

cosponsor of S. 2586, a bill to provide States with fiscal relief through a temporary increase in the Federal medical assistance percentage and direct payments to States.

S. RES. 432

At the request of Mr. BIDEN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. Res. 432, a resolution urging the international community to provide the United Nations-African Union Mission in Sudan with essential tactical and utility helicopters.

AMENDMENT NO. 3910

At the request of Mrs. FEINSTEIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 3910 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3927

At the request of Mr. SPECTER, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 3927 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3930

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 3930 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3978

At the request of Mr. WYDEN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. SANDERS), the Senator from Rhode Island (Mr. REED) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3978 intended to be proposed to H.R. 5140, a bill to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. MARTINEZ):

S. 2595. A bill to create a national licensing system for residential mortgage loan originators, to develop minimum standards of conduct to be enforced by State regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Sen-

ator MARTINEZ to introduce legislation that takes a major step forward in curbing the abusive lending practices which contributed to the subprime mortgage crisis. With foreclosures at record levels, the housing market in steady decline, a global credit crunch, and the economy nearing recession, it is imperative that we act quickly to restore confidence in the American dream of home ownership.

Our legislation will eliminate bad actors from the mortgage business, and require that brokers and lenders meet minimum national standards which ensure they are professional, competent, and trustworthy.

First, it would create a comprehensive database of all residential mortgage loan originators. This includes mortgage brokers and lenders, as well as loan officers of national banks and their subsidiaries.

Second, it would establish national licensing standards to ensure that mortgage brokers and lenders are trained in legal aspects of lending, ethics, and consumer protection.

Our bill is similar to H.R. 3012, introduced in the House by Representative SPENCER BACHUS, the Ranking Member of the House Committee on Financial Services. The national licensing concept for loan originators has enjoyed bipartisan support and was included in the comprehensive mortgage reform bill, H.R. 3915, which recently passed the House.

A combination of low interest rates and sophisticated mortgage products, among other factors, helped increase home ownership to record levels just 3 years ago.

Subprime and exotic mortgages allowed millions of Americans—many with little or no down payment and questionable credit—to purchase homes by using adjustable-rate products with low initial monthly payments.

There was explosive growth in the use of these sub-prime loans: in just 2 years, from 2004 to 2006, the number of subprime mortgages in California increased 110 percent, from 273,000 to 573,000—29.4 percent of total mortgages in the State.

While the majority of lenders and brokers offered these mortgages in a responsible fashion, many others relied upon predatory lending tactics to place unsuspecting borrowers in mortgages they could not afford. Competitive pressures and lax oversight resulted in loans of increasingly poor quality being written.

To make matters worse, consumers were not adequately protected from bad actors in the mortgage industry.

The FBI recently reported that complaints of mortgage fraud have skyrocketed over the last few years.

In 2003, the number of suspicious activity reports reviewed by the FBI economic crimes unit numbered 3,000. The number of mortgage fraud complaints increased to 48,000 last year, representing a jump of 1500 percent.

Most mortgage brokers and non-bank lenders are only lightly regulated by State agencies. Standards of accountability have not kept pace with the increasing sophistication of the mortgage industry.

As adjustable-rate mortgages reset to higher rates, many American families find themselves in homes they can no longer afford. The percentage of homeowners currently behind on their mortgage payments is at its highest level in 21 years.

Mr. President, 2.2 million homeowners filed for foreclosure last year and many lenders have gone out of business or sought bankruptcy protection.

It is projected that as many as 2 million Americans will be forced to file for foreclosure before this crisis abates, representing \$160 billion in lost equity. The Center for Responsible Lending has projected that one out of every five subprime loans issued between 2005 and 2006 will fail.

California has been especially hard hit. Mr. President, 5 of the 10 metropolitan areas with the highest foreclosure rate in the Nation are in California. The foreclosure rate in California is roughly twice the national average, with 1 foreclosure filing for every 258 households in the State.

Lenders repossessed 84,375 California homes last year, a sixfold increase from 12,672 in 2006. Default notices—the initial step in the foreclosure process—increased 143 percent between 2006 and 2007, rising from 104,977 in 2006 to 254,824 in 2007. In San Diego County alone, foreclosures were up 353 percent in 2007.

According to the FBI economic crimes unit, California has been identified as one of the top 10 “mortgage fraud hot spots” in the Nation.

American families are hurting, and Californians are at the center of the storm. With close to 500,000 adjustable-rate mortgages scheduled to reset in California over the next 2 years, the situation is likely to worsen in 2008.

The subprime mortgage crisis has threatened both the global economy and the American dream of home ownership. Accountability, professional standards, and oversight must be enhanced for everyone in the mortgage industry.

This bill will make it so, and will help to ensure such a crisis never happens again.

Specifically, the S.A.F.E. Mortgage Licensing Act would require that all residential mortgage loan originators are licensed, providing fingerprints, a summary of work experience, and consent for a background check to authorities.

Additionally, minimum criteria are established that individuals must meet to obtain a license, including: no felony

convictions; no similar license revoked; a demonstrated record of financial responsibility; successful completion of education requirements, 20 hours of approved courses, to include at least 3 hours related to Federal laws, 4 hours on ethics and consumer protection in mortgage lending, and 2 hours on the subprime mortgage marketplace; and, passage of a written exam, the exam must be at least 100 questions and a minimum score of 75 percent is required to pass.

The Federal Reserve, Treasury, and Federal Deposit Insurance Corporation must also register all residential mortgage loan originators employed by national banks.

Lastly, State regulators must develop a satisfactory licensing system within 1 year following enactment of this legislation.

If this does not occur, the Housing and Urban Development Secretary is empowered to develop the national registry and license, generating revenue for its implementation through fees to license applicants.

The subprime mortgage crisis is wreaking havoc on American homeowners and the national economy. The damage is truly staggering—more than 2 million foreclosure filings last year and another 2 million expected before this year is over.

Many Americans simply cannot keep pace with adjustable-rate mortgages that are resetting, and some were steered into these obligations by unscrupulous actors.

It is essential that this body take action to address some of the factors that got us here.

This legislation does not assign blame, but rather provides a workable solution to protect homebuyers and begin to restore confidence in the American dream of homeownership.

I hope that my colleagues will join us in moving this important bill through the Senate quickly.

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

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

S. 2595

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

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or “S.A.F.E. Mortgage Licensing Act of 2008”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes and methods for establishing a mortgage licensing system and registry.
- Sec. 3. Definitions.
- Sec. 4. License or registration required.
- Sec. 5. State license and registration application and issuance.
- Sec. 6. Standards for State license renewal.
- Sec. 7. System of registration administration by Federal banking agencies.

Sec. 8. Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system.

Sec. 9. Backup authority to establish a nationwide mortgage licensing and registry system.

Sec. 10. Fees.

Sec. 11. Background checks of loan originators.

Sec. 12. Confidentiality of information.

Sec. 13. Liability provisions.

Sec. 14. Enforcement under HUD backup licensing system.

Sec. 15. Preemption of State law.

Sec. 16. Reports and recommendations to Congress.

Sec. 17. Study and reports on defaults and foreclosures

## SEC. 2. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

- (1) Provides uniform license applications and reporting requirements for State-licensed loan originators.
- (2) Provides a comprehensive licensing and supervisory database.
- (3) Aggregates and improves the flow of information to and between regulators.
- (4) Provides increased accountability and tracking of loan originators.
- (5) Streamlines the licensing process and reduces the regulatory burden.
- (6) Enhances consumer protections and supports anti-fraud measures.
- (7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

## SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) **FEDERAL BANKING AGENCIES.**—The term “Federal banking agencies” means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(2) **DEPOSITORY INSTITUTION.**—The term “depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(3) **LOAN ORIGINATOR.**—

(A) **IN GENERAL.**—The term “loan originator”

(i) means an individual who—

(I) takes a residential mortgage loan application;

(II) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or

(III) offers or negotiates terms of a residential mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(ii) includes any individual who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will provide or perform any of the activities described in clause (i);

(iii) does not include any individual who is not otherwise described in clause (i) or (ii)

and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause.

(iv) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator.

(B) **OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.**—For purposes of this subsection, an individual “assists a consumer in obtaining or applying to obtain a residential mortgage loan” by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) **ADMINISTRATIVE OR CLERICAL TASKS.**—The term “administrative or clerical tasks” means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) **REAL ESTATE BROKERAGE ACTIVITY DEFINED.**—The term “real estate brokerage activity” means any activity that involves offering or providing real estate brokerage services to the public, including—

(i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) listing or advertising real property for sale, purchase, lease, rental, or exchange;

(iii) providing advice in connection with sale, purchase, lease, rental, or exchange of real property;

(iv) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(v) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(vi) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(vii) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), (iv), (v), or (vi).

(4) **LOAN PROCESSOR OR UNDERWRITER.**—

(A) **IN GENERAL.**—The term “loan processor or underwriter” means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) **CLERICAL OR SUPPORT DUTIES.**—For purposes of subparagraph (A), the term “clerical or support duties” may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**—The term “Nationwide Mortgage Licensing System and Registry” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American

Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 9.

(6) **REGISTERED LOAN ORIGINATOR.**—The term “registered loan originator” means any individual who—

(A) meets the definition of loan originator and is an employee of a depository institution or a wholly-owned subsidiary of a depository institution; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(7) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(8) **SECRETARY.**—The term “Secretary” means the Secretary of Housing and Urban Development.

(9) **STATE-LICENSED LOAN ORIGINATOR.**—The term “State-licensed loan originator” means any individual who—

(A) is a loan originator;

(B) is not an employee of a depository institution or any wholly-owned subsidiary of a depository institution; and

(C) is licensed by a State or by the Secretary under section 8 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(10) **SUBPRIME MORTGAGE.**—The term “subprime mortgage” means a residential mortgage loan—

(A) that is secured by real property that is used or intended to be used as a principal dwelling;

(B) that is typically offered to borrowers having weakened credit histories and reduced repayment capacity, as measured by lower credit scores, debt-to-income ratios, and other relevant criteria; and

(C) the characteristics of which may include—

(i) low initial payments based on a fixed introductory rate that expires after a short period and then adjusts to a variable index rate plus a margin for the remaining term of the loan;

(ii) very high or no limits on how much the payment amount or the interest rate may increase (referred to as “payment caps” or “rate caps”) on reset dates;

(iii) limited or no documentation of the income of the borrower;

(iv) product features likely to result in frequent refinancing to maintain an affordable monthly payment; and

(v) substantial prepayment penalties or prepayment penalties that extend beyond the initial fixed interest rate period.

(11) **UNIQUE IDENTIFIER.**—The term “unique identifier” means a number or other identifier that—

(A) permanently identifies a loan originator; and

(B) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

#### SEC. 4. LICENSE OR REGISTRATION REQUIRED.

(a) **IN GENERAL.**—An individual may not engage in the business of a loan originator without first—

(1) obtaining and maintaining, through an annual renewal—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

(b) **LOAN PROCESSORS AND UNDERWRITERS.**—

(1) **SUPERVISED LOAN PROCESSORS AND UNDERWRITERS.**—A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator or a registered loan originator.

(2) **INDEPENDENT CONTRACTORS.**—A loan processor or underwriter may not work as an independent contractor unless such processor or underwriter is a State-licensed loan originator or a registered loan originator.

#### SEC. 5. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.

(a) **BACKGROUND CHECKS.**—In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) **ISSUANCE OF LICENSE.**—The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has never had a loan originator or similar license revoked in any governmental jurisdiction.

(2) The applicant has never been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this Act.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(c) **PRE-LICENSING EDUCATION OF LOAN ORIGINATORS.**—

(1) **MINIMUM EDUCATIONAL REQUIREMENTS.**—In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the subprime mortgage marketplace.

(2) **APPROVED EDUCATIONAL COURSES.**—For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) **LIMITATION AND STANDARDS.**—

(A) **LIMITATION.**—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) **STANDARDS.**—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

(d) **TESTING OF LOAN ORIGINATORS.**—

(1) **IN GENERAL.**—In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) **QUALIFIED TEST.**—A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless—

(A) the test consists of a minimum of 100 questions; and

(B) the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(i) ethics;

(ii) Federal law and regulation pertaining to mortgage origination;

(iii) State law and regulation pertaining to mortgage origination; and

(iv) Federal and State law and regulation, including instruction on fraud, consumer protection, subprime mortgage marketplace, and fair lending issues.

(3) **MINIMUM COMPETENCE.**—

(A) **PASSING SCORE.**—An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) **INITIAL RETESTS.**—An individual may retake a test 3 consecutive times with each consecutive taking occurring in less than 14 days after the preceding test.

(C) **SUBSEQUENT RETESTS.**—After 3 consecutive tests, an individual shall wait at least 14 days before taking the test again.

(D) **RETEST AFTER LAPSE OF LICENSE.**—A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

(e) **MORTGAGE CALL REPORTS.**—Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

#### SEC. 6. STANDARDS FOR STATE LICENSE RENEWAL.

(a) **IN GENERAL.**—The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) **CONTINUING EDUCATION FOR STATE-LICENSED LOAN ORIGINATORS.**—

(1) IN GENERAL.—In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the subprime mortgage marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS.—A State-licensed loan originator—

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT.—A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(5) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer any continuing education courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

#### **SEC. 7. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL BANKING AGENCIES.**

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, develop and maintain a system for registering employees of depository institutions or subsidiaries of depository institutions as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator who is an employee of a depository institution or a wholly-owned subsidiary of a depository institution with the Nationwide Mortgage Licensing System and Registry, the appropriate Federal banking agency shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the employee's identity, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) COORDINATION.—

(1) UNIQUE IDENTIFIER.—The Federal banking agencies, through the Financial Institutions Examination Council, shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

(2) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions Examination Council, concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

(c) CONSIDERATION OF FACTORS AND PROCEDURES.—In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 4(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this Act.

#### **SEC. 8. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.**

(a) BACK UP LICENSING SYSTEM.—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this Act or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 5 and 6 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) LICENSING AND REGISTRATION REQUIREMENTS.—The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 5 and 6 for State-licensed loan originators.

(c) UNIQUE IDENTIFIER.—The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) STATE LICENSING LAW REQUIREMENTS.—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or non-renewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed

loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(e) TEMPORARY EXTENSION OF PERIOD.—The Secretary may extend, by not more than 12 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 5 and 6 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) LIMITATION ON HUD-LICENSED LOAN ORIGINATORS.—Any loan originator who is licensed by the Secretary under a system established under this section for any State may not use such license to originate loans in any other State.

(g) CONTRACTING AUTHORITY.—The Secretary may enter into contracts with qualified independent parties, as necessary to efficiently fulfill the obligations of the Secretary under this Section.

#### **SEC. 9. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.**

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this Act for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this Act and the effective registration and regulation of loan originators.

#### **SEC. 10. FEES.**

The Federal banking agencies, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

#### **SEC. 11. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

(a) ACCESS TO RECORDS.—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) AGENT.—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

#### **SEC. 12. CONFIDENTIALITY OF INFORMATION.**

(a) SYSTEM CONFIDENTIALITY.—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 9, and any privilege

arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) **NONAPPLICABILITY OF CERTAIN REQUIREMENTS.**—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) **COORDINATION WITH OTHER LAW.**—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) **PUBLIC ACCESS TO INFORMATION.**—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

### SEC. 13. LIABILITY PROVISIONS.

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 9, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good-faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

### SEC. 14. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.

(a) **SUMMONS AUTHORITY.**—The Secretary may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 8; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this Act.

(b) **EXAMINATION AUTHORITY.**—

(1) **IN GENERAL.**—If the Secretary establishes a licensing system under section 8 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) **POWER TO EXAMINE.**—Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 8 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this Act.

(3) **REPORT OF EXAMINATION.**—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) **ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.**—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 8, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) **ASSESSMENTS.**—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 8 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) **CEASE AND DESIST PROCEEDING.**—

(1) **AUTHORITY OF SECRETARY.**—If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this Act, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 8, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

(2) **HEARING.**—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) **TEMPORARY ORDER.**—Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the pro-

ceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) **REVIEW OF TEMPORARY ORDERS.**—

(A) **REVIEW BY SECRETARY.**—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

(B) **JUDICIAL REVIEW.**—Within—

(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior hearing before the Secretary; or

(ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior hearing before the Secretary,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

(C) **NO AUTOMATIC STAY OF TEMPORARY ORDER.**—The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

(5) **AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.**—In any cease-and-desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this Act or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) **AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.**—

(1) **IN GENERAL.**—The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to licensing system established by the Secretary under section 8, if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of

this Act or any regulation prescribed by the Secretary under this Act or order issued under subsection (c).

(2) **MAXIMUM AMOUNT OF PENALTY.**—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$5,000 for each day the violation continues.

**SEC. 15. PREEMPTION OF STATE LAW.**

Nothing in this Act may be construed to preempt the law of any State, to the extent that such State law provides greater protection to consumers than is provided under this Act.

**SEC. 16. REPORTS AND RECOMMENDATIONS TO CONGRESS.**

(a) **ANNUAL REPORTS.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the effectiveness of the provisions of this Act, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, and streamlining communication between all stakeholders involved in residential mortgage loan origination and processing.

(b) **LEGISLATIVE RECOMMENDATIONS.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the Secretary deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

**SEC. 17. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.**

(a) **STUDY REQUIRED.**—The Secretary shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

(b) **PRELIMINARY REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress a preliminary report regarding the study required by this section.

(c) **FINAL REPORT TO CONGRESS.**—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

By Mr. LUGAR:

S. 2597. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise today to introduce legislation designed to extend permanent normal trade relations to Moldova. Moldova is still subject to the provisions of the Jackson-Vanik amendment to the Trade Act of 1974, which sanctions nations for failure to comply with freedom of emigration requirements. This bill would repeal permanently the application of Jackson-Vanik to Moldova.

Moldova is a small country located between Ukraine and Romania. Throughout the Cold War it was a part of the Soviet Union. It gained its independence from the Soviet Union on August 27, 1991. The U.S. has supported Moldova in its journey toward democracy and sovereignty.

The U.S. enjoys good relations with Moldova and has encouraged Moldovan efforts to integrate with Euro-Atlantic institutions. Moldova is an active participant in Guam, Georgia, Ukraine, Azerbaijan and Moldova, a group of countries that has recently concluded a new trade agreement with the EU.

Since declaring independence from the Soviet Union in 1992, Moldova has enacted a series of democratic and free market reforms. In 2001, Moldova became a member of the World Trade Organization. Until the U.S. terminates application of Jackson-Vanik on Moldova, the U.S. will not benefit from Moldova's market access commitments nor can it resort to WTO dispute resolution mechanisms. While all other WTO members currently enjoy these benefits, the U.S. does not.

The Republic of Moldova has been evaluated every year and granted normal trade relations with the U.S. through annual presidential waivers from the effects of Jackson-Vanik. The Moldovan constitution guarantees its citizens the right to emigrate and this right is respected in practice. Most emigration restrictions were eliminated in 1991 and virtually no problems with emigration have been reported in the 16 years since independence. More specifically, Moldova does not impose emigration restrictions on members of the Jewish community. Synagogues function openly and without harassment. As a result, the Administration finds that Moldova is in full compliance with Jackson-Vanik's provisions.

Since declaring independence from the Soviet Union in 1992, Moldova has enacted a series of democratic and free market reforms. Parliamentary elections in 2005 and local elections in 2007 generally complied with international standards for democratic elections. Moldova has also contributed constructively towards a resolution of the long-standing separatist conflict in the country's Transnistria region, most recently by proposing a series of confidence-building measures and working groups.

The U.S. and Moldova have established a strong record of achievement in security cooperation. In 1997 the Nunn-Lugar Cooperative Threat Reduction Program responded to a Moldovan request for assistance. The U.S. purchased and secured 14 nuclear-capable MiG-29Cs from Moldova. These fighter aircraft were built by the former Soviet Union to launch nuclear weapons. Moldova expressed concern that these aircraft were insecure due to the lack of funds and equipment necessary to ensure they were not stolen or smuggled out of the country. Specifically, emissaries from Iran had shown great interest and had attempted to acquire the aircraft. These planes were not destroyed. They were disassembled and shipped to Wright Patterson Air Force Base because they can be used by American experts for research purposes.

Moldova has made small, but important, troop contributions in Iraq. These

contributions include significant demining capabilities and contingents of combat troops. I am pleased that the U.S. remains prepared to assist in weapons and ammunition disposal and force relocation assistance to help deal with the costs of military realignments in Moldova and to assist with military downsizing and reforms.

One of the areas where we can deepen U.S.-Moldovan relations is bilateral trade. In light of its adherence to freedom of emigration requirements, compliance with threat reduction and cooperation in the global war on terrorism, the products of Moldova should not be subject to the sanctions of Jackson-Vanik. The U.S. must remain committed and engaged in assisting Moldova in pursuing economic and development reforms. The government in Chisinau still has important work to do in these critical areas. The support and encouragement of the U.S. and the international community will be key to encouraging the Government of Moldova to take the necessary steps to initiate reform. The permanent waiver of Jackson-Vanik and establishment of permanent normal trade relations will be the foundation on which further progress in a burgeoning economic and energy partnership can be made.

I am hopeful that my colleagues will join me in supporting this important legislation. It is essential that we act promptly to bolster this important relationship and promote stability in this region.

By Mr. DORGAN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, and Mr. WYDEN):

S. 2598. A bill to increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

Mr. DORGAN. Mr. President, today I am pleased to introduce the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2007. This bill directs the Secretary of Energy to suspend filling of the U.S. Strategic Petroleum Reserve, SPR, for 1 year. I appreciate that Senators BINGAMAN, LEVIN, KERRY, COLLINS, LIEBERMAN, and WYDEN have joined me as original cosponsors of this legislation. This bill directs the Secretary to stop filling the reserve through direct purchase, royalty-in-kind or any other measures. The secretary may only resume filling if the price of a barrel of crude oil drops below \$50 per barrel during the remainder of 2008.

The price of a barrel of oil is reaching record highs and global supplies of oil continue to shrink. During this period of volatile markets and short supply, it makes no sense to me for the U.S. Government to continue to take highly valuable crude oil, especially light sweet crude, off the market to store underground in a reserve that is at least 96 percent full. Continuing to



“top off” the Strategic Petroleum Reserve with highly valuable crude oil is putting upward pressure on oil prices and raising energy prices for consumers.

I believe that we must take a “time out” from filling the reserve in order to send a signal to the market to reduce rising energy prices that are hitting American consumers’ pocketbooks. Lowering energy costs will put additional money back into consumers’ hands and will help provide a real stimulus to our economy in my judgment.

Historically, the average price of oil used to fill the Strategic Petroleum Reserve has been about \$27 per barrel. The Administration is now filling the Reserve with oil that averages over \$90 per barrel, including highly sought after light sweet crude. This is a bad deal for American taxpayers and consumers.

On January 8, 2008, the Secretary of Energy sent me a letter stating that our Strategic Petroleum Reserve contains only 57 days of import protection and that the 50,000 barrels per day they are filling with is a small amount of the oil used on the global market daily. This is only part of the story. The fact is that the SPR, combined with our private oil stocks and refining inventories, total more than 118 days of import protection. The current levels in our strategic petroleum stocks are more than adequate to meet our international treaty obligations requiring 90 days of import protection for all OECD countries. I also disagree that taking 50,000 barrels per day off the market, especially light sweet crude, has no impact on energy prices. During the Clinton administration, Congress signaled that it wanted more than \$200 million sold from the SPR in 1996, the price of oil dropped precipitously in the market. The market looks at many factors, including our filling of the SPR. This is another reason we can afford to temporarily suspend filling the Strategic Petroleum Reserve.

Further, the Energy Policy Act of 2005 provides directional guidance to expand the Strategic Petroleum Reserve. The provision in law clearly states that filling the reserve must be achieved “without incurring excessive cost or appreciably affecting the price of petroleum products to consumers.” I think filling the Strategic Petroleum Reserve in today’s environment is indeed impacting the price of petroleum so that we must defer filling for now to ease pressure on the market.

Finally, the Congress enacted and the President signed historic legislation in December 2008—the Energy Independence and Security Act of 2007. That legislation established a strong foundation to put our Nation on an alternative energy security pathway. This includes strong fuel economy standards and an expanded renewable fuels standard. Conservative estimates provided by the Securing America’s Future Energy Coalition show that the new legislation would reduce net oil

imports by 1.75 million barrels per day by 2020, increasing to 2.26 million barrels per day in 2022 and rising thereafter. These estimates represent roughly half of the theoretical SPR draw-down capacity of 4.4 million barrels per day. They also increase the number of days of protection afforded by a given quantity of oil in the SPR. Thus, our enactment of historic Energy legislation will, over time, increase the insurance value of the SPR, even if the actual inventory level is frozen or slightly decreased.

Let me be clear. I believe maintaining a Strategic Petroleum Reserve is in the economic and national security interests of this country. However, during this time of record oil prices, rising energy costs for consumers, economic downturn and tight global oil supplies, the U.S. Government should suspend taking highly valuable oil off the market to store underground in the Strategic Petroleum Reserve.

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

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

S. 2598

*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 “Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008”.

#### SEC. 2. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during calendar year 2008, the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program or any other acquisition method.

(b) RESUMPTION.—The Secretary may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program or any other acquisition method under subsection (a) not earlier than 30 days after the date on which the Secretary notifies Congress that the Secretary has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is \$50 or less per barrel.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 2600. A bill to provide for the designation of a single ZIP code for Windsor Heights, Iowa; to the Committee on Homeland Security and Governmental Affairs.

Mr. HARKIN. Mr. President, today I rise with my colleague from Iowa to introduce a bill to provide the town of Windsor Heights, IA, its own ZIP code. Currently, the residents of Windsor Heights share three ZIP codes with surrounding communities, Des Moines, West Des Moines, and Urbandale. Confusion between the ZIP codes and city boundaries has caused delays in mail delivery, an increased amount of undelivered mail, and numerous complaints

from frustrated citizens. Each day sensitive materials, including financial statements, credit cards, Social Security checks, and passports pass through the mail stream. It is imperative that residents are able to rely on the safe and timely delivery of these documents.

The complications from this problem reach beyond mail delivery. During the recent Iowa Caucuses, residents living in Windsor Heights Precinct 2 were directed to the wrong address when looking for their caucus location. Windsor Heights residents who use the 50322 ZIP code—one which is shared with neighboring Urbandale—were incorrectly advised that the caucus location was in Urbandale, rather than Windsor Heights. Furthermore, because insurance rates are based on ZIP codes, residents pay premiums based on neighboring Des Moines and Urbandale, rather than Windsor Heights, making it more difficult for providers to sell car insurance to residents.

City officials have tried in vain for almost 5 years to acquire a ZIP code for Windsor Heights. It is my hope that the Senate will quickly act upon this legislation to enable them to do so.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2601. A bill to require the Secretary of Agriculture to convey to King and Kittitas Counties Fire District No. 51 a certain parcel of real property for use as a site for a new Snoqualmie Pass fire and rescue station; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, today I am introducing the Snoqualmie Pass Land Conveyance Act, together with Senator MURRAY. This bill would transfer an acre and a half of Forest Service land to the King and Kittitas Counties Fire District No. 51, also known as Snoqualmie Pass Fire and Rescue. This land would be conveyed at no cost, but would have to be used by the Fire District specifically for the construction of a new fire station or it would revert back to the Federal Government.

Snoqualmie Pass Fire and Rescue serves a portion of two counties on both sides of the Cascade Mountains along Interstate 90, a community of 350 full-time residents that peaks to 1,500 during the ski season. Additionally, the ski area estimates 20,000 patrons on a busy weekend, and the Department of Transportation estimates that up to 60,000 vehicles travel through the fire district on a busy day making it the busiest mountain highway in the country.

This area is also the major transportation corridor for goods and services between eastern and western Washington. The all-volunteer Fire Department averages over 300 calls a year with about a 10 percent annual increase in call volumes, which is more than triple the amount of calls a typical all-volunteer fire department would respond to in a year. Mr. President, 84

percent of those incidents are for non-tax paying residents. Consequently, the Fire Department has the characteristics of a large city with the limited resources of a small community.

In recent years, this area has been the scene of major winter snowstorms, multi-vehicle accidents, and even avalanches. The Fire District is often the first responder to incidents in the area, which is prone to rock slides and avalanches and it is not uncommon for this community to be isolated for hours or even days at a time. Several thousand people can be stranded at the Pass during those periods when the Pass is closed and while the Department of Transportation works quickly to get the roads back open, it can be very taxing on local resources.

For decades, the Fire District has been leasing its current site from the Forest Service. They operate out of an aging building that was not designed to be a fire station. Through their hard work and dedication, they have served their community ably despite this building's many shortcomings. However, with traffic on the rise and the need for emergency services in the area growing, the Fire District needs to move to a true fire station.

The Fire District has identified a nearby site that would better serve the public safety needs at the Pass. This location would provide easy access to the interstate in either direction, reducing emergency response times. The parcel is on Forest Service property, immediately adjacent to a freeway interchange, between a frontage road and the interstate itself. The parcel was formerly a disposal site during construction of the freeway and is now a gravel lot.

I recognize that the Forest Service does not normally support conveyances of land free of charge. However, I believe an exception should be made in this particular circumstance because of the important public service provided by the Fire District, the heavy traffic and emergency calls created by non-residents in the area, the distance of Snoqualmie Pass from other communities with emergency services, and because of the high amount of federal land ownership in the area, which severely limits the local tax base. In fact, the Forest Service has acquired 20,000 acres in King and Kittitas counties at a cost of more than \$52 million over just the last 10 years.

Passage of this legislation would not guarantee that a new station would be built. The Fire District would have to work hard to gather the financing that would be required from State and local sources, as well as any applicable Federal grants or loans. However, the conveyance of this site at no cost would help this Fire District hold down the overall cost of this project.

I am confident this can be done with little or no impact to the environment. Over the last year, following the introduction of this legislation in the House of Representatives, H.R. 1285, there

were ongoing discussions in Washington State to address some lingering issues related to this conveyance. I am pleased those discussions reached resolution. I am also pleased that discussions with my staff, Senator MURRAY's staff, and staff of Energy and Natural Resources Committee led to an amendment to H.R. 1285 before it passed the House of Representatives that would better tailor the conveyance to both the environmental and the emergency response needs at the Pass by reducing the amount of land to be conveyed from 3 acres to 1.5 acres.

It is my understanding that there are offers of support to construct a new fire station from state and local officials, and to mitigate any effects of construction, and I support those efforts. To offset any potential impacts from construction of a new fire station and to improve wildlife connectivity at the pass, I encourage the Forest Service to work in collaboration with state and local officials, the Cascade Land Conservancy, Snoqualmie Fire District, Sierra Club, and Conservation Northwest to identify opportunities for off-site habitat acquisition.

I appreciate the efforts of Senator MURRAY and my colleagues on the Energy and Natural Resources Committee to review this issue and bring this bill forward. I look forward to continuing to work with the community at the Pass and my colleagues to improve public safety in the area.

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

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

#### S. 2601

*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 "Snoqualmie Pass Land Conveyance Act".

#### SEC. 2. LAND CONVEYANCE, NATIONAL FOREST SYSTEM LAND, KITTITAS COUNTY, WASHINGTON.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall convey, without consideration, to King and Kittitas Counties Fire District No. 51 of King and Kittitas Counties, Washington (referred to in this section as the "District"), all right, title, and interest of the United States in and to a parcel of National Forest System land in Kittitas County, Washington, consisting of approximately 1.5 acres within the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of sec. 4, T. 22 N., R. 11 E., Willamette meridian, for the purpose of permitting the District to use the parcel as a site for a new Snoqualmie Pass fire and rescue station.

#### (b) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in that subsection—

(A) all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States; and

(B) the United States shall have the right of immediate entry onto the property.

(2) DETERMINATION REQUIREMENTS.—A determination of the Secretary under this sub-

section shall be made on the record after an opportunity for a hearing.

#### (c) SURVEY.—

(1) IN GENERAL.—If necessary, the exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(2) COST.—The cost of a survey under paragraph (1) shall be paid by the District.

#### (d) ADDITIONAL TERMS AND CONDITIONS.—

The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers to be appropriate to protect the interests of the United States.

By Mr. SALAZAR:

S. 2602. A bill to amend the Department of the Interior, Environment, and Related Agencies appropriations Act, 2008, to terminate the authority of the Secretary of the Treasury to deduct amounts from certain States; to the Committee on Energy and Natural Resources.

Mr. SALAZAR. Mr. President, I rise today to introduce legislation—a companion bill will be introduced in the House by my colleagues Representatives SALAZAR and UDALL—to restore Colorado's share of oil and gas leasing revenue.

The 2008 Omnibus Appropriations bill includes a provision, requested by the Bush Administration, to reduce the share of mineral royalties paid to Colorado and other western states. Specifically, the administration's proposal to reduce the State's share of mineral revenues from 50 percent to 48 percent does not serve the taxpayers who fund the government nor does it serve the states that allow energy production to happen within their borders. Colorado is blessed with an abundance of natural resources, including its deposits of oil and natural gas. Our State's economy benefits from the production of these resources, and we deserve to continue receiving our fair share of the revenues.

The administration attempts to justify this reduction as necessary to defray the administrative costs related to the management of onshore leasing activity. We believe this assertion is unfounded and oppose any attempt to take money that is rightfully owed to our State in order to pay for more Federal bureaucracy. This is money that our state could use to help mitigate the effects of increased oil and gas drilling activity and for other important state priorities, such as education and health care.

Our legislation repeals the administration's money grab and restores each State's share to its full, coequal 50 percent of mineral leasing revenues. We cannot allow the Federal government to take oil and gas leasing revenues intended to help the communities of Colorado. This language was inserted late into last year's omnibus spending bill and must be corrected. Our legislation does just that.