

is in her genes. Her father-in-law was the longtime Republican Congressman from Kansas. In that very Republican State, they elected a Democrat as the insurance commissioner. It was not a close election, but it was one in which, once she was installed as insurance commissioner, she started showing people who was boss. The elected representative of the people of Kansas was going to administer the laws with regard to the protection of consumers, which is the purpose of having an insurance advocate for the people.

Only a few States continue to elect their insurance commissioner. It is known as the office of the revolving door since most of the insurance commissioners are appointed. The revolving door starts with the insurance industry having a representative who is appointed by the appointing authority, usually the Governor, because someone who is knowledgeable about insurance has to be insurance commissioner. But, indeed, the door continues to revolve, and the average time of service for an appointed insurance commissioner is less than 1 year. As a result, as you watch the door revolve, they come in from the insurance industry, become the top regulator of the insurance industry, and on the average, in less than a year, the door revolves and they are out the door and they are back in the very industry from whence they came. That is not the smartest way to have an insurance regulator.

Kathleen Sebelius defied that model. As the elected insurance commissioner of Kansas, she stood up for consumer rights and she cracked the whip to get the insurance companies to offer this product that has now become a necessity, not a luxury. Why? You can't drive a car without insurance. You can't own a home, if you have a mortgage, without insurance. You better have some life insurance if you are planning for your family.

By the way, we have not even talked about health insurance. A huge percentage, well over a majority of the people in this country, get their health insurance through their employer. As we approach the issue of health care reform, what to do about insurance is going to be front and center, and Governor Sebelius is uniquely qualified to address this issue. We have 47 million people in this country who do not have health insurance, but they get health care. Where do they get health care? They get it from the most expensive place, which is the emergency room, and they get it at the most expensive time, which is when their symptoms have turned into a full, raging emergency. Therefore, because they did not have health insurance, they were not seeing a doctor for preventive care, and all of this additional cost, plus the additional costs of being treated in an emergency room—guess who pays. All of us pick up that tab. That, additionally, is plowed back into the costs we pay for health care, in large part through the insurance premiums we pay.

Governor Sebelius is someone who has been there, she has done that. She knows how this insurance system operates. She knows the parameters in which you have to offer health insurance to people in order to make it work. She understands the financing behind it. She is uniquely qualified for this position of Secretary of HHS.

Since I have the privilege of being a personal friend, I have known her over these 14 years in our capacities as elected insurance commissioners, she from Kansas and me from Florida, and then as I have continued to see her in her public service, then having gone from insurance commissioner to Governor, she comes at a time when this Nation is begging for health care reform. The President has chosen Kathleen in this exceptionally important position to not only use her skills as a former regulator where she can crack the whip but to use her skills as a person who can bring people together, who can reconcile, who can build consensus—which she has honed over the years and I suspect honed those skills at the knee of her father as she was growing up. She honed those skills as a public servant—as a legislator, as an elected statewide official, as the Governor, and now she will be the right person at the right time whom this Nation needs—a very good Secretary of Health and Human Services.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

The PRESIDING OFFICER. The Senate will resume consideration of S. 386, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 386) to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

Mr. DURBIN. Mr. President, we have on the Senate floor a piece of legislation that has broad bipartisan support and that addresses an urgent national need.

Our country has seen a wave of white-collar fraud that has undermined the financial and housing markets and shaken our entire economy.

In recent years, there simply haven't been enough cops on the beat in the

mortgage and financial markets. After 9/11, the Department of Justice, the FBI, and other agencies shifted their attention away from financial fraud investigations to focus on other important concerns. At the same time, we saw financial deregulation, the boom in subprime and exotic mortgages, and the evolution of mortgage-backed securitized instruments. These developments created a wealth of opportunities for fraudsters to rip off hard-working Americans.

We know now that there is a wave of fraud sweeping the country. The Treasury Department is receiving 5,000 mortgage fraud allegations per month. The FBI now has more than 530 open corporate fraud investigations, and FBI officials report that their fraud caseload is growing exponentially. And Americans have been stunned by recent revelations of massive Ponzi schemes and the manipulation of financial markets. It is simply unacceptable for this Congress to stand idly by and watch these fraudsters rip off the American people. We need to act. And we have a bill on the floor of the Senate right now that would take strong and effective steps to catch the perpetrators of these frauds and protect the taxpayers.

The Fraud Enforcement and Recovery Act, sponsored by the chairman of the Judiciary Committee, Senator LEAHY, and the ranking member of the Finance Committee, Senator GRASSLEY, is carefully crafted and widely supported on both sides of the aisle.

The bill makes important improvements to the criminal fraud statutes. These provisions will strengthen prosecutors' ability to combat fraud in the mortgage and financial markets. The bill also puts more cops on the beat in the financial markets. It authorizes the hiring of hundreds of FBI and SEC investigators to focus on mortgage and financial fraud. It provides \$100 million for new white-collar prosecutors in U.S. attorney offices, and it bolsters the resources of the Criminal, Civil and Tax Divisions of the Department of Justice.

These investments in enforcement are likely to pay off in more ways than just catching criminals. They will lead to increased restitution payments, criminal and civil fines, and monetary recoveries for victims and taxpayers. The Justice Department estimates that for every dollar spent to prosecute fraud at the Criminal Division, more than \$20 is ordered in restitution and fines for victims and the government. So this bill will pay for itself and then some.

The legislation also includes a key provision from a bill that Senator GRASSLEY and I introduced earlier this year to update the Federal False Claims Act. The False Claims Act is known as Lincoln's Law. It was signed by President Lincoln in 1863, and since then it has enabled the Federal Government and whistleblowers to work together to prevent waste, fraud, and abuse of Government funds. The False

Claims Act has been a powerful anti-fraud tool. Since 1986, the Federal Government and whistleblowers have recovered over \$22 billion in monies that were fraudulently taken from Government programs. The bill before us corrects several court decisions that have misinterpreted the False Claims Act and limited its scope. This legislation will help keep Lincoln's Law strong for the 21st century.

I am proud to cosponsor the anti-fraud legislation we are considering. It is going to pass this body by a wide margin, and it is going to help the American people. But it has been held up by a small number of Senators from across the aisle. These Senators have delayed a vote on final passage of this bill, because they want to offer amendments that have nothing to do with the bill. Why are these Senators standing in the way of legislation that will fight fraud in our markets and curb waste in Government programs? I can't understand it, and I don't think the American people can understand it.

These Senators should be cosponsoring this legislation, not blocking it. Are these Senators aware of the mortgage rescue scams that are catching more and more Americans every day? Do they know that con artists are out there right now promising that they can help families who are facing foreclosure save their homes—all for a supposedly small upfront fee? Desperate homeowners are tricked into paying these con artists, who then skip town and leave the family worse off than before. Are these Senators aware of the financial scams being perpetrated on senior citizens and military families? What about the investors who have lost their life savings to Ponzi schemes and market manipulators? Shouldn't we put more cops on the beat to catch these crooks? Shouldn't we bolster our enforcement agencies so they can prosecute these cases and get restitution for the victims? I think we should.

The Fraud Enforcement and Recovery Act takes important steps to help law enforcement agencies investigate and prosecute the financial fraud that has surged in recent years. It will also deter those who might commit fraud in the future. This measure will help restore confidence in our economy and restore millions of dollars in ill-gotten gains to victims and taxpayers.

I hope we can vote quickly on final passage of this bill. America needs it, and we need to pass it.

Mr. LEAHY. Mr. President, today we finally come to a vote on final passage of the bipartisan Fraud Enforcement and Recovery Act of 2009, S. 386. It has taken longer to arrive at this point than it should have, and we have had to consider too many extraneous issues that would have been better suited for another debate. We nonetheless stand ready to make real progress. This bill is a step toward holding accountable those who have caused so much damage to our economy. It should help protect our economic recovery efforts from the scourge of fraud.

Our bill will strengthen the Federal Government's capacity to investigate and prosecute the kinds of financial frauds that have so severely undermined our economy and hurt so many hard-working people in this country. These frauds have robbed people of their savings, their retirement accounts, their college funds for their children, their equity, and costs too many their homes. These are serious matters that should not be delayed. The bill will help provide the resources and legal tools needed to police and deter fraud and to protect taxpayer-funded economic recovery efforts now being implemented.

I end as I began by commending Senator GRASSLEY, our lead cosponsor, for his leadership in helping to write this legislation and to manage it on the floor. He has once again proven his dedication to protecting taxpayer funds by deterring, investigating, and prosecuting fraud.

I thank our many cosponsors for their steadfast support for this effort. Senators KAUFMAN and KLOBUCHAR have worked particularly hard to ensure that this important fraud enforcement bill becomes law, and I thank them for their efforts. Senator KAUFMAN has spoken and written about the need for fraud enforcement all year. Senator KLOBUCHAR, a former prosecutor as I am, understands how important it is to have sufficient resources on the ground committed to deterring and discovering these devastating crimes. We have been joined by a growing bipartisan group of cosponsors that now stands at 27.

And I thank the majority leader and our underappreciated cloakroom and floor staff for all that they have done to bring us to this moment. The majority leader had to file for cloture to even proceed to this bipartisan fraud enforcement bill last week, and then had to file a second cloture petition late Thursday night when Republicans would not agree to a finite list of amendments to be considered in order to complete action on the bill. A matter like this should not require one cloture vote, let alone two. A matter like that that is designed to help law enforcement and protect the savings of Americans should be acted upon by the Senate without partisanship, delay, and obstruction.

Mortgage fraud has reached near epidemic levels in this country. Reports of mortgage fraud are up 682 percent over the past 5 years and more than 2800 percent in the past decade. And massive, new corporate frauds, like the \$65 billion dollar Ponzi scheme perpetrated by Bernard Madoff, are being uncovered as the economy has turned worse, exposing many investors to massive losses. We can now finally take action to better protect the victims of these frauds. These victims include homeowners who have been fleeced by unscrupulous mortgage brokers who promise to help them, only to leave them unable to keep their homes and

in even further debt than before. They include retirees who have lost their life savings in stock scams and Ponzi schemes, which have come to light as the markets have fallen and corporations have collapsed. They also include American taxpayers who have invested billions of dollars to restore our economy and who expect us to protect that investment and make sure those funds are not exploited by fraud.

Federal law enforcement needs this legislation now to combat fraud effectively. In the last 3 years, the number of criminal mortgage fraud investigations opened by the Federal Bureau of Investigation, FBI, has more than doubled, and the FBI anticipates that number may double yet again. Despite this increase, the FBI currently has fewer than 250 special agents nationwide assigned to financial fraud cases, which is only a quarter of the number the Bureau had more than a decade ago at the time of the savings and loan crisis. At the current levels, the FBI cannot even begin to investigate the more than 5000 mortgage fraud allegations referred by the Treasury Department each month.

In the late 1980s and early 1990s, Congress responded to the collapse of the federally insured savings and loan industry by passing legislation similar to the bill we consider today, to hire prosecutors and agents. While the current financial crisis dwarfs in scale to the savings and loan collapse, we are poised to once again take decisive action.

At its core, the Fraud Enforcement and Recovery Act authorizes the resources necessary for the Justice Department, the FBI, and other investigative agencies to respond to this crisis. In total, the bill authorizes \$245 million a year over the next 2 years to hire more than 300 Federal agents, more than 200 prosecutors, and another 200 forensic analysts and support staff to rebuild our Nation's white collar fraud enforcement efforts. While the number of fraud cases is now skyrocketing, we need to remember that resources were shifted away from fraud investigations after 9/11. Today, the ranks of fraud investigators and prosecutors are drastically understocked, and thousands of fraud allegations are going unexamined each month. We need to restore our capacity to fight fraud in these hard economic times, and this bill will do that.

Fraud enforcement is an excellent investment for the American taxpayer. According to recent data provided by the Justice Department, the Government recovers more than \$20 dollars for every dollar spent on criminal fraud litigation. Strengthening criminal and civil fraud enforcement is a sound investment, and this legislation will not only pay for itself but will bring in money for the Federal Government.

In addition, the Fraud Enforcement and Recovery Act makes a number of straightforward, important improvements to fraud and money laundering

statutes to strengthen prosecutors' ability to combat this growing wave of fraud. It also strengthens one of the most potent civil tools we have for rooting out fraud in Government—the False Claims Act. The Federal Government has recovered more than \$22 billion using the False Claims Act since it was modernized through the work of Senator GRASSLEY in 1986, but this bill will make the statute still more effective.

The Fraud Enforcement and Recovery Act has broad bipartisan support, as well as the strong backing of the Justice Department and the Obama administration. As explained in the Statement of Administration Policy: "The Administration strongly supports enactment of S. 386. Its provisions would provide Federal investigators and prosecutors with significant new criminal and civil tools and resources that would assist in holding accountable those who have committed financial fraud."

Strengthening fraud enforcement is a key priority for President Obama. During the campaign, President Obama promised to "crack down on mortgage fraud professionals found guilty of fraud by increasing enforcement and creating new criminal penalties." And the President made good on this promise in his budget to Congress by calling for additional FBI agents "to investigate mortgage fraud and white collar crime," as well as hiring more Federal prosecutors and civil attorneys "to protect investors, the market, and the Federal Government's investment of resources in the financial crisis, and the American public." The initial Senate-passed recovery package included additional money for the FBI for this purpose, but it was cut during the negotiations that led to its passage. This bill, the bipartisan Fraud Enforcement and Recovery Act, is our chance to authorize the necessary additional resources to detect, fight, and deter fraud that robs the American people and American taxpayers of their funds.

This is and has been bipartisan legislation. Our cosponsors come from across the political spectrum—Democrats, Republicans, and an Independent. What we share is a commitment to fight fraud and the horrible costs it is imposing on hard-working Americans. I believe that our efforts are supported by most Americans. No one should want to see taxpayer money intended to fund economic recovery efforts diverted by fraud. No one should want to see those who engaged in mortgage fraud escape accountability. We need to pass this bill and give law enforcement the resources and tools they desperately need.

During these first months of the year, the Judiciary Committee has concentrated on what we can do legislatively to assist in the economic recovery. Already we have considered and reported this fraud enforcement bill, the patent reform bill, and worked to ensure that law enforcement assist-

ance was included in the economic recovery legislation.

The recovery efforts are generating signs of economic progress. That is good. That is necessary. But that is not enough. We need to make sure that we are spending our public resources wisely and that they are not being dissipated by fraud. We need to ensure that those responsible for the downturn through fraudulent acts in financial markets and the housing market are held to account. That is why we need to enact the Fraud Enforcement and Recovery Act.

Two decades ago we responded during the savings and loan crisis by hiring more agents, analysts, and prosecutors and allocating the resources needed to catch those who took advantage to profit through fraud. We need to do so again.

The bill has also received the support of the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the National Association of Assistant United States Attorneys, the Association of Certified Tax Examiners, and Taxpayers Against Fraud. It was strongly endorsed by an editorial in *The New York Times* on April 18, 2009.

I thank Senators for joining with us to take decisive action to protect American families and our economy from fraud by passing this commonsense bill now.

Mr. LEVIN. Mr. President, I am a cosponsor of the Fraud Enforcement and Recovery Act of 2009, and today I vote for its enactment into law. In these difficult economic times, this bill is needed to strengthen the Federal Government's ability to combat mortgage, securities, and other types of financial fraud.

This act would put more fraud investigators, regulators, and prosecutors on the beat. It would authorize increased funding to the Department of Justice, the Federal Bureau of Investigation, the Securities and Exchange Commission, the U.S. Postal Service, the HUD inspector general, and the Secret Service. It would also ensure that the public will be able to see the results of these investments by requiring the agencies to submit a joint report to Congress on amounts spent on fraud investigations, as well as amounts recovered.

This act would also make clear that Federal mortgage fraud laws cover mortgage brokers and their agents—some of whom have wreaked a terrible toll in my State of Michigan and the country. Their misconduct has included misrepresenting mortgage terms to borrowers, convincing families to refinance their homes with mortgages that would leave them worse off financially, reaping hidden fees, and even obtaining fraudulent mortgages and stealing the funds. It is long past time to clarify and strengthen the laws that punish such wrongdoing.

The act would strengthen taxpayer protections by ensuring that moneys

expended through the Troubled Assets Relief Program, TARP, are protected by the Federal fraud statute. In addition, it would expand securities anti-fraud provisions to cover fraud involving options and futures contracts for commodities.

The act would strengthen our antimoney laundering regime. The current money laundering statute outlaws financial transactions using the proceeds from certain listed unlawful activities. This act would add tax evasion to that list. The threat of criminal liability for money laundering is a powerful tool for prosecutors to use in their battles with those who dodge their tax obligations.

Additionally, recent court decisions have misdefined the term "proceeds" from the money laundering statute to mean only the net receipts from unlawful activities. By defining that term so narrowly, these court decisions have reduced the efficacy of the statute: preventing prosecutions for numerous crimes. This act will fix these decisions and explicitly define "proceeds" to include not only net but gross receipts from unlawful activities. This small modification will restore the money laundering statute to its rightful place as a critical tool in the battles against fraud and illicit activity.

These provisions are useful additions to Federal antimoney laundering statutes, but we should not stop here. We should also make sure that our antimoney laundering laws apply to all of the entities that may be involved in money laundering. I look forward to working with the Senate to update our antimoney laundering requirements, and continue the efforts to stop fraud, illicit activity, and tax evasion.

This act will make an important contribution to ongoing efforts to root out fraud—against individuals and against our Government. It is an important part of the effort to help put our country back on solid economic footing, and I commend the bill sponsors for their work on this legislation.

The PRESIDING OFFICER. The question is on the passage of S. 386, as amended.

The yeas and nays were previously ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote "aye."

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—92

- |           |            |             |
|-----------|------------|-------------|
| Akaka     | Ensign     | Menendez    |
| Alexander | Enzi       | Merkley     |
| Barrasso  | Feingold   | Mikulski    |
| Baucus    | Feinstein  | Murkowski   |
| Bayh      | Gillibrand | Murray      |
| Begich    | Graham     | Nelson (NE) |
| Bennet    | Grassley   | Nelson (FL) |
| Bennett   | Gregg      | Pryor       |
| Bingaman  | Hagan      | Reed        |
| Bond      | Harkin     | Reid        |
| Boxer     | Hatch      | Risch       |
| Brown     | Hutchison  | Roberts     |
| Brownback | Inouye     | Sanders     |
| Bunning   | Isakson    | Shaheen     |
| Burr      | Johanns    | Schumer     |
| Burriss   | Johnson    | Shelby      |
| Byrd      | Kaufman    | Snowe       |
| Cantwell  | Kerry      | Specter     |
| Cardin    | Klobuchar  | Stabenow    |
| Carper    | Kohl       | Tester      |
| Casey     | Landrieu   | Thune       |
| Chambliss | Lautenberg | Udall (CO)  |
| Cochran   | Leahy      | Udall (NM)  |
| Collins   | Levin      | Vitter      |
| Conrad    | Lieberman  | Voinovich   |
| Corker    | Lincoln    | Warner      |
| Cornyn    | Lugar      | Webb        |
| Crapo     | Martinez   | Whitehouse  |
| Dodd      | McCain     | Wicker      |
| Dorgan    | McCaskey   | Wyden       |
| Durbin    | McConnell  |             |

NAYS—4

- |        |        |
|--------|--------|
| Coburn | Inhofe |
| DeMint | Kyl    |

NOT VOTING—3

- |         |             |          |
|---------|-------------|----------|
| Kennedy | Rockefeller | Sessions |
|---------|-------------|----------|

The bill (S. 386), as amended, was passed, as follows:

S. 386

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

TITLE I—FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fraud Enforcement and Recovery Act of 2009” or “FERA”.

SEC. 2. AMENDMENTS TO IMPROVE MORTGAGE, SECURITIES, AND FINANCIAL FRAUD RECOVERY AND ENFORCEMENT.

(a) DEFINITION OF FINANCIAL INSTITUTION AMENDED TO INCLUDE MORTGAGE LENDING BUSINESS.—Section 20 of title 18, United States Code, is amended—

(1) in paragraph (8), by striking “or” after the semicolon;

(2) in paragraph (9), by striking the period and inserting “; or”; and

(3) by inserting at the end the following: “(10) a mortgage lending business (as defined in section 27 of this title) or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1).”.

(b) MORTGAGE LENDING BUSINESS DEFINED.—

(1) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by inserting after section 26 the following:

“§ 27. Mortgage lending business defined

“In this title, the term ‘mortgage lending business’ means an organization which finances or refinances any debt secured by an interest in real estate, including private mortgage companies and any subsidiaries of such organizations, and whose activities affect interstate or foreign commerce.”.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“27. Mortgage lending business defined.”.

(c) FALSE STATEMENTS IN MORTGAGE APPLICATIONS AMENDED TO INCLUDE FALSE STATE-

MENTS BY MORTGAGE BROKERS AND AGENTS OF MORTGAGE LENDING BUSINESSES.—Section 1014 of title 18, United States Code, is amended by—

(1) striking “or” after “the International Banking Act of 1978.”; and

(2) inserting after “section 25(a) of the Federal Reserve Act” the following: “or a mortgage lending business whose activities affect interstate or foreign commerce, or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1)”.

(d) MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after “or promises, in” the following: “any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government’s purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in”;

(2) striking “the contract, subcontract” and inserting “such grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance.”; and

(3) striking “for such property or services”.

(e) SECURITIES FRAUD AMENDED TO INCLUDE FRAUD INVOLVING OPTIONS AND FUTURES IN COMMODITIES.—

(1) IN GENERAL.—Section 1348 of title 18, United States Code, is amended—

(A) in the caption, by inserting “and commodities” after “Securities”;

(B) by inserting “any commodity for future delivery, or any option on a commodity for future delivery, or” after “any person in connection with”; and

(C) by inserting “any commodity for future delivery, or any option on a commodity for future delivery, or” after “in connection with the purchase or sale of”.

(2) CHAPTER ANALYSIS.—The item for section 1348 in the chapter analysis for chapter 63 of title 18, United States Code, is amended by inserting “and commodities” after “Securities”.

(f) MONEY LAUNDERING AMENDED TO DEFINE PROCEEDS OF SPECIFIED UNLAWFUL ACTIVITY.—

(1) MONEY LAUNDERING.—Section 1956(c) of title 18, United States Code, is amended—

(A) in paragraph (8), by striking the period and inserting “; and”; and

(B) by inserting at the end the following: “(9) the term ‘proceeds’ means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.”.

(2) MONETARY TRANSACTIONS.—Section 1957(f) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) the terms ‘specified unlawful activity’ and ‘proceeds’ shall have the meaning given those terms in section 1956 of this title.”.

(g) MAKING THE INTERNATIONAL MONEY LAUNDERING STATUTE APPLY TO TAX EVASION.—Section 1956(a)(2)(A) of title 18, United States Code, is amended by—

(1) inserting “(i)” before “with the intent to promote”; and

(2) adding at the end the following: “(ii) with the intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or”.

SEC. 3. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR MORTGAGE FRAUD, SECURITIES FRAUD, AND OTHER CASES INVOLVING FEDERAL ECONOMIC ASSISTANCE.

(a) IN GENERAL.—

(1) AUTHORIZATION.—There is authorized to be appropriated to the Attorney General, to remain available until expended, \$165,000,000 for each of the fiscal years 2010 and 2011, for the purposes of investigations, prosecutions, and civil proceedings involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) ALLOCATIONS.—With respect to fiscal years 2010 and 2011, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

(A) Federal Bureau of Investigation: \$75,000,000 for fiscal year 2010 and \$65,000,000 for fiscal year 2011.

(B) The offices of the United States Attorneys: \$50,000,000.

(C) The criminal division of the Department of Justice: \$20,000,000.

(D) The civil division of the Department of Justice: \$15,000,000.

(E) The tax division of the Department of Justice: \$5,000,000.

(b) ADDITIONAL APPROPRIATIONS FOR THE POSTAL INSPECTION SERVICE.—There is authorized to be appropriated to the Postal Inspection Service of the United States Postal Service, \$30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(c) ADDITIONAL APPROPRIATIONS FOR THE INSPECTOR GENERAL FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—There is authorized to be appropriated to the Inspector General of the Department of Housing and Urban Development, \$30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(d) ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES SECRET SERVICE.—There is authorized to be appropriated to the United States Secret Service of the Department of Homeland Security, \$20,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(e) USE OF FUNDS.—The funds authorized to be appropriated under subsections (a), (b), (c), and (d) shall be limited to cover the costs of each listed agency or department for investigating possible criminal, civil, or administrative violations and for prosecuting criminal, civil, or administrative proceedings involving financial crimes and crimes against Federal assistance programs, including mortgage fraud, securities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs.

(f) REPORT TO CONGRESS.—Following the final expenditure of all funds appropriated under this section that were authorized by subsections (a), (b), (c), and (d) the Attorney General, in consultation with the United States Postal Inspection Service, the Inspector General for the Department of Housing and Urban Development, and the Secretary of Homeland Security, shall submit a joint report to Congress identifying—

(1) the amounts expended under subsections (a), (b), (c), and (d) and a certification of compliance with the requirements listed in subsection (e); and

(2) the amounts recovered as a result of criminal or civil restitution, fines, penalties, and other monetary recoveries resulting from criminal, civil, or administrative proceedings and settlements undertaken with funds authorized by this Act.

(g) ADDITIONAL APPROPRIATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION.—

(1) IN GENERAL.—There is authorized to be appropriated to the Securities and Exchange Commission, \$20,000,000 for each of the fiscal years 2010 and 2011 for investigations and enforcement proceedings involving financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) INSPECTOR GENERAL.—There is authorized to be appropriated to the Securities and Exchange Commission, \$1,000,000 for each of the fiscal years 2010 and 2011 for the salaries and expenses of the Office of the Inspector General of the Securities and Exchange Commission.

#### SEC. 4. CLARIFICATIONS TO THE FALSE CLAIMS ACT TO REFLECT THE ORIGINAL INTENT OF THE LAW.

(a) CLARIFICATION OF THE FALSE CLAIMS ACT.—Section 3729 of title 31, United States Code, is amended—

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

“(a) LIABILITY FOR CERTAIN ACTS.—

“(1) IN GENERAL.—Subject to paragraph (2), any person who—

“(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

“(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

“(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

“(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

“(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

“(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

“(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

“(2) REDUCED DAMAGES.—If the court finds that—

“(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

“(B) such person fully cooperated with any Government investigation of such violation; and

“(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

“(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.”;

(2) by striking subsections (b) and (c) and inserting the following:

“(b) DEFINITIONS.—For purposes of this section—

“(1) the terms ‘knowing’ and ‘knowingly’—

“(A) mean that a person, with respect to information—

“(i) has actual knowledge of the information;

“(ii) acts in deliberate ignorance of the truth or falsity of the information; or

“(iii) acts in reckless disregard of the truth or falsity of the information; and

“(B) require no proof of specific intent to defraud;

“(2) the term ‘claim’—

“(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

“(i) is presented to an officer, employee, or agent of the United States; or

“(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest, and if the United States Government—

“(I) provides or has provided any portion of the money or property requested or demanded; or

“(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

“(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual’s use of the money or property;

“(3) the term ‘obligation’ means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

“(4) the term ‘material’ means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.”;

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(4) in subsection (c), as redesignated, by striking “subparagraphs (A) through (C) of subsection (a)” and inserting “subsection (a)(2)”.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to conduct on or after the date of enactment, except that subparagraph (B) of section 3729(a)(1) of title 31, United States Code, as added by subsection (a)(1), shall take effect as if enacted on June 7, 2008, and apply to all claims under the False Claims Act (31 U.S.C. 3729 et seq.) that are pending on or after that date.

#### SEC. 5. FINANCIAL MARKETS COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established in the legislative branch the Financial Markets Commission (in this section referred to as the “Commission”) to examine all causes, domestic and global, of the current financial and economic crisis in the United States.

(b) COMPOSITION OF THE COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 2 members shall be appointed by the majority leader of the Senate;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 1 member shall be appointed by the minority leader of the Senate;

(D) 1 member shall be appointed by the minority leader of the House of Representatives;

(E) 1 member shall be appointed by the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(F) 1 member shall be appointed by the ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(G) 1 member shall be appointed by the chairman of the Committee on Financial Services of the House of Representatives; and

(H) 1 member shall be appointed by the ranking member of the Committee on Financial Services of the House of Representatives.

(2) QUALIFICATIONS; LIMITATION.—

(A) IN GENERAL.—Individuals appointed to the Commission shall be United States citizens having significant experience in such fields as banking, regulation of markets, taxation, finance, economics and housing.

(B) LIMITATION.—No person who is a member of Congress or an officer or employee of the Federal Government or any State or local government may serve as a member of the Commission.

(3) CHAIRPERSON; VICE CHAIRPERSON.—

(A) IN GENERAL.—Subject to the requirements of subparagraph (B), the Chairperson of the Commission shall be selected jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives, and the Vice Chairperson shall be selected jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(B) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson of the Commission may not be from the same political party.

(4) INITIAL MEETING.—If, 45 days after the date of enactment of this Act, 4 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary Chairperson and Vice Chairperson, who may begin the operations of the Commission, including the hiring of staff.

(5) QUORUM; VACANCIES.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(c) FUNCTIONS OF THE COMMISSION.—The functions of the Commission are—

(1) to examine the causes of the current financial and economic crisis in the United States, including the role, if any, of—

(A) fraud and abuse in the financial sector;

(B) Federal and State financial regulators, including the extent to which they enforced, or failed to enforce statutory, regulatory, or supervisory requirements;

(C) the global imbalance of savings, international capital flows, and fiscal imbalances of various governments;

(D) monetary policy and the availability and terms of credit;

(E) accounting practices, including, market-to-market and fair value rules, and treatment of off-balance sheet vehicles;

(F) tax treatment of financial products and investments;

(G) capital requirements and regulations on leverage and liquidity, including the capital structures of regulated and non-regulated financial entities;

(H) credit rating agencies;

(I) lending practices and securitization, including the originate-to-distribute model for extending credit and transferring risk;

(J) affiliations between insured depository institutions and securities, insurance, and other types of nonbanking companies;

(K) market participant expectations that certain institutions were "too-big-to-fail";

(L) corporate governance, including the impact of company conversions from partnerships to corporations;

(M) compensation structures;

(N) changes in compensation for employees of financial companies, as compared to compensation for others with similar skill sets in the labor market;

(O) Federal housing policy;

(P) derivatives and unregulated financial products and practices;

(Q) short-selling;

(R) financial institution reliance on numerical models, including risk models and credit ratings;

(S) the legal and regulatory structure governing financial institutions;

(T) the legal and regulatory structure governing investor protection;

(U) financial institutions and government-sponsored enterprises;

(V) the reliance on credit ratings by Federal financial regulators, and the use of credit ratings in financial regulation; and

(W) the quality of due diligence undertaken by financial institutions;

(2) to examine the causes of the collapse of each major financial institution that failed (including institutions that were acquired to prevent their failure) or was likely to have failed if not for the receipt of exceptional Government assistance from the Department of the Treasury during the period beginning in August 2007 through April 2009;

(3) to submit a report under subsection (g);

(4) to refer to the Attorney General of the United States and any appropriate State attorney general any person that the Commission finds may have violated the laws of the United States in relation to such crisis; and

(5) to review and build upon the record of the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, other Congressional committees, the Government Accountability Office, and other legislative panels with respect to the current financial and economic crisis.

(d) POWERS OF THE COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this section—

(A) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(2) SUBPOENAS.—

(A) SERVICE.—Subpoenas issued under paragraph (1)(B) may be served by any person designated by the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under the authority of this section.

(3) CONTRACTING.—The Commission may enter into contracts to enable the Commission to discharge its duties under this section.

(4) INFORMATION FROM FEDERAL AGENCIES AND OTHER ENTITIES.—

(A) IN GENERAL.—The Commission may secure directly from any department, agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this section, including information of a confidential nature (which the Commission shall maintain in a secure manner). Each such department, agency, or instrumentality shall furnish such information directly to the Commission upon request.

(B) OTHER ENTITIES.—It is the sense of the Congress that the Commission should seek testimony or information from principals and other representatives of government agencies and private entities that were significant participants in the United States and global financial and housing markets during the time period examined by the Commission.

(5) FUNDING.—The Secretary of the Treasury shall provide, out of money previously appropriated, \$5,000,000 to the Commission to carry out this section, to remain available until expended or until termination of the Commission under subsection (h).

(6) DONATIONS OF GOODS AND SERVICES.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(8) POWERS OF SUBCOMMITTEES, MEMBERS, AND AGENTS.—Any subcommittee, member, or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(e) STAFF OF THE COMMISSION.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson and the Vice Chairperson, acting jointly.

(2) CHAIRPERSON.—The Chairperson and the Vice Chairperson may jointly appoint additional personnel, as may be necessary, to enable the Commission to carry out its functions.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this paragraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any individual ap-

pointed under paragraph (1) or (2) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(4) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(5) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) REPORT OF THE COMMISSION; APPEARANCE BEFORE AND CONSULTATIONS WITH CONGRESS.—

(1) REPORT.—On December 15, 2010, the Commission shall submit to the President and to Congress a report containing the findings and conclusions of the Commission on the causes of the current financial and economic crisis in the United States.

(2) INSTITUTION-SPECIFIC REPORTS AUTHORIZED.—At the discretion of the chairperson of the Commission, the report under paragraph (1) may include reports or specific findings on any financial institution examined by the Commission under subsection (c)(2).

(3) APPEARANCE BEFORE CONGRESS.—The chairperson of the Commission shall, not later than 120 days after the date of submission of the final reports under paragraph (1), appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding such reports and the findings of the Commission.

(4) CONSULTATIONS WITH CONGRESS.—The Commission shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and may consult with other Committees of Congress, for purposes of informing Congress on the work of the Commission.

(h) TERMINATION OF COMMISSION.—

(1) IN GENERAL.—The Commission, and all the authorities of this section, shall terminate 60 days after the date on which the final report is submitted under subsection (g).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report submitted under subsection (g).

## TITLE II—SELECT COMMITTEE ON INVESTIGATION OF THE ECONOMIC CRISIS

### SEC. 201. FINDINGS.

The Senate finds the following:

(1) The United States is currently facing an unprecedented economic crisis, with massive losses of jobs in the United States and an alarming contraction of economic activity in the United States.

(2) The United States Government has pledged, committed, or loaned more than \$9,000,000,000,000 as of February 2009 in an attempt to mitigate and resolve the economic crisis and trillions of dollars more may well be necessary before the crisis is over.

(3) The economic crisis reaches into, and has impacted, almost every aspect of the United States economy and significant parts of the international economy.

(4) Any thorough and complete study and investigation of this complex and far-reaching economic crisis will require sustained and singular focus for many months.

(5) A study and investigation of this size and scope implicates the jurisdiction of several Standing Committees of the Senate and, if it is to be done correctly and timely, will require a degree of undivided attention and resources beyond the capacity of the Standing Committees of the Senate, which are already over-burdened.

(6) Adding such a significant study and investigation to the duties of the existing Standing Committees of the Senate would make it difficult for such committees to get their regular required work accomplished, particularly when so much attention and so many resources are appropriately devoted to responding to the ongoing economic crisis.

(7) Dozens of important investigations have been conducted with the creation of a select committee of the Senate for a specific purpose and a set time.

(8) The American public has a right to get straight answers on how this economic crisis developed and what steps should be taken to make sure that nothing like it happens again.

#### **SEC. 202. SELECT COMMITTEE ON INVESTIGATION OF THE ECONOMIC CRISIS.**

There is established a select committee of the Senate to be known as the Select Committee on Investigation of the Economic Crisis (hereafter in this title referred to as the "Select Committee").

#### **SEC. 203. PURPOSE AND DUTIES.**

(a) **PURPOSE.**—The purpose of the Select Committee is to study and investigate the facts and circumstances giving rise to the current economic crisis facing the United States and to recommend actions to be taken to prevent a future recurrence of such a crisis.

(b) **DUTIES.**—The Select Committee is authorized and directed to do everything necessary or appropriate to conduct the study and investigation specified in subsection (a). Without restricting in any way the authority conferred on the Select Committee by the preceding sentence, the Senate further expressly authorizes and directs the Select Committee to examine the facts and circumstances giving rise to the current economic crisis facing the United States, and report on such examination, regarding the following:

(1) The causes of the current economic crisis.

(2) Lessons learned from the current economic crisis.

(3) Actions to prevent a recurrence of an economic crisis such as the current economic crisis.

#### **SEC. 204. COMPOSITION OF SELECT COMMITTEE.**

##### **(a) MEMBERSHIP.—**

(1) **IN GENERAL.**—The Select Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) **DATE.**—The appointments of the members of the Select Committee shall be made not later than 30 days after the date of enactment of this title.

(b) **VACANCIES.**—Any vacancy in the Select Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) **SERVICE.**—Service of a Senator as a member, Chair, or Vice Chair of the Select Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) **CHAIR AND VICE CHAIR.**—The Chair of the Select Committee shall be designated by the majority leader of the Senate, and the Vice Chair of the Select Committee shall be designated by the minority leader of the Senate.

##### **(e) QUORUM.—**

(1) **REPORTS AND RECOMMENDATIONS.**—A majority of the members of the Select Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) **TESTIMONY.**—One member of the Select Committee shall constitute a quorum for the purpose of taking testimony.

(3) **OTHER BUSINESS.**—A majority of the members of the Select Committee, or 1/3 of the members of the Select Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Select Committee.

#### **SEC. 205. RULES AND PROCEDURES.**

(a) **GOVERNANCE UNDER STANDING RULES OF SENATE.**—Except as otherwise specifically provided in this title, the investigation, study, and hearings conducted by the Select Committee shall be governed by the Standing Rules of the Senate.

(b) **ADDITIONAL RULES AND PROCEDURES.**—In addition to the provisions of section 208(h), the Select Committee may adopt additional rules or procedures if the Chair and the Vice Chair of the Select Committee agree, or if the Select Committee by majority vote so decides, that such additional rules or procedures are necessary or advisable to enable the Select Committee to conduct the investigation, study, and hearings authorized by this title. Any such additional rules and procedures—

(1) shall not be inconsistent with this title or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

#### **SEC. 206. AUTHORITY OF SELECT COMMITTEE.**

(a) **IN GENERAL.**—The Select Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) **POWERS.**—The Select Committee or, at its direction, any subcommittee or member of the Select Committee, may, for the purpose of carrying out this title—

(1) hold hearings;

(2) administer oaths;

(3) sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(4) authorize and require, by issuance of subpoena or otherwise, the attendance and testimony of witnesses and the preservation and production of books, records, correspondence, memoranda, papers, documents, tapes, and any other materials in whatever form the Select Committee considers advisable;

(5) take testimony, orally, by sworn statement, by sworn written interrogatory, or by deposition, and authorize staff members to do the same; and

(6) issue letters rogatory and requests, through appropriate channels, for any other means of international assistance.

(c) **AUTHORIZATION, ISSUANCE, AND ENFORCEMENT OF SUBPOENAS.—**

(1) **AUTHORIZATION AND ISSUANCE.**—Subpoenas authorized and issued under this section—

(A) may be done only with the joint concurrence of the Chair and the Vice Chair of the Select Committee;

(B) shall bear the signature of the Chair or the designee of the Chair; and

(C) shall be served by any person or class of persons designated by the Chair for that purpose anywhere within or without the borders of the United States to the full extent provided by law.

(2) **ENFORCEMENT.**—The Select Committee may make to the Senate by report or resolution any recommendation, including a recommendation for criminal or civil enforcement, that the Select Committee considers appropriate with respect to—

(A) the failure or refusal of any person to appear at a hearing or deposition or to produce or preserve documents or materials described in subsection (b)(4) in obedience to a subpoena or order of the Select Committee;

(B) the failure or refusal of any person to answer questions truthfully and completely during the person's appearance as a witness at a hearing or deposition of the Select Committee; or

(C) the failure or refusal of any person to comply with any subpoena or order issued under the authority of subsection (b).

##### **(d) AVOIDANCE OF DUPLICATION.—**

(1) **IN GENERAL.**—To expedite the study and investigation, avoid duplication, and promote efficiency under this title, the Select Committee shall seek to—

(A) confer with other investigations into the matters set forth in section 203(a); and

(B) access all information and materials acquired or developed in such other investigations.

(2) **ACCESS TO INFORMATION AND MATERIALS.**—The Select Committee shall have, to the fullest extent permitted by law, access to any such information or materials obtained by any other governmental department, agency, or body investigating the matters set forth in section 203(a).

#### **SEC. 207. REPORTS.**

(a) **INITIAL REPORT.**—The Select Committee shall submit to the Senate a report on the study and investigation conducted pursuant to section 203 not later than one year after the appointment of all of the members of the Select Committee.

(b) **UPDATED REPORT.**—The Select Committee shall submit an updated report on such investigation not later than 180 days after the submittal of the report under subsection (a).

(c) **FINAL REPORT.**—The Select Committee shall submit a final report on such investigation not later than two years after the appointment of all of the members of the Select Committee.

(d) **ADDITIONAL REPORTS.**—The Select Committee may submit any additional report or reports that the Select Committee considers appropriate.

(e) **FINDINGS AND RECOMMENDATIONS.**—The reports under this section shall include findings and recommendations of the Select Committee regarding the matters considered under section 203.

(f) **DISPOSITION OF REPORTS.**—All reports made by the Select Committee shall be submitted to the Secretary of the Senate. All reports made by the Select Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

#### **SEC. 208. ADMINISTRATIVE PROVISIONS.**

##### **(a) STAFF.—**

(1) **IN GENERAL.**—The Select Committee may employ in accordance with paragraph

(2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Select Committee, or the Chair and the Vice Chair of the Select Committee considers necessary or appropriate.

(2) **APPOINTMENT OF STAFF.**—The staff of the Select Committee shall consist of such personnel as the Chair and the Vice Chair shall jointly appoint. Such staff may be removed jointly by the Chair and the Vice Chair, and shall work under the joint general supervision and direction of the Chair and the Vice Chair.

(b) **COMPENSATION.**—The Chair and the Vice Chair of the Select Committee shall jointly fix the compensation of all personnel of the staff of the Select Committee.

(c) **REIMBURSEMENT OF EXPENSES.**—The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Select Committee.

(d) **SERVICES OF SENATE STAFF.**—The Select Committee may use, with the prior consent of the chair of any other committee of the Senate or the chair of any subcommittee of any committee of the Senate, the facilities of any other committee of the Senate, or the services of any members of the staff of such committee or subcommittee, whenever the Select Committee or the Chair of the Select Committee considers that such action is necessary or appropriate to enable the Select Committee to carry out its responsibilities, duties, or functions under this title.

(e) **DETAIL OF EMPLOYEES.**—The Select Committee may use on a reimbursable basis, with the prior consent of the head of the department or agency of Government concerned and the approval of the Committee on Rules and Administration of the Senate, the services of personnel of such department or agency.

(f) **TEMPORARY AND INTERMITTENT SERVICES.**—The Select Committee may procure the temporary or intermittent services of individual consultants, or organizations thereof.

(g) **PAYMENT OF EXPENSES.**—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Select Committee. Such payments shall be made on vouchers signed by the Chair of the Select Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

(h) **CONFLICTS OF INTEREST.**—The Select Committee shall issue rules to prohibit or minimize any conflicts of interest involving its members, staff, detailed personnel, consultants, and any others providing assistance to the Select Committee. Such rules shall not be inconsistent with the Code of Official Conduct of the Senate or applicable Federal law.

#### **SEC. 209. EFFECTIVE DATE; TERMINATION.**

(a) **EFFECTIVE DATE.**—This title shall take effect on the date of enactment of this title.

(b) **TERMINATION.**—The Select Committee shall terminate three months after the submission of the report required by section 207(c).

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. I thank the Chair.

#### **EQUAL PAY DAY**

Mr. BURRIS. Mr. President, many of my colleagues and countless Americans across the country recognize today as Equal Pay Day, a solemn reminder of the enduring wage gap that separates women from men. We mark this inequity on a day in late April because it has taken many women from January 2008 until now to earn what their male counterparts brought home in 2008 alone. This is simply not acceptable. At a time of widespread economic uncertainty, the disparity is more troubling than ever. We can and must do better.

In 1963, this body passed the Equal Pay Act which was signed into law and represented a triumph for America's workforce. That legislation laid the groundwork for significant progress. It established a set of principles that declared the United States of America as a nation that does not discriminate based on gender. It was an important first step. Nearly 50 years have passed since that day.

It is clear that we have more work to do.

The Paycheck Fairness Act, which I am proud to cosponsor, would update the original Equal Pay Act and bring the law in line with our Nation's other important civil rights laws. The Bureau of Labor Statistics tells us that in 2007, women with full-time employment earned roughly 78 cents for every dollar men earned. This represents modest progress compared to 2006, when the ratio stood at slightly less than 77 cents on the dollar. Sadly, women of color earn significantly less, even when they have the same qualifications as men they work alongside. Over the course of a 40-year career, women can lose as much as \$1 million to the gender wage gap. Nationwide that means roughly \$200 billion of lost income every single year. With families across America tightening their belts and working harder than ever to make ends meet, it would be a serious failure on the part of this Congress to ignore this call to action.

With this in mind, we must move swiftly to pass the Paycheck Fairness Act. This comprehensive bill would encourage employers to follow the law by creating substantial incentives and strengthening penalties for equal pay violations, aligning it more closely with civil rights legislation. It would close loopholes. It would prohibit employer retaliation, improve Federal outreach, and strengthen enforcement efforts. The bill would also draw on a measure already enacted in the great State of Illinois to fix the established requirement clarifying reasonable points of comparison between employees to determine their fair wages. All of this, together with increased training, education, and research, means the Paycheck Fairness Act would invigorate the landmark equal pay legislation of the 1960s and provide much needed updates for the 21st century.

In all of my years of public life, I have had the privilege of witnessing

firsthand the progress our Nation has made over the past half century. The stubborn barriers of race and gender known to my parents' generation have been shattered. Even in my own lifetime, I have seen changes few could have imagined. But for all the progress we have made, there is still a very long way to go. It is this slow, steady march toward our highest aspirations—the active progress of perfecting our Union—that defines the shared destiny of all Americans: Black and White, male and female, from all walks of life, and every corner of the globe.

The Paycheck Fairness Act represents a concrete step in closing the gender wage gap and another powerful stride in the march to equality. It is a measure that stands for common sense, good governance, and equal opportunity. I am proud to cosponsor the Paycheck Fairness Act, and I urge my colleagues to join with me in supporting women in the workforce.

It is my hope we will soon commemorate Equal Pay Day not as a grim reminder of the gender pay gap but as a day we took decisive action to stop discrimination in its tracks. I ask my colleagues to join me in this effort and to adopt the Paycheck Fairness Act without delay.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I ask unanimous consent to address the Senate for 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes without objection.

#### **WORKERS MEMORIAL DAY**

Mr. BROWN. Mr. President, today is Workers Memorial Day, which has been established for many years in this country, a day when we honor injured workers. It is a day that is particularly important for the families of some 5,000 Americans every year who are killed on the job. It is hard to believe that in our country that is about 100 workers a week. Some 15 workers every single day in our country are killed in a workplace accident, some of them union, most of them nonunion workers, workers who say goodbye to their spouse or to their children or to their mother or father and go off to work expecting just another day at the job and they never come home.

Workers are killed in all kinds of construction accidents. That number of 5,000—some 5,500, actually, in the year 2007—does not even count people who die from workplace acquired diseases, workers who might be sickened by Diacetyl, the popcorn lung disease that workers in Ohio have contracted.

Today, under the chairmanship of Senator MURRAY, the Health, Education, Labor, and Pensions Committee held a hearing to commemorate Workers Memorial Day: Dr. Celeste Monforton, Jim Frederick, and Tammy Miser. Tammy Miser's brother was