To make housing more affordable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on __________

A BILL

To make housing more affordable, and for other purposes.

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 “American Housing and Economic Mobility Act of 2018”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MAKING HOUSING MORE AFFORDABLE

Sec. 101. Local housing innovation grants.
Sec. 102. Investing in affordable housing infrastructure.

TITLE II—REVERSING THE LEGACY OF HOUSING DISCRIMINATION AND GOVERNMENT NEGLIGENCE
Sec. 201. Down payment assistance program for communities formerly segregated by law.
Sec. 202. Formula grant program for communities that have not recovered from the financial crisis.

TITLE III—REMOVING BARRIERS THAT ISOLATE COMMUNITIES

Sec. 301. Expanding rights under the Fair Housing Act.
Sec. 302. Improving outcomes in housing assistance programs.

TITLE IV—ESTATE TAX REFORM

Sec. 401. Amendment to Internal Revenue Code of 1986.
Sec. 402. Rate adjustment.
Sec. 403. Required minimum 10-year term, etc., for grantor retained annuity trusts.
Sec. 404. Certain transfer tax rules applicable to grantor trusts.
Sec. 405. Elimination of generation-skipping transfer tax exemption for certain trusts.
Sec. 406. Simplifying gift tax exclusion for annual gifts.

TITLE I—MAKING HOUSING MORE AFFORDABLE

SEC. 101. LOCAL HOUSING INNOVATION GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms “elementary school” and “secondary school” have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a State;

(B) a unit of general local government; or

(C) a metropolitan area.

(3) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the

(4) Metropolitan area; state; unit of general local government.—The terms “metropolitan area”, “State”, and “unit of general local government” have the meanings given those terms in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

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

(b) Establishment.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to make grants to eligible entities that—

(1) reform local land use restrictions to bring down the costs of producing affordable housing; and

(2) remove unnecessary barriers to building affordable units in their communities.

(c) Eligible Activities.—An eligible entity receiving a grant under this section may use funds to—

(1) carry out any of the activities described in section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305);

(2) carry out any of the activities permitted under the program for national infrastructure in-
vestments (commonly known as the “Better Utilizing
Investments to Leverage Development (BUILD) dis-
cretionary grant program”) authorized under title I
of division L of the Consolidated Appropriations Act,
2018 (Public Law 115–141) or a subsequent appro-
priations Act; or
(3) modernize, renovate, or repair facilities used
by public elementary schools, public secondary
schools, and public institutions of higher education,
including modernization, renovation, and repairs
that are consistent with a recognized green building
rating system.
(d) APPLICATION.—
(1) IN GENERAL.—An eligible entity desiring a
grant under this section shall submit to the Sec-
retary an application that demonstrates that the eli-
gible entity has carried out, or is in the process of
carrying out, initiatives that facilitate the expansion
of the supply of well-located affordable housing.
(2) ACTIVITIES.—Initiatives that meet the cri-
teria described in paragraph (1)—
(A) include—
(i) establishing “by-right” develop-
ment, which allows jurisdictions to admin-
iitratively approve new developments that are consistent their zoning code;

(ii) revising or eliminating off-street parking requirements to reduce the cost of housing production;

(iii) instituting measures that incentivize owners of vacant land to redevelop the space into affordable housing or other productive uses;

(iv) revising minimum lot size requirements and bans or limits on multifamily construction to allow for denser and more affordable development;

(v) instituting incentives to promote dense development, such as density bonuses;

(vi) passing inclusionary zoning ordinances that require a portion of newly developed units to be reserved for low- and moderate-income renters or homebuyers;

(vii) streamlining regulatory requirements and shortening processes, reforming zoning codes, or other initiatives that reduce barriers to housing supply elasticity and affordability;
(viii) allowing accessory dwelling units; and
(ix) using local tax incentives to promote development of affordable housing; and
(B) do not include activities that alter ordinances that govern wage and hour laws, family and medical leave laws, or protections for workers’ health and safety, anti-discrimination, and right to organize.

(e) LABOR LAWS.—

(1) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with a grant received under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”).

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to—
(A) the rehabilitation of residential property if the property contains less than 8 units; or

(B) construction carried out by employees of the eligible entity receiving the grant under this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $2,000,000,000 for each of fiscal years 2019 through 2023.

SEC. 102. INVESTING IN AFFORDABLE HOUSING INFRASTRUCTURE.

(a) Housing Trust Fund.—Section 1338(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568(a)) is amended by adding at the end the following:

“(3) Authorization of Appropriations.—There is authorized to be appropriated to the Housing Trust Fund $45,000,000,000 for each of fiscal years 2019 through 2028.”.

(b) Capital Magnet Fund.—Section 1339 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4569) is amended by adding at the end the following:
“(k) Authorization of Appropriations.—There is authorized to be appropriated to the Capital Magnet Fund $2,500,000,000 for each of fiscal years 2019 through 2028.”.

(c) Indian Housing Block Grant Program.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended—

(1) by striking “such sums as may be necessary for each of fiscal years 2009 through 2013” and inserting “$2,500,000,000 for fiscal year 2019 and such sums as may be necessary for each of fiscal years 2020 through 2028”; and

(2) by striking the second sentence.

(d) Rural Housing Programs.—Out of funds in the Treasury not otherwise appropriated, there is appropriated for fiscal year 2019—

(1) to provide direct loans under section 502 of the Housing Act of 1949 (42 U.S.C. 1472), $140,000,000;

(2) to provide assistance under section 514 of such Act (42 U.S.C. 1484), $28,000,000;

(3) to provide assistance under section 515 of such Act (42 U.S.C. 1485), $180,000,000
(4) to provide assistance under section 516 of such Act (42 U.S.C. 1486), $100,000,000; and
(5) to provide direct loans under section 523 of such Act (42 U.S.C. 1490c), $75,000,000.

(e) MIDDLE CLASS HOUSING EMERGENCY FUND.—

(1) DEFINITION.—In this subsection, the term “affordable rental housing unit” means a unit for which monthly rent is 30 percent or less than the monthly area median income.

(2) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and manage a fund, to be known as the “Middle Class Housing Emergency Fund”, which shall be funded with any amounts as may be appropriated, transferred, or credited to the Fund under any provision law.

(3) GRANTS.—From amounts available in the fund established under paragraph (1), the Secretary of Housing and Urban Development shall award grants on a competitive basis to State housing finance agencies located in a State in which—

(A) there is a shortage of affordable rental housing units available to individuals with an income that is at or below the area median income and median rents have risen on average
over the preceding 3 years substantially faster
than the area median income; or

(B) there is a shortage of housing units
available for sale that are affordable to individ-
uals with an income that is at or below the area
median income and median home prices have
risen on average over the preceding 3 years
substantially faster than the area median in-
come.

(4) USE OF FUNDS.—Grants received under
this subsection shall be used to fund the construc-
tion of rental housing units that are affordable to
residents making less than 120 percent of the area
median income.

(5) LABOR LAWS.—

(A) IN GENERAL.—All laborers and me-
chanics employed by contractors or subcontrac-
tors in the performance of construction work fi-
nanced in whole or in part with a grant received
under this subsection shall be paid wages at
rates not less than those prevailing on similar
construction in the locality as determined by
the Secretary of Labor in accordance with sub-
chapter IV of chapter 31 of title 40, United
States Code (commonly known as the “Davis-Bacon Act”).

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to—

(i) the rehabilitation of residential property if the property contains less than 8 units; or

(ii) construction carried out by employees of the eligible entity receiving the grant under this section.

(6) REGULATIONS.—The Secretary of Housing and Urban Development shall promulgate regulations to carry out this subsection, including with respect to the metrics the Secretary shall use to determine eligibility for a grant under this subsection.

(7) APPROPRIATIONS.—Out of funds in the Treasury not otherwise appropriated, there is appropriated to the fund established under this subsection $4,000,000,000 for fiscal year 2019.
TITLE II—REVERSING THE LEGACY OF HOUSING DISCRIMINATION AND GOVERNMENT NEGLIGENCE

SEC. 201. DOWN PAYMENT ASSISTANCE PROGRAM FOR COMMUNITIES FORMERLY SEGREGATED BY LAW.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE RESIDENT.—The term “eligible resident” means a resident of a geographic area, as defined by the Secretary by regulation under subsection (e), who—
   (A) is a first-time homebuyer;
   (B) resided in that geographic area during the 4-year period preceding the date of enactment of this Act; and
   (C) has an income that is less than 120 percent of the area median income.

(2) FIRST-TIME HOMEBUYER.—The term “first-time homebuyer” means an individual (and if married, the spouse of the individual) who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property.
(3) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(b) ESTABLISHMENT.—There is established in the Office of Housing of the Department of Housing and Urban Development a fund, to be administered by the Secretary, that shall be used—

(1) to provide grants to eligible residents to purchase homes; and

(2) for outreach to financial institutions in targeted areas and eligible residents.

(c) GRANT AMOUNT.—Eligible residents may receive a grant from the fund established under subsection (b) in an amount equal to—

(1) not more than 3.5 percent of the appraised value of the property to be purchased; or

(2) if the appraised value is more than the principal obligation amount limitation for mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.), 3.5 percent of the maximum principal obligation limitation for the property to be purchased.

(d) FHA LOAN.—An eligible resident is not required to obtain a mortgage that is insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.) as a condition of receiving a grant under this section.
(e) REGULATIONS AND DATABASE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) finalize regulations relating to the use of the fund established under subsection (b), including defining the geographic areas in which residents are eligible to receive grants through the fund, which shall include—

(A) census tracts graded as “hazardous” in maps drawn by the Home Owners’ Loan Corporation that are, as of the date of enactment of this Act, low-income communities; and

(B) census tracts that were designated for non-white citizens in jurisdictions that historically had racially segregated zoning codes and are, as of the date of enactment of this Act, low-income communities;

(2) finalize regulations relating to the disbursement of funds under this section to ensure that eligible residents are able to receive funds before the closing date for their home, which may include creating a program that allows a lender to be reimbursed by the fund established under subsection (b) if the lender—
(A) provides the eligible resident with funds for the closing; or
(B) allows eligible residents to be preapproved to receive assistance under this section when arranging financing for their home;
(3) create a publicly accessible database that allows individuals, real estate professionals, and lenders to determine whether a borrower is eligible for assistance under this section; and
(4) establish methods to verify that an individual is an eligible resident.

(f) APPROPRIATIONS.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the fund established under subsection (b) such sums as may be necessary for each of fiscal years 2019 through 2028 to provide grants under this section and to carry out consumer education efforts related to this section.

(g) INCLUSION OF PROGRAM IN HOME BUYING INFORMATION BOOKLETS.—Section 5(b) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by inserting after paragraph (14) the following:
“(15) Information relating to the down payment assistance program established under section
201 of the American Housing and Economic Mobility Act of 2018.”.

(h) Inclusion of Program as Mortgage Product.—Section 203(f)(1) of the National Housing Act (12 U.S.C. 1709(f)(1)) is amended by inserting “, including the down payment assistance program established under section 201 of the American Housing and Economic Mobility Act of 2018” after “mortgage products,”.

SEC. 202. FORMULA GRANT PROGRAM FOR COMMUNITIES THAT HAVE NOT RECOVERED FROM THE FINANCIAL CRISIS.

(a) Establishment.—The Secretary of Housing and Urban Development shall establish a formula grant program to provide funding to States to assist borrowers with negative equity in their primary residence through—

(1) loan modifications or loan refinancing programs that provide principal reduction;

(2) programs to purchase or rehabilitate vacant land and foreclosed homes to enhance neighborhood property values; and

(3) loan programs to help underwater borrowers rehabilitate or conduct maintenance on their homes.

(b) Formula.—The Secretary of Housing and Urban Development shall distribute amounts under this
section based on the number of borrowers in the State
with a primary residence with negative equity.

(c) Authorization of Appropriations.—There is
authorized to be appropriated to carry out this section
$2,000,000,000 for fiscal year 2019.

SEC. 203. STRENGTHENING THE COMMUNITY REINVEST-
MENT ACT OF 1977.

(a) Short Title.—This section may be cited as the
“Community Reinvestment Reform Act of 2018”.

(b) Amendments to the Community Reinvest-
ment Act of 1977.—The Community Reinvestment Act
of 1977 (12 U.S.C. 2901 et seq.) is amended—

(1) by amending sections 802 and 803 (12
U.S.C. 2901, 2902) to read as follows:

“SEC. 802. FINDINGS AND PURPOSE.

“(a) Findings.—Congress finds that—

“(1) regulated financial institutions are re-
quired by law to demonstrate that they serve the
convenience and needs of the communities in which
they are chartered or do business, in particular low-
and moderate-income communities;

“(2) the convenience and needs of communities
include the need for credit services, deposit services,
transaction services, other financial services, and
community development loans and investments; and
“(3) regulated financial institutions have a continuing and affirmative obligation to meet the credit or other financial needs of the local communities in which they are chartered or do business.

“(b) PURPOSE.—It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining regulated financial institutions to ensure that those institutions meet the credit or other financial needs of the local communities in which they are chartered or do business consistent with the safe and sound operation of those institutions.

“SEC. 803. DEFINITIONS.

“In this title:

“(1) APPLICATION FOR A DEPOSIT FACILITY.—

The term ‘application for a deposit facility’ means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

“(A) a charter for a national bank or Federal savings and loan association;

“(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association, or similar institution;
“(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

“(D) the relocation of the home office or a branch office of a regulated financial institution;

“(E) the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under section 18(e) of the Federal Deposit Insurance Act (12 U.S.C. 1828(e)); or

“(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842).

“(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term ‘appropriate Federal banking agency’ has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(3) APPROPRIATE FEDERAL FINANCIAL SUPERVISORY AGENCY.—The term ‘appropriate Federal financial supervisory agency’ means—
“(A) the appropriate Federal banking agency with respect to depository institutions and depository institution holding companies;

“(B) the Bureau of Consumer Financial Protection with respect to any covered person supervised by the Bureau pursuant to section 1024 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5514); and

“(C) the National Credit Union Administration with respect to credit unions that are not designated as low-income credit unions.

“(4) ASSESSMENT AREA.—The term ‘assessment area’ means, with respect to a regulated financial institution, each community, including a State, metropolitan area, and urban or rural county, in which the institution—

“(A) maintains deposit-taking branches, automated teller machines, or retail offices;

“(B) is represented by an agent;

“(C) issues a significant number of loans or other products relative to the total number of loans or other products made by the institution;
“(D) has issued not less than 75 percent of the loans of the institution; or
“(E) has conducted not less than 75 percent of the business of the institution.

“(5) COMMUNITY BENEFITS PLAN.—The term ‘community benefits plan’ means a plan that provides measurable goals for future amounts of safe and sound loans, investments, services, and other financial products for low- and moderate-income communities and other underserved or distressed communities.

“(6) COMMUNITY DEVELOPMENT.—The term ‘community development’ means—
“(A) affordable housing for low- or moderate-income individuals and avoidance of patterns of lending resulting in the loss of affordable housing units;
“(B) community development services including counseling and successful mortgage or loan modifications of delinquent loans;
“(C) activities that promote integration;
“(D) activities that promote economic development by financing small businesses or farms that meet the size eligibility requirements of the development company or small business
investment company programs under section 121.301 of title 13, Code of Federal Regulations, or any successor thereto, with an emphasis on small businesses that have gross annual revenues of not more than $1,000,000; or

“(E) activities that revitalize or stabilize—

“(i) low- or moderate-income geographies;

“(ii) designated disaster areas;

“(iii) distressed or underserved non-metropolitan middle-income geographies designated by the Federal Financial Institutions Examination Council, based on—

“(I) rates of poverty, unemployment, and population loss; or

“(II) population size, density, and dispersion, if those activities help to meet essential community needs, including the needs of low- and moderate-income individuals; or

“(iv) other distressed and underserved communities.

“(7) DEPOSITORY INSTITUTION; DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms ‘depository institution’ and ‘depository institution hold-
ing company’ have the meanings given those terms
in section 3 of the Federal Deposit Insurance Act

“(8) Entire community.—The term ‘entire
community’ means all of the assessment areas of a
regulated financial institution.

“(9) Enumerated consumer laws.—The
term ‘enumerated consumer laws’ has the meaning
given the term in section 1002 of the Consumer Fi-

“(10) Geography.—The term ‘geography’
means a census tract delineated by the Bureau of
the Census in the most recent decennial census.

“(11) Insured depository institution.—
The term ‘insured depository institution’ has the
meaning given the term in section 3 of the Federal

“(12) Other distressed or underserved
community.—The term ‘other distressed or und-
served community’ means an area that, according to
a periodic review and data analysis by the appro-
priate Federal financial supervisory agencies on an
interagency basis through the Federal Financial In-
stitutions Examination Council, is experiencing eco-
nomic hardship or is underserved by financial insti-

tutions.

“(13) REGULATED FINANCIAL INSTITUTION.—
The term ‘regulated financial institution’ means—

“(A) an insured depository institution;

“(B) a depository institution holding com-

pany;

“(C) a credit union, other than a low-in-

come credit union; and

“(D) a U.S. nonbank mortgage originator.

“(14) U.S. NONBANK MORTGAGE ORIGI-

NATOR.—The term ‘U.S. nonbank mortgage origi-

nator’ means a covered person subject to section

1024 of the Dodd-Frank Wall Street Reform and

Consumer Protection Act (12 U.S.C. 5514) that of-

fers or provides—

“(A) origination of loans secured by real

estate for use by consumers primarily for per-

sonal, family, or household purposes; or

“(B) loan modification or foreclosure relief

services in connection with a loan described in

subparagraph (A).”;}

(2) in section 804 (12 U.S.C. 2903)—

(A) by redesignating subsections (c) and

(d) as subsections (f) and (g), respectively;
(B) by striking subsections (a) and (b) and inserting the following:

“(a) DEPOSITORY INSTITUTIONS AND BANK HOLDING COMPANIES.—In connection with its examination of a regulated financial institution other than a U.S. nonbank mortgage originator, the appropriate Federal financial supervisory agency shall perform the following:

“(1) Assess the record of the institution in meeting the credit or other financial needs of its entire community, in particular low- and moderate-income people and communities, and distressed or underserved communities, consistent with the safe and sound operation of the institution;

“(2) Assess the effectiveness of the following activities in meeting the credit or other financial needs of the assessment areas of the institution, consistent with the safe and sound operation of the institution:

“(A) Retail lending, including home, small business, consumer, and other lending and financial products, that responds to credit needs or other financial needs.

“(B) Community development lending and investments, which may include a consideration of—
“(i) the origination of loans and other efforts by the institution to assist existing low- and moderate-income residents to remain in affordable housing in their community; and

“(ii) the origination of loans by the institution that result in the construction, rehabilitation, or preservation of affordable housing units.

“(C) Retail financial services and community development services.

“(3) With respect to its evaluation of an application for a deposit facility by the institution—

“(A) consider the record described in paragraph (1), the overall rating of the institution under this section, and any improvement plans submitted pursuant to this section;

“(B) provide an opportunity for public comment for a period of not less than 60 days;

“(C) consider changes in the community reinvestment performance of the institution since the most recent rating under this section by the appropriate Federal financial supervisory agency; and

“(D) require—
“(i) a demonstration of public benefit, including a community benefits plan with measurable goals regarding increasing responsible lending and other financial products;

“(ii) that the institution consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

“(iii) a public hearing for any institution that has a received a ‘need-to-improve’ or ‘sufficient’ grade in any individual assessment area during the most recent examination.

“(b) U.S. NONBANK MORTGAGE ORIGINATOR.—In connection with its examination of a U.S. nonbank mortgage originator, the appropriate Federal financial supervisory agency shall perform the following:

“(1) Assess the record of the U.S. nonbank mortgage originator in meeting the credit or other financial needs of its entire community, in particular low-income and moderate-income people and communities, consistent with the safe and sound operation of the U.S. nonbank mortgage originator.
“(2) Assess, as appropriate, the following activities in the assessment areas of the U.S. nonbank mortgage originator:

“(A) Retail lending, including home loans.

“(B) Community development services.

“(C) Community development lending and investments, which may include a consideration of—

“(i) the origination of loans and other efforts by the institution to assist existing low- and moderate-income residents to remain in affordable housing in their community;

“(ii) the origination of loans by the institution that result in the construction, rehabilitation or preservation of affordable housing units; and

“(iii) investments in or loans to community development financial institutions (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)), community development corporations (as defined in section 613 of the Community Economic Development Act of
1981 (42 U.S.C. 9802)), and other non-

profit organizations serving the housing

and development needs of the community.

“(3) With respect to its evaluation of an appli-
cation for a deposit facility by the U.S. nonbank

mortgage originator—

“(A) consider the record described in para-

graph (1), the overall rating of the U.S.

nonbank mortgage originator under this sec-
tion, and any improvement plans submitted

pursuant to this section;

“(B) provide an opportunity for public

comment for a period of not less than 60 days;

“(C) consider changes in the community

reinvestment performance of the U.S. nonbank

mortgage originator since the most recent rat-
ing under this section by the appropriate Fed-

eral financial supervisory agency; and

“(D) require—

“(i) a demonstration that granting the

application for a deposit facility is in the

public interest, which shall include a sub-

mission of a community benefits plan by

the U.S. nonbank mortgage originator to
the appropriate Federal financial supervisory agency;

“(ii) that the U.S. nonbank mortgage originator consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

“(iii) a public hearing for any U.S. nonbank mortgage originator that has received a ‘need-to-improve’ or ‘sufficient’ grade in any individual assessment area during the most recent examination.

“(c) REQUIREMENTS.—

“(1) IN GENERAL.—In connection with its examination of a regulated financial institution under subsection (a) or (b), the appropriate Federal financial supervisory agency shall—

“(A) consider public comments received by the appropriate Federal financial supervisory agency regarding the record of the institution in meeting the credit or other financial needs of its entire community, including low- and moderate-income communities; and

“(B) require an improvement plan for an institution that receives a rating of ‘sufficient’
or lower on the written evaluation of the institution, or such a rating in any individual assessment area, and require the improvement plan to result in the reasonable likelihood that the institution will obtain a rating of at least ‘satisfactory record of meeting community credit or other financial needs’ in the relevant measure on the next examination.

“(2) IMPROVEMENT PLAN.—

“(A) IN GENERAL.—A regulated financial institution that is required to submit an improvement plan required under paragraph (1)(B) shall submit the plan in writing to the appropriate Federal financial supervisory agency not later than 90 days after receiving notice that the regulated financial institution is required to submit the plan.

“(B) PUBLIC COMMENT.—Upon receipt of an improvement plan of a regulated financial institution required under paragraph (1)(B), the appropriate Federal financial supervisory agency shall—

“(i) make the plan available to the public for review and comment for a period of not less than 60 days; and
“(ii) require the regulated financial institution to revise, as appropriate, the improvement plan in response to the public comments received under the public review and comment period described in clause (i) and submit the plan to the appropriate Federal financial supervisory agency not later than 60 days after the end of that period.

“(3) EXAMINATION OF CERTAIN REGULATED FINANCIAL INSTITUTIONS.—In the case of a regulated financial institution whose lending or other business is not clustered in geographical areas and is thinly dispersed across the country, the institution shall—

“(A) be evaluated under subsection (a) or (b), as applicable—

“(i) by considering the effectiveness of the institution in serving customers or borrowers, with a special emphasis on low- and moderate-income individuals across the country regardless of where the individuals reside; and

“(ii) based on objective thresholds developed by the appropriate Federal finan-
cial supervisory agencies to clarify when lending or other business is dispersed across the country and not clustered in distinct geographical areas, which may include low levels of lending or other financial products across States or other areas; and

“(B) meet the needs of other distressed or underserved communities.

“(d) CONSIDERATION.—Remediation of consumers pursuant to an order by an court or administrative body or a settlement with a government agency or a private party shall not be considered in an assessment conducted under subsection (a)(2) or (b)(2).

“(e) RULE OF CONSTRUCTION.—An evaluation of a bank holding company under this section shall incorporate evaluations of subsidiary regulated financial institutions made by each subsidiary’s appropriate Federal financial supervisory agency, if applicable.”;

(C) in subsection (f), as so redesignated—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2); and
(D) in subsection (g), as so redesignated, by striking “subsection (a)” and inserting “subsections (a) and (b)”;

(3) in section 807 (12 U.S.C. 2906)—

(A) in subsection (a)—

(i) by striking “an insured depository institution” and inserting “a regulated financial institution”; and

(ii) by inserting “or financial” after “credit”; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A)—

(aa) in clause (ii), by striking “and” at the end;

(bb) by redesignating clause (iii) as clause (iv); and

(cc) by inserting after clause (ii) the following:

“(iii) disclose whether the institution engaged in acts or practices that the Bureau of Consumer Financial Protection has determined, and has publicly disclosed, violate the enumerated consumer laws; and”; and
(II) by striking subparagraph (B) and inserting the following:

“(B) Metropolitan area distinctions.—
The information required under clauses (i) and (ii) of subparagraph (A) shall be presented separately for each assessment area.

“(C) Treatment with respect to violations of enumerated consumer laws.—If a regulated financial institution has engaged in acts or practices that the appropriate Federal financial supervisory agency has determined to be unfair, deceptive, or abusive or acts or practices that violate enumerated consumer laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for individuals and communities that are enforced by the Bureau of Consumer Financial Protection or other Federal or State agencies, the written evaluation shall be negatively influenced in a manner commensurate with the extent of the harm suffered by those individuals and communities.”;

(ii) in paragraph (2)—

(I) by striking subparagraphs (A), (B), (C), and (D) and inserting the following:
“(A) ‘Outstanding record of meeting community credit or other financial needs’.

“(B) ‘Satisfactory record of meeting community credit or other financial needs’.

“(C) ‘Sufficient record of meeting community credit or other financial needs’.

“(D) ‘Needs to improve record of meeting community credit or other financial needs’.

“(E) ‘Substantial noncompliance in meeting community credit or other financial needs’.”; and

(iii) by inserting after the flush text following paragraph (2) the following:

“(3) ADDITIONAL AUTHORITY.—The appropriate Federal financial supervisory agencies may—

“(A) alter the ratings under this subsection to change or include additional ratings; and

“(B) develop an accompanying point system that includes ranges for each rating category under paragraph (2).’’;

(C) by redesignating subsection (e) as subsection (g); and

(D) by inserting after subsection (d) the following:
“(e) APPEALS OF RATING.—If a regulated financial institution appeals the assigned rating under this section, the appropriate Federal financial supervisory agency shall post a public notice of the appeal on the website of the appropriate Federal financial supervisory agency.”; and

(4) by adding at the end the following:

“SEC. 810. DATA COLLECTION AND REPORTING REQUIREMENTS.

“(a) DATA COLLECTION.—

“(1) SMALL BUSINESS AND SMALL FARM LOANS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, until the completion of the next examination under this title, the following data for each small business or small farm loan originated or purchased by the regulated financial institution:

“(A) A unique number or alpha-numeric symbol that can be used to identify the relevant loan.

“(B) The loan amount at origination.

“(C) The loan location.

“(D) An indicator whether the loan was to a business or farm with gross annual revenues of $1,000,000 or less.
“(2) CONSUMER LOANS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, data for consumer loans originated or purchased by the regulated financial institution, including motor vehicle loans, credit cards, home equity loans, and other secured or unsecured loans. The regulated financial institution shall maintain data separately for each category of consumer loan, including the following for each loan:

“(A) A unique number or alpha-numeric symbol that can be used to identify the relevant loan.

“(B) The loan amount at origination or purchase.

“(C) The loan location.

“(D) The gross annual income of the borrower that the regulated financial institution considered in making its credit decision.

“(3) COMMUNITY DEVELOPMENT LOANS AND INVESTMENTS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, data on the categories of com-
munity development lending and investments, including data regarding financing affordable housing, small business development, and economic development.

“(4) ASSESSMENT AREA DATA.—Each regulated financial institution shall collect and report to the appropriate Federal financial supervisory agency by March 1 of each year a list for each assessment area showing the geographies within the area.

“(5) DEPOSITS.—The appropriate Federal Supervisory agency shall collect data from regulated financial institutions that reflects how many of the customers of those institutions are low- and moderate-income customers and the services that are used by those customers.

“(b) CRA SMALL BUSINESS DISCLOSURE STATEMENT.—The appropriate Federal financial supervisory agency shall prepare annually for each regulated financial institution that reports data pursuant to this section a statement to be known as the ‘CRA Small Business Disclosure Statement’ that contains, on a State-by-State basis, the following:

“(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the regulated fi-
nancial institution reported a small business or small farm loan:

“(A) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies.

“(B) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income.

“(C) A list showing each geography in which the regulated financial institution reported a small business or small farm loan.

“(D) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1,000,000 or less.

“(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 in which the regulated financial institution reported a small business or small farm loan:

“(A) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median in-
come of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more.

“(B) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more.
“(C) A list showing each geography in which the regulated financial institution reported a small business or small farm loan.

“(D) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1,000,000 or less.

“(3) The number and amount of small business and small farm loans located inside each assessment area reported by the regulated financial institution and the number and amount of small business and small farm loans located outside the assessment areas reported by the regulated financial institution.

“(4) The number and amount of community development loans reported as originated or purchased.

“(e) AGGREGATE DISCLOSURE STATEMENTS.—

“(1) IN GENERAL.—Each appropriate Federal financial supervisory agency shall prepare annually, for each county and for each assessment area smaller than a county, an aggregate disclosure statement of small business, small farm, and consumer lending by all regulated financial institutions subject to reporting under this section, which shall indicate, for each geography, the number and amount of all small business, small farm, and consumer loans originated
(2) Adjusted Form.—An appropriate Federal financial supervisory agency may adjust the form of the disclosure statement prepared under paragraph (1) if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of a regulated financial institution.

(d) Central Data Depositories.—The Federal Financial Institutions Examination Council, in consultation with the appropriate Federal financial supervisory agencies, shall implement a system—

(1) to allow the public to access online and in a searchable format the data maintained under paragraphs (1) through (4) of subsection (a); and

(2) that ensures that personally identifiable financial information is not disclosed to public.

(e) Limitation.—An appropriate Federal financial supervisory agency may not use the authorities of the appropriate Federal financial supervisory agency under this section to obtain a record from a regulated financial institution for the purpose of gathering or analyzing the personally identifiable financial information of a consumer.”.
(c) Amendment to the Bank Holding Company Act of 1956.—Section 4(k)(6) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(6)) is amended to read as follows:

“(6) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—

“(A) IN GENERAL.—No financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that is engaged in activities permitted under this subsection or subsection (n) or (o), unless—

“(i) the holding company has provided notice to the Board, not later than 60 days prior to the proposed acquisition or prior to becoming a financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board;
“(ii) the Board has provided public notice and opportunity for comment for not less than 60 days; and

“(iii) the Board has not issued a notice disapproving the proposed acquisition or retention.

“(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall—

“(i) consider the overall rating of the financial holding company under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) and any improvement plans submitted pursuant to that Act;

“(ii) provide opportunity for public comment for a period of not less than 60 days; and

“(iii) consider changes in the community reinvestment performance of the financial holding company since the last rating under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by the appropriate Federal financial supervisory agency;

“(iv) require—
“(I) a demonstration that granting the application for a deposit facility is in the public interest, which shall include submission to the appropriate Federal financial supervisory agency of a community benefits plan;

“(II) that the institution consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

“(III) a public hearing for any bank that has received a ‘need-to-improve’ or ‘sufficient’ grade in any assessment area during the last examination under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.).”.

(d) TECHNICAL AND CONFORMING AMENDMENT.—

47

TITLE III—REMOVING BARRIERS
THAT ISOLATE COMMUNITIES

SEC. 301. EXPANDING RIGHTS UNDER THE FAIR HOUSING ACT.

(a) In General.—The Fair Housing Act (42 U.S.C. 3601 et seq.) is amended—

(1) in section 802 (42 U.S.C. 3602), by adding at the end the following:

“(p) ‘Gender identity’ means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual’s designated sex at birth.

“(q) ‘Marital status’ has the meaning given the term in section 202.2 of title 12, Code of Federal Regulations, or any successor regulation.

“(r) ‘Sexual orientation’ means homosexuality, heterosexuality, or bisexuality.

“(s) ‘Source of income’ includes income for which there is a reasonable expectation that the income will continue from—

“(1) a profession, occupation or job;

“(2) any government or private assistance, grant, loan or rental assistance program, including low-income housing assistance certificates and
vouchers issued under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

“(3) a gift, an inheritance, a pension, an annuity, alimony, child support, or other consideration or benefit; or

“(4) the sale or pledge of property or an interest in property.”;

(2) in section 804 (42 U.S.C. 3604)—

(A) by inserting “actual or perceived” before “race, color” each place that term appears;

and

(B) by inserting “sexual orientation, gender identity, marital status, source of income,” after “sex,” each place that term appears;

(3) in section 805 (42 U.S.C. 3605)—

(A) by inserting “actual or perceived” before “race, color” each place that term appears;

and

(B) by inserting “sexual orientation, gender identity, marital status, source of income,” after “sex,” each place that term appears;

(4) in section 806 (42 U.S.C. 3606)—

(A) by inserting “actual or perceived” before “race, color”; and
(B) by inserting “sexual orientation, gender identity, marital status, source of income,” after “sex,”; and

(5) in section 807 (42 U.S.C. 3607), by adding at the end the following:

“(c) Nothing in this title limits the ability of the owner of a dwelling owner to determine, in a commercially reasonable and non-discriminatory manner, the ability of a person to afford to purchase or rent the dwelling.”.

(b) PREVENTION OF INTIMIDATION.—Section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631) is amended—

(1) by inserting “actual or perceived” before “race, color” each place that term appears; and

(2) by inserting “sexual orientation (as defined in section 802), gender identity (as defined in section 802), marital status (as defined in section 802), source of income (as defined in section 802),” after “sex,” each place that term appears.

SEC. 302. IMPROVING OUTCOMES IN HOUSING ASSISTANCE PROGRAMS.

(a) INDIAN HOUSING ASSISTANCE.—Section 502 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181) is amended by adding at the end the following:
“(c) Applicability.—Subsections (a) and (b) shall not apply with respect to tenant-based assistance provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).”.

(b) Supplemental Administrative Fee.—Section 8(q)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)(2)(B)) is amended by inserting “, including the cost of assisting families with children that move to lower poverty, higher opportunity neighborhoods (as determined by the Secretary based on objective, evidence-based criteria)” after “programs”.

(c) Regional Planning to Increase Access to Higher Opportunity Areas.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following:

“(21) Increase access to higher opportunity areas.—

“(A) Location analysis.—

“(i) In general.—A public housing agency that administers the program under this subsection in a metropolitan area shall—

“(I) analyze the locations where the participants of the program of the public housing agency live; and
“(II) based on the analysis described in subclause (I), establish policies and practices to reduce disparities and barriers to access to locations throughout the metropolitan area that evidence indicates are more likely to improve outcomes for children or adults.

“(ii) CONSIDERATIONS.—The location analysis required under this subparagraph shall—

“(I) consider separately the locations of families with children, households that include a person with disabilities, and other groups protected under the Fair Housing Act (42 U.S.C. 3601 et seq.); and

“(II) include an analysis of the locations in relation to dwelling units with rents that are potentially affordable to voucher holders and the likely impact of key neighborhood attributes on their well-being and long-term success, based on Federal and available local data.
“(iii) MAPPING TOOLS.—The Secretary shall—

“(I) provide mapping tools and other information necessary for a public housing agency to perform the location analysis under this subparagraph using the demographic data on participating families submitted to the Secretary under part 908 of title 24, Code of Federal Regulations, or any successor regulation;

“(II) publish a notice in the Federal Register, subject to public comment, that specifies the data sources and definitions that will be incorporated in each mapping tool required under subclause (I); and

“(III) update the notice required under subclause (II) as needed based on changes in the availability of relevant data or evidence of neighborhood attributes likely to impact the well-being and long-term success of participants in the program under this subsection.
“(iv) **Frequency and Availability.**—The location analysis required under this subparagraph shall—

“(I) be performed by each public housing agency described in clause (i) not less frequently than once every 5 years;

“(II) be performed by all public housing agencies in a metropolitan area in the same year, as determined by the Secretary; and

“(III) be made available to the public in a manner that protects the privacy of program participants.

“(B) **Regional Policies to Increase Access to Higher Opportunity Neighborhoods.**—Each public housing agency described in subparagraph (A)(i) shall—

“(i) consult with other such public housing agencies in the same metropolitan area, or smaller regional area approved by the Secretary, about the possible barriers and other reasons for the disparities identified in the location analysis required under subparagraph (A);
“(ii) identify policies or practices that those public housing agencies could adopt individually or in collaboration, or other strategies that recipients of grants or other funding from the Secretary could adopt, to reduce the barriers and disparities and increase the share of families with children and other demographic groups using vouchers in higher-opportunity neighborhoods in the metropolitan area or region;

and

“(iii) include in the administrative plan required under section 982.54 of title 24, Code of Federal Regulations, or any successor regulation, the policies that the public housing agency has adopted under this paragraph.

“(C) ASSESSMENT.—The Secretary shall include public housing agency performance in achieving the goal described in subparagraph (A)(i)(II) in the periodic assessment of agency performance in managing the program under this subsection required under part 985 of title 24, Code of Federal Regulations, or any successor regulation.”.
(d) **REQUIRED REGULATORY CHANGES TO PUBLIC HOUSING AGENCY CONSORTIA.**—

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

(A) **MOVING TO WORK DEMONSTRATION PROGRAM.**—The term “Moving to Work demonstration program” means the program established under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–281).

(B) **PUBLIC HOUSING AGENCY.**—The term “public housing agency” has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(2) **REQUIREMENT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Housing and Urban Development shall establish policies and procedures that—

(A) enable public housing agencies that elect to operate in consortia under section 13(a) of the United States Housing Act of 1937 (42 U.S.C. 1437k(a)), excluding public housing agencies participating in the Moving to Work demonstration program—
(i) to consolidate their funding contracts for assistance provided under section 8(o) of such Act (42 U.S.C. 1437f(o)) into a single contract;

(ii) to consolidate their funding contracts for assistance provided under subsections (d) and (e) of section 9 of such Act 42 U.S.C. 1437g); or

(iii) to exercise the consolidation options under each of clauses (i) and (ii); and

(B) enable public housing agencies to form partial consortia under such section 13(a) (42 U.S.C. 1437k(a)) that consolidate administration of certain aspects of their housing programs to increase access to higher-opportunity areas or for other purposes, subject to such requirements as the Secretary may establish.

(3) MOVING TO WORK AGENCIES.—Any flexibility or waiver applicable to the Moving to Work demonstration program shall not apply to any activities or funds administered through a partial consortia formed under paragraph (2)(B) by 1 or more public housing agencies participating in the Moving to Work demonstration program.
TITLE IV—ESTATE TAX REFORM

SEC. 401. AMENDMENT TO INTERNAL REVENUE CODE OF 1986.

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

SEC. 402. RATE ADJUSTMENT.

(a) INCREASE IN MAXIMUM ESTATE TAX RATES.—

The table contained in section 2001(c) is amended by striking the last row and inserting the following:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $1,000,000</td>
<td>$345,800 plus 55% of the excess of such amount over $1,000,000.</td>
</tr>
<tr>
<td>Over $13,000,000</td>
<td>$6,945,800 plus 60% of the excess of such amount over $13,000,000.</td>
</tr>
<tr>
<td>Over $93,000,000</td>
<td>$54,945,800 plus 65% of the excess of such amount over $93,000,000.</td>
</tr>
</tbody>
</table>

(b) REDUCTION OF BASIC EXCLUSION AMOUNT.—

Paragraph (3) of section 2010(c) is amended to read as follows:

“(3) BASIC EXCLUSION AMOUNT.—For purposes of this subsection, the basic exclusion amount is $3,500,000.”.

(c) SURTAX ON BILLION DOLLAR ESTATES.—Section 2001 is amended—
(1) by striking "The tax" and inserting "Subject to subsection (h), the tax", and
(2) by adding at the end the following new subsection:

"(h) SURTAX ON BILLION DOLLAR ESTATES.—

"(1) IN GENERAL.—In the case of a taxable estate for which the applicable amount is in excess of $1,000,000,000, the tax determined under subsection (b) shall be increased by an amount equal to 10 percent of such applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount shall be equal to the sum of the amounts under subparagraphs (A) and (B) of paragraph (1) of subsection (b) for the taxable estate.".

SEC. 403. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR GRANTOR RETAINED ANNUITY TRUSTS.

(a) IN GENERAL.—Subsection (b) of section 2702 is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and by moving such subparagraphs (as so redesignated) 2 ems to the right;

(2) by striking "For purposes of" and inserting the following:
“(1) IN GENERAL.—For purposes of”;  

(3) by striking “paragraph (1) or (2)” in para-  

graph (1)(C) (as so redesignated) and inserting  

“subparagraph (A) or (B)”; and  

(4) by adding at the end the following new  

paragraph:  

“(2) ADDITIONAL REQUIREMENTS WITH RE-  

SPECT TO GRANTOR RETAINED ANNUITIES.—For  

purposes of subsection (a), in the case of an interest  

described in paragraph (1)(A) (determined without  

regard to this paragraph) which is retained by the  

transferor, such interest shall be treated as de-  

scribed in such paragraph only if—  

“(A) the right to receive the fixed amounts  

referred to in such paragraph is for a term of  

not less than 10 years,  

“(B) such fixed amounts, when determined  

on an annual basis, do not decrease relative to  

any prior year during the first 10 years of the  

term referred to in subparagraph (A), and  

“(C) the remainder interest has a value  

equal to or greater than 10 percent of the value  

of the assets transferred to the trust, deter-  

mined as of the time of the transfer.”.
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

SEC. 404. CERTAIN TRANSFER TAX RULES APPLICABLE TO GRANTOR TRUSTS.

(a) IN GENERAL.—Subtitle B is amended by adding at the end the following new chapter:

"CHAPTER 16—SPECIAL RULES FOR GRANTOR TRUSTS"

"Sec. 2901. Application of transfer taxes.

"SEC. 2901. APPLICATION OF TRANSFER TAXES.

“(a) IN GENERAL.—In the case of any portion of a trust to which this section applies—

“(1) the value of the gross estate of the deceased deemed owner of such portion shall include all assets attributable to that portion at the time of the death of such owner,

“(2) any distribution from such portion to one or more beneficiaries during the life of the deemed owner of such portion shall be treated as a transfer by gift for purposes of chapter 12, and

“(3) if at any time during the life of the deemed owner of such portion, such owner ceases to be treated as the owner of such portion under subpart E of part 1 of subchapter J of chapter 1, all
assets attributable to such portion at such time shall be treated for purposes of chapter 12 as a transfer by gift made by the deemed owner.

“(b) PORTION OF TRUST TO WHICH SECTION APPLIES.—This section shall apply to—

“(1) the portion of a trust with respect to which the grantor is the deemed owner, and

“(2) the portion of the trust to which a person who is not the grantor is a deemed owner by reason of the rules of subpart E of part 1 of subchapter J of chapter 1, and such deemed owner engages in a sale, exchange, or comparable transaction with the trust that is disregarded for purposes of subtitle A. For purposes of paragraph (2), the portion of the trust described with respect to a transaction is the portion of the trust attributable to the property received by the trust in such transaction, including all retained income therefrom, appreciation thereon, and reinvestments thereof, net of the amount of consideration received by the deemed owner in such transaction.

“(c) EXCEPTIONS.—This section shall not apply to—

“(1) any trust that is includible in the gross estate of the deemed owner (without regard to subsection (a)(1)), and
“(2) any other type of trust that the Secretary
determines by regulations or other guidance does not
have as a significant purpose the avoidance of trans-
fer taxes.

“(d) DEEMED OWNER DEFINED.—For purposes of
this section, the term ‘deemed owner’ means any person
who is treated as the owner of a portion of a trust under
subpart E of part 1 of subchapter J of chapter 1.

“(e) REDUCTION FOR TAXABLE GIFTS TO TRUST
MADE BY OWNER.—The amount to which subsection (a)
applies shall be reduced by the value of any transfer by
gift by the deemed owner to the trust previously taken
into account by the deemed owner under chapter 12.

“(f) LIABILITY FOR PAYMENT OF TAX.—Any tax im-
posed pursuant to subsection (a) shall be a liability of the
trust.”.

(b) CLERICAL AMENDMENT.—The table of chapters
for subtitle B is amended by adding at the end the fol-
lowing new item:

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply—

(1) to trusts created on or after the date of the
enactment of this Act,

(2) to any portion of a trust established before
the date of the enactment of this Act which is attrib-
utable to a contribution made on or after such date,

and

(3) to any portion of a trust established before
the date of the enactment of this Act to which sec-
section 2901(a) of the Internal Revenue Code of 1986
(as added by subsection (a)) applies by reason of a
transaction described in section 2901(b)(2) of such
Code on or after such date.

SEC. 405. ELIMINATION OF GENERATION-SKIPPING TRANS-
FER TAX EXEMPTION FOR CERTAIN TRUSTS.

(a) IN GENERAL.—Section 2642 is amended by add-
ing at the end the following new subsection:

“(h) ELIMINATION OF GST EXEMPTION FOR Cer-
tain Trusts.—

“(1) IN GENERAL.—

“(A) TRANSFERS FROM NON-QUALIFYING
TRUSTS.—In the case of any generation-skipp-
ing transfer made from a trust that is not a
qualifying trust, the inclusion ratio with respect
to any property transferred in such transfer
shall be 1.

“(B) QUALIFYING TRUST.—For purposes
of this subsection, the term ‘qualifying trust’
means a trust for which the date of termination
of such trust is not greater than 50 years after
the date on which such trust is created.

“(2) TRUSTS CREATED BEFORE DATE OF EN-
ACTMENT.—In the case of any trust created before
the date of the enactment of this subsection, such
trust shall be deemed to be a qualifying trust for a
period of 50 years after the date of the enactment
of this subsection.

“(3) DATE OF CREATION OF CERTAIN DEEMED
SEPARATE TRUSTS.—In the case of any portion of a
trust which is treated as a separate trust under sec-
tion 2654(b)(1), such separate trust shall be treated
as created on the date of the first transfer described
in such section with respect to such separate trust.

“(4) DATE OF CREATION OF POUR-OVER
TRUSTS.—In the case of any generation-skipping
transfer of property which involves the transfer of
property from 1 trust to another trust, the date of
the creation of the transferee trust shall be treated
as being the earlier of—

“(A) the date of the creation of such trans-
feree trust, or

“(B) the date of the creation of the trans-
feror trust.
In the case of multiple transfers to which the preceding sentence applies, the date of the creation of the transferor trust shall be determined under the preceding sentence before the application of the preceding sentence to determine the date of the creation of the transferee trust.

“(5) Regulations.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this subsection.”.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 406. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL GIFTS.

(a) In General.—Paragraph (1) of section 2503(b) is amended to read as follows:

“(1) In General.—

“(A) Limit per donee.—In the case of gifts made to any person by the donor during the calendar year, the first $10,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year.

“(B) Cumulative limit per donor.—
“(i) IN GENERAL.—The aggregate amount excluded under subparagraph (A) with respect to all transfers described in clause (ii) made by the donor during the calendar year shall not exceed twice the dollar amount in effect under such subparagraph for such calendar year.

“(ii) TRANSFERS SUBJECT TO LIMITATION.—The transfers described in this clause are—

“(I) a transfer in trust,

“(II) a transfer of an interest in a passthrough entity,

“(III) a transfer of an interest subject to a prohibition on sale, and

“(IV) any other transfer of property that, without regard to withdrawal, put, or other such rights in the donee, cannot immediately be liquidated by the donee.”.

(b) CONFORMING AMENDMENT.—Section 2503 is amended by striking subsection (c).

(e) REGULATIONS.—The Secretary of the Treasury, or the Secretary of the Treasury’s delegate, may prescribe such regulations or other guidance as may be necessary
1 or appropriate to carry out the amendments made by this
2 section.
3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to any calendar year beginning
5 after the date of the enactment of this Act.