of the Securities Exchange Act of 1934; and

''(B) sections 14 and 16 of that Act.

''(2) REVIEW.—All reports, statements, and forms filed with the Securities and Exchange Commission under this subsection shall be reviewed and commented upon by the Commission to the same extent and with the same frequency as comparable reports and materials filed by other issuers.

''(b) CREDIT RATING.—An enterprise shall annually disclose to the public the credit rating of such enterprise.

''(c) MORTGAGE PORTFOLIO.—An enterprise shall disclose to the public, on a monthly basis, the effect on its mortgage portfolio of—

''(1) a 50 basis point change in interest rates; and

(2) a 25 basis point change in the slope of the yield curve.

''(d) CREDIT RISK DISCLOSURES.—An enterprise shall disclose to the public, on a quarterly basis, the financial impact on the enterprise of an immediate 5 percent decline in the average price of single-family housing within the United States.''.

(b) FEDERAL HOME LOAN BANKS.—Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended by adding at the end the following:

''(i) REGISTRATION AND REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Class A stock and Class B stock issued by each Federal home loan bank shall be subject to—

''(A) section 12(g) of the Securities Exchange Act of 1934; and

''(B) sections 14 and 16 of that Act.

''(2) REVIEW.—All reports, statements, and forms filed with the Securities and Exchange Commission under this subsection shall be reviewed and commented upon by the Commission to the same extent and with the same frequency as comparable reports and materials filed by other issuers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, or such later date as determined by the Securities and Exchange Commission.

SEC. 113. FEDERAL HOUSING FINANCE BOARD.

(a) APPOINTMENT OF SECRETARY OF THE TREASURY TO FHFB.—Section 2(11) of the Federal Home Loan Bank Act (12 U.S.C. 1422(11)) is amended by striking ''Secretary of Housing and Urban Development'' and inserting ''Secretary of the Treasury''.

(b) STUDY OF MERGER OF FHFB WITH OFHES.—

(1) IN GENERAL.—The Secretary of the Treasury, after consultation with the Secretary of Housing and Urban Development, shall study and report on any recommendations regarding the consolidation of the responsibilities of the Federal Housing Finance Board, including oversight of the Federal home loan banks, and the Office of Federal Housing Enterprise Supervision of the Department of the Treasury.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on—

(A) the results of the study conducted under subsection (a); and

(B) any recommendations regarding legislative or administrative changes.

SEC. 114. DEFINITIONS.

Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in each of paragraphs (5) and (14), by striking ''Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place that term appears and inserting ''Federal Housing Enterprise Supervision of the Department of the Treasury'';

(2) in paragraphs (8), (9), (10), and (19), by inserting ''of Housing and Urban Development'' after ''Secretary'' each place that term appears;

(3) by striking paragraph (15);

(4) by redesignating paragraphs (7) through (14) (as amended by this Act) as paragraphs (8) through (15), respectively; and

(5) by inserting after paragraph (6) the following:

''(7) ENTERPRISE-AFFILIATED PARTY.—The term 'enterprise-affiliated party' means—

''(A) any director, officer, employee, or controlling stockholder of, or agent for, an enterprise;

''(B) any shareholder, consultant, joint venture partner, and any other person, as determined by the Director (by regulation or case-by-case), who participates in the conduct of the affairs of an enterprise; and

''(C) any independent contractor (including any attorney, appraiser, or accountant), to the extent that such person 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,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the enterprise.''.

Subtitle B—Prompt Corrective Action

SEC. 131. CAPITAL CLASSIFICATIONS.

Section 1364 of the Housing and Community Development Act of 1992 (12 U.S.C. 4614) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) DISCRETIONARY CLASSIFICATION.—

''(1) GROUNDS FOR RECLASSIFICATION.—The Director may reclassify an enterprise under paragraph (2), if—

''(A) at any time, the Director determines in writing that an enterprise is engaging in conduct that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly;

''(B) after notice and an opportunity for hearing, the Director determines that an enterprise is in an unsafe or unsound condition; or

''(C) pursuant to section 1371(b), the Director deems an enterprise 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 an enterprise for any reason not specified in this subsection, if the Director takes any action described in paragraph (1) the Director may classify an enterprise—

''(A) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

''(B) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

''(C) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

''(d) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

''(1) IN GENERAL.—An enterprise shall make no capital distribution if, after making the distribution, the enterprise would be undercapitalized.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may permit an enterprise 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 enterprise in at least an equivalent amount; and

''(B) will reduce the financial obligations of the enterprise or otherwise improve the financial condition of the enterprise.''.

SEC. 132. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

(a) EFFECTIVE DATE FOR SUPERVISORY ACTIONS.—Regulations issued by the Director of the Office of Federal Housing Enterprise Supervision under section 1361(e) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by section 161(a)(5)(A) of this Act, shall become effective not earlier than 6 months after the date of enactment of this Act.

(b) SUPERVISORY ACTIONS.—Section 1365 of the Housing and Community Development Act of 1992 (12 U.S.C. 4615) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) the following:

''(1) REQUIRED MONITORING.—The Director shall—

''(A) closely monitor the condition of any undercapitalized enterprise;

''(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 enterprise to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.''; and

(C) by adding at the end the following:

''(4) RESTRICTION OF ASSET GROWTH.—An undercapitalized enterprise shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, unless—

''(A) the Board has accepted the capital restoration plan of the enterprise;

''(B) any increase in total assets is consistent with the plan; and

''(C) the ratio of tangible equity to assets of the enterprise increases during the calendar quarter at a rate sufficient to enable the enterprise to become adequately capitalized within a reasonable time.

''(5) PRIOR APPROVAL OF ACQUISITIONS AND ISSUANCE OF NEW PRODUCTS.—An undercapitalized enterprise shall not, directly or indirectly, acquire any interest in any entity or issue a new product, unless—

''(A) the Director has accepted the capital restoration plan of the enterprise, the enterprise 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.'';

(2) in the subsection heading for subsection (b), by striking ''FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED'';

(3) by redesignating subsection (c) (as amended by subsection (a) of this section) as subsection (d); and

(4) by inserting after subsection (b) the following:

''(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to an undercapitalized enterprise, any of the actions authorized to be taken under section 1366 with respect to a significantly undercapitalized enterprise, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.''.

SEC. 133. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.

Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended—

(1) 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, 1 or more'';

(C) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(D) by inserting after paragraph (4) the following:

''(5) IMPROVEMENT OF MANAGEMENT.—

''(A) NEW ELECTION OF BOARD.—Order a new election for the board of directors of the enterprise.

''(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS.—Require the enterprise to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the date on which the enterprise became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director's enforcement powers under section 1377.

''(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the enterprise to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director).''; and

(E) by adding at the end the following:

''(8) OTHER ACTION.—Require the enterprise to take any other action that the Director determines will better carry out the purpose of this section than any of the other actions specified in this paragraph.'';

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

''(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—An enterprise that is classified as significantly undercapitalized may not, without prior written approval by the Director—

''(A) pay any bonus to any executive officer; or

''(B) provide compensation to any executive officer at a rate exceeding the average rate of compensation of that officer (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the enterprise became classified as significantly undercapitalized.''.

Subtitle C—Enforcement Actions

SEC. 151. 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:

''(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS OF RULES OR LAWS.—

''(1) IN GENERAL.—The Director may issue and serve upon the enterprise or an enterprise-affiliated party a notice of charges under this section if—

''(A) in the opinion of the Director, an enterprise or any enterprise-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise or any enterprise-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the enterprise or is violating or has violated; or

''(B) the Director has reasonable cause to believe that the enterprise or any enterprise-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 enterprise or any written agreement entered into with the Director.

''(2) LIMITATIONS.—The Director may not enforce compliance with—

''(A) any housing goal established under subpart B of part 2 of subtitle A;

''(B) section 1336 or 1337;

''(C) subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)); or

''(D) subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)).

''(b) ISSUANCE FOR UNSATISFACTORY RATING.—If an enterprise 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 enterprise to be engaging in an unsafe or unsound practice for purposes of this subsection.''; and

(2) in subsection (c)(2), by striking ''or director'' and inserting ''director, or enterprise-affiliated party''.

SEC. 152. 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:

''(a) GROUNDS FOR ISSUANCE.—

''(1) IN GENERAL.—The Director may issue a temporary order under paragraph (2) if 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 enterprise or any enterprise-affiliated party under section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of the enterprise, or is likely to weaken the condition of the enterprise prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373.

''(2) CONTENTS OF ORDER.—Upon making a determination under paragraph (1), the Director may issue a temporary order requiring the enterprise 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 ''or director'' and inserting ''director, or enterprise-affiliated party'';

(3) in subsection (d), striking ''or director'' and inserting ''director, or enterprise-affiliated party''; and

(4) by striking subsection (e) and in inserting the following:

''(e) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued under 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 enterprise is located, for an injunction to enforce such order.

''(2) ISSUANCE OF INJUNCTION.—If the court determines that there has been a violation or threatened violation or failure to obey a temporary cease-and-desist order under paragraph (1), the court shall issue an injunction against the enterprise to enforce such order.''.

SEC. 153. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act (12 U.S.C. 4501 et seq.) is amended—

(1) by redesignating sections 1377 through 1379B (12 U.S.C. 4637–41) as sections 1379 through 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following:

''SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

''(a) AUTHORITY TO ISSUE ORDER.—

''(1) IN GENERAL.—The Director may serve upon an enterprise-affiliated 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 enterprise in any case to which paragraph (2) applies.

''(2) CRITERIA.—The Director may serve written notice under paragraph (1) whenever the Director determines that—

''(A) any enterprise-affiliated party has, directly or indirectly—

''(i) violated—

''(I) any law or regulation;

''(II) any cease-and-desist order which has become final;

''(III) any condition imposed in writing by the Director in connection with the grant of any application or other request by such enterprise; or

''(IV) any written agreement between such enterprise and the Director;

''(ii) engaged or participated in any unsafe or unsound practice in connection with any enterprise; or

''(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

''(B) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1)—

''(i) such enterprise has suffered or will probably suffer financial loss or other damage; or

''(ii) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

''(C) such violation, practice, or breach—

''(i) involves personal dishonesty on the part of such party; or

''(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such enterprise.

''(b) SUSPENSION ORDER.—

''(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) to any enterprise-affiliated party of the Director's intention to issue an order, the Director may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the enterprise, if the Director—

''(A) determines that such action is necessary for the protection of the enterprise; and

''(B) serves such party with written notice of the suspension order.

''(2) EFFECTIVE PERIOD.—Any suspension order issued under this section—

''(A) shall become effective upon service; and

''(B) unless a court issues a stay of such order under subsection (g), shall remain in effect and enforceable until—

''(i) the date on which the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

''(ii) the effective date of an order issued by the Director to such party under subsection (a).

''(3) COPY OF ORDER.—If the Director issues a suspension order under this section to any enterprise-affiliated party, the Director shall serve a copy of such order on any enterprise with which such party is affiliated at the time such order is issued.

''(c) NOTICE, HEARING, AND ORDER.—

''(1) IN GENERAL.—A notice of intention to remove an enterprise-affiliated party from office or to prohibit such party from participating in the conduct of the affairs of an enterprise shall—

''(A) contain a statement of the facts constituting grounds for such action; and

''(B) fix a time and place at which a hearing will be held on such action.

''(2) HEARING.—The Director shall hold the hearing not earlier than 30 days nor later than 60 days after the date of service of notice under paragraph (1), unless an earlier or a later date is set by the Director at the request of—

''(A) the enterprise-affiliated party, and for good cause shown; or

''(B) the Attorney General of the United States.

''(3) REMOVAL OR PROHIBITION.—

''(A) IN GENERAL.—The Director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the enterprise, if—

''(i) the enterprise-affiliated party named in the notice issued under paragraph (1) fails to appear at the hearing in person, or by a duly authorized representative; or

''(ii) the Director determines, based upon the record of the hearing, that any of the grounds for removal or prohibition specified in the notice issued under paragraph (1) have been established.

''(B) EFFECTIVE DATE OF ORDER.—Any order issued under subparagraph (A) shall become effective at 30 days after service of the order to the enterprise-affiliated party and the relevant enterprise, except in the case of an order issued upon consent, which shall become effective at the time specified therein.

''(C) TERM.—Any order issued under subparagraph (A) 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 enterprise;

''(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 enterprise;

''(3) violate any voting agreement previously approved by the Director; or

''(4) vote for a director, or serve or act as an enterprise-affiliated party.

''(e) INDUSTRY-WIDE PROHIBITION.—

''(1) IN GENERAL.—Except as provided in subparagraph (2), any person who, pursuant to an order issued under subsection (h), has been removed or suspended from office in an enterprise or prohibited from participating in the conduct of the affairs of an enterprise 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 enterprise.

''(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 enterprise-affiliated party or prohibits such party from participating in the conduct of the affairs of an enterprise, 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 enterprise described in the written consent. If the Director grants such a written consent, the Director 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 ENTERPRISE-AFFILIATED PARTY.—Not later than 10 days after any enterprise-affiliated party has been suspended from office or prohibited from participation in the conduct of the affairs of an enterprise 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 enterprise is located, for a stay of such suspension or prohibition 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 or prohibition.

''(h) SUSPENSION OR REMOVAL OF ENTERPRISE-AFFILIATED PARTY CHARGED WITH FELONY.—

''(1) SUSPENSION OR PROHIBITION.—

''(A) IN GENERAL.—Whenever any enterprise-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding 1 year under State or Federal law, the Director may, if continued service or participation by such party may pose a threat to the enterprise or impair public confidence in the enterprise, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any enterprise.

''(B) PROVISIONS APPLICABLE TO NOTICE.—

''(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the relevant enterprise.

''(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 an enterprise-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 enterprise or impair public confidence in the enterprise, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the enterprise without the prior written consent of the Director.

''(B) PROVISIONS APPLICABLE TO ORDER.—

''(i) COPY.—A copy of any order under paragraph (2)(A) shall also be served upon the relevant enterprise, whereupon the enterprise-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such enterprise.

''(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 enterprise affairs under subsection (a), (d), or (e).

''(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.—

''(A) IN GENERAL.—If at any time, because of the suspension of 1 or more directors pursuant to this section, there shall be on the board of directors of an enterprise less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

''(B) SUSPENSION OF ALL DIRECTORS.—In the event all of the directors of an enterprise 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 enterprise and their respective successors take office.

''(4) HEARING REGARDING CONTINUED PARTICIPATION.—

''(A) IN GENERAL.—Not later than 30 days after receipt of service of any notice of suspension or order of removal issued under paragraph (1) or (2), the enterprise-affiliated party 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 enterprise by such party does not, or is not likely to, pose a threat to the interests of the enterprise or threaten to impair public confidence in the enterprise.

''(B) TIMING.—Upon receipt of a request for a hearing under subparagraph (A), 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 the Director or 1 or more designated employees of the Director,

to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

''(C) NOTIFICATION OF DETERMINATION.—Not later than 60 days after the hearing under this paragraph, the Director shall notify the enterprise-affiliated party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the enterprise 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 enterprise 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.

''(D) RULES.—The Director is authorized to prescribe such rules as may be necessary to carry out the purposes of this subsection.

''(i) HEARINGS AND JUDICIAL REVIEW.—

''(1) VENUE AND PROCEDURE.—

''(A) IN GENERAL.—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 enterprise 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.

''(B) ISSUANCE OF DECISION.—After a hearing under subparagraph (A), and within 90 days after the Director has notified the parties that the case has been submitted to the court for final decision, the court 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.

''(C) MODIFICATION.—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.—

''(A) IN GENERAL.—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 enterprise or the enterprise-affiliated party concerned, or an order issued under subsection (h) of this section) by 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 enterprise 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.

''(B) FILING OF RECORD.—A copy of a petition filed under subparagraph (A) shall be 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.

''(C) JURISDICTION.—Upon the filing of a petition under subparagraph (A), the court in which it is filed 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.

''(D) REVIEW.—Review of the petition by the court 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 action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the''.

SEC. 154. 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:

''(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 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. 155. 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), in the matter preceding paragraph (1), by striking ''or any executive officer or'' and inserting ''any executive officer of an enterprise, any enterprise-affiliated party, or any'';

(2) by striking subsection (b) and inserting the following:

''(b) AMOUNT OF PENALTY.—

''(1) FIRST TIER.—Any enterprise which, or any enterprise-affiliated party who—

''(A) violates any provision of this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any order, condition, rule, or regulation under any such title or Act, except that the Director may not 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)), or with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f));

''(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 enterprise;

''(D) violates any written agreement between the enterprise and the Director; or

''(E) engages in any conduct the Director determines to be an unsafe or unsound practice,

shall forfeit and pay a civil penalty of not more than $10,000 for each day during which such violation continues.

''(2) SECOND TIER.—Notwithstanding paragraph (1)—

''(A) if an enterprise, or an enterprise-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 enterprise; 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 enterprise; or

''(iii) results in pecuniary gain or other benefit to such party,

the enterprise or enterprise-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 enterprise which, or any enterprise-affiliated party who—

''(A) knowingly—

''(i) commits any violation described in any subparagraph of paragraph (1);

''(ii) engages in any unsafe or unsound practice in conducting the affairs of such enterprise; or

''(iii) breaches any fiduciary duty; and

''(B) knowingly or recklessly causes a substantial loss to such enterprise 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 an enterprise, an amount not to exceed $2,000,000; and

''(B) in the case of any enterprise, $2,000,000.''; and

(3) in subsection (d)—

(A) by striking ''or director'' each place such term appears and inserting ''director, or enterprise-affiliated party'';

(B) by striking ''request the Attorney General of the United States to'';

(C) by inserting '', or the United States district court within the jurisdiction of which the headquarters of the enterprise is located,'' after ''District of Columbia''; and

(D) by striking '', or may, under the direction and control of the Attorney General, bring such an action''.

SEC. 156. 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 this Act) the following:

''SEC. 1378. CRIMINAL PENALTY.

''Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly

participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any enterprise shall, notwithstanding section 3571 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.''.

Subtitle D—General Provisions

SEC. 161. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO 1992 ACT.—Title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), as amended this Act, is amended—

(1) 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 title II of the Federal Housing Enterprise Oversight Modernization Act of 2003, the'';

(B) in subsection (d)—

(i) in the subsection heading, by striking ''HUD'' and inserting ''DEPARTMENT OF THE TREASURY''; and

(ii) by striking ''Housing and Urban Development'' and inserting ''the Department of the Treasury''; and

(C) by striking subsection (f);

(2) in section 1319A (12 U.S.C. 4520)—

(A) by striking ''(a) IN GENERAL.—''; and

(B) by striking subsection (b);

(3) in section 1319F (12 U.S.C. 4525), by striking paragraph (2);

(4) in the section heading for section 1328, by striking ''secretary'' and inserting ''director'';

(5) in section 1361 (12 U.S.C. 4611)—

(A) in subsection (e)(1), by striking the first sentence and inserting the following: ''The Director shall establish the risk-based capital test under this section by regulation.''; and

(B) in subsection (f), by striking ''the Secretary,'';

(6) in section 1364(c) (12 U.S.C. 4614(c)), by striking the last sentence;

(7) in section 1367(a)(2) (12 U.S.C. 4617(a)(2)), by striking ''with the written concurrence of the Secretary of the Treasury,'';

(8) by striking section 1383;

(9) by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services'' each place such term appears in sections 1319B, 1319G(c), 1328(a), 1336(b)(3)(C), 1337, and 1369(a)(3); and

(10) by striking ''Secretary'' and inserting ''Director'' each place such term appears in—

(A) subpart A of part 2 of subtitle A (except in sections 1322, 1324, and 1325); and

(B) subtitle B (except in section 1361(d)(1) and 1369E).

(b) AMENDMENTS TO TABLE OF CONTENTS OF 1992 ACT.—Section 1(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 81 note) is amended—

(1) by striking the matter relating to section 1311 and inserting the following:

''Sec. 1311. Establishment of Office of Federal Housing Enterprise Supervision.'';

(2) by striking the matter relating to section 1313 and inserting the following:

''Sec. 1313. Duties and authorities of director.'';

(3) by inserting after the matter relating to section 1319G the following:

''Sec. 1319H. Prior approval authority for new programs.

''Sec. 1319I. Registration of stock and public disclosures.'';

(4) by striking the matter relating to section 1319 and inserting the following:

''Sec. 1319. Review of enterprises.'';

(5) by striking the matter relating to section 1328 and inserting the following:

''Sec. 1328. Reports by Director.'';

(6) by striking the heading relating to subtitle B of title XIII and inserting the following:

Subtitle B—Required Capital Levels for Enterprises, Special Enforcement Powers, and Nonmortgage-Related Assets'';

(7) by inserting after the matter relating to section 1369D the following:

''Sec. 1369E. Nonmortgage-related assets.'';

(8) by redesignating the matter relating to sections 1377 through 1379B as sections 1379 through 1379D, respectively; and

(9) by inserting after the matter relating to section 1376 the following:

''Sec. 1377. Removal and prohibition authority.

''Sec. 1378. Criminal penalty.''.

(c) 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 Office of Federal Housing Enterprise Supervision of the Department of the Treasury'', 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(n)—

(A) in paragraph (1), by inserting ''the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury,'' after ''Senate,''; and

(B) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury''.

(e) AMENDMENTS TO FREDDIE MAC ACT.—The Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 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 Office of Federal Housing Enterprise Supervision of the Department of the Treasury'', 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 section 306(i) (12 U.S.C. 1455(i))—

(A) by striking ''section 1316(c)'' and inserting ''section 306(c)''; and

(B) by striking ''section 106'' and inserting ''section 1316''; and

(3) in section 307 (12 U.S.C. 1456)—

(A) in subsection (f)—

(i) in paragraph (1), by inserting ''the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury,'' after ''Senate,''; and

(ii) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury''.

(f) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 1905 of title 18, United States Code, is amended by striking ''Office of Federal Housing Enterprise Oversight'' and inserting ''Office of Federal Housing Enterprise Supervision of the Department of the Treasury''.

(g) AMENDMENTS TO FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury''.

(h) AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(i) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5315 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 Office of Federal Housing Enterprise Supervision, Department of the Treasury.''.

SEC. 162. EFFECTIVE DATE.

Except as specifically provided otherwise in this title, the amendments made by this title shall take effect on, and shall apply beginning on, the expiration of the 1-year period beginning on the date of enactment of this Act.

TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 201. ABOLISHMENT OF OFHEO.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight shall, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

(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 any transfer of such employee pursuant to section 203; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) STATUS OF EMPLOYEES AS FEDERAL AGENCY EMPLOYEES.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as employees of an agency of the United States for purposes of any other provision of law during any time such employee is so employed.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury may use the property of the Office of Federal Housing Enterprise Oversight to perform functions that have been transferred to the Director of the Office of Federal Housing Enterprise Supervision for such time as is reasonable to facilitate the orderly transfer of functions under any other provision of this Act, or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that

are transferred to the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury 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 (12 U.S.C. 4501 et seq.), the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), 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 shall abate by reason of the enactment of this Act, except that the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

SEC. 202. 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;

(B) the Secretary of Housing and Urban Development and that relate to the Secretary's authority under—

(i) title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.);

(ii) the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), with respect to the Federal National Mortgage Association; or

(iii) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.); or

(C) a court of competent jurisdiction and that relate to functions transferred by this Act; and

(2) are in effect on the date of the abolishment under section 201(a) of this Act,

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 Office of Federal Housing Enterprise Supervision of the Department of the Treasury until modified, terminated, set aside, or superseded in accordance with applicable law by such Board, any court of competent jurisdiction, or operation of law.

SEC. 203. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) AUTHORITY TO TRANSFER.—The Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury may transfer employees of the Office of Federal Housing Enterprise Oversight to the Office of Federal Housing Enterprise Supervision for employment no later than the date of the abolishment under section 201(a) of this Act, as the Director considers appropriate. This Act and the amendments made by this Act shall not be considered to result in the transfer of any function from one agency to another or the replacement of 1 agency by another, for purposes of section 3505 of title 5, United States Code, except to the extent that the Director of the Office of Federal Housing Enterprise Supervision specifically provides so.

(b) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.

(2) DECLINE OF TRANSFER.—The Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury 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, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(c) REORGANIZATION.—If the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury determines, after the end of the 1-year period beginning on the date of the abolishment under section 201(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.

(d) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury as a result of a transfer under subsection (a) may retain for 18 months after the date such transfer occurs membership in any employee benefit program of the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury 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 201(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 Office of Federal Housing Enterprise Supervision.

(2) PAYMENT OF DIFFERENTIAL.—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 Office of Federal Housing Enterprise Supervision. 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. 204. TRANSFER OF PROPERTY AND FACILITIES.

Upon the abolishment under section 201(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Director of the Office of Federal Housing Enterprise Supervision of the Department of the Treasury.

By Mr. DASCHLE (for Mr. GRAHAM of Florida):

S. 1658. A bill to make residents of Puerto Rico eligible for the earned income tax credit, the refundable portion of the child tax credit, and supplemental security income benefits; to the Committee on Finance.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. GRAHAM. Mr. President, the Commonwealth of Puerto Rico has been a territory of the United States since 1898. Since 1917, people born in Puerto Rico have been citizens of the United States under Federal laws applicable in the territory.

One of the interesting, and most misunderstood, aspects of Puerto Rico's unique relationship with the United States, is that the U.S. citizens who reside there are not required to file tax returns and pay income tax on the money they earn on the island. That might lead one to conclude that this is a huge benefit to the majority of people who live on the island. The reality, however, is that well over half—and perhaps as much as three-quarters—of Puerto Rican families would likely owe no U.S. income tax if they were taxed in the same manner as other citizens.

Why? Because Puerto Rico struggles with a high rate of poverty. Fifty-eight percent of Puerto Rican children live below the national poverty level—which is an improvement from 67 percent in the early 1990s. That means that today more than one-half of Puerto Rican children live in a family that earns less than $17,000 a year. In contrast, the State with the highest child poverty rate, Mississippi, has a child poverty rate of 27 percent.

For over 30 years, U.S. policy toward improving the economic situation on the island has focused on corporate tax incentives. Today, I am introducing legislation that focuses on providing direct stimulus to the part of economy in Puerto Rico that has been neglected—Puerto Rican families and children. Putting money into the hands of the people who will spend it will provide the most direct stimulus for the economy of the island.

This bill puts Puerto Rican families on par with other families in America by extending to them the benefits of our social safety net. Specifically, the bill makes residents of Puerto Rico eligible for the earned income tax credit, the refundable per child tax credit, and the Supplemental Security Income program.

Although Puerto Rican families are not subject to the Federal income tax, they do pay Federal payroll taxes. Just like other working families in America that work hard and play by the rules, low-income employees in Puerto Rico deserve relief from those payroll taxes. The earned income tax credit and the refundable portion of the child tax credit have long been recognized as an effective way to provide such relief. The Puerto Rico Economic Stimulus Act says that families in Puerto Rico should also be able to claim these credits, in the same way, and subject to the

same limitations, as families in Florida, Tennessee, Texas, or New York.

Workers in Puerto Rico pay payroll taxes like all other Americans. While some may disagree with the notion of providing refundable credits to offset payroll taxes that is a different debate than whether low-income families in Puerto Rico should be treated the same as low-income families in the 50 States. This is a matter of equity, not tax policy.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 1658

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Puerto Rico Economic Stimulus Act of 2003''.

SEC. 2. PUERTO RICO RESIDENTS ELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income) is amended by inserting at the end the following new subsection:

''(n) RESIDENTS OF PUERTO RICO.—

''(1) IN GENERAL.—In the case of residents of Puerto Rico, this section shall be applied—

''(A) by substituting 'United States or Puerto Rico' for 'United States' in subsections (c)(1)(A)(ii)(I) and (c)(3)(E),

''(B) by substituting 'nonresident alien individual (other than a resident of Puerto Rico)' for 'nonresident alien individual' in subsection (c)(1)(E), and

''(C) by substituting 'gross income (computed without regard to section 933)' for 'gross income' in subsections (a)(2)(B) and (c)(2)(A)(i).

''(2) PHASE-IN OF CREDIT.—

''(A) IN GENERAL.—The credit allowable under this section by reason of this subsection shall not exceed the applicable percentage of the amount of credit which would otherwise be allowable under this section (without regard to this paragraph).

''(B) APPLICABLE PERCENTAGE.—The applicable percentage shall be determined as follows:

''In the case of any taxable year beginning in—	The applicable percentage is—
2004	10
2005	20
2006	30
2007	40
2008	50
2009	60
2010	70
2011	80
2012	90
2013 and thereafter	100.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 3. REFUNDABLE CHILD TAX CREDIT ALLOWABLE TO RESIDENTS OF PUERTO RICO WITH LESS THAN 3 CHILDREN.

(a) IN GENERAL.—Paragraph (1) of section 24(d) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by inserting at the end the following new sentence: ''For purposes of this paragraph, taxable income shall be computed without regard to section 933.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

(c) APPLICABILITY.—

(1) IN GENERAL.—Any credit allowable by reason of the amendment made by subsection (a) shall not exceed the applicable percentage of the amount of credit which would otherwise be allowable under section 24(d)(1) (without regard to this subsection).

(2) APPLICABLE PERCENTAGE.—The applicable percentage shall be determined as follows:

In the case of any taxable year beginning in—	The applicable percentage is—
2004	10
2005	20
2006	30
2007	40
2008	50
2009	60
2010	70
2011	80
2012	90
2013 and thereafter	100.

SEC. 4. SSI TO APPLY TO RESIDENTS OF PUERTO RICO.

(a) IN GENERAL.—Section 1614(e) of the Social Security Act is amended by striking ''and the District of Columbia'' and inserting '', the District of Columbia, and the Commonwealth of Puerto Rico''.

(b) APPLICATION.—Section 1611 of the Social Security Act is amended by adding at the end the following:

''Limitation on Benefits for Residents of the Commonwealth of Puerto Rico

''(j) Notwithstanding any other provision of this title, in the case of an individual who is a resident of the Commonwealth of Puerto Rico who is eligible to receive a monthly benefit under this title, the monthly benefits payable under this title shall not exceed—

''(1) for each month occurring in 2004, 10 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(2) for each month occurring in 2005, 20 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(3) for each month occurring in 2006, 30 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(4) for each month occurring in 2007, 40 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(5) for each month occurring in 2008, 50 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(6) for each month occurring in 2009, 60 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(7) for each month occurring in 2010, 70 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title;

''(8) for each month occurring in 2011, 80 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title; and

''(9) for each month occurring in 2012, 90 percent of the monthly benefits that would, but for the application of this subsection, be paid to the individual under this title.''.

(c) TERMINATION OF OTHER PROGRAMS FOR RESIDENTS OF PUERTO RICO.—

(1) TITLE I.—Title I of the Social Security Act is amended by inserting at the end the following:

''TERMINATION FOR RESIDENTS OF PUERTO RICO

''SEC. 7. This title shall not apply to residents of the Commonwealth of Puerto Rico after 2012.''.

(2) TITLE X.—Title X of the Social Security Act is amended by inserting at the end the following:

''TERMINATION FOR RESIDENTS OF PUERTO RICO

''SEC. 1007. This title shall not apply to residents of the Commonwealth of Puerto Rico after 2012.''.

(3) TITLE XIV.—Title XIV of the Social Security Act is amended by inserting at the end the following:

''TERMINATION FOR RESIDENTS OF PUERTO RICO

''SEC. 1406. This title shall not apply to residents of the Commonwealth of Puerto Rico after 2012.''.

(4) TITLE XVI.—Title XVI of the Social Security Act, as applicable with respect to the Commonwealth of Puerto Rico before the date of the enactment of this Act, shall not apply after 2012.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to benefits payable in months beginning on or after January 1, 2004.

By Mr. CAMPBELL (for himself, Mr. DOMENICI, Mr. ALLARD, and Mr. REID):

S. 1660. A bill to improve water quality on abandoned and inactive mine land, and for other purposes; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, I rise today to introduce the Good Samaritan Abandoned and Inactive Mine Reclamation Act of 2003.

I have been involved with efforts to clean up abandoned hardrock mines for a long time. In fact, I was an original cosponsor of a bill in the 106th Congress. The Western Governors Association regarded that the bill as a first step in the right direction, and I am proud to build and improve upon that experience in crafting my own legislation.

Abandoned hardrock mines pose significant environmental and safety hazards to communities across the Western United States. In fact, the Western Governor's Association concluded that there are at least 400,000 such sites across the West, many of which cover our public lands.

The history of abandoned hardrock mines is linked to government policies promoting the westward expansion of our Nation, and Federal policies during times of war. Due to the historic nature of these sites, the party responsible for the environmental problem is not always identifiable or not economically viable to be compelled to clean up the site.

Abandoned mine lands (AMLs) are areas adjacent to or affected by abandoned mines. They often contain unmined mineral deposits, mine dumps, and tailings that contaminate the surrounding watershed and ecosystem. Streams near AML sites—including many in Colorado—may contain metals or be so acidic that fish and aquatic insects cannot live in them. Water too polluted for fish and insects is also water too polluted for people. Further, abandoned mine sites pose very real safety hazards for folks enjoying the West's wild lands.

Although abandoned hardrock mining in the West goes back a hundred years, the Clean Water Act has only been in existence for thirty. The Clean

Water Act was an important and historic piece of legislation that did a lot of good, but it failed to promote the reclamation of abandoned hardrock mine sites. In fact, if an environmental group or county or interested party wanted to clean an abandoned mine site, they would incur liability under the Act.

The Western Governors Association has repeatedly called on Congress to amend the Clean Water Act's National Pollutant Discharge Elimination System permit program. The WGA stated that the NPDES program ''has become an overwhelming disincentive for any voluntary cleanup efforts of AMLs because of the liability that can be inherited for any discharges from an abandoned mine site remaining after cleanup, even though the volunteering remediating party had no previous responsibility or liability for the site, and has reduced the water quality impacts from the site by completing a cleanup project.''

My bill recognizes that there are a lot of good, responsible folks across our Western communities who recognize the environmental harm that AMLs pose and finally gives them the tools to do something about it. My bill establishes a ''Good Samaritan'' permit program under the Clean Water Act, administered by the EPA or a State-approved agency allowing an applicant to develop a strategy to remediate an affected area, and be granted a permit to do the work without penalizing them for their good deed.

In order to be granted a Good Samaritan permit, my bill requires an applicant to meet comprehensive standards ensuring that they have the financial and technical resources to get the job done. An applicant must establish remediation and monitoring schedules for the clean up project and identify funding sources to carry out the plan.

My bill's goal is to promote the clean-up of abandoned hardrock mines. Therefore, it allows communities, interest stakeholder groups, and corporations, as coalitions or individually to be ''Good Samaritans.'' The transparent and publicly open permit application process helps to ensure that permit holders are acting in good faith and have the technical and financial wherewithal to get the job done.

Further, if a permit holder is found to have violated the terms of the permit, he or she could lose their liability protection and subject to an enforcement action.

The West's States, communities, and interested parties have been prevented from cleaning up their own communities for far too long. My bill provides a transparent, flexible, and enforceable permit system that removes the unintentional liability associated with abandoned hardrock mine cleanup.

I look forward to working with my colleagues on speedy passage of this important legislation.

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

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

S. 1660

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Good Samaritan Abandoned and Inactive Mine Remediation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government has encouraged, through various laws and policies, the development of gold, silver, and other minerals, especially in the West;

(2) development of the resources referred to in paragraph (1) has—

(A) helped create a strong economy; and

(B) provided strategic materials to achieve maximum production of the metals that were essential to victory in World War I and World War II;

(3) during World War I and World War II, the Federal Government actively encouraged mining and milling operations, including the design and placement of mine tailings and waste rock piles, practices—

(A) that were not governed by any Federal or State environmental laws during that period;

(B) the impact of which on the environment and public health were unknown; and

(C) that since that period, have been—

(i) found to be harmful to the environment; and

(ii) made illegal;

(4) the result of the practices is a legacy of abandoned and inactive mine sites, many of which are on Federal land, that—

(A) have been unreclaimed or, based on existing environmental standards, inadequately reclaimed; and

(B) continue to pose environmental and safety hazards;

(5) the cleanup of the abandoned and inactive mine sites is hampered primarily by concerns about the potential liability associated with the cleanup.

(b) PURPOSE.—The purpose of this Act is to facilitate the cleanup of abandoned and inactive mine sites by limiting the potential liability of persons cleaning up the sites.

SEC. 3. ABANDONED AND INACTIVE MINE REMEDIATION PERMITS.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

''(r) ABANDONED AND INACTIVE MINE REMEDIATION PERMITS.—

''(1) DEFINITIONS.—In this subsection:

''(A) ABANDONED OR INACTIVE MINE LAND.—

''(i) IN GENERAL.—The term 'abandoned or inactive mine land' means land—

''(I) that was actively mined for noncoal resources;

''(II) that is not—

''(aa) being actively mined for noncoal resources; or

''(bb) subject to a temporary shutdown; and

''(III) with respect to which there is no identifiable or economically viable owner or operator of record for the mine or mine facilities.

''(ii) EXCLUSIONS.—The term 'abandoned or inactive mine land' does not include—

''(I) a site listed on the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

''(II) a brownfield site (as defined in section 101 of that Act (42 U.S.C. 9601).

''(B) PERMIT.—The term 'permit' means an abandoned or inactive mine remediation permit described in paragraph (2).

''(C) PERMITTING AGENT.—The term 'permitting agent' means—

''(i) the Administrator; or

''(ii) the head of a State program that is authorized by the Administrator to issue and administer permits under this subsection.

''(D) REMEDIATING PARTY.—

''(i) IN GENERAL.—The term 'remediating party' means any of the following persons or entities that carries out the remediation of an abandoned or inactive mine land:

''(I)(aa) The United States, a State, a political subdivision of a State, or an Indian tribe; or

''(bb) any officer, employee, or contractor of the United States, a State, a political subdivision of a State, or an Indian tribe.

''(II) A corporation.

''(III) Any person or entity acting in cooperation with the permittee with respect to the abandoned or inactive mine land.

''(ii) EXCLUSIONS.—The term 'remediating party' does not include a person or entity described in clause (i) that, with respect to the abandoned or inactive mine land that is being remediated, has been determined to be legally responsible or in material noncompliance with section 301(a).

''(E) UNANTICIPATED EVENT OR CONDITION.—The term 'unanticipated event or condition' means an event or condition that was not contemplated by the permit.

''(2) IN GENERAL.—The permitting agent may issue an abandoned or inactive mine remediation permit for the conduct of remediation activities on abandoned or inactive mine land from which there is or may be a discharge of pollutants to bodies of water of the United States.

''(3) APPLICATION FOR PERMIT.—

''(A) COMPONENTS.—

''(i) IN GENERAL.—To be eligible to receive a permit under this subsection, the remediating party shall submit to the permitting agent an application that includes a remediation plan that—

''(I) identifies—

''(aa) the remediating party;

''(bb) any agents or contractors of the remediating party; and

''(cc) any persons cooperating with the remediating party with respect to the remediation plan;

''(II) describes the reasonable efforts of the remediating party to identify current owners, lessees, and claimants of the abandoned or inactive mine land addressed by the remediation plan;

''(III) certifies that the remediating party qualifies as a remediating party under paragraph (1)(D);

''(IV) identifies that the site addressed by the plan is—

''(aa) abandoned or inactive mine land; and

''(bb) eligible for a permit under this Act;

''(V) identifies the bodies of water of the United States affected by the abandoned or inactive mine land;

''(VI) describes the baseline condition of the bodies of water identified under subclause (V), in accordance with requirements established by the permitting authority, as of the date of the permit application (including any conditions that make numeric monitoring of a baseline preexisting discharge physically or economically infeasible);

''(VII) describes the physical conditions at the site that are causing or believed to be causing adverse water quality impacts;

''(VIII) describes the goals and objectives of remediation, including the pollutant or pollutants to be addressed by the remediation plan;

''(IX)(aa) describes the practices that are proposed to reduce, control, mitigate, or eliminate the impacts of adverse water quality, including the preliminary system design

and construction, operation, and maintenance plans; and

''(bb) includes a schedule and estimated completion date of the practices;

''(X) applies site-specific best available technology, using best professional judgment, to explain how the practices described in subclause (IX) are expected to improve the quality of the bodies of water identified under subclause (V);

''(XI) describes—

''(aa) site-specific monitoring or other forms of assessment to be used to evaluate the success of the practices during and after implementation of the remediation plan in improving the quality of the water identified under subclause (V); and

''(bb) the duration of the monitoring or assessment;

''(XII)(aa) describes any extraction, processing, or removal of minerals for remediation or commercial sale; and

''(bb) states that 100 percent of the net profits generated through the use or commercial sale of minerals under item (aa) that will be—

''(AA) used for future remediation; or

''(BB) deposited in a designated remediation fund;

''(XIII) provides a schedule for periodic reporting on progress in implementing the remediation plan; and

''(XIV)(aa) provides a budget for the remediation plan; and

''(bb) identifies any potential funding sources for carrying out the remediation plan.

''(ii) CERTIFICATION BY CORPORATION.—

''(I) IN GENERAL.—In addition to the requirements under clause (i), an application submitted by a corporation shall include a certification in accordance with paragraph (1)(D)(ii) that, based on the knowledge and belief of the officers and directors of the corporation, neither the corporation nor any wholly owned subsidiary of the corporation is legally responsible for or in material noncompliance with section 301(a) or an equivalent State law for the site proposed to be remediated.

''(II) LIMITATION.—If at any time the permitting agent determines that the certification under subclause (I) is incorrect, the corporation—

''(aa) shall not be entitled to the protection under this subsection; and

''(bb) shall be subject to liability under this section or section 301, 302, or 402.

''(B) APPROVAL OR DISAPPROVAL OF APPLICATION.—

''(i) IN GENERAL.—Not later than 120 days after the date of receipt of an application under subparagraph (A), the permitting agent shall approve or disapprove the application.

''(ii) PUBLIC PARTICIPATION.—Before approving or disapproving an application under clause (i), the permitting agent shall provide to the public—

''(I) notice of the application; and

''(II) an opportunity for public comment on the application.

''(iii) APPROVAL.—The permitting agent shall approve an application under clause (i) and issue a permit to the remediating party if the permitting agent determines that—

''(I) the remediating party has made a reasonable effort (relative to the resources available to the remediating party for the proposed remediation activity) to identify persons under subparagraph (A)(i)(II);

''(II) the implementation of the remediation plan would improve the quality of the water identified under subparagraph (A)(i)(V); and

''(III) any Indian tribe with jurisdiction over the abandoned or inactive mine land subject to the permit consents to the issuance of the permit.

''(iv) ACTION FOLLOWING DISAPPROVAL.—

''(I) REVISION.—If the permitting agent disapproves an application under clause (i), the permitting agent shall—

''(aa) notify the applicant of the reasons for disapproval; and

''(bb) allow the applicant 30 days in which to submit a revised application.

''(II) DEADLINE FOR REVISION.—Not later than 30 days after the date on which a revision is submitted under subclause (I)(bb), the permitting agent shall approve or disapprove the revision.

''(4) CONTENTS OF PERMIT.—

''(A) IN GENERAL.—A permit shall—

''(i) provide for compliance with and implementation of the remediation plan; and

''(ii) establish a schedule for review by the permitting agent of compliance with and implementation of the remediation plan.

''(B) LIMITATION.—A permit shall not—

''(i) require the remediating party to comply with any other subsection or section 301, 302, or 402; or

''(ii) except in a case in which the net profits (as stated under paragraph (3)(A)(i)(XII)(bb)) generated through such use or sale of minerals are used for present or future remediation activities, authorize any discharge associated with the extraction, processing, or removal of minerals for commercial use or sale.

''(5) MODIFICATION OF PERMIT.—

''(A) IN GENERAL.—Not later than 90 days after the date of receipt of a written request by a permittee to modify a permit, the permitting agent shall approve or disapprove a modification to the permit.

''(B) APPROVAL.—A modification to a permit approved by the permitting agent under this subsection shall—

''(i) be made by agreement of the permittee and the permitting agent and with the concurrence of any applicable State or Indian tribe with jurisdiction over the abandoned or inactive mine land subject to the permit;

''(ii) be made in accordance with subparagraphs (2)(B) and (3); and

''(iii) take effect on approval.

''(6) FAILURE TO COMPLY.—If a remediating party fails to comply with any term or condition of a permit under this subsection, the failure shall be considered to be a violation subject to enforcement under sections 309 and 505, except in a case in which—

''(A)(i) based on information submitted to the permitting agent by the permittee, the permitting agent determines that the noncompliance was the result of an unanticipated event or condition; and

''(ii) not later than 30 days after the date on which a determination is made under clause (i), the permittee establishes, to the satisfaction of the permitting agent, that the permittee is in compliance with the permit; or

''(B)(i) the permitting agent determines that compliance with the permit is infeasible because of reasons not contemplated at the time at which the permit was issued; and

''(ii) the permitting agent and the permittee modify the permit in accordance with paragraph (5).

''(7) TERMINATION OF PERMIT.—

''(A) IN GENERAL.—The permitting agent shall terminate a permit if—

''(i) the remediating party completes the implementation of the remediation plan;

''(ii) the discharges covered by the permit become subject to a permit that is issued—

''(I) under another subsection; and

''(II) for the extraction, processing, or removal of minerals for commercial sale, the net profits of which shall be used for purposes other than the purposes described in paragraph (3)(A)(i)(XII)(bb)—

''(aa) that is not part of the implementation of the remediation plan; and

''(bb) with respect to which the remediating party is not a participant;

''(iii) an unanticipated event or condition is encountered that is beyond the control of the remediating party; or

''(iv) the permitting agent determines that remediation activities conducted under the permit have resulted in surface water quality conditions that are equal to or better than the baseline condition of the water as of the date of the permit application.

''(B) NO ENFORCEMENT LIABILITY.—If a permit is terminated under subparagraph (A), the remediating party shall not be subject to enforcement under section 309 or 505 for any subsequent discharges from the abandoned or inactive mine land subject to the permit.

''(8) LIMITATIONS.—

''(A) IN GENERAL.—A remediating party issued a permit under this subsection and, for purposes of conducting a preliminary investigation of a site to determine whether to pursue a permit application, a potential applicant for a permit, for a period of not more than 120 days unless otherwise stated by the permitting authority, shall not be considered to be an owner or operator for purposes of—

''(i) this Act;

''(ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

''(iii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

''(B) PRIOR VIOLATIONS.—With respect to violations of this section, or sections 301, 302, and 402 that occur before the date on which a permit is issued under this subsection, nothing in this subsection—

''(i) precludes an action under section 309 or 505 for such violations; or

''(ii) affects the relief available under section 309 or 505.

''(9) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with State, tribal, and local officials and after notice and opportunity for public comment, shall promulgate regulations that—

''(A) establish requirements for remediation plans under this subsection; and

''(B) provide guidance for the development of State programs for the issuance and administration of permits under this subsection.

''(10) FUNDING.—A remediating party that implements a remediation plan under a permit issued under this subsection shall be eligible for grants under section 319(h).

''(11) EFFECT.—Nothing in this subsection—

''(A) limits the liability associated with any mining or processing activities in existence before, on, or after the date of enactment of this subsection; or

''(B) affects any obligation of a State or Indian tribe under section 303.''.

By Mrs. DOLE:

S. 1663. A bill to replace certain Coastal Barrier Resources System maps; to the Committee on Environment and Public Works.

Mrs. DOLE. Mr. President, I ask unanimous consent that the text of the legislation, ''To replace certain Coastal Barrier Resources System maps'' be printed in the RECORD.

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

S. 1663

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

SECTION 1. REPLACEMENT OF CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 2 maps subtitled ''NC–07P'', relating to the Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Cape Fear Unit NC–07P, that are included in the set of maps entitled ''Coastal Barrier Resources System'' and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), are hereby replaced by 2 other maps relating to those units entitled ''Coastal Barrier Resources System Cape Fear Unit, NC–07P'' and dated February 18, 2003.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsection (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 234—HONORING THE DETROIT SHOCK ON WINNING THE WOMEN'S NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Ms. STABENOW (for herself and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 234

Whereas on September 16, 2003, the Detroit Shock won the Women's National Basketball Association Championship by defeating the 2-time defending champion Los Angeles Sparks, 83 to 78;

Whereas the Shock won a league-best 25 games, a year after losing a league-worst 23, becoming the first team in any major sport since 1890 to finish first in the entire league after finishing last the previous season;

Whereas the enthusiasm and support for the Shock by the people of Detroit and of Michigan was clearly demonstrated by the fact that the final game was attended by a Women's National Basketball Association (WNBA) record crowd of over 22,000 people;

Whereas the Shock completed an incredible season with the strong performances of Finals Most Valuable Player Ruth Riley's career-high 27 points, Swin Cash's 13 points, 12 rebounds and 9 assists, and Deanna Nolan's 17 points;

Whereas Cheryl Ford, the 2003 WNBA Rookie of the Year, became the first rookie in league history to average more than 10 points and 10 rebounds per game;

Whereas Detroit Shock Head Coach Bill Laimbeer was named 2003 WNBA Coach of the Year after transforming the Shock into the best team in the league in his first year as head coach;

Whereas in honor of the Shock's championship, the Palace of Auburn Hills is officially changing its address to Three Championship Drive; and

Whereas the Shock have demonstrated great strength, skill, and perseverance during the 2003 season and have made the entire State of Michigan proud: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Detroit Shock on winning the 2003 Women's National Basketball Association Championship and recognizes all the players, coaches, support staff, and fans who were instrumental in this achievement; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Detroit Shock for appropriate display.

SENATE RESOLUTION 235—HONORING THE LIFE OF THE LATE HERB BROOKS AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. DAYTON (for himself and Mr. COLEMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 235

Whereas the Senate has learned with great sadness of the death of Herb Brooks;

Whereas Herb Brooks, born in Saint Paul, Minnesota, greatly distinguished himself by his long commitment to the game of hockey, the players whom he coached, the State of Minnesota, and the United States of America;

Whereas Herb Brooks was a member of the 1964 and 1968 United States Olympic Hockey Teams;

Whereas Herb Brooks coached the 1980 United States Olympic Hockey Team, also known as the ''Miracle on Ice'', to a sensational victory against the favored Soviet Union team, providing the United States with an unforgettable moment that highlighted American determination, resilience, and spirit;

Whereas the United States Olympic Team continued victoriously on and won the Gold Medal at the 1980 Olympic Games;

Whereas Herb Brooks coached 3 University of Minnesota hockey teams to NCAA National Championships in 1974, 1976, and 1979;

Whereas Herb Brooks subsequently coached the Minnesota North Stars, the New York Rangers, the New Jersey Devils, and the Pittsburgh Penguins;

Whereas Herb Brooks spearheaded the development of the Division I hockey program at Saint Cloud State University by serving as the first coach of the team, obtaining the funding for a world-class ice arena, and recruiting top-level players to the new program;

Whereas in 1990, Herb Brooks was inducted into the United States Hockey Hall of Fame and in 1999 was inducted into the International Hockey Hall of Fame;

Whereas Herb Brooks was a devoted husband to his wife, Patti, and a loving father to his 2 children, Dan and Kelly; and

Whereas his life was remarkable for its constant pursuit of excellence: Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the outstanding career, character, and dedicated work of the great American Herb Brooks;

(2) expresses its deepest condolences to the family of Herb Brooks; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Herb Brooks.

AMENDMENTS SUBMITTED & PROPOSED

SA 1787. Mrs. FEINSTEIN proposed an amendment to amendment SA 1783 proposed by Mr. DEWINE (for himself and Ms. LANDRIEU) to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

TEXT OF AMENDMENTS

SA 1787. Mrs. FEINSTEIN proposed an amendment to amendment SA 1783 proposed by Mr. DEWINE (for himself and Ms. LANDRIEU) to the bill H.R. 2765, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 31, strike line 13 and all that follows through page 32, line 2, and insert the following:

(c) STUDENT ASSESSMENTS.—The Secretary may not approve an application from an eligible entity for a grant under this title unless the eligible entity's application—

(1) ensures that the eligible entity will—

(A) assess the academic achievement of all participating eligible students;

(B) use the same assessments every school year that are used for school year 2003–2004 by the District of Columbia Public Schools to assess the achievement of District of Columbia public school students under section 1111(b)(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(A)), to assess participating eligible students in the same grades as such public school students;

(C) provide assessment results and other relevant information to the Secretary or to the entity conducting the evaluation under section 9 so that the Secretary or the entity, respectively, can conduct an evaluation that shall include, but not be limited to, a comparison of the academic achievement of participating eligible students in the assessments described in this subsection to the achievement of—

(i) students in the same grades in the District of Columbia public schools; and

(ii) the eligible students in the same grades in District of Columbia public schools who sought to participate in the scholarship program but were not selected; and

(D) disclose any personally identifiable information only to the parents of the student to whom the information relates; and

(2) describes how the eligible entity will ensure that the parents of each student who applies for a scholarship under this title (regardless of whether the student receives the scholarship), and the parents of each student participating in the scholarship program under this title, agree that the student will participate in the assessments used by the District of Columbia Public Schools to assess the achievement of District of Columbia public school students under section 1111(b)(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(A)), for the period for which the student applied for or received the scholarship, respectively.

(d) INDEPENDENT EVALUATION.—The Secretary and Mayor of the District of Columbia shall jointly select an independent entity to evaluate annually the performance of students who received scholarships under the 5-year pilot program under this title, and shall make the evaluations public. The first evaluation shall be completed and made available not later than 6 months after the entity is selected pursuant to the preceding sentence.

(e) TEACHER QUALITY.—Each teacher who instructs participating eligible students under the scholarship program shall possess a college degree.