That is the dilemma we are in today. It is a dilemma that was entirely avoidable by a more responsible fiscal policy of this administration.

There is no surprise about Mr. Daniels' announcement yesterday. Perhaps the only shock, if you will, was the timing. It was inevitable after we passed this tax cut. Now as we go forward, we are seeing the consequences. Those consequences will be very difficult to bear. What is worse than that, our colleagues are compounding this terrible situation by advancing the same policies in the guise of a stimulus package: Accelerating marginal tax cuts further and proposing corporate AMT that is retroactive. That is not going to get this economy moving. That will simply make the hole we are in much, much deeper and the climb out much steeper and longer and harder, particularly for working Americans.

Again, there should be no surprise about Mr. Daniels' announcement, but there should be surprise, shock, and perhaps even anger, that having brought us down this path, they refuse to see the error of their ways. They refuse to recognize that, yes, we do need a stimulus package but one that would truly stimulate the economy by getting consumers back in the marketplace, by ensuring that middle- and low-income working Americans get access to additional dollars that they will spend quite quickly. We must in fact protect ourselves through increased expenditures on homeland defense.

I hope yesterday's announcement represents not just waking up to the reality of their policies but changing the policies, that in working collectively with the leaders in the House and in the Senate to script and craft a fiscal package that will move America forward, we will begin our slow climb out of this deficit situation. But there should be no confusion about the fundamental cause of our current economic situation—a precipitous collapse from surpluses to deficits. It was an unwise, irresponsible tax plan promoted and proposed by the President and regrettably accepted by this Congress.

I hope the searing news that Mr. Daniels gave us yesterday will provide something more than heat, that will provide a little illumination to those who seek to lead this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized for 10 minutes.

NOMINATIONS

Mr. GREGG. Mr. President, I come to the floor to talk about one of the problems we have had over the last few months, which is a failure of the majority party to address the issue of nominations sent up by the President. This failure has been most blatant, of course, in the area of judicial nominations where we now have well over 100 openings in the judiciary which have not been filled, which is an extraordinary number, especially when you put it in context of the prior administration. It is almost 100 percent larger than what the prior administration experienced under a Republican Senate.

There are also, independent of the judiciary nominations, a number of other nominations critical to the operation of the Government which are being held up by the majority party.

I rise to speak to one specifically. That is the nomination of Eugene Scalia to be the solicitor of the Department of Labor. Most people have never heard of the term or the individual solicitor of the Department of Labor. It is, however, a significant position within a significant department.

It is the fair arbiter of the laws within the Labor Department. It is the place at which the Government represents its cases, the individual who carries forward a great deal of the policy of the Government, as it has been set forth by the Congress and the Executive.

Why is Mr. Scalia not being brought to the floor? First off, you have to understand that it is not because the nomination hasn't been pending. The nomination has now been pending for 213 days. That is the longest period of time that any nomination has been pending around this body. Ironically, I think the reason it is not being brought forward is that it is tied to something that occurred 351 days ago, and that was the case of Gore v. Bush, or Bush v. Gore—the issue settled in the Supreme Court as to how the Florida law would be applied and the prior election, therefore, resolved. You see, Eugene Scalia, through family ties, appears to be tied to that case by the majority in the Senate.

There is a lot of frustration about that case on the other side of the aisle. Many of my colleagues, with great energy, believe it was decided the wrong way. Many have taken it personally, I suspect. Obviously, they have taken it personally because they are applying it personally in the case of Eugene Scalia, a relative to one of the decisionmakers in that process —of course, Justice Anthony Scalia—and who was one of the majority in the decision of Bush v. Gore. Well, Eugene Scalia is his son.

So we now have a scenario where the son has come up for a nomination to serve in the Government. I suppose you can argue, well, maybe he is not being approved because he was sent up quickly. I pointed out it was 313 days ago. You may argue he is not qualified. Actually, he is extraordinarily well qualified. He is one of the finest attorneys in the area of labor law in the country. In fact, five former Solicitors General of the Department of Labor have said he is unquestionably an extraordinarily qualified individual. To quote them, they say:

> We are unaware of any prior solicitor nominee with his combination of academic accomplishment, prolific writing on labor and employment matters, and many years of practice as a labor and employment lawyer.

That is five prior Solicitors of the Department. They have said this is a great nomination. It is not because he holds views that are antithetical or inappropriate to the position. In fact, he strongly is supported by some of the leading civil rights attorneys in this country; for example, William Coleman, who is one of the leading civil rights attorneys in our Nation's history, said that Eugene Scalia would be among the best lawyers who have ever held the important position—the position of Solicitor of the Department of Labor. He went on to say:

> Eugene Scalia is a bright, sophisticated lawyer whose writings are well within the mainstream of ideas.

So he is not being attacked because he doesn't have the ability. He has all the ability you could possibly want. In fact, it is great that we can attract people of his talent and capability to public service. No, Eugene Scalia—Scalia the younger—is being attacked because of Scalia the elder. You might say, well, maybe he came up too quickly. We pointed out that isn't right.

Maybe he doesn't qualify. That is not true either.

Maybe he holds outrageous opinions. Actually, during the hearing process, the only significant attack made on his writings was a disagreement over his position on ergonomics. Eugene Scalia committed the ''cardinal sin'' of opposing the ergonomics rule as put forward by OSHA, so he was aggressively attacked during the hearings—not personally but on that issue relative to policy.

Well, that is OK. You can disagree with him on that policy point, but you have to acknowledge that on that policy point he agreed with the majority of the Congress. The Congress found the regulation that was promulgated by OSHA to be too officious, bureaucratic, counterproductive, and we—the Senate and the House of Representatives—threw the regulation out.

In my experience in the Congress, that has only occurred once or twice. We as a Congress actually rejected the regulation of OSHA on the issue of ergonomics, confirming the arguments that the younger Mr. Scalia had made on that issue.

So it is pretty hard to come to the floor with a straight face and say this man should not be confirmed as Solicitor of the Department of Labor because he took a position on ergonomics, when that position was consistent with the position taken by the Congress earlier this year.

No, regrettably, the younger Scalia is being held hostage because of attitudes toward the elder Scalia. That isn't the way we should govern. We should not prejudice an individual because of their race, their ethnic background, their gender, and we certainly should not prejudice an individual because they happen to be the son of an

individual who some people do not agree with and who feel antipathy towards.

Eugene Scalia's nomination should be brought to the floor of this Senate. If people want to vote against him, that is their right. Then if he is defeated on the floor of the Senate, so be it. But let's not shuttle him off and hold him hostage to try to make a point to his father. That is not right and that is what is being done by the leadership of this Senate at this time.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, the Senate, at 1:17 p.m. recessed until 3:31 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

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

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

The assistant majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate be in a period for morning business from now until 4:30 p.m., that the time be divided equally, and that at 4:30 the Senate go in recess subject to the call of the Chair.

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

Mr. REID. Mr. President, I ask unanimous consent that any time that is used be charged against the 30 hours under postcloture.

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

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to be recognized for 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

PROUD NEW YORKERS

Mr. SCHUMER. Mr. President, I thank all of my colleagues for their understanding for my State and my city of New York over the last 2 months. I particularly thank the majority leader, the Senator from South Dakota; the majority whip, the Senator from Nevada; the Senator from Montana, Mr. BAUCUS, chairman of the Finance Committee; and the chairman of the Appropriations Committee, Senator BYRD; as well as all of our Senate colleagues for being there for New York in its greatest hour of need.

I spoke with the mayor of New York this morning, and we were commenting to one another about what amazing fortitude New Yorkers have. The spirits are high. The desire grows to stay the course and rebuild our city and make it greater than ever before. The desire of New Yorkers to stay in New York, if one looks at the poll numbers, is higher than ever before. The number of people when asked if they expect to be living in New York 5 years from now increased since September 11.

We know all about the bravery of the firefighters and the police officers and the rescue workers, but maybe we do not know enough about the fortitude and the love of the city had by so many in New York City and the metropolitan area of New York have. They are brave people.

As New Yorkers, we come from all over the globe. New York takes us and shapes us and makes us into Americans, and we are proud of that. We now know more than ever that America is proud of that as well.

That is the good news. The good news is the fortitude, the strength, the courage, and the good grace of the people of New York. The bad news is that despite our confidence that our nightmare will soon end, we are in trouble. Two months after the attack, the economic damage to our city is becoming increasingly apparent and has been documented in publication after publication. The damage is enormous.

Let me give some statistics. Our streets are littered with 37 miles of high-voltage electricity lines that are but one prankster away from shutting off power to our Nation's financial center. Over 40 percent of the lower Manhattan subway infrastructure has been destroyed, adding hours to the daily commute of 375,000 people who work in New York City. All our major river crossings: The Brooklyn, Manhattan and Queensboro Bridges, the Lincoln and Holland Tunnels, have been and continue to be subject to nightmarish traffic jams because of security requirements.

Two weeks ago, they were all shut down again because of the crash of flight 587. Twenty-five million square feet of commercial office space was destroyed or heavily damaged. The amount destroyed—nearly 20 million square feet—surpasses the entire office space inventory of large, important cities, such as Miami and Atlanta. Over 125,000 jobs have at least temporarily vanished from the area and the city estimates that 30,000 of those jobs, at a minimum, are gone for good.

Noxious fumes continue to emanate from the hole at the World Trade Center, creating great concern among the workers and residents for their personal health. There is even a possibility that the Hudson River retaining wall, which is underground and stops the Hudson from washing in, will break and flood the area as the debris is removed.

Insurance companies are another problem—problems come from all sides—demanding 100 percent increases from companies doing business in New York simply because they are located in a confirmed terrorist target zone. Those offers are some of the better ones. There are many insurance companies offering no insurance at all.

Mayor Guiliani has had to cut $1 billion from the city budget just to prevent an immediate fiscal meltdown at a time when the need for city services is at an all-time high, and Mayor-elect Bloomberg will have to cut much more than that and begin thinking about it the day he enters office because the city is staring at a $3 billion deficit next year as a direct result of this crisis.

Governor Pataki has it even worse. The State's revenue loss is projected at $9 to $12 billion. The comptroller of the city of New York places the economic loss to the city and its businesses at $105 billion over the next couple of years.

We were so proud as our city grew and grew and grew and added over 800,000 people in the last decade. It was a record. But now we have had the first decline in the city gross product in over 9 years.

In short, we have taken a hit for the Nation. None of the problems I describe was of the making of New Yorkers. None of these problems was the result of a single thing New York did or didn't do. And so we find ourselves in extremely difficult times.

Now, with Chairman BYRD and Senator DASCHLE at the helm and broad support of Senate colleagues, I believe we will ultimately get the disaster aid needed to rebuild our damaged and destroyed infrastructure. That is coming through. Some Members would like it to come through more quickly, but it is coming. We don't have much of a dispute about that.

We thank everybody. Senator CLINTON and I are extremely grateful to all of our colleagues for the support they have shown New Yorkers.

What we are here to talk about today is the need for tax provisions for New York to deal with the kind of economic damage I have mentioned. As we all know, the FEMA dollars go to the Governor, as they have for disaster after disaster. They go to replace the subway lines and streets that were destroyed. They go to pay for the cleaning up of the refuse. They deal with the firefighters and the police officers and their overtime. But none of that will give one iota of help to keep the businesses in New York or get the jobs growing to where they were.

Senator CLINTON and I put together an economic stimulus package. We had great help from the Finance Committee, Chairman BAUCUS and members of the Finance Committee, and help from the staff, led by Russ Sullivan. We were extremely grateful when it was included in our stimulus package that we presented.

The reason I take the floor today, it appears there is a good chance we will