

110TH CONGRESS
2D SESSION

S. _____

To encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. CANTWELL (for herself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Financial Market Investigation, Oversight, and Reform
6 Act of 2008”.

7 (1) TABLE OF CONTENTS.—The table of con-
8 tents for this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Establishing an independent, bipartisan Commission.
Sec. 3. Establishing a joint select committee on financial market oversight reform and investigations.
Sec. 4. Special Inspector General for financial markets oversight.

1 **SEC. 2. ESTABLISHING AN INDEPENDENT, BIPARTISAN**
2 **COMMISSION.**

3 (a) **COMMISSION ESTABLISHMENT.**—There is estab-
4 lished a temporary commission to be known as the Com-
5 mission on Financial Regulatory Reform (referred to in
6 this Act as the “Commission”). The Commission shall re-
7 view the financial regulatory structure and propose a com-
8 prehensive framework for fundamental reform of financial
9 regulation in the United States.

10 (b) **FUNCTIONS OF THE COMMISSION.**—

11 (1) **IN GENERAL.**—The Commission shall con-
12 duct a top-to-bottom review of the Nation’s existing
13 financial regulatory structure and the contribution
14 of the current structure to the stability or instability
15 of financial markets in order to develop a com-
16 prehensive framework for—

17 (A) reforming the laws governing our Na-
18 tion’s financial markets;

19 (B) strengthening and reconstituting regu-
20 latory agencies; and

21 (C) improving transparency and oversight.

22 (2) **ANALYSIS.**—In the course of its activities,
23 the Commission shall analyze—

1 (A) the impact of the financial regulatory
2 structure on the health and stability of the
3 United States economy;

4 (B) the strength, sustainability, and com-
5 petitiveness of the Nation's financial institu-
6 tions; and

7 (C) the financial well-being of American
8 taxpayers, investors, and businesses.

9 (3) CONSIDERATIONS.—The Commission shall
10 review and consider all aspects of financial regula-
11 tion, including the regulation of—

12 (A) bank holding companies, financial
13 holding companies, commercial banks, invest-
14 ment banks, thrifts, credit unions, and indus-
15 trial loan companies;

16 (B) payment and settlement systems;

17 (C) hedge funds, private equity funds, and
18 the markets for alternative investments;

19 (D) special purpose vehicles and off-bal-
20 ance sheet financing for financial companies;

21 (E) the securitization of mortgages and
22 other assets;

23 (F) exchange-based, electronic, and over-
24 the-counter markets for financial derivative
25 products;

1 (G) the mortgage finance industry, includ-
2 ing mortgage brokers and mortgage lending in-
3 stitutions;

4 (H) equity markets, including short-selling
5 practices, and commodity futures markets; and

6 (I) the insurance industry and its role in
7 the financial markets.

8 (c) POWERS OF THE COMMISSION.—

9 (1) IN GENERAL.—

10 (A) HEARINGS AND EVIDENCE.—The
11 Commission or, on the authority of the Com-
12 mission, any subcommittee or member thereof,
13 may, for the purpose of carrying out this Act—

14 (i) hold such hearings and sit and act
15 at such times and places, take such testi-
16 mony, receive such evidence, administer
17 such oaths; and

18 (ii) require the attendance and testi-
19 mony of such witnesses and the production
20 of such books, records, correspondence,
21 memoranda, papers, and documents, as the
22 Commission or such designated sub-
23 committee or designated member may de-
24 termine advisable.

1 (B) FIRST MEETING.—The first meeting of
2 the Commission shall occur not later than 30
3 days after the date of enactment of this Act.

4 (2) CONTRACTING.—The Commission may, to
5 such extent and in such amounts as are provided in
6 appropriation Acts, enter into contracts to enable
7 the Commission to discharge its duties under this
8 Act.

9 (3) INFORMATION FROM FEDERAL AGENCIES.—

10 (A) IN GENERAL.—The Commission is au-
11 thorized to secure directly from any executive
12 department, bureau, agency, board, commission,
13 office, independent establishment, or instrumen-
14 tality of the Government, information, sugges-
15 tions, estimates, and statistics for the purposes
16 of this Act. Each department, bureau, agency,
17 board, commission, office, independent estab-
18 lishment, or instrumentality shall, to the extent
19 authorized by law, furnish such information,
20 suggestions, estimates, and statistics directly to
21 the Commission, upon request made by the
22 chairman, the chairman of any subcommittee
23 created by a majority of the Commission, or
24 any member designated by a majority of the
25 Commission.

1 (B) RECEIPT, HANDLING, STORAGE, AND
2 DISSEMINATION.—Information shall only be re-
3 ceived, handled, stored, and disseminated by
4 members of the Commission and its staff con-
5 sistent with all applicable statutes, regulations,
6 and Executive orders.

7 (4) ASSISTANCE FROM FEDERAL AGENCIES.—

8 (A) GENERAL SERVICES ADMINISTRA-
9 TION.—The Administrator of General Services
10 shall provide to the Commission on a reimburs-
11 able basis administrative support and other
12 services for the performance of the Commis-
13 sion's functions.

14 (B) OTHER DEPARTMENTS AND AGEN-
15 CIES.—In addition to the assistance prescribed
16 in subparagraph (A), departments and agencies
17 of the United States may provide to the Com-
18 mission such services, funds, facilities, staff,
19 and other support services as they may deter-
20 mine advisable and as may be authorized by
21 law.

22 (5) GIFTS.—The Commission may accept, use,
23 and dispose of gifts or donations of services or prop-
24 erty.

1 (6) POSTAL SERVICES.—The Commission may
2 use the United States mails in the same manner and
3 under the same conditions as departments and agen-
4 cies of the United States.

5 (d) NON-APPLICABILITY OF FEDERAL ADVISORY
6 COMMITTEE ACT.—

7 (1) IN GENERAL.—The Federal Advisory Com-
8 mittee Act (5 U.S.C. App.) shall not apply to the
9 Commission.

10 (2) PUBLIC MEETINGS AND RELEASE OF PUB-
11 LIC VERSIONS OF REPORTS.—The Commission
12 shall—

13 (A) hold public hearings and meetings to
14 the extent appropriate; and

15 (B) release public versions of the reports
16 required under this Act.

17 (3) PUBLIC HEARINGS.—Any public hearings of
18 the Commission shall be conducted in a manner con-
19 sistent with the protection of information provided
20 to or developed for or by the Commission as re-
21 quired by any applicable statute, regulation, or Ex-
22 ecutive order.

23 (e) COMPOSITION.—

24 (1) IN GENERAL.—The Commission shall be
25 composed of 12 members, selected not later than 15

1 days after the date of enactment of this Act, of
2 whom—

3 (A) three persons shall be appointed by the
4 Majority Leader of the Senate, after consulta-
5 tion with the Chairman of the Committee on
6 Banking, Housing and Urban Affairs;

7 (B) three persons shall be appointed by the
8 Minority Leader of the Senate, after consulta-
9 tion with the ranking minority members of the
10 Committee on Banking, Housing and Urban
11 Affairs;

12 (C) three persons shall be appointed by the
13 Speaker of the House of Representatives, after
14 consultation with the Chairman of the Com-
15 mittee on Financial Services; and

16 (D) three persons shall be appointed by
17 the Minority Leader of the House of Represent-
18 atives, after consultation with the ranking mi-
19 nority member of the Committee on Financial
20 Services.

21 (2) QUALIFICATIONS.—An individual appointed
22 may not be an officer or employee of the Federal
23 Government or any State or local government. It is
24 the sense of Congress that individuals appointed to
25 the Commission should be have national recognition

1 as financial sector experts, and may include former
2 government officials, private market participants,
3 and representatives of the academic community,

4 (3) OFFICERS.—Officers of the Commission are
5 to be chosen by the Commission’s membership.

6 (f) FINAL REPORT OF COMMISSION.—Not later than
7 120 days after the date of the enactment of this Act, the
8 Commission shall submit to the President and Congress
9 a final report containing such findings, conclusions, and
10 recommendations for corrective measures as have been
11 agreed to by a majority of committee members.

12 (g) COMPENSATION OF COMMISSION STAFF.—

13 (1) IN GENERAL.—

14 (A) APPOINTMENT AND COMPENSATION.—

15 The chairman, in consultation with vice chair-
16 man, in accordance with rules agreed upon by
17 the Commission, may appoint and fix the com-
18 pensation of a staff director and such other per-
19 sonnel as may be necessary to enable the Com-
20 mission to carry out its functions, without re-
21 gard to the provisions of title 5, United States
22 Code, governing appointments in the competi-
23 tive service, and without regard to the provi-
24 sions of chapter 51 and subchapter III of chap-
25 ter 53 of such title relating to classification and

1 General Schedule pay rates, except that no rate
2 of pay fixed under this subsection may exceed
3 the equivalent of that payable for a position at
4 level V of the Executive Schedule under section
5 5316 of title 5, United States Code.

6 (B) PERSONNEL AS FEDERAL EMPLOY-
7 EES.—

8 (i) IN GENERAL.—The executive di-
9 rector and any personnel of the Commis-
10 sion who are employees shall be employees
11 under section 2105 of title 5, United
12 States Code, for purposes of chapters 63,
13 81, 83, 84, 85, 87, 89, and 90 of that title.

14 (ii) MEMBERS OF COMMISSION.—Sub-
15 paragraph (A) shall not be construed to
16 apply to members of the Commission.

17 (2) DETAILEES.—Any Federal Government em-
18 ployee may be detailed to the Commission without
19 reimbursement from the Commission, and such
20 detailee shall retain the rights, status, and privileges
21 of his or her regular employment without interrup-
22 tion.

23 (3) CONSULTANT SERVICES.—The Commission
24 is authorized to procure the services of experts and
25 consultants in accordance with section 3109 of title

1 5, United States Code, but at rates not to exceed the
2 daily rate paid a person occupying a position at level
3 IV of the Executive Schedule under section 5315 of
4 title 5, United States Code.

5 (h) COMPENSATION AND TRAVEL EXPENSES.—

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

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

22 (i) REPORTS OF COMMISSION; TERMINATION.—

23 (1) INTERIM REPORTS.—The Commission may
24 submit to the President and Congress interim re-
25 ports containing such findings, conclusions, and rec-

1 ommendations for corrective measures as have been
2 agreed to by a majority of Commission members.

3 (2) FINAL REPORT.—Not later than 4 months
4 after the date of the enactment of this Act, the
5 Commission shall submit to the President and Con-
6 gress a final report containing such findings, conclu-
7 sions, and recommendations for corrective measures
8 as have been agreed to by a majority of Commission
9 members.

10 (3) TERMINATION.—

11 (A) IN GENERAL.—The Commission, and
12 all the authorities of this Act, shall terminate
13 60 days after the date on which the final report
14 is submitted under paragraph (2).

15 (B) ADMINISTRATIVE ACTIVITIES BEFORE
16 TERMINATION.—The Commission may use the
17 60-day period referred to in subparagraph (A)
18 for the purpose of concluding its activities, in-
19 cluding providing testimony to committees of
20 Congress concerning its reports and dissemi-
21 nating the final report.

22 (j) FUNDING.—

23 (1) TRANSFER FROM THE DEPARTMENT OF
24 THE TREASURY TARP PROGRAM.—Of the amounts
25 authorized to be appropriated by this Act and made

1 available in public law for the, not to exceed
2 \$5,000,000 shall be available for transfer to the
3 Commission for purposes of the activities of the
4 Commission under this Act and should include as-
5 sistance for participating Federal agencies.

6 (2) DURATION OF AVAILABILITY.—Amounts
7 made available to the Commission under paragraph
8 (1) shall remain available until the termination of
9 the Commission.

10 **SEC. 3. ESTABLISHING A JOINT SELECT COMMITTEE ON FI-**
11 **NANCIAL MARKET OVERSIGHT REFORM AND**
12 **INVESTIGATIONS.**

13 (a) ESTABLISHMENT AND COMPOSITION.—

14 (1) IN GENERAL.—There is established a multi-
15 disciplinary Joint Select Committee on Financial
16 Market Oversight Reform and Investigations (re-
17 ferred to in this section as the “joint select com-
18 mittee”). The Senate Majority Leader, Senate Mi-
19 nority Leader, the Speaker of the House, and House
20 Minority Leader shall jointly determine the number
21 of members who shall serve on the committee, with
22 equal representation from each the Senate and the
23 House of Representatives, and from the majority
24 party and minority party.

1 (2) PURPOSE.—The purpose of the joint select
2 committee shall be to conduct a full investigation of
3 the causes of the financial turmoil and propose cor-
4 rective actions to the appropriate committees of ju-
5 risdiction.

6 (3) VACANCY.—A vacancy in the joint select
7 committee shall not affect the power of the remain-
8 ing members to execute the functions of the joint se-
9 lect committee, and shall be filled in the same man-
10 ner as the original selection.

11 (4) LEGISLATIVE AUTHORITY.—The joint select
12 committee shall not have any legislative authority.

13 (b) INVESTIGATION AND REPORT.—

14 (1) INVESTIGATION.—The joint select com-
15 mittee shall—

16 (A) conduct a full investigation of the
17 causes of the financial turmoil; and

18 (B) possess full investigative authority, in-
19 cluding subpoena power, to investigate mis-
20 deeds, manipulative schemes, or malfeasance by
21 executives and traders of financial sector firms
22 involved in the current financial crisis, as well
23 as failures of Federal oversight agencies to
24 meet their regulatory responsibilities.

25 (2) REPORT.—

1 (A) IN GENERAL.—The joint select com-
2 mittee shall submit to the appropriate commit-
3 tees of jurisdiction of the House of Representa-
4 tives and the Senate a report of its findings and
5 recommended corrective actions not later than
6 12 months after the date of enactment of this
7 Act.

8 (B) FRAUD.—The report shall include rec-
9 ommendations whether to increase criminal and
10 civil penalties for fraud and malfeasance.

11 (C) MAJORITY VOTE REQUIREMENT.—No
12 recommendation shall be made by the joint se-
13 lect committee except upon the majority vote of
14 the members from each House, respectively.

15 (D) RULES PROCEDURE.—Notwith-
16 standing any other provision of this section, any
17 recommendation with respect to the rules and
18 procedures of one House that only affects mat-
19 ters related solely to that House may only be
20 made and voted on by members of the joint se-
21 lect committee from that House and, upon its
22 adoption by a majority of such members, shall
23 be considered to have been adopted by the full
24 committee as a recommendation of the joint se-
25 lect committee.

1 (3) HEARINGS.—In conducting the investiga-
2 tion under paragraph (1), the joint select committee
3 shall hold not fewer than 5 public hearings.

4 (c) RESOURCES.—The joint select committee may
5 utilize the resources of the House of Representatives and
6 Senate.

7 (d) DISSOLUTION.—The joint select committee shall
8 cease to exist 30 days after the submission of the report
9 described in subsection (b)(2).

10 **SEC. 4. SPECIAL INSPECTOR GENERAL FOR FINANCIAL**
11 **MARKETS OVERSIGHT.**

12 (a) PURPOSES.—The purposes of this section are
13 to—

14 (1) provide for the appointment of an Inspector
15 General to conduct, supervise, and coordinate inves-
16 tigations into whether ethics violations or conflicts of
17 interest between regulators and their regulated enti-
18 ties or markets may have affected agency decision-
19 making between January 2002 and August 2008;
20 and

21 (2) use the forum of President’s Council on In-
22 tegrity and Efficiency and Executive Council on In-
23 tegrity and Efficiency to share findings and best
24 practices with regards to ethics, conflicts of interest,
25 oversight, and accountability.

1 (b) OFFICE OF INSPECTOR GENERAL.—There is es-
2 tablished the Office of the Inspector General for Financial
3 Markets Oversight.

4 (c) APPOINTMENT OF INSPECTOR GENERAL; RE-
5 MOVAL.—

6 (1) IN GENERAL.—The head of the Office of
7 the Inspector General for Financial Markets Over-
8 sight (referred to in this section as “Inspector Gen-
9 eral”) shall be selected by and among the Inspectors
10 General of agencies and commissions set forth in
11 subsection (e)(3).

12 (2) TIMING.—The nomination of an individual
13 as Inspector General shall be made not later than 30
14 days after the date of the enactment of this Act.

15 (3) REMOVAL.—The Inspector General shall be
16 removable from office in accordance with the provi-
17 sions of section 3(b) of the Inspector General Act of
18 1978 (5 U.S.C. App.).

19 (4) STATUS.—For purposes of section 7324 of
20 title 5, United States Code, the Inspector General
21 shall not be considered an employee who determines
22 policies to be pursued by the United States in the
23 nationwide administration of Federal law.

24 (5) PAY.—The annual rate of basic pay of the
25 Inspector General shall be the annual rate of basic

1 pay provided for positions at level IV of the Execu-
2 tive Schedule under section 5315 of title 5, United
3 States Code.

4 (d) ASSISTANT INSPECTORS GENERAL.—The Inspec-
5 tor General shall, in accordance with applicable laws and
6 regulations governing the civil service appoint an Assistant
7 Inspector General for Investigations who shall have the
8 responsibility for supervising the performance of investiga-
9 tive activities relating to possible ethics violations and or
10 conflicts of interest at the respective agencies.

11 (e) DUTIES.—

12 (1) IN GENERAL.—It shall be the duty of the
13 Inspector General to conduct, supervise, and coordi-
14 nate investigations into whether ethics violations or
15 conflicts of interest between regulators and their
16 regulated entities or markets may have affected
17 agency decision-making between January 2002 and
18 August 2008.

19 (2) ADDITIONAL DUTIES.—In addition to the
20 duties specified in paragraph (1), the Inspector Gen-
21 eral shall also have the duties and responsibilities of
22 inspectors general under the Inspector General Act
23 of 1978.

24 (3) COOPERATION.—In carrying out the duties,
25 responsibilities, and authorities of the Inspector

1 General under this section, the Inspector General
2 shall coordinate with, and receive the cooperation of,
3 each of the following:

4 (A) The Inspector General of the Securi-
5 ties and Exchange Commission.

6 (B) The Inspector General of the Treasury
7 Department.

8 (C) The Inspector General of the Commod-
9 ities Futures Trading Commission.

10 (D) The Inspector General of the Board of
11 Governors of the Federal Reserve System.

12 (E) The Inspector General of the Office of
13 the Comptroller of the Currency.

14 (F) The Inspector General of the Federal
15 Deposit Insurance Corporation.

16 (f) POWERS AND AUTHORITIES.—

17 (1) AUTHORITIES.—In carrying out the duties
18 specified in subsection (e), the Inspector General
19 shall have the authorities provided in section 6 of
20 the Inspector General Act of 1978.

21 (2) DUTIES.—The Inspector General shall carry
22 out the duties specified in subsection (e)(1) in ac-
23 cordance with section 4(b)(1) of the Inspector Gen-
24 eral Act of 1978.

1 (g) PERSONNEL, FACILITIES, AND OTHER RE-
2 SOURCES.—

3 (1) PERSONNEL.—The Inspector General may
4 select, appoint, and employ such officers and em-
5 ployees as may be necessary for carrying out the du-
6 ties of the Inspector General, subject to the provi-
7 sions of title 5, United States Code, governing ap-
8 pointments in the competitive service, and the provi-
9 sions of chapter 51 and subchapter III of chapter 53
10 of such title, relating to classification and General
11 Schedule pay rates.

12 (2) SERVICES.—The Inspector General may ob-
13 tain services as authorized by section 3109 of title
14 5, United States Code, at daily rates not to exceed
15 the equivalent rate prescribed for grade GS-15 of
16 the General Schedule by section 5332 of such title.

17 (3) INFORMATION.—

18 (A) IN GENERAL.—Upon request of the In-
19 spector General for information or assistance
20 from any department, agency, or other entity of
21 the Federal Government, the head of such enti-
22 ty shall, insofar as is practicable and not in
23 contravention of any existing law, furnish such
24 information or assistance to the Inspector Gen-
25 eral, or an authorized designee.

1 (B) REPORT OF NONCOOPERATION.—

2 Whenever information or assistance requested
3 by the Inspector General is, in the judgment of
4 the Inspector General, unreasonably refused or
5 not provided, the Inspector General shall report
6 the circumstances to the appropriate commit-
7 tees of Congress without delay.

8 (h) REPORTS.—

9 (1) IN GENERAL.—Not later than March 30,
10 2009, the Inspector General shall submit to the ap-
11 propriate committees of Congress a report on wheth-
12 er ethics violations or conflicts of interest between
13 regulators and their regulated entities or markets
14 may have affected agency decision-making between
15 January 2002 and August 2008.

16 (2) CONTENTS.—The report on the Inspector
17 General findings shall include recommendations on
18 how to improve and strengthen financial market reg-
19 ulatory agencies to avert future ethics violations or
20 conflicts of interest.

21 (i) APPROPRIATE COMMITTEES OF CONGRESS DE-
22 FINED.—In this section, the term “appropriate commit-
23 tees of Congress” means—

1 (1) the Committees on Banking, Housing and
2 Urban Affairs, Homeland Security and Government
3 Affairs, Finance, and Judiciary of the Senate;

4 (2) the Committees on Financial Services,
5 Oversight and Government Reform, and Judiciary of
6 the House of Representatives; and

7 (3) the Joint Select Committee on Financial
8 Market Oversight Reform and Investigations.