County, FL, and it includes such things as the Florida Panther National Wildlife Refuge, the 10,000 Islands National Wildlife Refuge, and many others.

These ecosystem protections and alterations are absolutely necessary for the future of keeping this beautiful planet Earth and protecting this very fragile ecosystem.

BUILDING CONSENSUS

Mr. NELSON of Florida. I thank my colleagues for allowing me the time. As we are awaiting the majority leader to arrive, I might say that since many Senators are here, I want them to know what a great privilege it has been for this Senator to serve with each of you and to serve in a bipartisan way.

One of the messages of this election I have just come through is that people do not want this partisan bickering they have seen. They want us to come together, to build consensus, to perform, and to do it in a bipartisan way. This Senator is dedicated to doing that from now on.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

FAREWELL TO THE SENATE

Mr. FRIST. Mr. President, about 2 months ago, late Sunday afternoon, when no one was around, I came into this Chamber to carry out a time-honored tradition, nearly as old as the institution itself. I came over to this desk and I opened the drawer and the tradition of carving your initials or your name into the bottom of that drawer was carried out. As you open these drawers, as many of us do when we are sitting here listening and debating, you tend to look at the names that are there. I see Robert Taft at the bottom of this drawer, Hugh Scott, Everett Dirksen, Howard Baker, Bob Dole, TRENT LOTT, and the list goes on. And with the quiet here, you begin to reflect a little bit. But then all of a sudden you start thinking, as you are carving your name into that drawer, that there aren't very many things that you leave that are permanent around here, but that is one.

It confronted me, as it hits me with such force today, that our time here, indeed, is temporary, and that we are here to occupy these seats at these desks just for a period of time. We can never forget that we don't own these seats. We don't own our presence in this U.S. Senate. It is with that recognition that I address my colleagues today.

I have reflected a lot over the last several weeks, and I think back to that nonpolitician who came to this city, this body, 12 years ago with a whole lot of hope for the people of Tennessee and a whole lot of hope for this country. I think back to the people who put their trust in that man's hands.

Indeed, it was 12 years ago that Karyn and I came to Washington. I came as a citizen legislator with absolutely no, no political experience. I was a doctor. I spent 20 years in the profession of healing. In my acceptance speech back 12 years ago, I pledged at that time to my fellow Tennesseans that Karyn and I would go to Washington, that we would serve for 12 years, for a limited amount of time, and that we would go back to Tennessee and live under the laws that we helped enact. And that is exactly what we will do. We are going to go back to Tennessee in a few weeks, and I am going to live in the very same house that I was born in 54 years ago.

I still remember coming to the Hill early on, and I know a number of new colleagues are coming to the Hill. I think back, and my former chief of staff, who was very green at the time—I just told you how green I was at the time—I remember standing right in front of the Capitol, and we had to stop somebody and ask: Where is this building called the Russell Building? And they told us. Luckily, I don't think they knew who I was at the time.

But I did come believing deeply in the promise that I had made. I believed in my heart that with determination—and I had seen it in surgery and in the operating room—one can make a difference in this world. Today, I look back and I see that I was only half right. One person can make a difference, and each of us do in our own ways. But to make a difference, we can't do it alone.

I certainly couldn't have done it without people who stood both behind me and with me over the last 12 years. I agree with all of my colleagues. I know they know Karyn. And, indeed, she has honored me by her unwavering love each step along the way. Her grace in carrying out her official responsibilities, her commitment to the development of character in our three boys, her moral support, her spiritual support for me and our family, she has been that guiding river that has kept us on course as we traveled two very different professions occupations: that of being a heart surgeon and that of serving as a U.S. Senator.

Our three boys most of you know as well. You have watched them grow up over the last 12 years: Bryan, Jonathan, and Harrison. Obviously, we are so proud of each of them. I will speak directly to them because they, as with anybody growing up, faced the huge challenges of growing up in public life, taking in stride the various swipes that the media takes from time to time, but doing so with real dignity and strength. The boys know that Tennessee is home. They have been able to take in the rich texture that is afforded all of us as we raise children here in this town. And they have grown from three young boys when we came here to three young men.

I want to thank staff members, and we never do that enough, those staff members who have been with me from the very beginning: Emily Reynolds, Ramona Lessen, Bart VerHulst, Cornell Wedge, Mark Winslow, and Carol Burroughs. I thank my series of chiefs of staff: Mark Tipps, Lee Rawls, Howard Liebengood, Eric Ueland, Andrea Becker, Bart, and Emily, and all those who have come in and out of these doors since that very first day 12 years ago when, yes, I, like somebody every cycle, was 100th in seniority. It is the staff that puts the needs of this country before their own needs. And with a lot of hard work and a lot of passion and a lot of hope, they have accomplished so much.

A few moments always stand out in my mind, and I will not recite all of them, but a few do stand out in my mind, victories like the $15 billion in funding for global HIV/AIDS, which I have seen firsthand the power in the hundreds of thousands and, indeed, I would say millions of lives that have been saved by American leadership there; the prescription drugs for seniors; confirming John Roberts and Sam Alito.

And through all of this time, we have borne witness to days that have literally changed the face of this Nation and the face of this Capitol, things like the Capitol shootings,

September 11, anthrax and ricin, and Katrina. But through all of that, we kept it the best way we could, with hard work and a lot of hope.

I thank my colleagues who placed their faith in me to serve as their leader. As I said four Decembers ago, when you elected me, it was and has been ever since, every day, a very humbling experience. On that day 4 years ago I quoted Proverbs: In his heart a man plans his course, but the Lord determines his steps.

And what fulfilling steps have been afforded me as leader. I cannot let today pass without expressing gratitude for the close friendships of people who are here and some people who have passed through this Chamber: Howard Baker, the great Republican leader from Tennessee whose shoes as majority leader I have done my best to fill. He has counseled me over the years both as a Senator and as leader. His sage advice I have relied upon many times in those capacities.

You have to be very careful going around a room, but behind me, people like PETE DOMENICI, who became a mentor to me on that very first day in 1995; and people like JOHN WARNER, whom we saw in action just a few minutes ago on the floor and, yes, on the Gates nomination; and former Senators, people like Don Nickles who so wisely set the stage for the Republican tax cuts of the last several years; my colleague and confidante, MITCH MCCONNELL, whose wisdom and service

has been indispensable to leading the Republican majority, who ascends in party leadership, who will be sitting at this desk in a few weeks, a temperament and skill with which no one is better prepared; my Tennessee colleagues, Fred Thompson and now LAMAR ALEXANDER, two great statesmen with whom I have had the honor to work side by side as we have addressed the needs of our constituents.

I thank the two Democratic leaders, Tom Daschle and now HARRY REID. As HARRY and I have said publicly many times, everybody sees the public contrast between one leader to the other, between HARRY and me. But what people don't see are the daily conversations, the private conversations off the floor where views are mutually respected, where burdens are shared, and where family is discussed. Karyn and I leave this body with tremendous respect for HARRY and for Landra, for their contributions to this country.

To all my colleagues who have reached across the aisle and across differences when you could, thank you.

Twelve years ago, it was people in Tennessee who took a big chance, who took a great chance. They took a chance on a doctor who was little known, who had never served in public office, obviously had never run for public office. They began by opening their minds and then opening their homes and then opening their lives and then opening their hearts. And I am eternally grateful to them for giving me that trust and taking that chance.

On this floor many times I have mentioned my parents and I mentioned my dad. Dad used to say: It is a powerful thing to know where you are going in life, but it is equally powerful to know where you have come from.

To the good people of Tennessee, I thank you for never letting me forget where I have come from. You never let me forget those promises made on the trail over a decade ago, the promises that have been the heart of everything that we have done. Yours are the voices that have called out to me from Mountain City in east Tennessee to Memphis in the west, the people out there who are working hard every day to raise a family, to grow a business, to run a farm, to get ahead. As long as I live, I will never forget those voices. Those voices are clear, those voices of common sense that called out and counseled me time and time again.

Two people who won't hear me thank them today are two who were at my swearing in but who have since passed on: my parents Dorothy and Tommy Frist. They have left a fascinating legacy that the five children—I am the last of those five—have been the beneficiaries of, a legacy of honesty, of civility, of fairness, of hard work, and of service. And we all—at least I try to—struggle to capture what they did in passing that legacy on to our children.

My own brothers and sisters, Mary, Bobby, Dottie, and Tommy, all in their own way, with their children and grandchildren, have been successful in living lives of service to others. Many friends are here today, including Jean Ann and Barry Banker and Denise and Steve Smith. It is that friendship, that team, that gives people, I believe, the strength and foundation to carry out that mission of serving this great country.

In the past few weeks, I have spent a lot of time reflecting about the future of this institution. As I prepared to leave here and return to my home, many people have asked, don't you ever regret the promise that you made to serve just for 12 years, two terms? Did you regret it when you became chair of the RNC or majority leader? If you knew then what you know today, would you have made that promise 12 years ago? My answer is yes, because I believe today, as I believed then, in the ideal. It is, I guess, that ideal of a citizen legislator. It might seem bittersweet today, but it is right.

I hope that in some way, as I leave here, that my service—people may say it was effective or ineffective, and that is all very important—is an example of someone who had never, ever run for public office, never served before, and who had spent his lifetime—in fact, twice as much time as I spent in the Senate—pursuing another profession, coming here like so many people today and starting at 100th in seniority over in the basement of the Dirksen and rising to majority leader over that 12-year period; an example of a committed doctor who is able to find purpose and fulfillment in serving others, as all of us do as Senators, through elected office. I hope that will inspire others to seek office and to do public service. It is my hope that those who come to serve after me as a true citizen legislator will bring perspective and new ideas in a small way, a serendipitous way, or maybe a large way, and make this country a little better and contribute to this institution.

You have heard me talk about, and champion at times, term limits. Most people don't like them. They were popular for a period of time. I am a great believer in self-imposed term limits. Every morning you get up, you say I have 3 more years, 2 more years, or 1 year, or a half year, or 10 days, and you know that as every day goes by. If you don't have an understanding that there can be an end, you tend to forget that. Self-imposed term limits are the extreme exception here today, not the practice of this city. I think as a consequence we are moving toward a body that has too much of a 2-year vision, governing for that next election, rather than a body with a 20-year vision governing for the future.

As we consider the future of the institution, I urge that we ask ourselves what it is our forefathers envisioned. Is today's reality what they foresaw? I urge that we consider our work in this Chamber. What is it all about? Is it about keeping the majority? Is it about red States versus blue States? Is it about lobbing attacks across the aisle or is it about war rooms whose purpose is not to contrast ideas but to destroy or is it more? When the Constitutional Convention met in 1787, delegates considered how best to structure this legislative branch of new Government. They were determined not to repeat the mistakes made in the Articles of Confederation, which had a single, unicameral legislature. Speaking to the convention, Virginia's James Madison set forth the reasons to have a Senate. His words:

> In order to judge the form to be given to this institution, it will be proper to take a view of the ends to be served by it.

These were, first, to protect the people against their rulers and, secondly, to protect the people against transient impressions into which they themselves might be led.

I think we need to remember this vision of the Senate that the Framers established—that the Senate is to protect people from their rulers and as a check on the House and on the passions of the electorate. Let us not allow these passions of the electorate to be reflected as destructive partisanship on this floor.

Taking the oath of office, which many of our good colleagues will be doing shortly, commits each Senator to respect and revere the Framers' dream. To my successor, BOB CORKER, and to all the Senators who will follow me in service to this great Nation, I urge you to be bold, make the most of your time here, and look at problems with fresh eyes and the steely determination to give the American people a reason to believe in you and to hope for a better tomorrow.

To serve in this grand institution has been a labor of love. To lead here is a challenging responsibility that is set out before me and each of us. It has been a profound honor to serve.

I will close with just one story. It happens in southern Sudan. As many of you have heard me say, because it is such an important part of my life, I go to Sudan just about every year—a thousand miles south of Khartoum and 500 miles west of the Nile River. I started going there in the mid to late nineties. I had been there operating back in the bush, and I was ready to come home. Actually, it was in January. The State of the Union was a few days off. We finished operating in a hut. I operated by flashlight late at night. Somebody in a little hut said, ''I want to see the American doctor.'' Well, I didn't want to go. I wanted to get back home. I wanted to get on the plane and come back home, but I went to see him. I was tired. I walked over and pulled the curtain aside—the rug that was used as a curtain—and in the back there was somebody smiling. You could see the bandages on his hands and legs, and I went over; and through a translator I said, ''I am the American doctor.'' He said, ''Thank you to the American doctor.'' As a physician, I am accustomed to that because when you

operate on somebody, they say thank you. So I said, ''you're welcome,'' and I got ready to leave. He was frustrated and he said, ''Come back.'' He said. ''Thank you for being the American doctor.'' I still didn't quite get it. He picked up his arm and said, ''I lost my arm fighting in this civil war. I lost my leg 8 days ago. It was about 2 years ago that I lost my wife and my 2 children. Thank you for being the American doctor.''

And then I started to get it. He was saying thank you for being the American doctor. Then he said, basically, that: It is you who are a representative of America, and for democracy and liberty and freedom I sacrificed my wife and my children and my arm and my body. Thank you for what you represent.

Then all of a sudden, it began to hit me. To me, that image cuts through just about everything that we do. It is about preserving as best we can the great hope that we represent here in America, which is embodied in this institution, the freedom, the responsibility, the opportunity, the compassion, and the basic decency that is at the heart of who we are as Americans. Beyond Democrat or Republican—which came out of the campaign—now is the time to again remind ourselves and state again and again that beyond being Democrats and Republicans, we are Americans. Together, we are one people. It is our responsibility to uphold the dream and protect that hope for every American and indeed the people around the world who seek that freedom.

I opened by saying that our time here is temporary; we are just passing through. Now is the time to close. Your patience has been generous. As I have spent a lifetime learning, to everything there is a season. We say that and hear it and tend to repeat it when there are changes. But to everything there is a season, and my season here draws to a close. Tomorrow is the time for birth and rebirth. Tomorrow is a day and a time for new rhythms.

My dad did a great thing that I shared with some of you. Each of us should do this for our children or for the people we care about. He knew he was going to die in the next couple of years. We asked him to write down his thoughts, advice, and counsel for the next generation—not just his kids and theirs, but for the great-great-grandkids that he would never see, a simple 4 to 5 pages. He ended that letter to his great-grandchildren with the following words:

> The world is always changing, and that's a good thing. It's how you carry yourself in the world that doesn't change—morality, integrity, warmth, and kindness are the same things in 1910, when I was born, or in 2010, or later, when you will be reading this. And that's a good thing, too. Love, Granddaddy.

So under the dome, it is time for fresh faces and fresh resolve. Change is good. Change is constructive. The Senate changes, the people who serve here change; but what doesn't change is that every one of us who serves believes deeply in the genius of the American democracy.

It is with the deepest appreciation that Karyn and I thank you all for 12 wonderful years. There are no words to describe the honor it has been.

I yield the floor.

(Applause, Senators rising.)

Mr. REID. Mr. President, parting really is sweet sorrow. Mr. President, thank you very much for being here today honoring not only Senator FRIST, our majority leader, but the entire Senate.

On the surface, some may ask how the Senate and the operating room are the same. What do they have in common? Senator FRIST has shown us that helping people is what he did as a doctor and what he has done as a Senator. Serving others is a trait as we have observed by knowing this good man is that he learned from his family. His father was also a doctor. As a young man he was obviously academically very talented. He wanted to follow in his father's footsteps. He went to Princeton University, which shows that he is someone who is talented academically and socially. He graduated from that great American learning institution and decided he was going to go to Harvard, which speaks well, again, of his intellect and, of course, his ability to get along with people. His surgical training came at Massachusetts General Hospital and Southhampton General Hospital in England.

Senator FRIST was a pioneer, but he learned his transplant surgery from the pioneer. I have heard BILL FRIST talk about Norman Shumway on many occasions—the first doctor to perform a successful heart transplant in the U.S. Senator FRIST—then Dr. FRIST—started Vanderbilt University Medical Center's Heart and Lung Transplant Center. I don't know if anybody knows—I am sure someone knows—how many heart and lung transplants Senator FRIST has done, but most say it was nearly 200. Think about that. Some of these operations took many hours, and some of them took days.

I heard Dr. FRIST talk about those first transplants, where he actually went and got the organs and personally brought them back to the operating room.

Things have changed since then. Pioneer, doctor, Senator FRIST has and will write a lot about his success as a surgeon and as a Senator. And not only will he talk with his family and his friends about this, things will be written about his service as a doctor and as a Senator.

When we talk about these nearly 200 transplants, we are talking about 200 human beings whose lives have been saved by virtue of his talent. Senator FRIST helped hundreds of people continue their lives. Here, as a public servant, a Senator, he has affected the lives of millions of people.

I have had the good fortune of serving with Senator FRIST during his 12 years in the Senate. I knew him before I became the Democratic leader and, as all of you know, I spend a lot of time on the floor and I worked with him very closely.

Over the years, we have had our ups and downs. It has been tough. These jobs, I can tell my colleagues up close, are not real easy. We have had problems over budgets, over committee structure, disagreements about schedules—oh, yes, about Senate rules. I have never once doubted—never once doubted—that what Senator FRIST was doing he was doing because he believed in his heart it was the right thing. That is why I, HARRY REID, at his home on a very personal level, told Senator FRIST he should run for reelection. I don't believe in term limits. I truly believed then, as I do now, that he should have run for reelection. I told his good wife Karyn the same thing in her home, in their home.

I have come to learn a number of things about BILL FRIST. He loves medicine. He has done his work in the Senate. But the thing that is first and paramount in his mind and his heart every minute of the day is Karyn and his three boys.

All of you out here have seen our fights publicly, and we have had them, but they have been fair. I can remember only once has Senator FRIST ever raised his voice at me, and it was right from here because, even though I didn't mean to, he thought I had said something that reflected upon his family, and I apologized to him. This man loves his family and is an example of how people should treat their family.

Karyn is a wonderful woman. She has treated my wife—my wife is a very shy person. She has always been very shy. Karyn has taken good care of her, and I will always, Karyn, appreciate that.

In the years that go on, I, frankly, will never think about or, if I try, not remember any of the differences we had on the Senate floor, but I will always remember the friendship I have developed with the good man from Tennessee, a citizen legislator.

Senator FRIST, Karyn, I wish you the very best. You are a good man. I love and appreciate everything you have done for the country and for me.

(Applause.)

The VICE PRESIDENT. The majority whip is recognized.

Mr. MCCONNELL. Mr. President, I, on behalf of all the Members on this side of the aisle—and Senator REID acknowledged the same as well—am grateful for your presence here today. Being here today to help honor our outgoing majority leader, I know, means a lot to him. It means a lot to all the rest of us.

Rare is the person who rises to the top of one profession, not to mention two. We are honoring today a man who has done that—he has risen to the very top of not one but two extraordinarily difficult professions. And I am absolutely certain, as all of his colleagues are, that he will excel in whatever challenge he takes on next.

BILL FRIST embodies what our Founding Fathers meant when they spoke of ''citizen legislators.'' By his early forties, he had already risen to prominence as a renowned heart and lung surgeon. But BILL felt a call to public service. After achieving enormous success in that field, he came to us in the Senate and rose to the top here as well. He had not sought the leader's office, but in some ways it could be argued that it sought him and, once again, he was top in his field.

After 4 years, BILL has been an effective and courageous leader. I have been here for a pretty long time now, Mr. President, and I can honestly say that the last 4 years have been some of the most productive years in the Senate that I have seen.

Under BILL FRIST's leadership, we have made the lives of people across America better and safer. More opportunity lies ahead for today's children than ever before. Most of all, BILL has never relented in leading this Senate to fight the war on terror. America is more secure thanks to his tenacity and thanks to his talents.

BILL is leaving us, as we all know, sticking to his promise to the voters of Tennessee to serve only two terms. Legend holds that Cincinnatus, the Roman farmer, became ruler of Rome at the behest of his fellow citizens. But after leading them to victory against invaders, he gave up the mantle of power and returned to his farm.

Whether BILL returns to medicine or continues to serve the public in some other way, we can be sure of this: He will continue to be one of America's great leaders. And if he does return to public office, it will be because he was asked by his fellow citizens to serve and to lead.

Words such as ''sacrifice,'' ''duty,'' and ''service'' mean something to BILL FRIST. This Senate and this country are the better for it.

It has been a joy to know BILL's lovely family—his wife, Karyn, and his three sons, Harrison, Jonathan, and Bryan. They are all proud of their father and husband.

I am going to miss you, BILL. It has been a great honor working with you every day over the last 4 years, and it will be an honor to take the baton from BILL to lead Senate Republicans during the 110th Congress.

Just as Kentucky and Tennessee share a border 320 miles long, BILL and I share a bond as Senators, party leaders, and, yes, as friends. I can see that all of our colleagues on both sides of the aisle feel the same way I do. It is sad to see you leave. You have done a magnificent job. People come and go in the Senate over the years and, candidly, I guess some of them didn't make a whole lot of difference. But you did, and you will be remembered with great pride by all of us. Thank you for your service.

(Applause.)

The PRESIDING OFFICER (Mr. COLEMAN). The Democratic whip.

Mr. DURBIN. Mr. President, I join in this chorus of salutations and praise for the retiring majority leader. I listened carefully to Senator FRIST's recollection of his public service, and I noted the first item on his agenda was the $15 billion in the fight against global AIDS. It is an issue on which we joined together many times, an issue where President Bush showed extraordinary leadership, and there was extraordinary bipartisan support for what he was trying to achieve.

As one reflects on his life and his background, it was no surprise that led the list. Senator FRIST dedicated his time before the Senate to the healing arts, and I think he brought some of that same dedication to this role in the Senate, trying to use his post as the Senator from Tennessee and as a leader in the Senate to heal the world and our Nation. I thank you for all your efforts in that regard.

I know when he came to this job, it was thrust upon him rather quickly. I know he had his critics, and there might even have been a few on this side of the aisle from time to time, but, by and large, I think his leadership has been symbolized by a lack of cunning, a lack of sharp elbows and an effort to try and patch up our differences and get things done. Once again, you were the healer when you had the chance to do it.

I have traveled to Africa, as he has, probably not as often. I have seen some of those dusty villages where there is no one to be seen for miles around. But I cannot imagine your taking your surgical skills to those villages and those huts and operating under a flashlight, hour after hour, day after day, week after week. That defines BILL FRIST, in my mind—a person who may not have been recognized by anyone on the road to that village, did some good, and left a legacy that will be remembered.

To you, to Karyn, to your family, let me add my voice in saying you left a great legacy in the Senate, and I wish you all the very best.

(Applause.)

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, former Senator Lyndon Johnson used to say about himself that having Lyndon Johnson as majority leader was good for the United States of America and it hasn't hurt Texas one bit.

When I think of our country and BILL FRIST, I think of lower tax rates, I think of two Supreme Court Justices, I think of a record number of judges who would interpret the law, rather than make it up as they go along. I think of the personal imprint of Senator FRIST on the prescription drug Medicare benefit millions of Americans need and are enjoying, and I think of the $15 billion generous gesture of this country toward Africa to combat HIV/AIDS, which would not have happened were it not for BILL FRIST.

When I think of BILL FRIST and Tennessee, I think of our new TVA board to keep our rates low and reliable. I think of our ability to deduct our sales tax from Federal income tax and dozens and dozens of other things that have been good for Tennessee.

When I think of BILL FRIST, I think of civility, of decency, a good smile, hard work, and an ego that is surprisingly under control for a Senator in the midst of all of this and an example of which his parents would be proud. So I think we can say today, and Lyndon Johnson wouldn't mind, that having BILL FRIST as majority leader of the U.S. Senate has been good for our country and it hasn't hurt Tennessee one bit.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I join my friends and colleagues in paying tribute to a friend and a distinguished colleague. When BILL FRIST arrived here, there were at least some of us with some qualms on this side of the aisle because he ran successfully against one of our dear friends, Jim Sasser. So, initially, there was a natural reluctance among some of us about this doctor who had defeated a great friend and a great Senator.

But early on, it was clear that BILL was special. As someone who had been trained in the medicine, in my own State of Massachusetts no less, he brought a new and fresh perspective to our national debates.

He was obviously a person of impressive skill, and it is no surprise that he rose so quickly to become majority leader. The roles of Senators and physicians are profoundly different in many ways, but at their core their missions are identical to help others to the maximum extent of our ability. And that is what BILL FRIST has done from the day he set foot in this chamber.

He was one of the first to understand the very real threat of bioterrorism to our Nation, and that was well before 9/11 or the anthrax attacks. Senator FRIST knew first-hand that our public health infrastructure was incapable of meeting the threat of a massive natural epidemic, let alone a deliberate biological attack. It was a privilege to work with him on the first bio-terrorism legislation, which because of his leadership we were able to pass before 9/11.

He has also been a pioneer in the effort to bring modern information technology into all aspects of health care, and to end the enormous human and financial costs caused by medical errors and by the needless administration of health care with outdated paper records. He has also helped shine a bright line on the serious problem of health disparities in our country.

He has inspired each of us with his commitment to addressing the horrific tragedy still unfolding in the world, especially in Africa, because of AIDS. He has dedicated himself to this issue for years, giving of himself personally, and urging Congress to act more expeditiously. He made time to continue this

missions of mercy, even after he became majority leader, and I was deeply touched by it every time.

I have had the good opportunity to meet his family, and I know, as others have said, where his values come from and how committed he is to them. I hope he'll be able to enjoy more time with them now without the burden of running the Senate.

We wish BILL FRIST the best as he prepares to leave the Senate. We know he will have great success, and we thank him for his service to our country. We will miss the majority leader, but we know he will continue to use his immense talent to make a very real difference for all humanity in the years ahead, and continue to make us proud to call him our friend.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I wanted to say a few words before the leader left. I even hate to call him leader or majority leader. He has become a great friend. I don't know how to explain it, but I didn't really think coming to the Senate that I would have a chance to meet somebody like our good departing leader. I have met all kinds of people here. Henry Bellman once said: If you sit down with all 100 of them, no matter what you have said about criticizing them, there are no better 100 men put together in America than the 100 Senators who serve. I believe that is true. I am wondering now about whether the Senator wouldn't rival military leadership.

But the point is, I didn't think BILL—I know we can't do that in the Senate, use first names—but I didn't think I would ever meet in the Budget Committee of the U.S. Senate—sitting in the very last seat available was this man whose name is so simple, but I had so much trouble with it. Do you remember? I didn't say ''FRIST,'' I kept saying ''First.'' I don't know why, but I did that for a long time, and then it became sort of a—people would come up and punch me so I would say it right. But whether it is ''FRIST'' or ''First,'' I guess they mean about the same thing to me. You are truly first.

What we have gone through personally will not be reflected in the RECORD. People know I have had a few years of illness. It is mostly gone now. But I found out he was a superb doctor, and eventually I found out there weren't too many better anywhere. That made it easy because I had a ready-made doctor and he was the best. And we would meet in his office, and people would think it was always business, but they had no idea that it was half business, a little bit family—we got to know each other's families, and what a terrific and exciting thing that was for me—and I got to know about his excellence as a doctor.

It will be a different Senate, there is no question.

You have been dealt some cards that are not right. The years you were here, the things that were accomplished were not quite presented to the people as accomplishments or as big accomplishments, as they are. But if there is anybody interested in searching the RECORD during his term and during his leadership period to see what he accomplished, I believe you will have to end up saying there was nobody during his time here who accomplished more for his State and for the country. I believe an in-depth search of what he has done may even rival the best, even though he does not know how to legislate, and there is no question about that, and he does not know how to appropriate, and there is no question about that. He might not even know how to bring an appropriations bill up, and there might be no doubt about that. He may doubt it, but this Senator doesn't, and I am his best friend, but I have great doubts whether he knows how to get an appropriations bill up and passed.

But I still believe the business of the Senate is not done in those very overt ways that people think. It is done as you sit down for long hours on a conference report and come out with a health bill that all of a sudden is better than anything we have had before. When you find out who did it, it might not have been named for the Senator or for the chairman of this or that, but you will find out that for many hours, many trips were taken to his office, and many times, he said: Wait and we will do it in the morning, and I will tell you how to do it. And that happened.

I could go on for much longer, but I really wanted him to know that I just waited for my time. Being the fifth or sixth eldest here in seniority, I waited for my time here, and I didn't want to wait until tomorrow or the next day in fear that I would not find time or that the Senate would not accommodate. So I thought I would, as usual, be late for a next appointment, but I have a good excuse for being late for this next one.

I had to come here and say goodbye in a very interesting way, although it is not a goodbye. But I do think it is true that this will be a very major change in our friendship, in the way we react to each other, and the time we get to spend with each other. So it is an occasion, this leaving of the Senate, because you won't come back very often. Even though you say you will, you won't, and we won't get to see you. I really believe we will remember you, and probably we will call you more times than you will call us because I think we may just from time to time figure out more times than you will that we need some advice, and it will probably run in your direction, not in ours, in the ensuing years.

Good luck in whatever you do. It is not going to be this little return to being a country doctor, if that is what you are saying. You can't sell me on that. You are not going to be a little country doctor; you are not even going to be a regular doctor. You are going to do something much bigger than that. It is just waiting. Somebody is going to place it in front of you, and then you will do it and it will be something big and exciting for America and for our people, probably more exciting than you did here, so that will be a third one—one, the heart transplants and all that, one here with us, and then you will have a third one. In the meantime, you can do a lot of duck hunting, no problem with that. You can probably go with me, if you want. But if you shoot too well, I won't bring you anymore because it is embarrassing. It has to be sort of a modest hunt, not so superb that I am embarrassed. So we will have to work that out some way. And your son—he can't come anymore because he shoots too well. It is truly not the right thing to do. He should not be hunting with an old man like me. No way. But if it happens, we will accommodate it some way.

Having said all that I should and much more, I will say goodbye and thank you.

Mr. FRIST. Mr. 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. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

JIM TALENT

Mr. BOND. Mr. President, I rise on the floor to pay tribute to my very good friend and colleague, Senator JIM TALENT, who will be leaving the Senate next month.

I have known JIM for over 20 years, since he was minority leader in the Missouri House of Representatives. Throughout all these years, when he was in the State legislature and in the House as chairman of the Small Business Committee when I was chairman of the Senate Small Business Committee, I found JIM to be unfailingly a man of honesty, integrity, and hard work. He has been a wonderful friend and colleague.

I am going to miss him very much, and many people in Missouri are.

We all know that Washington can change a person, but it hasn't changed JIM. JIM still has the same commonsense Missouri values he brought with him to Washington. He still has the same calm, polite demeanor. He still has strong convictions and a work ethic. As I said to our folks back home in Missouri, in an arena of show horses he has been a work horse.

I was with him on the night he got the news that he lost the campaign. He was a man of unfailingly good humor and courage. And still, he thanked his Lord, his friends, and graciously accepted his fate.

I have a feeling and hope that public service will see much more of JIM TALENT somewhere, sometime. And whatever he decides to do in the public or in the private sector, the qualities he has

demonstrated to so many of us in the Senate will be one he will carry with him.

He served in the Senate for only 4 years, but when you look at his record of legislative achievements, he has had so many positive impacts on people's lives. It is hard to believe he could cram all of that into 4 years.

He has been a leader on national security, energy, and criminal justice.

As a member of the Senate Armed Services Committee, JIM worked to extend production of the C–17 line, allowing 30,000 workers across the country to keep their jobs, and more importantly to give our military strategic lift capability which they need to move troops and equipment to very difficult to reach places.

JIM also cares about our troops in battle. He sponsored legislation to end predatory lending to active servicemembers and their families. The new law just took effect 6 weeks ago. Some of our soldiers were paying almost 400 percent interest on money loaned to them. Thanks to JIM TALENT, the rates are now capped at 36 percent. I trust that applies to the Marines as well.

Last year, JIM worked very hard to include a renewable fuel provision in the Energy bill. On a bipartisan basis, under his leadership, the United States will produce up to 7½ billion gallons of renewable fuels with ethanol and biodiesel. That will be implemented by 2012.

JIM's work in this area will only become more important as we see in the future America continuing to face high energy costs and our attempt to reduce our dependence on foreign oil.

Another accomplishment JIM will be known for is something which is extremely important in our State of Missouri, and this work—again on a bipartisan basis with the Senator from California—was to fight meth. Meth is a drug that has been destroying lives and communities across our State for many years and now even across the country.

The Combat Meth Act has helped stop the supply of meth ingredients to dealers through the ban on over-the-counter sales. You see a significant reduction in meth lab busts. It shows that we are finally beginning to make progress against this drug.

Obviously, I have to mention his other bipartisan successes, such as the sickle cell disease bill and the Emmett Till bill.

On a narrow focus, JIM and I have worked together on many transportation and economic development projects to serve our State of Missouri, including the Liberty Memorial in Kansas City, the Page Avenue Extension in St. Charles, and countless others throughout the State.

I should also mention that my friend JIM TALENT has put forward some terrific proposals that he has been working on that have been enacted. His effort to allow small business employers to pool together to form association health plans comes to mind, and those of us who have been working to change the law so that small business employees and their families will have access to the same kind of insurance benefits that employees of major corporations have will not give up the fight. We are going to continue with his great leadership in mind.

I am sure the next Congress will follow up. This idea should be central to any discussion of expanding health care coverage to the uninsured.

JIM, as we prepare to say goodbye to you now from this floor, thank you for your years of devoted service to our State, to our Nation. With heartfelt gratitude, on behalf of my wife Linda and I, we wish you, Brenda, and your children the very best in future endeavors. And I know for a fact that there will be great successes ahead.

I yield the floor.

APPROPRIATE LEVEL OF MILITARY FUNDING

Mr. TALENT. Mr. President, my great friend and colleague from Missouri has an Intelligence Committee meeting to go to. So he went ahead and did his kind tribute before I give my speech, and those who are not aware of that may have thought that maybe they would be able to get in short tributes and avoid the long farewell speech. That is not true.

I will devote my time to a substantive and very important subject—the appropriate level of funding for America's military. It is an issue that I have worked on and fought for since I went to the House of Representatives in 1993.

I am grateful for my friend's remarks, and I want to say that I have always enjoyed serving in legislatures, in part because of the collegial nature of the service. When you are done, yes—it is the legislation that you worked on that you want people to remember, but what you remember are the friendships and the associations and the bonds that you have made. And, fortunately, those do not end with your service. I look forward to continuing to visit with my friends in the Senate for years to come. I hope to be able to work with them in other venues on issues of importance to America. Nothing is more important for America than her security.

Mr. President, America has the most capable military in the world by a large margin; in fact we have the best military that has ever served any nation at any time in human history. We should be proud of that; we should especially be proud of the men and women who make America's military what it is. But it would be wrong for us to believe that because our military is the best in the world or even the best ever, that it is as capable as it needs to be. True, America is many times stronger than other nations, but its responsibilities are many times greater as well. If Denmark's military is inadequate, it doesn't matter that much, even to Denmark; if America's military is inadequate, it matters tremendously, first to America, but also to the hopes and aspirations of people throughout the world.

We must understand the importance of this issue very clearly, without the distortions of ideology, politics, expediency, or wishful thinking. Like it or not, the progress of the international order towards peace and democracy depends on the reality and perception of American power. Like it or not, America is the first defender of freedom in the world and therefore always a prime target for those who hate freedom. And like it or not, while there are many tools in the basket of western diplomacy, the underpinning of them all is an American military establishment which the world knows is capable of swiftly, effectively and at minimal cost defeating every substantial threat to our security and to our freedom.

Judged by this standard—the only appropriate standard—the situation is very grave. I have substantial doubt—as good as the men and women are—whether our current military establishment is strong enough. Because of decisions over the last 15 years driven more by budgetary than military considerations, our Army and Navy may well be too small, and much of the equipment in all the services is too old and increasingly unreliable.

Whatever the current status of the military may be, there can be no doubt that without a substantial increase in procurement spending beginning now and sustained over the next 5 to 10 years—an increase, I suggest to the Senate today, that must be measured not in billions but in tens of billions of dollars above current estimates every year—our military will be set back for a generation. We will not be able to modernize our forces to the degree necessary to preserve our security with the necessary margin of safety.

I said that our current military is too small and inadequately equipped to execute the national military strategy. I will not go into detail on this point because my main focus is on the future, but a brief explanation is warranted. The world is, on balance, at least as dangerous today as it was at the end of the Cold War. And we may thank God we are no longer in danger of a massive nuclear attack from the former Soviet Union, nor is a major land war in Europe likely.

Against this, however, we are engaged in a global war on terror that will continue for years to come. The end of the Cold War led to the emergence of dangerous regional conflicts, such as the conflicts in the Balkans. We are in greater danger today of a rogue missile attack than ever been before, and China is emerging as a peer competitor much faster than anyone believed.

These conditions either did not exist, or like the conflicts in the former Yugoslavia, were suppressed, during the Cold War. As a result, the operational tempo of our conventional forces—and that means the rate, intensity and duration of their deployment—was far higher beginning in the

mid-1990s, even before September 11, than it had ever been during the Cold War. Yet at the beginning of the 1990s, our forces were 30 to 40 percent bigger than today. For example, the active-duty Army was cut from 18 divisions at the time of Desert Storm to only 10 divisions by 1994. Don't we wish that we had those additional divisions today to relieve the pressure in Iraq. The Navy has gone from 576 ships in the late 1980s to 278 ships today.

At the same time, procurement budgets have been cut substantially, far greater than the cuts in force structure warranted. The contrast in the average annual procurement of major equipment from two periods—1975 to 1990 and from 1991 to 2000—is startling. For example, we purchased an average of 78 scout and attack helicopters each year from 1975 to 1990, and only 7 each year from 1991 to 2000. We purchased an average of 238 Air Force fighters each year from 1975 to 1990, and an average of only 28 each year from 1991 to 2000. We purchased five tanker aircraft each year from 1975 to 1990, an average of only one per year from 1991 to 2000.

The implications for these dramatic reductions are profound. Older platforms—that is what the military calls ships, planes, and vehicles—are rather tired and not replaced, which means that force structure is reduced. Military capabilities are reduced. If platforms are not replaced, the average age of the fleet increases, readiness levels drop, and the cost of maintaining the smaller, older inventory climbs rapidly because maintenance costs increase.

For these reasons, I suggest that the current force today is too small and its equipment too old, relative to the requirements of our national military strategy. That strategy calls for a military capable of defending the homeland, sustaining four peacekeeping engagements, and fighting two large-scale regional conflicts, at least, at approximately the same time. We are supposed to be able to do all that at once. I believe the requirements of our military are actually greater than this, but in any event, we cannot execute even these commitments, and we certainly will not be able to do so in the future, within an acceptable level of risk, unless at least the Army is made bigger and unless all three services have the money to robustly recapitalize their major platforms with the most modern equipment.

For years, the various services, in response to pressure from political authorities to reduce the budget below what they needed, have delayed or cancelled new programs. They have been reducing the number of new ships or planes they say they need, kicking crucial decisions down the budgetary road, robbing Peter to pay Paul, and otherwise trying to avoid confronting the approaching funding crisis.

That crisis is upon us now. We are entering the crucial phase of recapitalization. Beginning with the next budget and intensifying over the next 5 to 10 years, the services are scheduled to bring online the new platforms that will anchor American security for the next generation. No one can say these programs are unneeded. The Navy must buy new destroyers, must ramp up procurement of Virginia-class submarines, must finalize the design and buy large numbers of Littoral Combat Ships and design and build a new CG–X cruiser.

The Air Force must buy large numbers of the F–22. That is our new air-superiority fighter. We must maintain the ability to have complete air superiority over any combat theater. The Air Force must buy large numbers of Joint Strike Fighters or equivalent aircraft. In addition, the Air Force must buy out its airlift requirement. That is how we transport personnel, equipment and supplies from one place to another in the world. It must build a new generation of tankers, must design and build a long-range strike bomber to replace the B–52. Our B–52 inventory is 45 years old.

The Army must rebuild, modernize or replace almost its entire capital stock of ground combat and support vehicles including many of its tanks.

The current procurement budget for all three services is $80.9 billion. Simple budgetary mathematics tells us that the services cannot possibly meet their crucial requirements without an average budget over the next 5 to 10 years that I estimate is at least 30 billion dollars higher than what we are now spending.

Perhaps I have gone into more detail than the Senate is willing to indulge me in already, but I want to look in some depth at the situation of the Navy. Here I speak from what I know because I have been the chairman of the Subcommittee on Seapower for the last 4 years. Currently, there are 278 ships in the U.S. Navy. The Navy shipbuilding plan calls for 326 ships by the year 2020, eventually settling down to an average of 313 ships. The plan actually calls for fewer aircraft carriers, a substantial drop in attack submarines, and fewer major surface combatants, but it attempts to make up for these reductions with modern destroyers, more capable submarines and what it calls pre-positioning ships that allow us to establish sea bases, from which to project forces ashore, as well as a whole new class of smaller multi-mission modular vessels called Littoral Combat Ships. There is no margin whatever for error in this plan. It is, at best, the minimum necessary for our security.

The Chief of Naval Operations—that is the admiral who leads the Navy—has estimated the plan will require a shipbuilding budget of $13.3 billion for fiscal year 2008, the upcoming budget year. That is $5 billion more than what was spent this year on ship building. His plan calls for that figure to escalate to $17.5 billion by 2012. I believe these figures are too conservative. It is a good-faith effort to calculate what we need but too conservative. I think the plan will require billions more each year to execute. Both the Congressional Budget Office and the Congressional Research Service agree. In any event, I say on my oath as a Senator, that it will be utterly impossible, at current levels of defense spending, for the Navy to reach and sustain the $13.3 billion figure, to say nothing of the even higher sums required in the out-years of the 5-year defense plan and beyond.

Beginning no later than 2009, there will be a growing shortfall in the shipbuilding accounts, in addition to an annual shortfall of $1 billion to $2 billion in Navy aviation procurement. I expect the total deficiency to be no less than $45 billion over the fiscal year 2008 to fiscal year 2016 period; and remember, this assumes that the 313-ship Navy is sufficient to protect American security, an optimistic assumption.

Lest the Senate get lost in all the figures, let me sum it up this way. The Navy, responding to budgetary pressure, has formulated a plan for a 313-ship Navy in the future which, frankly, may be inadequate; the Navy estimates a figure for funding the plan which independent authorities, using long-term historical cost data, believe is far too low. And yet without substantial increases in the Navy's procurement budget, it is a dead certainty that even that figure cannot be sustained.

As a practical matter, the expected shortfall means the sacrifice of two to three attack subs and two to three surface combatants, a reduction in purchases of the Littoral Combat Ships, and delays to the Sea Basing Program and the new CG–X Cruiser Program, which is necessary for missile defense.

The short of it is that the Navy needs at least an $8 billion increase per year in procurement above current estimates. The Marines need about $3 billion more. It is not necessary to go into the same level of detail with regard to the budgetary picture for the other services. The pain has been spread fairly evenly across the service, so they are in roughly in the same situation. That means a procurement shortfall over the next 10 years of at least $30 billion per year adjusted for inflation. Most independent experts believe the number is far higher.

For example, the CBO estimates that the overall defense budget shortfall will be no less than $52 billion per year. We should add to this the fact that the active-duty Army is clearly too small, as we have learned in Iraq. Even in an age of transformation and nonlinear battlefields, there are still times when America needs to put large numbers of boots on the ground, particularly in the post-September 11 period. The United States needs the ability to carry on sustained, large-scale peacekeeping or low-intensity combat operations, without having to send the same units three or four times to a combat theater over the duration of a mission. A nation of our size and strength should not have to use essentially its whole active-duty Army,

much of its Marine Corps, and many of its Reserves to sustain 130,000 troops over time in a combat view.

In 1992—which was right after Desert Storm—the Defense Department stated a requirement of 12 Active-Duty Army divisions. That was before the increases in operational tempo of the 1990s and before the global war on terror. The Army should surely be at least 12 divisions today. It costs approximately $2 billion to stand up and sustain an addition to the Army or Marine Corps of division strength so we need to invest $4 billion per year in increased force structure for the Army, in addition to the $30 billion more in new procurement funding.

So to sustain our military over the next generation at the appropriate level, we need to increase procurement spending and spending on the size of the Army by about $34 billion per year. And that is above current baseline estimates. It would have to be sustained over the life of the current defense plan and beyond.

I want to emphasize that this is, of necessity, a ballpark figure. It is always difficult to predict precisely the cost of new programs—some of which are in the design phase, particularly given the uncertainties associated with developing technologies. We will be acquiring this equipment over the next 10 to 20 years and needs in technology are going to change. We must confront the fact that whatever the necessary amount turns out precisely to be, the procurement budgets we are projecting today are fundamentally inadequate. We have to ramp up spending. We must begin now. And we have to accept the fact that it will not be cheap.

I, also, want to make clear that this additional $34 billion must come from an increased overall defense budget. There may be some who say that it is possible to cannibalize the rest of the defense budget to produce all or most of this additional procurement funding. That is a dangerous fantasy. The money cannot come from the supplemental appropriations bills. Those are necessary to pay the day-to-day costs of the war and may not have been adequate to do that. The money cannot come from reducing the readiness budget because that budget is overstressed already. It cannot come from reducing the number of service personnel because the military is already too small. It can't come from reducing salary and benefits. We have to retain the best people. Besides, Congress is far more likely, and properly in my view, to increase personnel benefits rather than reduce them. Take a look at the last 7 years. Total spending on defense health care, for example, increased from $17.5 billion in fiscal year 2000 to $37 billion in fiscal year 2006—an increase of more than 100 percent over the last 7 years, appropriately so.

The men and women of America's military deserve good salaries and benefits, and so do those who are retired. The savings from base closing is not going to supply the additional funds. Those are highly speculative. They will not occur, if at all, for many years, and they are unlikely to be more than a billion dollars per year.

Some say we can save money by reducing congressional earmarks or additions to the defense budget, and within limits that is true. But the total of such earmarks is no more than $3 billion to $4 billion per year. Realistically, Congress is not going to give up all of them, and at least some number of them are clearly justified because they simply restore to the budget items that our service chiefs desperately wanted and omitted only because of budgetary pressure.

Still others will say we can get the necessary additional funding by lowering the cost of new programs through procurement reform. I am all for procurement reform. I have been for it ever since Secretary Bill Perry, who was a great Secretary of Defense, proposed it over 10 years ago. We have had several waves of procurement reform since then. Several Defense Secretaries have all championed its virtues. We continue to hold oversight hearings to pressure the defense industry to lower costs. We keep trying to catch people in the Department who might be violating procurement regulations. I have chaired some of those hearings.

Meanwhile, the cost of new programs keeps going up. I suggest the reasons have less to do with deficiencies in the procurement system, bad as it is, than with the stress on the industrial base and on the military caused by the budgets that are consistently too low and unstable.

One of the arguments supporting reductions in force in the past has been that transformational technology and tactics can empower the military to do more with less. The idea is to make each servicemember, each plane, ship, and vehicle less vulnerable so we lose fewer of them, and more lethal so we need fewer of them. Within limits, that is sometimes true. But the best technology costs money, and changing technology, tactics, and doctrine makes it more difficult to fix stable requirements. Program instability costs money, too.

Here is an example. The Navy originally planned to procure 32 DD(X) next-generation destroyers. The ship has a truly advanced design. It is a marvel of transformational technology. But its unique capabilities have driven the per ship cost to about $3 billion. As a result, the Navy plans to procure only seven new destroyers. The problem is that the complexity of the ship's design, the unprecedented capabilities of the vessel, and the high price of the best technologies, have all driven up cost to the point where the ship is impossible to procure in sufficient numbers at current budget levels.

Another example, the Air Force desperately needs more air lift, and it also needs a new tanker aircraft. The Air Force shoulders much of the mobility mission, and it also performs the mid-air refueling mission. Normally, the Air Force would simply buy more C–17 aircraft. It is a perfectly good, modern cargo aircraft. Then the Air Force would design and procure a new tanker. But because the service is under tremendous pressure to save money, it has decided to develop a cargo-tanker, combining the two missions into one aircraft. The service assures us that it is not going to have any bells and whistles on the new plane, and the aircraft will be low in cost.

Surely, the concept of a cargo-tanker allows the Air Force to claim that it will be able to perform both of these missions while relieving some of the pressure on its budget. But, again, reality must and will eventually bite. As requirements build and changing technologies force changes in design, the odds are very high that the cost of the new aircraft—if it is to do the combined mission it is supposed to do—will go up substantially.

The problem of cost is exacerbated by the stress on the defense industrial base. Procurement budgets have been too low for 15 years and because of budgetary pressured they constantly change. The Department regularly projects what it intends to procure in the outyears of its defense plan but then often makes last-minute cuts and changes.

Under those circumstances, it is no surprise that contractors are not investing sufficiently in the defense industrial base. It is shrinking, and it is undercapitalized. That means fewer competitors, more sole-source contracts, less research, and, therefore, higher costs. No amount of oversight, reform, or pressure on procurement officials can change that.

The good news is that a robust and consistent commitment to adequate funding would soon begin to reverse these trends. Again, I am all for improvements in the way we design and build new systems, and those improvements can save money. But they cannot work miracles. Sufficient and stable funding is not only consistent with transformation and efficient use of the taxpayers' dollars, it is necessary to both. If Congress were to commit to my proposal, for example, the service chiefs and the defense industry would know that substantial new money was coming—enough to make it at least plausible they could produce and acquire the systems they need. They could budget for the long range, knowing that funding would be stable. They could work together in a way that would reduce costs instead of trying to pull money away from other services or maneuver year to year just to keep vital programs alive, and often, in a way, that ends up costing the taxpayers more in the long run.

We must stop thinking that facing reality and funding our military adequately is beyond the reach of this great Nation. Yes, the Federal Government has fiscal problems. Yes, the two

major parties have very different views on what to do about those problems, but nobody can or does claim that the defense budget is the cause.

Right now, we are spending 3.8 percent of our gross domestic product on the regular defense budget. That is a very low percentage historically, far less than we spent at any time during the Cold War. Under President Carter, we spent 4.6 percent of the GDP on national defense.

If we spent only 4.2 percent now, we could easily fund what I have proposed. We would have a fighting chance to support our service men and women with the equipment they need and deserve. We could sustain the military power that the last two Presidents have used to protect our freedom and stabilize the post-Cold-War world. We would send the clearest possible message to both our friends and enemies, and to those nations who are deciding now whether they are going to be a friend or enemy, that whatever happens, whatever the direction our foreign policy takes, the United States has the ability to sustain our freedom and the hope of freedom for the world.

To those who worry about the price of strength, I say there is a greater price to be paid for weakness. How many conflicts will we invite, how much instability will we engender, if we allow this restless and troubled world to doubt America's ability to defend herself?

Let's look at the risks of alternative courses of action. If we adopt the course I suggest, and it turns out that I was wrong, all we will have lost is a fraction of our wealth wealth that would be spent in this country on products produced by our workers, for a margin of safety that, in the end, we did not need. But if we stay on our current course, and it turns out that I was right, how much will we pay then in lost lives and treasure, fighting in conflicts that a policy of strength would have deterred?

How big will the deficit become then, in a world made less stable by American weakness? What effect will that have on the economy, and not just the economy, but on the hopes and opportunities of the next generation—our children and our grandchildren—who have the right to expect that we are looking out for them?

Twenty-five years ago, our country was also in a difficult situation. Our enemies doubted American resolve. They were challenging us on a number of fronts. We had just gone through a period of chronic underfunding of the military, probably worse than what has happened recently. As a result, the force was hollow, unable to reliably perform the missions necessary to protect America. That is why the tragic Desert One mission went so wrong in the desert during the Iranian hostage crisis.

When President Reagan assumed office, he faced the situation squarely and honestly, and with the support of a Democratic House and Republican Senate, he secured two double-digit increases in the overall defense budget, and reasonable increases for several years thereafter. On the strength of that bipartisan commitment, America's service men and women and America's defense industrial base transformed our military into the truly dominant force that fought and won Operation Desert Storm.

A united government sent the message to friend and foe alike that whatever our differences about foreign policy, America was still willing to pay the price of freedom. It is not too much to say that the decisions made in 1981 and 1982 laid the basis for the collapse of the Soviet Union, the success of Operation Desert Storm, and the benefits of peace and security that we enjoyed throughout the 1990s.

With this speech, I bring my career in the Senate to a close. I believe I can do no greater service to my country than to urge Senators not to be dissuaded by the counsels of those who say that what I have proposed cannot be done.

At the beginning of my remarks I stated that America's service men and women are the finest who have ever served in any military on behalf of any nation at any time. I should have included their families as well. I realized that when today, just a few hours ago, I had the privilege of meeting with Dana Lamberson and her two children, Kelsi and Evan.

Mrs. Lamberson's husband, SFC Randall Lamberson, was killed in Iraq only 8 months ago. Mrs. Lamberson told me that before her husband deployed, their family openly discussed the sacrifice which he, and they, might be called on to make. I asked her how she was able to bear her grief with such grace and fortitude. She told me that when she was tempted to be discouraged, she remembered what her husband had always said when times were tough: that ''life is only as difficult as you make it.''

Mr. President, I have met thousands of Americans over the last 4 years like the Lamberson family, not just soldiers and their families, but people from every walk of life, who live each day with courage, resilience, and optimism. Because of them, I believe with all my heart that America's time of leadership is not done.

I ask the Senate to honestly face the true cost of defending this Nation. If we do, if we carry that burden with confidence, we will find the weight of it to have been a small thing compared to the blessings of peace and liberty we will secure for ourselves, and the hope we will give to freedom-loving people all over the world.

Mr. President, I cannot close without thanking my dedicated staff who served the people of Missouri so well over the last 4 years, who have kept me going, kept me on time, who are largely responsible for the many pieces of legislation which Senator BOND was kind enough to mention. I just ask the Senate to indulge me for another moment or two because I am going to read their names. I think they deserve it: Mark Strand, my chief of staff; Cortney Brown, my scheduler; Les Sealy, our great office manager who always got us what we needed; Brian Anderson, our IT manager. I am glad he understood it because I never do.

I thank our legislative staff: Brett Thompson, legislative director; Faith Cristol, our great legislative counsel; and my legislative assistants: Lindsey Neas, Katie Smith, Heath Hall, Jesse Appleton, Katie Duckworth, Christopher Papagianis, Shamed Dogan, and John Cox, who works so hard and so well on veterans issues, a man who has served this country in many different venues; Andy Karellas, Martha Petkovich, and Sarah Cudworth, who did legislative correspondence, grants and case work; Peter Henry, who managed the mail; Sarah Barfield, my staff assistant; two great Navy Fellows: CDR Dan Brintzinghoffer and LCDR Lori Aguayo, two patriots and both outstanding officers; and Mark Hegerle, my Energy Fellow who came over from the Federal Energy Regulatory Commission just in time to help me make a real difference on the Energy bill.

I want to thank our press shop: Rich Chrismer, my great communications director; Erin Hamm, and Andrew Brandt.

Casework—we handled over 10,000 cases. I am a big believer in casework. This is a big government, and navigating it is hard, and if we could help, we wanted to help. I thank Nora Breidenbach, Jenny Bickel, Abby Pitlick, Debbie Dornfeld, and Jessica Van Beek.

And the State staff, we always tried to integrate the work of the State staff and the Washington staff, and I think we did it. I thank Gregg Keller, our State director; in St. Louis: Kacky Garner, my district director; Peggy Barnhart; Rachel McCombs; and Angel McCormick Franks; in Kansas City: Joe Keatley, my great district director; Danny Pfeifer; Emily Seifers; Greg Porter; and Erick Harris; in Jefferson City: Donna Spickert, who was the State capitol director; and Becky Almond, my instate scheduler, as well as a great staff assistant; in Springfield: Terry Campbell, the district director; Christopher Stone; and Coriann Gastol; and in Cape Girardeau: Jeff Glenn, who directed that office; and Liz Mainord.

I also want to thank, as other Senators have done, my family, my wife, obviously, in particular, who has shared the highs and lows of this job, and my wonder kids.

Mr. President, it remains only for me to thank my colleagues in the Senate for the many kindnesses, personal and professional, which they have shown me and my family over the last 4 years.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to discuss a number of matters briefly.

HONORING SENATORIAL SERVICE

BILL FRIST

First, I want to join my colleagues in paying tribute to our majority leader, Senator BILL FRIST, who has done such an outstanding job in the past 12 years.

Senator FRIST came to this Senate as a real all-American. He has displayed extraordinary talents, academically, professionally, public service, as a family man, as a friend, at Princeton and Harvard Medical School, a renowned heart and lung transplant surgeon, then selected to be the majority leader and has taken this body through a very difficult 4 years and a very productive 4 years.

A great deal has been said about Senator FRIST earlier today. I just wanted to add my personal congratulations to him on his service and to wish him well.

RICK SANTORUM

Mr. President, I regret the departure of my distinguished colleague, Senator RICK SANTORUM. He has been really a ball of fire in the U.S. Congress. He was elected in 1990 to the House of Representatives, defeating a long-term incumbent by literally going door to door in his district in the Pittsburgh area.

He was elected to the U.S. Senate in 1994, reelected in the year 2000, and has displayed admirable qualities—energy, determination, confidence, and the pursuit of his own personal values. There is no doubt that Senator SANTORUM has espoused, articulated, and pushed causes he deeply believed in which may not have been popular in many quarters, but he was determined to undertake the pursuit of those values because he believed in them so deeply. I counseled him from time to time to save some of his philosophy for December of the year 2006.

A famous quotation about President Lincoln; he was asked by a little boy, in effect: How do you serve, Mr. President?

He said: I represent my true beliefs and values 90 percent of the time.

The little boy said: Well, what about the other 10 percent?

The famous statement by President Lincoln: So that I can represent my true values 90 percent of the time.

It is not unknown in our body to occasionally defer some of the more controversial positions. But Senator SANTORUM didn't do that. He spoke his mind and he spoke his heart. Those are rare qualities in public life and public service and in politics. For that, I salute him.

On a personal level, RICK and I have had a superb relationship, not only professionally, not only politically, but also personally. A more devoted family man could not be found. He has taken this turn of electoral results philosophically and in a good spirit. I have had some experience on the losing end of elections and, having been there, I say that he has responded with great class, with great style. His comment earlier this week was: Tough on the family, tough on Karen, tough on the children, but now they have their husband back, and they have their father back. And he had a big smile and a sense of satisfaction. He spoke to the caucus yesterday, and he exuded confidence. He exuded personal pride in what he had done. I join him in that. As a colleague, I personally will miss him very much. I know that will be the sentiment of this body, even those with whom he has tangled in a rigorous way.

CONFIRMATION OF JUDGES

Mr. President, I urge my colleagues to move ahead with the confirmation of judges.

We have U.S. District Judge Kent Jordan, of the District of Delaware, who has been nominated to be a judge on the U.S. Court of Appeals for the Third Circuit. He has been approved by the Judiciary Committee and is ready for floor action. Nobody has anything adverse to say about Judge Jordan. He is endorsed by both of the Delaware Senators, both of whom are Democrats. They have a judicial emergency in the Third Circuit, and he ought to be confirmed.

We also have a list of some 13 district court nominations pending on the executive calendar. I ask unanimous consent that the list be printed at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. SPECTER. A good number of these nominees are also in districts where there are judicial emergencies. I think that from time to time we in the Senate, where we have the responsibility for confirmation, don't really take seriously enough the impact of judicial vacancies. The courts are busy. The Third Circuit, my circuit, is overwhelmed. District Court Judge Jordan ought to be confirmed. My colleagues have told me about the problems posed by vacancies in their states. If these other 13 districts nominees are not confirmed today, they will languish until who knows—January turns into February and February in March. We always find a reason around here not to do something. That applies most emphatically to the judges.

It is my hope that in the 110th Congress, we will approach judicial confirmations a little differently. I have already consulted with Senator LEAHY, who will become chairman of the committee. Senator LEAHY and I have had an excellent working relationship on a bipartisan basis, and the record shows it. I don't have to go into detail about that. I have recommended to the White House that the it consult with Senator LEAHY and the Democrats, as well as with Arlen Specter, as ranking member, and the Republicans. There is a limited amount of time. We know what happens in a Presidential election year.

Let us make a determination about which judges can be confirmed—judges who meet the standards and criteria of President Bush but who also pass muster in the U.S. Senate on both sides of the aisle. We have had vacancies for interminable periods of time. I have discussed this with Senator LEAHY and with the White House.

I hope we approach the 110th Congress differently. And before this Congress adjourns, the 109th, I hope we will confirm these judges who are on the calendar awaiting floor action.

EXHIBIT 1

JUDICIAL NOMINEES PENDING ON THE SENATE FLOOR

The following nominees were all reported out of the Judiciary Committee prior to the October recess. Eight of the 14 nominees on the floor are in districts where judicial emergencies have been declared.

Nominee	Position	Date Nominated	Total Days Pending
Circuit:			
*Kent A. Jordan	Third Circuit	6/29/2006	161
District:			
Valerie Baker	Central District of California	5/4/2006	217
Nora Barry Fischer	Western District of Pennsylvania	7/14/2006	146
Gregory Frizzell	Northern District of Oklahoma	6/7/2006	183
*Philip Gutierrez	Central District of California	4/24/2006	227
Marcia M. Howard	Middle District of Florida	6/6/2006	184
John A. Jarvey	Southern District of Iowa	6/29/2006	161
*Robert J. Jonker	Western District of Michigan	6/29/2006	161
Sara E. Lioi	Northern District of Ohio	7/14/2006	146
*Paul L. Maloney	Western District of Michigan	6/29/2006	161
*Janet T. Neff	Western District of Michigan	6/29/2006	161
*Lawrence J. O'Neill	Eastern District of California	8/2/2006	127
*Leslie Southwick	Southern District of Mississippi	6/6/2006	184
*Lisa Godbey Wood	Southern District of Georgia	6/12/2006	178

*Indicates a Judicial Emergency.

ATTORNEY-CLIENT PRIVILEGE PROTECTION ACT

Mr. SPECTER. Mr. President, I introduced legislation which will modify practices of the Department of Justice on the attorney-client privilege where the Department of Justice, acting under a memorandum called the

Thompson Memorandum by Deputy Attorney General Thompson, has initiated a policy where requests are made to waive the attorney-client privilege, and if the attorney-client privilege is not waived, then that is considered in the charges brought by the Federal Government, and also a commitment that corporations will not pay counsel fees for their employees whom they are customarily expected to defend. This is an encroachment and a violation of the sixth amendment right to jury trial.

Because of the limited time and other Senators waiting, I will not elaborate upon the provisions of this legislation.

I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD.

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

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

S. ____

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Attorney-Client Privilege Protection Act of 2006''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Justice is served when all parties to litigation are represented by experienced diligent counsel.

(2) Protecting attorney-client privileged communications from compelled disclosure fosters voluntary compliance with the law.

(3) To serve the purpose of the attorney-client privilege, attorneys and clients must have a degree of confidence that they will not be required to disclose privileged communications.

(4) The ability of an organization to have effective compliance programs and to conduct comprehensive internal investigations is enhanced when there is clarity and consistency regarding the attorney-client privilege.

(5) Prosecutors, investigators, enforcement officials, and other officers or employees of Government agencies have been able to, and can continue to, conduct their work while respecting attorney-client and work product protections and the rights of individuals, including seeking and discovering facts crucial to the investigation and prosecution of organizations.

(6) Despite the existence of these legitimate tools, the Department of Justice and other agencies have increasingly employed tactics that undermine the adversarial system of justice, such as encouraging organizations to waive attorney-client privilege and work product protections to avoid indictment or other sanctions.

(7) An indictment can have devastating consequences on an organization, potentially eliminating the ability of the organization to survive post-indictment or to dispute the charges against it at trial.

(8) Waiver demands and other tactics of Government agencies are encroaching on the constitutional rights and other legal protections of employees.

(9) The attorney-client privilege, work product doctrine, and payment of counsel fees shall not be used as devices to conceal wrongdoing or to cloak advice on evading the law.

(b) PURPOSE.—It is the purpose of this Act to place on each agency clear and practical limits designed to preserve the attorney-client privilege and work product protections available to an organization and preserve the constitutional rights and other legal protections available to employees of such an organization.

SEC. 3. DISCLOSURE OF ATTORNEY-CLIENT PRIVILEGE OR ADVANCEMENT OF COUNSEL FEES AS ELEMENTS OF COOPERATION.

(a) IN GENERAL.—Chapter 201 of title 18, United States Code, is amended by inserting after section 3013 the following:

''§ 3014. Preservation of fundamental legal protections and rights in the context of investigations and enforcement matters regarding organizations

''(a) DEFINITIONS.—In this section:

''(1) ATTORNEY-CLIENT PRIVILEGE.—The term 'attorney-client privilege' means the attorney-client privilege as governed by the principles of the common law, as they may be interpreted by the courts of the United States in the light of reason and experience, and the principles of article V of the Federal Rules of Evidence.

''(2) ATTORNEY WORK PRODUCT.—The term 'attorney work product' means materials prepared by or at the direction of an attorney in anticipation of litigation, particularly any such materials that contain a mental impression, conclusion, opinion, or legal theory of that attorney.

''(b) IN GENERAL.—In any Federal investigation or criminal or civil enforcement matter, an agent or attorney of the United States shall not—

''(1) demand, request, or condition treatment on the disclosure by an organization, or person affiliated with that organization, of any communication protected by the attorney-client privilege or any attorney work product;

''(2) condition a civil or criminal charging decision relating to a organization, or person affiliated with that organization, on, or use as a factor in determining whether an organization, or person affiliated with that organization, is cooperating with the Government—

''(A) any valid assertion of the attorney-client privilege or privilege for attorney work product;

''(B) the provision of counsel to, or contribution to the legal defense fees or expenses of, an employee of that organization;

''(C) the entry into a joint defense, information sharing, or common interest agreement with an employee of that organization if the organization determines it has a common interest in defending against the investigation or enforcement matter;

''(D) the sharing of information relevant to the investigation or enforcement matter with an employee of that organization; or

''(E) a failure to terminate the employment of or otherwise sanction any employee of that organization because of the decision by that employee to exercise the constitutional rights or other legal protections of that employee in response to a Government request; or

''(3) demand or request that an organization, or person affiliated with that organization, not take any action described in paragraph (2).

''(c) INAPPLICABILITY.—Nothing in this Act shall prohibit an agent or attorney of the United States from requesting or seeking any communication or material that such agent or attorney reasonably believes is not entitled to protection under the attorney-client privilege or attorney work product doctrine.

''(d) VOLUNTARY DISCLOSURES.—Nothing in this Act is intended to prohibit an organization from making, or an agent or attorney of the United States from accepting, a voluntary and unsolicited offer to share the internal investigation materials of such organization.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 201 of title 18, United States Code, is amended by adding at the end the following:

''3014. Preservation of fundamental legal protections and rights in the context of investigations and enforcement matters regarding organizations.''.

ATTORNEY-CLIENT PRIVILEGE PROTECTION ACT OF 2006

The bill protects the attorney-client relationship by prohibiting federal lawyers and investigators from: (1) requesting that an organization waive its attorney-client privilege or work product doctrine; and (2) conditioning any charging decision or cooperation credit on waiver or non-waiver of privilege, the payment of an employee's legal fees, the continued employment of a person under investigation, or the signing of a joint defense agreement.

All of the acts and considerations prohibited by the bill are acts and considerations that federal prosecutors must factor into any corporate or organizational charging decision under DOJ's Thompson Memorandum, which is described in more detail below.

The bill is appropriately narrow. It allows organizations to continue offering internal investigation materials to prosecutors, but only if such an offer is entirely voluntary and unsolicited by the prosecutors. The bill also allows prosecutors to seek materials that they reasonably believe are not privileged.

Mr. SPECTER. I well understand that there will be no action on this matter during this Congress, but I want to put it into the public milieu so there can be comment about it and it will be pursued in the next Congress. The Department of Justice has advised that they are going to revise the Thompson Memorandum to a memorandum called the McNulty Memorandum from the Deputy Attorney General. I had hoped we would have had it before the Senate went out of session so that we could have reviewed it and perhaps accepted their work, but it is not ready. I have advised Deputy Attorney General Paul McNulty and also Attorney General Gonzales that this legislation would be introduced and we can work on it in the next Congress.

HEDGE FUNDS

Mr. SPECTER. Mr. President, I will include for the RECORD proposed legislation to deal with hedge funds. The Judiciary Committee has had a series of hearings on this important subject, now $1.3 trillion in the economy, 30 percent of the stock transactions. After reflecting on the matter, I have decided not to introduce the legislation but simply to put the draft bill in the record so that there can be further comment. I talked about this proposed legislation earlier this week and had said that I was going to introduce the legislation, but I want to give interested parties more time to comment on it.

I ask unanimous consent that a summary of the bill and the bill itself be printed in the RECORD. I am not introducing the bill. I do not look for a Senate bill number on it. But it will be in the public record, and there will be more time for people in the profession to evaluate and comment upon it.

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

S. ____

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Criminal Misuse of Material Nonpublic Information and Investor Protection Act of 2006''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Unlawful insider trading causes a loss of confidence in the integrity of the securities markets, increases the cost of equity capital, and places small investors at a disadvantage.

(2) Unlawful insider trading and other misuse of material nonpublic information is insidious and has become pervasive. The number of insider trading referrals to the Securities and Exchange Commission from the New York Stock Exchange has doubled in the past 2 years.

(3) There is a need to increase the probability that wrongdoers will be detected and successfully prosecuted and to decrease the opportunity for misuse of material nonpublic information.

(4) Criminal prosecutions and effective compliance programs are the most effective deterrent to unlawful insider trading and other misuse of material nonpublic information.

(5) Effective criminal enforcement has depended on close cooperation and sharing of expertise and duties of investigation among civil regulatory agencies, such as the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Department of Justice, and self-regulatory organizations. Certain recent court decisions have chilled this cooperation.

(6) Misuse of material nonpublic information by manipulating the grant dates of stock options or timing of publication of material nonpublic information for purposes of more profitable trading is a form of unlawful insider trading that harms investors. Public companies that adhere to a regular and objectively identifiable program for selecting option grant dates presumptively are not engaging in fraudulent behavior regarding the grant of those options.

(7) The hedge fund industry currently accounts for approximately 30 percent of all United States equity trading volume, and this percentage has been growing rapidly. A substantial percentage of the open investigations of insider trading by the Securities and Exchange Commission in 2006 involve hedge funds.

(8) Hedge funds increasingly are making loans, participating in private placements, and sitting on bankruptcy committees and corporate boards. These changes increase hedge funds' access to material nonpublic information. Pressure on hedge funds to deliver high returns may increase the risk of insider trading or other misuse of such information.

(9) Light regulation, secrecy, unregulated recordkeeping, and limited compliance programs of hedge funds increase the difficulty of detecting and proving unlawful insider trading by hedge funds.

(10) Hedge funds enhance market liquidity and contribute to pricing efficiency and market stabilization, but these sophisticated instruments should be restricted to wealthy investors. Recent hedge fund collapses and fraudulent trading activities have harmed retirees and smaller investors who increasingly are exposed to the risk of hedge funds through intermediaries such as pension funds and long term growth and saving vehicles. Requiring registration with the Securities and Exchange Commission by hedge funds or hedge fund advisers that sell securities to or manage investments of pension funds and smaller investors strikes the appropriate balance between investor protection and capital formation needs.

(b) PURPOSE.—The purpose of this Act is to ensure effective criminal enforcement of prohibitions against unlawful insider trading and effective protection of the integrity of the securities markets and investors who use them by authorizing coordination of investigation by civil regulatory agencies and the Department of Justice, providing effective incentives for private citizens to report and provide evidence of misuse of material nonpublic information, requiring hedge funds to create and enforce effective compliance programs and ensure maintenance of records, and removing exemptions from coverage under the Securities Act of 1933, and the Investment Company Act of 1940, for hedge funds that choose to sell to and manage investments of pension funds and retail investors, unless the adviser or manager is registered under the Investment Advisers Act of 1940.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term ''hedge fund''—

(A) means a privately offered, pooled investment vehicle—

(i) that is not widely available to the public; and

(ii) the assets of which are managed by a professional investment management firm or other fund manager or adviser; and

(B) does not include a private equity, venture capital, or real estate fund; and

(2) the term ''qualified purchaser'' has the meaning given that term in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2).

SEC. 4. MISUSE OF MATERIAL NONPUBLIC INFORMATION.

Section 1348 of title 18, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) MISUSE OF MATERIAL NONPUBLIC INFORMATION.—

''(1) IN GENERAL.—It shall be unlawful for any person to—

''(A) knowingly use material nonpublic information of a specific nature gained by means other than research and skill as a significant factor in a trading decision (including a decision affecting the timing or volume of trading) in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) (including trading in options contracts), regardless of whether such person owes a duty to, has an agreement with, or makes a disclosure of intent to trade to the source of the information; or

''(B) knowingly use material nonpublic information of a specific nature to establish, or to otherwise manipulate, the grant date or strike price of stock options or the timing of the publication of material nonpublic information for the purpose of creating the potential for increased profitability of the exercise of stock options or other trading in securities.

''(2) PENALTY.—Whoever violates paragraph (1) shall be fined under this title, imprisoned not more than 25 years, or both.

''(c) INVESTIGATIONS OF OFFENSES.—

''(1) IN GENERAL.—The Attorney General may, in the discretion of the Attorney General, and in no way in limitation of any other authority of the Attorney General—

''(A) make such investigations as the Attorney General determines necessary to ascertain whether any person has violated, is violating, or is about to violate any provision of this section;

''(B) request or receive, at any stage of an investigation, evidence concerning such acts or practices as may constitute a violation of this section from the Securities and Exchange Commission, Commodities Futures Trading Commission, or another Federal agency; and

''(C) coordinate the investigation and prosecution of acts or practices as may constitute a violation of this section with the attorney general of any State or States.

''(2) NO REQUIREMENT TO DISCLOSE.—The Attorney General and agents of any other Federal agency have no duty, and shall not be required, to disclose any contact or investigation described in paragraph (1) to any person, except under a court order issued on good cause shown that the sole basis for the civil investigation is to assist in a criminal investigation by the Attorney General.''.

SEC. 5. INCENTIVES FOR PRIVATE CITIZENS TO REPORT AND ASSIST IN THE INVESTIGATION OF UNLAWFUL INSIDER TRADING; PROTECTION FROM RETALIATION.

(a) AWARDS.—

(1) IN GENERAL.—The Attorney General of the United States may award an amount equal to not more than 30 percent of any fine, penalty, or settlement recovered by the Attorney General to a person who provides information leading to the prosecution of unlawful insider trading, or other violation of section 1348 of title 18, United States Code, (as amended by this Act), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or a related wire or mail fraud.

(2) CONSIDERATIONS.—In making an award under this subsection, the Attorney General shall take into account—

(A) the importance of the information provided by the person;

(B) whether the Federal Government had some or all of the information provided by the person before that person provided that information;

(C) whether the information was provided voluntarily;

(D) whether the person was complicit;

(E) the assistance of other persons; and

(F) the amount of the fine, penalty, or settlement from which the award will be paid.

(3) IDENTITY.—The identity of a person providing confidential information regarding unlawful insider trading or related fraud may remain anonymous, and that person may still be eligible to receive an award under this subsection, if that person provides sufficient evidence to allow the identification of that person as the source of that information.

(4) EXCLUSIONS.—A Federal employee or an employee of a self-regulatory organization (as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) may not receive an award under this subsection if the information provided to the Federal Government was gained in the course of the employment of that person.

(b) RETALIATION.—A person who suffers retaliation because that person, in good faith

and with reasonable basis, has provided specific information about unlawful insider trading to the Federal Government, or has assisted in a Federal investigation of unlawful insider trading, may file a private action in a United States district court against the person or entity that has engaged in the retaliation, and may recover damages based on economic losses resulting from such retaliation, and attorneys' fees.

SEC. 6. COMPLIANCE AND RECORDKEEPING BY HEDGE FUNDS AND FUNDS OF HEDGE FUNDS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each hedge fund, fund of hedge funds, and manager of a hedge fund or fund of hedge funds that offers securities to, or manages investments of, residents of the United States shall—

(1) establish a written code of ethics that contains provisions reasonably necessary to prevent misuse of material nonpublic information;

(2) design a formal compliance program and written policies and procedures that address—

(A) safeguarding of material nonpublic information;

(B) misuse of material nonpublic information;

(C) the personal securities transactions and ownership of employees;

(D) employee education and acknowledgment of education;

(E) the role of trained compliance personnel in the monitoring and control of material nonpublic information; and

(F) detection and prevention of misuse of material nonpublic information; and

(3) implement procedures, internal controls, and recordkeeping systems adequate to ensure compliance with the code, program, policies, and procedures described in paragraphs (1) and (2).

(b) PENALTY.—Any hedge fund, fund of hedge funds, or manager or adviser of a hedge fund that fails to comply with subsection (a) and offers securities to, or manages investments of, residents of the United States shall each be fined not more than $5,000 per day of material violation of this section.

(c) ENFORCEMENT.—

(1) IN GENERAL.—Compliance with this section shall be enforced by the Department of Justice and the Securities and Exchange Commission.

(2) RECORDS.—The records of a hedge fund, fund of hedge funds, or manager or adviser of a hedge fund relating to a requirement of this section or compliance with this section are subject to reasonable periodic, special, and other examination by a representative of the Department of Justice or the Securities and Exchange Commission for purposes of determining compliance with this section.

(d) DISCLOSURES.—Each hedge fund and fund of hedge funds shall provide any investor or prospective investor in that hedge fund with information to enhance the ability of that investor or prospective investor to evaluate investment decisions regarding that hedge fund, including information regarding—

(1) the investment objectives, strategies to be employed, and range of permissible investments of that hedge fund;

(2) the risks of making an investment in that hedge fund, including the use of debt to leverage returns;

(3) base-line performance information regarding that hedge fund;

(4) any agreement between the hedge fund and investors that varies the material terms of the arrangements with certain investors; and

(5) whether that hedge fund has engaged qualified external auditors to audit annual financial statements.

SEC. 7. REGISTRATION OF HEDGE FUNDS THAT CHOOSE TO OFFER SECURITIES TO PENSION FUNDS AND SMALLER INVESTORS.

(a) SECURITIES ACT OF 1933.—On and after the date that is 300 days after the date of enactment of this Act, the sale of securities, directly or indirectly, by a hedge fund, fund of hedge funds, or manager or adviser of a hedge fund to a pension fund or investor who is not a qualified purchaser shall be a public offering for purposes of section 4(2) of the Securities Act of 1933 (15 U.S.C. 77d(2)).

(b) INVESTMENT COMPANY ACT OF 1940.—On and after the date that is 300 days after the date of enactment of this Act, a hedge fund manager or adviser that manages, directly or indirectly, the investments of a public or private pension fund or of any person who is not a qualified purchaser may not be determined to be excluded from the definition of an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) based on paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)).

(c) APPLICABILITY.—This section shall not apply—

(1) to any hedge fund or fund of hedge funds if less than 5 percent of the capital of that fund is attributable, directly or indirectly, to investments by pension funds or investors who are not qualified purchasers; or

(2) to a hedge fund adviser, if that advisor is registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940.

SEC. 8. REVISING DEFINITION OF ACCREDITED INVESTOR AS APPLIED RETAIL INVESTMENT IN HEDGE FUNDS.

A hedge fund may not charge a performance fee, if more than 5 percent of the assets under management of the hedge fund are owned by persons whose net worth, or joint net worth with the person's spouse, is less than $3,000,000, excluding the value of the primary residence of the person.

Mr. SPECTER. Mr. President, I urge the confirmation of Dr. Andrew von Eschenbach to be Commissioner of the Food and Drug Administration. Dr. Von Eschenbach is a native Philadelphian. He has had a very distinguished professional record. He has served as the director of the National Cancer Institute. He has made a commitment publicly to lead the way to conquer cancer by the year 2015. Frankly, that is not good enough for me. I think we ought to do it sooner.

In 1970, President Nixon declared war on cancer. Had we pursued that war with the same diligence we have pursued other wars, many people would not have died and many people would not have contracted cancer. Dr. Von Eschenbach has done an outstanding job in his professional career, and he would make an excellent Commissioner of the FDA.

I ask unanimous consent that my statement of his qualifications and background be printed in the RECORD.

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

STATEMENT OF SENATOR ARLEN SPECTER—NOMINATION OF DR. ANDREW VON ESCHENBACH COMMISSIONER OF THE FOOD AND DRUG ADMINISTRATION

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the nomination of Dr. Andrew von Eschenbach to be Commissioner of the Food and Drug Administration. Dr. von Eschenbach brings an extraordinary record to the FDA as he has accomplished a great deal.

I am pleased that the Senate invoked cloture on Dr. von Eschenbach's nomination, and that the Health, Education, Labor and Pensions committee unanimously supported the nomination of such an accomplished Pennsylvanian. A native of Philadelphia, Dr. von Eschenbach earned a B.S. from St. Joseph's University in Philadelphia in 1963, and his medical degree from Georgetown University School of Medicine in 1967. He completed residencies at Pennsylvania Hospital in general surgery and urology and taught urology at the University of Pennsylvania School of Medicine. He also served in the U.S. Navy Medical Corps with the rank of lieutenant commander from 1968 to 1971. Dr. von Eschenbach is a nationally recognized urologic surgeon and oncologist, and his distinguished career as a leader in the fight against cancer spans over three decades.

As Chairman of the Labor, Health and Human Services, and Education Appropriations subcommittee, I have worked with Dr. von Eschenbach in his capacity as director of the National Cancer Institute (NCI). When Dr. von Eschenbach was president-elect of the American Cancer Society, he was selected by President George W. Bush to head the NCI in December 2001. As director of the NCI, he announced in 2003 that his organization's goal was to ''eliminate suffering and death'' caused by cancer by the year 2015.

In 1970, the President of the United States, Richard Nixon, declared war on cancer and had that war been pursued with the same diligence and resources that we pursue other wars, I would not have gotten cancer, my former chief of staff, Carey Lackman would not have died of cancer, a good friend of mine, Paula Kline, wife of Tom Kline, my former law partner, and my good friend Federal Judge Edward Becker would not have died. It is something that we hear about every day. Dr. von Eschenbach, a cancer survivor himself, understands the need for better cancer treatments. During Dr. von Eschenbach's tenure as Director of the NCI, funding for the NCI for FY03 was $4.67 billion. Today, recommended Senate funding for the NCI is $4.8 billion, an increase of $13 million. However, it is concerning that the funding for the NCI in fiscal year 2006 was $50 million less than fiscal year 2005.

If Dr. von Eschenbach is confirmed, I look forward to working with him as Commissioner of the FDA. His expertise, experience, and commitment to public service will be of great services to our nation.

The PRESIDING OFFICER. The Senator from Nevada.

RICK SANTORUM

Mr. ENSIGN. Mr. President, I am going to take a couple minutes to talk about my great friend RICK SANTORUM. Election night; a lot of emotions going on; no question my heart was torn because my best friend in the Senate lost the election that night. I was saddened simply from a personal level, but I was also saddened for our country because I believe RICK SANTORUM has served this country so well. His integrity, his vision—so many things about this man have really been extraordinary.

I have gotten to know a lot of the people around him, his staff. It says a lot about him because of how many of them are sitting in this room today. The quality of the people he has around him says a tremendous amount about

him, as does the passion with which they served him and the passion with which he serves the country.

I also came to know Karen and his six kids. They are extraordinary people. RICK is a great leader of his home. Just seeing the love and respect that Karen has for RICK and that his children have for him as a father says a lot about him as an individual as well.

I am going to keep this short. This is completely from the heart. I can say with confidence that as a human being, there have been maybe as good human beings who have served in this Senate, but there have been no better. He is that quality of a human being. His faith leads him to that. I consider it a great privilege to have served with him and to call him a friend over these last 6 years. I know the friendship he and I share will be a lifetime friendship.

RICK, this body will miss you greatly, but no one in this body will miss you more than I.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Pennsylvania is recognized.

FAREWELL TO THE SENATE

Mr. SANTORUM. Mr. President, let me thank my great friend and colleague from Nevada for his very kind words. I thank him for coming to hear my last speech on the floor of the Senate. I know there are many listening who are applauding at this moment for that. But I come here with a wonderful spirit. I have written on the top of the page the same words that I wrote the night of the election, and that is the word ''gratitude'' because that is all I feel—an incredible sense of gratitude.

Mark Rodgers is my long-time friend and chief of staff, now head of the conference. We were talking again this morning about coming to work every day and walking up to the Capitol Building every day for 16 years now and still feeling that, wow, I work here—every day for 16 years. It was such a gift, such an incredible gift to be blessed to serve the people of the 18th District in the Congress, southwestern Pennsylvania, in Allegheny County, and for 12 incredible years to be able to serve the people of Pennsylvania here.

So first and foremost, I want to thank who is most responsible—and that is God—for this great gift he has bestowed upon me and my family—to be able the serve the greatest country in the history of the world and to serve in a body that is, and hopefully will be, the greatest deliberative body in the world. I think back to my dad, when he came to this country, and my mom, who is a second generation, and I think of how I grew up. It is amazing what a great country this is and how God has bestowed upon me and my family tremendous blessings. So I thank Him for the opportunity he has given me to serve. We are all called to serve. Some are frustrated because they don't think they are in a job or a position in life where they are doing what God has called them to do. God has blessed me with the opportunity to do this and to serve in a way that I hope he has called me to serve.

Second, I thank my family. Karen and the kids are watching. They have suffered a lot and have sacrificed a lot in 16 years. I was telling JOHN the other day that it is amazing how you think you are doing certain things well, and then you have the opportunity to spend a little more time doing those things and you realize how insufficiently you did them in the past. A phrase from the Bible is ringing in my ears, ''the scales falling off of the eyes.'' In the last month or so, I have had a lot of scales fall from my eyes—to see not just what the 2 years have been to my family, which have been a tough 2 or 3 years, but the accumulation of 16 years in what is a very difficult life. I know everybody here recognizes that because you live it. They know how difficult this life is, how public everything we do and say is or what we are accused of. We think we understand how difficult that is for our family, but I don't think we really do. I want to say thank you to Karen, who I picture in my mind with this T-shirt dress she wore and had stenciled on it ''Santorum for Congress.'' She went knocking on doors in 1990, when no one gave us a chance. We did the impossible. We were able to defeat a 14-year incumbent who no one thought could be beat. I would not have even come close to winning that election but for her.

In 1994, it was the same thing. She went out with the two children at home and she spent day after day—not traveling with, no; she was giving speeches in her own right and traveling all over the Commonwealth of Pennsylvania, sacrificing. They continued to do that day after day, year after year. I was a Senator, and I had important things to do.

I tell stories all the time about debates that were held on the floor of the Senate, when I would call Karen and say I had to come back to this very place and say more. There was never a hesitation. She served more than I did. My children—none of them have known their father without being in politics. I got married in 1990 to Karen, and Elizabeth came along 11 months later. Their life has been with their father in politics, in the public arena. They have had to deal with that in both pleasurable ways and some very painful ways. So I thank them for being without their dad far too often. Even when they are with their dad, I am not as attentive as I should have been. But I think they knew and they shared in the endeavor because they knew it was important for them and for our country.

So, hopefully, out of this experience they have been given a sense of purpose, and they know more about what life should be all about and that is to serve—serve God, serve your family, serve your community, and to serve your country. It is a great blessing. I thank them for the opportunity they have given me, through their sacrifice, to do that for the last 16 years.

I thank my mom and dad and Karen's mom and dad and all in our family who have been supportive every step of the way—sometimes wondering why I was doing this, sometimes unable to walk to the end of the driveway and pick up the paper for fear of what next was going to be said about their son-in-law or son. But they stood with us and fought with us and they comforted us. I thank them.

JOHN mentioned the people who are here in this room, my staff.

I ask unanimous consent to have printed a list of all of the folks who worked for us over the last 12 years in the Senate at the end of my remarks.

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

(See Exhibit 1.)

Mr. SANTORUM. Mr. President, I wish I could read all these names, but there are a lot of names. These are people who worked for me in my personal office in Washington and in my offices across the State and the people who worked here in Washington in my leadership office at the Senate Republican Conference. JOHN said it so well. These are incredible people. I have had the opportunity now in the last few days to sit and talk with each one of my staff members to find out what they are doing and to get any final thoughts they would have. One after another, I have been amazed at the dedication, intelligence, caring, and the commitment of service they had to the people of Pennsylvania, or to the causes I have attempted to do my best to fight for in the Senate. These are incredibly talented people whom I have been so blessed to be associated with and to work with.

I looked at the list of our legislative accomplishments and I can say, yes, I worked on that, but on the autism legislation, Jennifer Vesey wrote it, not me. She spent 16 months working with 15 offices. In fact, let me do something at this point.

COMBATING AUTISM ACT OF 2006

Mr. SANTORUM. Mr. President, I ask the Chair lay before the Senate a message form the House of Representatives on the bill (S. 843) to combat autism through research, screening, intervention and education.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

S. 843

Resolved, That the bill from the Senate (S. 843) entitled ''An Act to amend the Public Health Service Act to combat autism through research, screening, intervention and education'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combating Autism Act of 2006''.