

She has already lost 10 pounds. Her father said she looked very weak and said she intends to continue the hunger strike until she dies or is released from jail. The only nourishment she is taking is water with some sugar.

The entire world has protested this arrest and conviction and sentencing, which is a miscarriage of justice. As I said, she was held for 10 days without an ability to communicate with anyone. It took a month before the country of Iran admitted they were holding her. It was more than 5 weeks before she was allowed to see a lawyer.

The charges kept changing. First, the Iranian Government said the charge was that she purchased a bottle of wine, and the person who sold it to her told the Iranian Government, and therefore she was arrested. That was what she was told she was put in prison for. She had bought a bottle of wine.

Then she was accused of working as a journalist without a valid press license. That was the second accusation.

Then, weeks later, she was accused of being a spy. The court has not released any evidence against her. They held a ½-day trial—behind closed doors. There was no release of any evidence against her. According to her attorney, she was not allowed to speak in her own defense.

To us that is a completely foreign notion of what justice should be. Apparently, at least in some circles in Iran, they consider that some kind of perverted justice.

Let me say there is at least some hopeful signs. President Ahmadinejad sent a letter to Iran's prosecutor saying Roxana's rights must not be violated and asking him to ensure that she is allowed to offer a full defense on the appeal. Her attorney, as I understand it, is now set to offer the appeal. The Ayatollah Shahroudi, who is the head of Iran's judiciary, has requested a quick and fair appeal of Roxana's case. That also gives some of us hope.

Perhaps some of Iran's leaders understand that what is also on trial is the credibility of those who govern Iran.

This has been very difficult for our country because we do not have an embassy or ambassador in Iran. We must communicate through the Swiss Embassy, which is the protecting power for American citizens in Iran. So it is very hard for us to know what is going on there.

I want to say, again, this young woman is not a spy. It is preposterous for her to be charged with espionage. It is an unbelievable miscarriage of justice for her to be sitting in a 10-by-10 prison cell. Yet on her birthday she sat in that cell in Evin Prison in Tehran facing an 8-year sentence in a circumstance in which she was not even allowed to defend herself. The basic tenets of justice have somehow been denied to this young woman.

What I believe Iran should do is release her from prison and allow her to leave the country and return home with her parents to the U.S. I hope the

Iranian Government is listening—not just to us, not just to me, but to virtually everyone in the world who cares about fairness and justice and human rights. All of them have weighed in on Roxana's behalf saying: How on Earth can you do this? How do you justify this?

Iran leaders understand the spotlight of the world is on their country and on those who decided to arrest this young woman, a young woman so proud of her heritage that she was there wanting to write a book about her heritage. I hope they understand the injustice of what they have done and what the rest of the world sees of that injustice and what it means to Iran in the eyes of the rest of the world.

If they do, if they understand that, most surely they will decide to release her from prison, exonerate her, and allow her to go home. I hope they do that soon. They face great risks with the health of this young woman who is now on a hunger strike. President Ahmadinejad and the people who run the judicial system of Iran should pay close attention and do the right thing.

I have spoken to the Permanent Iranian Representative to the United Nations on numerous occasions about this case, and I intend to keep pushing. I hope today perhaps the Iranians will understand the unfairness of what they have done and finally, at long last, make it right.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

(The remarks of Mr. MERKLEY relating to the introduction of S. 901 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MERKLEY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, what is the parliamentary situation?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will re-

sume consideration of S. 386, which the clerk will report by title.

The legislative clerk read as follows:

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

Pending:

Reid amendment No. 984, to increase funding for certain HUD programs to assist individuals to better withstand the current mortgage crisis.

Inhofe amendment No. 996 (to amendment No. 984), to amend title 4, United States Code, to declare English as the national language of the Government of the United States.

Vitter amendment No. 991, to authorize and remove impediments to the repayment of funds received under the Troubled Asset Relief Program.

Boxer modified amendment No. 1000, to authorize monies for the Special Inspector General for the Troubled Asset Relief Program to audit and investigate recipients of non-recourse Federal loans under the Public Private Investment Program and the Term Asset Loan Facility.

Coburn amendment No. 982, to authorize the use of TARP funds to cover the costs of the bill.

Thune amendment No. 1002, to require the Secretary of the Treasury to use any amounts repaid by a financial institution that is a recipient of assistance under the Troubled Assets Relief Program for debt reduction.

DeMint amendment No. 994, to prohibit the use of Troubled Asset Relief Program funds for the purchase of common stock.

Coburn amendment No. 983, to require the Inspector General of the Federal Housing Finance Agency to investigate and report on the activities of Fannie Mae and Freddie Mac that may have contributed to the current mortgage crisis.

Kohl amendment No. 990, to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security.

Ensign amendment No. 1004, to impose certain requirements on public-private investment fund programs.

Ensign amendment No. 1003 (to amendment No. 1000), to impose certain requirements on public-private investment fund programs.

Hatch amendment No. 1007, to prohibit the Department of Labor from expending Federal funds to withdraw a rule pertaining to the filing by labor organizations of an annual financial report required by the Labor-Management Reporting and Disclosure Act of 1959.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I thank the distinguished Presiding Officer.

The bill, S. 386, is the bipartisan Fraud Enforcement and Recovery Act of 2009, the Leahy-Grassley bill. When I mention my name and Senator GRASSLEY's name, we are only two of a large number of people on this bill. We have Senators KAUFMAN, KLOBUCHAR, SCHUMER, MURRAY, BAYH, SPECTER, SNOWE, HARKIN, LEVIN, DORGAN, WHITEHOUSE, ROCKEFELLER, SHAHEEN, STABENOW, SANDERS, BENNET of Colorado, DURBIN, MIKULSKI, GILLIBRAND, BEGICH, BURRIS, DODD, MENENDEZ, CARDIN, REID, and PRYOR as co-sponsors.

I mention those names because they go across the political spectrum. They know we have to strengthen the Federal Government's capacity to investigate and prosecute the kinds of financial frauds that have severely undermined our economy and hurt so many hard-working people in this country.

The reason so many of us came together, again, across the political spectrum—and I note there are several former prosecutors in that group—is we have seen what some of these unscrupulous people have done. They have set up these mortgage frauds in basically an unregulated area. They will come to somebody who is facing difficulty in paying off a mortgage—there has probably been a foreclosure and they come and say: Here, we can take care of you. Sign these papers. Put this money down. Send payments to us. We will take care of everything.

So people exhaust their life savings. Maybe they send the money they put away for their kids to go to college. Probably it is part of their retirement account. By the time they get done, the people committing the fraud are gone. The mortgage on the house, however, has not been paid off. In fact, the bank is still going to foreclose. They have lost their life's savings. They have lost all the money they have set aside for whatever reasons so many millions of Americans set money aside for. And these people who committed the fraud are gone. They have been robbed of their savings, their retirement accounts, their children's college funds, their equity, and, of course, many have lost their homes on top of that.

When the testimony of the FBI and the Department of Justice and others showed this type of fraud—which was bad enough in years past—has skyrocketed in the last couple of years, the Senator from Iowa and I decided we should bring a piece of legislation that would allow the FBI and the Department of Justice to go after these people defrauding Americans.

I do not want to just have a simple fine. If somebody steals \$100 million, and they get a fine of \$5 or \$10 million, it is a matter of doing business. I want enough teeth in here that they will go to jail. If you steal somebody's home, if you steal their dreams, if you steal their retirement, you should go to jail. We send kids to jail for sealing a car. How much more important is it that we should send these white-collar thieves to jail for stealing someone's life and someone's dreams? That is what we want to do here.

The bill will help provide the resources and legal tools needed to police and deter fraud but also to protect the taxpayer-funded economic recovery events now being implemented.

I was disappointed that last week our efforts to enact this legislation were stalled. But I take a great deal of hope now to know that by tomorrow midday it should be passed. It is, as I said, a bipartisan bill. It does strengthen the

tools available to law enforcement to combat financial and mortgage fraud.

We were delayed a number of times before we got on the floor of the Senate, and I compliment the distinguished majority leader for bringing it to the floor last week. And when we did, we began to work on 18 amendments that were offered to the bill. We had votes on a number of them. By Thursday afternoon, we had voted on all the germane amendments. We also worked in good faith on a number of amendments not related to the underlying fraud enforcement legislation.

I would like to mention the kind of cooperation we had. The distinguished Republican deputy leader, Senator KYL, had a series of amendments that I believe would have passed the test of germaneness. He talked with Senator GRASSLEY and myself, and we arranged a vote on one amendment. He had wanted to bring up several similar ones. They were objected to. He pulled them down, and we had a vote on the one. We spent very little time doing that. We had plenty of time for Senator KYL to make his points, Senator GRASSLEY and I to make ours, and then we had a vote on it.

So we voted on all the germane amendments. For the remaining amendments, we sought an agreement to proceed to vote on each of those pending amendments, the ones that had not been voted on. When the offer was rejected, after being on this bill for several days, the majority leader was forced to file cloture to conclude consideration of this bipartisan legislation.

Majority Leader REID did the only thing he could responsibly do because this is timely legislation. It is needed to protect people from losing their retirement funds, their homes, and their savings for their children to go to college. Americans are seeing their life's savings taken from them by unscrupulous criminals.

I think of my parents who came up during the time of the Great Depression and started a small business. They saved all their lives for their own retirement, to send their children to college. I think of how I would have reacted if I had seen somebody steal from them. Well, it is happening to a lot of other parents and grandparents around this country. It is time for the Senate to act before more people have their lives destroyed.

The Fraud Enforcement and Recovery Act will make necessary changes to criminal laws, including criminal fraud, securities, and money-laundering laws. It will increase the funding available to Federal law enforcement agencies to combat mortgage fraud and financial fraud. It will revise the False Claims Act to ensure that the Government can recover taxpayer dollars lost to fraud. This is a very important part of the bill. If somebody is stealing the taxpayers' dollars too, we want to get that back for the taxpayers.

Throughout this debate, I have several times commended the Senator from Iowa, Mr. GRASSLEY, our lead cosponsor. I commend him and I thank him for his contributions to the bill and the debate, his work in the Judiciary Committee, in getting us this far, and for his dedication to protect taxpayer funds by deterring, investigating, and prosecuting fraud. I thank our many cosponsors for their steadfast support. I have named them. I shall not again. But everybody I have heard from across this country supports this bill.

No one should want to see taxpayer money intended to fund economic recovery efforts diverted by fraud. No one should want to see those who engage in mortgage fraud escape accountability. That is what is going to happen unless we vote to conclude the debate on this bill, pass it, get it to the other body, get it passed, get it signed into law, and give law enforcement the resources and tools they so desperately need.

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

The recovery efforts are generating signs of economic progress. That is good. That is necessary. But that is not enough.

We need to make sure we are spending our public resources wisely. We want to make sure they are not being taken by fraud. We also need to ensure that those responsible for the downturn through fraudulent acts in financial markets and the housing market are held to account. It should not be a case where we taxpayers pay for what they did and they get away scot-free. Two decades ago we responded during the savings and loan crisis by hiring more agents, analysts, and prosecutors. We allocated the resources needed to catch those who took advantage to profit through fraud. We have to do it again.

At our February hearing, we heard from the FBI, the Special Inspector General for the Troubled Assets Relief Program, and the Justice Department. All of our law enforcement witnesses testified of the need for this legislation and these additional law enforcement resources.

Deputy Director John Pistole of the FBI warned that the losses of 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 Neil Barofsky described how law enforcement resources had understandably been diverted from traditional white collar crime to terrorism, but that had left the Justice Department's capacity

to respond to financial and securities fraud significantly weakened. 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 Rita 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."

We then held a hearing with FBI Director Robert Mueller. Director Mueller reiterated law enforcement's message. Here is what he said: "[The bill] will be tremendously helpful in giving us the tools to investigate . . . to help prosecutors prosecute, and finally to obtain the convictions and the jail sentences that are the deterrent to this activity taking place in the future."

Each week we learn of additional scandals in the financial industry, as leading money managers are charged with multimillion dollar fraud schemes carried out over the years. We need to clean up the mess. That means providing the tools and resources that law enforcement needs to get to the bottom of this, restore order, and exact accountability.

To show how severe this is, reports of mortgage fraud are up 682 percent over the past 5 years, more than 2,800 percent over the past decade. Some say we are losing more than \$4 billion a year to mortgage fraud. And massive, new corporate frauds, like the \$65 billion Ponzi scheme perpetrated by Bernard Madoff, are being uncovered as the economy has turned worse, exposing many investors to massive losses.

The problem is getting worse, not better. The victims of these frauds have to be protected now more than ever. The victims include, as I have said, homeowners who have been fleeced by unscrupulous mortgage brokers, retirees who have lost their life savings in stock scams and Ponzi schemes, which have come to light only as corporations collapse and the market falls.

They also include American taxpayers who have invested billions of dollars to restore our economy. These American taxpayers expect us to protect the investment they have made to make sure those funds are not exploited by crime. Each one of us is among those taxpayers. We all want to make sure the money is not stolen.

I urge all Senators to support our efforts and work with us to pass this bill without further delay. That means to vote for cloture so that we can conclude the amendment process and vote on the bill.

I see the distinguished cosponsor of this bill, Senator GRASSLEY, on the floor and I yield to him.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I heard the kind remarks of the Senator from Vermont. I thank him for those remarks about this Senator and I thank him for his cooperation on this bill, including some things I am very much interested in, but also the basis of the legislation that he proposed, and I support it as enthusiastically as I do the rest of the bill. I thank the Senator from Vermont.

I am here, obviously, to speak in support of the Fraud Enforcement Recovery Act which has been so thoroughly discussed by our distinguished chairman of the Judiciary Committee. As the lead Republican cosponsor of this timely antifraud legislation, I believe it is a very important component—a very important component—to help get both the financial and the housing markets back on track. The fraud enforcement tools and resources provided in this bill are very necessary. They will ensure that the taxpayers' dollars that have been expended to shore up bank and financial institutions and corporations and Freddie Mac and Fannie Mae and others aren't lost to fraud, waste, and abuse.

This bill sends a very clear message to would-be bad actors that their conduct will have repercussions from here on out. It will also make sure money lost to fraud can be recovered through the False Claims Act. Most importantly, this bill will help show the American people we are doing something to try and prevent future fraud and recover moneys lost to that fraud and that abuse. That is why I am voting for cloture on this bill.

Early in the process of bringing this bill to the floor, I explained to the Democratic leadership that I wanted an open process for amendments to be considered on this bill before I supported the cloture that we will be voting on. The leadership honored that and we had a number of amendments filed on this bill. We have spent a week and have debated and disposed of a number of amendments to the bill. We have some other amendments that remain outstanding that are good amendments and should be debated on a housing or banking bill that is coming up in the very near future. It is now time to pass this bill. Our law enforcement officials need these tools and they need these resources and they need them now. That is why I am going to vote for cloture on this bill.

Taxpayers have been asked to shoulder an enormous burden at this time of economic crisis created by a credit crisis. They have shouldered an enormous burden, be it the bailout of financial institutions, an economic stimulus bill that handed out \$1 trillion, and more recently the Omnibus appropriations bill loaded full of Government spending. To my colleagues: Whether you agree with these expenditures, we simply cannot allow these funds to be unprotected from fraud, waste, and abuse.

This legislation ensures that our law enforcement officials and our prosecutors have the tools necessary to enforce our laws and the resources to hunt down the bad actors. It makes revisions to our criminal fraud laws to ensure that complex financial and mortgage crimes aren't outside the scope of Federal jurisdiction in the future. It also makes necessary corrections to our antimoney laundering laws to ensure that a recent Supreme Court decision doesn't limit the ability of our Department of Justice to go after criminals who launder their ill-gotten funds.

Finally, and perhaps most importantly from the standpoint of this Senator, the bill amends the civil False Claims Act to ensure that taxpayers' money lost to fraud, waste, and abuse can, in fact, be recovered and particularly when that recovery is associated with a patriotic work of whistleblowers who make that known. Back in 1986, I authored major revisions to the False Claims Act and did that so we could fight fraud, particularly against Government then more so than now, by defense contractors. Now it seems to be Medicare and the health care industry. Since those revisions were signed into law in 1986 by President Reagan, the False Claims Act has recovered over \$22 billion of taxpayer money.

This powerful law allows citizen taxpayers to act as private attorneys general by going to court on behalf of our Government when they know of fraud against the Government. These quiet whistleblowers are the heart and soul of the False Claims Act. They uncover fraud from the inside, bringing schemes to light so taxpayers are not taken for a ride. However, in recent years, litigation fueled by powerful Government defense and health care contractors has created legal loopholes that threaten the application of this powerful tool that has brought in billions of dollars. This legislation fixes this, thus ensuring that no fraud can go unpunished by simply navigating through the legal loopholes.

This bill will help deter potential defrauders from attempting to scam the Government and the taxpayers. In addition, this legislation will help instill confidence back into the housing and financial markets. I hope my colleagues will join me by voting for cloture on this bill to help make sure these taxpayer dollars are protected.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I ask unanimous consent to speak as in morning business. However, if anyone wishes to come in and talk about the pending bill, I will certainly defer to them.

Mr. LEAHY. Reserving the right to object, and I shall not object, what time is this bill scheduled for a vote?

The PRESIDING OFFICER. The vote will occur at 5:20, the vote on cloture.

Mr. LEAHY. If the Senator will be kind enough to amend his unanimous

consent request to include not to interfere with the vote at 5:20.

Mr. INHOFE. I certainly amend it accordingly.

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

Mr. INHOFE. Again, I would say if anyone wants to come in and talk about this vote that is coming up, I will yield to them.

#### GUANTANAMO BAY

I seem to be involved in four missions right now and one of them happens to be the Guantanamo Bay detention facility. I have had occasion to be down at that facility right after 9/11 and then, of course, the other day I was there again. There are some very serious problems I think many Members of this body are not aware of. One is that when President Obama gave his excellent speech that was his inaugural speech, he recognized we need to determine what we are going to do with those who are currently detained at Guantanamo Bay and those who may come into that facility as a result of the escalation of activity in Afghanistan before making a determination that it has to be closed. Unfortunately, 2 days after he made that speech, he stated it was going to be closed and the prison would be closed within a year.

On February 2, I took a group down there with some Senators who had never been to Guantanamo Bay. All they could do on the way back is say: Why are we considering giving up this facility? In fact, shortly after that, I introduced legislation that would prevent any transfers of detainees from Guantanamo Bay to anywhere in the United States or its territories. The reason I did this is because while this has been used to detain some 800 al-Qaida and Taliban combatants, they are down right now to about 525 of those who have been tried and departed from Gitmo for other countries. Today, there are approximately 245 detainees left. This is the problem. These detainees—about 170 as near as we can determine—are very serious detainees such as Khalid Mohammed and others who were directly involved in the planning of 9/11. Many of the countries will not accept them back. They cannot be repatriated to any country; nobody wants them. So the choices are limited either to keep them at that facility or to figure out some way to put them in, as has been suggested, to some facility in the continental United States. They have talked about some 17 places that could detain these terrorists.

The problem we have with that is these would become 17 magnets for terrorism in the United States. I can't find one Member of the U.S. Senate—not one—who is willing to have any of these detained in his or her State. I often wonder what is this obsession that people have to closing this facility. It is kind of funny because it is one of the few good things that is out there—few good deals we have. We have had this facility since 1903. We are still paying the same amount of money—

\$4,000 a year—for this facility, and it is the state-of-the-art place for the United States to take care of this type of detainee. Let's keep in mind that we also have a complex called the expeditionary legal complex located at Gitmo. It is about the only place of its kind in the world where you can try these cases. If you don't try them there, very likely they could find their way into our justice system. Of course, I think we all understand the rules of evidence are different in that facility than they are in our Federal judiciary system.

I had occasion to go to Fort Sill in my State of Oklahoma, which is 1 of the 17 that have been named as possible areas for detention of these individuals.

Sergeant Major Carter was there, the one running the facility. She had occasion to be stationed for over a year at Guantanamo. She said: Why in the world would we give up that facility to send them down here to Fort Sill? First of all, we don't have the capacity to keep them in the various classifications in security that they do at Guantanamo. Second, she said that the ratio is 1 to 2 in terms of health care facilities. There is just one health care person in most locations, but there are doctors and nurses for each two detainees at Guantanamo Bay. We don't have anything like that at Fort Sill or Leavenworth or any of the other suggested places.

Consequently, they have studied and found and determined that never has there been a case of abuse in the way of human rights abuses with the detainees. There has never been a case of waterboarding or of any kind of torturing. Yet they are there, and nobody has been able to say why it is that they should be closed down.

What troubles me most is that the Obama administration seems more focused on closing Gitmo and protecting the rights of those detainees than on conducting the war on terror and protecting our country and our people from the terrorists currently held there.

It is interesting that Attorney General Holder went down to look at Gitmo to determine what we should do. He came back with a glowing report about the conditions. The Pentagon released a report stating that Gitmo meets the highest international standards, the very highest standards. Unfortunately, the Obama administration seems bent on closing Gitmo—I guess for political reasons. Yet I have not heard the reasons why it is that people are so obsessed with the idea of closing it down.

I think it is time for the Members of Congress to weigh in because as we look at the evidence and the problems, we have to find a place to put the detainees who are there. I say to my friend from Vermont, it is not just the 245 detainees currently there, it is the ones who are going to be there as a result of the surge. People say there are

two prisons in Afghanistan, there is Bagram and Kandahar. The problem with that is, it is my understanding they will only accept detainees who are Afghan. You have others going from Saudi Arabia, from other areas, and there is no place else they can be put.

I think we have an opportunity there to have a place that is secure, with the highest standards. Again, the only alternative would be to put them in places where we have detainees—where we have other facilities in the United States.

In 2007, the Senate passed a resolution by a vote of 94 to 3. It stated that the detainees housed at Gitmo should not be released into American society, nor should they be transferred state-side into facilities in American communities and neighborhoods. That vote was 94 to 3.

Madam President, I suggest to you that we will have the opportunity to call on those 94 Members, and certainly their constituents back home, who don't want to have them released and housed in any area other than Gitmo. My State of Oklahoma is not the only State where the State legislature has passed resolutions saying we don't want any of those detainees housed in our State. I think we will have an opportunity—since the vote is taking place in a minute and my time has expired—an opportunity in the next few days, before any final action takes place, to allow the Members of both the House and Senate to express a very strong position that they don't want to have these detainees placed in any of the stateside facilities.

With that, I yield the floor.

Mr. LEAHY. Madam President, we have about a minute left. I reiterate for my colleagues that this is a bill that, when it is voted upon, I predict—and I am fairly good about such predictions—will pass almost unanimously, certainly with 80 to 90 votes for it. We handled a number of amendments—mostly Republican amendments—and we either included them or voted them down. Most were included in this bill. Cloture was filed only because a huge number of amendments came in that had absolutely nothing to do with the jurisdiction of either the Judiciary Committee or this bill. That is the only way to get on to the bill and give our law enforcement the tools they need. Many law enforcement groups in this country has spoken in favor of this.

I ask unanimous consent that a group of letters from law enforcement organizations and other groups in favor of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FRATERNAL  
ORDER OF POLICE,

Washington, DC, March 18, 2009.

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

DEAR MR. CHAIRMAN, I am writing on behalf of the members of the Fraternal Order

of Police to advise you of our support for S. 386, the "Fraud Enforcement and Recovery Act."

This bill will strengthen our ability to investigate and prosecute the kinds of financial crimes that have so severely undermined our economy by providing law enforcement with the tools they need to investigate fraudulent activity in connection with bail-out and recovery legislation.

The legislation you have introduced along with Senators Grassley, Schumer, Klobuchar, and Kaufman will authorize \$165 million a year for hiring fraud prosecutors and investigators at the U.S. Department of Justice for FY2010 and 2011, including specific funding for the Federal Bureau of Investigation to hire additional special agents, professional staff and forensic analysts to rebuild its "white collar" investigation program. The bill also authorizes \$80 million a year over the next two years for investigators and analysts at the U.S. Postal Inspection Service, the U.S. Secret Service, and the Office of Inspector General for the Housing and Urban Development Department to combat fraud against Federal assistance programs and financial institutions.

Additionally, the bill will make changes to fraud and money laundering statutes to enhance prosecutors' ability to combat this growing wave of fraud and improve one of the most potent civil tools we have for rooting out fraud in government—the False Claims Act.

I applaud you for your leadership on this issue and look forward to working with you and your staff to move this bill forward. If I can be of any help, please do not hesitate to contact me or Executive Director Jim Pasco through my Washington office.

Sincerely,

CHUCK CANTERBURY,  
National President.

TAXPAYERS AGAINST FRAUD,  
Washington, DC.

Hon. PATRICK J. LEAHY,  
Chairman, Senate Judiciary Committee, Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: I am writing to express Taxpayers Against Fraud's support for the recently introduced Fraud Enforcement and Recovery Act of 2009 (S. 386). Taxpayers Against Fraud is dedicated to eradicating fraud against the United States government. We strongly believe that this well-reasoned legislation will serve that end, and will greatly benefit the American people during this trying time. In particular, the S.386 provisions closing False Claims Act loopholes will prevent fraudsters from stealing tax dollars with impunity.

Over the past twenty years, it has become utterly clear that the government's most effective fraud-fighting tool is the federal False Claims Act, returning over \$22 billion in settlements and judgments. However, recent court decisions have interpreted the False Claims Act in ways inconsistent with the Congressional intent, causing harm to taxpayers. These judicial rulings could leave billions of federal dollars exposed to fraud. Perhaps most disturbing, the Supreme Court recently held that the False Claims Act does not impose liability for false claims on government funds disbursed by a government contractor for government purposes. This ruling severely limits the reach of the False Claims Act. S. 386 specifically addresses this Court ruling. Therefore, during this time, when the government is distributing unprecedented funds as part of the economic recovery efforts, Congress is rightly seeking to strengthen the False Claims Act, thus ensuring that every stimulus dollar is appropriately spent to get our country back on track.

We strongly support this legislation, and we encourage others to join the fight in protecting America's scarce fiscal resources.

Sincerely,

JOSEPH E. B. WHITE,  
President & C.E.O.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,  
Lewisberry, PA, March 22, 2009.

Hon. PATRICK J. LEAHY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEAHY: As the National President of the Federal Law Enforcement Officers Association (FLEOA), a 26,000 member organization exclusively representing federal law enforcement officers, I would like to commend you for your introduction of Senate Bill 386, the Fraud Enforcement and Recovery Act of 2009.

Three sections of the bill in particular are of great importance to our membership. First, Subsection 27, paragraph (1) seeks to define the term "proceeds" correctly as relates to a money laundering violation (Title 18, USC 1956 C). Your bill will ensure that a criminal is charged for the "gross receipts" they earned from a specified unlawful activity. Money launderers should not be allowed to use receipts from their criminal enterprise as a means to lower the dollar amount for which they are criminally charged.

Under Section 3, paragraph (2) (A), your bill specifies funding the Federal Bureau of Investigation (FBI) for fiscal years 2010 and 2011. Specifically, your bill recommends funding the FBI \$65 million each year in an effort to combat crimes involving "federal assistance programs and financial institutions." In light of the economic crisis our country is facing, and the rampant fraud being committed against programs designed to assist Americans, it is imperative that the FBI receives the proper funding and resources to investigate criminals who seek to steal from our government.

We also support the additional \$30 million allocations specified for both the Postal Inspection Service and the Inspector General of the Department of Housing and Urban Development (HUD-OIG). As the Postal Service confronts its fiscal challenges, it is imperative that the Postal Inspection Service is properly funded in order to carry out its vital mission. If the Postal Service continues to tighten the Postal Inspection Service belt, our Inspectors won't be able to breathe, i.e. continue to conduct high impact criminal institution crimes. They, too, need to be properly funded so they can continue to investigate those who seek to steal from our government.

Thank you, Senator Leahy, for recognizing the need to fund those agencies who are dedicated to protecting our government's capital. We also applaud your recognition of the need to address the misguided interpretation of the money laundering statute that was rendered in the Santos case.

Respectfully submitted,

J. ADLER,  
National President.

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS,  
Lake Ridge, VA, March 20, 2009.

Re Fraud Enforcement and Recovery Act of 2009, S. 386

Hon. HARRY REID,  
Senate Majority Leader,  
U.S. Capitol, Washington, DC.  
Hon. MITCH MCCONNELL,  
Senate Republican Leader,  
U.S. Capitol, Washington, DC.

DEAR MAJORITY LEADER REID AND REPUBLICAN LEADER MCCONNELL: On behalf of the

National Association of Assistant United States Attorneys, I write to urge the Senate to proceed without delay to approve the Fraud Enforcement and Recovery Act of 2009, S. 386. This legislation was reported by the Senate Judiciary Committee on March 5. Our organization, which represents the interests of the 5,400 Assistant United States Attorneys responsible for enforcement of the nation's laws and the pursuit of justice, strongly supports this legislation and urges prompt Senate passage. The legislation also has the support of the Department of Justice itself.

The Fraud Enforcement and Recovery Act (FERA) will make new tools and resources available to prosecutors and law enforcement authorities to investigate and prosecute the corporate and mortgage frauds that have contributed to the collapse of our economy and caused such widespread harm. The legislation authorizes \$230 million for hiring fraud prosecutors and investigators at the Justice Department for fiscal years 2010 and 2011. This includes \$50 million for U.S. Attorneys' offices to expand prosecutorial staffing of its mortgage fraud strike forces and \$40 million for the criminal, civil, and tax divisions at the Justice Department to provide special litigation and investigative support to those efforts.

FERA also makes a number of important improvements to fraud and money laundering statutes to strengthen the ability of federal prosecutors to combat this growing wave of fraud.

This legislation, like the FIRREA legislation responding to the savings and loan crisis, is the most significant effort to reinvigorate our federal fraud enforcement program in more than two decades. Congress should move quickly to pass this legislation so American taxpayers can be confident that those who are criminally responsible for contributing to the present economic disaster, as well as those who may attempt to exploit federal efforts to promote recovery, are apprehended and held fully accountable for their wrongs.

Sincerely yours,

RICHARD DELONIS,  
President.

ASSOCIATION OF CERTIFIED FRAUD EXAMINERS,  
Austin, TX, March 10, 2009.

Hon. PATRICK J. LEAHY,  
U.S. Senate,  
Washington, DC.

DEAR MR. CHAIRMAN: The Association of Certified Fraud Examiners (ACFE) is the world's largest anti-fraud organization and the premier provider of anti-fraud training and education. Together with nearly 50,000 members, the ACFE is reducing business fraud world-wide and inspiring public confidence in the integrity and objectivity within the profession. The mission of the ACFE is to reduce the incidence of fraud and white-collar crime and to assist in fraud detection and deterrence.

On behalf of the ACFE, I applaud you and the Senate Judiciary Committee for your commitment to reduce fraud and your diligence in creating S. 386, The Fraud Enforcement and Recovery Act of 2009. This is an important piece of legislation that will make a significant impact on reducing the impact of Fraud and restoring public confidence in our financial markets.

According to a Survey of Certified Fraud Examiners (CFEs) who investigated cases between January 2006 and February 2008, U.S. organizations lose an estimated seven percent of their annual revenues to fraud. When applied to the projected 2008 United States Gross National Product, the seven percent figure translates to approximately \$994 billion in fraud losses. The ACFE published the

results of the survey in our 2008 Report to the Nation on Occupational Fraud & Abuse.

The ACFE administers the CFE credential. The CFE denotes proven expertise in fraud prevention, detection and deterrence. CFEs are trained to identify the warning signs and red flags that indicate evidence of fraud and fraud risk. CFEs around the world help protect the global economy by uncovering fraud and implementing processes to prevent fraud from occurring in the first place. As you stated in a recent press release, the Fraud Enforcement and Recovery Act of 2009 was created to strengthen the Federal Government's capacity to investigate, prosecute, and even deter financial frauds. In order to be effective at these goals, it requires practitioners who are trained with the necessary fraud prevention, detection, and examination skills. The CFE credential and the training and experience required of an individual to become a CFE are critical skill sets that the Federal Government should demand of its resources. We encourage you to include CFE training and credentials as part of any plan to help prevent and detect fraud.

With our compliments, enclosed is our Report to the Nation as well as the current issue of Fraud Magazine. We hope these publications provide greater insight into the valuable work that both the ACFE and its members provide. The ACFE is proud to have such an honorable colleague in the fight against fraud and we are deeply appreciative of your exemplary work.

If there is anything I can offer or extend to you in the future, please do not hesitate to ask.

Cordially,

SCOTT J. GROSSFIELD,  
CEO.

Enclosures: Report to the Nation, Fraud Magazine.

The PRESIDING OFFICER. The time of 5:20 having arrived, under the previous order, pursuant to rule XXII the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute amendment to S. 386, the Fraud Enforcement and Recovery Act of 2009.

Patrick J. Leahy, Debbie Stabenow, Kent Conrad, Barbara Boxer, Patty Murray, Herb Kohl, Jeff Bingaman, Russell D. Feingold, Bernard Sanders, Bill Nelson, Ben Nelson, Richard Durbin, Jack Reed, Amy Klobuchar, Robert P. Casey, Jr., Claire McCaskill, Harry Reid.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the committee substitute amendment to S. 386, the Fraud Enforcement and Recovery Act of 2009, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from

Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mr. CORNYN), the Senator from Nevada (Mr. ENSIGN), the Senator from Florida (Mr. MARTINEZ), the Senator from Kansas (Mr. ROBERTS), the Senator from Louisiana (Mr. VITTER), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea." The Senator from Texas (Mr. CORNYN) would have voted "yea."

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

The yeas and nays resulted—yeas 84, nays 4, as follows:

[Rollcall Vote No. 170 Leg.]

#### YEAS—84

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

#### NAYS—4

Coburn  
DeMint

Inhofe  
Kyl

#### NOT VOTING—11

Brownback  
Bunning  
Burr  
Cornyn

Ensign  
Landrieu  
Martinez  
Roberts

Rockefeller  
Vitter  
Voinovich

The PRESIDING OFFICER. On this vote, the yeas are 84, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Vermont.

Mr. LEAHY. Madam President, I ask unanimous consent that it be in order for me to raise a point of order en bloc against all pending amendments; that they are not germane postcloture.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and, it is so ordered.

Mr. LEAHY. Madam President, I raise a point of order en bloc that the pending amendments are not germane postcloture.

The PRESIDING OFFICER. The point of order is well taken. The amendments fall en bloc.

Under the previous order, all postcloture time is yielded back, the substitute amendment is agreed to, and

the clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEAHY. Madam President, I understand the vote will be tomorrow on the bill. Would it be in order to ask for the yeas and nays at this point?

The PRESIDING OFFICER. It is.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The yeas and nays are ordered.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I yield the floor.

Mr. WHITEHOUSE. Madam President, I rise in strong support of S. 386, the Fraud Enforcement and Recovery Act, and I congratulate Chairman LEAHY for introducing this important piece of legislation. If enacted, this bill will enhance our ability to combat fraud and help bring justice to those injured by misconduct that contributed to our current financial crisis.

The bill has several important aims. First, it provides badly needed additional funds for fraud-fighting efforts at the FBI, the Department of Justice, and other agencies. It also makes critical changes to our existing criminal fraud statutes, so they capture the malfeasance in the mortgage and financial markets that we hear about every day. Last, certainly not least, it strengthens the False Claims Act to facilitate actions against Government contractors or their subcontractors for wasting Government money.

First, I want to say a few words about the additional resources authorized by this bill. In recent years, the number of fraud cases has ballooned. Last month, the Director of the FBI, Robert Mueller, told the Judiciary Committee that his agency's caseload of active mortgage fraud cases, for example, has almost tripled in the past 3 years.

The FBI, along with Department of Justice and other agencies, has struggled with allocating their scarce resources. As Director Mueller testified, "these cases are straining the FBI's resources. . . . [W]e have had to shift resources from other criminal programs to address the current financial crisis."

The Fraud Enforcement and Recovery Act provides essential money for investigating and prosecuting fraud. Both in the last Congress and earlier this Congress, Senator SNOWE and I had introduced legislation, which also would have temporarily increased resources at the FBI to fight white-collar crime because we recognized that our law enforcers do not have the resources they need to fight the ever-growing caseload of fraud cases. S. 386 serves the same important end by providing \$245 million a year to the Justice Department, the FBI, and other investigative agencies.

S. 386 does more than just provide money, though; it aims to fight fraud

in a comprehensive, far-reaching manner by amending criminal laws. The changes in the Fraud Enforcement and Recovery Act will give Federal law enforcement agencies the tools they need to address some of the most nefarious criminal activity in the financial world.

As we have seen in recent years, many of our vulnerabilities in the financial sector originated from bad mortgages and dangerous derivatives. The companies in the center of the storm are the names you hear every night on the news. Of course, not every person in those companies has acted criminally. But some have. These the actors who were able to exploit holes in the regulatory system or identify problems with oversight—often with intentional disregard for the health of the economy. Unfortunately, our present laws don't neatly capture some of the criminal acts that are at the heart of financial crisis.

To that end, this bill will amend the definition of "financial institution" to extend the fraud laws to private mortgage-lending businesses that were not directly regulated or insured by the Federal Government. It will also amend the law to cover mortgage-backed derivatives—so intentional, fraudulent acts related to those instruments can be prosecuted.

The Fraud Enforcement and Recovery Act also changes the law to better capture Ponzi schemes. As it stands now, courts have held that the perpetrators of those schemes are liable only for "profits" they earned—rather than being liable for all the "proceeds" they received over the course of time.

Furthermore, the bill puts the money expended through the Troubled Asset Relief Program, the American Recovery and Reinvestment Act, and other stimulus bills under the ambit of the fraud statutes. By making this change now, we hopefully will deter the type of intentional, criminal activity that has contributed to the present financial crisis.

There is also another way we can protect the TARP and ARRA money—by strengthening civil fraud enforcement. The Fraud Enforcement and Recovery Act makes overdue changes to the False Claims Act, so that the Federal Government can recover money lost due to contractor abuse and fraud.

Through Senator GRASSLEY's efforts since the 1980s, the False Claims Act has become the powerful tool that it is today. Individuals, on behalf of the Government, or the Government itself can sue to recover money from contractors who have abused their access to Government funds. We have seen in the Iraq war context that when contractors have access to large tranches of Government money, fraud and abuse will often follow.

Yet some of the False Claims Act cases decided by courts in the last decade have made the False Claims Act less effective. One line of cases determined that fraudulent actions by sub-

contractors are not subject to the False Claims Act. A change in the Fraud Enforcement and Recovery Act plugs this hole in the existing law.

It is too late to turn back the clock and prevent today's financial crisis from happening. But we can hold the bad actors accountable now by prosecuting the perpetrators to the fullest extent of the law. The provisions of the Fraud Enforcement and Recovery Act will help ensure that our enforcement resources match the gravity of the situation before us.

Mr. DURBIN. Madam President, I ask unanimous consent to speak as in morning business.

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

Mr. DURBIN. Madam President, I ask unanimous consent that Senator SHEROD BROWN of Ohio be allowed to speak at the conclusion of my remarks.

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

#### MORTGAGE FORECLOSURE CRISIS

Mr. DURBIN. Madam President, later this week, the Senate is going to consider legislation that I have been working on for 2 years. Two years ago, it was apparent to me that we were facing a mortgage foreclosure crisis in America. It was a crisis which had just begun, but it was obvious there were many victims. I had no idea when I introduced this legislation that we would be standing here 2 years later and the state of the American economy we would face.

The Senate will consider legislation I have offered to help families save their homes and avoid foreclosure. When we consider amendments to the bill, the key number to remember is 1.7 million families—1.7 million. That is the number of families we will either give a chance to save their homes or allow them to be thrown out in the street, depending on how the vote turns out. My amendment will help 1.7 million families avoid foreclosure. It will make a small change to the Bankruptcy Code to provide these families with a little bit of leverage—leverage they do not have today.

I had a meeting on Friday in my office in Chicago. Groups came from all over the city of Chicago and told me about the mortgage foreclosure crisis in that city. I love that town. I am honored to represent it. But there are neighborhoods that are in serious trouble and not because folks aren't keeping up their homes—they do. They have fierce pride in their little bungalows and homes they maintain. It is not because they aren't proud of their churches they attend and temples and synagogues. That is always a part of life in most cities, and it certainly is in Chicago. And not because the kids aren't out playing on the playgrounds and reflecting the values of their families. No, it is usually because there is one house on the block that has gone into foreclosure.

You may think to yourself: So what. That is only one house. But imagine in your own hometown, in your own neighborhood, if that house next door went into foreclosure. Imagine it was vacant, with plywood on all the windows, and you started noticing that not only was the lawn not being tended to, it was becoming a vacant lot for trash to accumulate. Then the word was out that there were vandals who were stripping the copper tubing and piping out of that house. The next thing you know, there are rumors about drug gangs using it late at night.

That is the reality of these neighborhoods, and it is the reality of mortgage foreclosure. It is not just the economic loss for the neighbors. It is the loss of a neighborhood spirit. That is what foreclosure brings us.

You say to yourself: You know that family that was in there, they just made a terrible decision on a mortgage. Some of them did. Some of them were misled into those terrible decisions.

Have you ever been to a closing to buy a home? Do you remember that stack of papers they put on the table in front of you? They would turn the corner over and they would say: Keep signing.

What is this?

Oh, it is a Federal Government form. The banks looked at it; the realtors looked at it; everything is fine. Keep going. Here is a check. Sign this. Now here is your payment book. In 60 days make your first payment.

Secreted in some of these documents were provisions that a lot of people did not understand. Sometimes the whole process was a fraud. In the worst of times, many of these mortgage brokers were saying to people:

How much money do you make?

Oh, \$50,000, \$60,000.

Oh, that is great. We will put you in a nice little house, we will give you an adjustable rate mortgage and the house will go up in value and everything will be fine.

They call them no-doc mortgages. That meant no documentation. The borrower, the person buying the home, did not have to produce a single document to indicate their income or net worth.

We have a little provision in the Department of Treasury, Internal Revenue Service. If you spend a few dollars and fill out a form, we will verify what your income is so the people who are loaning the money are going to have verification. That was not even asked for. Why? Because the folks who were doing these deals wanted to get them done and get out of town and they did. They left behind a mess in community after community, in city after city.

Now, as these people face foreclosure in their homes, many of them do not know where to turn. They go back to the bank and they say to the bank: Come on, I understand I can get a low interest rate now. Maybe I can stay in this home. I am not going to default