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SENATE

{ REPORT  
112-142

**FIGHTING FRAUD TO PROTECT TAXPAYERS ACT OF 2011**

JANUARY 30, 2012.—Ordered to be printed

Mr. LEAHY, from the Committee on the Judiciary,  
submitted the following

**R E P O R T**

[To accompany S. 890]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 890), to establish the supplemental fraud fighting account, and for other purposes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

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**I. BACKGROUND AND PURPOSE OF THE FIGHTING FRAUD TO PROTECT TAXPAYERS ACT OF 2011**

On May 5, 2011, Chairman Leahy and Ranking Member Grassley introduced the Fighting Fraud to Protect Taxpayers Act of 2011 (FFPTA). Senators Klobuchar and Coons subsequently joined as co-sponsors. This legislation protects taxpayers by deterring fraud and bringing money back into our Nation’s coffers. It provides new tools for law enforcement to prosecute and punish those responsible for fraud and does so at no added cost to taxpayers. The bill also fills key statutory gaps to account for modern types of fraud, including strengthening computer fraud and identity theft statutes and giving needed authority to the Secret Service to more effectively inves-

tigate fraud. At the same time, the FFPTA will increase accountability by requiring the Justice Department to better manage and account for key spending.

#### A. BACKGROUND

In the last Congress, one of the first major bills the Senate Judiciary Committee considered, and one of the first bills President Obama signed into law, was the Leahy-Grassley Fraud Enforcement and Recovery Act. That bill gave fraud investigators and prosecutors additional tools and resources to better hold those who commit fraud accountable. This renewed focus on fraud enforcement has yielded significant results, including an increase in fraud prosecutions and billions of dollars in recoveries, but nevertheless, Americans have been victimized repeatedly in recent years by waves of fraud—mortgage fraud, foreclosure fraud, financial fraud, and health care fraud, among others. The FFPTA reflects the ongoing need to invest in enforcement to better protect hard-working taxpayers from all of these insidious types of fraud.

#### B. PURPOSE OF THE LEGISLATION

In the fiscal year 2010 alone, the Department of Justice recovered well over \$6 billion through fines, penalties, and recoveries from fraud cases—far more than it costs to investigate and prosecute these matters. The recovery of these vast sums of money demonstrates that investment in fraud enforcement pays for itself many times over.<sup>1</sup>

The centerpiece provision of the FFPTA capitalizes on this rate of return by ensuring that a percentage of money recovered by the Government through fines and penalties is reinvested in the investigation and prosecution of fraud cases. This will ensure more fraud enforcement, which in turn will result in more returns to the Government, and more savings to taxpayers, all without spending new taxpayer money.<sup>2</sup> The bill will take approximately \$15 million each year that is collected by the Government through civil debt collection activities and redirect those funds into investigating, prosecuting, and litigating fraud cases.

The bill also makes modest changes to ensure that prosecutors and investigators have the tools they need to combat fraud. It extends the international money laundering statute to tax evasion

<sup>1</sup>See Protecting American Taxpayers: Significant Accomplishments and Ongoing Challenges in the Fight Against Fraud: Hearing Before the S. Comm. on the Judiciary, 112th Cong. 9 (2011) (testimony of Lanny Breuer, Asst. Att’y Gen., Crim. Div., U.S. Dept. of Justice) (stating fraud enforcement costs the Criminal Division only a “small, small fraction” when compared to the money recovered by the Division). Available at <http://www.gpo.gov/fdsys/pkg/CHRG-112shrg67415/pdf/CHRG-112shrg67415.pdf>; See also New Tools for Curbing Waste and Fraud in Medicare and Medicaid: Hearing Before the Subcomm. on Fin. Mgmt., Gov’t Info., Fin. Serv. and Int’l Sec. of the S. Comm. on Homeland Sec. and Gov’t Affairs, 112th Cong. 2 (2011) (statement of Greg Andres, Acting Deputy Asst. Att’y Gen., Crim. Div., U.S. Dept. of Justice) (noting the Department of Justice estimates that the three year rolling average return on investment in health care fraud cases is \$7:\$1). Available at [http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=f9e14825-581c-4f5d-b1ba-ef486d852cd8](http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=f9e14825-581c-4f5d-b1ba-ef486d852cd8). The Department of Justice estimates that the Criminal Division’s overall return on investment is \$10:\$1.

<sup>2</sup>The Congressional Budget Office has given this legislation a modest score because CBO rules require scoring of money allocated that would otherwise go to the general Treasury even if that money does not come from taxpayers. Congressional Budget Office rules do not allow credit for the return on investment from spending on fraud. This score does not change the fact that this bill requires no new taxpayer spending, and will lead to a net increase in funds going to the Treasury as the fraud prosecutions and litigation funded by this bill lead to fines, penalties, and other returns.

crimes. This will deter individuals from evading our tax laws by hiding their money overseas. It also protects American consumers from identity theft by strengthening the prohibition against trafficking in passwords and the Federal identity theft statute. As more and more business is conducted online, we must ensure that consumers' personal information remains protected.

The Secret Service has responsibility for investigating a variety of complex financial fraud crimes, including identity theft. This bill gives the Secret Service additional tools to conduct critical undercover investigations. Fraud cases are often complex and difficult to prove, so undercover investigations can be a key way to ferret out criminal activity.

In the last Congress, Congress strengthened the False Claims Act, which empowers whistleblowers to shine a light on fraud and recover stolen tax dollars that would otherwise go undiscovered. These new laws are already paying off. In 2009 and 2010, the Department of Justice has recovered more than \$6.8 billion in False Claims Act cases, far more than any other two-year period.<sup>3</sup> The FFPTA asks the Attorney General to report to Congress on False Claims Act settlements, which will help ensure that the False Claims Act remains a valuable tool for fighting fraud.

The FFPTA also promotes accountability within Government. Along with requiring reporting, it takes modest steps to ensure that the resources already entrusted to the Justice Department are used responsibly by strengthening oversight of the Department's Working Capital Fund.

We must continue to strengthen the tools that law enforcement has to root out fraud. Taxpaying Americans deserve to know that their Government is doing all it can to prevent fraud and hold those who commit fraud accountable for their crimes. The FFPTA will provide new tools needed for law enforcement to prosecute and punish those responsible for fraud, and will do so at no added cost to taxpayers.

## II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

### A. INTRODUCTION OF THE BILL

On May 5, 2011, Chairman Leahy introduced the bill, S. 890, with Senator Grassley. Senators Klobuchar and Coons have joined as cosponsors.

### B. COMMITTEE CONSIDERATION

#### *1. Committee hearing*

On January 25, 2011, the Committee held a hearing entitled "Protecting American Taxpayers: Significant Accomplishments and Ongoing Challenges in the Fight Against Fraud" to, among other things, explore whether new resources and tools for fraud enforcement were needed. At the hearing, two witnesses testified: Assistant Attorney General Lanny Breuer of the Criminal Division of the Department of Justice, and Assistant Attorney General Tony West of the Civil Division of the Department of Justice. Both witnesses

<sup>3</sup>See Protecting American Taxpayers: Significant Accomplishments and Ongoing Challenges in the Fight Against Fraud: Hearing Before the S. Comm. on the Judiciary, 112th Cong. 89 (2011) (testimony of Tony West, Asst. Att'y Gen., Civ. Div., U.S. Dept. of Justice).

described the benefits of increasing resources for fraud enforcement.

Assistant Attorney General Breuer testified that in fiscal year 2010 alone, in criminal matters in which the Criminal Division participated, the Justice Department obtained approximately \$3.4 billion in judgments and settlements, with more than \$1 billion in restitution ordered, \$570 million in fines, \$914 million in forfeiture, and \$828 million in other settlements. He reiterated that Congress's financial support of criminal investigations and prosecutions is critical to protecting American taxpayers' hard earned money. He also reaffirmed that the amount of taxpayer money restored to the United States Treasury through criminal fraud enforcement efforts far exceeds what the Department of Justice spends to recover that money. As a result of criminal fraud prosecutions, the Department is transferring to the U.S. Treasury far more money than the amount budgeted by Congress to support the Department's criminal fraud and corporate corruption investigations and prosecutions.

Assistant Attorney General West testified that each year the attorneys from the Civil Division of the Department of Justice handle thousands of cases that collectively involve billions of dollars in claims and recoveries. Over the last year, the Department of Justice has made significant strides in protecting taxpayer dollars—as well as the integrity of Government programs that depend on those dollars—through aggressive civil enforcement actions aimed at rooting out waste, fraud, and abuse. For fiscal year 2010, the Civil Division secured \$3 billion in civil settlements and judgments in cases involving fraud against the Government.

## *2. Executive business meetings*

On May 12, 2011, the Committee held an executive committee business meeting to consider S. 890 and other measures, and the bill was held over for further consideration at the request of the Ranking Member.

On May 19, 2011, the Committee considered S. 890. No amendments were offered, and the Committee voted to report S. 890, the Fighting Fraud to Protect Taxpayers Act of 2011, favorably to the Senate. The Committee proceeded by roll call vote as follows:

Tally: 16 Yeas, 2 Nays

*Yeas (16):* Kohl (D-WI), Feinstein (D-CA), Schumer (D-NY), Durbin (D-IL), Whitehouse (D-RI), Klobuchar (D-MN), Franken (D-MN), Coons (D-DE), Blumenthal (D-CT), Grassley (R-IA), Hatch (R-UT), Sessions (R-AL), Graham (R-SC), Cornyn (R-TX), Coburn (R-OK), Leahy (D-VT).

*Nays (2):* Kyl (R-AZ), Lee (R-UT).

## III. SECTION-BY-SECTION SUMMARY OF THE BILL

### *Section 1. Short title*

This section provides that the legislation may be cited as the "Fighting Fraud to Protect Taxpayers Act of 2011."

### *Section 2. Department of Justice Working Capital Fund reforms to support fraud enforcement*

Currently, the Department of Justice is authorized to keep in its Working Capital Fund up to 3 percent of the money it collects pur-

suant to its civil debt collection litigation activities. This section increases that amount to 3.5 percent and directs that the additional .5 percent must be spent on the investigation and prosecution of fraud. This should result in approximately \$15 million additional dollars spent on fraud enforcement each year. The section also increases accountability by capping the amount of the 3.5 percent collected each year that the Justice Department can carry over to spend in subsequent years and requiring the Justice Department to report to Congress on how the Working Capital Fund operates each year.

*Section 3. Reimbursement of costs awarded if False Claims Act prosecutions*

Civil False Claims Act recoveries are deposited in the General Fund of the Treasury after relators are paid, victim agencies are refunded for their loss, and 3 percent is deducted for the Department of Justice's Working Capital Fund. This section authorizes an additional deduction to allow the Department of Justice or any other investigating agency to recoup its investigation and prosecution costs related to the False Claims Act matter being resolved.

*Section 4. Interlocutory appeals of suppression or exclusion of evidence*

This section amends 18 U.S.C. § 3731 to expressly permit Assistant Attorneys General, the Deputy Attorney General, and the Attorney General to certify interlocutory appeals from district court orders suppressing or excluding evidence. As it is currently written, section 3731 requires a certification by the United States Attorney, and at least one appellate court has held that the language does not permit certification by others. This creates a vacuum in cases that are handled by Department of Justice components other than the United States Attorneys' Offices, including the litigating units that handle fraud cases.

*Section 5. Extension of the international money laundering statute to tax evasion crimes*

This section extends the money laundering statute to cover tax evasion crimes. Doing so will allow criminals who hide money overseas to be charged with money laundering, which can result in increased sentences, which in turn acts as a deterrent to fraud crimes.

*Section 6. Strengthening the prohibition against trafficking in passwords*

Currently, it is criminal to knowingly traffic in passwords that can be used to access computers without authorization. The current prohibition applies, however, only where the trafficking itself affects interstate or foreign commerce, or where the passwords could access a Government computer. This section amends 18 U.S.C. § 1030(a)(6) to criminalize trafficking in passwords that could access any protected computer as defined by section 1030(e)(2) (computers for the use of a financial institution or the Government, or which are used in or affecting interstate or foreign commerce or communication).

*Section 7. Clarifying venue for Federal mail fraud offenses*

This section amends the general venue statute, 18 U.S.C. § 3237, to clarify that, in the context of mail fraud schemes, venue exists in any district in which any act in furtherance of the offense is committed. This fix permits venue in the district where the bulk of the fraudulent conduct occurs, regardless of where a letter is mailed.

*Section 8. Expansion of authority of the Secret Service*

The U.S. Secret Service is one of the only Federal law enforcement agencies that lacks the permanent authority to use either appropriated funds or proceeds received from criminal investigations for some activities to advance undercover operations. This section grants the Secret Service the same permanent authority to conduct undercover operations that is given to other law enforcement entities.

*Section 9. False Claims Act settlements*

This section requires the Attorney General to submit an annual report to Congress that describes in detail each settlement the Justice Department enters into that relates to an alleged violation of the False Claims Act.

*Section 10. Amending the title of Aggravated Identity Theft*

This section amends the title of the identity theft statute, changing it from “Aggravated Identity Theft” to “Aggravated Identity Theft and Fraud” to better reflect the nature of the conduct charged under the provision.

*Section 11. Expanding identity theft to include corporate identity theft*

Currently, the regular identity theft offense codified at 18 U.S.C. § 1028(a)(7) does not cover the unlawful use of a corporation’s name. This is problematic because criminals routinely engage in the unauthorized use of legitimate companies’ names and logos. This section amends the identity theft statute to cover the unlawful use of legitimate corporate names and logos.

#### IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee sets forth, with respect to the bill S. 890, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

JUNE 15, 2011.

Hon. PATRICK J. LEAHY,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 890, the Fighting Fraud to Protect Taxpayers Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*S. 890—Fighting Fraud to Protect Taxpayers Act of 2011*

Summary: S. 890 would increase the funds available to the Department of Justice (DOJ) each year for investigating and prosecuting fraud offenses. The bill would establish a new federal crime relating to international money laundering. S. 890 also would require DOJ to prepare annual reports on settlements of certain fraud cases and funding of its debt collection and antifraud efforts.

CBO estimates that enacting S. 890 would increase direct spending by \$69 million over the 2012–2021 period. In addition, we estimate that enacting the bill would affect revenues, but such effects would not be significant. Because enacting the legislation would affect direct spending and revenues, pay-as-you-go procedures apply. We also estimate that implementing the bill would have discretionary costs of about \$1 million annually over the 10-year period.

S. 890 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 890 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012– 2016	2012– 2021
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority ..	7	7	7	7	7	7	7	7	7	7	35	70
Estimated Outlays .....	6	7	7	7	7	7	7	7	7	7	34	69
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	1	1	1	1	1	1	1	1	1	1	5	10
Estimated Outlays .....	1	1	1	1	1	1	1	1	1	1	5	10

Basis of estimate: For this estimate, CBO assumes that S. 890 will be enacted by the end of fiscal year 2011.

*Direct spending and revenues*

DOJ collects civil debt owed to federal agencies and returns most of the recovered amounts to those agencies, with remaining amounts deposited in the Treasury. Current law authorizes DOJ to retain and spend up to 3 percent of most debt it recovers to defray the costs of its debt collection efforts. S. 890 would permit DOJ to retain and spend an additional 0.5 percent annually to cover certain costs of investigating and prosecuting fraud offenses.

Based on the amount of civil debt recovered by DOJ in recent years, CBO expects the department to collect between \$3 billion and \$4 billion annually over the 2012–2021 period and to retain 3 percent of those amounts. Under current law, most of the remaining amounts will be returned to agencies and spent, so allowing DOJ to retain an extra 0.5 percent of those funds would have no significant net effect on federal spending. However, we estimate that each year about \$1.4 billion of debt collected by DOJ will be deposited in the Treasury and not available to be spent. CBO estimates that allowing DOJ to spend an additional 0.5 percent of

those funds would increase direct spending by about \$7 million annually over the 2012–2021 period.

S. 890 would establish a new federal crime relating to international money laundering. Because those prosecuted and convicted under S. 890 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

*Spending subject to appropriation*

S. 890 would direct DOJ to prepare an annual report for the Congress on the sources of the collections that it retains each year and on the spending of those funds. The bill also would require DOJ to prepare an annual report on cases involving major fraud or false claims against the United States that were resolved through settlement. Based on the costs of similar activities, CBO estimates that it would cost about \$1 million annually, subject to the availability of appropriated funds, for DOJ to prepare the reports required by the bill.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 890 would increase the funds available to DOJ each year for investigating and prosecuting fraud offenses. The bill also could affect direct spending and revenues through the collection and spending of criminal fines. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 890 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON THE JUDICIARY ON MAY 19, 2011

	By fiscal year, in millions of dollars—											2011– 2016	2011– 2021
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021		
NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go													
Impact .....	0	6	7	7	7	7	7	7	7	7	7	34	69
Memorandum:													
Changes in Outlays .....	0	6	7	7	7	7	7	7	7	7	7	34	69
Changes in Revenues ....	0	0	0	0	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: S. 890 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Mark Grabowicz; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Marin Randall.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.



## V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 890.

## VI. CONCLUSION

The FFPTA will enhance and invigorate existing efforts to investigate fraud, including the scourge of mortgage, foreclosure, financial, and health care fraud that has victimized thousands of unsuspecting Americans in recent years. The legislation will fill key statutory gaps to account for modern types of fraud and will increase accountability by requiring the Justice Department to better manage and account for key spending. The FFPTA reflects the ongoing need to invest in enforcement to better protect hard-working taxpayers from all of these insidious types of fraud.

## VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 890, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

## UNITED STATES CODE

TITLE 28—JUDICIARY AND JUDICIAL  
PROCEDURE

## PART II—DEPARTMENT OF JUSTICE

\* \* \* \* \*

## CHAPTER 31—THE ATTORNEY GENERAL

\* \* \* \* \*

## SEC. 527. ESTABLISHMENT OF WORKING CAPITAL FUND.

## Statutory Note

**[Notwithstanding]** (1) *DEFINITIONS*—*In this subsection—*

(A) *the term 'covered amounts' means—*

(i) *the unobligated balances in the debt collection management account; and*

(ii) *the unobligated balances in the supplemental fraud fighting account;*

(B) *the term 'debt collection management account' means the account established in the Department of Justice Working Capital Fund under paragraph (2);*

(C) *the term 'fraud offense' includes—*

(i) *an offense under section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) and an offense under section 104 or 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2 and 78dd-3);*

(ii) *a securities fraud offense, as defined in section 3301 of title 18, United States Code;*

(iii) a fraud offense relating to a financial institution or a federally related mortgage loan, as defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602), including an offense under section 152, 157, 1004, 1005, 1006, 1007, 1011, or 1014 of title 18, United States Code;

(iv) an offense involving procurement fraud, including defective pricing, bid rigging, product substitution, misuse of classified or procurement sensitive information, grant fraud, fraud associated with labor mischarging, and fraud involving foreign military sales;

(v) an offense under the Internal Revenue Code of 1986 involving fraud;

(vi) an action under subchapter III of chapter 37 of title 31, United States Code (commonly known as the 'False Claims Act'), and an offense under chapter 15 of title 18, United States Code;

(vii) an offense under section 1029, 1030, or 1031 of title 18, United States Code; and

(viii) an offense under chapter 63 of title 18, United States Code; and

(D) the term 'supplemental fraud fighting account' means the supplemental fraud fighting account established in the Department of Justice Working Capital Fund under paragraph (3)(A).

(2) DEBT COLLECTION MANAGEMENT ACCOUNT.—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the Department of Justice Working Capital Fund up to 3 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice. [Such amounts] Subject to paragraph (4), such amounts in the Working Capital Fund shall remain available until expended and shall be subject to the terms and conditions of that fund, and shall be used first, for paying the costs of processing and tracking civil and criminal debt-collection litigation, and, thereafter, for financial systems and for debt-collection-related personnel, administrative, and litigation expenses.

(3) SUPPLEMENTAL FRAUD FIGHTING ACCOUNT.—

(A) ESTABLISHMENT.—There is established as a separate account in the Department of Justice Working Capital Fund established under section 527 of title 28, United States Code, a supplemental fraud fighting account.

(B) CREDITING OF AMOUNTS.—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the supplemental fraud fighting account up to 0.5 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice.

(C) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), the Attorney General may use amounts in the supplemental fraud fighting account for the cost (including equipment, salaries and benefits, travel and training, and interagency task force operations) of the investigation of and conduct of criminal,

civil, or administrative proceedings relating to fraud offenses.

(ii) *LIMITATION.*—The Attorney General may not use amounts in the supplemental fraud fighting account for the cost of the investigation of or the conduct of criminal, civil, or administrative proceedings relating to—

(I) an offense under section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1); or

(II) an offense under section 104 or 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2 and 78dd-3).

(D) *CONDITIONS.*—Subject to paragraph (4), amounts in the supplemental fraud fighting account shall remain available until expended and shall be subject to the terms and conditions of the Department of Justice Working Capital Fund.

(4) *MAXIMUM AMOUNT.*—

(A) *IN GENERAL.*—There are rescinded all covered amounts in excess of \$175,000,000 at the end of fiscal year 2012 and the end of each fiscal year thereafter.

(B) *RATIO.*—For any rescission under subparagraph (A), the Secretary of the Treasury shall rescind amounts from the debt collection management account and the supplemental fraud fighting account in a ratio of 6 dollars to 1 dollar, respectively.

(5) *ANNUAL REPORT.*—Not later than 6 months after the date of enactment of the Taxpayer Protection and Fraud Enforcement Act of 2011, and every year thereafter, the Attorney General shall submit to Congress a report that identifies, for the most recent fiscal year before the date of the report—

(A) the amount credited to the debt collection management account and the amount credited to the supplemental fraud fighting account from civil debt collection litigation, which shall include, for each account—

(i) a comprehensive description of the source of the amount credited; and

(ii) a list the civil actions and settlements from which amounts were collected and credited to the account;

(B) the amount expended from the debt collection management account for civil debt collection, which shall include a comprehensive description of the use of amounts in the account that identifies the amount expended for—

(i) paying the costs of processing and tracking civil and criminal debt-collection litigation;

(ii) financial systems;

(iii) debt-collection-related personnel expenses;

(iv) debt-collection-related administrative expenses; and

(v) debt-collection-related litigation expenses;

(C) the amounts expended from the supplemental fraud fighting account and the justification for the expenditure of such amounts; and

(D) the unobligated balance in the debt collection management account and the unobligated balance in the supplemental fraud fighting account at the end of the fiscal year.

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**TITLE 31—MONEY AND FINANCE**

\* \* \* \* \*

**SUBTITLE III—FINANCIAL MANAGEMENT**

\* \* \* \* \*

**CHAPTER 37—CLAIMS**

\* \* \* \* \*

**Subchapter III—Claims Against the United States Government**

\* \* \* \* \*

**SEC. 3729. FALSE CLAIMS.**

(a) **LIABILITY FOR CERTAIN ACTS.—**

\* \* \* \* \*

(3) **COSTS OF CIVIL ACTIONS.—**A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages. *Any costs paid under this paragraph shall be credited to the appropriations accounts of the executive agency from which the funds used for the costs of the civil action were paid.*

\* \* \* \* \*

**TITLE 18—CRIMES AND CRIMINAL PROCEDURE**

\* \* \* \* \*

**PART II—CRIMINAL PROCEDURE**

\* \* \* \* \*

**CHAPTER 235—APPEAL**

\* \* \* \* \*

**SEC. 3731. APPEAL BY UNITED STATES.**

In a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information or granting a new trial after verdict or judgment, as to any one or more counts, or any part thereof, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

An appeal by the United States shall lie to a court of appeals from a decision or order of a district court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the *Attorney General, the Deputy Attorney General, an Assistant Attorney General, or the United States attorney* certifies to the district court that the appeal is not taken for purpose of delay and

that the evidence is a substantial proof of a fact material in the proceeding.

An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.

The appeal in all such cases shall be taken within thirty days after the decision, judgment or order has been rendered and shall be diligently prosecuted.

The provisions of this section shall be liberally construed to effectuate its purposes.

\* \* \* \* \*

**PART I—CRIMES**

\* \* \* \* \*

**CHAPTER 95—RACKETEERING**

\* \* \* \* \*

**SEC. 1956. LAUNDERING OF MONETARY INSTRUMENTS.**

(a)(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

(A) with the [intent to promote the carrying on of specified unlawful activity; or] *intent to—*

(i) *promote*

(ii) *engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or*

\* \* \* \* \*

**CHAPTER 47—FRAUD AND FALSE STATEMENTS**

\* \* \* \* \*

**SEC. 1030. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.**

(a)(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a *protected* computer may be accessed without authorization[, if—]; *or*

[(A) such trafficking affects interstate or foreign commerce; or

(B) such computer is used by or for the Government of the United States;]

\* \* \* \* \*

**PART II—CRIMINAL PROCEDURE**

\* \* \* \* \*

**CHAPTER 211—JURISDICTION VENUE**

**SEC.** \* \* \* \* \*

- 3231. District courts
- 3232. District of offense (Rule)
- 3233. Transfer within district (Rule)
- 3234. Change of venue to another district (Rule)
- 3235. Venue in capital cases
- 3236. Murder or manslaughter
- [3237. Offenses begun in one district and completed in another]**
- 3237. Offenses taking place in more than one district*
- 3238. Offenses not committed in any district
- 3239. Optional venue for espionage and related offenses
- 3240. Creation of new district or division
- 3241. Jurisdiction of offenses under certain sections
- 3242. Indians committing certain offenses; acts on reservations
- 3243. Jurisdiction of State of Kansas over offenses committed by or against Indians on Indian reservations
- 3244. Jurisdiction of proceedings relating to transferred offenders

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**SEC. 3237. OFFENSES [BEGUN IN ONE DISTRICT AND COMPLETED IN ANOTHER] TAKING PLACE IN MORE THAN ONE DISTRICT.**

(a) Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed.

Any offense involving the use of the mails, transportation in interstate or foreign commerce, or the importation of an object or person into the United States is a continuing offense and, except as otherwise expressly provided by enactment of Congress, may be inquired of and prosecuted in any district from, through, or into which such commerce, mail matter, or imported object or person moves or in any district in which an act in furtherance of the offense is committed.

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**CHAPTER 203—ARREST AND COMMITMENT**

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**SEC. 3056. POWERS, AUTHORITIES, AND DUTIES OF UNITED STATES SECRET SERVICE.**

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(b) Under the direction of the Secretary of Homeland Security, the Secret Service is authorized to detect and arrest any person who violates—

- (1) section 508, 509, 510, 641, 656, 657, 871, or 879 of this title or, with respect to the Federal Deposit Insurance Corporation, Federal land banks, and Federal land bank associations, section 213, 216, 433, [493, 657,] 493, 709, 1006, 1007, 1011, 1013, 1014, 1907, or 1909 of this title;
- (2) any of the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; or
- (3) any of the laws of the United States relating to electronic fund transfer frauds, access device frauds, false identification documents or devices, and any fraud or other criminal or un-

lawful activity in or against any [federally insured] financial institution; except that the authority conferred by this paragraph shall be exercised subject to the agreement of the Attorney General and the Secretary of Homeland Security and shall not affect the authority of any other Federal law enforcement agency with respect to those laws.

\* \* \* \* \*

*(h)(1) For any undercover investigative operation of the United States Secret Service that is necessary for the detection and prosecution of a crime against the United States, the United States Secret Service may—*

*(A) use amounts appropriated for the United States Secret Service, including unobligated balances available from prior fiscal years, to—*

*(i) purchase property, buildings, and other facilities and lease space within the United States (including the District of Columbia and the territories and possessions of the United States), without regard to sections 1341 and 3324 of title 31, section 8141 of title 40, and sections 3901, 4501 through 4506, 6301, and 6306(a) of title 41; and*

*(ii) establish, acquire, and operate on a commercial basis proprietary corporations and business entities as part of the undercover investigative operation, without regard to sections 9102 and 9103 of title 31;*

*(B) deposit in banks and other financial institutions amounts appropriated for the United States Secret Service, including unobligated balances available from prior fiscal years, and the proceeds from the undercover investigative operation, without regard to section 648 of this title and section 3302 of title 31; and*

*(C) use the proceeds from the undercover investigative operation to offset necessary and reasonable expenses incurred in the undercover investigative operation, without regard to section 3302 of title 31.*

*(2) The authority under paragraph (1) may be exercised only upon a written determination by the Director of the United States Secret Service (in this subsection referred to as the ‘Director’) that the action being authorized under paragraph (1) is necessary for the conduct of an undercover investigative operation. A determination under this paragraph may continue in effect for the duration of an undercover investigative operation, without fiscal year limitation.*

*(3) If the Director authorizes the proceeds from an undercover investigative operation to be used as described in subparagraph (B) or (C) of paragraph (1), as soon as practicable after the proceeds are no longer necessary for the conduct of the undercover investigative operation, the proceeds remaining shall be deposited in the general fund of the Treasury as miscellaneous receipts.*

*(4) As early as the Director determines practicable before the date on which a corporation or business entity established or acquired under paragraph (1)(A)(ii) with a net value of more than \$50,000 is to be liquidated, sold, or otherwise disposed of, the Director shall notify the Secretary of Homeland Security regarding the circumstances of the corporation or business entity and the liquidation, sale, or other disposition. The proceeds of the liquidation, sale, or*

other disposition, after obligations are met, shall be deposited in the general fund of the Treasury as miscellaneous receipts.

(5)(A) The Director shall—

(i) on a quarterly basis, conduct detailed financial audits of closed undercover investigative operations for which a written determination is made under paragraph (2); and

(ii) submit to the Secretary of Homeland Security a written report of the results of each audit conducted under clause (i).

(B) On the date on which the budget of the President is submitted under section 1105(a) of title 31 for each year, the Secretary of Homeland Security shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report summarizing the audits conducted under subparagraph (A)(i) relating to the previous fiscal year.

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**PART I—CRIMES**

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**CHAPTER 47—FRAUD AND FALSE STATEMENTS**

**SEC.**

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- 1020. Highway projects
- 1021. Title records
- 1022. Delivery of certificate, voucher, receipt for military or naval property
- 1023. Insufficient delivery of money or property for military or naval service
- 1024. Purchase or receipt of military, naval, or veteran's facilities property
- 1025. False pretenses on high seas and other waters
- 1026. Compromise, adjustment, or cancellation of farm indebtedness
- 1027. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974
- [1028. Fraud and related activity in connection with identification documents, authentication features, and information]**
- 1028. Fraud and related activity in connection with identification documents, authentication features, and information.
- [1028A. Aggravated identity theft]**
- 1028A. *Aggravated identity theft and fraud.*
- 1029. Fraud and related activity in connection with access devices
- 1030. Fraud and related activity in connection with computers

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**SEC. 1028. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS, AUTHENTICATION FEATURES, AND INFORMATION.**

(a)(7) knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person (*including an organization*) with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law; or

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**SEC. 1028A. AGGRAVATED IDENTITY THEFT AND FRAUD.**

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