

the Afghan ministries. Nonetheless, he is confident of military success. With the lives and security of so many at stake, it is important that the Obama administration follow the best military advice. So far in Afghanistan, this is precisely what the President has done, and he deserves a lot of credit for it.

During the recess, President Obama submitted a supplemental appropriations request to fund the war efforts in Iraq and Afghanistan, and Republicans will aggressively support our combat forces just as we did in the last Congress. In the coming months and years, Congress will continue to play an essential role in preserving and extending the security gains our service men and women have made in Iraq and in fighting the Taliban and al-Qaida in Afghanistan. By approving President Obama's request for war funding, we will provide our men and women in uniform with resources they need to complete their missions and return home with honor.

This is a solemn duty, and Members of Congress should resist the temptation to use these war funding requests as an opportunity to fund unrelated projects. The President's war funding request should be used for its intended purpose; that is, the national defense.

In that vein, this war spending bill falls short in one important respect. It requests up to \$80 million for the purpose of shuttering the secure detention facility at Guantanamo Bay before the administration has a place to put the roughly 240 inmates who live there. The administration has sought to mollify our critics overseas by saying it will transfer the inmates at Guantanamo in a matter of months. The administration should, instead, be assuring the American people that these inmates will not be transferred to American soil or allowed to return to the battlefield—an assurance that so far the new administration has not been able to give.

This is an extremely important issue. As the clock runs out on the administration's plan to shut down Guantanamo within the next 9 months, Americans are paying closer and closer attention to what this means for them. It is one thing to announce the goal of closing this facility; it is quite another to set an arbitrary date for closure before anyone has even come up with a safe alternative. The administration hasn't even been able to assure us that these 240 detainees will not be scattered across the United States. Indeed, when it comes to Guantanamo, the administration doesn't seem to have any plan at all for dealing with men whom many consider to be the most dangerous terrorists alive. Meanwhile, Guantanamo has provided Americans with a high degree of safety and certainty. Of the 800 terrorists who have been held there over the years, not a single one has ever escaped to harm anyone. Not one has escaped to harm anyone.

In the days ahead, Republicans will remind the American people about the

dangers of closing Guantanamo without a safe alternative—and prod the administration to rethink its strategy in the same way the President has rethought his campaign proposals on Iraq. In the end, the safety of the American people is of far more important concern than pleasing our foreign critics, many of whom have been far quicker to criticize our detention policies than they have been in offering a hand in adjusting them. On Guantanamo, it is increasingly important that we get the policy right and put the politics aside. If it does so, the administration can expect strong bipartisan support.

#### RESTORING FISCAL BALANCE

Mr. McCONNELL. Mr. President, the President has announced today he is directing the members of his Cabinet to cut wasteful Government spending. Obviously, I applaud such an effort, but it is important that we not lose sight of the enormity of our current spending and debt levels, which will only really be addressed through major, bipartisan, politically difficult reforms. The Cabinet has been asked to find \$100 million savings in a \$4 trillion budget. Any amount of savings, obviously, is welcome, but according to the Congressional Budget Office numbers, that is about the average amount we will spend every single day—that \$100 million is about the average amount we will spend every single day just covering the interest on the stimulus package we passed earlier this year.

We need to cut waste, but we will need to do much more to restore fiscal balance. Senators GREGG and CONRAD have proposed a plan that would force us to get debt and spending under control. It deserves our serious attention.

I yield the floor.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to S. 386, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to consider S. 386, a bill 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.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is there on S. 386?

The ACTING PRESIDENT pro tempore. The Senator from Vermont has 87 minutes.

Mr. LEAHY. Mr. President, under the normal circumstances, I would speak as chairman of the Judiciary Committee and as the chief sponsor of this bill. Then we would go, by normal protocol, to either the Republican ranking member or the senior Republican who

is cosponsor, which I assume will be done.

I ask unanimous consent that the Senator from Delaware, Mr. KAUFMAN, be recognized next. I ask further unanimous consent that at the completion of my statement, if there is no member of the Republican party seeking recognition, Senator KAUFMAN be recognized; if there is a member of the Republican party seeking recognition on this bill, that, of course, they be recognized first, and then the next person to be recognized be Senator KAUFMAN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, this afternoon we begin consideration of the bipartisan Fraud Enforcement and Recovery Act. What this does is to strengthen the Federal Government's capacity to investigate and prosecute the kinds of financial frauds that have so severely undermined our economy; that not only undermined our economy, they have hurt so many people in this country.

It is going to give the resources and the legal tools needed to police and deter fraud. We have massive recovery efforts now being implemented. But if we do not go after those who are committing fraud against people in this country, much of that effort is going to be wasted.

I commend the Senator from Iowa, Mr. GRASSLEY, our lead cosponsor, for his contributions to this package, and his dedication to protecting taxpayer funds by deterring, investigating, and prosecuting fraud. He worked with me to write this bill. He has been a leader on this legislation every step of the way.

I thank our many cosponsors for their steadfast support for this effort. Senator SCHUMER has not only supported this measure but has also introduced additional legislative proposals with Senator SHELBY. Senator KAUFMAN is an original cosponsor and has been a strong ally. He has spoken and written about the need for fraud enforcement all year. Senator KLOBUCHAR has participated throughout the course of Judiciary Committee consideration of this bill. As former prosecutors, she and I both know how important it is to have sufficient resources on the ground committed to deterring and discovering these devastating crimes. More recently, we have been joined in our efforts by the ranking Republican on the Judiciary Committee, another former prosecutor and friend, Senator SPECER, and by Senators SNOWE, HARKIN, LEVIN, DORGAN, WHITEHOUSE, BAYH, SHAHEEN, and MURRAY.

It is a bipartisan effort. And, actually, if you are going to go after people committing crimes and fraud, you should not consider it a Democratic or a Republican effort; this is a bipartisan effort. And we ought to be able to do it, because those who are committing the frauds did not ask if the person they are going to defraud is a Republican or

Democrat, they want to defraud them. But what we want to do is to stop them. So whether one supported the economic recovery efforts proposed by President Bush and President Obama or not, I think we can all agree no one wants that money squandered by fraud.

Whether we want to help homeowners in hard times or people who have lost their jobs or were lured into subprime mortgages—some may think it may be their fault they were lured into their subprime mortgages. But if you had people involved in mortgage fraud, they should be held accountable.

I thank the majority leader for moving to proceed to this measure. It is my hope we can get to a time agreement without being filibustered. I hope we will not have to spend a lot of time in a filibuster before we consider anti-fraud efforts on behalf of the American people. Everybody I talk to, whether it is in Vermont or any other State, says those who are involved in mortgage fraud, those who are involved in stealing the money, especially at a time of economic downturn, ought to be prosecuted.

Frankly, as a former prosecutor, I can tell you nothing so focuses the minds of those who want to commit fraud as if they think they might actually be arrested, convicted, and sent to prison.

We are returning from the Easter recess. During these first months of the year, the Judiciary Committee has concentrated on what it can do to assist in the economic recovery. We have already considered and reported this fraud enforcement bill, we considered and reported a patent reform bill, and we also put law enforcement assistance in the economic recovery legislation. The President's efforts are beginning to show dividends. As he said last week at Georgetown University, this administration has responded to an extraordinary set of economic challenges with extraordinary action, action that has been unprecedented both in terms of its scale and its speed.

We have seen the recovery plan enacted, the bank capitalization program, the housing plan, the strengthening of the nonbank credit market, the auto plan, and the work with the G-20. Those are signs intended to generate economic progress. That is good. That is necessary. I agree with that. But it is not enough. We have to make sure when we send public money, taxpayers' money, that it is going to what it is supposed to go to, it is not being stolen, it is not being dissipated by fraud, it is not going to the hands of people whom nobody in this Chamber, Republican or Democrat, would want it to go to.

We need to ensure those responsible for the downturn through fraudulent acts of financial markets and in the housing market are held to account. That is why we have to enact the Fraud Enforcement and Recovery Act. We have to make every effort to ensure accountability, and this bill will do

that. It will build our Nation's capacity to investigate and prosecute financial fraud.

Take a look at this chart. These are the reports of mortgage fraud. This is at near epidemic levels. Look at the number of reports in 1998. Look at them now. In 1998, 2,269. Last year, 65,049. Frauds are up 682 percent over the past 5 years and more than 2,800 percent in the past decade.

Some would estimate that we are losing \$4 billion each year in mortgage fraud alone. Then you have massive new corporate frauds, such as the \$65 billion Ponzi scheme perpetrated by Bernard Madoff. These are being uncovered. How many more are there?

In the past 2 weeks alone, the Justice Department announced prosecutions in mortgage and security scams involving more than \$200 million in fraud. This kind of fraud has even touched my own State of Vermont. We are a very small State. We are the second smallest State in the Union, 650,000 people. But last fall, Federal authorities uncovered a \$26 million mortgage scam involving more than 50 properties being run out of the small town of Highgate, VT. It is affecting everybody. Let's go after these people. Let's prosecute them. Let's throw them in jail. Because, otherwise, if you simply give them a fine, it is a cost of doing business and nobody is deterred by it.

The victims of these frauds must be protected now more than ever. They are homeowners who have been fleeced by unscrupulous mortgage brokers or so-called foreclosure experts who promise to help. Instead of helping them, they leave them unable to keep their homes and in further debt than before.

We have retirees who have lost their life savings with stock scams and Ponzi schemes. These have come to light only when the markets and corporations have collapsed. They also include the American taxpayers who have invested billions of dollars to restore our economy and support our banking system, and they assume that taxpayers' dollars are going to be there to support our industries, that taxpayer dollars are going to be there to help bail out our economy, that somebody is not going to steal it.

As the economic crisis worsened last fall, I called upon Federal law enforcement to track down and punish those who were responsible for the corporate and mortgage frauds that helped make the economic downturn far worse than anyone predicted. This year, as Congress reconvened, I joined with Senator GRASSLEY to draft and introduce the Fraud Enforcement and Recovery Act, the legislation we consider today, which will provide the new tools and resources needed by law enforcement to carry out this effort. Now, I call on all Senators to support and promptly pass this bill, so we can make sure that those responsible for these frauds are held fully accountable and that the many millions, likely even billions, of dollars lost will be recovered for fraud victims and for the American taxpayer.

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 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, we faced a similar financial crisis with the collapse of the federally insured savings and loan industry. At the time, Congress responded by passing legislation to hire prosecutors and agents similar to the bill we consider today, and that effort resulted in more than 600 fraud convictions nationwide and recovery of more than \$130 million in ordered restitution. But the savings and loan collapse is dwarfed in scale by the current crisis, as financial institutions have lost more than \$1 trillion in assets in the past year, compared to only \$160 billion in assets lost during the entire savings and loan era. Clearly, we must respond at least as strongly as we have in the past.

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.

At a February 11, 2009, Judiciary Committee hearing, we heard from the FBI, the Special Inspector General for the Troubled Asset Relief Program, TARP, and the Justice Department. All witnesses testified concerning the need for this legislation and these additional law enforcement resources.

Deputy Director Pistole of the FBI testified that the number of mortgage fraud cases opened by the FBI had more than doubled in the past 3 years, with 721 cases open in 2005, and more than 1,800 open at the end of 2008. He warned that the losses in this economic crisis dwarf those of the savings and loan debacle, and the need for more enforcement is even greater now than it was then.

Special Inspector General Barofsky described how law enforcement resources had understandably been diverted from traditional white collar crime to terrorism following the attacks on September 11, 2001. This trend left the Justice Department's capacity to respond to financial and securities fraud significantly weakened, and with the recent trends shifting even more resources to mortgage frauds, other white collar efforts were even further "underfunded and underprosecuted." He warned that with trillions of dollars

being spent under TARP and other associated programs, “it is essential that the appropriate resources be dedicated to meet the challenges of both deterring and prosecuting fraud.” I agree.

Acting Assistant Attorney General Glavin of the Justice Department testified that our bill would provide the Justice Department with needed tools “to aggressively fight fraud in the current economic climate” and “provide key statutory enhancements that will assist in ensuring that those who have committed fraud are held accountable.”

The committee also received written testimony supporting this enforcement effort from the inspector general for the Department of Housing and Urban Development, and from the Acting Chief Postal Inspector.

We all know about Bernard Madoff’s infamous \$65 billion Ponzi scheme that went undetected for years. And every month we learn of more and more kinds of schemes. We have to clean this up.

This would allow the FBI, the Justice Department, other agencies, to respond to the crisis. In total, the bill authorizes \$245 million a year over the next two 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. Because today the ranks of fraud investigators, of prosecutors, are drastically understocked.

Some have said, well, we cannot afford to authorize additional money for fraud investigations. I think that is a bad mistake. The only way you are going to stop it is to show you are going to stop it. The only way you are going to deter it is if you act to deter it, if you investigate the people, if you go after them, if you make them pay, and if we recover money for American taxpayers.

I see the distinguished senior Senator from Minnesota on the floor. She is a former prosecutor. She knows that the way you go after these people is to really go after them. If fraud goes unprosecuted and unpunished, then victims across America lose money. In many cases, American taxpayers take the loss directly. For example, in the case of many mortgage frauds where the Federal Government has guaranteed the loans, and when the fraud remains hidden, American taxpayers, as well as the victim, lose out. If we don’t take action to investigate and prosecute this kind of fraud, Americans will lose far more money than this bill costs.

In fact, fraud enforcement is an excellent investment for the American taxpayers. According to recent data provided by the Justice Department, the Government recovers, on average, \$32 for every dollar spent on criminal

fraud litigation. Think about that. If you are an investor, you would love to invest and get that kind of return. We spend \$1 on criminal fraud litigation, we get back \$32. The nonpartisan group, Taxpayers Against Fraud, has found that in civil fraud cases, the Government recovers \$15 for every dollar spent in civil fraud cases.

Last year the Justice Department recovered nearly \$2 billion in civil false claims settlements, and in criminal cases, the courts ordered nearly \$3 billion in restitution and recovery. That is why we should pass this and pass it quickly.

I do not want, 8 months from now, when suddenly we find here another hundreds of millions of dollars, billions of dollars, taken from American taxpayers in fraud and theft that we could have stopped, but to say: Gosh, if only that bill had passed.

The Fraud Enforcement and Recovery Act also makes a number of straightforward, important improvements to fraud and money laundering statutes to strengthen prosecutors’ ability to combat this growing wave of fraud. Specifically, the bill amends the definition of “financial institution” in the criminal code in order to extend Federal fraud laws to mortgage lending businesses that are not directly regulated or insured by the Federal Government. These companies were responsible for nearly half the residential mortgage market before the economic collapse, yet they remain largely unregulated and outside the scope of traditional Federal fraud statutes. This change will apply the Federal fraud laws to private mortgage businesses like Countrywide Home Loans and GMAC Mortgage, just as they apply to federally insured and regulated banks.

The bill would also amend the major fraud statute to protect funds expended under the Troubled Assets Relief Program and the economic stimulus package, including any government purchases of preferred stock in financial institutions. The U.S. Government has provided extraordinary economic support to our banking system, and we need to make sure that none of those funds are subject to fraud or abuse. This change will give Federal prosecutors and investigators the explicit authority they need to protect taxpayer funds.

This bill will also strengthen one of the core offenses in so many fraud cases—money laundering—which was significantly weakened by a recent Supreme Court case. In *United States v. Santos*, the Supreme Court misinterpreted the money laundering statutes, limiting their scope to only the “profits” of crimes, rather than the “proceeds” of the offenses. The Court’s mistaken decision was contrary to congressional intent and will lead to financial criminals escaping culpability simply by claiming their illegal scams did not make a profit. Indeed, Ponzi schemes like the \$50 billion fraud perpetrated by Bernard Madoff, which by

definition turn no profit, are exempt from money laundering charges under this formulation. This erroneous decision must be corrected immediately, as dozens of money laundering cases have already been dismissed.

The Fraud Enforcement and Recovery Act 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 \$11 billion using the False Claims Act since it was modernized through the work of Senator GRASSLEY in 1986, but the statute still can be more effective. Recent court decisions and changes in government—contracting practices have limited the effectiveness of the False Claims Act. As we did in the last Congress, Senator GRASSLEY and I have joined together to update and restore the False Claims Act to protect the American taxpayer.

Some may argue that the legal fixes in this bill constitute overreaching by the Federal Government. In fact, this bill does not over-federalize or over-criminalize, as we took great care in crafting it to avoid those kinds of excesses. The bill creates no new statutes and no new sentences. Instead, it focuses on modernizing existing statutes to reach unregulated conduct and on addressing flawed court decisions interpreting those laws.

This bill has broad bipartisan support. It has the strong backing of the Justice Department and the Obama administration, along with Senator GRASSLEY and Senator SPECTER, the ranking Republican member of the Judiciary Committee. We have Senator SNOWE joining us as a cosponsor. They have joined with Senators KAUFMAN, SCHUMER, KLOBUCHAR, LEVIN, HARKIN, DORGAN, WHITEHOUSE, BAYH, SHAHEEN, and MURRAY who have cosponsored this bill.

The Justice Department sent us a letter. They said:

The Department strongly supports enactment of [the bill]. The provisions of the legislation would provide Federal investigators and prosecutors with significant new tools and resources . . . to combat mortgage fraud, securities and commodities fraud.

Look what the Director of the FBI said:

FERA [referring to our bill,] will be tremendously helpful in giving us the tools to investigate . . . to help prosecutors prosecute, and finally to obtain the convictions and jail sentences that are the deterrent to this activity taking place in the future.

Remember, we certainly want to recover money. Certainly we want those forfeitures. Certainly we want those fines. But I want people to go to jail for this. Because if you think if you are going to defraud someone or groups defraud people of \$100 million, you might get a \$10 million fine, that is 10 percent of your cost of doing business. But if you think you might go to jail, then you are going to think twice.

That is why we received this 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.

The current epidemic of fraud went hand in hand with the greed and neglect that poisoned our economy in recent years. As banks and private mortgage companies relaxed their standards for loans, approving ever riskier mortgages with less and less due diligence, they created an environment that invited fraud. Private mortgage brokers and lending businesses came to dominate the home housing market, and these companies were not subject to the kind of banking oversight and internal regulations that had traditionally helped to prevent fraud. We are now seeing the results of this lax supervision and lack of accountability.

The problem spread as home mortgages were packaged together and turned into securities that were bought and sold in largely unregulated markets on Wall Street. Here again, the environment invited fraud. As the value of the mortgages started to decline with falling housing prices, Wall Street financiers began to see these mortgage-backed securities unravel. Some were not honest about these securities, leading to even more fraud, and victimizing investors nationwide.

Only by reinvigorating our antifraud measures and giving law enforcement agencies the tools and resources they need to root out fraud can we ensure that fraud can never again place our financial system at risk and victimize so many Americans. Taxpayers, who bear the burden of this financial downturn, deserve to know that the government is doing all it can to hold responsible those who committed crimes in the run-up to this collapse.

There should be strong support for this. The Justice Department supports it. The FBI supports it. The Secret Service supports it. The Postal Inspection Service supports it, the HUD Inspector General supports it, the Special Inspector General for the Troubled Asset Relief Program supports it, on and on and on.

And, most importantly, some of the most thoughtful members of this body, Republican and Democratic Members alike, support it. So let's go as quickly as we can. Let's have a decent time agreement on this bill.

Let's get it passed. Let's get it through the other body. Let's get it on the President's desk. Then let's go and investigate and lock up the people who cost the American taxpayers hundreds of millions, even billions of dollars.

I see the distinguished cosponsor, the Senator from Iowa. I yield the floor and withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Would the Chair please inform me as to the time allotted on this side?

The ACTING PRESIDENT pro tempore. The minority has 95 minutes.

Mr. GRASSLEY. I thank the Chair.

Mr. President, I thank the Senator from Vermont for his leadership in this area. I very much enjoy working with him. We may come from different political parties, but he has been very cooperative in a lot of the efforts I wanted to make on individual pieces of legislation. On this one, he and I are working together very closely. I thank him for the opportunity to work with him and thank him very much for including within this legislation some things both he and I have an interest in dealing with the False Claims Act.

I am pleased to be an original cosponsor of the Fraud Enforcement Recovery Act. This is a timely piece of legislation, given the current economic downturn and the unprecedented amount of taxpayer dollars that are being expended to shore up banks and financial institutions, corporations, Fannie Mae, Freddie Mac, et cetera. When taxpayer money is being injected into these corporations, there is more opportunity for fraud, and we ought to stay on top of it. We have a responsibility as Senators, as guardians of taxpayer money, to make sure fraud does not occur anytime but, more importantly, when there is taxpayer money keeping a lot of these organizations afloat that would not otherwise be there.

There can be honest differences between Senators about whether this taxpayer money should have been used in the first place. Some of that I have voted against using. But the fact is, we were in the minority. The money is being used to sustain some of these institutions and corporations and, consequently, we have every responsibility to make sure taxpayer money is protected. That is what this piece of legislation is all about.

For instance, the economic stimulus package handed out nearly \$1 trillion in new spending. Whether a Member supported or opposed these expenditures, he or she must agree we simply cannot allow unscrupulous individuals defrauding the Government and ripping off the taxpayers. This legislation ensures that our law enforcement officials as well as prosecutors have the tools necessary to enforce our laws and also the resources to hunt down bad actors. It makes minor revisions to our criminal fraud laws to ensure that bad actors are not outside the scope of Federal jurisdiction. Further, it amends the civil False Claims Act to ensure that taxpayer money lost to fraud, waste, and abuse can be recovered. These changes will deter potential defrauders from attempting to scam the Government. In addition, this legislation will help instill confidence back into the housing and financial markets.

Over the last few years, unscrupulous individuals found housing and financial markets that were lax in oversight enforcement and regulation. As a result, it was easy for these unscrupulous individuals to commit fraud against homeowners, lenders, and businesses across

the country. For example, the Financial Crimes Enforcement Network, referred to as FinCEN, released an updated report outlining filing trends in mortgage loan fraud suspicious activity reports. This report showed that SARs have continued to increase and for the last year ending in June 2008, there were more than 62,000 suspicious activity reports, SARs, filed related to mortgage fraud alone.

While this raw data simply represents investigative leads, it represents a 44-percent increase in suspicious activity from the preceding year. We need to act now to stamp out new fraud claims, to send a message that American taxpayers will not be taken for a ride.

This rise in the number of suspicious activity reports has also increased the need to investigate leads that come in these reports. As a result, we need to make sure there are resources available so that law enforcement agencies can follow these leads.

During the height of the savings and loan crisis in the late 1980s and early 1990s, the FBI had over 1,000 agents and experts working mortgage fraud cases. Today, it is a lot less, compared to a much bigger amount of money that is at stake. Today the FBI has 180 agents dedicated to mortgage fraud investigations, a significant decrease compared to the 1,000 agents and experts during the S&L crisis.

While this number represents an effort to combat fraud, it is a significant decrease when we consider the hundreds of millions of dollars in write-downs during the S&L crisis—in other words, small—compared to the estimated \$1 trillion in write-downs that may occur as a result of the financial and housing crisis. This bill enables law enforcement agencies, including the FBI, Secret Service, the Housing and Urban Development inspector general, and the Postal Inspection Service to procure the funding necessary to make sure this fraud doesn't happen because you need this sort of joint effort to combat what will be complex financial crimes.

It is important to note this bill recognizes the important work of a number of Federal law enforcement agencies that work to combat and prevent financial crimes.

You don't often think of the Secret Service when you think of mortgage fraud, but the dedicated men and women at the Secret Service have been on the front lines in combating mortgage fraud since the S&L crisis and continue to unravel complex financial crimes. The Postal Inspection Service and the inspector general of the Department of Housing and Urban Development also continue to make significant contributions to stamping out mortgage fraud that abuses Federal Government programs and utilizes the mail to commit this fraud.

In addition to authorizing funding for law enforcement prosecutors so we get the number of people to get the job

done, the bill also makes some necessary changes in Federal criminal law. The bill redefines “financial institution” to include mortgage lending businesses, a category currently missing in that definition. It also amends the statute to make it illegal to make false statements on mortgage applications and appraisals. It might surprise Members since common sense ought to dictate that, but common sense has not prevailed in that instance, so we will make that a crime.

Further, it ensures that economic relief funds and TARP funds are included in criminal laws prohibiting fraud against the Government. It adds commodities futures to the securities fraud statute. The bill also makes two important clarifications to the antimoney laundering laws; first, by defining the term “proceeds” so that a recent Supreme Court decision doesn’t limit the ability to go after criminals and drug dealers who launder the proceeds of their ill-gotten gain. This is an incredibly important provision, especially given the recent concerns about the outbound bulk cash smuggling going across the border with Mexico.

Second, the bill amends the international money laundering statute to make it a crime to transport or transfer money out of the country to evade taxes. This provision is also timely given the recent efforts by the Justice Department and the Internal Revenue Service to clamp down on tax cheats and evaders who move money offshore for the sole purpose of avoiding paying taxes with no economic rationale behind it.

Finally and most importantly, the legislation makes important changes to the Federal False Claims Act. The False Claims Act is the Government’s premier tool to recover Government money lost to fraud and abuse. The Government has used the False Claims Act to recover over \$22 billion since 1986 when I introduced legislation that amended the previous False Claims Act. This legislation will ensure that the law adheres to the original intent of the False Claims Act.

I think I have some expertise in that area, being the author of this legislation and finding the Supreme Court’s ruling contrary to congressional intent, albeit their motivation may be to interpret the law and that is the way they interpret it, but it does not keep us from going back to what we think is the original intent and saying to the courts: You got it wrong.

Specifically, these amendments address a loophole that was created in the False Claims Act by the Supreme Court decision in the Allison Engine case which could be used by fraudfeasors to evade liability by hiring subcontractors to perform work on Government contracts. Some defendants are already filing briefs in court seeking to have the false claims cases dismissed because of that decision. It needs to be addressed to protect taxpayer dollars.

This legislation could not come at a more important time. It will send a message to those who have defrauded homeowners and mortgage lenders and will send an even stronger message to those thinking about committing a future crime. I hope my colleagues will join in supporting the legislation to make sure that taxpayer dollars are protected.

I want to add a little editorial comment outside of this piece of legislation we have before us. There will be a lot of new Members coming to the Senate, maybe not understanding the motivation behind the False Claims Act of 1986. There was tremendous fraud, particularly in defense contracting, that caused me at that time, as a first-term Senator, to be concerned about it. We got proper amendments to the False Claims Act to protect whistleblowers and to use the information that whistleblowers give us to bring cases.

The motivation behind the False Claims Act is that maybe for philosophical reasons, the Justice Department might want to pursue something or maybe their workload is such that a certain case might have a lower priority. It gives the individual citizen in qui tam type suits the ability to bring cases in a sense as a citizen prosecutor. Of course, if a person is not a lawyer, they will have to hire lawyers to do that for them. But as a motivation for doing it, they get a percent of what is recovered.

Remember, \$22 billion has been recovered since this law was passed. That may not be a lot of money over the period of years, but it sure is one big hunk of money that we wouldn’t have access to if it wasn’t for whistleblowers and people who were willing to pursue it to the nth degree to make sure that the case is made and to bring back the taxpayer money at the same time.

Consequently, I am sure somebody is going to try to make a case that when some whistleblower gets \$1 million, well, isn’t that an awful lot of money for information that has brought back maybe tens of millions of dollars or maybe hundreds of millions of dollars? But the point is, we would not have the case if it was not for the information from the whistleblower.

A lot of people will make a judgment: Well, if you are a public employee or connected to a government program, it is your duty to report that. Well, that is exactly what a lot of people have done without even knowing the false claims law exists. A lot of people whom I have met as whistleblowers have brought to the attention of people higher up in the Government attempts at fraud or actual fraud and got nowhere, and then everybody assumes the only reason they brought it up is because they knew: Well, I can make a case out of this, and I can get a large award for bringing this to people’s attention. Most of the whistleblowers whom I know about did not even know about whistleblower protection laws, did not even know about false claims

laws until they got into it. Then they find out there is some law that protects them, there is some law that encourages them to move forward.

The point I am trying to make is that when Government cannot do its job of recovering fraud or does not know about it, it seems to me both the \$22 billion that has come back to the Federal Treasury as well as the nature of preventing fraud that is behind it—and that probably does much more good, but you cannot measure it, than what is evidenced by the \$22 billion—should not be challenged.

Defense contractors during the late 1980s into the 1990s tried to gut this legislation through amendments on appropriations bills or through other attempts. When the defense contractors could not do it, they got people in the health care industry to front for them to try to gut it. In almost every respect, in 20 years, we have stopped various special interests in this town from gutting this legislation. But as we brought this bill forward with Senator LEAHY, we have found those people kind of coming to the surface once again.

I say to my colleagues—and particularly I would like my new colleagues to be aware of this—you are going to find those same special interests that have been around for over a period of the last 20 years trying to gut this legislation because it is one of the most effective tools against fraud. You are going to find them surfacing, not necessarily in amendments that are very transparent that there is a special interest behind it. But let me tell you from the experience I have had defending this legislation over the last 20 years, they are there. They do not like the False Claims Act. I do not mean these interests are about doing fraud, but they do not want the overseer the False Claims Act is, and they do not want the encouragement to whistleblowers that if something is wrong, it might be reported.

I hope my colleagues—as the False Claims Act provisions of this bill might be countered by some of our colleagues—think in terms of this not being a new attack, this is just a return of a constant attack this legislation had on it from maybe 1986 for about 10 years. I have not heard it surface a whole lot since then. But it is there.

Remember, this was a piece of legislation that was originally intended to go after military contract fraud. But let me tell you, now it is one of the best tools to get at health care fraud. That is sometimes the impetus for some of these crippling amendments. So please keep that in the back of your mind as we consider this legislation, or at least this part of this bill dealing with the False Claims Act.

I surely thank Senator LEAHY for including this in the bill, bringing this back to its original intent, so it can be even a more forceful tool to be used against false claims, since it has been

weakened by some court decisions. It will help us ferret out fraud. I am sure happy we have a President who is also interested in doing that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that following my remarks, Senator KLOBUCHAR be recognized and then Senator INHOFE.

Mr. INHOFE. Mr. President, reserving the right to object, just for clarification purposes, generally, we go back and forth on both sides, but it is fine with me to do it this way so Senator KLOBUCHAR can follow the Senator. Does the Senator think the two of you will be more than 30 minutes all together?

Ms. KLOBUCHAR. I say to Senator INHOFE, we will not be. I will only go 10 minutes.

Mr. INHOFE. That is fine. Thank you very much. I do not object. I further ask unanimous consent that following Senator KLOBUCHAR, I have at least 30 minutes. I believe that is the time that is allotted me.

Mr. KAUFMAN. I thank the Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I am proud to join with Chairman LEAHY and Senator GRASSLEY in sponsoring the Fraud Enforcement and Recovery Act.

I applaud their leadership on this issue. I also want to note the significant contributions of Senators SCHUMER and KLOBUCHAR, who have joined us on this bill and have improved it in important ways.

Today's economic crisis has many causes, from serious regulatory failures to recklessness and greed. While we are learning more each day about what happened, one thing is certain right now: financial fraud contributed mightily to this economic collapse.

It is the job of law enforcement to ferret out the behavior that was criminal as opposed to merely reckless or foolish or unethical.

Yet I am certain that in the complex web of systemic failures that have caused devastating harm to so many Americans, law enforcement will uncover a continuum of behavior and requisite blame. At one end will be those responsible bankers and mortgage brokers who never engaged in unduly risky behavior.

There will also be those on the continuum who were merely reckless and based their business plans on the false assumption that housing values would always increase.

But the continuum will be anchored on the other end by mortgage brokers who promoted fraud, and by bankers and financiers who deliberately ignored excessive risk in designing mortgage-related products, and then hid those risks from investors while self-dealing and lining their own pockets. Those people, in my view, should be targets of the FBI.

If we want to restore the public's faith in our financial markets and in the rule of law, then we must identify, prosecute, and send to prison those individuals who broke the law. Their fraudulent conduct has severely damaged our economy and harmed countless hard-working Americans.

The public needs to know that when mortgage brokers or credit raters or Wall Street bankers break the law, they will be treated like the criminals they are. We can't have one set of rules for people who rob banks and another set of rules for banks who rob people.

Unfortunately, our law enforcement agencies do not have the resources they need to do the job. Right after September 11, Federal law enforcement resources were shifted dramatically, and understandably, to counterterrorism. Regrettably, they have not been replaced.

As a result, our capacity to investigate and prosecute financial crimes has been severely depleted. At the height of the savings and loan crisis, as many as 1,000 FBI agents were investigating financial fraud. As of last month, there were fewer than 250. And no one doubts that the scope of the problem today is far greater than it was during the S & L crisis.

That is why the Fraud Enforcement and Recovery Act begins by providing the resources necessary to rebuild the Nation's white collar enforcement program. Building this capacity is doubly important today, given the substantial Federal funds being spent in connection with bailout and recovery programs.

We need the investigators and analysts in place as soon as possible, not only to uncover and prosecute crimes that have already occurred, but also to deter future crimes.

Prosecuting bad people won't put an end to bad behavior. But it will have an impact on those people in the mortgage industry, on the trading desks, and in the board rooms, who might be tempted to put greed ahead of the law.

The bill authorizes \$165 million a year for hiring fraud investigators and prosecutors at the Department of Justice for fiscal years 2010 and 2011. That includes \$75 million in 2010 and \$65 million in 2011 for the FBI to add 190 agents and 200 professional staff and forensic analysts.

The bill also includes \$50 million a year for U.S. Attorneys' Offices, where much of the financial crime prosecution takes place, and \$40 million for the criminal, civil, and tax divisions at Main Justice, to provide special litigation and investigative support.

Finally, the bill authorizes \$80 million a year over the next 2 years for investigators and analysts at the Postal Inspection Service, the Secret Service, and the inspector general at HUD, all to combat fraud.

This authorization, \$490 million over the next 2 fiscal years, is actually quite modest, given the work that needs to be done. It is also an investment. His-

tory tells us that funds spent on fraud enforcement net money for the Government, at a rate of about \$15 recovered for every \$1 spent. In so many ways, this is an investment we can't afford not to make.

Beyond providing resources, this bill modernizes several critical areas of Federal fraud law, ensuring that prosecutors have the tools necessary to combat past and future financial fraud.

Chairman LEAHY has spelled out these changes in some detail. I want to highlight a couple of points.

First, the bill updates the definition of "financial institution" in Federal fraud statutes to cover mortgage lending businesses that are not directly regulated or insured by the Federal Government. These are businesses that were responsible for close to half of the residential mortgage market before the economic collapse. Just last month, FBI Director Mueller stated that this single change would be "tremendously helpful" in the fight against mortgage fraud.

The bill also amends Federal fraud law to protect funds expended under both the Troubled Asset Relief Program and the Economic Recovery Act. The Federal Government has provided extraordinary financial support to our banking system, and we need to protect those funds against fraud and abuse.

Finally, I note that the bill provides narrow but important fixes to ill-considered Supreme Court decisions in the areas of money laundering and the False Claims Act. Here, as in the rest of the bill, we have taken an approach that is both carefully considered and precisely targeted. We are not creating new crimes, or establishing entirely new paths to recovering ill-gotten gains. Instead, we have focused on making narrow changes that make sure lawbreakers don't slip through the gaps in existing law.

Complex and sophisticated crimes demand a broad-based and sophisticated response.

In terms of crimes already committed, we can't afford to let the trail get cold.

In terms of future crimes, we must provide both the legal tools and the law enforcement resources necessary to make would-be criminals think twice before allowing their greed to do such terrible damage.

This is not about vengeance or politics. In our haste to target wrongdoers, we should not paint the entire banking industry with a broad brush. Banks struggling to make loans during a deep recession are not bad actors. Indeed, those who avoided the subprime market, avoided securitized pools of subprime mortgages, and never traded in credit default swaps were, in hindsight, models of discipline and prudential management during an era when many lost their heads to greed. Those banks should be applauded and supported, as they continue to work their way through difficult times and a very challenging real estate market.

The wrongdoers will be known by their deeds and held accountable to the law by a jury, not by the need to scapegoat an entire industry or a few sacrificial lambs to satisfy popular anger.

There will be tell-tale signs for law enforcement to investigate: To find those who used inside information to bail out early while failing to disclose material information; to investigate traders who hid and distorted their trading books until they cashed out a huge bonus; to target mortgage brokers who repeatedly and fraudulently induced mortgage loans which they could quickly package and sell without any responsibility for the ticking time bombs that became weapons of mass financial destruction.

Frauds of the sort addressed by this bill attack the heart of our financial system. For our economy to work for every American, we must restore the public's faith that no one, from Main Street to Wall Street, is above the law.

Speaking of Main Street, the people I talk to are very patient as we work hard to get the financial system and the economy back on track. They understand this will be a long process and that we cannot expect immediate returns on the significant Federal investments made in recent months. At the same time, they rightly expect the Federal Government to spend the time and money necessary to bring to justice the criminals who helped create the crisis in the first place. The authorization of this bill—\$490 million over the next 2 years—is very modest in light of the enormity of the crisis. The American public will not understand if we refuse to make this small investment in order to restore public confidence, both in the markets and in the rule of law.

I again thank Chairman LEAHY and Senator GRASSLEY for their leadership on this issue, and I urge my colleagues to support this bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, how much time is remaining on the 30 minutes on our side?

The ACTING PRESIDENT pro tempore. Twelve minutes.

Ms. KLOBUCHAR. Thank you very much.

Mr. President, I thank my colleague from Oklahoma for being so gracious to allow me to speak at this time. I am speaking today in support of the Fraud Enforcement and Recovery Act which I believe is an important and timely piece of legislation that I cosponsored and helped to vote out of our Judiciary Committee. I also thank Senators LEAHY, GRASSLEY, and KAUFMAN, all of whom spoke this afternoon, for their leadership and their work on this bill. I believe this bill will greatly increase our ability to prosecute and prevent financial crime.

I also note that the President and the administration have come out with

their statement on administration policy on this bill and it is very positive, and they are supportive of this bill.

Unfortunately, the need for this legislation could never have been clearer. The Madoff scandal is only one big example of why we need this bill. Because of one man—one man—\$65 billion has been lost in this country. It has been a loss to investors, a loss to people who have nothing left, a loss to some of the charities and charitable organizations in this country that are trying to help people in need during this difficult time. In my home State of Minnesota, literally dozens and dozens of people have lost significant sums of money, and our charities are suffering. This isn't right.

After years of lax oversight and investigation, we are beginning to see many financial crimes come to light as the victims of financial fraud have emerged to tell their stories.

During a recent Judiciary Committee hearing on fraud enforcement, the Acting Assistant Attorney General for the Criminal Division of the Justice Department said that as the economy has declined:

What we may be starting to see [are] . . . these sorts of Ponzi schemes that were able to go along for a little while. And then all of a sudden, there's a rush by the victims of schemes who don't know they're victims yet. And then the money's not there when they go to get the money out.

In other words, as we would say in Minnesota, the chickens are coming home to roost.

All of this reminds me of a famous passage about embezzlement in John Kenneth Galbraith's classic book, "The Great Crash 1929." I remember this because I would often use it as a prosecutor in Minnesota when I would address the legislature about the need to focus on white-collar crimes, especially in times of economic difficulty, and this is what he said:

In goods times, people are relaxed, trusting, and money is plentiful. But even though money is plentiful, there are always many people who need more. Under these circumstances the rate of embezzlement grows [and] the rate of discovery falls off. In depression, all this is reversed. Money is watched with a narrow, suspicious eye. The man who handles it is assumed to be dishonest until he proves himself otherwise. Audits are penetrating and meticulous. Commercial morality is enormously improved.

This may be an almost perfect description of our own time. As Galbraith suggested, our bad economy is now exposing financial crimes that have been concealed for many years.

In the past 3 years, the number of criminal mortgage fraud investigations opened by the FBI, as Senator LEAHY explained, has doubled. And in the past 6 years, there has been a nearly tenfold increase in the number of reports filed with the Treasury Department alleging mortgage fraud.

I fear this is the tip of the iceberg. As our economy has declined, crime will be on the rise. And with billions of dollars going out the door to stimulate

the economy—important job-creating investments in transportation infrastructure and broadband networks and much more—we know there are going to be people trying to bilk the system, whether it is for that or the TARP money, and steal money for their own personal profit.

So it is critical that we have a Justice Department and an FBI that will hold accountable the people who are getting government funds, that will watch over the taxpayers' money, and that will make sure people such as Bernie Madoff are prosecuted and brought to justice. In order to do that, we need to make sure law enforcement has the tools and the resources they need to effectively fight, investigate, and prosecute these crimes.

Before entering the Senate, I served as the chief prosecutor for Hennepin County in Minnesota, which consists of Minneapolis and 45 suburban communities. We worked extensively with the U.S. Attorney's Office and the FBI and other Federal agencies on white-collar crime. I remember it well because after the tragedy on 9/11, a number of the white-collar cases that were previously being prosecuted by the U.S. Attorney's Office came to our office since we were the largest prosecutor's office in the State. We took both cases on. We got the people in place to handle them. But I saw then how resource intensive these cases can be.

Most prosecutors have a simple saying about financial fraud cases: "Follow the money and you will find the crooks." Of course, in reality, it is often very hard to do that. It is very time consuming and very expensive to look through thousands and thousands of boxes of documents and computer files to find that money trail and to follow it to where it goes to mortgage fraud and financial fraud. In fact, many white-collar crimes require complex investigations and significant resources to catch the crooks and prosecute them. They often require special—and expensive—expertise such as individual skills in accounting or computer forensics.

Although it is hard and more complex to catch white-collar criminals, it is no less important. For the sake of our economy, for the sake of justice, we must hold people accountable for their crimes, whether it is robbing a convenience store or using a computer to bilk investors out of millions of dollars.

Prosecuting financial crimes also has a ripple effect. Increased enforcement acts as a deterrent, sending a clear message to those who might want to commit financial fraud that wrongdoers will be prosecuted and subject to the full extent of the law. So oftentimes these white-collar criminals somehow see themselves above the law because they have a good job and because they know people in town. I can say that once we started prosecuting these people, a lot of people started turning money in. My favorite was

when we started prosecuting nine commercial airline pilots for not paying taxes to the Minnesota Revenue Department. We suddenly got millions of dollars into the coffers of the revenue department in the State of Minnesota because it turned out other people were also maybe opening up post office boxes in other States and pretending to live there instead of in our State. So there can be a great deterrent effect and bring money in from people who haven't been paying their taxes or actually committing fraud.

Unfortunately, in the last 8 years on the Federal level, I believe there hasn't been enough of this, partly because we haven't had the resources and partly because some of the regulatory agencies have been basically asleep at the wheel.

After the attacks on September 11, the FBI understandably reduced its criminal investigator work to expand its national security role, shifting more than 1,800 agents—or nearly one-third of all agents who were in criminal programs—to terrorism and intelligence duties. Current and former officials say that the cutbacks have left the FBI seriously exposed in investigating an area such as white-collar crime. Right now, the FBI doesn't have enough staff to investigate or even review the 5,000-plus fraud allegations that the Treasury Department receives every month.

Make no mistake, this is having an effect on our economy. In addition to the many families losing their hard-earned money and their homes, fraud has contributed to the collapse in the mortgage-backed securities market. In the past year, banks and financial institutions in our country lost more than \$500 billion because of the subprime mortgage industry.

That is why the Fraud Enforcement and Recovery Act is so important. The bill authorizes \$165 million a year for the Justice Department to hire fraud prosecutors and investigators, including funds for the FBI to bring on an additional 190 special agents and more than 200 professional staff and forensic analysts to rebuild its white-collar investigation program. Additionally, the bill will provide resources for the FBI to double the number of mortgage fraud task forces nationwide that target fraud in the hardest hit areas of our country. I am a big believer in these task forces as a way of bringing local and Federal law enforcement together. We have seen it work effectively in a number of areas across the country.

In addition to making sure law enforcement has the resources it needs, this legislation also makes sure they have the tools needed to crack down on financial crime. This bill makes it easier to prosecute mortgage lending businesses for fraud—the predatory lenders. These companies were responsible for nearly half of the residential mortgage market before the economic collapse. Yet they currently remain largely un-

regulated and outside the scope of traditional Federal fraud statutes. This makes no sense. By amending the criminal code, we can hold unregulated mortgage businesses responsible for their actions. Federal fraud laws should apply to private mortgage businesses such as Countrywide Home Loans and GMAC Mortgage, just as they apply to federally insured and regulated banks. I know we have a lot of very healthy banks in Minnesota and they have been fighting for this for years.

Why should they be held to a different standard? Why should some of these mortgage companies not be held to the same fiduciary duty as these banks? As a former prosecutor, I know firsthand how challenging it can be to go after these financial crimes, but I also know how important it is. If we are going to get our economy back on track, we have to restore trust in our financial system. That starts with stopping fraud and crime. The Fraud Enforcement and Recovery Act will give our law enforcement agencies the tools and resources they need to do this.

I strongly urge my colleagues to support this bill and to support this incredibly important piece of legislation. The time is right. We not only have the fraud we are already seeing come to light but we also know there are a number of possibilities for fraud as we have seen in the past when government funds go out. There has to be the policeman on the corner. That is our FBI, that is our task forces with local law enforcement, and that is our prosecutors watching what happens so we don't let another Bernie Madoff slip through the cracks.

Thank you very much, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, it was my understanding earlier that I had about 15 more minutes than the 30 minutes that I understand are allotted me now. So if there is time at the end of my main message, I wish to address the problem of the David Hamilton nomination. In fact, I will announce that I will filibuster that nomination. The EPA endangerment findings, the Obama gun control, and then the DHS report that is very damaging to our veterans.

#### OBAMA DEFENSE BUDGET

First of all, the main reason I am here is to speak out about a great concern that we are now heading down a very dangerous road leading to the gutting of our military and settling for adequacy as opposed to supremacy. I first made my concerns known on a YouTube video that I did when I was in Afghanistan immediately following the announcement by the Obama administration. My concerns drew an interesting reaction from the left. Not only did they say I was wrong to say that there were proposed cuts to the budget,

they actually said the Obama administration proposed to increase the budget. I must confess it is a rare day when liberals actually claim to support increasing our Nation's military.

MSNBC was so outraged with my video that three of their prime time hosts took aim at my comments from Afghanistan that very same night. MSNBC host Ed Schultz featured my video as part of his regular feature "Psycho Talk" and called my concerns "absolutely false" and said I was joining Cheney and Giuliani.

Keith Olbermann said I should "do the math" and his guest, the very unbiased Speaker PELOSI, said my criticism of the Obama defense budget was simply "desperation" and that we are going to be spending more on defense than in 2009.

Not to be left out, Rachel Maddow repeated the same talking points and said once again the budget was actually going to increase. Then she brought on a guest, Eugene Robinson, an associate editor and columnist with the Washington Post, who went so far as to say I was making stuff up and lying.

Not to be outdone, CNN's Rich Sanchez said he was doing a "fact check." He called my words "ridiculous" and brought on a liberal think tank policy wonk, whom Sanchez referred to as a "moderate," to defend his claims. It is interesting that all of the liberal journalists were jumping on and assailing me but not the moderate ones.

I ask unanimous consent that at the conclusion of my remarks, this editorial from the Wall Street Journal be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. The problem is that the left is focused on one number, one piece of military spending, when they need to look at the total defense budget—what DOD actually spends on military operations, and how that money is used to maintain our military capabilities.

In actuality, thanks to the Obama administration, our overall defense spending has been cut by \$10.7 billion in fiscal 2009 and then cut again in 2010. You might say fiscal 2009 was from the previous administration. But the second part of the emergency supplemental is where the cuts came in, and that was done by the Obama administration.

We have reached a crossroads where we will choose to either invest in modernization and readiness of our military or mistakenly "kick the can down the road," which we have been doing.

Based on the projected defense budget for the next 10 years, it looks as if this administration is taking us down a path that leads to a weaker military that is poorly equipped. Two weeks ago, on April 6, Secretary Gates announced a broad plan of cuts and adjustments in the fiscal year 2010 DOD

budget. His plan intends to “reshape the priorities of America’s defense establishment” and “profoundly reform how the DOD does business.”

However, the programs and systems he intends to cut will severely affect the ongoing effort to rebuild and modernize our military. I was in Afghanistan when this decision was announced. Most of the liberal journalists responded.

This plan comes at a time in our history when we have dramatically increased domestic spending by trillions of dollars under the umbrella of “emergency bailouts” and “stimulus packages.”

Think about it. I think that \$700 billion, quite frankly, was thrown away. It was supposed to be used for damaged assets and it was used to bail out friendly banks. I will defend Paulson a little, because it was Tim Geithner who was the architect behind all of this. I will elaborate on that later.

If you want to stimulate the economy, there are three ways to do it. One would be for military spending, defense spending; another is infrastructure investment—highways, construction, bridges—and another is tax cuts.

Sadly, this President is on track to grow the country’s obligations to 22 percent of our GDP, while he is shrinking defense spending in relation to GDP to 3 percent in 2019.

This chart shows that during the Clinton administration, in the 1990s, we took a holiday from the procurement of new weapons and modernizing the aging weapons systems. This black line is what he inherited in the beginning. If you add inflation to it, that is what it would have been. This line was the Clinton budget—\$412 billion less than what normal inflation would be. It looks like that is where we are going from this point on.

Many of us in the Senate and in the House repeatedly spoke on the floor during the 1990s. We were concerned about the dangers of the massive cuts in personnel and procurement that were taking shape. With very few exceptions, our soldiers, sailors, airmen, and marines have been using the same weapons systems while fighting a two-fronted war on terror for 8 years. They are weapons and weapons systems designed and produced during the Cold War—weapons used repeatedly over the past two decades around the globe—weapons and weapon systems still in use today.

We have been unsuccessful in trying to get past a bow wave created in the 1990s, when the military budget was cut \$412 billion and acquisition programs and research and development were pushed to the right—delayed.

The cost of kicking our military modernization down the road is a two-fold increase in our cost to modernize—an increase to develop and field new weapons and weapon systems, and an increased cost to operate and maintain our aging equipment.

It is also forcing the military to accept more risk as they decide how to

operate with less equipment, how to fight with equipment increasingly difficult to maintain, and what to do when weapon systems reach the end of their service life without an operational replacement.

The major combat systems that our troops use today are those developed and procured during the 1980s and, in some cases, going back to the 1950s.

The Reagan administration was handed a military that was a hollow force in many respects—low morale, low pay, outdated equipment, and unable to maintain the equipment it possessed. Ronald Reagan expanded the military budget, increased troop size, reenergized weapons procurement, and revived our intelligence capabilities, returning this country to its superpower status. He guaranteed the superiority of the U.S. military’s weapon systems and capabilities through long-term investment and ensuring that our troops were provided with the most advanced equipment available.

As Secretary Gates said in January 2009, our military must be prepared for a “full spectrum” of operations, including the type of combat we are facing in Iraq and Afghanistan, as well as large-scale threats that we face in places such as North Korea and Iran.

By the way, I don’t blame Secretary Gates for all of this. He had to use the numbers that the Obama White House gave him.

Far too often we have learned the hard way that we don’t have a crystal ball to precisely predict what types of national security threats the Nation will face. During a hearing in the House Armed Services Committee—this happened when I was on that committee in 1994. We had somebody testify who said that in 10 years we will no longer need ground troops. Look at this. After 7 years engaged in the war on terror, we know he was wrong. The strategic environment has become increasingly complex, dynamic, lethal, and uncertain.

Today, our military is fighting with equipment that is decades old and a force structure that is 40 percent less than what we had in the 1980s.

The Air Force has 2,500 fewer aircraft. The Navy cut its fleet size in half; that is down to 300 ships. The Army reduced its force to half the number of divisions it had during the first gulf war.

For the past 17 years, our military has been asked to do more with much less and older equipment. It is taking a toll on our troops. Unfortunately, what took less than a decade to field in the 1980s will now take us multiple decades to field. A case in point: The KC-X, which will take up to 30 years to replace. We are using KC-135s for these capabilities. The KC-X program would have modernized that. In the case of the KC-135s, some are 50 years old. It gets to the point where the maintenance is more than buying something new.

The United States will have to build and sustain military capabilities re-

quired to respond to possible future threats across the spectrum of conflict, and there are numerous potential threats that could impact our national security.

The next war will not be like the last one. We cannot predict. You can talk to smart generals and ask what do we have to pay for 20 years from now, and they are smart, but they will be wrong, just like the guys who said we would no longer need ground troops in 10 years. We don’t know.

In February of 2009, a marine general wrote to one of the young marines:

You say the next conflict will be a guerrilla conflict. I say, it depends. In my lifetime, we have been in five big fights and a bunch of little ones. In only one of those five big ones (Desert Storm) had we prepared for the type of war we wound up having to fight. It is one thing to say that a certain type of fight is more or less likely; it is quite another to say it is certain to be one or the other. In war, the only thing that is certain is uncertainty.

We weren’t able to predict the fall of the Soviet Union, the rapid growth of the ballistic missile capability of North Korea, or the rise in asymmetric warfare. We were wrong in all of that. It doesn’t matter how great our military leaders or intelligence are, our strategic thinking will always be imperfect.

In order to provide stability, America must be able to deter or defeat any threat, be it an insurgency or a challenge from a near-peer competitor.

We can no longer afford to fool ourselves that we are sending our kids out with the best of equipment. Quite often, I talk to people who are really not into this. They are working hard and paying taxes for all this fun we are having up here. When you tell them that our kids are going out there without the very best of equipment, they are outraged. They cannot believe it. Unfortunately, that is the case.

Let’s do the math that they are so critical of. As I said, we need to look at the total defense budget, everything DOD spends. This includes national defense funds, DOD funds, DOE funds for nuclear ships and weapons, and other defense-related items, such as selective service system, plus the wartime supplemental.

First, there is a net loss in defense spending in 2009 of \$10.7 billion. President Bush increased the total defense budget in 2009 by \$37.2 billion. He also approved \$65.9 billion in supplemental funds for the first part of fiscal 2009.

President Obama’s supplemental request for defense spending is only \$75.5 billion to cover an increase of 21,000 troops in Afghanistan, increased operations in Afghanistan, continued operations in Iraq, and then withdrawing from Iraq. A GOP report on the cost of Iraq withdrawal said it will be a “massive and expensive effort”—that costs would more often increase in the near term. What they are saying is that these things were not included in Obama’s budget, but we will pay for them anyway. So he comes out with a

figure that he says is going to be more costly.

They went on to say that the cost of equipment repairs, replacements, closing and turning over 283 military installations in Iraq and moving troops and equipment “will likely be significant.” This is what we call the cost of withdrawal.

Let’s compare 2009 to 2010, where I have been accused of not being able to do the math. Defense spending does increase from 2009 to 2010 by \$14.9 billion. But according to President Obama’s letter to Speaker PELOSI on April 9, there will be no more supplementals.

That would mean DOD would have to fund all wartime operations out of the hide of DOD to the tune of about \$100 billion plus.

However, President Obama does fence off \$130 billion for overseas contingency funds, which could be used for getting out of Iraq and increased operations in Afghanistan.

Even adding the entire \$130 billion to defense spending, which is never the case with supplemental funding, the overall increase in defense spending for 2010 is \$3.5 billion.

If we estimate 2 percent inflation for cost growth of just the defense budget, defense spending actually decreases by \$7.3 billion.

Now, add in the accelerated growth of the Army and Marine Corps—a 65,000 and 22,000 increase, respectively, which will cost approximately \$13 billion to cover pay and health care costs, and you start to see the beginnings of how our military modernization gets gutted.

DOD must pay for personnel, operations and maintenance, ongoing wartime and contingency operations. With a zero supplemental fund, the money to pay for these “must pays”—the things we have to buy—has to be taken from DOD’s base budget, and the areas that are always hit are R&D and acquisition.

Look at what is being cut. If you question what I am saying here in terms of dropping down the costs, look at the programs we have to have that they are cutting. They are eliminating future combat systems. This is something we started putting together 8 years ago—the first transformation of ground operations and capabilities in probably 30 years. The C-17s—we need more of them. They have cut the additional C-17s. And the F-22—I am proud that we finally bit the bullet and realized we want to send our kids out in strike vehicles that are better than the ones they are making in Russia. That is the F-22, the fifth generation. They have stopped that.

Originally, we were going to have some 750 F-22s. Now they are stopping it in this budget at 187. So historical defense spending as a percentage of GDP has been 3 percent during the Clinton drawdown; 4.6 percent during the gulf war; 6 percent during the Reagan buildup; 8.9 percent during the Vietnam war; 11.7 percent during the

Korean war; and about 35 percent during World War II.

When compared to a sustained annual defense investment of 4 percent of the GDP to recapitalize and modernize our military, the 10-year proposed Obama defense budget is \$1.3 trillion in the red.

We have a similar chart that we had here during the Clinton administration. One thing the Obama defense budget guarantees is that the oldest military in the history of the Nation will get older and more expensive to maintain and operate.

Ships currently average 18 years; Naval aircraft averages 18 years; Marine Corps aircraft, 21 years. Refueling tankers are over 44 years old; Air Force fighter aircraft, 19 years old; special operations aircraft, over 27 years old; and bomber aircraft, over 33 years old.

In order to keep 40-year-old KC-135s, as I mentioned a minute ago, in the air, DOD has to reprogram almost \$3 billion from the KC-X program to repair KC-135s. That means the program that was there to pay for modernizing, to buy new aircraft—the KC-X it is termed—now we are drawing down from that just to repair the old, ancient KC-135s.

In the Army, the current fleet of combat vehicles was developed and procured 30 to 60 years ago and is aging at an increasingly rapid rate. The M1 Abrams tank developed in the 1970s and fielded in the eighties is currently on its third iteration and update and being used extensively on the battlefield.

The M2 Bradley fighting vehicle, also developed over 25 years ago, is on its third significant modification and has been crucial in defending our troops against IED and RPG threats in Iraq.

Both of these combat-proven vehicles continue to undergo fleetwide reset programs because of their rate of use in the war on terror.

The oldest combat vehicle in the Army inventory is the Paladin Howitzer. This is kind of interesting because this is part of the FCS and is the furthest along right now in its development. The Paladin technology is World War II technology. Every time you fire it, you have to get out and swab the breech. There are now five countries, including South Africa, that make a better cannon than our kids are using.

Over 19,000 artillery rounds were shot from the Paladins in Iraq in 2008; over 27,000 were shot in 2007. Despite some parochial criticism in the media and in this Congress, the fact remains that the U.S. Army is using a system developed over 50 years ago.

By the way, people accuse me of doing something that is parochial. If we look at the footprint that was given by the lead systems integrator, it shows Oklahoma in the bottom 20 in terms of getting funding for the FCS program.

Our artillery soldiers are using this system that has a chassis design that is a half century old and slated to under-

go its seventh modification. Let me say at this point that I believe the defense budget should at the very least continue the PIM Program—the Paladin Integrated Management Program—just to keep those vehicles going. We should keep the FCS on track but don’t dump the PIM Program with the FCS Program.

Even with the implementation of the PIM update, the Army expects to keep the Paladin in use until 2060. That is 100 years on the battlefield. Our Army is long overdue a thorough and comprehensive modernization program instead of throwing billions of dollars toward updating and maintaining decades-old vehicle platforms.

The proposed defense budget would cancel the manned vehicle portion of the Army’s Future Combat System, the modernization program intended to replace the Paladin, Abrams, and the Bradley over the next 25 years.

The FCS vehicles would bring improved armor, a state-of-the-art communications network. These are life-and-death issues. These are our troops on the ground being able to have something that is actually better than our prospective enemies. That is what we are losing in this defense budget.

The Air Force: For nearly two decades, our U.S. Air Force has dominated the skies to ensure our superiority around the world. However, the most recent GAO study stated that the Air Sovereignty Alert Operations—the post-9/11 operations that protect our homeland—are at risk during aging aircraft and insufficient procurement.

The Air Force grounded 259 of its 441 F-15 Eagles in November to January while it looked into the breakup of an F-15C.

Last May, the service parked all 500 of its T-38 trainers. Last October, the Air Force ordered more than half of the 356 A-10 fighters to stay put because of cracks in the wings.

While we have enjoyed the benefit of the investment during the 1980s of the F-15, F-16, A-10, and the F-117s, the F-117 is now retired and the Air Force will be retiring 137 of the F-15s, 177 of the F-16s, and several of the A-10s.

What we are saying is, we are already shutting down and the only way to replace them, if we are going to have a fifth generation strike vehicle, is with the F-22. We are supposed to have 750 of these F-22s. This budget stops the line at 187. That means if something comes along and we have a more responsible, defense-oriented administration coming in, they would have to start up the line, and it will cost much more.

This is being done at a time when Secretary Gates told reporters that the intelligence he has seen indicates a Russian fifth generation fighter could become operational about 2016, and previous estimates by the Pentagon on China’s J-12 fifth generation fighter could be fielded by 2020.

Increasing the number of F-35s is not going to do it; the functions are different; their missions are different.

The Navy: At a time when it is being called on to project a presence in more parts of the world than ever before, Secretary Gates has recommended the Navy shrink its carrier fleet to 10 aircraft carriers by 2012 and delay the acquisition of other portions of the fleet.

This reduction of the aircraft carriers goes further below the previous QDR. That is the Quadrennial Defense Review. They stated 20 carriers would be required for moderate risk. When they use "moderate risk," we are talking about lives of our soldiers, sailors, and airmen.

In the last 3 weeks, we have seen how relevant and important the Navy is while watching the various pirate activities off Somalia and some of those activities that are going on now. We did not realize we needed to do that prior to that time. It shows how fluid this is in terms of our expectations and our needs.

China, Japan, Australia, India, Malaysia, Pakistan, Indonesia, Singapore, Bangladesh, South and North Korea either now have or are planning to acquire submarines to compete with ours.

In all, the Navy would be left with less than 300 ships, and that is about half of what it was during the eighties.

Missile defense: I am going to run out of time. I should have had this on before. On February 3, we all know, Iran launched a satellite on the 30th anniversary of the 1979 Islamic revolution, demonstrating key technologies for propulsion, staging, and so forth.

Two weeks ago, North Korea furthered their missile and nuclear development by launching the Taepodong 2 missile in the South China Sea, despite widespread world condemnation. Despite this, the administration has recommended a 16-percent cut in missile defense. It is interesting, this would come along right at the time of the 26th anniversary when Ronald Reagan put SDI together, recognizing, so prophetically when we were going to have a system, the technology to hit a bullet with a bullet. We have it now.

We told the Czech Republic and Poland that we will be supporting them, putting together a radar and launch system. Now they don't know what we want because that also has either been delayed or canceled. I suggest it has been canceled.

By the way, if Iran develops the capability of doing something from Iran and aiming toward Western Europe, this is the only safeguard we would have. The Czech Republic and Poland have gone along with us, and now we are pulling the rug out from under them.

The last point I wish to make is on the Airborne Laser Program. I wish there was time to explain this program. There are three phases. You have the launch phase, midcourse phase, and terminal phase. These phases are necessary for a national missile defense system.

I agree we need to do something on the acquisition processes. We have been

trying to do it for a long period of time. However, acquisition reform should be done in conjunction with, not in lieu of, modernizing and properly equipping our Armed Forces to dominate across the full spectrum of warfare.

I have stated many times in this Chamber that the greatest trust placed in Congress by the American people is to provide for their security by maintaining a strong national defense. We can avoid this far too frequent debate on defense budgeting by assuring a minimal level of funding for our military.

I believe when you talk to the average man on the street as to what is the primary function of Government, that function should be to defend America, and that is the threat we are facing now. Somehow this has taken a back seat to what we are supposed to be doing.

As the Congress considers the administration's budget recommendations in the coming weeks, we have to ask several questions: Are the forces being provided to our commanders in the field postured to counter the full spectrum of threats? Are we providing our troops with the best and most capable equipment available? Certainly we are not today. And can we afford to kick the can down the road further? The answer is a resounding no.

Finally, the total cost for 2010 to reach this expectation would require an increase of \$28 billion in 2010. With the Obama budget of social welfare that will triple the public debt in 10 years, we have already spent almost \$2 trillion. Mr. President, the \$700 billion of a bank bailout we now know is Tim Geithner's plan to start with, and in October of 2008, we gave \$700 billion to an unelected bureaucrat to do with as he wished with no oversight whatsoever.

I have to say this is the time when we look at the amount of money that is being spent on all the social welfare programs and say: Why not defend America? Clearly, that is not the primary goal of this administration.

I think my fellow Oklahoma Congressman, TOM COLE, said it best. He said: President Obama's charm and eloquence is no substitute for a strong national defense.

I believe that is right. I hope we have a chance to relook at this and make adjustments.

I also remind the administration, you can come out with all these cuts, cutting the F-22s and the Future Combat System and the C-17s and the national missile defense system, but that still has to go through. And thank God we have three branches of Government so we will be able to get the House Armed Services Committee and the Senate Armed Services Committee to review this and try to put America back in a position where its primary goal is to defend America. That is what this is all about.

#### EPA ENDANGERMENT FINDING

I am very troubled by the EPA proposed endangerment finding that will unleash a torrent of regulations that will destroy jobs, harm consumers, and extend the Agency's reach into every corner of American life. Despite enormous expense and hardship for the American economy, these regulations will have virtually no effect on climate change.

It now appears EPA's regulatory reach will find its way into schools, hospitals, assisted living facilities, and just about any activity that meets minimum thresholds in the Clean Air Act. Representative JOHN DINGELL was right: the endangerment finding will produce a "glorious mess." "It is worth noting that the solution to this 'glorious mess' is not for Congress to pass cap-and-trade legislation, which replaces one very bad approach with another.

Congress should pass a simple, narrowly targeted bill that stops EPA in its tracks.

#### GUN TREATY SUPPORT

Next, we discovered that President Obama, in his announcement last week, plans to urge the Senate to ratify the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, known by the acronym CIFTA.

The idea that American-manufactured firearms are responsible for the growing violence in Mexico is not grounded in reality, but the Obama administration is using this violence as justification to require stricter licensing requirements and markings on firearms by U.S. manufacturers. The majority of the gun violence that is occurring in the drug wars in Mexico is the result of assault weapons, including fully automatic versions, which are not even available for sale in the United States. Many of these weapons are coming from other countries in Central and South America and deserters from the Mexican military.

I am strongly opposed to placing more stringent requirements on U.S. gun manufacturers, especially when the evidence shows that they are not the problem. This is an instance of the Obama administration using alternative means to place greater regulations on the manufacture and sale of legal firearms in the United States. I believe that my colleagues in the Senate understand this to be the case and will do as they have for the last 10 years and not ratify this treaty.

#### LETTER TO DHS EXPRESSING OUTRAGE OVER CONTROVERSIAL REPORT

I was shocked to learn of a new report by the Department of Homeland Security entitled "Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment" which classifies the brave men and women returning home from combat and operational deployments around

the globe, who have been honorably defending our country, as potential terrorists.

As a senior member of the Senate Armed Services Committee, I am especially proud of our soldiers returning home, and I find it extremely regretful that they have been subjected to such an insult by this report. Furthermore, I find it reprehensible that within this report Americans who hold certain beliefs regarding issues such as immigration, the second amendment, and abortion fall under the report's broad generalization of rightwing extremists, and are, therefore, considered a potential threat. I believe this report to be very offensive to many Americans.

As a result, I joined Senators TOM COBURN of Oklahoma, DAVID VITTER of Louisiana, SAM BROWNEBACK of Kansas, JIM DEMINT of South Carolina, RICHARD BURR of North Carolina, and LISA MURKOWSKI of Alaska to send a letter to Secretary Janet Napolitano expressing concerns.

DAVID HAMILTON

Mr. President, I am not impressed with President Obama's judiciary and Department of Justice nominees. Eric Holder, David Ogden, Dawn Johnsen, Elena Kagan, and Thomas Perelli are all extreme liberals in their views on everything from the second amendment to abortion to pornography and obscenity. I applauded when President Obama kept Secretary Gates on as his Defense Secretary, and I really hoped that he would choose other individuals who were at least moderate in their political ideology, but that just has not been the case.

Just prior to recess, my colleagues on the Senate Judiciary Committee boycotted the nomination hearing of David Hamilton to sit on the Seventh Circuit Court of Appeals. A hearing was scheduled a mere 2 weeks after the announcement of his nomination. Senator SPECTER and seven of my other Republican colleagues requested another hearing after the spring recess, citing a Senate rule that allows a majority of the minority side of the committee to request a followup. Many remember David Hamilton because of his 2005 decision as a Federal district court judge presiding over the case Hinrichs v. Bosmeh, in which he enjoined the Speaker of Indiana's House of Representatives from permitting "sectarian" prayers to be offered as part of that body's official proceedings, meaning that the chaplain or whomever opened the proceedings with prayer could not invoke the name of Jesus Christ. In his conclusion, Hamilton wrote: "If the Speaker chooses to continue any form of legislative prayer, he shall advise persons offering such a prayer (a) that it must be nonsectarian and must not be used to proselytize or advance any one faith or belief or to disparage any other faith or belief, and (b) that they should refrain from using Christ's name or title or any other denominational appeal." Further, ruling on a postjudgment motion, Hamilton

stated that invoking the name of "Allah" would not advance a particular religion or disparage another. So, praying to Allah would be perfectly acceptable. I find this line of reasoning to be insane. Who in this body would not identify the name of "Allah" with the religion of Islam any less than they would identify the name of Jesus with Christianity? But I believe these are the kind of opinions we may see coming from the Seventh Circuit if David Hamilton is confirmed. I understand that Judge Hamilton's nomination is still pending before the Judiciary Committee, but I had to come to the floor to speak so that the American people, who are very concerned about this nomination, will know that I and my Republican colleagues on the Judiciary Committee are taking interest and are not just going to let this nomination sail through. In fact I will filibuster David Hamilton.

I would also like to speak for a moment on a couple of the nominees that we will be voting on this evening. Tony West, the nominee for Assistant Attorney General for the Civil Division served as cocounsel for John Walker Lindh. As you all know, Lindh joined the Taliban and fought against our very own American soldiers in the liberation of Afghanistan. Lindh is a traitor and terrorist, but after a plea deal that Mr. West helped obtain, he is only serving 20 years in prison.

Lanny Breuer, the Assistant Attorney General nominee for the Criminal Division, helped obtain a great plea deal for Sandy Berger, who admitted to stealing classified documents from the National Archives. He received a \$50,000 fine, probation, and community service. I understand that every criminal defendant is entitled to representation and that it was the duty of these men to vigorously represent their clients' interests, but it is also the choice of this administration who they nominate to these positions, and I truly believe that better choices could have been made.

#### EXHIBIT 1

##### THE PENTAGON'S NEW PRIORITIES

Defense Secretary Robert Gates, a man not known for having his head in the stars, announced his strategic Pentagon blueprint this week, saying his proposals "will profoundly reform how this department does business." We hope he informed Congress, home to 535 procurers in chief.

The Defense procurement system is a mess, and previous Pentagon reforms have faltered thanks mostly to the micromanagers on Capitol Hill who are often more interested in funneling money to their home states than in spending dollars most effectively. Democrats and Republicans both belly up to this bar, usually while castigating the executive branch for failing to make "tough choices."

So give the Defense Secretary an A for optimistic effort, even if we have our disagreements with some of his strategic choices. In announcing his spending priorities, Mr. Gates said he wants to focus on the current wars in Iraq and Afghanistan, rather than on the unknown wars of the future. Among his cuts are the Army's Future Combat Systems and a gold-plated new Presidential heli-

copter that is late and way over budget. Meanwhile, he added money for unmanned aerial vehicles, increased the number of special forces and announced plans to recruit more cyberwarfare experts.

These seem like reasonable judgment calls, and the focus on combating asymmetrical threats will help the U.S. in Iraq and Afghanistan. But it's worth remembering that the reason our enemies have resorted to terrorism and insurgency is because U.S. conventional forces overwhelmingly dominate on the ground, in the sea and in the air.

That's not an advantage we can take for granted as the Clinton Administration did in the 1990s, when it slashed defense spending to 3% from nearly 5% of GDP. China and Russia are upgrading their conventional forces, and China in particular is aiming to build a navy that can neutralize U.S. forces in the Western Pacific.

Mr. Gates's strategy implies a shrinking Navy with fewer ships and perhaps one fewer carrier group. It's good that he wants to build more Littoral Combat Ships, which are handy for operations such as tracing pirates. Even so, the Navy is left with a fleet of fewer than 300 ships, which strikes us as perilously small. When a U.S.-flagged container ship was briefly taken by pirates off Somalia this week, the Navy's nearest vessel was hours away.

Mr. Gates's decision to kill the stealthy F-22 fighter jet, which outclasses everything in the sky, is also troubling. We already have 183 F-22s—original plans called for 750—and Mr. Gates wants to order just four more before shutting down the production line. His proposal to double the number of F-35 Joint Strike Fighters and Pentagon buys next year—to 30 from 14 in 2009—is no quid pro quo. The F-35 is a cheaper, more multipurpose plane but it can't begin to compete with the F-22 as a fighter jet.

Pentagon spending is now about 4% of GDP and is expected to decline, which means too little investment against potential threats. In particular, Mr. Gates's budget priorities give no indication of how the Pentagon will ensure that U.S. military dominance extends to the battlefield of the future, outer space. President Obama has said he opposes the "militarization of space," but space is already a crucial area of operations and China is looking for advantages there.

The \$1.4 billion in cuts to missile defense are especially worrisome, with losers including the Airborne Laser, designed to shoot down ballistic missiles in the boost phase, and additional interceptors planned for the ground-based system in Alaska. Instead, Mr. Gates favors theater defenses for soldiers on the battlefield with \$700 million more in funding, arguing that this will address the near-term threat of short-range missiles. But as North Korea's weekend launch showed, rogue regimes aren't far away from securing long-range missiles that could reach the U.S.

Mr. Gates shrewdly made no budget recommendations on nuclear forces, except to say that he'll defer judgment until after the forthcoming Nuclear Posture Review. Perhaps he's counting on being able to change President Obama's mind on the need for updating U.S. strategic weapons and going forward with the Reliable Replacement Warhead for America's aging nuclear arsenal.

Mr. Gates's budget proposals now go to Congress. Since the end of World War II there have been more than 130 studies on procurement reform. Good luck.

Mr. INHOFE. Mr. President, I yield the floor and suggest the absence of a quorum. I ask unanimous consent that the time in a quorum call be equally divided between both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. DORGAN. Madam President, I wish to speak about S. 386, the Fraud Enforcement and Recovery Act, which Senator LEAHY and others will bring to the floor of the Senate. It is astounding to me that a piece of legislation that provides and strengthens the Justice Department and investigative agencies with the ability to go after fraud and recovery with respect to this financial collapse—even something that is bipartisan and is so fundamental—is now subject to a filibuster.

Think of it: You can't do anything around here without there being a filibuster. We have to file a cloture petition and ask that it ripen for 2 days and then do 30 hours postcloture. It is unbelievable. It demonstrates, unfortunately, an inability of the majority to get things done because of a minority deciding it wants to filibuster everything.

But look, this legislation authorizes substantial funding to strengthen the ability of the Justice Department, the FBI, and other investigative agencies to fight fraud.

This money, well spent, will recapture that amount of money many times over in the pursuit of financial fraud. If anyone who is reading the papers and watching television and seeing what is happening in the financial crisis in this country believes that there ought not be substantial, enhanced investigative capabilities by the Justice Department to go after fraud and to prosecute where they find fraud, they must be living on a different planet. This reforms the statutes that deal with fraud and with money laundering.

Senator LEAHY and others have put together a bill that I believe will substantially improve the capability to prosecute financial crimes. I think most Americans will be surprised to learn that taxpayers' funds expended under what is called the TARP funds in the economic stimulus package are not necessarily protected under the Federal fraud statutes. By the same token, Federal fraud statutes presently do not include mortgage lending businesses that are not directly regulated or insured by the Federal Government. These companies, by the way, were responsible for nearly half of the residential mortgages before the economic collapse. Yet they remain largely unregulated. This piece of legislation would begin to address that.

Let me give some examples of what has happened and what continues to

happen. This is something that is on the Internet today. You see all the financial collapse we have had in this country caused by bad mortgages, subprime mortgages. You can go to the Internet and find this:

CC&G Financial Group, working together to build your dreams. You have bad credit, poor credit, good credit, we can get you into your dream home.

They are advertising: If you have bad credit, we will loan you some money and get you a dream home. It is unbelievable.

They say:

With the fantastic values that are available today due to foreclosures and short sales, now is the time to get into your own home. Come to us, we will get you some money.

It is exactly the same thing that steered this country into a ditch in the first place.

This on the Internet today, called “Speedy Bad Credit Loans.” Is that unbelievable? That is unbelievable to me, a company called Speedy Bad Credit Loans. Shame on them.

This says:

Bad credit mortgage—bad credit? OK. No credit? OK. Bankruptcy? No problem. No downpayments, no delays.

Shame on them.

But it is not just these fly-by-night fleabags that are running these schemes. What was the biggest mortgage company in the country? Countrywide—Countrywide mortgage, the biggest mortgage company in America. Here is what they said in the middle of the subprime scandal:

Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us.

“Call us,” they said—the biggest mortgage lender in the country.

There were mortgage companies willing to lend you money with no principal payment. You just pay interest; or if you can't pay interest and no principal, then just part of the interest and they will put the rest of it on the back of the loan; or no principal and just part of the interest, but you don't have to pay anything for the first 12 months because they will make the first 12 months' payments for you.

If you want to get a loan without having to document your income—they call it a “no doc” loan, a no-documentation loan—you don't have to document what your income is. By the way, don't worry about making payments anytime soon because we will give you a loan no matter what. Then if it doesn't work out, your home value is going to increase and you can sell it off for a profit. Good for you.

This is a shameful display of what is going on in the marketplace. Countrywide, of course, went belly-up. The folks who ran it got off with a couple hundred million dollars, we are told. In the meantime, go to the Internet and see if it is still going on.

This legislation being brought to the floor of the Senate is bipartisan legislation that reforms the statutes that

deal with some of these issues, to say: Stop it. You cannot do this stuff anymore.

There is a lot of work to do in investigating and cracking down on financial fraud, including mortgage fraud. The bill we are considering this week is going to go a long way toward that effort. This bill is going to give law enforcement the investigators they need, the prosecutors the resources they need. It is supported by the National Fraternal Order of Police, Taxpayers Against Fraud, Federal Law Enforcement Officers Association, National Association of Assistant U.S. Attorneys, and the National Association of Certified Fraud Examiners.

Finally, let me just say that I am going to be talking to the chairman of the committee. I have a couple of suggestions for amendments. One will be a sense of the Senate to establish an economic or financial crisis task force in the Justice Department, a multiagency task force that goes after these kinds of crimes. Second, I want to talk to the chairman of the committee and with my colleagues as well about a Senate select committee to investigate the cause of the economic crisis. That is a piece of legislation I introduced with Senator MCCAIN a couple of months ago. I want to visit with my colleagues, Senator DODD, the chairman of the Banking Committee on this, and Senator REID, of course, and Senator LEAHY. I think all of these things need to be discussed.

I especially wanted to say that the underlying bill brought to the floor of the Senate has great merit. I hope this week we will be able to finish work on this bill. It will make this country a better place by holding accountable those who have been engaged, in my judgment, in some cases, in some high crimes. The American people have paid a very stiff price for that activity. I think it needs to be investigated and prosecuted aggressively.

I yield the floor.

NORTH DAKOTA NATURAL DISASTERS

Mr. CONRAD. Madam President, I would like to take a few minutes to speak on the unfolding crisis in my State with respect to record flooding all across North Dakota.

We are facing something unseen in recorded history in the State of North Dakota. From east to west, from north to south, there is massive flooding, never seen before in all of recorded history. The eyes of the Nation have been on our State.

As I have said many times in North Dakota, people across the country have liked what they have seen about the response of the people of North Dakota. In Fargo, a town of 90,000, the mayor said we have 80,000 volunteers. That is exactly what it has been like—all across the State, thousands of people coming out, neighbors helping neighbors, helping to protect their homes, helping to protect the community. There was an outpouring of volunteer effort I have never seen before.

Several weeks ago, I was home with General Walsh, who is the commandant of the Mississippi River Division of the Corps of Engineers, the chief flood fighter for that part of the country. We walked into the FARGODOME, which is a place where NDSU—North Dakota State University—plays its football games, and there were thousands of volunteers filling sandbags. There were 3 million sandbags made in just a few days—3 million sandbags—by tens of thousands of volunteers working around the clock. I went into that FARGODOME, and it was inspirational to see the efforts of people to protect their homes and their community.

By the way, it was not just in Fargo, it was every town up and down the Red River Valley, every town up and down the Cheyenne River Valley, every town up and down the James River Valley, every town up and down the Missouri River Valley, every town up and down the Souris River Valley, because this was flooding on a scale never seen before.

In the midst of it all, in my hometown, here was the newspaper headline: "A Double Shot of Blizzard and Flooding." These two people you can perhaps see here are wading knee-deep through ice and water. This is very close to where I grew up. Ultimately, they had demolition teams come in and blow up the ice because logjams were forming and water was being forced into the southern part of my hometown, which is the capital city of North Dakota.

Well, that was Bismarck, ND. Here is the headline from the Fargo Forum at about the same time: "Race Against Time Spring Flood 2009."

This is a shot of water completely surrounding this particular home and volunteers using shovels to keep the sand moving into funnels to fill the sandbags around the clock in Fargo, ND.

This is the headline from Grand Fork, ND, that was so badly flooded in 1997. There we had a 100-year flood, perhaps a 200-year flood. You will recall that was the flood that was fought in the midst of a blizzard after the worst winter storm in 50 years. This is from Fargo, with the headline: "Fear Is Setting In."

This shows people in winter garb placing sandbags on top of snowbanks. This is the kind of conditions that people were confronting, fighting massive flooding days in the midst of some of the biggest snow storms in our State's history.

Here are some of the headlines that appeared: "Records Fall in Snow Storm;" "Minot Sets December Snowfall Record, 24 Inches in One Month;" "Looks Like A Record December In Grand Forks, 90-Year-Old Record Broken There With 29 Inches of Snow;" "December 2008, Snowiest Month on Books In Fargo-Moorhead;" "Fargo Nears Record December Snowfall."

This is the news from one end of our State to another. So many people have asked me: How did this happen? How

could it be that you have flooding unprecedented in recorded history?

Well, as we try to reconstruct events this past fall, precipitation in the eastern part of the State was 2 to 300 percent of average, resulting in the wettest fall on record.

Soil observations taken just prior to the freeze-up revealed nearly saturated moisture levels in the upper 8 inches of soil across the Red River Valley. Then the onset of winter came very abruptly. The quick, hard freeze occurring with minimal snow cover and saturated soil moisture conditions allowed the frost to quickly penetrate the ground to a level of 2 feet.

Then, in December, the cities from west to east across the State had record snowfalls. Over the past 2 months, areas of North Dakota have had 150 to 300 percent of normal precipitation. In fact, the city of Fargo saw both record rainfall and record snowfall in the month of March.

Who could have believed it? I was in the little town of Linton, ND. I was with the mayor; I was with the sheriff. They told me they were expecting pretty much normal flooding. Then they got hit by 2 inches of rain. That 2 inches of rain brought that snow off the hills surrounding the town, flooded 50 of the homes of people who lived on largely fixed incomes, who have been devastated by these developments. And it is not just in the Red River Valley; as I have indicated earlier, it is all across North Dakota in a way that is unprecedented. In my adult life I have never seen anything like it.

This is the little town of Pembina, ND. I landed there last week. I landed on an airstrip completely surrounded by water—completely surrounded by water. The only thing that was not covered by water was the airstrip itself, and the people I was with, as they were landing, said to the pilot: Boy, it gives you an eerie sense. It feels as if you are landing in the middle of the ocean. That is really what it felt like.

That is Pembina. But we have seen it in town after town. Here in Valley City, the sewer system failed. The sewer system, under this incredible water pressure, broke down. Here is the headline: "Shutdown Continues. Non-essential Businesses Ordered Closed. Porta-Potties Dot The City."

Well, part of this has a humorous note to it. But I tell you, not if you are in that town and you have been asked to shut down, if you are a nonessential business, the mayor has asked thousands of people to do a voluntary evacuation because of a catastrophic breakdown in the sanitary sewer system on Friday morning. That is this last Friday.

I just talked to the mayor, Mayor Mary Lee Nielson, by the way, who has provided outstanding leadership in that community. But you talk about a community that has been dealt a tough hand. You can see work crews out from the public works department, National

Guardsmen out trying to contain the damage, and they have done an outstanding job. But now the mayor has said to stop using water in that community, stop using water. "Valley City Sanitary Sewer System Has Failed." Basements are filling with sewage. The newspaper has had sewage come into its location, the police station as well.

But I can tell you, this is when you really measure the character of people, and the people of my State are proving their grit and their determination because they keep on fighting and they have just done an incredible job of taking on this crisis.

We have so many communities that have been hit. Here the headline is: "Valley City Residents Urged To Get Out." This is a town of 8,000 or 9,000 people. You can imagine having to make the decision to ask people to leave.

Here is a little town, the town of Kathryn. It had to be cleared out, completely evacuated, a small town, less than 100 people. It had to be evacuated because a dam above the town was getting ready to break. To watch what they have done to fight this effort is absolutely fascinating because they brought in not regular sandbags, they have brought in 1-ton sandbags, sandbags bigger than anything I have ever seen before.

Here is a picture of the helicopter. These sandbags are 1-ton sandbags, each of them weighing 2,000 pounds. They were used to drop into this failing dam. That is the kind of effort that has been underway here. This is an eight-bag sling load that was destined for Clausen Springs, which is the dam that threatened the entire community of Kathryn, ND.

Not only have people and homes and communities been so adversely affected, farm families in many cases cannot get out. Here is a farmstead, and you can see it is completely surrounded by water. Here is a big tractor coming out to try to help these people, and you can see their place is completely surrounded by water.

Again, it is certainly families and communities, but it is also livestock. The estimates are now that we have lost nearly 100,000 head of livestock in North Dakota; 100,000 cows and calves have died. They think 80 percent of the deaths are young calves. This is calving season. I talked to one rancher. He was beside himself. He just came back from the fields, digging through snow banks trying to rescue little calves.

Here are cows from one farmstead. You see them trying to swim against the current. Some were able to make it, some not. As we indicated, some 100,000 head of livestock has been lost, and 80 percent of the calves. This looks like a calf right here. And you can imagine, look at the power of that current. These cattle are trapped, in many cases, in a way that there was no place to escape.

I bring this to the attention of the Senate because already tremendous assistance has been extended to my State. The President declared an emergency in record time. He has also provided individual assistance, which has already helped hundreds and hundreds of families in our State. Many more will need assistance. The roads, bridges, and highways in my State have been devastated by this flooding; again, the worst in recorded history. And what is most stunning about it is the extent of it.

Typically, flooding in my State has been up and down the Red River. But this time every river system in our State—the Cheyenne, the Red, the Souris, the James, the Missouri, all of them—has been badly hit. Thousands and thousands of people are adversely affected, thousands of people forced from their homes, and hundreds and hundreds of homes lost, devastated, destroyed.

North Dakota is an agricultural State. This is the time normally you would be planting crops to be harvested in the fall. But, obviously, when the farmland is flooded you cannot plant. So we are going to see this unfolding disaster continue to hurt the people of my State, certainly the economy of my State, because we are not going to plant.

In many parts of the State perhaps you cannot get a crop at all this year. The ground is going to simply be too wet. So we are going to need continuing assistance. That is one reason I am glad in the last farm bill we provided for permanent disaster assistance for circumstances just like this one.

I also want to thank the thousands of volunteers across North Dakota who came out to help in this crisis—the National Guard, thousands of soldiers deployed all across our State. I thank them for their incredible performance. I thank the Corps of Engineers for building hundreds and hundreds of miles of dikes that have so far saved community after community across North Dakota.

Thanks to FEMA for being there and setting up disaster assistance that has already provided substantial sums to individual families who have been hard hit. Thanks to the local officials who have headed up the flood fight, and the mayors, the county commissioners all across North Dakota who have performed so admirably. Thanks to the State leadership for what they have done to coordinate the flood fight and do so effectively.

This is a disaster that is still unfolding. We pray for the families who are affected. They are very much in our hearts and minds, and we are thinking about what can be done to help them; first, win the fight, and then recover from these series of disasters.

I thank the Chair, I thank my colleagues for the many who have called me and written me and spoken to me in the halls and pledged that they would be willing to help our people at a time

of such need. I thank the Members of the House of Representatives who similarly have reached out to us, and thanks certainly to the Obama administration. I want to thank Janet Napolitano, the head of Homeland Security who has been so responsive. Thanks to Rahm Emanuel, the President's Chief of Staff. I want to thank the President himself for meeting with us to get a firsthand report and for again turning around disaster aid in record time at a time when our State really needed it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I would say to the Senator from North Dakota that all of us have noticed the courage of his constituents, the citizens of North Dakota, and we admire that courage and their resilience in the face of such adversity.

Senator CORKER and I saw this same thing in the faces of the men and women in Murfreesboro, TN, who were suddenly hit with a tornado in the springtime. While the size of the disaster was not comparable to the size of the disaster in North Dakota, it was to those families of that kind of disaster. So I appreciate his comments and our thoughts and prayers go out to the families in North Dakota.

#### ASSOCIATION OF AMERICAN UNIVERSITIES

About 1 hour ago I spoke to the Association of American Universities, which is a group which includes many of our finest public and private research universities, some of them in the State of North Carolina, I might note.

I would like to say to my colleagues on the Senate floor and to our country what I said to them in a private meeting. I told them that not long ago a few of us in the Senate had supper in the majority leader's office with former Brazilian President Fernando Henrique Cardoso, who was completing a year as a scholar-in-residence at the Library of Congress.

One of us asked Dr. Cardoso what memory he would take back to Brazil about his time in the United States.

He replied unhesitatingly:

The American university. The greatness and the autonomy of the American university. There is nothing in the world quite like it.

The United States doesn't only have the best universities in the world, it has almost all the best universities in the world. A recent ranking by Jiao Tong University in Shanghai ranks 35 universities among the top 50 in the world, 8 among the top 10. Higher education, says commentator Fareed Zakaria, is America's best industry. Along with our national laboratories, managed by the Department of Education, our research universities have been our secret weapon in developing many of the competitive advantages that make possible the high American standard of living. In the midst of our pride about our universities, I suggest we remember the warning George Rom-

ney, then president of American Motors, gave Detroit's automakers a half century ago:

Nothing is more vulnerable than entrenched success.

At that time, the big three automakers didn't just make the best cars in the world, they made almost all the best cars. But the automakers didn't listen to George Romney. We know the rest of the story. The Japanese and others perfected smaller, fuel-efficient cars, and today we are bailing out the automakers that didn't listen. American higher education today would do well to heed George Romney's warning of 50 years ago, and so should the rest of us, since our country's success depends so much upon the quality of our colleges and universities as well as upon our access to them. I suggest, therefore, we begin by addressing our research universities. I propose that the national academies assemble a distinguished group of Americans to assess the competitive position of American research universities, both public and private, and then respond to the following question: What are the top 10 actions, in priority order, that Congress, State governments, and the universities themselves could take to assure the ability of the American research university to maintain the excellence needed to help the United States compete, prosper, and be secure in the global community of the 21st century?

I hope this proposal sounds familiar. It is a narrower version of the request I, along with a bipartisan group of Senators and Congressmen, made in 2005, when we asked the national academies to respond to this question: What are the top 10 actions, in priority order, that Federal policymakers could take to enhance the science and technology enterprise so the United States can successfully compete, prosper, and be secure in the global community of the 21st century?

The academies responded to that request by creating a distinguished commission, headed by Norman Augustine, which reported within 10 weeks from its first gathering a list of 20 recommendations, along with strategies to achieve them. That report was entitled "Rising Above the Gathering Storm." After a great deal of bipartisan work in this Chamber and in the House, Congress and the President produced the America COMPETES Act of 2007, which included many of the Augustine Commission recommendations and established a blueprint for maintaining America's competitive position.

That blueprint provided a helpful basis for additional funding that became available earlier this year.

I can still remember the afternoon in the spring of 2005, when I sat through a long Senate Budget Committee meeting. What was bothering me most and

what I heard that day was that the uncontrolled growth of entitlement programs—mainly Medicare and Medicaid—would squeeze out essential investments in education and research critical to the Nation's prosperity. I had seen this as well during the 1980s, when I was Governor of Tennessee, as I struggled, as has almost every Governor since, to pay the growing cost of Medicaid, as well as prisons and public schools, and still have funds left to support quality in higher education. Those struggles have become a losing battle for public universities.

My own research shows that over 6 years, between 2000 and 2006, total State higher education funding has gone up 17 percent, while average tuition at public 4-year institutions has gone up 63 percent, and State funding for Medicaid has gone up 62 percent.

In a 2003 study of funding of public universities, Thomas J. Kane and Peter Orszag, now Director of the Office of Management and Budget in the Obama administration—and he spoke to this same group of university presidents this morning—suggested the quality of students and the compensation of faculty has declined significantly at public universities relative to private universities. They concluded:

Taken together, the results suggest a startling and troubling deterioration of the relative quality of public universities. The most recent set of state budget cutbacks, if anything, will accelerate this trend . . . as a result, the traditional model of higher education finance in the [United States] with large state subsidies to public higher education and modest means tests grants and loans from the federal government is becoming increasingly untenable.

The recent stimulus package with support for higher education offers some relief but only temporary. Here is how Tennessee Gov. Phil Bredesen described the situation in his budget address on March 23. The Governor said:

Higher education presents a challenge. Under the rules we have been given, they are getting a lot of the Tennessee stimulus money;

He means higher education.

they not only won't have to make cuts, but cuts they have already taken in Tennessee have been restored; about \$100 million extra in this fiscal year. Yet when this money ends 21 months from now, our campuses will suddenly need to begin operating with about \$180 million less in state funding than they had this year. More than most other areas, higher education has dodged a bullet and [they have] bought some time, but there is a great deal of work to be done to recognize and streamline for a much leaner future . . .

That was about 2 weeks ago. I considered asking that this new national academies report be only about the pressures on public research universities, but that would have set up competing recommendations and presented an incomplete picture. Private universities have their challenges, too, especially during this recession. But the changing role of State support for public research universities and its impact on quality deserves special attention in the report I am suggesting. I also be-

lieve a portion of the academies' assessment should include the relationship or lack of relationship of our research universities to our 17 Department of Energy national laboratories, which employ more than 30,000 scientists. These labs, three of which were founded during the Manhattan Project in World War II, are also secret weapons in our Nation's strive for competitiveness. I have seen firsthand how the alliance between the University of Tennessee Knoxville and the Oak Ridge National Laboratory has produced joint professorships, distinguished scientists, centers of excellence, and a thriving science alliance between the two campuses.

During the next few days, I will meet with National Academy of Sciences President Ralph Cicerone and discuss with him creating a formal bipartisan letter of request to the national academies and how the academies will respond to that request.

One way Congress could improve the quality of higher education is to stop overregulating. I voted against the new higher education bill enacted by Congress last summer because, after 3 years of work, the Senate spewed forth a well-intentioned contraption of unnecessary rules and regulations that wastes time and money that ought to be spent instead on students and improving quality. At the close of the debate, I carried onto the Senate floor—to be accurate, I asked my staff to bring on the floor and some of the pages—a stack of boxes as tall as I am that contained the rules and regulations for the 6,000 higher education institutions that accept Federal grants and loans. Senator MIKULSKI, who has agreed to work with me to try to reduce the number of these regulations, came over and stood by the stack, and the stack was a foot taller than she.

The former president of Stanford has estimated that these regulations cost institutions—from Harvard to the University of North Carolina to Duke to Vanderbilt to the University of Tennessee and the Nashville Auto Diesel College—7 cents for each Federal dollar to do the busy work to fill out paperwork to comply with the regulations. The bad news is, the new law we passed doubles the rules and regulations with 24 new categories and 100 new reporting requirements. These new requirements include a total of 54 so-called college watch lists, which I believe will be too confusing for families to understand, and complicated rules involving textbooks which will only prove that Members of Congress have no idea how faculty members prepare courses.

Most of these complications of rules, including graduation rates in 48 different categories, disaggregation of student-reported data by 14 racial, ethnic, and income subgroups, and employment rates of graduates of institutions, will leave college administrators scratching their heads and create thousands of new jobs for people to fill out forms. All this will be put on the Web,

and most of it will be shipped to Washington, DC, for someone to read. Having once been the Secretary of Education myself, I do not know who will read all these reports and all these new regulations, and I don't know what they would do about them if they did read them.

The academies, in the report I am suggesting, may also suggest that Congress and States make changes in the way we fund and regulate research universities, but much of the heavy lifting will have to be done by the universities themselves. They are the ones who should be most concerned about George Romney's warning:

There is nothing more vulnerable than entrenched success.

I guarantee that if some of the recommendations are going to have to do with additional funding, Members of Congress and State legislators are going to be asking what universities are doing to reduce costs, especially the cost of attending university.

At the American Council on Education meeting in February, I said that what I hear in Congress every time the issue comes up is, every time we increase Pell grants, colleges raise tuition. That is what my colleagues say to me. That is one reason why, in exasperation, Congressmen and Senators pile new rules on already overregulated colleges. I suggested in February that university administrators might want to be ready with a concrete explanation of what they are doing to reduce costs before asking for more money. I offered two suggestions: One, that colleges offer some—not all, but some—well-prepared students the option of a 3-year baccalaureate degree, cutting one-third the time and one-fourth the cost from a college education; and, two, that community college be free for well-prepared students.

I cited to them a group of Tennessee counties and businesses in northeast Tennessee that make up the difference between the cost of the community college and Federal and State scholarships for qualified local students.

Two weeks ago, I visited a university president in Nashville who actually listened to what I had to say in February. On April 13, Randy Lowry, at Lipscomb University in Nashville, announced a new 3-year option for some qualified students, a plan for veterans to attend tuition free, and a plan to make it easier and cheaper for community college students to attend Lipscomb. Taking into account the student earnings during the year that he or she is in the workforce instead of attending the university, President Lowry estimates that a Lipscomb graduate with a 3-year degree might avoid up to \$50,000 in debt. In offering a 3-year option, Lipscomb has good company in Hartwick College in New York, Judson College in Alabama, Bates College in Maine, and Valparaiso in Indiana. In February, the State of Rhode Island decided to create a pilot program for a 3-year degree model.

It may seem like a simple, even inconsequential request to ask the national academies to tell us the top 10 actions Congress, States, and research universities need to take to maintain university excellence, but my experience is that most ideas fail in Washington for lack of the idea. We have plenty of planners, publicists, and politicians to run with a good idea. I look forward to the idea: the recommendations in priority order—one set for Congress, one set for the States, one set for the research universities themselves.

There is no reason these recommendations should not have the same impact the “Rising Above the Gathering Storm” report had and continues to have. And remembering George Romney’s warning of a half century ago, there is nothing more vulnerable than entrenched success. We should all hope this new report from the National Academies does have that impact.

Madam President, I yield the floor. I suggest the absence of a quorum.

**THE PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mrs. SHAHEEN.** Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

**Mrs. SHAHEEN.** Madam President, today I rise in support of the Fraud Enforcement and Recovery Act. I am pleased to be a cosponsor of this legislation, and I thank Senators LEAHY and GRASSLEY and the members of the Judiciary Committee for their critical work on this very important effort to increase our capacity to investigate and prosecute the fraudulent activity that has severely weakened our economy and hurt the taxpayer.

Fraudulent lending contributed to the collapse of the mortgage-backed securities market, sending our economy into a tailspin and putting taxpayers on the hook for a huge Wall Street bailout. Taxpayers deserve to know that those fraudulent lenders are being held accountable. And we need to send a message to those who would commit fraud in the future they will also be held accountable.

With their current resources, however, Federal agencies are not able to properly investigate claims of mortgage fraud, which have increased more than 10 times in the past 6 years. With the funding authorized in this bill, the Department of Justice will be able to hire more prosecutors and the FBI will be able to nearly double its mortgage and financial fraud program.

The bill would also allow the Department of Justice to prosecute fraud committed by all mortgage lenders, not just those who are regulated by the Federal Government. Under current law, Federal fraud laws do not apply to nondepository mortgage lenders, which made nearly half of residential mort-

gages before the housing market collapsed. Including these businesses in the fraud statute will allow the Department of Justice to properly investigate and prosecute fraud in the entire mortgage market.

Last month, I offered an amendment to the budget to expand the capacity of the Housing and Urban Development inspector general to fight mortgage fraud. I was pleased to have the Senate agree with that amendment. Now we have an opportunity to follow up with an explicit authorization of funds to protect vital HUD programs.

The Federal Housing Administration, which a few years ago insured only 2 percent of all new mortgages, now insures roughly a third. Yet the HUD inspector general’s office has not expanded. We need to make sure HUD has the resources to properly investigate and remove fraudulent lenders.

With the sharp decline in private mortgage lending, programs such as FHA insurance make home ownership a reality for millions of Americans. By providing HUD with the resources it needs to fight fraud, we will protect FHA’s long-term vitality while preventing the taxpayer from footing the bill for another bailout.

Fraud in the financial system greatly contributed to this economic collapse we are experiencing. Every day, taxpayers in New Hampshire and across the country bear the burden of fraudulent activity. I am confident this legislation will help protect those taxpayers by providing the resources and legal tools we need to root out fraud.

I hope my colleagues will join me in support of this bill.

**Madam President,** I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EXECUTIVE CALENDAR

**Mr. SPECTER.** Madam President, I have sought recognition to comment on the three nominees whose votes are scheduled a little later this afternoon. All three of these nominees were voted out of the Judiciary Committee on a voice vote. All three have outstanding credentials for the positions for which they have been nominated.

#### CHRISTINE ANNE VARNEY

Ms. Christine Varney is the nominee for Assistant Attorney General in the Antitrust Division. She has an outstanding academic record, having graduated magna cum laude at Syracuse University in 1978 and having received her law degree from Georgetown University Law Center.

She served as a Commissioner on the Federal Trade Commission from 1994 to 1997, and has been a partner in the firm of Hogan & Hartson for the past 12 years.

I believe her tenure on the Federal Trade Commission gives her a good background beyond being an antitrust lawyer in private practice for this job. We discussed quite a number of legal issues in a private meeting I had with her.

I consider the Antitrust position to be of unique importance. They are all important in the Department of Justice. But I believe she will bring a vigor to the job which I think is most appropriate.

LANNY A. BREUER

The nominee for Assistant Attorney General of the Criminal Division is Lanny A. Breuer, who also has a fine academic background: a bachelor’s degree from Columbia and a law degree from Columbia in 1985 and was a Harlan Fiske Stone Scholar. I am impressed with his resume generally but especially the fact that he was an assistant district attorney in the Manhattan DA’s Office from 1985 to 1989. I am especially partial to people who have been assistant district attorneys.

One further comment about Mr. Breuer. I emphasize the importance of seeking jail sentences in appropriate cases. Too often, criminal prosecutions result in fines which turn out in the context of the case to be really a license to do business. White-collar crime especially is an area where there can be effective deterrence, and his commitment on that subject was reassuring.

#### TONY WEST

The nominee for Assistant Attorney General in the Civil Division is Derek Anthony West, who also has a fine academic record: Harvard bachelor’s degree, was publisher of the Harvard Political Review—that might be a more important document than the Harvard Law Review; might be—a law degree from Stanford in 1992, president of the Stanford Law Review, so he covered them both. Again, he has an outstanding resume professionally. Of particular interest to me is having been assistant U.S. attorney, Northern District of California, for 5 years, from 1994 to 1999, and was adjunct faculty member of the Lincoln Law School of San Jose, which I think is significant, and has been a partner at Morrison & Foerster for the last 8 years.

I ask unanimous consent to have these resumes printed in the CONGRESSIONAL RECORD following my brief statement.

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

(See exhibit 1.)

**Mr. SPECTER.** Madam President, I think this is an appropriate time to point out a few factors on the confirmation process.

The first is that Senators are being afforded less time to review the records of almost all of President Obama’s nominees than they were for President Bush’s nominees. The Judiciary Committee has held hearings for 8 of the 11 Department of Justice nominees faster than it held hearings for President

Bush's first nominees to the same positions. The committee has held hearings, on an average, 22 days earlier for these eight nominees. The Senate is confirming almost all of President Obama's Department of Justice nominees faster than it confirmed President Bush's first nominees to the same positions. Assuming that the three nominees scheduled for votes today are confirmed, of the eight Department of Justice nominees who have been confirmed, only two took more time to confirm than President Bush's first nominee to the same position. Attorney General Eric Holder was confirmed 63 days after his nomination. John Ashcroft was confirmed 42 days after his nomination. Lanny Breuer will be confirmed 56 days after his nomination. Michael Chertoff, 24 days. The other six nominees who have been confirmed this year have been confirmed, on average, 44 days faster than President Bush's nominees to the same position.

So I offer these statistical points to counter the contention that there is a slowdown here. The facts simply do not support it. Acknowledging that a little more time was taken with a couple of the nominees, it was for good cause. But as a generalization, the processing has been more expeditious now than under President Bush.

I thank the Chair and yield the floor.

#### EXHIBIT 1

CHRISTINE A. VARNEY

#### ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION

Birth: 1955, Washington, DC.

Legal Residence: Washington, DC.

Education: B.A.: The State University of New York, University of Albany, 1977; M.P.A., Magna Cum Laude, Syracuse University, 1978; J.D., Georgetown University Law Center, 1986.

Employment: Associate, Pierson, Semmes & Finley, 1986-1989; General Counsel, Democratic National Committee, 1989-1992; Chief Counsel, Clinton Gore Campaign, 1991; General Counsel, 1992 Presidential Inaugural Committee, 1992; Associate, Hogan & Hartson, 1991-1993; Cabinet Secretary, Executive Office of the President, 1993-1994; Commissioner, Federal Trade Commission, 1994-1997; Partner, Hogan & Hartson, 1997-present; Personnel Counsel, Obama-Biden Transition Project, Nov. 2008-Jan. 2009.

Selected Activities and Honors: Award, Washington, DC, Super Lawyers, 2008; Award, Chambers USA Competition and Antitrust, 2004-2008 (lists top lawyers); Award, Chambers USA Privacy and Data Security, 2007-2008; Director, Ryder System Inc. (delivery trucking company), 1998-present; Director, Parity Communications Inc. (technology company), 1997-present; Director and Chairperson, TRUSTe (internet privacy dispute resolver), 1998-2007; Director, NDN (progressive think tank and advocacy organization), 2003; Advisory Board Member, 2002-2005; Director, Enterasys Networks (technology company), 2001-2002; Director, CommonPlaces LLC (technology company), 1999-2000; Director, Exclusive Resorts LLC (luxury destination club), 2000-present; Member, American Bar Association, 1986-present; Member and Chair, Election Law Committee; Member, Antitrust Section; Advisory Board Member, Aveo Inc. (technology company), 2000; Advisory Board Member, The Industry Standard (technology magazine), 2000; Adv-

sory Board Member, RealNames (technology company), 1999 Chairperson, Online Privacy Alliance, 1998-1999; Technology Advisory Council, Earthlink Network Inc. (internet service provider), 1998-1999.

LANNY A. BREUER

#### NOMINEE FOR ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

Birth: August 5, 1958, New York, NY.  
Legal Residence: Washington, DC.

Education: B.A., Columbia College, Columbia University, 1980; J.D., Columbia University Law School, 1985; Harlan Fiske Stone Scholar, 1985.

Employment: Assistant District Attorney, Manhattan District Attorney's Office, 1985-1989; Associate, Covington & Burling LLP, 1989-1995; Partner, 1995-1997. Special Counsel to the President of the United States, 1997-1999; Partner, Covington & Burling LLP, 1999-present.

Selected Activities: Member, American Bar Association, 1987-present; Member, United States Holocaust Memorial Council; Member, Committee on Conscience, 2000-present; Member, Executive Committee, 2000-2002; Member, Development Committee, 2001-2002. Member, Board of Trustees, Aufbau (newspaper), 2001-2005; Fellow, American College of Trial Lawyers, 2006-present; Director, Executive Committee, Columbia College Alumni Association, 2007-present.

DEREK ANTHONY "TONY" WEST

#### ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION

Birth: August 12, 1965, San Francisco, California.

Residence: Oakland, California.

Education: A.B., with honors, Harvard University, 1987; Publisher, Harvard Political Review. J.D., Stanford University Law School, 1992; President, Stanford Law Review.

Employment: Chief of Staff to Treasurer, Dukakis for President, 1987-1988; Finance Director, Democratic Governors' Association, 1988-1989; Chief of Staff to Finance Chairman, California Democratic Party, 1992-1993; Associate, Bingham McCutchen, 1992-1993; Special Assistant to the Deputy Attorney General, U.S. Department of Justice, 1993-1994; Assistant U.S. Attorney, Northern District of California, 1994-1999; Adjunct Faculty Member, Lincoln Law School of San Jose, 1997-1999; Special Assistant Attorney General, California Office of the Attorney General, 1999-2001; Partner, Morrison & Foerster, 2001-present.

Selected Activities: Co-Chair, Obama for America, California Finance Committee, 2007-2008; Member, Obama California Leadership Circle, 2007-2008; Member, NAACP, 1995-present; Member, ACLU of Northern California, 1995-present; Recipient, Leading Lawyer in America, Lawdragon Magazine, 2008; Recipient, Northern California [Top 100] "Super Lawyers," 2006, 2007, 2008; Recipient, California's "Top 20 Lawyers Under 40," The Daily Journal, 2004; Recipient, Executive Office of U.S. Attorneys Director's Award, 1998; Recipient, Bill Key Memorial Victim/Witness Assistance Award, 1998; Member, Board of Governors, No. California Assoc. of Business Trial Lawyers, 2004-present; Lawyer Representative (unpaid), Northern District of California, Ninth Circuit, 2005-2008; Member, American Bar Association, 2002-present; Board Member, Alameda County Democratic Lawyers Club, 2004-present; Member, Board of Directors, U.C. Hastings College of the Law, 2004-present.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for up to 3 minutes.

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

Ms. LANDRIEU. Madam President, I rise to lend my support to the three nominees with the Justice Department that are pending today and to give my support to Tony West for Assistant Attorney General of the Civil Division, Lanny Breuer for Assistant Attorney General of the Criminal Division, and Christine Varney for Assistant Attorney General of the Antitrust Division. I have documents I wish to submit for the Record for all three.

I wish to speak for a moment about Lanny Breuer, a friend and someone whom I know somewhat socially through actually children's activities, but I have known of him and his reputation for quite some time. I wanted to come to the floor to say how pleased I am that the committee has seen fit to pass his nomination on to us. I believe the ranking member and the chairman have outlined his phenomenal credentials, but I would just add that, having been a graduate of one of the most prestigious law schools in the country—Columbia Law School—he began his career as an assistant U.S. attorney in New York City, which is a good place to begin to really cut your teeth and learn the ropes, if you will, a place that they say: If you can make it there, you can make it anywhere. And this is true of the work he has undertaken for his life.

He served as a White House counsel, the Office of Special Counsel for, of course, President Clinton. I think most notable to me and to many of my colleagues is the endorsements he has received not just from Democrats but from Republicans as well, people such as Michael Chertoff, who worked with him. He led the Criminal Division at the Department of Justice during the Bush administration. He said Mr. Breuer has "exceptionally broad legal experience as a former prosecutor and defense attorney." He has "outstanding judgment, a keen sense of fairness, high integrity and an even temperament." For the job we have called him to do, he is going to need all of those qualities and qualifications. Brad Berenson, a veteran of the Bush administration's White House Counsel's Office, writes that Mr. Breuer is "everything one could hope for in a leader of the Criminal Division." So he comes with not just great academic credentials, great life experience, tremendous qualifications for this post, but from his peers—both Democrats and Republicans—who believe he is the right person for this job.

So I am pleased to come to the floor for a few minutes today to lend my support to this outstanding nominee, and I look forward to working with him and these other nominees as we build a stronger justice system in the city of New Orleans, south Louisiana, and parts of the gulf coast that still remain, as my colleagues know, in a rebuilding mode from Hurricanes Katrina and Rita. What people don't realize, it

is not just houses and schools, but the criminal justice system was hard-hit in terms of jail space, the sheriff's office, the district attorneys. So we have an extra responsibility to work with this team in Washington to make sure they keep their eyes on our people down in the gulf coast as we rebuild that great region of this country. I know this team will, and I am happy to support Lanny Breuer for Assistant Attorney General.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### EXECUTIVE SESSION

#### NOMINATIONS OF TONY WEST TO BE ASSISTANT ATTORNEY GENERAL; LANNY A. BREUER TO BE ASSISTANT ATTORNEY GENERAL; CHRISTINE ANNE VARNEY TO BE ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The assistant legislative clerk read the nominations of Tony West, of California, to be Assistant Attorney General; Lanny A. Breuer, of the District of Columbia, to be Assistant Attorney General; Christine Anne Varney, of the District of Columbia, to be assistant Attorney General.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes of debate, equally divided, prior to a vote on the West nomination.

Mr. LEAHY. Madam President, this evening, the Senate should act to confirm three of President Obama's Justice Department nominees: Tony West to serve as the Assistant Attorney General for the Civil Division, Lanny Breuer to serve as the Assistant Attorney General for the Criminal Division, and Christine Varney to serve as the Assistant Attorney General for the Antitrust Division.

I am disappointed that Republican Senators have delayed action on these nominations. In my view, they should have been confirmed before the 2-week Easter recess. There was once a time in the Senate when we acted on nominees pending on the Senate Executive Calendar before a long recess. Certainly at the beginning of a presidential term, it makes sense to have the President's nominees in place earlier, rather than engage in needless delay, especially when there is no controversy. I know of

no controversy regarding any of these outstanding nominations.

All three nominees were named by the President on January 22, 3 months ago. They each participated in a confirmation hearing on March 10, 6 weeks ago. After allowing time for follow-up written questions and answers, they were each considered by the Judiciary Committee, approved without a single negative vote, and reported to the Senate on March 26. Another week passed, but Republicans remained unwilling to confirm them before the April recess. That is how we find ourselves here, more than 12 weeks after they were designated by the President, without having acted on those named to head the Criminal Division, the Antitrust Division, or the Civil Division.

I will be very interested to hear why these nominations could not be approved before the Senate recessed on April 2, and why these additional weeks of delay were needed. I will be interested to see who opposes these nominees, who comes to the floor to speak against them, and who justifies the delay in their confirmations. To date, I know of no one who opposes them. I know that no Republican member of the Judiciary Committee voted against any of them when they were considered by the committee at a business meeting more than 3 weeks ago. As I say, there used to be a tradition of comity, and of acting on executive nominations before a recess. I will be interested to learn how that delay is justified to the Justice Department, to the country and to each of these nominees.

In a statement 2 weeks ago, I noted my disappointment that the Republican minority has returned to the tactics of anonymous and unaccountable holds, and needless delays. Attorney General Holder needs his leadership team in place to rebuild and restore the Department. None of these are controversial nominees. They all received numerous letters of strong support, and endorsements from both Republican and Democratic former public officials. They were all reported out of the Judiciary Committee by unanimous consent. They should have been confirmed weeks ago.

What accounts for the delay? I hope that someone will explain. To date no one has. I am left to think back to a February column written by William Kristol, where he urged the Republican minority to practice obstruction and delay. He was specifically referring to the Republican efforts to oppose the President's proposals to revive our economy and build a new foundation for lasting prosperity. That they have done. Not one Republican Member of the House or Senate voted for the budget and not one Republican Member of the House voted for the emergency economic recovery package. They are adhering to a pundit's advice on important legislation and on the President's nominations. Their creed is to "obstruct and delay." It is not one of bi-

partisanship to help the President enact his agenda this year. It is one designed to "slow down the train." Mr. Kristol counseled Republicans to insist on "lengthy debate," while noting that they "can't win politically right now," but they can "pick other fights—and they can try in any way possible to break Obama's momentum." That is a destructive prescription, and we see it being played out day after day, issue after issue, nomination after nomination. Rather than join with the new President as he rallies the country and the world to economic recovery and enhanced security, they persist in their efforts to obstruct and delay.

Recently the New York Times described the results of a New York Times/CBS News poll of the American people. Since the Republican opposition is so interested in poll-driven politics, I urge them to consider it, and reconsider their own ill-fated course. The Obama administration is just 11 weeks old, and already the American people have grown more optimistic about the economy and the direction of the country. Americans approve of the President's handling of the economy and foreign policy with fully two-thirds saying they approve of his overall job performance. Following his recent trip to Europe, meetings with other world leaders, his outreach to Turkey and his visit to Iraq, I expect those numbers may be even higher today. More and more people feel that things are headed in the right direction—despite Republican obstruction. Two and one half months into office, President Obama has broad support on economic and national security matters with almost two-thirds of Americans believing that President Obama is likely to make the right decisions.

By contrast, only 20 percent of Americans believe that congressional Republicans would more likely make the right decisions about the nation's economy. The Republican nay-saying is sinking in. So I urge Senate Republicans, if they will not honor our traditional deference to a new President and vote for his nominees, if they will not join together with President Obama at a time of great challenges to America by working cooperatively and quickly to approve the administration's law enforcement leadership team, if none of those worthwhile reasons convince them to do the right thing, then I urge them to consider how the American people are reacting to their obstruction. I urge them to abandon the across-the-board tactics of resistance and delay. The majority of the American people are calling for us to work together and are rejecting Republican obstruction and delay.

Tony West knows the Department of Justice well. He served in the Department as a Special Assistant to Deputy Attorneys General Philip Heymann and Jamie Gorelick. He then worked as a Federal prosecutor in the U.S. Attorney's Office for the Northern District of California. His commitment to public service continued when he became a