

We thought previously it would be something we could do in about 5 minutes. I don't think we can do that, although we may be able to do it quickly on Monday or Tuesday.

I ask the Senator to be his usual gracious self and not offer the amendment today until we have a chance to look at it.

Mr. CRAIG. Madam President, the Senator from Nevada chairs the appropriating subcommittee on this issue. It is an authorization. I certainly want him to understand it. I will step back. I would like to move it as quickly as possible. Monday or Tuesday of next week would be fine.

#### MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for a period not to exceed 10 minutes.

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

The Senator from Connecticut.

#### THE STIMULUS PACKAGE

Mr. DODD. Madam President, I will not take more than 10 minutes. I see my colleague from New Hampshire here as well. I voted against the so-called stimulus package a few moments ago. I didn't have a chance before the vote occurred to explain why I was going to cast that ballot, voting no.

Obviously, there are provisions that I strongly endorse and support, including: The extension of unemployment benefits; teacher expenses which is an item we argued about a number of years ago that I thought would be very worthwhile; and the New York recovery package—certainly I would like to see us do what we can to help New York City as a result of what happened September 11.

If those were the only issues, this would have been an easy vote. They were not the only issues. In fact, they were minor issues by comparison to what else was included in this package. Based on whatever estimates you want to rely on, at least over the next 10 years, there are \$42 billion in revenue losses to the Federal Treasury.

Yesterday, the Presiding Officer, I, and others who sit on the Senate Banking Committee had the pleasure of listening to the Chairman of the Federal Reserve Board say their analysis at the Federal Reserve was that we are on our way out of this recession. The worrisome figures that indicated this recession could be deeper or be a double-dip recession apparently will not bear out. The country is getting stronger, the economy is getting much stronger.

While there may have been a strong case for this bill that just went through by 85-9—it is becoming the law of the land—and a strong case could have been made for it 2 or 3 years ago or even a number of months ago, but I

do not think the case could be made for it today. Using the most conservative number, the \$42 billion, that is \$42 billion more to the deficits with which we are grappling, which according to the CBO, may be \$120 billion in this coming fiscal year. The administration had initially said \$80 billion. We are now told that over 10 years it is \$1.8 trillion.

Well, \$42 billion in a \$1.8 trillion deficit may not sound like much, but it is when we are trying to see if we can do more, for instance, with the Securities and Exchange Commission, where we need maybe \$100 million to \$200 million to beef up enforcement and accounting divisions to deal with an Enron-type situation. It is a lot when we know, as a result of increasing the workload of working mothers, we need additional funding for child care, that we ought to do more on the child abuse treatment and prevention programs—to mention a couple. In transportation, we have an \$8.6 billion shortfall. I don't know a section of the country that will not be hurt by that budget decision.

Yet we just took \$42 billion off the table this morning by a 85-9 vote. State budget shortfalls will total more than \$42 billion for the current fiscal year. A few months ago, we had a stimulus proposal on the table that would have included State assistance. The previous House version of this bill contained capped assistance for State Medicaid Programs and also provided dollars back to the States as a result of the revenue losses on the bonus depreciation. My State just lost \$240 million this morning. New York lost more than \$2 billion.

So on one hand we are giving money for relief and providing assistance on the September 11 tragedy, yet we will take \$2 billion away from the State of New York. And again, in my state, this bill is taking \$240 million! The Governor and others are wrestling with how to provide needed resources to our area.

I mentioned the \$8.6 billion deficit reduction in the administration's budget for transportation. That is a huge issue in my State, as I know it is in the State of the Presiding Officer and others. Listen to what we have done and the analysis of this. The most expensive component of this bill that we just passed is the 3-year bonus depreciation provision that will cost close to \$97 billion during the next three years, according to the Joint Committee on Taxation. The Congressional Budget Office, CBO, a nonpartisan budget office, concluded that allowing depreciation bonus for 3 years rather than 1 year—which is what we should have done—would sharply reduce the effectiveness of this proposal as an economic stimulus. These are their words. With a 3-year provision, firms can delay investment until well after the economy has recovered. This provision will worsen the financial situation in States which are facing cumulative budget deficits of more than \$42 billion.

Unlike the last two stimulus bills the House passed and the stimulus bill the

Senate Finance Committee approved last fall, this bill we adopted includes no fiscal assistance whatsoever to States to offset the State revenue offices that the depreciation provision would cost.

As I said, this bill might have been fine 5 months ago, but today it is a mistake. The provision calls for 3 years at 30 percent, but the 3-year period begins on September 11. So all investments since September 11 will qualify; new investments have to be made by September 10, 2004, long after the recession is over. This is overreaching and it goes too far. We have to learn to have a sense of balance about these things when we take these steps. In 2002, the bonus depreciation provision will cost \$35 billion. This is unfortunate when I know there are many great demands. How do you not have interest rates go up if the deficit continues to mount?

On the net operating loss, I am sympathetic to some of the issues, but this provision allows a carryback to 1996—1996, as a stimulus package? It is overreaching, way overreaching.

There is a lot we did not include: There are no health care tax provisions. No rebates—the bill drops the \$14 billion included earlier. No small business expensing. No general increase in small business expensing. And no State assistance.

I know there are provisions that Members did not want to be seen voting against, such as extension of unemployment benefits. I know we wanted to help out in the case of September 11 and what happened in New York. But typically what happens is we list all of these things as if they were of equal wait in the budget. They are not.

We just voted for a huge addition to the fiscal deficit of this country at a time when we are struggling to find payments for transportation, health care, child care, and education. We have a 2-percent reduction in the elementary and secondary education accounts, and the President's budget. We may change it. We just passed a bill with additional reforms for which we are going to have to pay.

This stimulus bill results in a tax increase for people at the local level. Local communities are going to raise taxes. States are going to have to raise taxes. We just made, I think, a mistake by voting for this so-called stimulus package.

Those are the reasons I cast a "no" vote this morning on that proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### JUDICIAL NOMINATIONS

Mr. SPECTER. Madam President, I have sought recognition to comment briefly on the pending nomination of Judge Charles Pickering for the circuit court of appeals, which was heard by the Judiciary Committee yesterday, with the vote postponed until next week.

I support Judge Pickering because I think Judge Pickering, in the year

2002, is an appropriate nominee for the circuit court. If Charles Pickering were still a State Senator in the 1970s, I would vote against him because his civil rights record at that time was not good. But today he is a different man. This is a different time.

The opposition raised against Judge Pickering, in large measure, is about what he was as a Mississippi State Senator in the 1970s.

It is my hope that at a minimum we will send Judge Pickering's nomination to the floor of the Senate for a vote by the full Senate. The Constitution provides for confirmation by the Senate—not by the Senate Judiciary Committee. There are solid indicators that if Judge Pickering reached the floor, there would be 51 or more votes for his confirmation.

When you take into account an analysis of the comments within the beltway by those who oppose Judge Pickering vociferously, and those in Mississippi who know him best, they are for him. Those who talk about him in Mississippi talk in specifics about how he took a courageous stand against a leader of the Ku Klux Klan, about how he sided with an African American who was a defendant in a case where there was a white victim, something which was frequently not the case in the South.

This may be a warmup for the next Supreme Court nomination. We have already seen some indicators of that with some members of the Judiciary Committee saying that a litmus test should be applied, and, if a nominee will not pledge to uphold *Roe v. Wade*, that nominee is not appropriate for confirmation.

This is an effort, in effect, to equate *Brown v. Board of Education* on segregation, with *Roe v. Wade*. It is obvious that if someone did not support *Brown v. Board of Education* and desegregation, that person would not be considered fit for the Federal bench today. But to apply a litmus test more broadly is very troublesome, in my opinion.

It is my hope that if Judge Pickering receives a negative vote in committee along party lines, which seems almost certain, that at a minimum he would be sent to the floor for full floor consideration.

We ought to establish a truce—an armistice—on the partisan in-fighting which has been ongoing on nominations. When we had a Democrat in the White House and a Republican-controlled Senate, it was the mirror image of what we have today with Republican President Bush in the White House and a Senate Judiciary Committee in the Senate controlled by the Democrats. I said the same thing when we had President Clinton in the White House and a Republican-controlled Senate. I crossed party lines to vote for Judge Paez and Judge Berzon, Judge Gregory and Bill Lann Lee for Assistant Attorney General for the Civil Rights Division.

It is my hope that we will establish a protocol.

I think Senator MCCONNELL was right when he said yesterday in the Judiciary Committee hearing that we are facing an "institutional crisis."

The American people do not like the partisan bickering—Democrats versus Republicans—especially when it comes to the selection of Federal judges and there is a judicial emergency in many circuits.

It is my hope that we will move ahead to try to end this partisanship.

There is solid precedent for submitting nominees to the full Senate when there is a negative or tied vote in committee. Judge Bork was defeated 8 to 5 in committee. Yet his nomination was sent to the floor for consideration as a Supreme Court nomination.

Justice Clarence Thomas had a tie vote in the committee of 7 to 7, but by a vote of 13 to 1 his nomination was sent to the floor.

Six nominees for district court or circuit courts have been sent to the full Senate when they did not receive an affirmative vote in committee—since 1951.

We still have time to revise the thinking on Judge Pickering. We still have time for an analysis on an appropriate way to handle Judge Pickering. But I submit that we ought to establish a principle from the Judiciary Committee that, if the vote is strictly along party lines, the matter be put before the full Senate for consideration.

I thank my distinguished colleague from New Hampshire for allowing me to precede him on the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

#### METHYL TERTIARY BUTYL ETHER

Mr. SMITH of New Hampshire. Madam President, I want to speak briefly on four issues this morning. Let me start, first, with the issue of MTBE, which is probably not a household word in many States. It is methyl tertiary butyl ether. I will be calling it MTBE from now on in these remarks.

Over the past few years, countless families and businesses in my State and throughout the Nation have learned firsthand the devastating effect of this gasoline additive known as MTBE. It is in our drinking water. People can't shower because of the smell. They cannot drink the water. Their homes have to have three or four huge tanks with filters in order to be able to drink and use their water. It depreciates the value of their home. This is a real problem nationally.

Fortunately, there is help on the way. I am very pleased that the energy package we are now considering finally contains a solution.

I thank the majority leader for including my legislation in the Federal Reform Leaded Fuels Act in the energy package that we are debating. This legislation was voted out of committee

both last Congress and this Congress. I am pleased that it will finally get a vote, I hope, on the Senate floor.

I thank a lot of people who helped. This does not come easy. We all have strong views. We have a number of different interests: Those who produce the MTBE, those who produce ethanol, those who refine gasoline, those regions of the country that can't use ethanol for various reasons, and those who are worried about the higher cost, if they do.

It took a lot of compromise and a lot of negotiations, which we have been working on now for many months—particularly Senator REID of Nevada, Senator VOINOVICH, Senator JEFFORDS, Senator INHOFE, Senator KAY BAILEY HUTCHISON, Senator HAGEL, and Senator MURKOWSKI—there are others, but in particular their hard work and cooperation with my staff.

I also want to say that the refiners, the ethanol producers, the environmental groups—all of them—have worked with me over the last few years to reach a consensus. It was not easy, that is for sure, with so many diverse issues and views.

I thank all of them for negotiating in good faith and keeping the work product to ourselves as we went through this.

The result is good. It is a comprehensive legislative package that protects our drinking water while preserving air quality and minimizing negative impacts on gasoline prices and supply.

Understanding where we are, it is worth taking a step back to discuss how and why we got to this point.

In 1990, the Clean Air Act was amended to include a reformulated gasoline program. This program requires clean burning gasoline in specified areas with high levels of air pollution. Four counties in southern New Hampshire chose to participate. The program has been successful in achieving the air quality benefits beyond our requirements.

Unfortunately, one provision of the program mandates the use of an oxygenate in areas that use reformulated gas, requiring States to use MTBE or ethanol. Because New Hampshire is far from ethanol production, economics dictated that MTBE be chosen as the oxygenate. There was also concern with the impact ethanol could have on the air quality of New Hampshire, particularly the potential of increased smog.

So the State chose MTBE. Of course, at that time no one was aware of the looming nightmare as a result of that choice. What we put in the gasoline to clean up the air has now contaminated our water.

How does that happen? Because the tanks underground that hold the gasoline leak, or after you fill up your tank with gasoline and you take the nozzle out, a drop or two of the gasoline may hit the pavement, and then it washes away into our ground water.

I remind all who are listening to me now, think about that when you put