

today is actually \$42 billion that has been recovered under the False Claims Act of 1986, and that surely is nothing to sneeze at—at least where I come from it is not.

The fact is that since 1986 no other law on the books has been more effective in battling fraud. Before the 1986 amendments, the False Claims Act only brought in about \$40 million a year. At that rate it would have recovered only \$1 billion in the past 25 years. So thanks to the 1986 amendments, it brought back 42 times as much.

Clearly, I say to the U.S. Chamber of Commerce, the False Claims Act is working, and it is working fantastically. The chamber's report says the law is "ineffective at preventing fraud." Yet my staff have met with some of the authors of that chamber report, and I have to say to you that the chamber had no concrete proposals for preventing fraud more effectively than the False Claims Act.

Now, the chamber people meeting with my staff talked about "a gold-standard compliance certification program," but to me and my staff it is just a pie-in-the-sky idea with no specifics. They told my staff, "We deliberately left this vague." So that is the problem. They lack details on who would create the program, who would enforce the program. Basically, they lacked details about everything. But they want this Senate to believe that once this pipe dream is in place, it will magically increase the amount of taxpayer dollars the government recovers.

In exchange, the report proposes hefty concessions for its big corporate sponsors. For starters, they want to eliminate the use of exclusion or debarment. These happen to be some of the government's strongest tools in deterring fraud. The chamber report would require whistleblowers to report internally 180 days before any whistleblower can file a False Claims Act suit. Yet, in most corporations, reporting internally just puts a huge target on the back of the employee blowing the whistle, just as it does on the back of a Federal whistleblower within the Federal bureaucracy. We should trust whistleblowers to use their common sense to know the safest place to report. Internal reporting and a 6-month head start on retaliation before the whistleblower gets a chance to be heard in court is a recipe guaranteed to reduce disclosures of fraud.

I have long advocated companies developing strong internal compliance programs, so I see nothing wrong with having those compliance programs. However, having one of these programs is not a reason to get a "get out of jail free" pass. I am skeptical that companies will self-report violations. Certification of a compliance program will not turn up the cold hard facts on whether they do or do not self-report. Even when a corporation does come forward, the company line is never going to be the complete picture. That is why the False Claims Act

incentivizes whistleblowers, and, in fact, it has worked.

Further, some corporations have actually been using compliance programs as a trap for muzzling whistleblowers. By making their compliance program an arm of their legal department, anything a whistleblower reports is protected as confidential information covered under the attorney-client privilege. Many corporations also require employees who provide tips to their compliance departments to then sign nondisclosure agreements. This has a major chilling effect on whistleblowers contemplating filing a False Claims Act suit. Whistleblowers brave enough to file then find themselves the subject of legal action claiming they have violated attorney-client privilege or nondisclosure agreements. Now, a very simple question: Is this how we ought to treat whistleblowers?

This report's recommendations contradict its assertion that the False Claims Act has failed by not recovering enough money. The report proposes to limit government recoveries across the board, regardless of participation in any compliance certification program. That makes no sense.

In the last 5 years the Federal Government has grown larger and larger and spending has gotten more and more out of control. The Federal Government now spends about \$1 trillion in contracts and grants each year. Inspectors general, the Government Accountability Office, and congressional oversight committees simply have not been able to keep up. Whistleblowers using the False Claims Act have played a very key role in checking fraud and wasteful spending. Annual recoveries under the False Claims Act have increased dramatically in just the past 5 years. Last year the Justice Department recovered \$2.6 billion in just health care fraud through the False Claims Act. The False Claims Act is clearly doing exactly what we intended it to do, and that is to recover taxpayers' money being lost to fraud.

State attorneys general around the country have used State false claims acts to successfully recover billions of dollars for their States. I will give some examples.

Last October—that is, October of 2013—then-Virginia attorney general Ken Cuccinelli recovered \$37 million for the State of Virginia from a drug company that was inflating its prices to scam taxpayer dollars from Medicare. The next month, in 2013, Cuccinelli recovered \$21 million in two health care fraud settlements with multinational pharmaceutical giant Johnson & Johnson, which was paying millions of dollars in kickbacks to the Nation's largest pharmacy. Yet, just days before Cuccinelli announced the settlements, Health and Human Services Secretary Kathleen Sebelius also made an announcement. She revealed that this administration did not intend to treat ObamaCare as a Federal health care program, exempting it from

antikickback laws. Precisely because of the fraud opportunities under ObamaCare, one provision Congress added to the law made a violation of antikickback law an automatic violation of the False Claims Act. This administration has chosen to ignore that part of ObamaCare.

Congress must step forward and reiterate that ObamaCare is no less subject to the antikickback law and False Claims Act than other Federal health care programs. Congress should strongly consider strengthening the False Claims Act's connection with suspension and debarment. That would keep repeat offenders away from the taxpayer dollars they have defrauded in the first place.

This issue, then, is really one about law and order. If we really want to improve the False Claims Act—not go the direction of the U.S. Chamber of Commerce—we should make a judgment or settlement under the law result in an automatic review for suspension or debarment. That would capitalize on the success of the law while increasing its deterrent effect.

The False Claims Act has already provided a crucial check during a time of growing government and outofcontrol Federal spending. Whistleblowers have been the key to the government finding out about fraud when it happens. We have to do all we can to honor them for the patriotic service they provide to the taxpayers and protect them from those who resist the role they play.

#### COLORETTI NOMINATION

Mr. GRASSLEY. Mr. President, I continue my objection to consideration of the nomination of Nani Coloretti to be the Deputy Secretary of the Department of Housing and Urban Development.

In keeping with my efforts to end secret holds, I have been very open about the reason I put a hold on this nomination. The Obama administration isn't giving me the same consideration.

In May, I found out about questionable hiring practices at the Financial Crimes Enforcement Network, known as FinCEN. FinCEN is an agency within the Treasury Department that collects and analyzes financial reports for law enforcement agencies to use in their money laundering investigations.

FinCEN has been hiring additional personnel to beef up its enforcement division. The problem occurred when the agency posted the job requirements but then disqualified candidates for a criterion that was never in the original job posting: a law degree.

This is illegal under Federal hiring guidelines.

I also learned that FinCEN rejected qualified veterans who applied for the positions. Veterans' preference doesn't guarantee veterans a job but it does give them extra consideration for jobs for which they are qualified.

The unemployment rate for post-9/11 veterans is significantly higher than

the rate for the general population. These men and women are extremely capable. They have an array of job skills to offer in the workplace.

It is inexcusable for FinCEN, or any other Federal agency, to reject qualified veterans who faithfully served our country.

The Office of Personnel Management already determined that the FinCEN hiring practices were illegal and referred the case to both the U.S. Office of Special Counsel and the Treasury Department's Inspector General. The investigations need to cover whether Treasury Department officials knew about the hiring problems and did nothing until OPM forced their hand. And if FinCEN tried to game the system to shortchange our Nation's veterans Congress needs to know. In addition, whoever is responsible must be held accountable.

To find out what happened, I requested all emails sent between the Treasury Department and FinCEN on this matter.

As the Treasury Assistant Secretary for Management, Ms. Coloretti oversees the Treasury's human resources department and may have known about the illegal hiring practices, or was at least in a position to know. If she did, she certainly shouldn't be rewarded with a promotion. However, regardless of her involvement, the Treasury Department needs to come clean.

As I said earlier, I have requested emails from the Treasury Department to help me get to the bottom of this. So far, I have received four emails.

Instead of open transparency, the Obama administration is once again obstructing access to the information I need to conduct proper congressional oversight.

The Treasury Department tried to convince me that no other relevant emails exist but I am not convinced. Their search was limited to only the 8 months when the vacancy announcements were open. This excluded any email communications that took place in preparation for posting the announcements or during 2014 when problems with the announcements were found. That is unacceptable. So I will continue my objection to consideration of Ms. Coloretti's nomination.

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

The PRESIDING OFFICER (Mr. KING). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. 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

### NOMINATION OF DAVID J. HALE TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY

Mr. REID. Mr. President, I move to proceed to executive session to consider Calendar No. 1036.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of David J. Hale, of Kentucky, to be United States District Judge for the Western District of Kentucky.

#### CLOTURE MOTION

Mr. REID. Mr. President, there is a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 nomination of David J. Hale, of Kentucky, to be United States District Judge for the Western District of Kentucky.

Harry Reid, Patrick J. Leahy, Richard Blumenthal, Sheldon Whitehouse, Mazie Hirono, Amy Klobuchar, Al Franken, Benjamin L. Cardin, Patty Murray, Robert P. Casey, Jr., Jeanne Shaheen, Claire McCaskill, Christopher A. Coons, Mark Begich, Jeff Merkley, Richard J. Durbin, Charles E. Schumer.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

## LEGISLATIVE SESSION

Mr. REID. Mr. President, I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

## EXECUTIVE SESSION

### NOMINATION OF MARK A. KEARNEY TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mr. REID. Mr. President, I move to proceed to executive session to consider Calendar No. 1037.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Mark A. Kearney, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

## CLOTURE MOTION

Mr. REID. Mr. President, there is a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 nomination of Mark A. Kearney, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Harry Reid, Patrick J. Leahy, Barbara Boxer, Benjamin L. Cardin, Robert P. Casey, Jr., Bill Nelson, Barbara A. Mikulski, Amy Klobuchar, Al Franken, Jack Reed, Sheldon Whitehouse, Robert Menendez, Kirsten E. Gillibrand, Richard Blumenthal, Sherrod Brown, Dianne Feinstein.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

## LEGISLATIVE SESSION

Mr. REID. Mr. President, I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

## EXECUTIVE SESSION

### NOMINATION OF GERALD J. PAPPERT TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mr. REID. I now move to proceed to executive session to consider Calendar No. 1038.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Gerald J. Pappert, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

#### CLOTURE MOTION

Mr. REID. Mr. President, there is a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 nomination of Gerald J. Pappert, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Harry Reid, Richard J. Durbin, Patty Murray, Barbara Boxer, Patrick J. Leahy, Sheldon Whitehouse, Debbie