112TH CONGRESS
1ST SESSION

S. _____

To establish the supplemental fraud fighting account, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish the supplemental fraud fighting account, 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.

This Act may be cited as the ''Fighting Fraud to Protect Taxpayers Act of 2011''.

SEC. 2. DEPARTMENT OF JUSTICE WORKING CAPITAL FUND REFORMS.

Section 11013(a) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 527 note) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(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";

(2) by striking "Such amounts" and inserting "Subject to paragraph (4), such amounts"; and

(3) by adding at the end the following:

"(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.".

SEC. 3. REIMBURSEMENT OF COSTS AWARDED IN FALSE CLAIMS ACT PROSECUTIONS.

Section 3729(a)(3) of title 31, United States Code, is amended by adding at the end the following: "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.".

SEC. 4. INTERLOCUTORY APPEALS OF SUPPRESSION OR EXCLUSION OF EVIDENCE.

Section 3731 of title 18, United States Code, is amended in the second undesignated paragraph by inserting "Attorney General, the Deputy Attorney General, an Assistant Attorney General, or the" after "an indictment or information, if the".

SEC. 5. EXTENSION OF INTERNATIONAL MONEY LAUNDERING STATUTE TO TAX EVASION CRIMES.

Section 1956(a)(2)(A) of title 18, United States Code, is amended—

(1) by striking ''intent to promote—'' and inserting the following: ''intent to—

''(i) promote''; and

(2) by adding at the end the following

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

SEC. 6. STRENGTHENING THE PROHIBITION AGAINST TRAFFICKING IN PASSWORDS.

Section 1030(a)(6) of title 18, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''protected'' before ''computer''; and

(2) by striking '', if—'' and all that follows and inserting ''; or''.

SEC. 7. CLARIFYING VENUE FOR FEDERAL MAIL FRAUD OFFENSES.

(a) IN GENERAL.—Section 3237(a) of title 18, United States Code, is amended in the second undesignated paragraph by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.

(b) SECTION HEADING.—Section 3237 of title 18, United States Code, is amended in the section heading by striking "**begun**" and all that follows and inserting "**taking place in more than one district**".

(c) TABLE OF SECTIONS.—The table of sections for chapter 211 of title 18, United States Code, is amended by striking the item relating to section 3237 and inserting the following:

"3237. Offenses taking place in more than one district.".

SEC. 8. EXPANSION OF AUTHORITY OF SECRET SERVICE.

Section 3056 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "641, 656, 657," after "510,"; and

(ii) by striking "493, 657," and inserting "493,"; and

(B) in paragraph (3), by striking "federally insured"; and

(2) by adding at the end the following:

"(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 reason-

able 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.''.

SEC. 9. FALSE CLAIMS SETTLEMENTS.

(a) REPORTS BY ATTORNEY GENERAL.—Not later than November 1 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate

and the Committee on the Judiciary of the House of Representatives a report that describes each settlement or compromise of any claim, suit, or other action entered into with the Department of Justice that—

(1) relates to an alleged violation of section 1031 of title 18, United States Code, or section 3729 of title 31, United States Code (including all settlements of alternative remedies); and

(2) results from a claim for damages of more than $100,000.

(b) CONTENTS OF REPORTS.—The description of each settlement or compromise required to be included in an annual report under subsection (a) shall include—

(1) the total amount of the settlement or compromise and the portions of the settlement attributable to violations of various statutory authorities;

(2) the amount of actual damages, or if the amount of actual damages is not available a good faith estimate of the damages, that have been sustained and the minimum and maximum potential civil penalties that may be incurred as a consequence of the conduct of the defendant that is the subject of the settlement or compromise;

(3) the basis for any estimate of damages sustained and the potential civil penalties incurred;

(4) the amount of the settlement that represents damages and the multiplier or percentage of the actual damages used in determining the amount to be paid under the settlement or compromise;

(5) the amount of the settlement that represents civil penalties and the percentage of the maximum potential civil penalty to be paid under the settlement or compromise;

(6) the amount of the settlement that represents criminal fines and a statement of the basis for the fines;

(7) a description of the period during which the matter to which the settlement or compromise relates was pending, including—

(A) the date on which the complaint was originally filed;

(B) a description of the period the matter remained under seal;

(C) the date on which the Department of Justice determined whether to intervene in the case; and

(D) the date on which the settlement or compromise was finalized;

(8) whether a defendant or any division, subsidiary, affiliate, or related entity of a defendant had

previously entered into a settlement or compromise relating to section 1031 of title 18, United States Code, or section 3730(b) of title 31, United States Code, and, if so, the date of and amount to be paid under each such settlement or compromise;

(9) whether a defendant or any division, subsidiary, affiliate, or related entity of a defendant—

(A) entered into a corporate integrity agreement relating to the settlement or compromise;

(B) entered into a deferred prosecution agreement or nonprosecution agreement relating to the settlement or compromise; or

(C)(i) previously entered into—

(I) a corporate integrity agreement relating to a settlement or compromise relating to a different violation of section 3730(b) of title 31, United States Code; or

(II) a deferred prosecution agreement or nonprosecution agreement relating to a settlement or compromise relating to a different violation of section 1031 of title 18, United States Code; and

(ii) if the defendant had entered an agreement described in clause (i), whether the agree-

ment applied to the conduct that is the subject of the settlement or compromise described in the report or similar conduct;

(10) for a settlement involving Medicaid, the amounts paid to the Federal Government and to each State participating in the settlement or compromise;

(11) whether civil investigative demands were issued in process of investigating the matter to which the settlement or compromise relates;

(12) for a qui tam action—

(A) the percentage of the settlement amount awarded to the relator; and

(B) whether the relator requested a fairness hearing relating to the percentage received by the relator or the total amount of the settlement;

(13) the extent to which officers of the agency that was the victim of the loss resolved by the settlement or compromise participated in the settlement negotiations; and

(14) the extent to which a relator or counsel for a relators participated in the settlement negotiations.

SEC. 10. AGGRAVATED IDENTITY THEFT AND FRAUD.

(a) IN GENERAL.—Section 1028A of title 18, United States Code, is amended in the section heading by adding "**and fraud**" at the end.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1028A and inserting the following:

"1028A. Aggravated identity theft and fraud.".

SEC. 11. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS, AUTHENTICATION FEATURES, AND INFORMATION.

(a) IN GENERAL.—Section 1028(a)(7) of title 18, United States Code, is amended by inserting "(including an organization)" after "person".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1028 and inserting the following:

"1028. Fraud and related activity in connection with identification documents, authentication features, and information.".