Your heavenly grace, and give them courage to face perils with trust in You. Give them a sense of Your abiding presence, wherever they may be.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF ANDREW VON ESCHENBACH TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the nomination of Andrew von Eschenbach, of Texas, which the clerk will report.

The legislative clerk read the nomination of Andrew von Eschenbach to be Commissioner of Food and Drugs, Department of Health and Human Services.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will vote on the motion to invoke cloture on the nomination of the FDA Commissioner, Andrew von Eschenbach. Senators can expect to have this vote around 10:30 to 10:45 this morning, following the 1 hour for debate. As I mentioned yesterday morning, this is a very important position, and to have this confirmation finally being accomplished will be a great achievement for this Congress.

Once cloture has been invoked, we will try to schedule that vote on confirmation early in the day. There are several critical items the Senate must act on before we adjourn sine die, and therefore Senators should adjust their travel plans to be here voting over the coming days.

I will be working with colleagues on both sides of the aisle to wrap up our business for the Congress, and I appreciate Senators' willingness to work together on a number of legislative and executive matters.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

MOVING THE LEGISLATIVE AGENDA

Mr. REID. Mr. President, Andrew von Eschenbach is cleared on this side, so as far as we are concerned there is no need for a cloture vote. We look forward to working with the distinguished majority leader today, maybe tomorrow, maybe Saturday, to try to get as much cooperation out of Senators as possible. I know the finance folks have worked long and hard to try to come up with something that is very important for the country. We will continue to monitor that and do everything we can as we try to move this legislative agenda forward.

PROTECTING AMERICAN VALUES

Mr. FRIST. Mr. President, I will be very brief. I want to speak on another matter. I know we want to get to the hour of pre-vote time here shortly.

Hopefully, tomorrow will officially end the 109th Congress. At the end of the day tomorrow, if we do our work today successfully, and tonight, the Senate will be able to adjourn. That will also mark, once we adjourn, this official change in leadership and change in the Senate agenda. I know many of my colleagues and many of my conservative allies view this change with a bit of trepidation, but change is good, change is constructive. It can be difficult, it can be painful, and it can be messy, but change forces us all to reexamine who we are, where we are, and where we want to go; what we know, what we believe.

I believe it is our responsibility to protect traditional, commonsense American values. I believe when we give the American people the freedom to invest their money as they choose, the economy is going to flourish. It is going to have more freedom to grow. At the end of the day, I believe good leaders don't talk about principles—don't talk about them—but good leaders lead on principle. They act, and they act with solutions, even if they don't know that the outcome is going to be 100-percent successful every time a bill is taken to the floor.

I think that is one of the things that at least I tried to do, is not say let's only take to the floor what will necessarily pass but what is the right thing to do, on principle; what is the right thing for us to be considering.

During my tenure in public office, it is what I tried to do, to lead on principle and act with solutions. It does come from that surgical approach of fixing things, of operating, of action.

For example . . . for 10 years, we grappled with the issue of Internet gambling. We watched the industry mushroom from a $30 million industry in 1996 to a $12 billion industry today. We watched an addiction undermine families, dash dreams, and fray the fabric of a moral society.

So we acted with a solution . . . by passing the Internet Gambling Prohibition and Enforcement Act to provide new enforcement tools to prosecute illegal Internet gambling.

Let me give you a few more recent examples of how we have led on principle, and acted with solutions.

We passed the Adam Walsh Child Protection and Safety Act . . . which creates a national sex offender registry, strengthens measures to prevent child pornography, and reinforces laws against child porn.

We passed the Trafficking Victims Protection Reauthorization Act, which renewed the first federal law to strengthen prosecution efforts against human traffickers.

We passed legislation securing the right to prayer in U.S. military academies.

We passed legislation protecting the Mount Soledad Memorial Cross.

We passed the Broadcast Decency Enforcement Act, which allows for the 10-fold increase of FCC fines for indecency violations.

We passed Cord blood legislation that harnesses the power of stem cells in cord blood to develop new cures for life-threatening diseases.

We passed the Fetus Farming Prohibition Act, which prohibits the gestation of fetal tissue in order to use it for research.

We passed the Stem Cell Research Alternatives bill, which provides federal funding for a variety of stem cell research that do not involve destroying human embryos.

And perhaps most notably . . . we confirmed John Roberts Chief Justice of the Supreme Court . . . and Samuel Alito as an associate Justice of the Supreme Court.

We confirmed 18 Circuit court nominees and 87 District court judges, including six previously obstructed nominees. America needs judges who are fair, independent, unbiased, and committed to equal justice under the law . . . and we made sure that's what America got.

Over the past 12 years, what Republicans have done has changed our economy, our country, and our way of life for the better.

Our record of success, combined with the lessons of November's election, ensures that our party will rededicate itself to serving the interests of America, both here at home and around the world.

That vision—optimistic, forward-looking, hopeful—will be grounded in the fundamentals of commonsense conservative values best found on Main Street and in families with whom we have the privilege of interacting all across the country.

The PRESIDENT pro tempore. Under the previous order, there will be 60 minutes for debate prior to the cloture vote, with time divided as follows: the Senator from Wyoming, Mr. ENZI, or his designee, 30 minutes; the Senator from Iowa, Mr. GRASSLEY, 20 minutes; the Senator from Louisiana, Mr. VITTER, 10 minutes.

Who yields time? The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise to discuss the pending nomination of Dr. Andrew von Eschenbach to be the Commissioner of Food and Drugs. The FDA has a very broad and critical mission in protecting our public health. The Commissioner of Food and Drugs is in

charge of an agency that regulates $1 trillion worth of products a year. The FDA ensures the safety and effectiveness of all drugs, biological products such as vaccines, medical devices, and animal drugs and feed. Let me repeat that: the safety and effectiveness of all drugs, biological products such as vaccines, medical devices, animal drugs and feed. It also oversees the safety of a vast variety of food products, as well as medical and consumer products including cosmetics.

As Commissioner of Food and Drugs, Dr. von Eschenbach would be responsible for advancing the public health by helping to speed innovations in its mission areas, and by helping the public get accurate, science-based information on medicines and food. Dr. von Eschenbach has a strong record. He is an accomplished scientist, a proven manager, and a man with a vision. He is also a cancer survivor, and he has brought that perspective, and the compassion that goes with it, to his Government service. He gave up a job he loved, a challenging but rewarding post directing the National Cancer Institute, to offer his service for what I believe is a much more challenging and definitely thankless job of leading the FDA.

The FDA has been without a confirmed Commissioner for all but 18 months of the last 5½ years. Have you ever seen a business that can run for 5½ years without a boss except for 18 months? And that was a tenuous 18 months. I believe we can all agree that we need a strong leader at the FDA now, and one who has a mandate to act. He needs full authority to bring back the morale of the Department and get the job done. We must be forward looking. There are many items before the FDA that require the immediate attention of an FDA Commissioner vested with full authority. But that authority flows directly from the act of Senate confirmation. Without a Senate-confirmed leader, we can't expect the FDA to be as effective as we need it to be. I urge my colleagues to consider this.

I know some of my colleagues on and off the committee are not completely satisfied with their interactions with the FDA during Dr. von Eschenbach's tenure. Some would urge that the Food and Drug Administration move quickly on certain matters before it. However, I am not sure that holding up a nomination over single products or single issues is the right way to achieve faster action and to ensure that agency processes are free from the pressure of politics. In fact, I strongly believe the opposite would occur. I think this is a position that has more Catch-22s than any other position in Government.

I do respect the right of my colleagues to disagree with the President's choice for this position or the policies a President's nominee might pursue. If our disagreements with the President's choice are so strong, we ought to vote against the nominee. But, in light of the trillion dollars worth of drugs and products overseen by the FDA and hundreds of drug approvals reviewed every year, I think we would be setting a dangerous precedent if any of us hold up the President's choice for FDA Commissioner over decisions made involving one product or one issue or something extraneous, even, to the Food and Drug Administration. It would be an especially dangerous precedent at this point.

We have a lot on our plate with respect to the FDA during the 110th Congress. We have to reauthorize both the drug and device user fee programs, address two expiring pediatric programs, and improve our drug safety system.

The FDA needs a leader with the backing and mandate that Senate confirmation provides in order to be our partner in these efforts. Dr. von Eschenbach has received significant support from the HELP Committee. This man could serve patients in many different ways, and has offered to serve them by running this critically important agency. I am talking about a doctor with cancer expertise, management expertise, and vision, who has agreed to run this agency at what we pay because he wants to give back to his country.

I urge my colleagues who are not on our committee to give Dr. von Eschenbach a chance to effectively run the FDA with full statutory authority, so I urge my colleagues to accept the President's nominee, Dr. Andrew von Eschenbach, and vote to confirm him as the next Commissioner of Food and Drugs. Voting yes on this cloture vote will be the first step voting on a permanent head to oversee our Nation's food and drug system.

I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, my opposition to the cloture motion is as much about whether we are going to be able to fulfill our constitutional responsibilities of oversight of the administrative branch of Government as it is about the particular qualifications of the nominee. I intend to vote against cloture and I hope that Democrats who are listening—particularly those Democrats in the last election who were bellyaching because there wasn't any oversight on the part of Republicans toward the executive branch of Government—would pay attention to the fact that this nominee has something to do with and is an illustration of the lack of cooperation on the part of the executive branch, failure to cooperate with Congress on the issue of congressional oversight.

I have serious concerns about what this cloture vote means, then, to congressional oversight of the executive branch now and in the future, and what it means for Members such as me, who placed a hold on this nominee. This was not a secret hold. I made this hold public.

I am voting against cloture and ask my colleagues to join me because I believe we need to send a message to the executive branch that it is not OK to impede congressional investigations. It is not OK to limit the Senate's access to documents, information, and employees of the executive branch. In his book on congressional government, Woodrow Wilson, before he was President, when he was a professor at Princeton, wrote, in 1885: ''Quite as important as lawmaking is vigilant oversight of the administration.''

Our work as lawmakers does not end with the passage of a bill. This body has a responsibility to the American people to make sure that laws work and that they are being implemented effectively, efficiently, and economically. Congressional oversight serves very important goals, and we should not lose sight. They include reviewing actions taken and regulations adopted by executive agencies to make sure that the agencies are executing law according to the intent of Congress, and, second, ensuring that the Federal Government is not wasting taxpayers' dollars. Oversight work allows us to evaluate the ability of agencies and managers to carry out program objectives and improve the efficiency, effectiveness, and economy of Government programs; next, ensuring that executive policies reflect the public interest and that public interest is expressed in the laws of Congress; and, lastly, protecting the rights and liberties of the American people.

Woodrow Wilson also said in his book that:

> It is the proper duty of a representative body to look diligently into every affair of Government and to talk much about what it sees. It is meant to be the eyes, the voice and embody the wisdom and the will of its constituents.

In America, with our Government, the public's business ought to be public. But when you have coverups and the lack of information going to Congress, as demonstrated by this request for documents, and when we get a document back with practically 57 pages removed, what is in those 57 pages that we ought to have access to? That is just one example of lack of information and the lack of cooperation from this agency.

Throughout history, Congress has engaged in oversight of the executive branch. The right to congressional oversight has been asserted from the earliest days of our Republic. In 1792, the House invoked its authority to conduct oversight when it appointed a committee to investigate the defeat of General St. Clair and his Army by Indians in the Northwest and empowered the ''call for such persons, papers, and records as may be necessary'' for that inquiry.

In fact, the Constitution grants Congress extensive authority to oversee and investigate executive branch activities.

Congressional oversight was also recognized explicitly in the passage of the Legislative Reorganization Act of 1946,

which required the standing committees of Congress to exercise continuous watchfulness over programs of agencies in their jurisdiction. Numerous Supreme Court decisions will support all the precedents for Congress to see all aspects of the Federal Government.

In 1927, in McGrain v. Daugherty, the Supreme Court upheld congressional authority to conduct oversight of the Teapot Dome scandal. Justice Van Devanter writing for the unanimous Court stated:

> We are of the opinion that the power of inquiry with the process to enforce it is an essential and appropriate auxiliary to the legislative function.

To do oversight, Congress needs access to information and people in the executive branch. And that is what I did not, and still may not, be getting from the FDA under the leadership of Dr. Von Eschenbach—as an example, 47 pages removed; another example, 43 pages removed.

How are you going to conduct oversight when you get answers such as that from the Food and Drug Administration?

I take exception to the statement made in support of the cloture motion. People ought to be ashamed of saying Dr. Andrew von Eschenbach has done a superb job in the position he is currently occupying with an answer such as that to the Congress of the United States. That is an insult. Before you cast your vote in favor of cloture, consider what is at stake—and particularly Members on the other side of the aisle who, during the campaign, in campaign commercial after campaign commercial after campaign commercial, said Congress is not doing its job of oversight, implying that Republicans were covering up wrongdoing by the administration. If you want to preserve your access to information and do the oversight that you think you are going to do, when you are in the majority and you get answers such as that, do you think you are going to be able to do the job of oversight?

In my interactions with the Department of Health and Human Services and the FDA these last 8 months, I have seen a complete and utter disrespect for congressional authority and hence the law. The department and the Food and Drug Administration have repeatedly failed to act in good faith in responding to congressional investigations—and the lack of 43 pages is just one example.

Although the Director's leadership at the FDA has failed to fully comply with two congressional subpoenas that were issued 7 months ago, efforts to accommodate the agency's concerns fall on deaf ears, and I wonder if I am dealing with dysfunction by design. Not only has the NEDA withheld documents that do not appear to be privileged, but it also says what has been withheld and why. The subpoenas compel a privilege log, but the FDA has not provided us with that privilege log.

For Democrats in the majority next year doing the oversight that they said they were going to do because Republicans weren't doing it—they didn't let me—let me ask you this: Are you going to be able to conduct oversight when you get answers such as that? Are you going to be able to conduct oversight when, for 7 months, you don't get your subpoenas responded to? What is the agency's explanation? The FDA has said that many documents have been withheld, that it is unduly burdensome to provide a privilege log. Even in the FDA, general counsel, as recently as Tuesday of this week, could not see why the agency needed to comply with the law and the terms of the subpoena which was issued by the committee.

In denying the committee access to the documents responsive to the subpoena, which the department and the FDA administration have claimed ''prosecutorial deliberative process'' or ''confidential communications'' or ''agency prerogatives'' to determine who will be interviewed and testify before a jurisdictional committee, when those on the other side of the aisle get answers such as that when you are going to be in the majority, what are you going to do about it? Are you going to keep your commitment to the American people when you won the majority? And are you going to be able to do the oversight when you get rationales such as ''prosecutorial deliberative process'' or ''confidential communications'' or ''agency prerogatives?''

I could not talk to a line agent named West because you can't talk to line agents, when 3 months before I talked to line agents? There was someone from the Justice Department before the Judiciary Committee, when Senator KENNEDY said, ''I want access to line agents,'' unrelated to what I am talking about: Line Agent West, whom I wanted to talk to and I was told I couldn't talk to because you can't talk to line agents, the official at the Justice Department said to Senator KENNEDY:

> You can talk to line agents. We will get them for you.

I do not know whether that ever happened. But that was the answer.

When I went around doing my questioning of Justice Department officials, I said: What about my ability to talk to Line Agent West? It just seemed as if I was going to be able to talk to Line Agent West. But yet this very day the Justice Department is advising the Secretary of the Interior that we can't talk to Line Agent West, which is key to whether some of these investigations are allowing dangerous drugs on the market. In Cedar Rapids, IA, I have a family that lost an 18-year-old because of a drug that was on the market then and which is not on the market now.

It seems to me that if you are concerned about the safety of drugs, this information is important, and if you are going to have it covered up in the FDA, you aren't protecting the public. If Congress knows about it, you are not doing your job of oversight.

This past summer I asked the Congressional Research Service to look into the department's policies regarding this matter. And the Congressional Research Service told me that there is ''no legal basis'' for the department's executive branch assertion. The legal analysis provided by Congressional Research Service supports the committee's position that these executive agencies' claims have been consistently rejected and compliance with congressional requests in the past has been forthcoming. The CRS cites numerous court cases which establish and support Congress's power to engage in oversight and investigate activities and its access to executive branch personnel and documents in carrying out our powers of oversight.

The Department of Health and Human Services, the FDA within Health and Human Services, says it has been responsive because the agency made available hundreds of thousands—even millions—of pages of documents to the Finance Committee in response to its subpoena. But the agency can give me all of the books and all the documents housed at the Library of Congress and it won't matter if it is not what I have asked for and the pages are removed.

It is this type of cooperation that I am getting under this Director that you are now going to confirm. I am very concerned about the cooperation, if any, that we have once he becomes a permanent commissioner. Every Member of Congress should be equally concerned if they take their constitutional duty of conducting oversight of the executive branch seriously, and most importantly to the new majority when you are going to carry out your campaign promises to make sure that there is proper oversight, checks and balances against an executive branch of Government you think is exceeding authority. Every Member should be concerned. I cannot emphasis this enough.

A vote for cloture today is a vote against oversight, and that is not what this Senate should be doing. It is not what the American people sent us here to do. We need to step up congressional oversight to protect our Nation's system of checks and balances and not reward those who seek to impede our constitutional authority.

This body should not walk hand in hand with the executive branch and sit idly by as instances of abuse and fraud continue to endanger the health and safety of American people. This Senate needs to make it clear to the executive branch that Congress takes its oversight responsibilities seriously and to vote against cloture. If we do have cloture, I will have other remarks during postcloture debate.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Wyoming.

Mr. ENZI. Madam President, I want to briefly comment.

I understand the frustration. I have been working with him trying to get documents, trying to get the interview

with Mr. West. I want you to put yourself in Dr. Von Eschenbach's position. He has not been confirmed. He does not have the full authority to run that department. So what he has to do is rely on the Department of Justice, as the Senator mentioned. The Department of Justice tells him what he is supposed to do. I don't think he has authority to go beyond what the Department of Justice says.

The Senator is one of the most diligent Members to hold oversight hearings of anybody that I know. I appreciate the depth that you go to for individuals as well as groups. I know it is what you are doing on this one. Unless we give him full authority, he has to rely on the Justice Department. The way one has to take on the Department of Justice is through the Judiciary Committee and bring them to task for giving him that kind of advice. I think he is just following the advice he has gotten from those he has to rely on until he has authority. I think it will be different when he has full authority.

I yield 2 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, during my time of almost 7 years as chairman of the Appropriations Committee, I have met with Dr. Von Eschenbach quite often. We had many requests for documents. I can't remember once that he refused. But beyond that, I came to the floor today to say that I have gotten to know Dr. Von Eschenbach personally, and I can't think of a more qualified man at this time to be confirmed to this position. I hope the Senate will vote cloture and we will confirm Dr. Andrew von Eschenbach as requested by the President. I thank the Chair.

Mr. ENZI. Madam President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I thank Senator ENZI for giving me this time. I am pleased to rise to support Dr. Andrew von Eschenbach's nomination for Commissioner of the Food and Drug Administration. I am speaking about a person whom I know. I know him as a person. I know him as a human being. I can say, with full confidence, there is no one more qualified and more well suited to lead this very important agency.

I was very pleased the committee overwhelmingly, unanimously, supported his nomination. Not only is Dr. Von Eschenbach a wonderful friend of mine, but he is so qualified for this position. His experience and integrity make him the right choice to lead the FDA.

He is a nationally recognized urologic surgeon, medical educator, and cancer advocate. He is a three-time cancer survivor. There is no one who can understand what it is like to go through a fight against cancer than someone who has done it. So many doctors haven't had that experience, one might not get the impression that they really understand what a patient is going through. Not Dr. Andy von Eschenbach. He has been through the hard time of being told he has this dreaded disease and fighting it with all his might. He does relate to patients' struggles.

During his 25 years at the University of Texas M.D. Anderson Medical Center, he led a faculty of 1,000 cancer researchers and clinicians. He was the chief academic officer at this great cancer institution. He was also the founding director of M.D. Anderson's Prostate Cancer Research Program. In this position, he developed integrated programs to study, treat, and prevent prostate cancer. Before arriving at M.D. Anderson, he served his country as lieutenant commander in the U.S. Navy Medical Corps from 1968 to 1971. In 1976, he joined M.D. Anderson as a urologic oncology fellow. He became part of the faculty and was named chairman of the Department of Urology in 1983.

When he left M.D. Anderson in 2002, he became Director of the National Cancer Institute. At the time, he was president-elect of the American Cancer Society which, of course, is one of the leading organizations in our country that fights for victims of cancer.

He has, also, been published in more than 200 publications. This year, Time Magazine named Andy von Eschenbach as one of the 100 people who shape our world.

The FDA is fortunate to have Dr. von Eschenbach. It is one of the Nation's oldest and most respected consumer protection agencies. It regulates $1 trillion worth of products available to American consumers, and it makes sure the products are safe and effective.

Dr. Von Eschenbach is the right person to lead the FDA's mission. I completely trust him. I cannot think of a more qualified candidate. I hope we will put politics aside in this very important nomination and we will confirm this very qualified individual. He is balanced. He has good judgment. He will continue to be a cancer advocate as well as a patient advocate.

He knows, also, from the FDA standpoint, of the issues involved with the drug approval process—that products face extensive testing and studies compared to other countries. I have talked to him about this. Of course, their first and foremost responsibility is safety. That is why they have this arduous and comprehensive process of approving drugs.

On the other hand, he also knows you need to make drugs available for patients who otherwise may not survive. He realizes these concerns from every angle. He knows it from the research angle, from the academic angle, from the Government angle, and from the patient advocate angle.

It would be a tragedy if we did not give him the full authority and the full congressional confirmation he deserves. He deserves it because he left the private sector at a world renowned cancer research institution to serve his country and the responsibility it takes in a high public policy position.

Sometimes I wonder how we attract such qualified academics and people who are not experienced in this arena. They are not used to the compromise of politics. They have been researchers and in academia all their lives. They come into public service and all of a sudden they are hit with the public exposure and scrutiny. Sometimes they are unfairly characterized in a way they never dreamed.

Yet we have someone of the caliber of Andy von Eschenbach willing to take all of that to do something better for our country and for cancer patients in the country and in the world. We owe him the ability to have this position without any further delay, with the complete imprimatur of the Senate as well as the President of the United States. He deserves it.

I hope our colleagues will look at this, not from a political prism but from the standpoint of a qualified individual who is trying to help medical research and safety in this country go forward, who is a patient advocate, first and foremost.

I thank Senator ENZI and Senator KENNEDY for working together to bring this nomination to the Senate. We should have a bipartisan vote in confirming Dr. Andrew von Eschenbach.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I rise today to speak against the cloture motion to confirm Dr. Andrew von Eschenbach as Commissioner of the FDA. I have had a public hold on this nomination and have been very upfront about it. Because my serious concerns have not been addressed in any significant way, I will vote against cloture. If cloture is invoked, I will vote against the nomination.

In doing so, I want to be clear I have nothing against Dr. Von Eschenbach's technical credentials or professional experience. They are very impressive in many ways. I strongly object to this nomination because the FDA and Dr. Von Eschenbach, acting on orders from the administration, has had a complete and utter lack of action creating a reasonable, safe system for reimportation of prescription drugs from Canada and elsewhere.

Clearly, this nomination making him the permanent head of the FDA will only further delay that reasonable implementation of a good, safe reimportation policy. In fact, at my extensive meeting with Dr. Von Eschenbach, my discussion with him made that perfectly clear. I give him credit, I suppose, for being very direct about that, although I am not sure he fully understood my serious interest in reimportation. It is for this reason I will vote against cloture. If cloture is invoked, I will vote against the nomination.

The FDA is completely capable of setting up a reimportation system, one that is safe and effective. The FDA can do this. It is not a matter of technical ability. We have great technical and other resources in this country. It is a matter of political will. At any time, the FDA could act and set up this safe and reasonable system.

My hold on this nomination, as I said, was very public, upfront, and clear. I made it clear I would lift it, contingent on a very simple request to implement some sort of prescription drug reimportation plan—perhaps beginning with personal reimportation from Canada, including Internet and mail order sales. The FDA could do this. It is fully capable of doing this. It has the know-how to do this. It simply will not because of lack of political will.

The need for this is very obvious to me. Every time I talk to consumers in Louisiana, particularly seniors, it becomes more and more obvious. As obvious and as important is the growing support for this—not just out in the country where that support has always been strong but in the Congress, in the Senate, in the House.

The House passed comprehensive drug reimportation language in 2003. It passed it by an overwhelming majority. More recently, the Senate passed my amendment coauthored by Senator BILL NELSON of Florida by a vote of 68 to 32. That was this past July. That was a significant breakthrough because it was the first time we had a meaningful, straight up-or-down vote on a reimportation issue in the Senate. Again, the vote was clear. It was overwhelming. That important amendment passed 68 to 32.

All this shows that the majority of Americans strongly support allowing all Americans to purchase safe, cheaper prescription drugs from Canada and elsewhere. Yet the administration absolutely refuses to budge. Not only does the administration refuse to budge, it even went so far as to quietly implement a new policy last year at U.S. Customs and Border Protection to go after individual American citizens crossing back into the United States from other countries—mostly Canada—with medicine, actually seizing their packages containing legal medication at those border checkpoints. That is a very high-handed policy, when these citizens are doing nothing but trying to get absolutely necessary prescription drugs at a reasonable cost.

Coupled with the FDA and the administration's stubborn reluctance to implement even the most modern program, this has led me to conclude that no change would be made with the confirmation of this nominee.

Again, this is an issue of utmost importance to every American family and, of course, it particularly impacts seniors. I talk to affected families and affected seniors in Louisiana about this all the time. They tell me, at a time when pharmaceutical companies are making record profits, the costs of prescription drugs are still skyrocketing and the very same medicines usually manufactured by the very same companies are sold at a fraction of the costs a few miles north of the border in Canada or in other countries around the world. Louisianians see that and they are very skeptical. They should be. I share that attitude. I share that skepticism.

Opposing the right of an American to buy prescription drugs, FDA-approved medication they intend to use for themselves, is a wrong policy. We pay the highest prices in the world for prescription drugs in America. Our prices subsidize not only rockbottom prices in almost every other country but also sky-high and escalating profits of the pharmaceutical companies. That is not fair. That should not be allowed to continue. That is why we need to pass this important policy of reimportation.

Many of my colleagues have spoken about this significant issue in the Senate.

In September, my colleague from Michigan spoke of her bus trips with her constituents to Canada where they were able to buy safe, FDA-approved drugs at a fraction of the U.S. cost: Lipitor, a very important cholesterol-lowering drug, for 40 percent less; Prevacid, an ulcer medication, for 50 percent less; antidepression medications such as Zyprexa for 70 percent less.

In June, my colleague from North Dakota spoke eloquently about the need to allow the reimportation of safe drugs as a way to pressure U.S. pharmaceutical companies to lower prices here. That is the key, not just offering this option of cheaper drugs from another source but breaking up the present system that allows companies to charge dramatically different prices for the same drug around the world. And, of course, the highest prices in the world by far are right here in the United States. That system will not be able to withstand reimportation. That system will fall with reimportation.

So that is why I continue this fight. That is why it is so important. Although certainly this nominee may very well be confirmed by the Senate today, I am very optimistic that, as we make progress on this issue, we march to a very certain victory, probably next year, on the issue.

Again, we have been making steady progress. My amendment this past summer—the first vote on the floor of the Senate—was a breakthrough vote that showed overwhelming support here on the floor of the Senate for reimportation. Previous House votes, similarly, showed not just majority support, overwhelming support for this change in policy. Just recently, I again joined with Senator BILL NELSON of Florida to put up another important amendment to the Agriculture appropriations bill that would go a step further. We will continue to pursue that. Then, next year, I fully expect a full-blown reimportation plan to be here on the floor of the Senate for a full debate and a fair vote.

So as I oppose cloture, as I oppose this nomination, I do so in that spirit and with real optimism that we are not only making progress, but we will, in fact, win on this issue in the near future. Next year, I expect my bill to be fully debated. In this Congress, that bill is S. 109, the Pharmaceutical Market Access Act. I believe it will reach the floor and will get a full debate with other significant bills on the issue next year.

I look forward to that continued progress. I look forward to that ultimate victory because Americans, particularly seniors, all across our country, including in Louisiana, need this very important relief. We can give them this relief in a safe, reliable way to dramatically bring down prescription drug prices.

With that, I yield back the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Wyoming.

Mr. ENZI. Mr. President, I wish to acknowledge the intense, enthusiastic, and persistent work of the Senator from Louisiana, Mr. VITTER, for drug importation. I do not know that I have seen anybody lead as much on an issue or work as hard on an issue. Around here, that is a talent which is very much appreciated.

I do want to mention that, again, Dr. Von Eschenbach has not been confirmed, so he does not have full authority to run the Department or to do what he would like to do or might need to do. He has to rely on the advice of other people, particularly until he is confirmed. After that, even then, he will have to abide by the laws.

I would point out that drug importation is illegal right now, and it is Congress, not the FDA, that has determined that. So until we change the law, until we do some or all of the things the Senator from Louisiana is suggesting, Dr. Von Eschenbach would really be stepping out of bounds to do drug importation. So I hope we do not hold that against him or hold up his nomination for that reason. We should hold him accountable for what is within his control, but urge him to work with Congress.

I have had dozens of meetings with him on a variety of issues, as Senators have brought them up. Most of them have been resolved. Those within the law, those the Department of Justice has not contested, have been resolved.

Mr. VITTER. Will the Senator yield very briefly?

Mr. ENZI. Yes.

Mr. VITTER. Just very briefly, first of all, I appreciate your kind comments. Very briefly, my comments regarding his and FDA's ability to move forward on this is based on current law, including the Medicare Modernization Act, which says that if they institute a safety regime and certify the safety of these drugs, they can, in fact, move forward with the reimportation regime.

So under present law, that is possible, and that is what I was referring to. But I respect the Senator's point of view.

Mr. ENZI. I appreciate that comment. If you were a person who was in a catch-22 position, a very qualified doctor, and you really wanted to do a good job with FDA and you knew that half the people or a third of the people or even 10 percent of the people did not want drug importation and you were the guy in charge of maybe making this determination for the first time—even though 6 or 8 years previously Congress had opposite opinions on it—I do not think you would want to put yourself in that position.

He has just had a number of catch-22 positions where he can irritate half or more of us by making a decision, and nobody is going to make a decision in their confirmation process that way.

It is actually the Health and Human Services Secretary who has to certify under the new law as well.

So I hope we can get him confirmed and then do the kind of oversight we need to do to make sure he does everything that is possible to make sure we have safe food and drugs.

Mr. President, I yield up to 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I did not plan to talk about drug reimportation, but coming on the heels of this conversation, I simply want to make this one observation: The key statement made by the Senator from Louisiana was safe drug reimportation. And the key problem here is certifying that the drugs coming across the border—after they have been sent and then are reimported are, in fact, the same drugs, they are, in fact, safe.

The Congress has said the drugs can be reimported back into the United States as soon as the Secretary can certify that they are, in fact, safe. I have seen the sample runs, if you will, that have been made on this issue. They have found again and again that a certain percentage of the drugs coming back are, in fact, not drugs manufactured in the United States. They have been manufactured elsewhere, packaged in Canada or Mexico or wherever, and then sent back to the United States fraudulently, as if they were, in fact, the original drugs.

Now, they have not yet killed anybody that I know of. They are not so unsafe that they have, in fact, poisoned anybody. Overwhelmingly, the history has been that the dosage in the drugs is simply not the same as advertised in the drugs manufactured in the United States. They have traces of whatever the drug might be in the fraudulent packages, but the dose control is not the same, and it is dangerous to the individual taking the drug if he or she assumes they are getting a certain dosage and, in fact, they are getting less.

That has been the challenge. That has been the problem. And until the Secretary of HHS, be it Donna Shalala or Michael Leavitt, can come forward and certify that all of these are, in fact, as advertised, it is the law that they cannot be brought into the United States. I think that is an appropriate law protecting people in the United States.

I agree with the Senator from Wyoming that it really is not appropriate to hold up Dr. Von Eschenbach's confirmation on this issue because it has to be decided by the scientists and those who are doing the sampling of the shipments rather than the head of the FDA.

I have gotten to know Dr. Von Eschenbach as the chairman of the Agriculture Appropriations Subcommittee. You usually think of agricultural appropriations in terms of crop supports and USDA activities. But for whatever reason, in its wisdom, Congress at one point put jurisdiction over the Food and Drug Administration into that subcommittee. So, if you will, I have been in the position of dealing with this man as he has come begging.

As we are in the Appropriations subcommittees, everybody who has responsibility over which we have control comes begging; that is, they come asking for things, they come outlining their position, and they come describing what they will do with the money. All of us who have been on the Appropriations Committee have had this experience with a wide variety of people from the executive branch. I have never seen anyone who has come before our subcommittee better prepared, with a better understanding of how the money will be spent, and with more vision as to where the money ought to be spent to take the agency into the future than Dr. Von Eschenbach.

We have not just sat and discussed budget issues; we have not just sat and talked about dollars and cents—what are you going to spend here and what are you going to spend there—he has outlined for me in our conversations where he thinks the FDA of the future ought to be and what it will cost to get it there.

I have been very struck and impressed by his vision for the FDA. This is not a man who is content to simply superintend what he has on his plate. This is a man who has the capacity to look to the horizon, and maybe even over the horizon, to see where America ought to be.

In the practice of medicine right now, drug therapy is the cutting edge. Yes, we are developing new operations. We are developing new surgical procedures to try to push the envelope out further as far as health care is concerned. But the major breakthroughs are coming through drug therapy. There are all kinds of situations now where it can be handled with drug therapy that obviates the need for an operation or any kind of surgical intrusion. The implications of that are huge, and the role of the FDA in that kind of medical revolution of the future is paramount. We absolutely have to have at the head of the FDA, in that kind of revolution, a man who is visionary, a man who looks to the future, and a man who understands the potential that lies in the area which he superintends.

Dr. Von Eschenbach, I am convinced, is such a man. I have his resume. We have heard it outlined here. It is an outstanding resume. But people with good resumes can come before us all the time and, in fact, have no vision. They spend their time tending what is on their own plate. This is a man with vision. This is a man who sees what can happen and who desperately wants to take the FDA in that direction.

He said to me: Senator, I don't feel that I can institute these kinds of long-term changes as long as I am acting. I feel—I think appropriately, from my point of view—that I cannot make these kinds of structural changes in FDA's mission and direction until I have the imprimatur of the U.S. Senate and full confirmation.

The longer we hold up his nomination, the longer we keep him from being confirmed, the longer we will wait for that kind of vision to be established in that agency. I think we have waited too long. I salute the majority leader for his persistence in bringing this nomination to the floor. At this time, with all the other things we have to do before this Congress comes to an end, this is one he could easily have put off. I am grateful that he did not. I am grateful that he filed a cloture motion to hold our feet to the fire on this one and say: It is time for us to act. It is time for us to give this man the imprimatur of our confirmation vote so he can move forward, he can infuse the agency with the kind of vision and excitement that I know he has.

I have spent enough time with him, I have had enough conversation with him—have talked to his peers outside of the agency to know that the President has made an outstanding choice in Dr. Von Eschenbach. We as a country would be well served to have him in this place, and I urge the Senate to invoke cloture and confirm this nomination as quickly as we possibly can.

Mr. HATCH. Mr. President, to me it is simply unconscionable that the Food and Drug Administration, one of the best little agencies in Government, has gone leaderless for such a period of time.

Here we have an agency that governs, by some estimates, 25 cents out of every consumer dollar, and yet we treat it as a stepchild. We do not provide it with the funding it needs. We allow it to exist without a confirmed commissioner for months and months on end, for repeated periods. And yet we expect it to be the vital consumer watchdog agency it was intended to be.

When you think about what this agency does, what the daily business of the FDA is, you can see how dire the situation really is.

This is an agency that makes certain the drugs and medical devices we use

are safe and effective, that the cosmetics, dietary supplements, and over-the-counter medications we count on are sold safely, with truthful and nonmisleading claims. This agency regulates animal drugs and radiological devices and so much more. Yet, time after time, it does without a confirmed commissioner. And this is the absolutely wrong time for that to happen.

Think about the key FDA issues we are facing: the safety of the food supply, how to improve drug safety, instituting a new system of mandatory adverse event reporting for serious events associated with the use of dietary supplements and nonprescription drugs, extending the user fee programs for drugs and devices, and the incentives for pediatric drug testing—and I have named only a few of the issues. We are facing all these pressing public policy issues, and yet we expect the agency to do its job without a confirmed commissioner. That is not right. It is simply not right.

The President has nominated a well-qualified, more-than-capable medical doctor to the position of Commissioner of Food and Drugs.

I know Dr. Von Eschenbach well. He is a man of integrity. He is a good manager. He is a good listener. He knows the importance of working well with Congress, and I believe he will work well with us.

I urge my colleagues—no, I implore my colleagues—to do what is right and vote to invoke cloture on this nomination. It is what Dr. Von Eschenbach deserves. It is what the agency deserves. And it is what the American people deserve.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Utah for his delightful comments. He speaks so clearly and explains things so well. I know of his contacts with Dr. Von Eschenbach. I hope people will follow his advice and vote for cloture.

Dr. Von Eschenbach's qualifications are excellent. He is supported by many organizations. We had received a number of letters in support of his nomination prior to his confirmation hearing. Those were duly entered in the hearing record. However, since then we have received additional letters of support.

I ask unanimous consent that those letters be printed in the RECORD.

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

OMERIS,
Columbus, OH, August 2, 2006.

Hon. MICHAEL B. ENZI,
Chairman, Committee on Health, Education, Labor and Pensions, Dirksen Senate Office Building, Washington, DC.

Hon. EDWARD M. KENNEDY,
Ranking Member, Committee on Health, Education, Labor and Pensions, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN ENZI: On behalf of Omeris, Ohio's bioscience membership and development organization, and our member companies, I am writing in support of the nomination of Dr. Andrew von Eschenbach to be Commissioner of the Food and Drug Administration.

Dr. von Eschenbach is an excellent choice to head the FDA. He has an outstanding career as a physician, researcher, and administrator in both the public and the private sectors. As a physician, he has treated cancer patients for almost thirty years. As a researcher, he has published more than 200 articles and books and was the founding director of M.D. Anderson's Prostate Cancer Research Program. As an administrator, he has served as the president-elect to the American Cancer Society.

It is critically important to our industry and to the nation that the position of the FDA Commissioner be filled. Strong leadership is essential if the FDA is to most effectively fulfill its mission of assuring the food Americans eat is safe and healthful, that the drugs they take are safe and effective, and that the medical devices they rely on for cures and treatment are safe and effective and represent the latest and best that our industry can offer. Experience has shown that a permanent director continued by the Senate is necessary to assure that the agency has the authoritative leadcrship it needs to respond promptly and effectively to all the challenges it faces.

Prompt confirmation of Dr. von Eschenbach is especially important in view of the issues that are currently facing the FDA. Next year, both the medical device and drug user fee programs must be renewed by Congress, and the agreements between industry and the FDA that will be the starting point for the reauthorization are being negotiated right now. The critical path initiative, which offers so much potential for speeding the development and approval of safe and effective products) is just getting off the ground and needs a strong advocate. The challenge of determining how FDA can most effectively conduct postmarket surveillance to assure the safety and effectiveness of approved products is an issue that needs strong leadership from the top. The continuing challenges of food safety and preparation for a pandemic or bioterrorist attack need a strong FDA voice.

Omeris members, Ohio's bioscience companies, help revitalize our state's economy while developing critical tools, treatments, and technologies that benefit the world. Omeris is a focal point for the bioscience and biotechnology community, providing networking and educational events, continually developing web-based resources, addressing public policy, and analyzing resource and funding issues.

We respectfully urge you to support Dr. von Eschenbach's prompt confirmation. Thank you for considering this request.

Sincerely,

ANTHONY J. DENNIS,
President & CEO.

NEW YORK STATE
CANCER PROGRAMS ASSOCIATION, INC.,
Buffalo, NY, August 3, 2006.

To: Senate Health, Education, Labor and Pensions Committee.

From: Dr. Edwin A. Mirand, Secretary-Treasurer, NYSCPA.

Subject: Nomination of Dr. Andrew von Eschenbach as Permanent Commissioner of Food and Drug Administration.

The New York State Cancer Program Association, Inc. supports the nomination by President Bush as permanent Commissioner of Food and Drug Administration (FDA) Dr. Andrew von Eschenbach.

Dr. von Eschenbach's experience as a researcher and physician will provide the FDA with a better focus to confront the challenges and new opportunities facing the agency. Dr. von Eschenbach will lead the agency and strengthen the credibility of its decision-making process.

EDWIN A. MIRAND,
Secretary.

THE AMYOTROPHIC LATERAL
SCLEROSIS ASSOCIATION,
Washington, DC, July 24, 2006.

Hon. MICHAEL ENZI,
Chairman, Health, Education, Labor and Pensions Committee, U.S. Senate, Washington, DC.

Hon. EDWARD KENNEDY,
Ranking Member, Health, Education, Labor and Pensions Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN ENZI AND RANKING MEMBER KENNEDY: The ALS Association strongly supports the nomination of Andrew von Eschenbach, M.D., to be Commissioner of the Food and Drug Administration and we urge the Committee to favorably report the nomination to the full Senate.

The ALS Association is the only national voluntary health association dedicated solely to the fight against Amyotrophic Lateral Sclerosis (ALS), more commonly known as Lou Gehrig's disease. Our mission is to improve the quality of life for those living with ALS and to discover a treatment and cure for this deadly disease.

We believe that strong leadership at the FDA is essential so that the Agency can fulfill its mission and not only ensure that drugs and medical devices are safe and effective, but also that people have timely access to the latest medical technologies. This is especially important for people with ALS, for there is no known cause or cure for ALS, and only one drug available to treat the disease. That drug, approved by the FDA in 1995, provides only modest benefits, prolonging life by just a few months.

Dr. von Eschenbach would provide the vital leadership that is needed at the FDA. Moreover, his diverse background as a physician, educator and advocate will be a tremendous asset to the Agency and to the Nation, for he can view the Agency's mission from many different perspectives and help to foster the collaboration that is so important to advancing medical science and quality health care.

The ALS Association is pleased to offer our strong support for this nomination and again urge the Committee and the Senate to support Dr. von Eschenbach as the next Commissioner of the Food and Drug Administration.

Sincerely,

STEVE GIBSON,
Vice President,
Government Relations and Public Affairs.

CANCER CURE COALITION,
Palm Beach Gardens, FL, August 25, 2006.

Senator MICHAEL B. ENZI,
Chairman, U.S. Senate Committee on Health, Education, Labor and Pensions, Washington, DC.

DEAR SENATOR ENZI: The Cancer Cure Coalition is supporting the nomination of Dr. Andrew VonEschenbach as commissioner of the U.S. Food and Drug Administration and we have today issued a press release announcing our support. Attached is a letter from the coalition to Dr. VonEschenbach which gives the reasons for our support.

The Cancer Cure Coalition supports changes at the FDA which will improve its operation. We believe the appointment of Dr. VonEschenbach will lead to that result. If it would help your committee in its decision on Dr. VonEschenbach's appointment I would be pleased to appear before the committee to testify. My bio appears on the Cancer Cure Coalition's website

www.cancercurecoalition.org and I am attaching a copy of it for you to review.

If you need any further information please feel free to contact me.

Sincerely,

CHARLES A. REINWALD,
President.

Mr. ENZI. Those letters are from Omeris, Ohio's bioscience membership and development organization; the New York State Cancer Association; the ALS Association; the Cancer Cure Coalition, and there are others. These groups recognize the absolute necessity of having a Senate-confirmed Commissioner of Food and Drugs. I understand some of my colleagues are not satisfied. They seek to use this nomination as leverage to accomplish some other agendas. That is something you can do in the Senate. However, I urge them to consider the consequences of those actions. In the upcoming year we face an exceptionally full agenda with respect to the FDA. We need this man in place. This man could work anywhere in America, probably anywhere in the world, and do much better than what we are offering.

I appreciate his sense of wanting to give back. He is a three-time cancer survivor and understands a lot about food and drugs outside of being a doctor.

I ask my colleagues to join me in getting cloture so that we can get the confirmation accomplished.

I yield back the remainder of our time.

The PRESIDING OFFICER. Who seeks time?

Mr. ENZI. It is my understanding that the previous speakers did yield their time back. So all time is yielded back.

CLOTURE MOTION

The PRESIDING OFFICER. If all time is yielded back, under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 907, the nomination of Andrew von Eschenbach, of Texas, to be Commissioner of Food and Drugs, Department of Health and Human Services.

William H. Frist, Michael B. Enzi, Richard Burr, Thad Cochran, George V. Voinovich, Robert F. Bennett, Tom Coburn, Norm Coleman, Conrad R. Burns, Jon Kyl, Pat Roberts, Mel Martinez, John Ensign, Lamar Alexander, Elizabeth Dole, Christopher Bond, John Cornyn.

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

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 907, the nomination of an Andrew von Eschenbach, of Texas, to be Commissioner of Food and Drugs, Department of Health and Human Services, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Alabama (Mr. SHELBY).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''yea.''

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

The yeas and nays resulted—yeas 89, nays 6, as follows:

[Rollcall Vote No. 273 Ex.]

YEAS—89

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Menendez
Allen	Durbin	Mikulski
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Frist	Obama
Brownback	Graham	Pryor
Bunning	Gregg	Reed
Burns	Hagel	Reid
Burr	Harkin	Roberts
Byrd	Hutchison	Rockefeller
Cantwell	Inhofe	Salazar
Carper	Inouye	Sarbanes
Chafee	Isakson	Schumer
Chambliss	Johnson	Sessions
Clinton	Kerry	Smith
Coburn	Kohl	Snowe
Cochran	Kyl	Specter
Coleman	Landrieu	Stabenow
Collins	Lautenberg	Stevens
Conrad	Leahy	Sununu
Cornyn	Levin	Talent
Craig	Lieberman	Thomas
Crapo	Lincoln	Thune
Dayton	Lott	Warner
DeMint	Lugar	Wyden
Dodd	Martinez	

NAYS—6

Baucus	Grassley	Vitter
DeWine	Santorum	Voinovich

NOT VOTING—5

Biden	Jeffords	Shelby
Hatch	Kennedy	

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. ENZI. Mr. President, I thank the Chamber for allowing us to do the cloture vote. With the strong support shown by the cloture vote, I would highly recommend that we get this man confirmed so he can actually have the opportunity to do the kinds of things that have been expected of him in the debate we have had. I also thank Senator KENNEDY for his tremendous help. We have had a number of meetings, a number of hearings. This is the second confirmation of an FDA Director we have worked on. It will be nice to have somebody actually in the position, but I do thank Senator KENNEDY and all of his staff.

I do want to mention the staff person who has directed my health issues. Stephen Northrup is on the floor, and I thank him particularly for all of the work on all of the health issues we have had. Anybody who has looked at the list of those we have done will find it has been a very productive session in the health area, and we are still working on another half dozen issues that could pass yet in this session before the week ends. So I thank Stephen for all of his tremendous help. I ask that people support the nomination of Dr. Von Eschenbach.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I spoke earlier this morning against cloture. Cloture passed, which for the public listening means there are 60 percent or more in support of stopping debate, and there is under the rules the possibility of 30 hours of debate. I don't intend to probably speak for more than a half hour, so if anybody is interested in how long postcloture debate might go on, it won't go on very long from my point of view. But I do want to take some time to tell people, even though it is quite obvious this nominee will be approved, why I think he should not be approved.

I placed a hold on this nominee for quite a few weeks. That hold obviously was ignored by the leader when he filed cloture, which is his right to do. I voted against cloture because I take my constitutional duty to conduct oversight of the executive branch of Government very seriously, and I think the nominee is standing in the way of Congress doing its oversight of the agency of which he is now Acting Director and will probably soon be the confirmed Director. That sort of lack of cooperation violates the separation of powers and the checks and balances within our constitutional system.

I hope my colleagues know that I take a great deal of time to make sure that we do both jobs we have the responsibility to do here in the Congress. One is to pass laws. But the one we are never taught much about in political science classes is the constitutional job of oversight, which is the responsibility to make sure the laws are faithfully executed and money is being spent according to congressional intent, and the overseeing of the administrative branch of Government. So I take a great deal of my time in the Senate trying to make Government work not just by passing laws but by making sure they are faithfully executed. I don't do that all by myself as a single Senator. I have good staff. I charge my staff to conduct oversight rigorously and to investigate any areas where the Federal Government is failing to be transparent, accountable, and effective. Transparency is so important, because the public's business, which is everything about the Federal Government, ought to be public. If the work of the executive branch fails the

sniff test and the law is not being faithfully executed or the public's business is not being made public, that is when it is my constitutional responsibility to blow the whistle.

Quite frankly, I don't want to take credit for what I am able to blow the whistle on, because there are a lot of good, patriotic employees in the executive branch of Government who also know it is their constitutional responsibility to execute the laws and spend the money right. When they see it isn't happening, and particularly when they go up the chain of command and don't get results, or when taxpayers monies are being wasted and it seems nobody cares, then they exercise the right they have under laws to blow the whistle to Members of Congress.

So we obviously count on whistleblowers—in other words, patriotic Federal employees—who report something wrong when people above them don't care. They care enough to come to us and give us a lot of good information. So today I am blowing the whistle on this nominee. In good conscience, I did put a hold on the nominee, and I will not vote in favor of him for the reasons I have given before and reasons that will be more spelled out now. A vote for this nominee would be an endorsement of the stonewalling, but, more importantly, the disrespect for Congress he has shown by not cooperating with congressional oversight. I can say this not only because of his actions but because of his words which are on the record.

In response to a nomination question in which I asked this nominee if he would cooperate with congressional oversight, Dr. Von Eschenbach identified a number of ''executive branch interests'' as a basis for not complying with congressional requests, including ''matters pending before the agency.'' And ''predecisional deliberative process information,'' and ''open investigation information.'' You get this sort of gobbledegook as excuses for not giving information to Congress as they promised to do but, outside of that, that the Constitution requires they do; that is if you believe in the checks and balances of our Government and if you believe it is backed up by Supreme Court decisions. It seems to me it has a good basis.

This nominee was not well-served by whoever counseled him on these matters. He should know that during my years in the Senate, my investigators have obtained access to every single one of these categories of so-called confidential information. I would say to the distinguished chairman of the HELP Committee who is watching over this nomination process—confirmation process—he said to me before the vote on cloture it would help if we got Dr. Von Eschenbach approved because now he is an acting and maybe he can't do all the things that he can do as Director, and that may be true. But not once in my discussions or my staffs' discussions with people at FDA was there ever a hint from the nominee himself that once approved, he would be able to give us all of these documents. I use this chart as an example: You get an answer to a request and you get 57 pages removed. Another chart I had up here showed 43 pages were removed. And what is in those pages? Who knows what is in them. We don't even know why they were removed, and we don't know who made the decision to remove them.

That is cooperation with Congress? Not once, I say to Senator ENZI, did he ever tell me or my staff or people who are working for him that if we could get this confirmation over, we will be able to satisfy what you want done. So I don't see anything better, with a vote of approval by the Senate, of cooperation with us than before.

But he wasn't well-served by those who counseled him. He should know that during my years in the Senate, my investigators have obtained access to every single one of these categories of so-called confidential information. His answer is at odds with my belief that congressional oversight is one of the best ways to shake things up at a government agency and expose the truth. The truth will make Government look better, or if the truth doesn't make Government look better, at least you are being candid with the American people. Besides, it is the public's business, and whether it is good news or bad news, it ought to be public.

Dr. Von Eschenbach's answers happen to be at odds with my belief that congressional oversight is one of the best ways to get to the bottom of things. This is true not just of the FDA; it is true of any Government agency. If an agency is not doing the right thing, typically behind it there is an effort to keep information suppressed, an effort to keep people from doing what they think ought to be done, an effort to keep people from doing what their job requires them to do, or to not let them put out that information. The muzzling of dissent and information is too common throughout our Government. Things that should be transparent in Government simply are not. And under Dr. Von Eschenbach, the FDA has not only avoided transparency, it also has threatened those who are trying to desperately expose the truth.

That is not just under Dr. Von Eschenbach. For years before him, there has been intense pressure brought to bear upon scientists who want to do the scientific process. I say ''do the scientific process'' because the scientific process answers itself or gives the answer. That is what we want: answers on safety and efficacy of drugs.

There is a culture there—even prior to Dr. Von Eschenbach, for any serious Director who wants to change it—that is going to make it very difficult to change because you have an agency that is more interested in its public relations and how they look to the public-at-large than what their job is. That is when they end up getting egg on their face, when they are more concerned about their public relations than just doing the job. In most instances, if these agencies do what they are supposed to do, things get done and get done effectively, and then the public relations takes care of itself. Good policy, good administering of law, is good public relations. It will take care of itself.

I met with this nominee after the White House sent his nomination to the Senate last March. I hoped he would provide the kind of strong, permanent leadership this agency needs to change its culture, where scientists are intimidated from doing their work. Over the next 9 months, this nominee showed me that he is unlikely to provide that kind of leadership. My belief is what you see is what you get. I fear what we will get from this nominee is what we got from him where he is now as the Acting Commissioner. Let me tell you why, with just a few examples.

First, the doctor failed to live up to his word. In our meeting, he said he respected and understood the important role Congress plays as an equal branch of Government. But it didn't take long after that meeting before the first red flags appeared.

In April, the committee began its investigation of the Food and Drug Administrations's approval and postmarket surveillance of the Ketek drug, an antibiotic that came under renewed scrutiny last January. It looks as though it is another drug where the FDA was caught flatfooted. The Finance Committee issued two subpoenas in May after the FDA refused to provide documents related to Ketek. I referred to a family in Cedar Rapids, IA, who lost an 18-year-old son.

During this time, the Food and Drug Administration also refused access to Food and Drug Administration officials. The Finance Committee was forced to issue a subpoena to a special agent in the FDA's Office of Criminal Investigation. The FDA refused to allow my staff to speak to this Federal employee, citing a policy against providing access to line agents. Yet, only months before, just a few weeks before that, my staff interviewed two line agents from the Food and Drug Administration on another case. What rule was in place when I interviewed them, but a few weeks later you couldn't interview another? Apparently, the policy was abruptly changed. I have seen it change over the years with other investigations. This policy is not law, and it is typically enforced when the stakes are at their highest and there is something to hide.

I took this matter seriously enough that I went to the Department of Health and Human Services to meet with this agent. I was told that if this agent wanted to speak to me, he would have to assert his status as a whistleblower under Federal law. I ask today

what I asked that day: Why does this Government employee have to become a whistleblower to talk to me or anybody else in Congress if the public's business is really public?

So I have to ask my colleagues, is that acceptable? When you are doing your constitutional responsibility of oversight, is it acceptable to the rest of you in the Senate that they thumb their noses?

Also, this Government employee's supervisors put him in a no-win situation, and because of that he risked being in contempt of Congress. This is an agent who put a doctor in jail for fraud in the Ketek study.

You understand, I said this started back in January with Ketek and our getting involved in the oversight. There was fraud in this Ketek study. Did the agent do the right thing? It is a closed case. We want to talk to him about the closed case, and the Food and Drug Administration says no. So I have to ask, what does the FDA have to hide or cover up?

There are enough instances of political leaders and public servants being ruined by coverup. Can't lessons be learned, that when, in this town, two people know something about it, it is no longer a secret?

Under this Acting Commissioner, the Food and Drug Administration has also attempted to hide and cover up documents. The Finance Committee has received hundreds of pages that say, as I indicate here, ''57 pages removed.'' There is another poster behind it that looks exactly the same: ''43 pages removed.'' Other documents have whole pages, paragraphs, or sentences redacted, with no explanation as to why. Sometimes documents are marked ''redacted.'' Other times they are not marked, even when it is evident that information is missing. There is no explanation for what documents have been withheld or redacted. It is incomprehensible, and it looks like the work of the Keystone Cops rather than an agency responsible to the American public for the safety of drugs and devices and the efficacy of drugs and devices.

One of the Food and Drug Administration's most incompetent and absurd moments was when it sent one of my own request letters back to me with information redacted out of it. Let's get this clear. You folks are defending a person who is running an agency from which I asked for information and they redacted the letter I sent to them. The letter I wrote came back as part of the information. Does that meet the commonsense test? Does that meet the test of competency?

Recently, I wrote Secretary Leavitt and Attorney General Gonzales to explain the basis for some of these redactions. I don't know whether you call a blank page a redaction because you don't know what has been there to redact, but obviously there is no information on a blank page unless it is about the competency of the people who work within the agency.

Again, two copies of the same document were redacted differently. Think of this. They want to keep us from getting information. They send us two copies. One copy has one sentence redacted, and the other copy doesn't redact that sentence but redacts another sentence. So we got the whole document but presumably a basis for things we were not supposed to know but now we know. Do you think this guy with a medical degree, with this sort of background, is going to go in and change that culture even if there was nothing wrong with him? Even if he cooperated with me? So it calls into question the good-faith basis for redaction at all.

I could go on and on with examples showing the stonewalling and the withholding of information from legitimate congressional requests, pursuing our constitutional responsibility of oversight. What it boils down to is that this nominee has demonstrated he does not understand that Government truly is the people's business. He doesn't seem to understand that the people who finance it, the taxpayers, have a right to know what their Government is doing and how their money is being spent.

I will give one final example. I have been a longtime champion of whistleblowers. I was the lead Senate sponsor of the 1986 whistleblower amendments to the False Claims Act. Back then, we were interested in dismantling a too-cozy relationship between defense contractors and the Pentagon. Today, whistleblowers are once again the key to dismantling the cozy relationship between some drug companies and the Food and Drug Administration.

In June, Dr. Von Eschenbach held a meeting of FDA staff involving this drug I have been investigating, questioning how it was handled—Ketek. FDA employees who were present say that he used a lot of sports metaphors regarding being a ''team player'' and keeping opinions ''inside the locker room.'' Basically, he said to not criticize the FDA outside the locker room, ''outside the locker room'' being his words. Apparently he stated that anyone who spoke outside the locker room might find themselves ''off the team.''

How are you going to do your job of congressional oversight if you have somebody you are getting confirmed who says that if you want to talk to anybody, they better not talk to you, at least not talk off note, because they are no longer on the team? Just think of the intimidation that brings throughout the Federal bureaucracy.

This nominee held this meeting in the midst of this ongoing congressional investigation of this drug Ketek. He called the meeting after a number of critical reports in the media about the FDA's handling of Ketek. A number of FDA employees interviewed by the committee were offended by his comments, found them highly questionable, inappropriate, and potentially threatening. I don't think there was any ''potential'' about it, they were meant to be threatening, and I agree with the employees.

Leaders of an agency should not hold a meeting to suggest that dissenters will be kicked off the team, particularly when the lives of American people are at stake, when drugs are going to be put on the line and they might not be safe. I can refer to the death of an 18-year-old in Cedar Rapids, IA. His is the type of action that shows the true stripes of the nominee. He broke his word that he respected whistleblowers—that is what he told me; quite obviously he doesn't respect whistleblowers—and that he would never raise even the appearances of retaliation. If this meeting isn't an example of retaliation, I don't know what it is. When it comes to health care and public safety, we need to empower whistleblowers more than ever. They demonstrate extraordinary courage in the face of extraordinary adversity. It is extremely difficult to be a whistleblower. As I like to say, they are about as welcome as a skunk at a picnic. Yet it is whistleblowers in Government who put their job security on the line to come forward and expose fraud or wrongdoing for the public good. My Finance Committee staff has been investigating serious allegations raised by whistleblowers at the FDA on various issues over a period of 3 years. Many of these allegations are very serious and call into question whether the Food and Drug Administration is fulfilling its mission to protect the health and safety of Americans. The way the Food and Drug Administration under this nominee has handled the investigation of Ketek shows the agency would like to keep its business secret. It doesn't want these issues made public or subjected to scrutiny. The culture at the FDA has been we will let the public know what we think they need to know.

The American people do not want the government making decisions about what is good for them behind closed doors.

The goal of the Finance Committee's oversight has been straightforward. As chairman, I wanted to bring out in the open the decisions made by the FDA. For too long the agency has been making its decisions behind closed doors.

This nominee is not likely to serve well because he just does not seem to get it. He has placed media relations over the mission of the FDA. First and foremost, he is supposed to do the right thing on behalf of Americans. Dr. Von Eschenbach has other interests to serve and they are not always the interests of John Q. Public.

I hear from time to time from other agencies that particular documents are especially sensitive or that the release of certain documents could jeopardize a criminal investigation—I understand that. But in those circumstances, I have reached accommodations. Unfortunately, in this case, my efforts to work with Dr. Von Eschenbach and his subordinates have been all but summarily dismissed.

As I am sure you know, I intend to keep pressing the FDA for greater

transparency and openness. I think there is going to be new leadership in the Congress which is going to be even more aggressive and has a history of being more aggressive in this area. I have been welcoming and I continue to welcome that sort of help.

As I continue with my constitutional duties to conduct oversight, I look forward to working with my colleagues to ensure transparency, accountability, and effective governance by the executive branch. The bottom line is Congress needs to stay committed to oversight of the executive branch. The public depends on Congress to fulfill its duty and hold executive agency leadership accountable. To sum up, that is what congressional oversight is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

TRIBUTE TO KENNETH JORDAN

Mr. ALLARD. Mr. President, I rise today to honor the service and sacrifice of Colorado Springs police officer Kenneth Jordan.

My wife Joan and I were deeply saddened to hear of the senseless death of Officer Kenneth Jordan while in the line of duty this past Tuesday in Colorado Springs, CO, during a traffic stop.

It takes a person of great courage to become an officer of the law. It takes a strong, hardworking, and considerate individual. It takes a special someone who is willing to pay the ultimate price in protecting the safety of others.

Officer Kenneth Jordan was just this person. Unfortunately, Officer Kenneth Jordan paid the ultimate price.

Officer Kenneth Jordan was the 12th Colorado Springs police officer to be killed in the line of duty. According to the National Law Enforcement Officers Memorial Fund, more than 17,500 officers have been killed nationwide since 1792, including 231 in Colorado.

The shock to the city of Colorado Springs this week at his death is especially harsh—Kenneth Jordan was the second Colorado Springs officer to be killed this year. Officer Jared Jensen made the ultimate sacrifice last February. The memorial service for officer Kenneth Jordan held at 1 p.m. Monday at New Life Church will be a grim repeat of the day 10 months ago when Officer Jensen was laid to rest. Before Officer Jensen Colorado Springs police had not held a funeral for one of their own in 24 years.

A Chicago native at 32 years of age, Kenneth Jordan joined the Colorado Springs Police Department in January 2000 and was known for his unwavering professionalism and strong work ethic. In February 2004, Officer Kenneth Jordan became a DUI officer, whose passion was getting drunk drivers off the road. According to his colleagues, Officer Jordan made 584 DUI arrests since joining this elite team and nearly broke the yearly record of 283 when he made 270 arrests in 2005. Officer Jordan was honored in 2004 by the Mothers Against Drunk Drivers for his dedication to enforcing DUI laws.

Officer Kenneth Jordan was a brother and a son. He is survived by his sister, his loving parents and his girlfriend. Kenneth was well liked by his peers and others with whom he came in contact. He was always willing to lend a hand to friend or a stranger alike.

The city of Colorado Springs has lost a valuable member of its community, and we are all forever grateful for Officer Kenneth Jordan's service and dedication to the safety and well-being of others. His service to the city of Colorado Springs is highly commendable, and his contributions will be remembered.

I extend my deepest sympathy to the family of Officer Kenneth Jordan. May his bravery and unwavering sense of duty serve as a role model for the future generation of law officers. Thank you for your service, Officer Jordan. Rest in peace, Sir.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. CRAIG. Mr. President, I ask unanimous consent that myself, the Senator from Idaho, and the Senator from California, Senator FEINSTEIN, be allowed to speak as if in morning business for the next 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LABOR SHORTAGE

Mr. CRAIG. Mr. President, the Senator from California, Senator FEINSTEIN, will be here in a few moments to join me in what we believe is an important message, to continue to speak not only to our colleagues here in the Senate but to America as a whole. It is a speech not unlike the one we gave before we recessed for the break before the election, when it was becoming increasingly obvious that America was finding itself in a major labor shortage, primarily in agriculture and some of the service industries. In fact, while I was home during this recess period of time, the shortage of orange juice in the U.S. market made national news as the price went up substantially.

A shortage of orange juice today in the American market is because nearly a million cases of oranges rotted on the trees of Florida this fall, late summer, because there were not hands to pick them, put them in the crates, and move them to the processing sheds. That became painfully obvious across America as the harvest season went on, especially in those areas that require concentrated hand labor, whether it was Florida, California, and the great San Joaquin Valley of California, whether it was my State of Idaho that began to see labor shortages in a variety of areas, whether it was Washington or Oregon, where many of the fresh fruits and vegetable crops simply did not get picked and apples rotted on the trees, whether it was in Kentucky, Illinois, Colorado or Michigan, it became so obvious this Congress, in its effort to pass comprehensive immigration reform, simply failed to do so. America grew angry about it, grew angry about the number of illegals in our country and the fact this Congress did little or nothing about it.

A great deal is going on. One of the reasons the labor shortages began to appear is because this Congress insisted, and the administration agreed, we put money behind the securing and the closing of our southwest border where literally a million-plus people were moving across annually into our labor market.

We viewed that as untenable and irresponsible for a great nation to fail to control and secure its borders. We are doing that now. We are continuing to invest and will continue to invest in a secured border environment. But in doing that, and failing to couple with a more secure border a comprehensive immigration reform package that allows a real, honest, legal, fair guest worker program, American agriculture now hurts as they have never hurt before.

On December 4, all of my colleagues received a letter that in itself was almost unprecedented, a letter from over 400 agricultural groups around the country—not just agricultural groups but nursery groups, warehouse groups, storage groups, all of them generally agriculture related.

I ask unanimous consent to have that printed in the RECORD.

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

DECEMBER 4, 2006.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: The organizations on the attached list urge you to support passage of a comprehensive agricultural worker program this year!

You've read the headlines. Food grown for American tables has rotted in American fields this year. The cause? In this case it's not the weather. It's something the Congress can address—labor. We need agricultural worker reform before the end of the 109th Congress.

The facts are clear: on many American farms, immigrant labor plants, tends and picks the fruits, vegetables, and other crops. Immigrant workers tend the livestock—feeding the chickens, turkeys, horses, sheep, hogs and cattle and milking the cows. Immigrant workers also produce, install, and maintain the plants that make our homes, towns, and cities livable.

The current agricultural temporary worker program—known as H2A is flawed and needs reform. There is no area of the country

where H2A workers make up more than 10 percent of the necessary farm workforce. In most areas, it's far less than that. Nationally, only two percent of farm workers are provided by the unresponsive and litigation-plagued H2A program. American agriculture needs a reformed H2A program that is timely, effective and streamlined, and a transition approach that allows for retaining the experienced workforce while capacity is built on the farm and at the border to support wider use of a program like reformed H2A.

Language that seeks to address the challenges specific to agriculture was included in the bill passed with a bipartisan majority in the Senate. Many House members of both parties have acknowledged the need to address immigration reform for agriculture. Polls show the American people overwhelmingly favor a common-sense approach to immigration reform including sensible foreign worker programs and earned legal status subject to strict conditions for workers currently in the country.

Another fact we must point out, at this late date in the year, is that agriculture issues are rarely partisan issues. While they are sometimes regional, in this case every area of the country is affected by agricultural labor shortages and support for a common-sense solution comes from every region of the country as well.

Reports in the media have told the story this harvest season: not enough workers to pick the apples in New York and Washington or the cherries in Oregon and Michigan or the oranges in Florida. One major daily newspaper showed on its front page a massive pile of pears on the ground in California—rejected by the packing house because they were picked too late due to labor shortage. Worker shortages have been reported from coast to coast, from border to border.

It is time for the Congress to act. After a decade of debate and with worker shortages now a reality, American agriculture needs your help.

The sheer number and geographic representation of the organizations on the attached list show the widespread and urgent need for solving this problem. We urge you to support enactment of a comprehensive agricultural worker program, this year!

Sincerely,

Agriculture Coalition for Immigration Reform; Agri-Mark, Inc.; Agri-Placement Services, Inc.; American Agri-Women; American Farm Bureau Federation; American Farmland Trust; American Frozen Food Institute; American Horse Council; American Mushroom Institute; American Nursery & Landscape Association; American Sheep Industry Association (ASI); The Council of Northeast Farmer Cooperatives; Dairylea Cooperative Inc.; Dairy Farmers of America; Farwest Equipment Dealers Association; Federation of Employers and Workers of America; Irrigation Association; Landscape Contractors Association; National Association of State Departments of Agriculture; National Christmas Tree Association.

National Council of Agricultural Employers; National Council of Farmer Cooperatives; National Greenhouse Manufacturers Association; National Milk Producers Federation; National Potato Council; National Watermelon Association; New England Apple Council; NISEI Farmers League; North American Bramble Growers Association; North American Horticultural Supply Association; Northeast Dairy Producers Association; Northeast Farm Credit Associations; Northern Plains Potato Growers Association; Northwest Farm Credit Services; Northwest Horticultural Council; Nursery & Landscape Association Executives of North America; OFA—An Association of Floriculture Professionals; Pacific Northwest Christmas Tree Association; Perennial Plant Association; Produce Marketing Association.

Society of American Florists; South East Dairy Farmers Association; Southern Christmas Tree Association; Southern Nursery Association (AL, DE, FL, GA, KY, LA, MD, MI, MO, OK, NC, SC, TN, TX, VA, WV); Turfgrass Producers International; United Agribusiness League; United Egg Producers; United Fresh Produce Association; U.S. Apple Association; Western Growers; Western Plant Health Association; Western United Dairymen; Wholesale Nursery Growers of America; WineAmerica; Wine Institute; Alabama Nursery & Landscape Association; Alabama Watermelon Association; Arizona Nursery Association; Pasquinelli Produce Co., Yuma, AZ; Arkansas Green Industry Association.

Allied Grape Growers (CA); Brand Flowers Inc, Wilja Happe, Owner (CA); California-Arizona Watermelon Association; California Association; of Nurseries and Garden Centers; California Association of Wheat Growers; California Association of Winegrape Growers; California Avocado Commission; California Bean Shippers Association; California Canning Peach Association; California Citrus Mutual; California Cotton Ginners & Growers Associations; California Dairies, Inc.; California Egg Industry Association; California Farm Bureau Federation; California Fig Advisory Board; California Floral Council; California Grain and Feed Association; California Grape and Tree Fruit League; California League of Food Processors; California Pear Growers Association.

California Seed Association; California State Floral Association; California Strawberry Nurserymen's Association; California Warehouse Association; California Women for Agriculture; Carol and Bill Chandler, Chandler Farms, LP (CA); Colab Imperial County (CA); Family Winemakers of California; Fresno County Farm Bureau (CA); Grower-Shipper Association of Central California; Imperial County Farm Bureau (CA); Imperial Valley Vegetable Growers Association (CA); Kern County Farm Bureau (CA); Kings County Farm Bureau (CA); Lake County Farm Bureau (CA); Lassen County Nursery (CA); Madera County Farm Bureau (CA); Merced County Farm Bureau (CA); Monterey County Farm Bureau (CA); Napa County Farm Bureau (CA).

Olive Grower Council of California; Orange County Farm Bureau (CA); Pacific Coast Producers; Pacific Egg and Poultry Association (CA); Raisin Bargaining Association (CA); San Diego County Farm Bureau (CA); San Diego County Flower & Plant Association; San Joaquin County Farm Bureau (CA); Santa Barbara County Farm Bureau (CA); Santa Clara County Farm Bureau (CA); Stanislaus County Farm Bureau (CA); Sun Maid Growers of California; Tulare County Farm Bureau (CA); Ventura County Agricultural Association (CA); Yolo County Farm Bureau (CA); Duane Abe, Tree Fruit, Citrus, Vegetable Grower (CA); Mitch Bagdasarian, Grape and Tree Fruit Grower (CA); Anthony Balakian, Fruit Patch, Inc. (CA); Stephen J. Barnard, Mission Produce, Inc. (CA); Charanjit Batth, Raisin & Almond Grower (CA).

Doug Benik, Grape Grower (CA); Bobby Bianco, Anthony Vineyards, Inc. (CA); Pete Binz, Raisin Grower (CA); Stephen Biswell, Mt. Campbell Development (CA); Bill Boos, Grape, Tree Fruit and Citrus Grower (CA); Nicholas Bozick, R. Bagdasarian, Inc. (CA); Wayne Brandt, Brandt Farms, Inc. (CA); Rod Burkett, Olive Grower (CA); Tony Campos, Diversified Grower (CA); Anton Caratan, Anton Caratan & Sons (CA); Chris Caratan, M. Caratan, Inc. (CA); Blake Carlson, Tree Fruit and Grape Grower (CA); Kirk Cerniglia, Royal Madera Vineyards (CA); Bill Chandler, Grape & Almond Grower (CA); Micheal Conroy, Conroy Farms, Inc. (CA); Allan Corrin, Corrin Farming (CA); Stanley Cosart, W.F. Cosart Packing Co. (CA); Verne Crookshanks, Venida Packing, Inc. (CA); Anthony Cubre, Sr., Grape Grower (CA); Frank Dalena, Poultry and Vegetable Grower (CA).

Jerry Dibuduo, Ballantine Produce Co., Inc. (CA); Maurice Dibuduo, Grape Grower (CA); Nat Dibuduo, Jr., Allied Grape Growers (CA); John Diepersloot, Tree Fruit Grower (CA); Tony Domingos, Grape Grower (CA); Edge Dostal, Chiquita Fresh North America (CA); Dan Dreyer, Olive Grower (CA); Russel Efird, Diversified Grower (CA); Richard Elliot, David J. Elliot & Sons (CA); Ken Enns, Enns Packing Co., Inc. (CA); Dan Errotabere, Diversified Grower (CA); Tony Fazio, Tri-Boro Fruit Co., Inc. (CA); Steve Ficklin, Grape Grower (CA); Ron Frauenheim, Frauenheim Farms (CA); George Fujihara, Raisin Grower (CA); Fred Garza, Farm Labor Contractor (CA); Micky George, George Bros., Inc. (CA); Dan Gerawan, Gerawan Farming, Inc. (CA); Randy Giumarra, Guimarra Vineyards Corporation (CA); Jim Hamilton, Nut Grower and Processor (CA).

John Harris, Feed Lot, Diversified Farming (CA); Mak Hase, Tree Fruit Grower (CA); Steve Hash, Steve Hash Farms (CA); Doug Hemly, Greene and Hemly, Inc. (CA); Phil Herbig, Enns Packing Co., Inc. (CA); Leland Herman, Raisin Grower (CA); Phil Herman, Grape Grower (CA); David Hoff, Raisin Grower (CA); Allen Huebert, Grape and Tree Fruit Grower (CA); Tim Huebert, Tree Fruit Grower (CA); Robert Ikemiya, Ito Packing Company, Inc. (CA); Daniel Jackson, Tree Fruit Grower and Packer (CA); David Jackson, David Jackson Farms (CA); George Jackson, Tree Fruit Grower (CA); Mike Jensen, Grape, Tree Fruit Grower and Packer (CA); David Johnson, Citrus Grower (CA); Steve Johnson, Johnson Orchards, Inc. (CA); Brian Jones, Sun Valley Packing (CA); Herb Kaprielian, KCC Holding LLC (CA); Alan Kasparian, Grape Grower (CA).

Aubrey Cairns, Kaweah Lemon Company (CA); Pat Kurihara, Citrus, Tree Fruit and Grape Grower (CA); Paul Lanfranco, Grape & Tree Fruit Grower (CA); Ben Letizia, Grape and Tree Fruit Grower (CA); Jim Lloyd-Butler, James Lloyd-Butler Family Partnership (CA); Jerry Logoluso, Grape Grower (CA); Dave Loquaci, Grape Grower (CA); Ronald Lund, Raisin Grower (CA); Fred Machado, Dairy Farmer (CA); David Marguleas, Sun World

International, LLC (CA); Harold McClarty, Tree Fruit Grower and Packer (CA); Mark Melkonian, Tree Fruit and Dehydrator (CA); Richard Milton, Tree Fruit Grower (CA); Keith Nilmeier, Tree Fruit Grower (CA); James Oliver, Grape and Tree Fruit Grower (CA); Louis Pandol, Pandol Bros., Inc. (CA); Dennis Parnagian, Fowler Packing Company, Inc. (CA); Justin Parnagian, Fowler Packing Company, Inc. (CA); Ron Peters, Tree Fruit Grower (CA); Scott Peters, Tree Fruit, Citrus and Grape Grower (CA).

Jerald Rebensdorf, Fresno Cooperative Raisin, Inc. (CA); Bob Reimer, Tree Fruit and Grape Grower (CA); Pat Ricchwti, Jr., Almond, Tree Fruit & Grape Grower and Packer (CA); Cliff Rolland, Abe-el Produce (CA); Cliff Sadoian, Sadoian Bros., Inc. (CA); Bobby Sano, Grape, Tree Fruit and Nut Grower (CA); Sark Sarabian, Sarabian Farms (CA); Tom Sasselli, Grape Grower (CA); Tom Schultz, Chase National Kiwi Farms (CA); Mike Scott, Raisin Grower (CA); Andrew J. Scully, Philip E. Scully, Toni M. Scully, Pear & Packing (CA); Don Serimian, Tree Fruit & Grape Grower and Packer (CA); Jim Simonian, Simonian Fruit Company (CA); Dave Smith, Olive Grower (CA); Brent Smittcamp, Wawona Packing Co., LLC. (CA); Kent Stephens, Marko Zaninovich, Inc. (CA); Ty Tavlan, Tree Fruit Grower and Packer (CA); Dean Thonesen, Sunwest Fruit Company, Inc. (CA); Bill Tos, Tree Fruit Grower & Walnut and Packer (CA); Stan Tufts, Tufts Ranch LLC (CA).

Steve Volpe, Table Grape Grower and Packer (CA); Eric Ward, Tree Fruit and Nut Grower (CA); Chiles Wilson, All State Packers, Inc. (CA); John D. Zaninovich, Zan Farms, Inc. (CA); Jon P. Zaninovich, Jasmine Vineyards, Inc. (CA); Marko S. Zaninovich, Marko Zaninovich, Inc. (CA); Ryan Zaninovich, V. B. Zaninovich & Sons, Inc. (CA); Associated Landscape Contractors of Colorado; Colorado Nursery & Greenhouse Association; Colorado Potato Administrative Committee; Colorado Sugar Beet Growers Association; Colorado Wine Industry Development Board; Bishops Orchards (CT); H. F. Brown Inc. (CT); Connecticut Nursery & Landscape Association; A. Duda & Sons (FL); Florida Citrus Mutual; Florida Citrus Packers; Florida Farm Bureau Federation; Florida Fruit & Vegetable Association.

Florida Grape Growers Association; Florida Nursery, Growers & Landscape Association; Florida Watermelon Association; Gulf Citrus Growers Association (FL); Tampa Bay Wholesale Growers (FL); Georgia Green Industry Association; Georgia Milk Producers; Georgia Watermelon Association; Winegrowers Association of Georgia; Environmental Care Association of Idaho; Idaho Apple Commission; Idaho Cherry Commission; Idaho Grower Shippers Association; Idaho Nursery & Landscape Association; Idaho-Oregon Fruit and Vegetable Association; Potato Growers of Idaho; Illinois Grape Growers and Vintners Association; Illinois Landscape Contractors Association; Illinois Nurserymen's Association; Illinois Specialty Growers Association.

Indiana-Illinois Watermelon Association; Indiana Nursery and Landscape Association; Iowa Nursery & Landscape Association; Farm Credit of Maine; Maine Potato Board; Maryland Nursery and Landscape Association; Maryland-Delaware Watermelon Association; Massachusetts Nursery and Landscape Association, Inc.; Michigan Apple Committee; Michigan Christmas Tree Association; Michigan Farm Bureau Federation; Michigan Green Industry Association; Michigan Horticultural Society; Michigan Nursery and Landscape Association; Michigan Vegetable Council; WineMichigan; Minnesota Nursery & Landscape Association; Mississippi Nursery and Landscape Association; Missouri-Arkansas Watermelon Association; Montana Nursery & Landscape Association.

Nebraska Nursery & Landscape Association; New Hampshire Farm Bureau; New Jersey Nursery & Landscape Association; Overdevest Nurseries (NJ); Agricultural Affiliates (NY); Cayuga Marketing (NY); Farm Credit of Western New York; First Pioneer Farm Credit (NY); New York Agriculture Affiliates; New York Apple Association; New York Farm Bureau; New York Horticulture Society; New York State Nursery & Landscape Association; New York State Vegetable Growers Association; PRO-FAC Cooperative, Inc. (NY); Torrey Farms Inc., NY; Upstate Farms Cooperative Inc. (NY); Yankee Farm Credit (NY); Addis Cates Company (NC); North Carolina Christmas Tree Association.

North Carolina Commercial Flower Growers' Association; North Carolina Greenhouse Vegetable Growers Association; North Carolina Farm Bureau; North Carolina Green Industry Council; North Carolina Muscadine Grape Association; North Carolina Nursery & Landscape Association; North Carolina Potato Association; North Carolina Strawberry Association; North Carolina Vegetable Growers Association; North Carolina Watermelon Association; North Carolina Wine & Grape Council; North Dakota Nursery and Greenhouse Association; Ohio Farm Bureau Federation; Ohio Nursery and Landscape Association; Oklahoma Greenhouse Growers Association; Oklahoma Nursery & Landscape Association; Hood River Grower-Shipper Association (OR); Oregon Association of Nurseries; Oregon Wine Board; Wasco County Fruit & Produce League (OR).

Hollabaugh Bros., Inc. (PA); Pennsylvania Landscape & Nursery Association; State Horticultural Association of Pennsylvania; Rhode Island Nursery & Landscape Association; South Carolina Greenhouse Growers Association; South Carolina Nursery & Landscape Association; South Carolina Watermelon Association; South Dakota Nursery and Landscape Association; Tennessee Nursery & Landscape Association, Inc.; Lone Star Milk Producers (TX); Plains Cotton Growers, Inc. (TX); Select Milk Producers (TX); South Texas Cotton and Grain Association; Texas Agricultural Cooperative Council; Texas Agri-Women; Texas Association of Dairymen; Texas Cattle Feeders Association; Texas Citrus Mutual; Texas Cotton Ginners Association; Texas Grain Sorghum Producers Assocation.

Texas Nursery & Landscape Association; Texas Poultry Federation and Affiliates; Texas Produce Association; Texas Produce Export Association; Texas-Oklahoma Watermelon Association; Texas Turfgrass Producers Association; Texas Vegetable Association; Western Peanut Growers (TX); Winter Garden Produce (TX); Utah Nursery & Landscape Association; St. Albans Cooperative Creamery (VT); Vermont Association of Professional Horticulturists (VAPH); Virginia Apple Growers Association; Virginia Nursery & Landscape Association; Virginia Green Industry Council; Virginia Christmas Tree Growers Association; Northern Virginia Nursery & Landscape Association; Southwest Virginia Nursery & Landscape Association; Independent Food Processors Company (WA); Mt. Adams Orchards Corporation (WA).

Underwood Fruit & Warehouse Company (WA); Washington Association of Wine Grape Growers; Washington Bulb Co.; Washington Growers Clearinghouse; Washington Growers League; Washington State Farm Bureau; Washington State Nursery & Landscape Association; Washington State Potato Commission; Washington Wine Commission; Commercial Flower Growers of Wisconsin; Gardens Beautiful Garden Centers; Hartung Brothers Inc. (WI); Lawns of Wisconsin Network; Wisconsin Christmas Tree Growers Association; Wisconsin Landscape Contractors Association; Wisconsin Nursery Association; Wisconsin Sod Producers Association.

Mr. CRAIG. What did they say? They said it very clearly: a failure to reform the H–2A program has put American agriculture in an untenable position. As we bring in the numbers this winter to do the harvest this summer and fall, it is reasonable to predict the loss that the American consumers are now hearing about in bits and pieces through the national news could well be equivalent to $4 billion to $5 billion of actual value lost at the farm gate—meaning the produce did not leave the farm, it did not make it to the processor, it will never make it to the consumer's shelf, and American consumers will grow increasingly dependent upon foreign sources for their food supply. For a great nation like ours, that is not only dangerous, it is foolish and irresponsible.

As we put American agriculture through this difficult time by our failure to enact comprehensive immigration reform, something else is going on out there on the farm. Diesel costs, fertilizer costs, equipment costs are at an all-time high. Of course, we know the general energy costs have increased at an unprecedented rate this year. Not only do we have the impact of high input costs in the production of American agriculture and agricultural foodstuffs, now there is nobody to pick the crop.

I was in the upper San Joaquin Valley late summer meeting with a group of agricultural people. One farmer said it as clearly as it could ever be said. He said: Senator CRAIG, if you can't bring the workers to me or if you can't make the workers available in the valley, I will have to go where the workers are.

What did he mean by that? He meant he was leasing land in Argentina or Mexico or Brazil where the labor force is today.

What will happen to the land in the great San Joaquin Valley? It will go

fallow, or it will be put in homes. It will no longer be profitable to produce in that greatest agricultural valley in the world which produces the vegetable crops and all of the other kinds of crops the American consumer so readily needs, knows, and wants.

Last year, for the first time, by a near majority of months, America was consuming more from foreign import than they were consuming from their own production. That is something that should never happen in the greatest agricultural Nation in the world.

I think Americans get it. There was a very loud group who distorted the whole debate. But they also taught us something important, that Government had fumbled and Congress had failed in its responsible approach to a comprehensive, enforceable, immigration law. We ignored it for decades. In ignoring it, great problems had occurred. Not only did we have an unprecedented number of undocumented illegal foreign nationals in our country, but we had allowed industries such as agriculture to grow increasingly dependent on an illegal workforce.

Agriculture came to me in the late 1990s and said: Senator CRAIG, this problem has to get fixed.

We began to work on it then. Last year, the Senate passed a comprehensive bill with AgJOBS, the bill I had worked on with American agriculture and the coalition of over 400 agricultural groups. That was in the bill. But when the House failed to act and would not act, when we recognized that we had to gain confidence with the American people that we knew what we were doing and we would do it right, we increasingly began to put pressure on the border, to secure it, to make it a real border, to recognize that to cross it you had to be legal, you had to have the right papers and credentials. That is going on as we speak.

I was one who encouraged our President to maximize the use of our National Guard to help the Border Patrol to focus on those concentrated areas where greater movement of illegals coming across our border was occuring.

It is an issue of security; it is not just people wanting to cross the border to work. Last year, over 200,000 were apprehended who were non-Mexican. They were from all over the world. Many of them, tragically enough, were drug traffickers and illegals trying to get into our country for illegal purposes—not just a hard day's work in the hot sun of an agricultural field. Border security is critical.

I hope this Congress will do now what it must do, what it has to do for the American economy, for the American agricultural industries, and that is pass a responsible, comprehensive reform of the H–2A program.

Yes, we need to deal with the illegals who are currently in the country, but we also need to create a legal, identifiable flow of people who come to work and then go home. Ninety-plus percent who work here want to do just that: they want to go back from where they came. That is where their families are in large part. That is where the American dollar improves their lifestyle, back in their hometowns, predominantly in Mexico but in other parts of the world as well.

If we fail to pass comprehensive reform this year, American agriculture will go through another devastating year in the field, and real management choices will be made, management choices no longer to plant and grow in the United States, no longer to put fresh vegetable crops in the field in December to be harvested in February to supply our great and abundant markets and the needs of our consumers.

This is a very real issue today and a very real problem. That is why on December 4 this coalition sent to this Congress an urgent message, a plea. It said: Please listen to us. Support and pass comprehensive agricultural worker reform. Give us an H–2A program that works. That is what we must accomplish because even in all of our debates this is not going to happen overnight. We won't get to this for several months, and when we do, it will take time working with the House. Then it will pass. Then it has to be implemented.

So American agriculture will go through another very tough cropping season and billions of dollars will be lost. Wise business men and women will have to make decisions of whether they continue to farm in this country and produce in this country or if they go elsewhere to produce, and instead of being domestic producers, they become foreign importers. That is something that should never be allowed to happen.

My colleague from California has joined me. Senator FEINSTEIN and I and others have worked closely to craft the right kind of bill that works, that is legal, that is transparent, that recognizes the importance of border security and border control to get this great country back into the business of doing what it ought to do; that is, to allow into our country those we want and to keep out those we don't want.

We are a nation of immigrants. We are proud of that. Most all of us came from somewhere else some time ago. It is because of this we are a great nation. It is because of the ability to assimilate, to bring into our culture foreign nationals to become Americans that has made our country great.

In the last two decades, we failed to do that in a responsible fashion. Now, because of that, American agriculture hurts, other industries hurt. It is important we grow increasingly sensitive to getting this job done and getting it right. The job itself is passing AgJOBS, the comprehensive responsible bill to help American agriculture create a legal workforce.

Under the unanimous consent the Senator from California, Mrs. FEINSTEIN, has the next 15 or 16 minutes.

Mrs. FEINSTEIN. That is correct.

May I proceed, Mr. President?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Idaho. I also indicate how much I agree with the Senator.

Before I proceed, I note that Senator MURRAY is in the Senate. I ask unanimous consent she be given 10 minutes directly following my remarks.

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

Mrs. FEINSTEIN. Mr. President, Senator CRAIG rightly stated that management choices are being made right now. That, in fact, is true. We are seeing billions of dollars of an agricultural industry effectively being destroyed. Some of it is competition from abroad, but much of it is the fact that growers and farmers have a 20-percent—it is estimated—labor shortage to plant, to harvest, to prune. There is tremendous uncertainty, I can tell you for a fact, in the largest State in the Union, and the largest agricultural State. Farmers do not believe they can get workers to harvest their crops, ergo they are not planting these crops.

Senator CRAIG and I came to the Senate before. We have written a joint letter to the leader. We have asked, please, because comprehensive immigration reform tends to be stalled, at least pass AgJOBS. An industry depends on it.

We have worked out AgJOBS. It has passed the Senate as part of the immigration bill. Just take out the part that is AgJOBS and pass it. It is a 5-year pilot. It involves the ability of the agricultural industry of our country to get labor, both through H–2A reform, which is contained, and through a 5-year pilot to try to secure a workforce for agriculture.

While I was in California, I had the opportunity to meet with growers and farmers. The cry for labor reform has only grown louder. What I will do is talk a little bit about the micro impact and then the macro impact.

California olive farmers delivered only about 50,000 tons of olives this year. That is down from 142,000 tons last year. So only one-third of the crop could be harvested this year because of a lack of labor. Farmers knew their crops were going to be light because of weather troubles. But even with the smaller crop to harvest, farmers had trouble hiring enough workers to work in their groves.

In Stanislaus County, a farmer by the name of Kevin Chiesa he is a grower and is the president of the Stanislaus Farm Bureau—reported that they simply pulled their fig and peach trees out of the ground because they did not have enough workers to harvest the ripe fruit. Mr. President, 350 acres were pulled on his farm, leading to a net dollar loss of $200,000 and a gross loss of $750,000.

Now, that may not seem like much to some, but it sure is a lot to a farmer

who depends on this money to pay his bank loans and to support his family and pay his mortgage.

In San Bernardino County, Richard Miller of Murai Farms saw his small farm of 130 acres struggle because of a lack of labor. He reported they experienced substantial loss in their strawberry crop, resulting in a half a million dollars in losses already this year. Mr. Miller has been farming since 1962, but the difficulties he has experienced have recently caused him to think about giving up his farm and leaving the profession for good.

Over and over again, I have heard that growers need an immediate fix. They do not know what to plant in the upcoming spring season because they do not know whether they will have the workers necessary to harvest the crops.

I will say that my friend and colleague, Senator BOXER, and I are in sync on this issue. She also has talked to growers and farmers. She also knows the problem. She also has been a strong supporter of the AgJOBS program. So in making my remarks today, I want to be certain that this body knows I am also speaking for my friend and colleague, Senator BOXER.

I have brought to the floor today a graphic illustration of one of our pear growers. Her name is Toni Scully. I have met Toni Scully. I met with her in California and she told me about the problems her family had experienced. Shown in this picture is Toni Scully in her pear orchard. Her family lost 25 percent of their bumper crop this year because they did not have sufficient labor to harvest the pears. As shown in the picture, here are the pears all over the ground. They are all going to be either plowed under or thrown in the garbage. Here is a woman who will have lost essentially everything this year.

Now, other growers tell me they are afraid for the future. They are afraid to plant crops that will later be left to rot in the fields. So some growers are experimenting with moving their farms to Mexico. Last week, the New York Times ran an article that pointed out how much imported produce is now rising above exported produce. And one of the big problems is the produce produced at home is not assured; therefore, more produce is coming in from outside.

This is so shortsighted because we are throwing American families into jeopardy. Farming families cannot support themselves if they cannot produce their crops.

The Grape and Tree League of California—now, this is a big trade organization representing what is a huge grape and fruit tree crop group—they estimate that my State alone—Senator BOXER's and my State—has suffered approximately $75 million in tree fruit and grape loss alone. That is a loss of $75 million.

The American Farm Bureau Federation estimates that if this labor shortage continues, California agricultural production loss could be as high as $3 billion each year in the short term and as high as $4.1 billion in the long term. This is decimating. California agricultural income loss is projected to reach $2.8 billion each year in the long term.

The problem is not just in California. Dairy farmers in Vermont, citrus growers in Florida, others throughout the country, have complained about the labor shortage and the uncertainty it creates for the future.

The Farm Credit Associations of New York estimate that if the labor shortage continues there, New York State will lose $195 million in value of agricultural production and over 200,000 acres in production over the next 24 months.

The American Farm Bureau Federation estimates that if agriculture loses its migrant labor force, the national production loss in fruits and vegetables will be between $5 billion and $9 billion a year. This is not my estimate. This is the American Farm Bureau's estimate. They also say that over the long term, the annual production loss would increase to $6.5 billion to $12 billion each year.

These losses are not just limited to growers. The impact is felt throughout the economy. For every job lost on family farms and ranches, the country loses three to four jobs in related sectors equipment, inputs, packaging, processing, transportation, marketing, lending, insurance—they are all supported by having agricultural production here in this country.

Low-producing farms mean a lowered local tax base as farms no longer generate income and create jobs.

Ultimately, the current farm labor situation is making Americans more dependent on foreign food. Instead of stocking produce grown and harvested in our country, America's grocers are increasingly filling their shelves with foreign-grown produce.

For decades, the fiercely independent fruit and vegetable growers of California, Florida, and other States, traditionally have shunned Federal subsidies. Now, they are now buckling under the pressure and asking us for Federal subsidies.

In just one example, because of labor shortages, U.S. avocado farmers may miss the January market window and lose out to Mexican avocado farmers who will be allowed to import into California in 2007. This will wipe out our local avocado crop. The fact that they cannot get the labor they need to harvest the fruits and vegetables only weakens our whole American agricultural industry.

Now, the reason for the shortage is simple. There is no readily available pool of excess labor to replace the 500,000 foreign migrant workers we have depended on for years. The work is hard. It is stooped. It is manual. The hours are long. To make a living, the laborer must travel around the region, from site to site, working for more than one employer, to coincide with the crop harvesting calendar. The problem is, we do not have enough American workers who are willing to do this job.

This week, Senator CRAIG and I received a letter signed by over 375 agricultural organizations and industry leaders from all over the country urging agricultural reform this year. As they point out, this is not a partisan issue. Every area of the country is affected.

In November, I received a letter signed by 147 growers' organizations and individual farmers. They point out in their letter that they cannot wait another year, that our State's pear growers had an exceptional crop, the best-looking crop in over 40 years, yet they suffered major losses. They point out:

> While the pear losses were the most dramatic among the commodities, other producers suffered as well from delayed harvests, degraded quality and deferred cultural practices.

These crises are a big deal. Farm worker crews in my State during harvest were 60 percent of normal—60 percent of normal. What they say is:

> Pending regulatory changes issued by the Department of Homeland Security propose to turn Social Security Administration's mismatch letters into immigration compliance documents. The proposal would allow DHS to prosecute and penalize employers across this country who do not terminate employees who cannot verify their status.

So, Mr. President, you see the problem. The farmers are going to be prosecuted if they hire someone who is not legal to harvest their crops. And they cannot find legal people to harvest their crops. That is the dilemma.

Further quoting the letter:

> Even though today's employers follow current SSA requirements regarding mismatch letters, they would be in violation of the Department of Homeland Security proposal. If finalized, the DHS proposal will aggravate the current labor shortage problem in agriculture.

Bottom line, we cannot continue the way we are going. That is why Senator CRAIG and I have come to the floor. He has worked on this bill for 7 years. I finally got involved and we made some agreed-upon changes. I was able to introduce it in the Judiciary Committee as part of the immigration bill with these changes. We were able to address H–2A reform—and I will go into that in a minute—and it passed the Senate. And, as I say, we believe we have in fact 60 votes in this House.

The letter I spoke about and quoted from is signed by the Allied Grape Growers; California Association of Nurseries & Garden Centers; California Association of Wheat Growers; California Association of Winegrape Growers; California Bean Shippers Association; California Citrus Mutual; California Cotton Ginners & Growers Associations; California Egg Industry Association; California Farm Bureau Federation; California Fig Advisory Board; California Floral Council; California Grape and Tree Fruit; California Grain

and Feed Association; California League of Food Processors; California Pear Growers Association; California Seed Association; California State Floral Association; California Warehouse Association; Far West Equipment Dealers Association; almost every county farm bureau; Nisei Farmers League; Olive Grower Council of California; and on and on and on, with different farms, grape growers, olive growers, cotton ginners, poultry farmers—pages and pages of people pleading with us to do something. And we do nothing.

We will not repass a bill that has been passed by this Senate once, and we are in the middle of a major crisis. So I am kind of at my wit's end.

Let me tell you a little bit about the AgJOBS bill. It is a 5-year pilot. It would provide a one-time opportunity for trained and experienced agricultural workers to earn the right to apply for legal status. It would reform the H–2A visa process so that if new workers are needed, farmers and growers have a legal path to bring workers to harvest their crop. Workers can apply for a blue card if they can demonstrate with records that they have worked in American agriculture for at least 150 days within the previous 2 years.

I can see my time is running out. May I have a couple minutes more to sum up?

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senator from California be allowed to proceed for at least 5 more minutes.

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

Mrs. FEINSTEIN. Thank you very much.

The blue card would require that they work in American agriculture for an additional 150 workdays per year for 3 years, or 100 workdays per year for 5 years. At the end of that time, they would be able to obtain a green card. Over the 5 years, it would apply to 1.5 million individuals, which would provide a stable, ongoing workforce for the United States. Workers would be required to pay a fine of $500, show that they are current on their taxes, that they have not been convicted of a crime that involves bodily injury or harm to property in excess of $500. Employment would be verified. The program would be capped and sunset.

The Department of Homeland Security would ensure that the ID cards are encrypted, that they have biometric identifiers, that they contain anticounterfeiting protections. So you would be able to identify 1.5 million people who are currently illegal. You would know who they are. You would know they are now legal. You would know they were working in agriculture, which desperately needs them.

We would also streamline the current agricultural guest worker program, the H–2A program, which is now unwieldy and ineffective. The bill would shorten the labor certification process, which now takes 60 days or more, reducing the approval process to 48 to 72 hours.

There are a number of specifics. It freezes the adverse wage rate for 3 years, to be gradually replaced with a prevailing wage standard. The H–2A visas would be secure and counterfeit resistant. In this way, agricultural labor would have a permanent workforce and you would have a secure guest worker program, H–2A, where necessary, to go in to areas for short periods of time. It is a win/win situation. It has passed this Senate.

The losses are in the hundreds of millions of dollars across the Nation, and we do nothing. We stiff the American agricultural industry. I have a hard time understanding that. I know the votes are here to do it. We could probably do it. Through the Chair, I ask Senator CRAIG, does he not believe we could pass this bill with maybe an hour on the floor of the Senate.

Mr. CRAIG. I thank the Senator for asking the question. This is not an unknown issue. We all understand it. The Congress understands it. The election is over. People can decide whether they survived or failed because of their position one way or another on immigration. The reality of what she and I talk about is so real today. We knew it then; we know it now. We have the 60 votes. We have had them for some time. There is no question in my mind, with the reforms we are talking about, this could become law and we could pass it in the Senate.

Mrs. FEINSTEIN. If I may, the letter we wrote to Leader FRIST asking that it be calendared, has the Senator received a response? Because I have not.

Mr. CRAIG. I have not either. Obviously, we are in the closing hours of the 109th Congress. Whether we could get it done now, but more importantly, get it done when we get back very early in the year, is going to be critical to us.

Mrs. FEINSTEIN. That is the point. We did not just write this letter. Perhaps the frustration is showing today. It would be my hope we could get this calendared sometime in January and get it passed so that the spring plant can happen all throughout this Nation. Otherwise, I can only tell you, in my State, farmers who can are going to go to Mexico. Farmers who can are going to plant in Mexico. Is this what we want to have happen? I don't think so.

I thank Senator CRAIG for his longstanding work on this issue and for his leadership. When one comes to the floor of the Senate, sometimes one thinks nobody is listening. I hope somebody is listening. I hope people recognize that we have a huge industry out there. It needs attention. It needs a workforce. Americans will not do this work. Therefore, it is a migrant workforce that does the work. There is a methodology to legalize it, to limit it, to sunset it, and to fix what has been a broken H–2A program and in a bill that has already passed the Senate once already during the 109th Congress.

I thank the Chair and my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I ask unanimous consent that following my remarks, the Senator from Maryland be recognized.

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

A TERRIBLE LEGACY

Mrs. MURRAY. Mr. President, I am here because families across this country are going to be hurt because this Republican Congress has not done its job. We have all heard that this session of Congress is a do-nothing Congress. It has earned that title. But there is one thing everybody ought to understand. When Congress doesn't do its job, it makes it harder for all Americans to do their jobs, whether it is teaching our children or providing health care or improving transportation or making our communities safer.

This may seem like a debate over process, but it affects you. If you fly on an airplane and are concerned about your safety, it affects you. If you drive on a highway and are concerned about traffic congestion, this affects you. If you want our Government to stop the flow of money to terrorist organizations, this affects you.

Today I want to share with the Senate a few examples of how it is going to hurt because the Senate Republican leadership has not done its job. I want to point out how it is going to hurt the priorities in my State of Washington, from their fight against drugs and gangs to the cleanup of the Hanford Nuclear Reservation. This Republican Congress's failure is going to make it harder for all of us to do our jobs next year, and that is a terrible legacy for the Republican leadership to leave our country.

Every year Congress has to pass its annual spending bills. They fund our Government. We work very hard on those bills. We craft them so they meet the needs that our constituents tell us about, on everything from health care to transportation to education. Sometimes it takes a while to finish those bills, but we get them done. Then the country is able to move forward. This year it has been very different. We did our work on the Appropriations Committee, but then the Senate Republican leadership blocked our progress. I serve on that Appropriations Committee. We did our job on time in a bipartisan manner back in July, under the leadership of Senators COCHRAN and BYRD. We completed work on 11 appropriations bills and sent them to the Senate floor.

Here is what is impressive. Every single Senator on the committee voted to report each and every bill. But since then, the Senate Republican leadership blocked our progress. They decided to only let 3 of those 11 bills move forward. Those bills cover extremely important functions—defense, homeland security, and military construction—but they are just 3 of the 11 bills. What about the needs of our communities? What about the needs of our schools

and colleges and universities? What about the support of health research or investing in infrastructure or meeting the needs of our farmers or ranchers or law enforcement? Those are critical needs. The Senate Republican leadership decided this past summer that they could go on the back burner.

Never in my 14 years in the Senate have we started a new fiscal year with so little progress in the Senate in passing the appropriations bills and funding the critical functions of Government. Nine weeks ago we entered a new fiscal year. I came to the floor at the time to complain about the unfinished business of the Senate and expressed my disappointment that we were recessing for the elections without moving these bills. I always thought we would come back and the Republican leadership would finish its work this session. But they have made a different choice. It is now December 7. We have not seen one additional funding bill clear the Senate. And we are now hearing talk that the Republican leadership may formally adjourn the Senate by the end of this week, with most of the 11 appropriations bills never being sent to the President.

I think it is worth remembering that when this happened last time, there was a major shift of power back in November of 2002. I was serving at the time as chair of the Transportation Appropriations Subcommittee. After the election, just as now, the appropriations process was not complete. But Democrats still worked to fulfill our responsibility by moving bills on the floor and sending them to conference. Unfortunately, we were blocked from completing our job. The Republican leadership that was due to come into the majority in January of 2003 prohibited us from moving those bills forward. They decided they wanted to complete the appropriations process when they were in control.

This year Democrats are taking a different approach. We should complete the appropriations process now, because it is important to America's families and communities. We are already 2 months into this fiscal year. The American people are paying a price for these delays. Democrats are willing to complete this process now, even under Republican control, because we believe the American people have waited long enough. Unfortunately, the Republican leadership didn't get the message. Now American families are going to pay the price of this negligence.

Some Senators have been suggesting that we simply pass a continuing resolution for the next entire fiscal year and everything will be fine, claiming there is no real difference between passing these bills we have worked so hard to put together and putting Government on auto pilot for a full year. There is a big difference. This country will pay a price under that scenario for airline safety.

Under a full year's CR, my colleagues should know we will only be able to hire half of the air traffic controllers we need, and we will not be able to hire the air traffic safety inspectors who are desperately needed. We are going to pay a price in highway safety because we are not going to be able to reverse the recent increase in traffic fatalities. We are going to pay a price in the fight against terrorism, because we are not going to be able to fund the Treasury Department's efforts to stop terrorist financing. And we are going to pay a price in educating our kids and improving our communities and training our workforce. Everywhere you look, we will pay a price if we fail to do our job.

The Republican mismanagement will hurt my State of Washington, from the fight against drugs and gangs to the cleanup effort at the Hanford Nuclear Reservation. If you sit down with law enforcement officers in my home State, as I have, they will tell you they are facing a methamphetamine epidemic. It is destroying families and communities, and law enforcement needs help to deal with it. Over the past few years I have worked to provide funding each year for the Washington State meth initiative. It is a coordinated Statewide effort that focuses on cleanup, treatment, prevention, and law enforcement, and it is a great model for other States. Again, this year in the Senate bill, I got a commitment to support my State's meth initiative. But now this funding is going to be delayed and put in jeopardy because Senate Republicans have refused to do their job and pass the Commerce-Justice-State spending bill. Because Republican Senators are not going to do their job, they are going to make it harder for police in my State to do their job, and that is wrong.

This failure to act will also delay and put at risk support for an antigang program in Yakima Valley. Back on October 16, I was in Yakima at the police department for a meeting with two dozen local officials, law enforcement, and prosecutors. They told me about the tremendous challenges they were facing, and the top issues on their list were meth and gangs. I heard their message, and I have fought for a commitment in the Senate to support a community-based gang task force. That funding is needed immediately. Now I have to go back to Yakima and tell those hard-working leaders that the funding I got was delayed and put at risk because Republicans don't want to do their jobs and pass the annual spending bills. People in my State deserve better than that.

Let me offer another example of how the Republicans' failure to do their jobs is hurting my State. Our Government has an obligation to clean up the Hanford Nuclear Reservation in Richland, WA. As I speak, that community is working hard to clean up nuclear waste, protect the community, and the environment. Here in the Senate I have fought for the funding we need to keep that cleanup moving forward. But now the Republicans are refusing to move the Energy and water bill. As a result, funding for Hanford cleanup is going to be delayed. That means it is going to take longer, and it will cost more money. The Republican leadership is going to have to explain to the people I represent in the Tri-Cities and throughout my State why Hanford funding is being delayed. They are going to have to answer for their failure to act on these and other priorities.

It doesn't have to be this way. Rather than spending the month of July and September debating unrelated bills for political reasons, we could have been debating these appropriations bills that are critically needed for our Nation's safety and security.

We could have been fighting for the people we represent. We could have been meeting their basic needs and protecting their livelihoods and ensuring their safety. Unfortunately, the Republican leadership said ''no,'' and now our families are going to pay a price.

I think this Senate deserves better, but more important, the people we represent deserve a lot better.

I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I want to compliment the Senator from Washington State for commenting on the law enforcement aspects that are going to be lost under the way we are proceeding because she is absolutely right. I say to the Senator before she leaves the floor, that is in the Commerce, Justice, Science Committee, on which I am currently ranking member. We worked on a bipartisan basis—Senator SHELBY and I—to produce the bill that would have given the financial tools to local enforcement to fight the meth epidemic, the gangs that are coming, all with the most grim and ghoulish approaches in our local communities.

But we are saying, you know what, we are cutting and running. So we are cutting their budget, and we are running out of here. That phrase ''cut and run'' has been used so cavalierly, but I am telling you that is exactly what we are doing now. We are cutting and running from our responsibility to fund the programs that meet compelling human needs in our own States, in our own country, as well as those things that help with the national security, such as funding the FBI and to the security in our own communities. We are talking about meth and gangs, but I know the Senator feels as strongly as I do about sexual predators. We worked with Mr. Gonzales, the Attorney General, in terms of a very good antisexual predator approach, with listing and watch lists and those things that, again, empower the local law enforcement. We have a program that helps sheriffs.

So if we want to bring in the posse, we have to bring in the bucks. What I like about the sheriff initiative is it is in every community, not only urban

areas but also out in the rural areas. But, oh, no, we have to get home. Well, I think we have abdicated our responsibility. I thank the Senator for what she has said.

Mr. President, we are abdicating our responsibility, and in abdicating our responsibility to pass the outstanding appropriations bills, we are having a very dire impact on our own country. Of the 12 appropriations bills, only 2 have passed. One is Defense and one is Homeland Security. I am so glad that we did pass those and we did them in a responsible way and in a timely manner. But one can say, then, we met our national security responsibilities. Well, not the way this Senator sees it. The national responsibility for national security also comes to our own FBI, comes to local law enforcement, comes to our U.S. Attorney's Offices, and we are walking away from this.

The voters have said they want us to change the tone and they want us to change the tempo. I can honestly say that working in Commerce, Justice, Science Appropriations, we have had an outstanding tone. I compliment my current chairman, Senator SHELBY from Alabama. Gosh, we worked so well in producing our appropriations bill. The Senator from Alabama made sure I was consulted, along with my staff. We worked on the compelling needs that must be funded but in a fiscally responsible way. That subcommittee doesn't need to change the tone, but, wow, do we need to change the tempo. Not because of what SHELBY and MIKULSKI did. We did our bill; we finished it. We have moved it out of the committee. It is now ready to go to the Senate floor. We did it on a bipartisan basis, and we feel confident, each of us and our members, of the bill we produced. So we are ready to go. We are similar to a plane circling the airport, but we are running out of fuel.

I am concerned particularly about those programs affecting the FBI and Federal law enforcement agencies, as well as the locals. The FBI to the sheriffs are going to be shortchanged, resulting in, I think, very serious consequences. We use budget-speak, Senate-speak with words such as ''CR'' and ''omnibus,'' but whatever we are talking about, the fact is we are not finishing our job, when we could have done it if there was a willingness from both the House and the Republican leadership to move these bills. Many of them have been worked out—again, on a bipartisan basis.

I come to you today with my great concern about the global war against terrorism. I am a member of the Intelligence Committee, I am on the Appropriations Committee and I am also a member of Defense Appropriations, Homeland Security and also currently ranking—and soon to be chair—of the Subcommittee on Commerce, Justice, Science and Related Agencies that funds particularly the FBI. I live, along with my constituents, in the national capital region. We are a high-risk area. So we are committed to national security—whether it is the Port of Baltimore or whether it is Bethesda, whether it is the Naval Academy and looking out for them, but we need these resources. Sure, we need to fund defense and homeland security, but don't we need to fund the FBI? The CIA can spy around the world, but ultimately any information to come back and protect us against predators here comes through the FBI. The National Security Agency—hopefully, completely within the law with reforms that need to be made—can pull out these ''cyber snitches,'' with the Internet, that is going on somewhere in the Middle East and prevent those attacks. We are proud of what they did in working with our British counterparts in London. No matter what happens over there, when it comes back here, the FBI needs to protect us. But, oh, no, we have to get home. That is what I mean about cutting and running. We are cutting and running.

When we do what we are about to do soon, the FBI will be short $100 million. What does that mean? Well, it means that the FBI will not be able to maintain the operations tempo that they have achieved since September 11. It means that they will not be able to hire and keep the agents that they have, including the important linguists. We have had to recruit people who can speak Farsi and a whole variety of other languages that are not well known and available in our universities. But Director Miller went out and found them. They are ready to go. They are already being trained. But we are saying: Oh, no, we cannot hire you now because the Congress had to go home. They have to cut and they have to run. Let me tell you, linguists, even though the private sector will hire you for more money, at an easier lifestyle, we know you were ready to join the FBI, but we have to go fa-la-la, fa-la-la somewhere. This is outrageous.

That is the basic kind of thing that will directly impact on our ability to fight terrorism here at home. It is what we said during the 9/11 Commission about the famous watch list and emerging technology. We have been working on the integration of the fingerprint systems between the FBI, DHS, and also Immigration, to make sure that we truly are stopping the people we need to stop who are trying to get into this country. But, oh, no, we are going to delay that and other technological improvements that the FBI so desperately needs. We are shortchanging the FBI.

Then, when we look at the global war against terrorism and how it is acted out in our own communities, I salute the U.S. Attorney's Office. For them, this CR and this cutting and running we are doing will essentially mean that the U.S. attorneys will be again shortchanged. In my own State, they run something called the Joint Terrorism Task Force. It is the U.S. attorney who gets all of the stakeholders in the same room, providing important legal guidance to all of the police chiefs, certainly, in the Baltimore area, and those involved in port security and local law enforcement. The people from the Governor's office run that. Whether it is in the national Capitol region, that we are in, or L.A. or New York, our U.S. attorneys run these forces. The local people love it, and they are part of the global war against terrorism because we don't have enough FBI agents, but with enough cops on the beat, we can do that. So we are shortchanging the U.S. Attorney's Office.

Let's go to the Bureau of Prisons. We are going to lose correctional officers. We might say that they are just thugs anyway. Let's talk about those ''just thugs anyway.'' Right this minute, we are very concerned and have significant flashing yellow lights about the fact that right now in our Federal prisons there could be underground recruitment efforts going on to recruit people for terrorism or for these Latin American gangs, such as M–13. Talk to the head of the Bureau of Prisons and to the Attorney General. We have to stand centrally with own Federal prisons that we do not become the incubators not only of thugs but of terrorists and terrorizing gangs in our local communities.

When I talk about grim and ghoulish, I am going to use an example that is difficult to bring to the Senate floor. In my own State, there was a gang attack, where they cut off the arms and legs of a victim, using a machete. I could describe more ghoulish things, but I will not offend civilized people to give those examples.

We have to get serious. Are we going to fight the global war against terrorism or are we going to cut and run from the appropriations? Are we going to stand up for our FBI or cut and run from our duty? Are we going to stand up for Federal law enforcement, such as the Bureau of Alcohol, Tobacco, Firearms and Explosives, who are working here and helped us catch the snipers and are working over there so we can deal with the IEDs that are killing our troops? Are we going to stand up for the DEA that is fighting drugs on the street corners of our communities and dealing with the drug problems in Afghanistan, with Mr. Karzai, that is now funding the Taliban? Oh, no, we have to cut and run.

Well, I am opposed to this strategy. I oppose this do-nothing Congress. We could do the job. I worked with my Republican colleague and, I must say, he worked with me. We don't have to worry about changing the tone, but we sure have to change the tempo. That is why the voters made a change in the Congress. So we are going to have to swallow this, but I will tell you that they can count on BARB MIKULSKI not to cut and run from her duty, her responsibility in fighting the global war against terrorism and the thugs and bums on our streets in America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask unanimous consent that I may speak as in morning business for up to 15 minutes.

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

SENATE SERVICE

Mr. DAYTON. Mr. President, it has been almost 6 years since I was sworn in as Minnesota's 33rd U.S. Senator with my friend and colleague Paul Wellstone at my side. I began my term hopeful and optimistic. The Senate was evenly divided, with 50 Democrats and 50 Republicans, and President-elect George W. Bush was promising to change the tone in Washington with a new era of bipartisan cooperation.

Our country enjoyed peace and relative prosperity. Outgoing President Bill Clinton, a Republican-controlled Congress, and over 6 years of economic expansion had combined to create the first annual surpluses in the Federal Government's on-budget account in 39 years, and they were projected by OMB to continue for at least the next decade.

The Social Security trust fund's annual surpluses were going to be saved in a lockbox for the upcoming retirements of a large baby boom generation. There was even discussion of paying down the national debt to further strengthen our financial position. Yet we still would be able to increase funding for such essential needs as public education, affordable health care, seniors' drug coverage, and infrastructure improvements.

Just 6 years later, our country's condition has changed drastically, and mostly for the worse. We are mired in a disastrous war in Iraq despite the heroic efforts and sacrifices by our Armed Forces. The fiscal integrity of the Federal budget has been destroyed, with record-high annual deficits continuing, despite budget gimmickry and a modest economic recovery. The Federal tax base has been decimated by huge tax giveaways to the rich and superrich that will burden our children and grandchildren. The Social Security trust fund's surpluses have been spent every year on what the nonpartisan Concord Coalition has called ''the most reckless fiscal policy'' in our Nation's history.

The Bible says if the leaders don't lead, the people perish. Unfortunately, the Bush administration and the Republican majority in Congress have not led this country well, and our people are suffering the consequences: lost jobs, businesses, and farms; lost incomes, standards of living, and security; and lost loved ones killed or maimed in Iraq.

We have lost the national unity which followed the terrible atrocities of September 11, 2001, and the Bush administration has lost the world's support which they had after that awful attack. The President's decision to invade Iraq unilaterally, the absence of weapons of mass destruction that had been the initial justification for that invasion, and his administration's disastrous mismanagement of Iraq following the overthrow of Saddam Hussein has squandered most of our national unity and international goodwill.

The CONGRESSIONAL RECORD will show that I opposed those failed policies and supported other and better alternatives. I was 1 of 23 Senators to vote against the Iraq war resolution. I opposed the large tax giveaways to the rich and superrich. In fact, during my 6 years in the Senate, I voted 29 times to raise my own taxes. Why? Because our country needs those tax revenues, and I can darn well afford to pay my fair share of them, as can all other Americans with my good fortune.

I tried seven times unsuccessfully to get the Senate to honor its 30-year promise to school districts and schoolchildren and fully fund special education. The Senate did pass my ''Taste of Our Own Medicine'' amendment limiting Members of Congress's prescription drug coverage to what they provided to senior citizens through Medicare. However, my amendment was discarded by the House-Senate conference committee.

It has pained me deeply to see the Senate's majority lead our country into what I consider the wrong direction. Our Nation's founding principle was ''we the people,'' and it remains so today. If we are not always united by the common cause, we are bound together by a shared destiny. If the laws this Senate passes are successful, ''we the people'' benefit together. If those laws fail, we suffer together. Some Americans will suffer more than others as unfair victims of social and economic injustices, but ultimately all Americans cannot escape our common national fate. United we stand and succeed; divided we fall and fail. I regretfully believe that during my Senate term this administration and its congressional followers have caused too many divisions, declines, and failures.

Thus, I leave the Senate with strong feelings of frustration and disappointment. I have been unable to pass most of what I believe was most important to Minnesota, to our country, and to the world. I remain convinced that those policies would improve the lives of most Americans far better than what the majority here enacted.

A cornerstone of democracy, which I honor, is that the majority prevails. Winning, however, does not make them right and, unfortunately, it does not make them wise. In those decisions with which I have disagreed, time will tell us and the American people who was right and who was wise.

I do want to thank my colleagues on both sides of the aisle for the privilege to serve these last 6 years with them. I am grateful for the friendships I have made, which I hope will continue after my departure.

I thank my excellent staff, those here in Washington and those in Minnesota, for their tremendous dedication and many hours of hard work. Most of the successes I have enjoyed here have been the result of their dedication and their abilities, and I thank them again for their support.

I especially want to thank the people of Minnesota who gave me this extraordinary opportunity to serve them in the Senate. Our democracy is, through all of human history, throughout the entire world, the most advanced and successful form of self-governance that human beings have ever devised. It is far from perfect, but it is far better than anything else. We who are elected as its leaders and its stewards have sacred duties to uphold its principles, to elevate its policies, and to improve its practices before we bequeath them to our successors. I have done my very best to fulfill those duties before I pass them on to my outstanding successor, Senator-elect Amy Klobuchar. We in the Senate and in the House of Representatives also have the duty to serve the best interests of all Americans. To be successful and sustainable, our Government must improve the lives of all of our citizens.

Unfortunately, here in Washington, the people who already have the most keep getting more than anyone else. The excessive influences of their money and political power on the Federal Government are serious threats to our democracy. They skew decisions and laws in favor of the rich and powerful, often at the expense of other Americans: the hard-working people who pay their taxes and hope their elected representatives will look out for them in Washington. It isn't too much for them to expect. However, it is too often more than they are getting.

They are told repeatedly that new laws and policies will improve their lives. Yet their real lives become worse, not better. They experience a deep disconnect between what they are told will happen and what is actually happening to them.

In attempts to hide those disparities, the words used in Washington are often carefully selected by very clever people in order to disguise reality rather than to describe it. For example, legislation that stripped many Americans of their bankruptcy protections for major medical expenses was named the Bankruptcy Abuse Prevention and Consumer Protection Act. Another bill that would have increased industrial pollution was entitled the Clear Skies Act. No Child Left Behind has knowingly underfunded Head Start, title I, and special education, which has left millions of schoolchildren behind.

These discrepancies and the disparities they create will be even more destructive to the American people's trust in their Government in the years ahead. That is because the choices facing Congress will become even more difficult as the needs of an aging population grow but revenues do not. In

about a decade, the Social Security trust fund's large annual surpluses will be replaced by deficits, and its IOUs from the general fund will add to that fund's own chronic deficits. If combined with today's enormous and unsustainable balance of trade deficits and a continuing erosion of our manufacturing job base, the consequences could be catastrophic.

That somber forecast has replaced my hope and optimism of 6 years ago to my deep regret. Following the wisdom of ''speak truth to power,'' I present my truth to the world's most powerful legislative body, the U.S. Senate, and one of the two institutions that must act to keep our Nation strong. I hope that you will. I will pray for your wisdom to discern what is right, for your courage to act accordingly, and for your success on behalf of our great Nation and the world.

Mr. President, I yield the floor, and 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. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GRASSLEY. Mr. President, for one final time, I wish to address the nominee before us, Dr. Von Eschenbach, who is up for Commissioner of the Food and Drug Administration and who I think should not be approved for the position by the Senate.

I have considered Dr. Von Eschenbach's performance on the job for more than a year now because he was appointed Acting Commissioner in September of 2005. In fact, over the last year I have closely monitored his actions, reactions, and his public and private comments to the FDA staff and to the public.

This nominee inherited a Food and Drug Administration plagued by cultural and structural and personnel problems, and I surely do not blame him for the problems, but I have to look at whether he is the person to correct those problems. Because this agency is plagued by these cultural and structural and personnel problems, FDA is in desperate need of a leader, a leader who can not only restore the public's confidence in the agency but also restore the agency's confidence in itself.

I met with Dr. Von Eschenbach more than once. We talked, and he seemed to be very nice. He has, of course, without dispute, excellent credentials. He promised me full cooperation in my oversight work I was doing and the investigations I was doing, but, in fact, it did not happen. Instead, I had to issue two subpoenas. So far, he has not complied with those subpoenas which were issued 7 months ago. This reflects a lack of respect for the authority of Congress conducting its constitutional responsibility of oversight of the executive branch of Government.

In addition, under Dr. Von Eschenbach's leadership, the FDA remains in a state of denial about all these cultural problems to which I have referred. A coherent action plan to address the problems is nowhere to be found. Dr. Von Eschenbach has told me that there is room for improvement in the area of technology, but it does not appear that he understands the depth and breadth of problems affecting the Food and Drug Administration.

The FDA is in serious trouble, and I am not the only one saying so. Over the last year, we have heard from the Government Accountability Office, the Union of Concerned Scientists, and just a few months ago we had a scathing report from the Institute of Medicine.

The Institute of Medicine completed a $3 million, 15-month study and set forth 25 recommendations. This report by the Institute of Medicine conveys a sense of urgency to fix the problems. Just last month at the Health, Education, Labor, and Pensions Committee hearing, the chairman of the Institute of Medicine committee that produced the report said:

> If there ever was a time that it was critical to address these issues, it is now.

The next Food and Drug Administration Commissioner must be a person who not only has excellent credentials, as I have said he has, but who also will accept the criticism of the agency and develop coherent solutions.

Here is what the Institute of Medicine reported:

> The committee believes that cultural changes are urgently needed to support a stronger, more systematic and more credible approach to drug safety in the Center of Drug Evaluation and Review and it recommends solutions to the problems created or exacerbated by the elements of the Center's management, structure and environment.

Now a short quote:

> Many have observed signs of an organizational culture in crisis.

Another quote:

> The Center's leaders have to be prepared to address the underlying cultural problems that divide and impair the optimal functioning of the Center's staff and effectively use the existing and new authorities and resources to achieve the Center's public health and regulatory mission.

These criticisms of the Food and Drug Administration have come from outside the agency, not from whistleblowers reporting to me. But I also continue to hear from these employees inside and also from managers inside the Food and Drug Administration who were concerned about the integrity of the Food and Drug Administration's work. What is also troubling is that some of these employees have experienced intimidation or reprisals for voicing legitimate concerns.

I have fought long and hard over the last two decades to protect the rights of numerous whistleblowers who expose fraud, waste, and abuse. When I met with Dr. Von Eschenbach in March, he told me that he was ''committed to whistleblowers.'' Yet his actions seem to suggest otherwise.

The worst example may be when Dr. Von Eschenbach ordered a meeting with the FDA staff after the press reported information that was critical of how the FDA handled safety issues with the drug Ketek. I keep referring to Ketek because it is a drug involved in the death of an 18-year-old boy in Cedar Rapids, IA. As I understand it, Dr. Von Eschenbach sent a clear message at this staff meeting. Some suggested that this attempt was simply to boost morale among FDA employees, but some longtime FDA employees saw it differently. They took his word that anybody who spoke ''outside the locker room'' might find themselves ''kicked off the team''—literally. And I don't blame them for taking offense at that. People are trying to do their job, and you talk about what is wrong and you might be fired for it? People like that ought to be upheld and honored. In the final analysis, they ought to have their concerns addressed within the agency and not have to come to those of us in Congress because they are not getting any ear in the agency. So they took his message to mean: Your career is in jeopardy if you happen to come to Senator GRASSLEY or outside the agency or to any Member of Congress. To me, it shows his poor judgment and intolerance for dissenting opinions and also for what is basic to American government, that the public's business ought to be public.

Dr. Von Eschenbach also told me that he was a man of ''discipline, rigor and precision.'' Those are his words. He used those same words in a speech:

> We will retain all the rigor, all the discipline and all the precision of regulation, but our efforts will be geared so that things can move faster rather than slower.''

We can all agree that new drugs and devices should be available to the public as soon as possible, but there is also the issue of safety and the protection of the public. The FDA must do its job and ensure that the drug's benefits outweigh its risks before approval.

My other concern regarding Dr. Von Eschenbach is that he assured me of his commitment to respond promptly to requests from Congress. That is a promise which was never kept. So do I have a reason to be concerned about this person, regardless of the very good credentials he has? My oversight of the FDA has consequently been slowed by inaction on the part of his agency. In fact, he has not responded to a letter I sent to him 9 months ago, and my requests for interviews with some FDA officials were ignored for more than 3 months and some still have not been scheduled. As Acting Commissioner, he has ignored congressional requests, and I do not expect that will change if he is confirmed by the Senate.

Before I close my remarks, I ask unanimous consent to have printed in

the RECORD the full text of a letter I sent to the Acting Commissioner in September.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, September 20, 2006.

ANDREW C. VON ESCHENBACH, M.D.,
Acting Commissioner, U.S. Food and Drug Administration, Rockville, MD.

DEAR DR. VON ESCHNBACH: As a senior member of the United States Senate and as the Chairman of the Committee on Finance (Committee), it is my constitutional duty to conduct oversight into the actions of executive branch agencies. For nearly three years, I have been investigating matters related to, among other things, the safety and efficacy of products regulated by the Food and Drug Administration (FDA or agency).

I have reviewed and questioned how the FDA handles the pre-market review and postmarket surveillance of drugs, biologics, devices and veterinary medicines to assess whether or not the agency is fulfilling its mission to protect the public health. Additionally, I have worked to give voice to the concerns of a number of rank-and-file scientists and FDA managers who share a common complaint: a deep-seated cultural divide exists within the FDA, and it has led to systemic problems that plague the agency. Together we have shed sunlight on how frequently differences of scientific opinion are quashed, the nature of the cozy relationship between the FDA and the industries it is supposed to regulate, and the failure of the agency to be adequately transparent and accountable to the public.

Others also have identified serious leadership problems at the FDA. Editorial pages of publications across the nation, including a number of the most esteemed scientific journals, have recognized and expressed outrage at the FDA's failures in recent years. The Government Accountability Office (GAO), the independent and non-partisan agency that works on behalf of Congress and the American people, has also identified serious and systemic problems at the FDA. Still, the most powerful messages come from the increasing numbers of current and former FDA personnel, who often come forward at great personal and professional expense to express their disenchantment that the FDA has lost its way and ''sold out'' to the industries it is charged to regulate.

In the face of such criticism, the FDA appears to be focused on damage control rather than addressing its core problems. As a science-based agency, the FDA is remarkable for its lack of introspection, second-guessing, and failure to assess its own performance and capabilities in a systematic way. Despite all the recent criticism, the agency does not have a comprehensive plan of action in place to address its weaknesses. Instead, the FDA comes off as an agency in denial that chooses to keep its head in the sand in the hope its problems will go away. I am writing this letter to encourage you to establish and implement a resuscitation plan to restore the FDA's credibility in the mind of its own employees and the American public. An agency that hemorrhages whistleblowers is an agency needing critical care. The following concerns are by no means comprehensive, but they illustrate several common themes of my oversight of the FDA.

SUPPRESSION OF SCIENTIFIC DISSENT

I am very troubled by FDA's attempts to suppress scientific dissent by muzzling its own scientists. Such actions by the FDA show a lack of respect for the dedicated scientists working at the agency and a lack of respect for the scientific process.

In February 2004, the FDA held an advisory committee meeting to discuss whether or not there was a link between some antidepressant drugs and suicidal behavior in children. Dr. Andrew Mosholder, the FDA's expert on this matter, concluded that there was a link. However, his FDA supervisors disagreed and canceled Dr. Mosholder's presentation to the advisory committee. Instead, Dr. Mosholder was given a script by his supervisors to read if he were asked why he was no longer presenting before the advisory committee.

Similarly, in February 2005, Dr. David Graham was finishing a study on Medicaid patients taking COX–2 inhibitors and was told by his supervisors that he could not present his findings regarding these drugs at an upcoming advisory committee meeting. The scientific process ultimately prevailed, but only after then-Acting Commissioner Lester Crawford overruled Dr. Graham's supervisors to allow him to present his findings. This was not the FDA's first attempt, however, to muzzle Dr. Graham. Several months prior to the advisory committee meeting, Dr. Graham went public with allegations about the FDA's mishandling of the COX–2 inhibitor Vioxx, which was manufactured by Merck & Co, Inc. (Merck). According to Dr. Graham himself, as well as information and documents obtained by the Committee, senior FDA officials attempted to intimidate him so he would not testify about the adverse cardiac effects of Vioxx before Congress. The FDA also tried to prevent the publication of Dr. Graham's findings in Lancet.

In July 2005, the FDA approved the Vagus Nerve Stimulation (VNS) Therapy System, a medical device for treatment-resistant depression (TRD), even when FDA scientists could not determine if the device worked. Rather than allow the scientific process to dictate FDA's decision, a senior FDA official overruled a team of more than 20 FDA scientists, medical officers, and management staff who recommended against approval of the device based on their comprehensive scientific evaluation of the sponsor's application. In addition, while the FDA has publicized differences of scientific opinion within the agency regarding controversial regulatory decisions in the past, in this case, the FDA did not publicize scientific dissent regarding the effectiveness of the VNS Therapy System for TRD.

More recently, my office was approached by yet another FDA scientist who is being prohibited from submitting an article to a major scientific journal despite the fact that an appropriate disclosure statement would be made.

COZY RELATIONSHIP WITH INDUSTRY

I have frequently criticized the FDA for its relationship with the industry, which I believe is far too cozy. The FDA needs to distance itself from the industry and return to its role as regulator, not a facilitator. Despite findings from a Merck study that heart attacks were five times higher for Vioxx patients than for patients on another drug, nearly two years passed before label changes were made. The overriding concern of the FDA should have been the health and safety of the American people. However, while the FDA was negotiating label changes with the company, patients and doctors remained largely unaware of the cardiovascular risks. In addition, Merck was aggressively marketing Vioxx during that time.

Another troubling example of FDA's coziness with industry is the removal of Dr. Victoria Hampshire, a drug safety reviewer, from the review of ProHeart 6, a heartworm prevention drug for dogs. Dr. Hampshire was reassigned following the drug company's presentation of findings from its private investigation of Dr. Hampshire after the company met with then-Commissioner. It appears the purpose of that investigation was retaliatory and an effort to discredit Dr. Hampshire. The company's investigation led to a criminal investigation by the FDA; however, the investigation resulted in no action taken against Dr. Hampshire. In fact, Dr. Hampshire subsequently received an award for her job performance related to ProHeart 6.

Unfortunately; it appears that Dr. Hampshire is not the only FDA employee who was the target of a company's campaign to discredit individuals who may present impediments to its agenda. Two months ago, I wrote to the Department of Health and Human Services Office of Inspector General (HHS OIG) to investigate whether or not one or more FDA employees conspired with Merck to discredit Dr. Graham and/or call into question Dr. Graham's allegations regarding the safety and efficacy of Vioxx. FDA's handling of the antibiotic Ketek is another example where the FDA appears to have accommodated a drug company despite the fact that the company submitted fraudulent data from a safety study to the FDA and repeatedly provided incomplete safety information. What baffles me even more is the fact that the FDA continued to cite Study 3014 in publicly released safety information for Ketek even after its Division of Scientific Investigations concluded that Study 3014 involved ''multiple instances of fraud'' and that ''the integrity of data from all sites involved in [the] study . . . cannot be assured with any degree of confidence.''

PRESSURE TO ALTER OR EXCLUDE INFORMATION

Not only has the FDA disregarded and downplayed important concerns and warnings from its own scientists, but FDA supervisors have also pressured some of these scientists to change their findings or conclusions regarding the safety and/or efficacy of a product. Most notably Dr. Mosholder and Dr. Graham, among others, have been pressured by their supervisors to soften their safety findings or conclusions regarding antidepressants and Vioxx, respectively. In addition, a survey released by the Union of Concerned Scientists (UCS) and the Public Employees for Environmental Responsibility (PEER) on July 20, 2006, found that approximately one-fifth of the nearly 1,000 FDA scientists surveyed said that they had been asked, for nonscientific reasons, to inappropriately exclude or alter technical information or their conclusions. One-fifth said that they have been asked explicitly by FDA decision-makers to provide incomplete, inaccurate or misleading information to the public, industry, the media and government officials. My Committee staff are presently reviewing such allegations in ongoing investigations.

PRESSURE TO APPROVE PRODUCTS

Throughout numerous investigations by my Committee staff, FDA employees have also stated that they are under constant pressure to approve drugs within deadlines established by the Prescription Drug User Fee Act. For example, during the Committee's investigation into the delay in labeling changes regarding blindness risks for Viagra, the safety evaluator for that drug informed my staff that the Office of New Drugs is under such time pressure to approve new drugs that safety concerns were often ''fit in'' wherever they could. According to a survey by the HHS OIG in 2002, nearly one in five scientists polled said that they had been pressured to approve or recommend approval of a new drug despite concerns about its safety, effectiveness, or quality. This needs to be

corrected immediately, and FDA needs to resume its science-based mission.

ATMOSPHERE OF FEAR OF REPRISAL

According to the FDA, there are regulations and procedures in place to help resolve organizational and individual disagreements. However, my Committee staff continues to hear from FDA employees who experience intimidation and reassignments when they raise concerns about the integrity of FDA's work. In addition, the 2006 UCS and PEER survey found that over one-third of the FDA scientists who responded to the survey said they could not openly express any concerns about public health within FDA without fear of retaliation. Moreover, the GAO found that the dispute resolution processes for disagreements over postmarket drug safety decisions ''have not been used and may not be viewed as sufficiently independent.''

Your recent meeting with FDA staff involved in the review of Ketek is a disturbing example that FDA's internal dispute resolution processes are not working. Instead of reassuring FDA employees that they can raise concerns without being subjected to retaliation or intimidation, the meeting itself appears to be an act of intimidation. Scientists who speak up about problems and concerns, whether internally or externally, help ensure that our government operates efficiently, effectively, and in the best interest of the American people. FDA employees need to hear from the leader of the agency that they can freely voice their concerns without fear of reprisal.

ORGANIZATIONAL CHALLENGES

The GAO report released on April 21, 2006, calls for long overdue reform at the FDA. Under the current FDA review system, patient safety takes a back seat to the fast approval of products. For example, the drug safety office, now known as the Office of Surveillance and Epidemiology, is under the thumb of the Office of New Drugs (OND), which is hampered by real and perceived conflicts of interest. According to the GAO report, the drug safety office is under-funded, lacks independence and lacks decision-making responsibility. OND—which is responsible for approving or disapproving drug applications in the first place—is the office responsible for taking regulatory actions related to the safety of drugs already on the market, not the drug safety office.

To improve the decision-making process for postmarket drug safety, the GAO has recommended that Congress expand the FDA's authority to require drug companies to conduct postmarket studies when additional data is needed. A number of us in Congress have repeatedly asked the FDA what additional authorities and/or resources are needed to enable the agency to achieve its mission. In a related matter, during private meetings with FDA management, the need to have pharmaceutical companies submit their applications for new drugs and other requests electronically comes up repeatedly as critical to improving the efficiency and effectiveness of the FDA. Yet, the FDA continuously denies the need for greater authority and resources. Why the FDA is resisting such offers from Congress is a mystery to me.

LACK OF LEADERSHIP

The FDA has been without a permanent leader more often than not in recent years. The agency needs and deserves a strong, permanent Commissioner who is unequivocally committed to the scientific process and can make the administrative reforms necessary to ensure greater transparency and accountability. While you are not the permanent Commissioner of the agency, you are nevertheless in the position, as Acting Commissioner, to turn things around and restore public confidence in the FDA. I sincerely hope you seize the opportunity to do just that.

Sincerely,

CHARLES E. GRASSLEY,
Chairman.

Mr. GRASSLEY. The letter lays out the major problems at the FDA. I encourage my colleagues to read it and, maybe more important, emphasize again reading the Institute of Medicine's criticism of the Food and Drug Administration.

The FDA needs a permanent commissioner to tackle these problems. Unfortunately, I believe the nominee is not the person for the job. Over the past year, the nominee has failed to step to the plate and failed to keep his assurances to me. He has said the agency needs to be a facilitator, but think what the word ''facilitate'' means or what ''being a facilitator'' means. It could mean a cozy relationship between the FDA and industry. What is called for is someone who recognizes that the FDA is supposed to be a regulator, not a facilitator.

I am also afraid he will allow FDA management to continue pressuring FDA scientists to change their findings or conclusions and to approve the products despite concerns about the safety and efficacy of the product. Dr. Von Eschenbach is not prepared to provide the leadership necessary to restore confidence in the FDA.

Given these concerns, I hope my colleagues will take them in consideration before they vote. I intend to vote no. I hope my colleagues will so that we can have a person in this position who will change the culture but also cooperate with the constitutional responsibilities of the Congress of the United States to oversee the executive branch.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I would like to take just 5 minutes as in morning business.

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

GRATITUDE FOR EXPRESSIONS OF CONCERN

Mr. THOMAS. Mr. President, I come to the Senate floor to express my gratitude for the response I have gotten over the last month from my friends and neighbors in the Senate.

As many of you know, about on election day I was diagnosed with leukemia, and I have spent the last month in the hospital. I got out last Saturday, and I am now back on the job, and I am very delighted to do that. Certainly Susan and I wish to express our real thank-you for all the comments and contacts, expressions of hope, and prayers we have gotten from the Members in the Senate. It is very meaningful. It is the first time I have been through a thing of this kind, and I can tell you that it means a great deal. We also got literally hundreds of comments from our voters in Wyoming. So we are so pleased, so grateful for that kind of response.

The process has gone well. As I said, I was in there for a month. I have gone through the chemo, I have gone through the other activities and may have to go back for some additional treatments, but the fact is I am out, my blood cell count is up, and I am very positive.

I want to urge people to be very careful about their own health, and when there are signs of problems, to be sure they take care of them because Bethesda was a wonderful place for me to be.

Again, my real purpose here is just to express my gratitude for all the kind feelings I have had from the staff and from the Members of the Senate, and I appreciate it very much. It has been very helpful, and I am grateful.

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

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

HONORING SENATORIAL SERVICE

Mr. WARNER. Mr. President, I have had the privilege of being here for the 28th year beginning shortly. I calculated not long ago that I have served with 261 individuals. I am not about to try and review all of the many magnificent friendships I am privileged to have through these years. Indeed, if one looks at the rewards, of which there are many serving in this historic institution, the Senate, it is the personal bonds, the friendships that we so firmly cement and that will last a lifetime as a consequence of our duties of serving the United States of America and in our respective States.

We are called ''United States'' Senators. I often believe it is the first obligation, our Nation, the Republic for which it stands.

GEORGE ALLEN

For my colleague now of 6 years, GEORGE ALLEN, this will be his last service as a Senator as this brief session closes. I have said it before, I will say it again and again, I rank him at the very top of the 261 Senators I have been privileged to serve with these many years.

In fact, I have looked back at the history of Virginia and would like to note for the record that my colleague, GEORGE ALLEN, is one of only five Virginians to have served in the Virginia General Assembly, as Governor, as a Member of the House of Representatives; and as a U.S. Senator—the first in more than 150 years of our State's history.

Together, we have shared a long history of serving the people of Virginia—I as a Senator and he as a member of the Virginia House of Delegates, House of Representatives, Governor, and U.S. Senator. I remember participating in

his first campaign and all the successive campaigns. GEORGE ALLEN served the Commonwealth of Virginia in public office for 25 years. How well I know. I campaigned for him when he ran for the State legislature, then for the Congress, then for Governor, and he won those elections handily. Then he ran for the Senate. It was a tough race. Tough because he was up against a very able opponent, a man whom I admire, a man with whom I have served with in this Chamber. But the voters of Virginia—and therein rests the final decision—sent GEORGE ALLEN to the Senate where I believe he has served with great distinction.

I have been privileged to share the warmth and vigor of this magnificent man with his lovely wife Susan and their children, Tyler, Forest, and Brooke. What a privilege, a joy for me to see them as they have grown nourished by the love of two strong parents.

In 1981 he was elected to the Virginia House of Delegates to the seat once held by his philosophical inspiration, Thomas Jefferson. Throughout his career in public office, GEORGE ALLEN has consistently been guided by that same inspiration of smaller government and individual freedom. He has also been driven by the thoughts of two other leaders important to him; Ronald Reagan who said ''If not us who, if not now when?'' and his father who always told him ''The future is now.''

Throughout his career in public service GEORGE has worked as an advocate of economic development, recruiting companies to Virginia and espousing policies to create jobs. As Governor, he oversaw the creation of 312,000 new jobs in Virginia by making the Commonwealth a better place to do business. He reformed the parole system to keep repeat offenders off our streets and out of our neighborhoods. His welfare reform set the stage for the Congress to act to help people get back on their feet and get back to work. He implemented the Standards of Learning in our schools to make sure all of our children receive the same quality education.

I remember well our first effort together when he came to the Senate in 2001. As is often the case here in the Senate, there had been some problems confirming a federal judge who was ultimately recess appointed in late 2000. We came together and worked with the President to bring his nomination back to the Senate and as a result, Judge Roger Gregory was confirmed by the Senate to become the first African American seated on the Fourth Circuit of the U.S. Court of Appeals.

We were working partners. We shared everything—our staffs work together, our wives work together—and we crisscrossed this State from one end to the other over those 6 years. When either GEORGE ALLEN or I felt, for whatever reason, we could not keep an appointment somewhere in the State, one would fill in for the other.

We were quite parallel in our thinking, the philosophy, the things so important to Virginians, and I think to most Americans, first and foremost the preservations of our freedoms, a strong national defense, a right to work, to hold a job and to compete fairly, to hold that job and to advance, to have a system of health care that did not serve only those more affluent than others but would serve any individual who suffered from pain or the need for medical attention.

We have joined together in countless efforts for Virginia's communities; helping to fund museums, youth centers, innumerable infrastructure projects, and research at our colleges and universities. We also worked together on the Teacher Tax Relief Act. I am very hopeful if we pass this tax package, there will be a provision that GEORGE and I worked on together for many years, to be extended in statute; and that is, the Teacher Tax Relief Act. I will never forget, I was down visiting a small school. And as is so often the case, you are rushed through, and the teachers and the principal want you to meet as many students as you possibly can. It is always quite interesting to do that.

I remember I was rushed into one class, and I think they were first graders. They were all sitting on the floor, and the principal said: You have a few minutes. So I started talking away, and I asked the first graders: Is there a question you might have? And this absolutely magnificent little girl, who sat there riveted to every word I spoke, looked up and said: Yes. My question is, how much longer must we sit here until the Senator comes? Well, you don't forget those things. And I had difficulty answering the question, I was so taken aback. I felt I was universally recognized, but it is not the case in the first grade.

Then I was in another classroom, and for some reason I—I went through basic engineering school, and I have always been interested in pencils and writing instruments—and I saw a pencil, a rather fancy one, and I picked it up, and the teacher saw that I liked it, and she said: Take it. Keep it. I said: Oh, no, I don't take any gifts or anything. You know, we have rigid rules in the Senate, and nobody is going to bribe me with a pencil. And she said: Oh, please, please, please. It is not school property. I said: Oh? She said: Yes. Senator, you must understand that as teachers—and this is prevalent not only in Virginia but it is prevalent all across the land, particularly among teachers in the elementary grades—we have to take part of our own salary to buy what we deem are the essential tools that are needed to educate our students.

Well, I just could not believe this, because teachers are not among the more well paid. So GEORGE ALLEN and I fought for years to get the Teacher Tax Relief Act signed into law. It is on the books, and we need to extend it, and I am optimistic that will be done. But it simply says, if you can establish that you took your own salary and you bought school supplies which were necessary for teaching and the profession you are in, you get a $250 above the line deduction—a small amount of money, but a great sense of satisfaction.

GEORGE has been a strong member of the Commerce and Foreign Relations Committees seeking to make our nation a better place for business, ultimately creating more economic opportunity for all Americans.

We joined together after the tragic events of September 11, 2001, to try to help the people of Northern Virginia and indeed all America respond and recover.

We worked on behalf of the men and women of the Armed Forces. How proud we are in the Commonwealth of Virginia of the extensive number of bases and institutions of the U.S. military which we are privileged to have. There is no greater responsibility of the Congress of the United States than its specific—specific—obligation under the Constitution. As my great teacher and mentor, Senator BYRD, so often has told me, that is to provide for the care and the welfare, and to raise the armies and maintain the navies that this Nation requires. GEORGE ALLEN has been a partner with me as we have done those things for these many years.

In life we go through a series of stages. We are raised and nurtured by our parents, receive an education, raise a family of our own, and serve in various careers. GEORGE ALLEN and his family have been public servants to the people of Virginia and America for the past 25 years. The people have been fortunate to have such a dedicated Delegate, Congressman, Governor, and U.S. Senator. I am proud to have served with this man and to call him my friend all these years. Therefore, I bid him a fond farewell from this institution. But I look forward to working with him as he goes on and accepts challenges perhaps even greater than the ones he had in the years that he so loved serving in this Chamber.

The people of Virginia spoke, and GEORGE ALLEN, with great courage, took that decision and quickly said: I understand. He accepted it and has gone on about his business.

I would also like to pay tribute to nine other United States Senators who will retire from the Senate in the coming days.

I have previously spoken in honor of my colleague from the neighboring state of Maryland, Senator PAUL SARBANES. Since my first days in the Senate, Senator SARBANES and I worked together on a host of important regional initiatives, including: the restoration of the Chesapeake Bay; improvements to our Metro system; the creation of the office of the National Capital Region Coordinator; and on funding for the construction of the new Woodrow Wilson bridge. His retirement

is certainly a loss to the region as Senator SARBANES has been a true champion of many issues vital to the Maryland, Virginia, and DC metropolitan area.

Now, I would like to take a few moments to salute our majority leader—Senator FRIST—as well as Senators CHAFEE, BURNS, SANTORUM, DEWINE, JEFFORDS, TALENT, and DAYTON. Each and every one of these U.S. Senators has served his State and his country with great distinction.

Without a doubt, I could speak at-length in honor of each of these outstanding individuals. In light of time constraints, however, and the fact that so many of my colleagues wish to similarly pay tribute, I shall endeavor to keep my remarks brief.

First, I would like to say a few words about our distinguished majority leader, Senator BILL FRIST. You know, in this post-September 11, 2001, world, we think of national security as the most important issue of the day. Certainly, BILL has worked hard in that area over the years—not only as majority leader but as a hard-working member of the Senate Foreign Relations Committee. But, right behind national security comes the issue of the health of our citizens, and BILL FRIST has been at the forefront of every major piece of health care legislation during his 12 years in the Senate.

Whether it has been ensuring that America's seniors have access to a sorely needed Medicare prescription drug benefit or whether it has been his efforts to encourage the use of new technology in medicine so that the knowledge of one doctor in one part of the world could help a doctor and a patient in another part of the world, BILL FRIST has improved the healthcare system for all Americans.

The Senate will no doubt miss BILL FRIST's leadership, but I have no doubt that his public service will continue, particularly his heartfelt healthcare work in impoverished areas of the world. I wish him, and his magnificent wife Karen all of the best in their future.

Now, I will speak a few words about our colleague LINCOLN CHAFEE. I have known the Chafee family for many years, and count the late John Chafee and his wife Virginia as my dearest friends.

The year was 1969, this country was engulfed in a war in Vietnam, and I was privileged to be asked to serve as Under Secretary of the Navy. I was told that the Secretary of the Navy, who would be my boss one step up, would be a man named John Chafee, former Governor of the State of Rhode Island.

I will never forget we both served in the Marines, at different times. He was a captain and I was a captain in the Marine Corps Reserve, and we met on a cold day in February outside the Pentagon, shook hands, and walked upstairs. And there we were greeted by the Commandant of the Marine Corps and the Chief of Naval Operations.

Chafee turned to me, and he said: You know, the Navy and the Marine Corps constitute almost a million uniformed men and women. It was that large in the height of the war in Vietnam. And he said: Here we are, a couple of lowly captains, and now it is our responsibility. Let's square our jaws and stick out our chins, get this job done, and provide the leadership that these men and women of the Armed Forces so richly deserve.

John Chafee was an absolute teacher and mentor of mine in every way during those years we worked together in the Department of Defense. He would take his trip to Vietnam. I would stay back and man the store. He would return, and I would take my trip. We had problems throughout the world. It was in the middle of the Cold War with the Soviet Union. John Chafee was a magnificent man. He had been Governor of the State of Rhode Island three times, and he was a magnificent leader of the men and women of the Armed Forces.

He decided that he was going to move on and consider running for the Senate, and resigned, and I succeeded him then as Secretary. But I never lost the feeling that he was right there, should I need him to help carry out my duties. And then, as luck and good fortune would have it, he came to the Senate, and not too many years thereafter I came to the Senate and once again joined him.

I will never forget my first day in the Senate he came up to me and said: Do you remember I was Secretary and you were Under Secretary? I said: Yes, sir. He said: Well, that's the way it's going to be here for a while. You listen to what I say and what I do, and I will give you some advice as we go along.

That was the kind of man he was. I never heard him speak a harsh word about any other colleague. But he achieved his special niche in this institution through his absolute love for the environment as well as the men and women of the Armed Forces. Those were the two things on which he worked. And as luck would have it, his son came to join us, and he has so many of those magnificent attributes of his father and his mother. An absolutely magnificent human being, his mother, and all his family, as a matter of fact.

It is my honor to share with my colleagues some of the important accomplishment of LINCOLN CHAFEE during his 7 years as a member of this body, and to personally express my appreciation for his service to our country.

Senator LINC CHAFEE came to the Senate from local government serving on the city council and later as mayor of Warwick. I believe it is this experience of leading a major city that solidified his commitment to fiscal responsibility. In his service in the Senate he was steadfast in his belief to restore controls on the federal budget and to promote responsible government spending.

We were privileged to serve together on the Committee on Environment and Public Works where he quickly became a skilled legislator. He successfully authored legislation to stimulate the redevelopment of brownfields areas previously contaminated by hazardous waste, that plague our urban areas. This law is already producing results in improving neighborhoods and bringing new industries back to urban areas.

Senator CHAFEE was also a leading voice in fostering bipartisanship in the Senate, and was an active member of our informal group of Senators known as the Gang of 14. We were a group of seven Republicans and seven Democrats, but we had no formal standing in the Senate. We would meet regularly to share our thoughts on judicial nominees pending on the Senate Calendar to ensure that the Senate could continue its responsibilities under article II, section 2, of the U.S. Constitution—the advice and consent clause. Senator CHAFEE was an integral part of this effort which allowed candid and respectful discussions of the qualifications of individuals to serve in the federal judiciary and prevented the continued use of party-led filibusters on judicial nominees except in extraordinary circumstances.

LINC CHAFEE will be remembered in this institution for his independence. We all fight to try to maintain that independence. We are respectful of our party leadership. We are respectful of our party affiliations. We know the demands of our State. But there are times when we feel we must act and make decisions that reflect our own innermost feelings of independence, and LINCOLN CHAFEE will be remembered for that.

As Senator CHAFEE prepares to depart the Senate, I thank him for his meaningful contributions to the Senate, and wish him, his wife Stephanie, and his children, Louisa, Caleb and Thea, ''fair winds and following seas.''

Now, Mr. President, I wish to say a few words about CONRAD BURNS. Senator CONRAD BURNS has an impressive record of public service, beginning with his service in the U.S. Marine Corps from 1955 to 1957. CONRAD has served the great State of Montana with distinction in the U.S. Senate since 1989.

I will never forget when his first campaign came along, I was asked to go out and campaign with him. I acknowledged I would do it. I didn't know him, so I went on out to Montana. I had been in Montana in earlier years. I had been actually an employee of the U.S. Park Service and had been a firefighter out in Montana in 1943 and then again in 1947, I think it was.

Most recently, in August I toured Malmstrom Air Force Base with Senator BURNS. On this tour, I saw firsthand the love and pride that Senator BURNS has for the people of his State. As a senior member of the Senate Defense Appropriations Subcommittee, he has worked tirelessly for the men and women in the Armed Forces.

And old CONRAD—he embodies all of those great qualities of Montana. Talk

about independence, he has it, and robustness, and a thirst for life and laughter. It was a sheer joy to campaign with CONRAD BURNS because wherever he went, he would walk into a room and he would tell a story, talk to his people.

He loves every square foot of that State. And I shall miss him. I shall dearly miss CONRAD BURNS. We have to have a few characters around here who do our duties and accept our daily bread, and he is one. And you could kind of go to the bank on what he told you. He was never at a loss for telling a story to cheer up a colleague. Whenever he felt that colleague was a bit down, CONRAD would cheer that colleague up. He and his lovely wife and family will go on to other challenges.

Senator RICK SANTORUM has an impressive record of public service. Subsequent to his service in local and state government, he was elected to the United States House of Representatives. In 1994, RICK was elected for the first time to the United States Senate. From his first day in the Senate until 2002 we had the opportunity to serve together on the Senate Armed Services Committee. Throughout his time on that Committee, and since he left the Committee, RICK could always be counted on for his deliberate and reasoned decisionmaking to ensure the best possible policies for the men and women in the armed forces. Since 2001, Senator SANTORUM has also played an important role in the Senate leadership as Republican conference chairman. As conference chairman, Senator SANTORUM has tirelessly represented the Republican Party as the party spokesman. There is no doubt in my mind that RICK SANTORUM's passion, enthusiasm, and leadership will be missed here in the Senate.

Senator MIKE DEWINE has been in public service nearly his entire adult life. He was an assistant prosecuting attorney, he has held various state elected positions, he was a member of the U.S. House of Representatives, and most recently, since 1995, he has served the state of Ohio in the U.S. Senate. I am pleased to have served on the HELP Committee with Senator DEWINE where we worked together on various children's health issues. There is not a bigger champion of children's health than Senator DEWINE. Senator DEWINE was also an instrumental member with me on the Gang of 14. Throughout his years in the Senate, Senator DEWINE has proven to be a thoughtful, highly respected member who has always been willing to do what is right. In my view, he is a true statesman.

From 1956 to 1959, Senator JIM JEFFORDS served in the United States Navy. He later served in the Naval Reserves. In 1989, after JIM had served the citizens of Vermont in State positions and in the United House of Representatives, JIM was elected to the United States Senate. In the Senate, I have been pleased to work closely with him, particularly in serving with him on the Health, Education, Labor, and Pensions Committee and on the Environment and Public Works Committee. JIM chaired both Committees during his years in the Senate.

While Senator JEFFORDS legislatively had many interests, I believe that improving the education of our children, particularly children with special needs, is the issue most dear to his heart. I remember him time and time again on the floor of the United States Senate pushing for increased funding for the Individuals with Disabilities Education Act, IDEA. And, I remember joining him, and others, in pushing hard for mandatory IDEA funding after it became clear that the Congress would be unable to fulfill its funding commitment through the discretionary funding process. While, to date, we have not achieved full funding, it is without question that JIM JEFFORDS' Senate career has left a lasting, positive imprint that will improve America's education system for years to come.

Over the past 4 years, I have been fortunate to have been given the opportunity to work closely with JIM TALENT on the Senate Armed Services Committee. Since his first day on the Committee—JIM TALENT has been one of the hardest working Committee members.

As chairman of the Seapower Subcommittee, Senator TALENT has been at the forefront of the Committee's efforts to strengthen the Navy's shipbuilding program, working closely with the Chief of Naval Operations in the formation of the CNO's plan for a 313-ship Navy. He showed steadfast determination in working with the administration and the Congress to secure the funding required to build the future Navy; spearheading the effort to raise the top-line for shipbuilding by over 20 percent during the course of his tenure as Seapower Chairman.

Senator TALENT has also been passionate in his support for the needs of our brave men and women in uniform; championing quality-of-life and quality-of-service initiatives. Most notably, he has been a strong advocate for legislation that will put an end to predatory lending practices against military personnel and their families.

Senator DAYTON was elected to the Senate in 2000, and throughout his years in the Senate I have had the privilege of serving with him on the Senate Armed Services Committee. As a hard-working member of that Committee, MARK was a strong advocate for our armed forces. Notably, he was a strong supporter of increasing the death benefit gratuity for survivors of deceased members of the Armed Forces from a little more than $12,000 to $100,000. Thanks in part to his efforts, this increased death benefit gratuity is now law.

Senator DAYTON also reached across the aisle and worked closely with me in support of efforts to provide Medicare beneficiaries with a prescription drug benefit. Together, we introduced legislation to provide America's seniors with a refundable tax credit to help offset the costs of prescription drugs.

In conclusion, over the years I have served with each of these 10 Senators, each has not only been a trusted colleague, each has also been my friend. I will miss serving with each of them in the Senate but know that each will continue in public service in some capacity. I wish each and every one of them well in the years ahead.

Mr. President, I see a number of colleagues here anxious to speak, and I have taken generously of the time the Presiding Officer has allowed me to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I am mindful that the majority leader will be coming here in approximately 6 minutes to speak, and I am looking forward to his comments.

Mr. President, I want to say that one of the great delights of being a part of the Senate is to sit at the knee of such great leaders, such as the senior Senator from Virginia, and to learn from him and to hear the stories that so often he can weave into any circumstance that is facing us, that has some application of a story he had encountered in the past. I thank him for his leadership. I thank him for his contribution. And I thank him for being a mentor to so many of us in this Senate.

WATER RESOURCES DEVELOPMENT ACT

Mr. NELSON of Florida. Mr. President, in the remaining moments here, I want to say one of the things this Senator will address in the next Congress is the fact that we did not pass a Water Resources Development Act, which has so many important projects for this Nation. We have not had a Water Resources Development Act bill since 2000, and we are suffering for it.

As to this great ecological restoration project down in my State, the Florida Everglades Restoration Project, there are two critical projects in this WRDA bill—the Indian River Lagoon and the Picayune Strand. The Indian River Lagoon is a 156-mile-long estuary that I grew up on as a boy. It runs from basically just north of Cape Canaveral all the way south to Palm Beach County. It has been altered by unnaturally large and poorly timed freshwater discharges arising out of the St. Lucie Canal. They have altered the water quality and depleted the water supplies in the Everglades ecosystem. So that is one project that is going to be necessarily addressed in the new Congress. There are many components to that project. The Everglades restoration is an $8 billion project over 20 years, shared by the Federal and the State governments.

The other major project—I will close with this—is the Picayune Strand restoration project. It is going to remove roads and canals and other infrastructure to increase freshwater flows. It encompasses 94 square miles in Collier

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