

Senators would wonder about me if I were to say: How dare you block this. I have done a fair amount of blocking during my time in the Senate.

Frankly, unlimited debate and unlimited amendments is what makes this body unique. It means any one Senator, if they know the rules and know the leverage, if they want to change the topic of conversation, if they want to focus on a different issue, if they feel strongly about something, can speak out for what they believe and what they think is best for the people they represent. They can fight hard.

Every Senator has a right to use their rights. That is what is happening with this bill. I appeal to colleagues to let this legislation go through. This is important to many hard-working families as they move into their sixties, seventies, and hopefully eighties and nineties. It is important to them.

I appeal to my colleagues to let us proceed. I say to my colleagues—if they want to amend this bill, go ahead, but I appeal to colleagues not to add on different legislation which will then create a quagmire and snarl everything up. We should push this legislation forward and pass it. It is the right thing to do for these families.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### HARSH PENALTIES FOR BREACH OF SECURITY AT AIRPORTS

Mr. CLELAND. Mr. President, I rise today to announce my intention to introduce a bill to provide Federal criminal penalties for security breaches at American airports. I make this announcement on the heels of my own experience with a security breach at Hartsfield International Airport. I have no way of knowing the reasons behind the security breach at Hartsfield, but the results of it were startling. The event triggered the total evacuation of the Atlanta airport and a temporary halt of incoming and outgoing air traffic. I might say I have been marooned on the tarmac at Hartsfield many times, but never with 60 other aircraft. I spent 4 hours on the tarmac, and many more hours waiting for my connecting flight, which I basically rendezvoused with and arrived at my destination the next day. Thousands of other travelers were also stranded while the ripple effects were felt across the country.

Thankfully, nobody was hurt in this instance, and people's worst fears of another terrorist attack were not realized. But a loophole in existing law has been revealed in the days since the incident, and has shown that breaches at airport security checkpoints are cur-

rently punishable by local criminal penalties and Federal civil penalties, but not Federal criminal penalties. Incidentally, the current Federal civil penalty for such a breach currently carries a fine of \$1,100.

In an incident that probably cost the State of Georgia, the airlines, and this country about \$10 million in economic impact, that is a small pittance to pay—\$1,100.

As we have learned in the most painful way possible, airport security is a matter of national security, and for there to be no Federal criminal penalty for such a breach is appalling. It was relieving to find that there appeared to be no nefarious intent in the Atlanta instance, but it was very disconcerting to learn the shortcomings of our Federal laws in a situation like this.

While a Federal criminal penalty does cover security violations aboard airplanes themselves, I believe similar penalties should be available for violations before a person actually boards a plane. I would like to stress that I do intend to include provisions to make distinctions between deliberate and unintentional breaches. The legislation is currently being drafted and vetted, and will be introduced in the near future.

The two main intentions of this bill are to provide uniformity and accountability for breaches of security across the Nation. Congress and the President have agreed that it is the responsibility of the Federal Government to protect our airports, and the laws should reflect that. It should also provide the same penalty for breaches in New York City, Columbus, OH, and Columbus, GA. The offense is the same, and the laws should be too.

Mr. President, I yield the floor.

#### RECESS

Mr. CLELAND. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 today.

There being no objection, the Senate, at 12:19 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. STABENOW).

The PRESIDING OFFICER. In my capacity as the Senator from Michigan, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—MOTION TO PROCEED—Continued

Mr. BAUCUS. Madam President, I support the motion to take up H.R. 10 so we can consider the retirement bill as an amendment. Let me explain why this bill is necessary and then I will re-

spond to some of the criticisms that were made yesterday.

By way of background, the Federal railroad retirement system has served railroaders and their families for 65 years. Its roots reach back to the 1930s, in a struggle to find answers to the hardships that resulted from the Great Depression. Today, the system provides benefit payments to more than 673,000 retirees and other beneficiaries.

The railroad retirement system actually has two components. Tier 1 is largely equivalent to Social Security. Tier 2 provides additional benefits and is equivalent to a private pension plan. Both are funded by taxes that are paid entirely by railroad companies and railroad workers.

Let me stop here and stress a critical point. Every single change that we make in this bill applies only to tier 2. Again, tier 2 is equivalent to a private pension program. In other words, we are only addressing how railroad retirement operates as a private pension plan. We are not making any changes to the part of the program that is largely equivalent to Social Security.

So where do things stand? At one point, the Railroad Retirement system was in deep trouble. Just like the Social Security system. In fact, in 1983, we had to permanently cut benefits and increase taxes, in order to get the system back on its financial feet.

But there's good news. Today, the Railroad Retirement system is fiscally strong. There's a surplus, of \$19 billion.

On top of that, the most recent report by the Chief Actuary concludes that no cash-flow problems are expected to arise over next 75 years. In other words, the system is solvent. I'll say it again. The system is solvent. Over the short term, and over the long term.

That's good news.

Among other things, it gives us the opportunity to consider some basic improvements in the operation of the railroad retirement program. That's what this bill is all about.

After years of careful deliberations between railroad companies and railroad unions, the bill is designed to make two basic reforms.

First, the bill improves the investment returns of the Railroad Retirement Account. Currently, the taxes collected in the Railroad Retirement Account can only be invested in U.S. government securities. Actuarial projections assume an annual return of 6 percent on these investments.

This bill would allow a portion of the assets to be invested in a diversified investment portfolio that includes private-sector securities. In other words, the portion of assets attributable to private industry contributions could be invested in the same way that the assets of private sector retirement plans can be invested.

Over the long run, this would increase the rate of return on the investment of railroad retirement assets. I grant that this proposal may have

seemed like an even better idea a year or two ago, when the stock market was on a roll.

But that's short-sighted. As we all know, equity investments result in higher returns over the long term. In this case, the shift from Treasury bills to a mixed portfolio is estimated to increase the long term rate of return from six percent to eight percent.

That's not some pie-in-the sky projection. That's the estimate of the chief actuary, who is charged by law with making objective estimates of these matters.

In any event, I note that this provision would apply only to the portion of the program that is similar to a private pension plan, and that is funded entirely from industry sources.

That's the first change that we make. Over the long run, it will put the system in even better shape than it is today.

The second change is a needed adjustment in benefits and taxes. We have room to make these changes, because the system now is taking in significantly more in taxes than is necessary to pay current and projected benefits.

Let me describe each set of changes, in turn.

With respect to benefits, we reform survivor benefits, the retirement age, and vesting. With respect to survivor benefits, each month, about 700 new widows and widowers begin receiving Railroad Retirement survivor benefits. That's an average of one every hour, day and night. As it now stands, while a retired employee is alive, a couple receives a tier 2 benefit equal to 145 percent of the benefit for a single retiree. When the retiree dies, the spouse is left with a tier 2 benefit of only 50 percent of the retiree's benefit. That's a reduction of almost two-thirds.

Under the bill, the surviving spouse would receive a tier 2 benefit equal to the benefit received by a single retiree. As a result, we would avoid a drastic reduction in the income of the survivor.

Next, we lower the minimum retirement age, at which employees with 30 years of service are eligible for full tier 2 benefits, from age 62 to 60. This would return the age at which a railroad employee can retire with full benefits to what it was prior to 1984.

It also moves the railroad retirement system closer into line with many private sector pension plans, particularly those in hazardous or physically demanding occupations. Even with this change, many private plans will still have earlier retirement ages than the railroad retirement system.

Finally, we lower the vesting requirement for employees from 10 to 5 years. This aligns Railroad Retirement with current private industry pension practices.

Those are the reforms to railroad retirement benefits. We also address the taxes paid by railroad companies.

To put this in perspective, tier 1 and tier 2 benefits are funded primarily

through payroll taxes on employers and employees. Taken together, the payroll tax rate is more than 36 percent. As a result, railroads and railroad workers pay disproportionate costs, compared to other industries, for retirement benefits. This, in turn, imposes a major financial burden and discourages employers from hiring new employees.

In the bill, we reduce the taxes on railroad employers, over three years, to bring them a little closer to comparable private pension plans and bring them more in line with the actuarial needs of the system.

Now, I understand that some have criticized the changes. They argue that the system will not be secure. Therefore, they continue, by improving benefits and reducing taxes, we reduce the overall surplus and increase the chances that the system will eventually go broke. There are two simple responses.

First, again, the system is solvent, over both the short and the long terms. We have a \$19 billion surplus right now, and the chief actuary projects that the system will take in more than it pays out, under both current law and this bill, over the next 75 years.

But what if the projection is wrong? What if there are unforeseen developments that increase benefit payments, reduce revenue, and drain away the surplus? Won't taxpayers, in effect, be left holding the bag?

No, they won't. Under the explicit terms of the bill, employer taxes will be automatically adjusted in the future so that always will they fully cover benefits. In effect, the taxpayers are not put at risk.

Pulling all of this together, we have a carefully balanced package that makes straightforward reforms. We allow the private portion of the fund to be invested the same way a private pension plan can be invested. We modernize benefits and we reduce taxes. We do this within the framework of a fully solvent system.

One final point. Some colleagues may question why we are seeking to take up the railroad bill as an amendment to a House bill. In the first place, the majority leader sought consent to discharge the House bill from the Senate Finance Committee. There was an objection. In the second place, we need to move quickly. Passage of this legislation is long overdue.

It has extraordinary support. Last Congress, the bill passed the House and was reported by the Senate Finance Committee. This Congress, the House bill received 384 votes. The Senate bill has 74 cosponsors.

In light of this overwhelming bipartisan support, railroad retirees across the country are wondering why we don't get our act together, pass this bill, and get it to the President. They are right. In fact, every time I return home to Montana—I was there just a couple of days ago—I am asked: When is the Senate going to take up the railroad retirement bill?

At this point, late in the session, there is only one good answer. Let's put all of the procedural maneuvering aside. Let's take up the bill. If Senators have serious amendments related to this bill, let's consider them. But let's vote. Let's do the people's business. They want us to work through these measures, take votes, and come up with the result, because that is what this process is all about. That is what people want.

I will have some further comments in response to arguments that have been made against the specific provisions of the bill as this debate goes on. But at this point, I urge my colleagues to support cloture so that we can debate this important bill. Let's get going. The 10,000 railroad employees, retirees, widows, and survivors in Montana, and tens of thousands more across the country, are counting on us.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Texas.

MR. GRAMM. Madam President, you would think that in a proposal where you have had government bonds mandated as the basis for your retirement program—and, quite frankly, we have this in railroad retirement because railroad retirement has never been self-sustaining. It has received and does receive today huge Federal subsidies. You would think, taking \$15 billion out of that trust fund and investing it in interest-earning assets, that the value of the trust fund would rise over time; wouldn't you? You have \$15 billion you are going to invest. You are investing it right now in government bonds. They are really IOUs to the same people who are paying the interest. They are not even real assets. It is like an IOU that you put in one pocket and count it as an asset.

But in any case, you would think since they are assuming an 8 percent rate of return after inflation, that this wonderful idea—in fact, I will read the quote from the chief executive of the Association of American Railroads.

He says:

What we hope to get out of it—that is this bill—is what any pension plan has, a more flexible approach to investment.

Who is against that? Who is against getting a higher rate of return?

But remarkably, almost unbelievably, if you grant that they are going to go from virtually a zero rate of return under the current program to 8 percent plus inflation, their own Railroad Retirement Board looks at the bill that is before us and concludes that in 17 years, after earning these interest payments, you have \$15 billion less in the trust fund than you would have under the current system.

That is pretty startling. You are going to invest at interest, and you are going to have \$15 billion less in 17 years than you would have without having any earnings whatsoever.

How is that possible? How it is possible that what we are about here is not investment but pilferage?

Let me outline how all of this came about. At least I can theorize how it came about.

Today, as a result of a bill we passed, when Social Security is going broke, we remarkably have \$19.2 billion in the railroad retirement trust fund. If you calculated the present value of the liability of the railroad retirement trust fund, it would be huge as compared to \$19.2 billion. Madam President, \$19.2 billion is a lot of money, but it is not a lot of money to a system which has three retirees for every one worker.

We are worried about Social Security when we have 3.3 workers per retiree. In railroad retirement, you have one worker for every three retirees. This \$19.2 billion is a fairly small amount of money given the liability of the system and when its financial security is very much in doubt. If that is the case—nobody disputes that it is the case—why are we taking \$15 billion out of it over the next 17 years?

Let me tell you what I think has happened. I would have to say in my 24 years of debating issues such as this, this is the most remarkable one I have seen. I am sure there is something comparable, but it doesn't jump to my mind. Here is what I would say happened a couple of years ago.

The railroads are having tough times, similar to many other industries. They looked at this \$19.2 billion, and they said: This is somebody else's money. This is the money that is supposed to at least partially back up the retirement program. But wouldn't it be great if we could have \$7.5 billion of it? We would just like to pilfer \$7.5 billion out of railroad retirement.

I am sure they hired some brilliant lobbyist lawyer and paid him several million dollars. He was worth every single penny of it.

Here is the idea they came up with which is embodied in this bill: The railroads went to the unions and said: We want to steal \$7.5 billion out of your retirement program. Needless to say, I am sure the unions must have said: Are you crazy? They said: What about this? At the very moment when the retirement age for every other worker in America to get full Social Security benefits is rising from 65 to age 67 where you get the full benefit—a big jump this year—what we will do is lower the retirement age for railway workers at the same time it is being raised for everybody else. In fact, we will cut it from 62, which is already 3 full years below Social Security; we will reduce it to 60. We will add a handful of new benefits, and we will raise the maximum benefit we will give. The net result is that over the next 17 years we will get \$7.5 billion, and we will give retirees \$7.5 billion. We will take the \$15 billion out of the railroad retirement program.

In fact, sure enough, the Railroad Retirement Board, in looking at this data over the next 17 years, despite "investing" their money, the trust fund will be \$15 billion smaller 17 years from now

than it would be under the current system.

I think you have a problem. They say: OK, we get \$7.5 billion, you get \$7.5 billion, but what about our retirement program? It is just too good to be true.

They said: Oh, it's not too good to be true. We will put the Federal taxpayer on the hook for the \$15 billion. You get \$7.5 billion and we get \$7.5 billion, and the taxpayer will guarantee the money will be there.

Let me go over what the railroads get. Currently, for their tier 2 retirement—which is just part of the retirement; it is not essential that people understand that to understand what is happening—today, they are paying 16.1 percent of payroll into this retirement program.

They say: OK, look, next year, before any money is invested, before any returns could possibly be had, let's drop that from 16.1 percent to 14.75 percent. And then the next year, let's drop it from 14.75 to 14.2 percent. Then they say: If, in the future, when this \$15 billion has been pilfered—they did not really say that; they just do it—if there is a problem, then you can raise the tax on railroads. But there is a cap on the amount you can raise it.

So who is taking on this liability? What makes this whole deal work? How this whole deal works is, basically, the unions get \$7.5 billion, the railroads get \$7.5 billion, the taxpayer assumes another \$15 billion liability, and the trust fund actually goes down by \$15 billion.

The final point was: Gosh, but how are you going to convince Congress of it? This is where it really gets brilliant. They said: OK, look, unions will get \$7.5 billion, the railroads will get \$7.5 billion, but what we will say is we are investing the money. Then Congress will say it is OK because they are investing the money. People are for investing the money. It makes good sense.

The bottom line is, we have before us a bill that basically says we have a trust fund which now has \$19.2 billion in it and has a projection, over the next 25 years, as to where it will be in terms of how much in assets it will have, given the money coming in, being paid in by railroad workers, and the amount of benefits that are being paid.

Under the bill before us, because we are cutting taxes on railroads, even though the program has real actuarial solvency problems—no private pension fund in America could run a program like railroad retirement and not go to prison, but even though it has these problems, the bill before us, over 17 years, will take \$15 billion out of the trust fund and will pay it out to the railroads and to the unions and to their members.

Over 25 years, it takes out \$28.7 billion that would have been in the trust fund, that will not be, even though the trust fund, under the current system, is earning a very small rate of return. And they are assuming a 8-percent rate of return plus inflation.

I am sure people would look at these numbers and say it is not possible you could increase the rate of return severalfold and yet have the trust fund decline by \$15 billion over 17 years. Yes, because the higher rate of return is really a smokescreen.

What is going on here is pilferage. What is going on here is we are giving the railroads \$7.5 billion and we are giving railway workers \$7.5 billion and we are putting the American taxpayer in harm's way. That is what this bill is about.

The House of Representatives passed it, and they passed it by a huge number. Why did it happen? How did it happen? It happened because the unions and the railroads are for it. You have a nice, catchy theme, "investing in a higher rate of return." Nobody paid any attention to the details and, quite frankly, when business and labor get together, more often than not, society and the taxpayer are losers.

Paradoxically, these kinds of consensus measures are generally harmful, not helpful. The public may hate contention, but it is checks and balances that basically make for good government.

The House of Representatives passed this bill by a huge number because every railroad—last year, I must have had 50 lobbyists come to see me. I have a huge number of railroad retirees. I am blessed to have lots of railroads. I have one that runs right through the middle of my hometown with seven big-time trains a day. The lobbyists came to see me and said: Boy, you can help the railroads. You can help the railroad retirees. Everybody is better off.

In fact, I am sure that somebody would say: We can't refute the numbers. That \$15 billion is coming out of the trust fund, but it is a victimless crime. Railroads are better off; unions are better off; they received \$15 billion. But who is worse off? The taxpayer is worse off. That is who is worse off.

But in any case, all of these lobbyists, all this letter writing and e-mail converged on the House, and they passed this bill. It has now come to the Senate. It seems to me that we could stand to be reminded of what the Senate is supposed to do.

Some of you will remember the story that Jefferson had been in France when the Constitution was written. When he came back from France, he was suspicious of the Constitution. He met at Mount Vernon with George Washington. They were having tea. He was asking Washington what the Senate was for. He understood what the House of Representatives was for. But what was the Senate for?

So Washington, as many southerners, had this habit, which some people still have now with coffee that they had with tea, of pouring the tea into the saucer to let it cool, and then pouring it back into the cup and drinking it. Washington said, in a very famous story, the House of Representatives

will respond to the passions of the moment; they will respond to popular clamor. But the Senate will be as the saucer, where there will be a cooling of reason, and the result will be a stronger, more stable, more responsible government.

I understand that 74 people cosponsored this bill. I am not short on arithmetic. And I understand that, in the end, 51 Members in the Senate could pass a bill. Thank God we do have procedures where people who believe strongly can object and delay and cause debate. And I am going to do that. But I want to urge my colleagues, we can fix this bill. We can make this a good bill. I am totally supportive of letting railroad retirement invest the \$15 billion.

I would like to build a firewall where the people who are doing the investing have fiduciary responsibility, where they cannot promote some social agenda with railroad retirement money and, indirectly, with the Government's money.

I would like to have some safety and soundness standards on the investment. Investing the money is one thing, but lowering the retirement age, expanding benefits, and cutting the taxes and the money going into the program is quite another thing.

My proposal is, let's take this bill, let's go to the Finance Committee—we have never held a hearing on it; we have never had a markup on it—let's go to the Finance Committee, and let's agree to a program to invest the money, and then let's set up an actuarial system where we will look at the benefits of the investment, and to the extent that the system becomes actuarially sound, then—and after we have the money in hand—we could lower taxes, and then we could look at benefits.

I do believe there is something inherently unfair about raising the retirement age for 95 percent of the workers in America and cutting it for other people. How can that make any sense? How could any Member of the Senate go back to Iowa or Texas or Nevada and look their constituents in the face and say, we are getting ready to make you work 2 additional years to get full Social Security benefits, but we have lowered the retirement age from 62 to 60 for railroad retirement? How can you possibly justify that?

I have plenty of railroad towns in my State. I had a lot of them in my old district. I don't think I could sell this in Inez, TX, which is a big railroad town. I don't think I could sell, at the same period we are raising the retirement age from 65 to 67 on everybody else, that suddenly we are going to cut it from 62 to 60 for railroad retirees.

I am perfectly willing to support—I wanted to come over today and pledge—a bill that sets up the investment of the \$15 billion with a firewall to keep politics out of the investment, assess actuarially where we are, let the Railroad Retirement Board assess it,

and when it is clear that we have more money than we need, if, God willing, that ever happened, then we could lower taxes on the railroads; then we could raise benefits for the retirees. But should we not get the return first?

How can it make sense in this bill to lower the retirement age, expand benefits, and cut taxes before one penny is invested? How can that possibly make any sense? How can you spend money you don't have? How can it make any sense whatsoever to have a program that, to quote the representative of the American railroads who said, "what we hope to get out of it is what any pension plan has, a more flexible approach to investment"? If that is all they want to get out of it—I assume he said this with a straight face—if that is all they want to get out of it, I am for that. In fact, I am very much in favor of investing pension funds. But should we let them take \$15 billion out of the fund over and above the interest they would gain from the investment, and should we let them do it before they have earned a single penny?

I don't see how in the world you could justify being for this bill in its current form. I make a plea: I know 74 people have signed onto this bill. It is not the same bill they signed onto because this bill is now scored as raising the deficit by \$15 billion. And there has been a new provision added. If you cosponsored this bill, you haven't cosponsored the bill that is before us because it has a special provision that says, while the deficit of the Federal Government under this bill goes up by \$15 billion, we are going to pretend as if it doesn't.

It actually says to the Congressional Budget Office and to the Office of Management and Budget, we want you to certify something that is false. We want you to, in essence, look the other way, and even though you have scored this as costing \$15 billion, we want you to certify that it doesn't cost \$15 billion.

I believe most of the 73 people who cosponsored them did not understand it. They were for investing the money. Why not help workers; why not help the railroads? I don't think they understood the \$15 billion of pilferage. But they didn't sign onto the bill that is before us because it has this provision that forces OMB and CBO by law to certify something that is not so.

My point is, we could do this right, even at this late hour. We could take this bill to the Finance Committee. We could set up an investment program. We could put an actuarial program into effect as we earn these investment returns in the future. We could look, as the system becomes stronger, at cutting taxes on railroads, giving benefits to workers. But under the current bill, we cut taxes before any money is ever invested. We raise benefits before any money is ever invested.

Despite the rate of return over 10 years, the value of the trust fund is \$5 billion less than the current trust fund

would be under the current system. Over 17 years, it is \$15 billion less; over 25 years, it is \$28.7 billion less. How do you earn more and have less? Pilferage, that is how you do it. That is our problem.

We have two choices. One, we can look the other way and respond to the political pressure coming from two powerful political interests—interests to which we are sympathetic. Who is hostile to railroad retirees? I am not. I can't justify having their retirement age 60 and Social Security 67. And theirs is already lower; it is already 62. We are going from 65 to 67, and they want to go down to 60. I can't justify that. But I am not hostile. I am not hostile to anybody who would want it. Who wouldn't want full benefits at 60?

The point is, much of this program is paid for by Social Security money. Why should people who work for one industry be treated differently than people who work for other industries? I don't understand it. I don't know how you justify it. I don't guess people want to justify it.

I am not unsympathetic to railroads. God knows, we want our railroads to be strong. We want to modernize our tracks. We want better equipment. I want railroads to make money. I want them to be successful. I have no hostility to them. We can't have a great and powerful economy without having successful railroads. But do we really want to pass a bill that pilfers \$15 billion out of a pension fund and leaves the taxpayer liable for the great bulk of the \$15 billion?

We can avoid it. We can write a responsible bill. We could do it very quickly. The way we would do it is invest the money but don't start giving it away until we earn it. Don't start raising benefits and lowering taxes until we have gotten the return. And don't cut taxes and raise benefits more than the return grows. Those are just sound, simple principles.

I want people to understand what is in this bill. It is true the railroads are for it. It is true the unions are for it. You might ask, well, if they can get together, if they think it is a good idea, isn't it a good idea? Well, when you read the fine print, why they are for it is they are dividing up \$15 billion. Why I am against it is the taxpayer is becoming liable for the \$15 billion.

My colleagues on the other side will point out there is a provision that would allow the tax on railroads to rise when the pension fund gets into trouble. But it caps the amount that they can rise. We are cutting the amount they are paying in right now. Doesn't somebody suspect that when the roof falls in on this retirement program the railroads are going to come up here and say: If you make us pay all this, we are not going to be able to invest in railroads; it is going to hurt the economy, so let the taxpayer pay it?

If what I am saying is not valid, I hope someone will stand up and say it is not valid. But if it is valid, I plead

with my colleagues, let's fix it. We can do what people say they want to do—invest the money. And we can do it responsibly. But the current bill before us is not good policy. It is obviously good politics, especially to people who signed onto an earlier version of it some months or years before.

To sum up, because I know other people are here who want to speak, we have a bill before us that is not the same bill people have cosponsored. As far as I am aware, no one is a cosponsor of the bill that is before us because the bill that was cosponsored by 74 of my colleagues did not have a provision in it that directs OMB and CBO to turn and look the other way and not score the \$15 billion that would be scored as an increase in the deficit, some of which is coming out of the Social Security trust fund. No one signed onto that as a cosponsor. So it is not true to say that 74 people cosponsored this bill. They didn't. They cosponsored something close to it, but not to mandate that OMB, the Office of Management and Budget, and the Congressional Budget Office simply certify something they know is false.

We can fix the bill by investing the money first, and then when income is earned, we can have a formula or procedure for the distribution of the money. This bill distributes the money before any investment is made.

Finally, and most remarkably, even with the assumption that 8 percent is earned on the investment after inflation—and I am not disputing that you could not earn that today, I believe over the future that is a fairly conservative estimate. But even with that assumption, over 17 years, under the bill before us, the trust fund actually goes down by \$15 billion compared to the current program. Over 25 years, it goes down by \$28.7 billion. How do you get less by earning more? Pilferage. By simply taking the money out and giving half of it to labor and giving half of it to the railroads. That may be popular, but it is not good policy. It is not right. It puts the taxpayer on the hook, and I urge my colleagues to give us a chance to fix it.

Let us go to the Finance Committee, where we can debate these issues and report back in 2 or 3 days a bill, which I think we could do. We can pass it and we can be proud of it. As it is now, we are in a situation where we are going to have a cloture vote on Thursday. I assume that it will pass. This is a cloture vote to move to the bill. Then we are going to have a cloture vote on the bill. Then we will have a cloture vote on a substitute. And we are simply going to be in a process that may or may not produce a result in this year. It is not so important when we do this, but it is very important what we do and that we do it right. I just want people to know that I am willing to work to try to do it right. I hope someone will take me up on it. I am a member of the Finance Committee. We have the chairman and ranking member here in

the Chamber. I would like for us to have a markup on this bill and discuss these issues and see if we can find a way to do this that will work better and that we can be proud of. I think we could, and I wanted to be on record saying that today.

I appreciate our distinguished floor leader for his patience. He is much beloved around here for that characteristic.

The PRESIDING OFFICER (Mr. REID). The Senator from Nevada is recognized.

#### NOMINATIONS

Mr. REID. Mr. President, it is easy to always listen to the statements of the Senator from Texas. I may not always agree with them, but I do a lot of the time. They are always articulate, well-reasoned. We have another year of listening to these statements, and he will go off and do something else. He will be missed not only by the people in the State of Texas but by those of us in the Senate.

Mr. President, the Las Vegas Sun newspaper, on Sunday, November 25, wrote a major editorial saying, "Tough Talk, But Bereft of the Facts."

The purpose of the editorial is to point out what a great job the chairman of the Judiciary Committee has done in the 6 months he has been chairman of the committee. Senator LEAHY has moved major legislation. In addition to that, the editorial goes on to report that he has been able to do many things with judges that haven't been done before, in spite of the fact his committee has been, in effect, under siege because of the September 11 events. Senator LEAHY has had to work on the terrorism legislation and many other pieces of legislation.

I ask unanimous consent that the Las Vegas Sun editorial entitled "Tough Talk, But Bereft of the Facts" be printed in the RECORD.

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

[From the Las Vegas Sun, Nov. 25, 2001]

#### TOUGH TALK, BUT BEREFT OF THE FACTS

Republicans are complaining that President Bush's nominees for federal judgeships haven't received a fair shake from the Democratic-controlled Senate. The Republicans say that Sen. Patrick Leahy, D-Vt., chairman of the Judiciary Committee, isn't holding hearings promptly and isn't taking votes fast enough on the nominations.

"It's purely partisan politics," Sen. Jon Kyl, R-Ariz., said two weeks ago. "They don't want conservative judges on the court." Just over a week ago Vice President Dick Cheney chimed in as well. "The deliberate slowing of the confirmation process is unworthy of the United States Senate and an injustice to the men and women whose names have been presented," Cheney said in a speech to Federalist Society, an ultra-conservative legal group.

Some serious accusations and harsh words from Republicans, but they simply don't stand up to the facts. As of mid-November in the first year of Bush's presidency, 17 of his nominees had been approved. At the same point in the first year of Clinton's presidency, the Senate had confirmed only eight

judges. By mid-November of 1989, the first year of the elder Bush's presidency, only 10 judges had been confirmed by the Senate. So Leahy actually is ahead of the pace when comparing the Senate's speed in handling nominees from previous administrations' first year in office.

Leahy also has had to overcome obstacles not of his making. After Sen. Jim Jeffords left the Republican Party earlier this year and put the Democrats in control of the Senate, the Republicans tied up the reorganization process for a month, which meant that no hearings could take place on Bush's nominations. In addition, the Sept. 11 terrorist attacks delayed the process as the Judiciary Committee had to devote time to holding hearings on the administration's anti-terrorism legislation, which obviously took priority over judicial confirmation hearings. The anthrax mail scare also has taken its toll on all of Congress' operations, but even on Oct. 18, when all of the Senate office buildings were closed due to the investigation, the Judiciary Committee met in a borrowed room in the Capitol to approve four nominees. That day the committee also held a hearing on five of the nominees, including Reno lawyer Larry Hicks, who eventually was confirmed as a U.S. district judge in Nevada by the Senate earlier this month on an 83-0 vote.

Numbers supplied by the People for the American Way demonstrate that it is the Republicans, not the Democrats, who have engaged in excessive partisanship. In the six years that the Democrats were in the majority in the Senate, just 25 percent of Presidents Reagan and Bush's nominations were blocked. But later, in the six years that the Republicans were the majority in the Senate, 35 percent of President Clinton's nominees were blocked, a substantial increase. In 1998 Sen. Majority Leader Trent Lott had no qualms about the delays. "Should we take our time on these federal judges? Yes. Do I have any apologies? Only one: I probably moved too many already."

Republicans have made a cold, brutal calculation to pack the judiciary with conservatives. So when a Democrat controls the White House, Republicans work overtime to derail the nominations. But when a Republican is in the White House, the GOP partisans kick and scream about perceived delays in an attempt to get the Democrats to back down on their opposition so that right-wing conservatives can push through as many of their ideological soul mates as possible.

President Bush is enjoying extraordinary high popularity right now, but that is no reason why the Democrats should roll over and let him appoint members to the federal judiciary who hold extreme views and aren't qualified. The Democrats should promptly, but carefully, weigh the nominees who, if confirmed, receive lifetime appointments.

#### UNANIMOUS CONSENT REQUEST—H.R. 3090

Mr. REID. Mr. President, during the past couple of days, there has been some talk about this railroad retirement bill and the reason people are not going to allow us to move forward with this is because it would return to the calendar this important stimulus legislation on which we are working. I have heard other statements that maybe the reason we are not going to move to it is because it should go to the Judiciary Committee and have hearings, or the Finance Committee.

I personally believe these are only excuses. We are having no votes today. We should get to this legislation. If

there is a problem with it, have them offer an amendment and debate it on the floor as to whether the amendment is in order. We have 74 or 75 cosponsors. It is important legislation not only to management but to labor, and it is not often that they agree on anything. They agree on this legislation. I think it is something that would improve this country.

So based upon that, on behalf of Senator DASCHLE, I ask unanimous consent the stimulus bill, H.R. 3090, recur as the pending business immediately upon the disposition of the railroad retirement bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, when I go to the shopping mall, I am already hearing Christmas carols. We are closing in on Christmas. If we get off into extraneous matters, we are not going to complete our business. We need to pass a stimulus package, the appropriations bills, and deal with the insurance problem we have with terrorism. On that basis, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, very briefly, I want to share my thoughts on the urgency and the merit of the railroad retirement legislation. This is legislation that ought to be a slam dunk for this body. It is legislation which passed in the House by an overwhelming 384-33 vote—legislation sponsored and supported by three-quarters of the Senate.

We have an opportunity this afternoon to bring this bill up and to have adequate debate. I don't think it needs much greater debate. People who want to offer amendments could do so, and we could get this finished up after years of negotiation. This legislation has the support of both railroad management and labor and has broad-based, bipartisan support in both Chambers of Congress. There simply is no reason this bill cannot be expedited and taken care of today.

I am disappointed we are having as much resistance as we have. It appears to me that with the 74 sponsors we have in the Senate this is an opportune time to find out who, in fact, is really supportive and whose sponsorship is, in fact, not meaningful. We will have a vote on breaking the gridlock and bringing this legislation to the floor.

It is timely, meritorious, and it deals with a railroad retirement system that is solvent and will continue to be solvent to the end of the horizon for budget accounting. It is badly needed to update the survivor benefits. We all largely agree to that. I think it is a sad commentary that we can have that level of bipartisan support in both Chambers of Congress and still find ourselves being held up during these closing days by a few who, it would seem, are hopeful that this will somehow be discarded in the rush of closing legislation.

I think there is a time when the will of the majority needs to prevail, particularly when it is an overwhelming majority and when it is bipartisan in nature.

I cannot express my support for this legislation more strongly. We cannot wait for next year. This has been around for too long. It has been negotiated, painfully brought together over a course of years by management and labor, and it is time. Its time has come. There is no excuse for not passing this legislation this Congress and getting it to the President's desk for his signature. It will significantly enhance the quality of life and retirement prospects of thousands of Americans who are relying on us to do the responsible thing—the responsible thing in terms of retirement policy, the responsible thing in terms of budgeting. That is what this legislation does.

Again I urge my colleagues to join me in supporting every effort to break the gridlock, to bring this up for full and fair consideration and then final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

UNANIMOUS CONSENT REQUEST—H.R. 2505

Mr. BROWNBACK. Mr. President, I rise to speak on the issue I brought before the body yesterday, which is what is taking place in Massachusetts and probably other places across the country, and that is human cloning.

I am seeking to get H.R. 2505, to ban human cloning, heard. It has already been passed by the House of Representatives with a 100-vote margin. If we cannot get a ban through, I would like to put forward a proposal which I presented to the leadership, to Senator DASCHLE, for a 6-month or even 3-month moratorium on human cloning until we have time for this body to consider the overall issue of human cloning.

To date, we have not been able to have a full vote taking place on this issue. We know that one company has developed two human clones, and they lived for a week. It is a matter of time before we see announcements—and we could see announcements anytime—about one being implanted into a woman. We have no rules or regulations dealing with this issue—none at all. We have far more rules and regulations dealing with endangered species and the bald eagle's egg than a human embryo being developed by cloning mechanisms.

This is being banned around the world, and yet it is happening here. Look at the front cover of Newsweek. I held up this magazine, U.S. News & World Report, yesterday: "The First Human Clone." In Europe, the French and Germans have banned human cloning altogether. The Brits have taken up the issue. It is in the courts in Britain, and it is in front of the United Nations. Yet it is happening in the United States.

I know my colleagues may grow weary, but I think it is an urgent time

for humanity and we should take this up, imposing a moratorium for 3 months, 6 months. I was talking yesterday about a 6-month moratorium. Even 3 months would get us to a time next year when we could fully debate the issue, the body could speak on it, and get a result. It is happening now.

I will continue to plead with the leadership to allow us to bring it up before the Senate. Let us limit the amount of time in the debate. We can limit it to an hour if people want. We can have a vote on it so we can get this to conference with the House of Representatives and so the President can sign the legislation.

Other people see fit to bring up other legislation. I respect their right to do that. I believe as a society this is one of the most urgent matters we can address at this point in time. I wish we could put it off. I wish we did not have private companies creating human embryos, something which we would not allow with a bald eagle or any endangered species, or with livestock. This is treating humans as livestock.

People can say I have different viewpoints about the status of a human embryo. I think everybody will agree it has some moral significance, the thought they would treat a human embryo as livestock, without regard for it. And this body is sitting here saying: We are not ready to take it up. I can respect that because this is an issue which will require lengthy debate. The issue of whether we should have a moratorium is important.

Mr. President, I renew the request I put forward yesterday, that we bring up H.R. 2505, a bill to ban human cloning, that has passed the House of Representatives. I ask unanimous consent that the Senate proceed to that legislation.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, as I stated yesterday, no one can question in good conscience the sincerity of the Senator from Kansas in his attempt to do what he believes is so correct.

We had a Democratic policy luncheon today on this subject. We had three eminent scientists, two of whom are in favor of going forward, another who is totally opposed.

I am not for human cloning. Therapeutic cloning is something we need to take a close look at. There is great potential for solving the questions scientists have had for generations about Parkinson's, Alzheimer's, and diabetes. I would never attempt to get into a public debate with the Senator from Kansas on the technicalities of this issue. I know he has worked hard on it. Nor would I attempt to get into a debate with Dr. Frist, Senator HARKIN, or Senator SPECTER, who have spent so much time on this.

This is an issue on which we need to spend some time. I do not think it is as easy as the Senator from Kansas has indicated, to simply put a moratorium

on it. As I said yesterday, there are people who have contacted me who believe a moratorium of any kind would be a setback to the medical movement to cure some of these diseases.

I respectfully suggest to my friend, the distinguished Senator from Kansas, there are other places in the world that are going to be doing this research. They may not have the refinement that we in the United States have, but there are certainly countries that are very close.

For all these reasons and others, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I respect my colleague from Nevada and his views. We have had several dialogs on the floor about this. I respect his thoughts and his comments. I am glad to hear about the review of this issue in the Democratic caucus.

I have a very strong sense that we should be pausing at this point in time, and that is why I respectfully continue to bring this forward. This is one of those times in humanity when we ought to be stepping back and thinking this through clearly and we will come out with a decision. Fine. We will let the body work its will. I am very troubled about this bill proceeding forward with private sector individuals, probably with all the best of intentions, but the only regulation they have is their own bioethical board, which they hire and put in place, deciding these issues for humanity.

Once they are out there, they are there. It would be the same as if we allowed biotechnology of a fish, a chicken, or a cow without any regulation or consideration, just saying we are going to release it and have it out in the wild. I think people would be very uncomfortable with that notion. Even if this might be the most wonderful thing in the world to do, they would want us to think about it.

I deeply respect the Senator from Nevada and his views on this issue of human cloning, but this is a troubling time for humanity. We ought to hit the pause button.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I wish to address some of the remarks made by my good friend from Texas, Senator GRAMM, with respect to railroad retirement. He is a great speaker. He uses words well, and I respect what he said.

I think it is important to bring this issue down to its basics, to the essence of what this bill is, and what this bill is not. I will attempt to address that, and then in a few minutes I will answer some of the specific points the Senator made.

Essentially, the situation is this: We have a railroad retirement system that pays benefits to railroad retirees and their widows. The amount of dollars in the railroad retirement trust fund is

accumulating at a very rapid rate. I think it is about \$19 billion now. Over time, if the law does not change, the trust fund balance is going to keep rising to a very high level. I think over the next 15 years it will be \$32 billion. That is what the actuaries predict. That is not a politician. That is not a railroader. That is not a railroad executive making that projection. That is what our Federal actuaries project.

Why is that? Why is that balance projected to go up to such a high level? Well, it is pretty simple. The reason is because the taxes the employers and the employees of the railroad pay are so high. The taxes are 21 percent total: 4.9 percent paid by the employees, and the balance paid by the employers. Now that is in addition to the 15 percent tax which is similar to Social Security payroll taxes.

I think it totals out to about 36 percent total taxes paid by the employers and employees of the railroad industry. Some goes to Social Security, but I am talking about tier 2. Tier 2 is the private pension part of the railroad retirement.

The tier 2 trust fund balance is going up at such a rapid rate because the benefits paid to widows is so meager, so paltry. It is an embarrassment. It is a tragedy. It is also going up at a rapid rate because railroaders must retire at a later age to get the full vesting.

So this bill is very simple. It says take some of that money that is in the trust fund and invest it in private securities. Lower the taxes the railroaders pay into that trust fund while, at the same time, increase the benefits so a widower would not receive only 50 percent of what a single retiree would receive, but rather 100 percent of what a single retiree would receive, and lower the retirement age to 60.

There are many industries where the retirement age actually is lower than 60, particularly in industries where the work is so demanding and the work is so physical. It only makes sense to have this retirement age at 60, which is comparable with the work that railroaders do.

The Senator from Texas makes the point that this is pilfering. He likes that word, "pilfer." He says by reducing the taxes railroaders pay under the trust fund and by increasing the benefits that would be paid, which lowers the trust fund balance by \$15 billion over 17 years, that is pilfering. Then he goes on to say: Who is going to pay for the pilfering? He says the American taxpayer will.

It is very clear, the trust fund balance is being lowered because it is too high. It is because too many dollars are going into it. The taxes are very burdensome to the companies and to the employees. That is why the trust fund balance is at such a high level. The actuaries at OMB and CBO agree with this. The actuaries say when this bill passes, when this bill becomes law, there will be more than enough money in the trust fund to make it actuarially

sound for the next 75 years. That is not my judgment. That is the chief actuary's assessment, confirmed by CBO. So there is no pilfering. Taxpayers will not have to pay more. There is also a provision in this bill which says if by chance the projections are wrong, if by chance the actuaries are wrong, if by chance there is not enough money in the railroad retirement tier 2 trust fund, the taxes that are scheduled to come down under this bill will automatically go back up to their current level, if needed. That is in the law. The taxes which are to go up are those paid by the railroaders; not by other taxpayers, not by the rail employees, but by the railroad companies. The railroad companies and railroad workers agreed to this while developing the legislation. The railroad companies and the railroad employees want this bill. The railroad companies want it because, obviously, it looks like lower taxes at first, and it will probably always be lower taxes, but if it is not, they agree to let the taxes go back up. Clearly, the employees want it because the benefits are better.

In addition, even if the projections are wrong, the taxes will go back up again and the railroad companies say that is fine. Now, why would they agree to that? Because there is another provision in this bill that says that in the private pension part of railroad retirement, that is tier 2, the investments do not have to be government securities. The railroad retirement investment board—it has a fiduciary duty to the railroad retirement system—could invest those securities in private securities, under a diversified mix, which is exactly what every other company pension plan allows and what trustees of company pension plans do in the private sector.

This bill says what is good for most of the private sector ought to be at least as good for the railroad industry. Again, the actuaries say both under current law and under this bill, the fund will be solid for the next 75 years.

There has been some confusion between Social Security, which is tier 1, and the private pension plan, which is tier 2. The argument has been made: Why lower the retirement age to 60 from 62, when the Social Security retirement age is increasing?

The answer is, we are doing the same thing as is the case in the private sector. In the private sector, people pay Social Security. They may also pay into their company pension plan and/or their employer pays into the plan on their behalf. In many industries, the retirement age for the company pension is lower than 65. It can be lower than 62.

Seventy-four percent of the eighty-five retirement plans studied by the Retirement Research Committee in the State of Wisconsin contain a similar provision that allowed for retirement with full benefits after achieving a certain number of service years. In fact, 30 years of service and reaching age 55—

not age 60—was the most common structure for retirement with full benefits.

So how does the legislation make this adjustment? Social Security's retirement age is rising to 67, and the private pension plan part of railroad retirement is lowering the retirement age to 60. How do you mesh the two?

In this bill, early retirement is handled the same way as in the private sector. How is that? It is called a "social security" bridge. In the private sector, additional benefits from the private pension plan may supplement the standard pension benefits until the beneficiary is eligible for their Social Security benefit. That is what the railroad retirement reform legislation does for railroad retirement.

Tier 2 benefits provide the bridge. Tier 2 provides additional benefits to the railroad retiree so he or she can retire at age 60 instead of 62. The tier 1 portion of railroad retirement, which is similar to Social Security, is not touched. The Social Security system is not changed at all. The railroad retirement reform legislation does nothing to Social Security. Rather, the additional dollars come over from the private pension part, tier 2.

Over the years, the Congress has not been fair to railroad retirement. Some railroad retirees could draw pensions from both Social Security and railroad retirement, a "dual benefit," and the railroad retirement fund got stuck paying the cost of this extra entitlement. It was such a problem that Congress, in 1974, eliminated dual benefits for new retirees and agreed to pay for the post-1974 cost for all grandfathered employees.

Guess what. Congress never reimbursed the railroad retirement fund for the \$3.5 billion that had been paid out to dual entitlement beneficiaries before 1974. Had this reimbursement been made in full in 1974, the railroad retirement fund would have more than \$31 billion in additional funds today.

If you add it together, there is no pilfering or theft. We are making railroad retirement essentially the same as the private sector. It is actuarially sound. CBO agrees it is sound for the next 75 years. If we are wrong, there will be a scheduled tax increase, which the companies agree to. They say that is fine. The statement has been made that they may change their minds and will not accept the tax increase. That is possible. But the burden is on the Congress to undue this. The scheduled tax increase, if there is one, is in this bill and will be in the law. Again, the railroad companies agree.

A final point that needs to be addressed is the scoring issue. The House of Representatives directed the scoring of this legislation to be not \$15 billion, but zero. The reason is today the railroad retirement tier 2 has assets. They are Government securities as required by current law. For years, the usual rule of thumb under OMB scoring: When the Government purchases an

asset, it is scored as an outlay. In this case, when converting the federal treasury securities to private sector securities, OMB also scores this an outlay because it would be purchasing a private asset.

This is a grey area. There is no bright-line test. The railroad retirement system will still own the same amount of securities, although it will be a mix of government securities and private sector securities. Is the railroad retirement system less better off? Is the purchase of private sector securities an outlay or not? Because of the rules, it is called an outlay, so it is technically a \$15 billion cost. But that is 1 year and does not affect future years.

The question is: should the rule we have had on scorekeeping be applicable in all cases, including this one, or not? That is clearly a judgment call for the Senate. My view is that it is something we should debate and make a decision about. However, I do not think that this scoring issue alone should stop Congress from passing railroad retirement reform this year. Regardless of how it is scored, the legislation reforms the system in a way that is actuarially sound and does not pilfer one thin dime from the taxpayers. This carefully balanced legislation has been developed over several years. The bill has twice passed the House by a large margin and the Senate bill currently has 74 cosponsors. It is time to act.

If any Senator has any amendment to offer, now is the time. We are debating whether to go to the bill. That takes a lot of time, and we don't have a lot of time left before we adjourn. Rather than preventing the offering of amendments, I urge my colleagues, if they have problems with the bill—offer amendments of their own. We can debate, count the votes, and proceed. That is far, far better than trying to stop this bill with the parliamentary maneuvers, claiming we can go back to the Finance Committee and rewrite this bill. There is not a lot of time left. This bill has been worked on for a long time. Going back to the Finance Committee will not help.

Let me correct myself. The \$3.5 billion I mentioned earlier as a consequence of changing the dual-benefit system was for years before 1974 and for pre-1974 retirees. For years after 1974, general revenues reimbursed tier 2. That was, again, the consequence of a mistake Congress made in earlier years by mandating dual benefits. So in 1974, Congress had to put money in the system to correct the mistake made earlier.

We are now asking ourselves, given where we are today, what makes the most sense. I submit this bill makes the most sense. It is not perfect, but it is certainly very good. If Senators want to make changes, I urge them to offer amendments.

I yield the floor.

Mr. THOMAS. What is the rationale for combining Social Security and a private annuity program?

Mr. BAUCUS. This is not a Social Security private annuity program.

Mr. THOMAS. These people don't have Social Security other than what is here.

Mr. BAUCUS. They pay Social Security-like taxes and receive benefits similar to Social Security, both employees and employers.

Mr. THOMAS. But if this happens, you will start getting Social Security benefits at age 60?

Mr. BAUCUS. If this happens, you get tier 2 benefits at age 60. Part of that may eventually be like Social Security, but only the Social Security benefit allowed under current law. We don't change any law regarding tier 1, which is similar to Social Security. The additional benefit for early retirement is paid with additional funds from tier 2.

Mr. THOMAS. You won't be eligible until you are 67; why are they eligible at 60?

Mr. BAUCUS. That is the practice in the private sector with private pensions.

Mr. THOMAS. But this is Social Security, not the private sector.

Mr. BAUCUS. For those who do not have pension plans, and many Americans do not have any pension retirement benefits, what you say is true. But many Americans do have private pension plans where they receive retirement income in addition to Social Security.

Mr. THOMAS. That is not my question.

Mr. BAUCUS. Let me explain.

So in that case, whereas the Social Security retirement age is 65 and scheduled to go up over time, those same people who work for a company, or did work for a company and have retirement benefits under their pension plan, receive earlier benefits and more benefits when the pension plan so provides.

Is the Senator asking, what is the interchange between Social Security and the private pension plan? In the private sector, when a retirement plan provides for an earlier retirement age than age 65, a person receives benefits provided by the private pension. For the benefits the person does not receive from Social Security, those benefits are also paid for by the private pension part of the plan. That is what the railroad retirement reform legislation provides for railroad workers.

Mr. THOMAS. So in this program, if you start to get benefits at 60, they would be tier 2 benefits, and none of the Social Security would commence until you were 65?

Mr. BAUCUS. That is correct.

Mr. THOMAS. Then is there any specific language that says that the taxpayers will never have to pick up part of this tier 2?

Mr. BAUCUS. The language is, if the parameters for the trust fund are enacted—we are only talking tier 2—if they are enacted, the scheduled reductions in taxes that the railroad companies pay would have to go back up if

the trust fund investments are not performing well.

If, on the other hand, the economy is doing so well that the taxes can go down, under this bill both employee and employer taxes will be reduced.

Mr. THOMAS. But under the private annuity programs, they can't fall back on the Government. They are private. This is a mixture, and it is sort of confusing for most of us.

The Social Security, of course, has supplemented this substantially, largely because there are three beneficiaries to every earner, I understand.

Mr. BAUCUS. No, no, not substantially.

Mr. THOMAS. It is \$30 billion.

Mr. BAUCUS. My colleague is pointing out the differences between Social Security and the railroad retirement. Under Social Security there are three or four employees for every retiree, and it is the opposite with the railroad retirement system.

Mr. THOMAS. It is the opposite. I understand.

I thank the Senator. I would love to see them do whatever they would like. They can do the best they can. But I think a lot of people are anxious, as you look at these other charts—I am sorry I can't tell you who proposed this chart, but it shows over time the contributions would have to go up substantially and the trust fund goes down substantially over a period of time. If that happens, I guess I am just concerned so the taxpayers are not going to be asked to fill that gap.

Mr. BAUCUS. If I may respond to that chart, if the current law is not changed, the tier 2 balances will keep rising from the current \$15 billion, \$16 billion, up to \$20 billion, \$27 billion; it will just keep going up, according to actuaries.

Under the reform proposal, the railroad retirement account balance comes down, but there is a provision written in this bill which says there must be a certain level of reserves maintained in the tier 2 portion. The actuaries certify the investment and tax changes in the railroad retirement legislation will produce a system that achieves solvency over the next 75 years. CBO has looked at it, and they agree.

The reason it is coming down is that so much excess payroll taxes have been paid in, the balances have been going up more than they need to. They are coming down because taxes are going to be reduced a little—I assume the Senator from Wyoming likes lower taxes; this Senator certainly does—and also because the benefits are increased to conform with the modern era and with other industries.

One example is retirement age. This is tough work, that of a railroad worker. In industries where there is physical danger and demanding physical work, the age to retire with full benefits is usually earlier than age 65. The reform legislation makes that change for railroad retirement.

Mr. THOMAS. Wouldn't it be simpler over time if you just separated Social

Security from a private retirement annuity program? Then you would have the same Social Security benefits as everyone else, and then you could add to it in the private sector and do whatever you chose.

Mr. BAUCUS. That is an idea. The trouble is now, given where we are today, it would require too much money to make the switch. It is our judgment now that we need this legislation. It is \$40 billion, frankly. We would need 40 billion extra dollars, and I don't think we have 40 billion extra dollars.

Mr. THOMAS. We are dealing differently with a relatively small segment of folks here than we do with others.

Mr. BAUCUS. What do you have in mind? Like what?

Mr. THOMAS. Pardon?

Mr. BAUCUS. What others?

Mr. THOMAS. You and me and the gentleman who is giving you all the answers there. He doesn't get Social Security until he reaches 65.

Mr. BAUCUS. You did raise a good issue. We have to somehow modernize retirement in this country. We have a patchwork system; but we have to somehow work with it.

Mr. THOMAS. I appreciate the Senator's answers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak for 20 minutes as in morning business.

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

The Senator from Alaska is recognized.

#### AN ENERGY BILL

Mr. MURKOWSKI. Mr. President, I rise on behalf of a significant group of Americans who feel that an energy bill should be a priority for this Congress. That has been expressed uniformly by many organizations. We have heard from organized labor. For example, we have heard from America's veterans, and we have heard from America's Hispanic community. They suggest that an energy bill is way overdue. For the record, I will have a list of many of the organizations that participated in the debate, expressing themselves on the issue through statements and press conferences and so forth.

It is important to recognize the current stalemate. It is my understanding that the current pending business is the stimulus bill. Nevertheless, we are being asked to set the stimulus bill aside and move to the railroad retire-

ment bill. In context with this, I will refer to some comments that the majority leader made today with regard to the energy bill coming before this body.

The statement came out of the majority leader's press office, indicating that the Republicans have two basic points: One, that energy should be debated this year and, two, that bringing it up in January will not allow the ANWR issue to be debated in the way they would like; therefore, they feel that the majority leader is being unfair.

The majority leader, Senator DASCHLE, responded. He indicated:

First of all, I guess I would invite them Meaning the Republicans—

to tell me when before Christmas that they want to bring up the energy bill. Why don't you ask them? Is it the 23rd, the 24th of December, because that is about the time we will finish all the other things we've got to do. If they want to bring it up between Christmas and New Year's, I would be happy to entertain that possibility as well.

Well, I don't want to be the Grinch that stole Christmas, but if I have to be, I will. If we have to be here on December 23 or Christmas Eve to pass an energy bill, so be it. We have procedural options. One person can object to a motion to take up legislation. I am prepared to do that. This is no threat. This is a reality. We have fooled around with this issue long enough.

The majority leader has indicated to his members that he will respond to their wishes and ensure we don't take the energy bill up and ensure that we don't have a vote.

The majority leader further said:

Ask them what days in particular they have in mind in this energy debate.

And then he goes on to say:

With regard to ANWR, what I am simply suggesting is that the Senate work its will.

Well, I am, too. The majority leader has a vote. I have a vote. We have debated this issue extensively. We passed a bill out of the Senate Energy Committee when I was still chairman. That was early this year. We have had hearings on it. But let's look at fairness. What has happened is tactics that I am very surprised the majority leader and some of my friends from the other side of the aisle would support.

As the current ranking member and former chairman of the Energy Committee, even in a minority position, I resent the fact that the majority leader has directed the chairman of the Energy Committee, the Senator from New Mexico, not to take up any matters in committee in a business session that would give us the chance to report out an energy bill, an energy bill that would, of course, contain the ANWR issue.

As a consequence, for the last 3 months, we have not had a business session. Now they are proposing to try and leverage that. They are saying: We have four or five nominees pending. The majority on the committee has indicated that they will give us a hearing

on the nominees and agree to a business session for reporting them out only—if the minority ensures that nothing will come up in an energy bill associated with ANWR.

What are they afraid of? What is wrong with the committee process? The majority leader has simply taken away the authority from the authorizing committee. As a consequence, we can't even take the energy bill up in the Energy Committee.

Let me revert a little bit to something that happened in 1995. We passed an ANWR bill. It was in the omnibus package. It was vetoed by President Clinton. What were the concerns at the time? At that time, we were about 56 percent dependent on imported oil. We were also concerned about our increased dependence on Iraq because, obviously, Saddam Hussein had been up to no good since the Persian Gulf War. The same arguments occurred at that time that are being used today. However, in 1995 we didn't quite have the litany from certain Senators, because since that time the extreme environmental community has put the pressure on those Senators.

We have had a close Presidential election. There is a great movement on the other side to try and have Members with Presidential aspirations line themselves up to try and pick up the base support that Al Gore had. That is the raw politics in this. That is where the pressure is coming from.

We have Senators from Massachusetts who are opposed to opening ANWR. I think we probably have enough oil in ANWR to keep Massachusetts going for about 85 years. That is what it would mean to Massachusetts.

In any event, it is a significant amount of oil. But the point I make is that had the President not vetoed that bill in 1995, we would have ANWR opened by now. We would have the oil flowing. What may not have happened was the drowning of two U.S. Navy sailors the other day in the line of duty boarding a rust bucket tanker out of a port in Iraq to inspect and see whether Saddam Hussein is cheating.

They found he was cheating, alright. The vessel was overloaded. It had illegal oil going out, smuggled out of Iraq, smuggled out over the eyes of the U.N. inspectors. We are importing over one million barrels a day from Iraq.

Now, I will revert to July 25, 2001. At that time I proposed an amendment. The amendment was on the Iran-Libya sanctions bill. I was questioning why Iraq was not included in these sanctions. In response, the Democratic leader, Mr. DASCHLE, indicated that he was sensitive to my point of view.

As a consequence, we entered into a colloquy. That colloquy specifically addressed an opportunity for an up-or-down vote on the issue of eliminating oil imports from Iraq, as we have done in Iran and Libya in the sanctions act which was passed by this body.

I will read from the RECORD the statement of the leadership: I ask

unanimous consent after the vote on the Libya sanctions that there be a time limitation of 60 minutes—of 60 minutes, think about that, 60 minutes—for debate on the bill equally divided and controlled between the chairman and ranking member or their designees and that the only first-degree amendments in order to the bill be a Murkowski amendment regarding Iraq's oil; and that there be 90 minutes for debate with the time divided as follows: 60 minutes under the control of Senator MURKOWSKI, 30 minutes under the control of the chairman and ranking member or their designees; that upon the use or yielding back of the time on the amendment the amendment be withdrawn; that upon the use or yielding back of all time, the bill be read a third time and the Senate proceed to a vote on passage of the bill with no intervening action.

This is directed to the majority leader. I am going to take him up on his offer. Let's do it. Let's do it now. There is only 90 minutes in the agreement. Don't we have 90 minutes around here? We have 90 minutes right now. Should we debate Iraq on this floor? It is pretty obvious we have reason to. We just lost two American lives defending, if you will, the U.N.'s proposal to ensure that Saddam Hussein isn't cheating.

What are we going to do after Afghanistan? We don't know, but we certainly know there is some significant momentum to look at Saddam Hussein's role in terrorism. How in good conscience can a Member of this body go to sleep at night, recognizing we are importing over one million barrels of oil from Iraq, and recognizing we have just lost two American lives that, had President Clinton allowed this bill to pass in 1995, would not have been lost?

On September 11, we had the largest single importation of Iraq, over one million barrels—1.1 million barrels. Whose passports were involved in the tragic action that took place in September? Saudi Arabia. We have a problem over there. Every Member of this body should recognize the significance of it. The voice is loud, the voice is clear: Reduce our dependence.

How do you do it? You don't do it overnight. But you start. I am somewhat amused at the remarks made by my colleague from Massachusetts after a statement I made in the Chamber yesterday. His remarks were very brief, but I will make reference to them. He says:

What is really interesting about the debate on the Arctic wildlife refuge is that not a drop of oil is going to come in the near term and answer any of the immediate needs of national security with respect to dependence.

That is a pretty weak statement. When do you start? Do you start when you have a crisis, a calamity, when you have American soldiers and sailors whose lives are at stake, or when some have already lost their lives?

The Senator from Massachusetts—as I indicated, ANWR probably has oil

that would supply Massachusetts for 85 years. Moreover, he says:

We love the 90 percent of the oil shelf that is available for drilling.

Of course, the junior Senator from Massachusetts has never been up there in ANWR. He doesn't know one side of ANWR from the other. Here is a chart. Do you know what size ANWR is? It is about 30 times the size of Rhode Island. There it is—19 million acres. It is a big hunk of U.S. real estate. Eight and a half million acres are in wilderness in perpetuity; 9 million are in refuge, leaving the Coastal Plain 1½ million acres.

H.R. 4, the House bill, provides for a footprint of 2,000 acres. At a press conference before Thanksgiving we had many Members who had agreed to supporting the opening of ANWR, including an energy bill. The other side had a press conference with Robert Redford. He was proclaiming that somehow opening ANWR would do irreparable damage. But the House authorizes only 2,000 acres. Do you know how big Robert Redford's ranch is in Utah? It is more than 5,000 acres. He has every right to have that ranch and do what he wants on it. But to come here and suggest that the people who live in Kaktovic, can't address the ownership on their own land is absolutely incomprehensible to me.

Here is a photo of the village of Kaktovic. Real people live there. They have title to 95,000 acres of land there. They can't drill on that land for gas to heat their homes because there is no authorization opening ANWR. Here is the area in question. This is the 1002 area. This is the native land—95,000 acres.

I am asking the majority leader to reconsider this. The Senator from Massachusetts suggests there is no difference in the outcome, whether the debate takes place in December, or in January, or whenever. We don't have any commitment from the majority leader. He talks about next year. Well, I am asking him for a vote, as he promised, on terminating our importation of oil from Iraq.

I want to read the specifics that were in this agreement, which binds the majority leader of the Senate. I indicated:

Reserving the right to object, Mr. President . . . It had been my request of both leaderships that the condition on withdrawing the amendment would be the assurance that I would have an opportunity for an up-or-down vote at a future time on the issue of oil imports from Iraq. I request consideration, if indeed the leadership will consider that associated with the appropriate opportunity—maybe on one of our trade agreements that will come before this body—that I would be allowed at least not more than an hour and a half or 2 hours to debate that and have the assurance of an up-or-down vote. I ask the leadership for that consideration.

The leader replied:

If I may respond, Senator MURKOWSKI has reiterated the understanding we have on both sides of the aisle with regard to his offering an amendment at a later date on Iraq oil on another bill. I will certainly provide

him with a vote in relation to that amendment when that time comes.

I said:

Reserving the right to object, just for clarification from the leader, the Senator from Alaska requested specifically the assurance of an up-or-down vote, and I believe the majority leader indicated a reference "in relation to." I don't want to mischaracterize the intent. I wanted to have an understanding I would be afforded an opportunity for an up-or-down vote.

Senator DASCHLE responded:

I will have no objection to an up-or-down vote.

Mr. President, let's start the 90 minutes, let's vote on it. This isn't going to take long, until Christmas Eve. We will be resolving something here that badly needs resolving—the inconsistency of increased dependence on an enemy. How that fails to cause anybody an ulcer is beyond me. Over one million barrels a day coming into this country, and we are paying Saddam Hussein for it. Saddam Hussein takes the money, pays it to the Republican Guards to keep them alive, and develops a missile capability because we haven't had any inspectors over there for several years, a missile capability, a biological capability. Who does he aim it at? Our ally, Israel. That is the reality, and we take his oil. We put it in our airplanes and take out his targets. We put the lives of American men and women at risk.

Those on the other side of the aisle who believe otherwise about this issue, if we have a catastrophe over there, will rue the day. They will probably put a spin on it. But this is inconsistent, it is un-American and it is contrary to the national interests to not act on an energy bill.

Make no mistake about it, by my presence on the floor today, I am putting the majority leader on notice that I want him to live up to the commitment he made to me that we would have an up-or-down vote on the issue of Iraqi oil importation into this country, and I will follow that up with a formal letter to the majority leader as well.

Can TOM DASCHLE be the only one who is right and everybody else is wrong?

Mr. President, I see no other Senator seeking recognition, so I ask the clerk how much time I have remaining?

The PRESIDING OFFICER. The Senator has no time remaining. Would the Senator like additional time?

Mr. MURKOWSKI. I request an additional 20 minutes, Mr. President. I will be able to yield some of that time back.

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

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I do not know how much politics is mixed up from the standpoint of this being a win or a loss for the President. It is a win or a loss for the American people. The President has indicated on five occasions that he wants an energy bill—it has been publicized at great length—including that he wants to open ANWR.

We have heard from the Secretary of the Interior, Gale Norton, saying how important it is, how we can open up this area safely.

We heard from the Secretary of Energy, Spence Abraham, about how important it is from the standpoint of our energy security.

We have heard from the Secretary of Veterans Affairs, Tony Principi, about sending more Americans to fight a war over oil on foreign lands.

We have heard from our Secretary of Labor, Elaine Chao.

We have heard from America's veterans. We have heard from the American Legion, Veterans of Foreign Wars, the AMVETS, the Catholic War Veterans of America, the Vietnam Veterans Institute, and the Veterans of Foreign Wars.

We have heard from organized labor: The Brotherhood of Teamsters, the Maritime Labor Union, the Seafarers Union, the Operating Engineers Union, the Plumbers and Pipefitters Union, and the Carpenters, Joiners, and Builders Union.

Why are these groups interested in this issue? Organized labor is interested in jobs. Talk about the stimulus of opening up this area—and I have an additional chart that shows what we are opening, 1.5 million acres for exploration and development, but the development is 2,000 acres—it means jobs for Americans, at least 250,000 direct jobs. The Federal Government would realize almost \$3 billion in revenue from lease sales of this area because this is Federal land. That would meet our obligations for environmental oversight, for fish and wildlife management, and it could offset some of the deficit, perhaps the cost of this war, to some extent. It is very meaningful.

We would have two major contributors to the stimulus bill: 250,000 jobs, and approximately \$3 billion in revenue.

The bottom line is it would not cost this country one red cent. The taxpayers would not have to pay for it. The oil industry would bid on the leases, and the Federal Government would generate the revenue.

We have organized labor saying it is a jobs issue. America's veterans are saying:

Keeping in mind the events of September 11 and mindful of the threats we are facing, we strongly believe that the development of America's domestic energy resources is a vital national security priority.

They sent that letter to TOM DASCHLE. These are the people we sent off to war in the past. I ask unanimous consent that the remarks of these organizations be printed in the RECORD as part of my presentation.

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

GROUPS THAT SUPPORT AN ENERGY POLICY FOR AMERICA

PRESIDENT BUSH'S ADMINISTRATION

Secretary of Interior Gale Norton: "We need the energy, we need the jobs, we need a

comprehensive energy bill from the Senate. This plan increases our energy independence and therefore our national security."

Secretary of Energy Spencer Abraham: "We need an energy-security policy and we need it soon."

Secretary of Veteran's Affairs Anthony Principi: "We are engaged in mortal combat with an enemy who wants to see us fail in securing an energy policy."

Secretary of Labor Elaine Chao: "The president's plan will create literally thousands of new jobs that will be needed to dramatically expand America's capacity for energy production."

AMERICA'S VETERANS

The American Legion: "The development of America's domestic energy resources is vital to our national security."—Letter to Senator Daschle.

Veterans of Foreign Wars: "Keeping in mind the horrific events of September 11 and mindful of the threats we are facing, we strongly believe that the development of America's domestic energy resources is a vital national security priority."—Letter to Senator Daschle.

AMVETS: "As you know, our current reliance on foreign oil leaves the United States vulnerable to the whim of individual oil-exporting countries, many existing in the unpredictable and highly dangerous Persian Gulf . . . [We] firmly believe that we cannot wait for the next crisis before we act."—Letter to Senator Daschle.

Vietnam Veterans Institute: "War and international terrorism have again brought into sharp focus the heavy reliance of the U.S. on imported oil. During these times of crises, such reliance threatens our national security and economic well being . . . It is important that we develop domestic sources of oil."—Letter to Senator Daschle.

Catholic War Veterans of America: Participated in press conference.

ORGANIZED LABOR

Seafarer's International Union: "At a time when the economy is faltering, working men and women all over the country would clearly benefit from the much-needed investment in energy development, storage, and transmission."—Terry Turner, Executive Director.

International Brotherhood of Teamsters: "America has gone too long without a solid energy plan. When energy costs rise, working families are the first to feel the pinch. The Senate should follow the example passed by the House and ease their burden by sending the President supply-based energy legislation to sign."—Jerry Hood, Teamsters Special Assistant for Energy Policy.

Maritime Laborers Union: Participated in press conference.

Operating Engineers Union: Participated in press conference.

Plumbers and Pipefitters Union: Participated in press conference.

Carpenters, Joiners, and Building Trades: Participated in press conference.

HISPANIC COMMUNITY

Latin American Management Association: "As we head into the winter season in a time of war, these worries multiply. The possibilities of terrorist attacks on oil fields and transportation in the Middle East are very real. This would force energy prices to skyrocket and immediately impact the most vulnerable families across the country."—Stephen Denlinger, Latin American Management Association CEO.

The Latino Coalition: "The Senate must act on comprehensive energy legislation before adjourning. Not addressing this issue immediately is both irresponsible and dangerous to America as a nation, and particularly to Hispanics as a community. America

must increase the level of domestic production, so we can reduce our dependency on foreign oil.”—Robert Despoda, President Latino Coalition.

U.S.-Mexico Chamber of Commerce: “We urge the Senate leadership, both Democrats and Republicans to pass comprehensive energy legislation before adjourning. This is not a partisan issue. Millions of needy Hispanic families need your support now. History would not treat inaction kindly, and neither would Hispanic voters next year.”—Mario Rodriguez, Hispanic Business Roundtable President.

#### SENIORS ORGANIZATIONS

60 Plus: “It’s time the Senate leadership quit demagoging and come to grips with the energy legislation they have bottled up. Our economy depends in no minor way to the passage of an energy plan. Much more important our security depends on it.”—Roger Zion, Chairman 60 Plus.

Seniors Coalition: Participated in press conference.

United Seniors Association: Participated in press conference.

#### JEWISH ORGANIZATIONS

Conference of Presidents of Major American Jewish Organizations: “The [Conference] at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil.”—Letter to Senator Daschle.

Zionist Organization of America: “At a time when our nation is at war against international terrorism, it is more important than ever that we work quickly to free ourselves of dependence on oil produced by extremist dictators. Such dependence leaves the U.S. dangerously vulnerable.”—Letter to Senator Murkowski.

#### AMERICAN BUSINESS

National Black Chamber of Commerce: “Our growing membership reflects the opinion of more and more Americans all across the political spectrum that we must act now to lessen our dependence on foreign energy sources by addressing the nation’s long-neglected energy needs.”—Harry Alford, President and CEO.

U.S. Chamber of Commerce: “The events of the past month lend a new urgency to our efforts to increase domestic energy supplies and modernize our nation’s energy infrastructure.”—Bruce Josten, Executive VP Government Affairs.

National Association of Manufacturers (NAM): “The House of Representatives has answered the President’s call. It has taken our obvious energy needs into account—along with the concerns of many interests groups—and produced reasonable and comprehensive legislation that will help provide stable energy prices and long-term confidence in our economy. But the Senate is dragging its feet. Some seem willing to let politics stop the will of the majority that wants to move forward with comprehensive energy legislation this year. In light of current economic conditions and on behalf of the NAM’s 14,000 members, I strongly urge Sen. Daschle to move an energy bill to the floor without further delay. It is high time to put the national interest ahead of parochial political interests.”—Michael Baroody, National Association of Manufacturers (NAM) Executive Vice President.

Alliance for Energy and Economic Growth (representing 1,100 businesses, large and small, and over 1 million employees): “All of the members of the Alliance enthusiastically welcome the President’s strong appeal for action on a national energy policy. We are also committed to work with Senate Major-

ity Leader Daschel to move forward in a spirit of bipartisanship with comprehensive, national energy legislation.”—Alliance spokesman Bruce Josten.

Mr. MURKOWSKI. Mr. President, moving from veterans and organized labor, we have the Hispanic community, the Latin American Management Association, the Latino Coalition, the U.S.-Mexico Chamber of Commerce. They have testified. They have spoken at press conferences. What does it mean to them? It means prosperity, opportunity, and jobs.

We have heard from 60-plus senior organizations: the Seniors Coalition, United Seniors Association.

We have heard from the American Business Group, the National Association of Manufacturers, the U.S. Chamber of Commerce, the Alliance for Energy and Economic Growth that represents about 1,100 businesses, large and small. This is a wide group.

We have heard from the Jewish organizations which have a direct interest in the survival of Israel. That is something we have supported time and again.

We have heard from the Conference of Presidents of Major American Jewish Organizations, Mortimer Zuckerman, Chairman, and Malcolm Hoenlein, Executive Vice Chairman. It reads as follows:

The Conference of Presidents of Major American Jewish Organizations at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously—

That means before Christmas, Mr. President—

to pass the energy bill that will serve to lessen our dependence on foreign sources of oil. We believe that this important legislation has, in addition to the economic impact, significant security implications. We hope that Congress will move quickly to pass this vital measure.

We look forward to continuing to work with you and your colleagues on this and other matters of importance to your country.

Signed Mortimer Zuckerman, Chairman, and Malcolm Hoenlein, Executive Vice Chairman.

I have a letter from the Zionist Organization of America dated November 26:

Dear Senator MURKOWSKI: On behalf of the Zionist Organization of America—

Not just Washington—the oldest, and one of the largest, Zionist movements in the United States—we are writing to express our strong support for your efforts to make our country less dependent on foreign oil sources, by developing the oil resources in Alaska’s Arctic National Wildlife Refuge.

At a time when our nation is at war—

Is at war, Mr. President—

against international terrorism, it is more important than ever that we work quickly to free ourselves of dependence on oil produced by extremist dictators. Such dependence leaves the United States dangerously vulnerable.

Your initiative to develop the vast oil resources of Alaska will make it possible to rid America of this dependence and thereby strengthen our nation’s security.

Signed by Morton Klein, National President, Dr. Alan Mazurek, Chairman of the Board, Dr. Michael Goldblatt, Chairman, National Executive Committee, and Sarah Stern, National Policy Coordinator.

That is an overview of America’s organizations with regard to the issue of energy security from seniors organizations, the Jewish groups, the Latino Council, the U.S.-Mexico Chamber of Commerce, American businesses, the National Black Chamber of Commerce, the U.S. Chamber of Commerce, and National Association of Manufacturers.

Michael Baroody, Executive Vice President, Alliance for Energy and economic Growth, writes:

I strongly urge Senator DASCHLE to move an energy bill to the floor without further delay.

And we have the attitude of our leader who says: No. He is going to disregard these organizations. He is going to put off indefinitely, until next year sometime—he does not give us a time; he does not say when we get back from the January recess we are going to take up energy and we are going to finish it in a week or two or finish it before the February recess with up-or-down votes and amendments.

That is all we want, Mr. President. We want an opportunity to vote on this. They are ducking this. They are under water. They do not want to vote on it. They have made their commitments to America’s extreme environmental community. The tide is up, and they are hiding in the sand. But some say when the tide is out and we have to vote, they are going to think twice.

The reason they are going to think twice is they are going to have to make a decision on what is best for the extreme environmental community, from their point of view, or what is best for America, while ensuring that we do not lose any more lives as we did the other day when the tanker sank and we lost the two American Navy men who were doing their job to stop the smuggling of oil from Iraq.

I am asking the leader today for 90 minutes to take up the issue he made available back in July when we had what was, in my mind, the equivalent to an unanimous consent agreement and he indicated he would give us the 90 minutes for an up-or-down vote.

I find it rather distressing that the leader continues to duck this issue. The leader was asked what he meant when he said no on an up-or-down vote on ANWR. He said when he anticipated extended debate, and he anticipated there would be efforts made to invoke cloture on the debate. We have never before had cloture during a crisis on an energy bill. They are threatening cloture. They do not want a straight 50/50 vote. They are afraid they will lose. So they want to obtain cloture. So he said there would be votes on the ANWR

amendment, but I do not think it will be on an up-or-down vote. So he is saying we cannot have an up-or-down vote on ANWR.

Why can we not have an up-or-down vote? That is the name of the game, is not it? Cloture obviously has a place in the Senate, but it does not have a place on an energy bill. It has never been invoked when our national security interests have been at stake, and this is about national security. This is about energy security.

Furthermore, the majority leader says, I do not think there will be an up-or-down vote because I do not think we will ever get to that. He says that he thinks it will be a good cloture vote, but not a definite vote.

I am not buying that explanation. So what are we going to do about it? Well, one Member can tie this body up. One Member can be the Grinch that stole Christmas. If it is Christmas Eve, if it is New Year's Eve, we are going to address the energy security issue. I want to address it in a responsible manner. I simply want the opportunity to offer the House bill, H.R. 4. On stimulus, on railroad retirement, on the agriculture bill, I am going to be objecting to moving of anything. I do not know if the leadership or the rest of the Senate want to go through six or so cloture votes on each one of these things, but I guess the only way to get attention is to start ringing the bell when attention is needed.

I am not going to read into the RECORD again the statements of the President, but on November 9, October 31, October 26, October 17, October 4, and on numerous other occasions, he said he wants an energy bill. It is in the national security interest of our country.

I am sure some people in this body perhaps saw the list. These are the organizations—there are over 1,000 of them—that believe we have to take up an energy bill before we leave. When I listen to the debate on the other side, and the points that were brought up by my good friend, the junior Senator from Massachusetts, I have to reflect on what he means.

He says on the one hand he wants a good debate, and then he implies we are going to have a filibuster. I guess he too is afraid of a 50/50 vote. He also says the supply of oil is somewhat insignificant, and therefore it cannot go on for an extended period of time. I have already addressed that in one sense, because the oil will start to flow as soon as we authorize it.

Make no mistake about it, the extreme environmental groups have a position on this. They know they are going to lose. They just do not know when. They are playing this as a cash cow, and they are milking it for all it is worth. They will continue to do so until they lose, and then they are going to move to another issue, perhaps in somebody else's State, perhaps in a more populous State. We have one House Member. Think about it. That is the pattern.

It is interesting for me to reflect on some of the commentators such as Charles Krauthammer who wrote a column very recently in the Washington Post. It was called "War on the Polar Bear." He says he likes polar bears as much as the next guy. He likes pandas, and he likes caribou and all the furry, cuddly things of God's good Earth, but he also likes people, particularly Americans and particularly American soldiers, and he does not like seeing them shot and killed in wars that would be both more avoidable and more winnable were we not so disastrously dependent on energy supplies from a nasty part of the world, with nasty people who use oil for nasty purposes.

I ask unanimous consent that this article be printed in the RECORD.

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

[From the Washington Post]

#### WAR AND THE POLAR BEAR

(By Charles Krauthammer)

So you thought that Sept. 11 changed everything, that the era of game-show friability, "Survivor" silliness and general self-indulgence had given way to an era of seriousness. Well, not quite.

Here we are, for the second time in a decade, risking American lives in a war against an enemy fueled and fed by oil money. Here we are again decrying our dependence on oil from a particularly unstable, unfriendly part of the world. Here we are in desperate need of both energy conservation and new energy production.

And here we see (in the Oct. 30 Post) that we may be prevented from drilling in the single most promising area on this continent because of a . . . polar bear treaty: "New Species Enters Debate on Arctic Oil; Polar Bear Agreement Cited by Drilling Foes."

Now, I like polar bears as much as the next guy. I like pandas and caribou and all the furry cuddles on God's good earth. But I also like people, particularly Americans, and particularly American soldiers. And I do not like seeing them shot and killed in wars that would be both more avoidable and more winnable were we not so disastrously dependent on energy supplies from a nasty part of the world with nasty people who use oil for nasty purposes.

At a time when Washington should be working on a crash program of conservation and new drilling, a six-year-old report from the Fish and Wildlife Service is leaked in the hope that a 28-year-old polar bear treaty might derail drilling in the Arctic National Wildlife Refuge.

The outrage! "This is a classic Bush administration strategy of running roughshod over international agreements," charged Kieran Suckling, executive director of the Center for Biological Diversity and leaker of the report.

The Interior Department stoutly maintains that the polar bear agreement does not prohibit oil exploration. Alaska's Sen. Frank Murkowski points out that the 25,000 or so Arctic polar bears that he represents seem to be quite happily lolling around the existing oil drilling in Alaska.

I too have little doubt that the polar bears will do fine, just as the caribou have thrived around the Prudhoe Bay field. But the whole debate is surreal. We are at war, are we not? Americans are fighting. In Washington and New York, nearly 5,000 have already been killed. Fifteen of the 19 murderers were Saudi. Their leader is Saudi. Most of their

money is Saudi. And that same Saudi money funds the madrassas, the fundamentalist religious schools where poor Pakistani, Afghan and Arab children are inducted into the world of radical Islam and war against the American infidel.

And yet we bow and scrape to the Saudis. We beg and borrow. We tolerate their deflecting onto America the popular hatred that would otherwise be directed at their own corruption. Why? Because we need their oil.

The war on terrorism will be fought in many places. Alaska is one. We have known since 1973 that we need to reduce our dependence on Persian Gulf oil. But we have never been serious. It was assumed that Sept 11 would make us serious. Instead, we are engaged in exegeses on polar bear mating habits and a ridiculous debate that pits conservation vs. drilling. Why one and not the other is beyond me.

Of course we need conservation. I have been an advocate of a dollar-a-gallon gasoline tax for 20 years. Whatever it takes: auto efficiency standards, higher taxes, incentives for new fuels.

But why stop there? We need more oil still. Every additional barrel that substitutes domestic oil for foreign oil is a victory. Drilling in the Arctic will involve less than 1 percent of the Arctic Refuge. It might produce an additional million barrels a day. The sea of natural gas beneath could be the largest in North America.

And yet the Luddites stand firm, as if Sept. 11 never happened. Sen. John Kerry vows a filibuster if anyone dares legislate Arctic drilling.

Imagine where we would be if those railing against Arctic drilling today had prevailed 30 years ago and stopped Prudhoe Bay. The million barrels a day we now get from Alaska would be coming from Saudi Arabia. We would be even more in their debt and under their thumb.

A concerned citizenry is yearning to do something significant for the war effort on the home front. But this is not World war II. We do not need rubber. We do not need war bonds. We do not need Rosie riveting.

We desperately do need energy independence. And that is a home-front battle: conservation—and a willingness to disturb a few acres of snow in a vast wilderness as remote as Afghanistan.

There's a war on, senators. Let's get serious.

Mr. MURKOWSKI. Referring to my good friend again, the junior Senator from Massachusetts, who says the supply is insignificant, if the supply is insignificant, what has Prudhoe Bay done to this country? This is Prudhoe Bay. It was developed 27 years ago. It has supplied the Nation with 20 percent of the total crude oil. If we had not developed Prudhoe Bay, we would not have the oil. We would be importing more from Iraq, more from Saudi Arabia. Maybe we would be importing from Libya and Iran, very possibly. So do not say it does not contribute something, because it does.

The area of Kaktovik is said to contain 5.7 to 16 billion barrels. Prudhoe Bay was only supposed to contain 10 billion barrels. It is now at 13 billion barrels.

I am continually frustrated by people who speak on this who have never been to ANWR's Coastal Plain. They refuse to go. They do not want to take the time to talk to the people in Kaktovik

about their hopes and aspirations or see the kids in Kaktovik who want a better life going to school. They will not do that.

So I have to come to this Chamber and explain why I have expertise to talk about something because of my background, because it is in my State, because of the fact I have been there. And yet, my critics do not have to justify their generalities.

This is a picture of some kids of Kaktovik going to school, three happy Eskimo kids in a village of fewer than 400. They cannot drill for gas on their own land. Now think of that. That is an injustice, and yet we have those who say it is insignificant, those who say we are ready for the debate.

I do not see them ready for the debate. I will debate them in a moment because there is no question we can develop ANWR safely. We have the technology. In Prudhoe Bay, we drill in the wintertime, the long winter, which runs roughly October through May. We have our drilling rigs. We have our various ice roads. We do it right. We do it safely. We can do it quickly.

This next photo is a classic example of the Arctic. It looks exactly the same as the 1002 area in ANWR. There are no trees in this area. This is an oil rig drilling in the Prudhoe Bay area. This is an ice road, there is no gravel. When this oil well is done—and I will show a picture in the summertime—that is what is seen in the tundra. There it is, the same rig.

We know how to take care of our environment. We can show a few other States how to take care of their environment because we directionally drill. This is the technology. These are 16 miles apart. My opponents say it cannot be done safely. There is no evidence to suggest we cannot do it safely. My opponents say it is insignificant because it will not start for a few years. It is significant.

It is as if we are in a drought to some extent in Washington, D.C. I suppose we could just pray for rain like praying we will not use any more oil and then we will not have to increase our dependence on oil. But, what we do about it is we water our lawn or we look to the immediate relief we can get. We had that opportunity in 1995 when the bill passed this body.

It was vetoed by President Clinton. Had that veto not occurred, we might not have had to board that ship. I know how that goes around here. That is not a fair accusation but is a reference on reality.

TOM DASCHLE, tell me why all the organizations are wrong and you refuse to bring up an energy bill? TOM DASCHLE, you owe it to the Congress, you owe it to the House, you owe it to the Nation and you owe it to me. What we will do is ask you to live by your commitment for 90 minutes of debate on the Iraqi sanctions.

The other issue promulgated is the attitude of the Gwich'in people. Some of the arguments used are in regard to

ensuring the Gwich'in people of Alaska that somehow this does not have any detrimental affect. The Gwich'in area is, of course, both in Canada and Alaska. This map has a better view. This is Gwich'in territory, Old Crow. This area on this side is also Gwich'in territory.

My point is, in Canada, the Gwich'in have entered into leasing. A new Native-controlled oil and gas company has been found in the McEnzie delta. The Gwich'in Oil Field Service owns 51 percent; owned by Gwich'in drilling company. The Gwich'in estimate they have an area of 22,000 square miles. We are talking about leasing, on the United States side, 1.5 million acres, and the footprint will be 2,000 acres. The Gwich'in Development Corporation, wholly owned by the tribal council, has a mission to build an investment portfolio offering business opportunities, employment and training to Gwich'in residents. The chief executive officer of the operation said that the deal with the company gives the community a chance to participate in oil and gas development. He says in his company's experience, the development of local workforce and infrastructure is the key to continued development of the gas resources of the Canadian Arctic.

There is a mixed message. The mixed message is very clear. The environmentalists have been funding the Alaskan Gwich'in steering committee for their own purposes. Their purpose is to ensure that ANWR does not come about. As a consequence, I think that argument can be put aside now; most of the population are Canadian Gwich'in, as far as the number of tribal members; three-quarters happen to reside in Canada. That is their business. But let's not use these people as a scapegoat to a position that somehow it is not in their interests. It is in the interests of the environmental community that funds them.

Here is the issue in a nutshell. The argument is superficial. It is an argument associated with having an issue which the environmental community has to add to their membership and to raise money. They are playing it for what it is worth. It is a significant contribution. If it is halfway between the estimate of 6 and 16 billion barrels, as big as Prudhoe Bay.

Is the issue equity to the Native people? Clearly, they don't want to talk about the fact that the 95,000 acres owned by the Gwich'in cannot be drilled on for natural gas to heat their homes. They don't want to talk about the job opportunities.

The junior Senator said we have all kinds of job potential with regard to energy. Well, none were named. I am all for wind power. I am all for solar power. I am for greater mileage with gas. But we will not get there because America still relies on energy, whether in the airplanes, on the trains, or the ships. And so does the rest of the world. We have coal. But we don't move an airplane on coal. We don't move it on

hot air from the Senate. Somebody has to produce oil somewhere. The question is reducing our dependence. How can we sleep, again, relying on Saddam Hussein and knowing what Saddam Hussein is up to?

We will proceed. I have hopes that we can have cooperation. I will have hopes that I can go to the chairman of the Energy and Natural Resources Committee, Senator BINGAMAN, and try to address this in an approach we can handle in the Senate, but don't buy the excuse that we cannot take up an energy bill and pass it. We can take up H.R. 4; the House passed its bill. We can pass this out of committee and still have a very significant debate on the ANWR issue. But everyone is hiding on this issue. They are deathly afraid of it.

All I can do is try and sort out fact from fiction. That is what I have attempted. I recall the statement of the chairman of the Energy Committee, my friend, Senator BINGAMAN, hoping there will be broad bipartisan support on the committee for dealing with urgent infrastructure issues and take a more comprehensive support to the remaining issues. I am ready to do that.

When the leader took away the authority of the chairman of the Energy Committee and said he cannot bring anything up in committee if it involves an energy bill or involves ANWR—I hope other committee chairmen are concerned about that. If Republicans had control of this Senate and Senator LOTT asked me to do it, I would tell him to go take a hike; I am the chairman. I work with the leadership. But after all, you take my authority totally and leave it in a nebulous state around the cloud of majority leader. That is not right.

We have heard the organizations that support this. I guess the leader can assume, from his point, they are wrong and the leader is right. It depends on what the leadership wants and what they want to move. Somehow they are prepared to fight this out. We are going to address energy in one form or another before we leave. If I have to object to every unanimous consent agreement, if I have to object to moving to the next bill, we can go through the cloture, but enough is enough. We want either a commitment to take it up, put it on as an amendment to one of the bills, or a firm determination on when to take it up and when to conclude it.

I have been in the Senate for 21 years. I am not buying the argument we will take it up at the 1st of the year. We start taking it up and it is set aside and we will never see it again. That will not work this time. We have a few people that feel very strongly about this, including the other side of the aisle. I hope the White House is observing this process. I am putting them on notice, too. Nothing moves.

I hope you will join with me. This picture shows what is going on on the Canadian side of the Arctic. Those are all offshore and onshore wells. We see

the maple leaf, a Canadian symbol. This is the Alaska area, and this is the 1002 area. This is, again, 35 times the size of Rhode Island.

Here is the pipeline. Remember the pipeline? We argued about it. It is 800 miles and is running at half capacity. It can take the existing oil from ANWR, run it laterally over here, and we are in business. No big thing. It is no big thing at all.

Do you remember what they said about this? They said you are putting a fence across Alaska, 800 miles. The animals are not going to be able to traverse it. This is in permafrost. The ground is frozen, so when you put a hot pipeline in, it is going to melt and crack the pipeline.

Here are the animals, three bears. They are walking the pipeline. Why? It is easier on the feet, you don't have to walk in the snow, and it is nice and warm. I don't know whether it is a papa bear and mother bear and baby bear, but that is a true story of the three bears.

We are going to keep these coming until somebody comes or I will get tired of talking, either one.

The Arctic, as a whole, is an extraordinary area. While some areas of the Arctic may have some pristineness, it also has a tough, long winter. This is the Arctic and this is what it is like this time of year. This is what it will be like in April. This is what it will be like until May.

In the summertime there are a few mosquitos there and these are the Porcupine caribou. From here to here is more than 60 miles. Senator BOXER and I got into some discussion about just where this picture was taken from. This was taken from the roof of one of the windows in Kaktovik. We have the authentication of the photographer behind it. This is taken from the sea. These are 50 to 60 miles away. These are the caribou moving through.

What happens with caribou is kind of interesting. They are protected in Prudhoe Bay. You cannot bring a gun into Prudhoe Bay. What we have seen in the Prudhoe Bay area—and this is fact, not fiction—is the tremendous growth of the caribou herd. It shows Prudhoe Bay and the oilfields and the caribou. I assure you, they are not stuffed.

This is kind of interesting. It shows where we are likely to find oil and gas in this country that we put off limits. For the entire west coast—Washington, Oregon, California—there is a moratorium on any oil or gas exploration. I respect these States. They don't want it so they should not have it. This is Wyoming, and Colorado, Utah, New Mexico. But, we have also taken the east coast and put that off limits. Then down here, in the gulf—remember we just had a debate on reducing that leasing area.

What happened here happened under the previous administration under the forest application, closing this to any interests for oil and gas as well as timber cutting.

So we are excluding areas where we are most likely to find oil. We, however, happen to support the drilling for oil in Alaska and we want it.

This next photo isn't Prudhoe Bay but this happens to be the caribou that are wandering through. The reason they are wandering through is because nobody bothers them. You and I can't just take a gun and shoot them.

The same is true of the polar bear. If you want to shoot a polar bear for a trophy, go to Canada or go to Russia. You can't do it in Alaska, because they are marine mammals and they are protected—only the Native people can take them. These are the things that I live with.

This is a photo of Kaktovik. This is one of the elders with, probably, his grandson. This is their community center. These are real people with real dreams and aspirations.

I know the Presiding Officer was up there and viewed that. He kind of looked around and agreed there was some snow on the ground.

This is Kaktovik. They just removed from here the Army's radar site. Native Eskimos have lived there for generations. This is a tough, tough, bleak country but it is their country and they love it and they simply want an opportunity, like everybody here has, of a better lifestyle, a job, better health conditions, and so forth.

There has been much made about refugees. Some people have been saying: "Good heavens, you are going to drill in a refuge." Here is a map where there has been oil production in national refuges—wildlife management areas. Texas has nine; New Mexico has one; Montana has four. Oil production has also been in refuges in the following states: Texas, Oklahoma, North Dakota, New Mexico, Montana, Mississippi, Alabama, Arkansas, Alaska—we only have one in Alaska—California has four, Kansas and Louisiana. They are doing all kinds of drilling in refuges, and they always have. We have better technology now and we know how to do it safely.

We listen to the arguments from the other side. Many of them have never been to ANWR. They don't have to give an explanation for their background or expertise, but we do. Here is a chart on reliance. In 1973, we were 36-percent dependent on foreign oil, and some of us are old enough to remember when there were gas lines around the block. We were outraged. We said we would create a Strategic Oil Reserve so this will never happen and never be dependent on imported oil. In 2001, we are 56 percent dependent; in 2010, we will be 66 percent. Shouldn't we do something about that to try to take some steps? We want to conserve more. Granted, we are going to conserve more. But we are still going to use oil. And it is just not us; it is the rest of the world that is going to use oil. What about China and the developing nations?

Here is what is happening to crude oil production in the United States.

From 1990 to 2000, it is down. It is down from 7.6 million barrels a day to 6 million barrels a day. We can turn that around, turn it around for American jobs, turn it around for American veterans.

Why are we deliberating this late in the session? We have tried to get this bill up. If you look around at the Chamber you wonder what the rest of us are doing today, other than me speaking. Here is where we get our oil: Venezuela, Nigeria, Libya, Algeria, Saudi Arabia.

Let me tell you something about Saudi Arabia. Am I out of time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. I ask unanimous consent for another 7 minutes.

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

Mr. MURKOWSKI. We are seeing some very dangerous signs coming from Saudi Arabia. There is a lot of corruption over there, signs relative to the stability of the Royal Family. And there is concern over Bin Laden. There is concern that he could get into their oilfields and disrupt them through terrorist activities, or even sink a couple of ships in the Straits of Hormuz, or even try to overthrow the Royal Family.

Remember what happened in Iran? Iran and the Shah were our best of friends, but the Shah did not believe that charity began at home. In other words, he was not taking care of his people. That has happened over the decades in Saudi Arabia. If that happened, we would pass this bill tomorrow because we react to the squeaky wheel and that is the crisis. There is absolutely no question about it.

Qatar, the United Arab Emirates, Kuwait—here is our friend Iraq, Saddam Hussein, Bahrain, and a little from Indonesia.

We are dependent. I am not standing here and saying if you pass ANWR you will not be dependent, but we will be less dependent and we will send a message that we are doing something positive to relieve our dependence.

There is an article here in the New Yorker called "Kings Ransom" by Seymour Hersh, and he talks about the true threat associated with Saudi Arabia and the plight of the people and the instability of the Royal Family. When we see these things, it behoves us to initiate some action.

Here is a chart on the crisis as it exists. Foreign oil dependence has been increased to 56 percent. What happens to our leverage with these people when that happens?

We see natural gas prices soar. We have not had a new nuclear plant licensed in 10 years. We have not had a new refinery in this country built in 25 years. No new coal plants—no new major plants in 10 years. The transmission capacity is overloaded. We saw what happened in California earlier this year. We have to do something

about it. We have to pass an energy bill. The House passed their energy bill.

What about military uses? They are using barrels and barrels each day in peacetime.

You have been very gracious with me, Mr. President. I see another Senator wishing recognition.

But I am going to summarize again my intent in asking the majority leader to give us an up-down vote on terminating importation of oil from Iraq as he agreed to do on July 25 where he agreed by saying, "I will have no objection to an up-down vote." I am sure he can find a way to dodge that, too. But we are only asking for 90 minutes. I have talked for almost 90 minutes today.

This agreement says there shall be 90 minutes, and it will be divided between the two sides. OK. He is going to have an opportunity to say: No. We don't have 90 minutes; or, This isn't the right time.

We just lost two American Navy seamen who boarded an Iraqi tanker which sank.

We will have to see whether the influence of the extreme environmental community still exists to the point that the leadership will apparently do anything they ask.

The leader is my friend. We have had conversations about this. He said: I realize how strongly you feel about it.

It is not just me. It is what is right for America when we have the leading Jewish organizations totally in support of this, and the veterans groups, and labor. I think he is taking on a big issue here. Evidently, the environmental community, in his view, is a lot stronger than the veterans groups, the Hispanic groups, the Mexican groups, the Jewish groups, and the other groups, on and on—senior citizens, and the Bush administration.

I hope it is not for the reason of handing the President a victory. This isn't a victory for the President. This is what is right for America. Let's put politics aside.

Finally, if we can't work something out, all of us had better find a place up there to hang our Christmas stockings because we will be here. I will be here.

I am ready to sit down and discuss, negotiate, or whatever, whether it be the railroad retirement bill we are trying to get up, to which we objected—I will object to the next one that comes up, whether it be the bill pending stimulus bill, we are going to address it on each one of these. It will take time. I have big files. I can talk for a long time. I don't want to do that to each Member. I want to resolve this. I want to find a way to work it out, and the sooner the better.

I will be sending a letter to the leader today asking him to provide 90 minutes for us to take up the issue of terminating our imports from Iraq because Iraq is an enemy and we are at war.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Arizona.

**MR. KYL.** Mr. President, before the Senator from Alaska yields the floor, I would like to ask a question.

Because of news reports today and yesterday, I believe, that Saddam Hussein made an absolutely firm statement that under no circumstances would he comply with the U.N. resolution which required that he submit his country to U.N. inspectors looking for evidence of weapons of mass destruction, and because of the strong reaction here in the United States and, I think, in the West generally about the possibility of beginning much more aggressive action against Saddam Hussein, I have two questions for the Senator from Alaska.

First, is it likely if we were to take such action that our ability to continue to buy oil from Saddam Hussein would evaporate?

Secondly, my recollection is that if we were to develop the oil resources available in the ANWR area that it could be a complete substitute for the Iraqi oil. I have forgotten over what period of time that would be. Can the Senator from Alaska respond?

**MR. MURKOWSKI.** Mr. President, I am very happy to respond to my friend from Arizona. Perhaps I can highlight a little bit about the specific dependence.

Here is where we get our oil currently: Nigeria, Libya, Saudi Arabia, and here is Iraq—862,000 barrels. It is over a million barrels now. So we have increased that.

If we were to terminate our dependence, we would have to find it somewhere else. We would like to think that we could initiate more conservation. You can buy a small, fuel-efficient car. Some people do. Most people prefer not to for their comfort and for economic reasons. But, nevertheless, the choice is theirs.

To suggest that somehow we would terminate purchasing oil from Iraq, the results are somewhat predictable. The price of crude oil to the American public would go up because there would be a shortage of supply.

I assume Saudi Arabia, which has excess capacities, would try to use their leverage to pick up some of that oil. But it would certainly cost more.

The Senator from Arizona makes a very significant point—that we have evidence that Saddam is up to no good.

Remember that just last week there was a tanker leaving an Iraqi port, and it was intercepted by the U.S. Navy. They went aboard that ship. In the process, the ship sank. We lost two American sailors. We had to do that. He was smuggling oil. That is how he generates the cash-flow above and beyond that which is overseen by the U.N. inspectors.

We had an incident about a month ago where there was a little payoff. The inspectors went aboard. They loaded a tanker half full. The inspectors signed off and left. After they left, they

would fill up the tanker, and away they would go.

The worst thing about that is: What does he do with his money? We can't get U.N. inspectors in there, as the Senator from Arizona said. They haven't been in there for well over a year. I think it is probably 2 years now that we have had no inspectors. He is not passing it out for the betterment of his people. We know what he is doing. He is developing a missile and biological capability, and he is aiming it at Israel. That is why you have all of the organizations now aboard the Israeli lobby, so to speak.

**MR. KYL.** Mr. President, my second question is: If we needed to find an alternative source, and if we could find a source that is right here in the good, old U.S.A., if the exploration in the ANWR area turned out as people think it would, what is the relationship between that part of the oil that might be produced and the amount of oil that we currently import from the country of Iraq?

**MR. MURKOWSKI.** It would eliminate Iraq's contribution. We would not have to depend on Iraq for 70 years. That is the harsh reality. That is what ANWR is estimated to contain. The range goes from 5.6 billion barrels to 16 billion barrels. As the Senator from Arizona knows, when you look for minerals or anything underground, it is the best scientific evaluation from the geologists. But even if it were in the middle—10 billion barrels—it would equal what we produce from Prudhoe Bay, which is 20 to 25 percent of all of our crude oil. It is a lot of oil. It would send a real signal to the Mideast that we are going to relieve our dependence on you folks over there. We are not going to increase it.

The Senator from Arizona is a businessman. He knows. We lose our leverage when we become more dependent.

Back to the chart, it shows the crude oil prices and percentages. Here is where we were in 1973: 36 percent dependent.

Remember the Yom Kippur war. We had gas lines around the block. We said we would never again be dependent to that point. We created SPR. Yet in the meantime we are up to 56 percent dependence, and we are going to go up to 66 percent dependence in the year 2010.

The other chart, of course, shows Iraqi oil exports. He has been doing very well considering he is our enemy.

**MR. KYL.** A final comment: Of all the reasons the Senator from Alaska has articulated today, I would put first among them the fact that we could well be at war to a much greater degree than we have been with Iraq in the very near future.

We are going to have to have an alternate supply. If this bill could be passed, the exploration of that oil could occur in ANWR which would more than replace that Iraqi oil and begin to relieve our dependence on Middle East oil.

It seems to me, not just as a matter of national energy policy but as a matter of national security, we ought to get on with the debate on the energy bill.

I firmly support the effort of the Senator from Alaska to do so. I look forward to being able to debate it in the very near future.

Mr. MURKOWSKI. I thank the Senator. It is important to recognize that the Senator from Arizona has been up to ANWR. So I can honestly say, he knows what he is talking about, as opposed to some who are "experts" on the subject who refuse to go up ANWR, who will not take the time.

I advise my friend from Arizona that we sent a little over \$5 billion to Saddam Hussein last year for the purchase of his oil. And that does not produce one job in America. What does he do with that money? That is a concern we should have.

I thank my friend from Arizona for the colloquy and wish he and the Chair a very good day.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I am glad I had the opportunity to join in a brief colloquy with the Senator from Alaska because the point he has made is a very important one, and it ties directly into what I came to this Chamber to speak of today; and that is, an effort on the part of the majority leader to insert into the debate a subject extraneous to the effort the President is attempting to make to get an economic stimulus package, which includes an energy component to it, to ensure that our economy will remain strong so that we can continue to execute the war on terrorism and know that in the end we will have all of the resources we need to do that, as well as for the benefit of all Americans who deserve to have a growing and vibrant economy.

There is something very wrong with the process we are engaged in right now, which takes us away from the consideration of the stimulus legislation the President would like to have us act upon, to begin to take up extraneous matters.

We are almost at the end of our legislative session. We should have ended in October or November. It is now obviously going to be in December. The way it looks right now, it will be close to Christmas Eve when we adjourn for the year.

I am happy to stay all year here in Washington doing business, if it is productive and we have our priorities straight. But the fact is, the No. 1 priority is fighting the war. Closely related to that is keeping our economy strong, and, frankly, stimulating the economy to be stronger because right now we are either in or very close to being in a recession. That is why the President has called upon us, as our first priority, to support his efforts to stimulate the economy.

About a week ago, the majority leader brought forth to the Senate floor a

bill—a very bad bill, in my view, the bill that came out of the Finance Committee on a partisan, party-line vote—but at least a bill that enabled us to begin to debate the stimulus package. The hope was we would all make our speeches and get our partisanship out of the way and then get down to trying to compromise and come up with a good package of tax breaks and support for those who are unemployed right now in order to be sure our economy could continue to grow rapidly.

But after some initial posturing, rather than sitting down to work out a bill or debating further on the floor the merits of different proposals, and perhaps attempting to amend one or the other, we find ourselves in the situation where the leadership has decided to call a timeout on the stimulus package and go to other legislation. If this were June or July, that would be a perfectly appropriate legislative tactic. But we are almost at the end of the session.

We have two things we have to do before we adjourn and very little time to do them. First, we have to finish the appropriations conference reports. They are about half done. They take time. We have to get them down. They fund the Departments of the Government for next year, not the least of which, of course, is the Defense Department appropriations bill. There is a separate bill there that will ensure we have the money we need to conduct our military operations in this war on terrorism.

The second thing the President has asked us to do before we leave is to get this stimulus package passed so its effect can begin to be felt early in the next year, in time to do some good for our economic recovery.

What we do not need to be doing is taking a timeout and beginning an excursion off into partisan politics, politics that have to do with a bill that railroad labor unions want. There are some people in this country to whom this is a very vital issue. Some of them are in my home State of Arizona. There is plenty of time to deal with the railroad retirement issue. Whatever we do with that, it is not going to go away. We can do it next year. We can do it whenever. But we do not need to take time away from our first priority in this war we are fighting to call a timeout to deal with this political issue of the railroad retirement fund.

And we are told when we are done with that, the next thing is a farm bill. We do not need to take up a farm bill until next year either, but we are told that the leader would like to bring up a farm bill.

My point for coming to this Chamber today is to say, wait a minute, where are our priorities? Let's get back on the President's agenda. If we are going to be bipartisan in this body, then let's support what the President is attempting to do.

Certainly my colleagues on the other side of the aisle do not have to agree

with everything the President wants to do. I would never expect them to do that. But, on the other hand, we ought to at least act in enough of a bipartisan way to begin compromising, to reach a conclusion on a bill we can pass before we recess this year. That means we have to continue to focus on the stimulus package and not go off riding to the hounds on some railroad retirement legislation.

So we are going to vote tomorrow. The question is going to be: Should we leave the discussion of the stimulus package and begin consideration of a railroad retirement bill?

I say no. Let's stick with the stimulus package. Let's get it done. And then let's go home for Christmas. Let's support the President.

I hear a lot of talk of bipartisanship. What does bipartisanship really mean? I have to commend several of my colleagues on both sides of the aisle for the public statements they have made in support of the President's conduct of this war. Frankly, the majority leader has been one of the people who has been the strongest in his enunciation of ideals, with whom every American can agree who supports the President, even though the President is not from the majority leader's party. I commend him for that.

The problem is there seems to be a division between the war effort on the one hand and domestic politics on the other. So some of my colleagues are saying, but it is OK if we are not bipartisan on matters that deal with the domestic side of things. The problem with that is, the primary issue on the domestic side is the state of the economy, and the state of the economy has a direct bearing on our ability to fight the war on terrorism. It is also the most important problem facing the American people.

So bipartisanship, it seems to me, would be an effort to work together, not necessarily to agree out of the box, but to try to develop a procedure under which we would eventually come to some kind of an agreement on a stimulus package that we could support, that the President could sign, that would benefit the American people.

We can get there by continuing to focus on the stimulus package. We will never get there if we take time out to take up the railroad retirement bill. If we take the farm bill up, that is a black hole of significant magnitude, I must say. If you get into a farm bill, you get into the dairy compacts and you get into many other subjects. The year will, in fact, end before we ever get through that bill.

Meanwhile, the appropriations bills languish, most especially the Defense appropriations bill, of all things. We have to get the Defense appropriations bill passed.

So I am asking my colleagues to say no. Vote no. Do not invoke cloture to take up the railroad retirement legislation and leave the stimulus package.

Mr. President, let me make one more point. There is another issue I have

talked about while addressing subjects in this Chamber over the last several months, and that is nominations of the President. It may not be known, but this Senate, now about to enter the month of December, has still not completed its work on the consideration of the President's nominees for his Cabinet.

He has been President for almost a year now, and the Office of National Drug Control Policy nominee, John Walters, has not been acted upon by the Senate. I am very hopeful that this week the Senate can debate, if we need to, and then vote on the nomination of John Walters. Otto Reich, Gene Scalia, and other nominations to important positions in this administration are not scheduled for consideration on the Senate floor.

I would suggest this: If we have time to take a timeout from consideration of the stimulus package to do other things, then our first priority should be—again, if we are going to be bipartisan now—to act on the President's nominees. He has asked us repeatedly to do that.

Of course, this is not to mention his judicial nominations. We now have over 100 nominations pending for vacancies on our courts, 40 of which are denominated emergencies, yet we take up no judges. Again, if we have time to call time-out from our consideration of the stimulus package, we sure as heck have time to take up some of these judicial nominations.

Back in May, the President nominated a group of people to either Federal district judgeships or to circuit judgeships. Two of those people have never had a hearing in the committee. There is no indication that the leadership ever has in mind taking them up. These are superbly qualified nominees for the District of Columbia Court of Appeals: Miguel Estrada and John Roberts.

And yesterday's Wall Street Journal had an editorial which speculated that the reason was because these are two noted conservative jurists, both of whom will be well qualified to be nominated for the U.S. Supreme Court if a vacancy were to occur there, and that knowing this, the people on the other side of the aisle responsible for these things are loath to bring them up because, if confirmed, they would then be in a good position to be nominated by the President for a Supreme Court position.

One of them is Miguel Estrada. It is no secret that Miguel Estrada is Hispanic, and if confirmed and elevated to the High Court would become the first Hispanic Justice. I suspect that President Bush would very much like to appoint someone like Miguel Estrada—or John Roberts—to the U.S. Supreme Court. What does the Democratic leadership's unwillingness to even bring these two people up for a vote suggest?

It seems to me that there is a lot of politics being played here and that we ought to get back to bipartisanship in this body which characterized the mood at the very beginning of this year and was certainly the mood right after September 11.

Insofar as the President is concerned, it should still be the order of the day;

that at a minimum, before we leave here, we should consider his nominees for the Cabinet and for these judicial posts. We should try to finish work on the appropriations bills. We should conclude the work on the stimulus package. And if we do those things, I suggest that we will, in fact, be about ready to be singing "Jingle Bells." We don't have time to be taking up the Railroad Retirement Act.

I said I would talk a little about the substance of this. My colleagues from Texas and Oklahoma have outlined some of the problems with the legislation. Contrary to some of the statements made on the floor, it is really not a question of the rail employers and employees running their own pension plan.

The reason that this is being discussed on the floor of the U.S. Senate, the Federal Government, is because the United States of America has become a major stakeholder in this process on behalf of the taxpayers of the United States of America who, in fact, subsidize this pension plan.

By the way, I believe that is the case only with this private industry's pension plan. We are not talking about the home builders and their union employees or the airline companies and their employees, just the railroads. A decision was made some time ago that the U.S. Government should get involved in the funding and the guarantee of the pension for these particular people. That is why the pension plan for railroad retirees is on the floor of the Senate.

The first question one could ask is: Is that good policy? Should we be doing that? And then: Should we be debating a bill which would expand the obligation of the taxpayers of the United States to fund this pension as well as to expand the benefits under the pension? My view, you can guess, is, no, we should not be doing that.

This boils down to a question of two special interests—and there is nothing wrong with that *per se*; we all represent the many special interests that comprise our body politic, but these are special interests—the railroad employees and their employers, who have designed a plan that gives them benefits provided by the American taxpayers.

I don't think we need to be interrupting the business of the entire Nation for the benefit of these particular special interests at this time.

If these railroad stakeholders insist on maintaining a retirement system that is a Federal responsibility, then I submit their claims should be scrutinized by those of us who are supposedly looking out for the interests of all of the people. And for starters, we should ask if the claimed benefits justify an immediate \$15 billion reduction in the budget surplus.

Actually, of course, the budget surplus is probably a misnomer by now because we have spent the budget surplus. There is no more budget surplus. So this will have to be borrowed money, and taxpayers will have to pay the associated interest costs.

It will not do to pretend, as the House-passed bill does, that the fiscal

impact can be wished away. I marvel at the audacity of the bill's sponsors in resorting to a device of legal legerdemain to say that something that is so isn't really so and because we are the Congress, we can say that and that becomes the law.

Here is what they said. I am directly quoting from the House-passed bill. They are instructing the CBO and OMB, the Congressional Budget Office and the Office of Management and Budget that notwithstanding budget law or OMB scoring conventions, "the purchase or sale of non-Federal assets"—which is what is involved in this pension fund—"shall be treated as a means of financing" rather than an outlay. With that clever language, what they have said is: We are going to spend \$15.6 billion, but we hereby direct the CBO and OMB to say that it doesn't count. We are really not spending it as an outlay. It is a means of finance.

That is pretty good. I have to take my hat off to them. It reminds me of an old story that Abe Lincoln used to tell. He would ask this riddle of people. He would say: If you call a tail a leg, how many legs does a dog have? And his students would ponder that. He would say, of course, the answer is four; calling the tail a leg doesn't make it a leg.

Well, calling \$15.6 billion in spending a means of financing rather than an outlay—it clearly is a means of financing but that doesn't mean that it is not an outlay, which, of course, it clearly is—doesn't mean that that is what it is. It is an expenditure of \$15.6 billion. It is money that the U.S. Government is going to have to borrow. Therefore, it ought to be counted as an outlay.

There are three interesting aspects to that besides the audacity of it. The first is, of course, that the proponents here are obviously embarrassed by the fact that they are asking the American taxpayers to expend over \$15 billion immediately to aid this private industry's pension fund. I would be embarrassed, too. I would want to call it something else.

Secondly, however, for those of my colleagues who signed onto this legislation in its original form—there are reasons for having done that and reasons for not doing it, but for those who found good reason to do it, I make the point that what they are going to be asked to vote on tomorrow is not what they signed onto. They signed onto a bill that did not have this magical language in it.

When we are voting tomorrow, they are clearly going to be able to say to supporters of this bill, look, I still support your bill and we can take it up next year, but I am not going to support a fraud on the American people claiming that the \$15.6 billion is not an outlay. We are going to have to account for that one way or the other. Let's be honest about it.

I hope that my colleagues who are still committed to the legislation would acknowledge that what they are being asked to vote for tomorrow is not what they signed onto.

Second—this is an important point—anybody who believes that we should

reform Social Security has to look at this very carefully for the precedential effect. If the precedent stands, this will prevent us from reforming Social Security as the President has suggested and many of us desire to do by allowing a portion of the Social Security funding through the payroll tax to be put into an investment account managed by each individual Social Security stakeholder.

Instead, it will cause us to move toward what President Clinton proposed and was rejected, fortunately, which was a scheme in which the U.S. Government would actually invest money, would invest people's Social Security money in the equities market.

So you would have the Government buying stock in companies. That is a bad idea. But because of this language that we would now be permitted to say that the purchase or sale of nonfederal assets shall be treated as a means of financing rather than an outlay, the kind of scheme President Clinton proposed would not have any costs associated with it; whereas, the proposal to establish worker-owned personal accounts would presumably be scored in the traditional fashion, as a cost, making it much more difficult to accomplish. I doubt that was the intent of the people who wrote this language. But it is, unfortunately, the effect of it. As a result, it is not language that this body should adopt.

Mr. President, there is another problem. At a time when we have seen the great surplus in the Federal Government now disappear, and we are now aware that we are going to have to be borrowing money to fund every new program that we pass, we have to look very carefully at any spending proposals. I think most of us would say we should look carefully anyway, but clearly when you are borrowing money in order to fund programs, there is an extra obligation to be sure we are spending wisely. We are not taking on new obligations that just as well could be performed by someone else, if they are good ideas.

It seems to me that when we are talking about taxpayer responsibility for a railroad retirement system, with its massive unfunded liabilities, that, A, we are buying a pig in a poke and, B, likely putting taxpayers into a situation of having to fund something with deficit financing because this bill puts the Government deeper and deeper into this pension and deeper into debt.

If the projections offered by the system's own actuaries are borne out, the scheme will reduce the trust fund's reserve by more than 50 percent. That is because of the lowered retirement age incorporated into the bill, as well as the other increased benefits, combined with the reduction in payroll taxes. Who can doubt that when this happens, these industries who lobbied for this bill will lobby for another taxpayer bailout? No private sector pension plan could get away with engaging in such practices and calling it reform.

Shame on us if we allow, through a very truncated debate here, the saddling of taxpayers with the bill for such a scheme at the behest of these vested interests.

As I said, this is the time for us rather to address our real priorities, and to the extent that people are interested in trying to find the best way to reform the taxpayer-subsidized railroad retirement system, that should be given the deliberation it really requires in this new time. Obviously, that could not occur over the next 24, 48 hours. We should not be taking up that legislation at this time—not only because it is bad legislation, but, as I said, because it diverts our attention from more pressing problems; namely, a stimulus package and getting that done, getting the appropriations bills done, and getting nominations done. I am sure if we can accomplish all of those things with great speed, that would put us right up to Christmas Eve time.

I hope tomorrow my colleagues will join me in voting to stay on the subject here, the stimulus package. Let's work through it and get it done.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have been listening closely to the arguments made by the other side. I have the greatest respect for the junior Senator from Arizona, but, boy, I will tell you that it is really hard to follow his argument. Based upon his statement asking why we are taking time out for extraneous material, the fact is, I was on the floor earlier today and offered a unanimous consent request. It was clear that there were some who came to the floor and said what the Senator from Arizona said: Why are we not on the stimulus bill?

As the Senator from North Dakota, who is on the floor, so adequately projected yesterday in his statement, we are not on the stimulus bill because a point of order was raised by the Republicans. We would be totally off the bill if we played their game.

We could have raised a point of order against the House bill. Then we would have nothing. We decided not to do that because we wanted the stimulus to be here because we believe it is important. But now the unanimous consent request—and I will offer it again—has been objected to. I will offer it again while the Senator from Arizona is here.

UNANIMOUS CONSENT REQUEST—H.R. 3090

I ask unanimous consent that the stimulus bill, H.R. 3090, recur as pending business immediately upon the disposition of the railroad retirement bill.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Yes, Mr. President. I object because what the Senator is asking for is the right to take up the railroad retirement bill.

Mr. REID. Mr. President, objection has been heard and I have the floor.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. KYL. I respect that, Mr. President.

Mr. REID. Mr. President, I also say there has been a question raised as to why we are not on the Railroad Retirement Act. In the words of my distinguished friend from Arizona, "the audacity of the bill's sponsors." There are 74 of them, and 26 of them are Republicans. So the "audacity" of the 26 Republicans should be spread all over this record. The reason they were concerned when they sponsored this bill is that maybe they were concerned about the widows of the railroad workers and how they feel. This is important legislation, Mr. President.

Mr. KYL. Will the Senator yield for clarification?

Mr. REID. Mr. President, also, there is a riddle about the legislation not being as it was when it was signed onto. This happens all the time here. That is why we have debate on the floor. If somebody doesn't like part of the bill, don't filibuster it; let us go forward and offer amendments. We would have been off this a long time ago.

Then there was talk about why would we go to the farm bill. Well, Mr. President, 22 farm organizations believe that we should be on the farm bill as soon as we can. We are going to try to do that procedurally as soon as the minority lets us. I guess we should ask the Nation's farmers about the importance of this farm bill this year. They need this. That is why we want to go to it.

Also, there has been some talk as to why we aren't on the stimulus package. I have already talked about that. The fact of the matter is, in less than 45 minutes, the majority leader is meeting with the minority leader, the Speaker, the majority leader of the House, and the eight top leaders of this Congress, including the chairman and ranking member of the Finance Committee to talk about a stimulus package. Senator BYRD decided he is going to worry about homeland security; he is going to do that on the Defense bill. The majority leader is doing everything he can, and that will be amplified at 6:30 tonight.

Earlier today, we were criticized: Why are we not doing conference reports? Well, the reason is there aren't any. There are none to do. We would be on the stimulus package right now if a point of order hadn't been raised by the Republicans. I repeat that the reason we still have the bill is we decided we wanted to do something with the conference report.

My friend from North Dakota is present. He does a great job. But talking about nominations, how they can do that with a straight face is beyond my ability to comprehend. Mr. President, 14 judicial nominees have been approved. Senator LEAHY is going to report out 9 or 10 more tomorrow. He will have hearings next week on 4 or 5 more. This will be far more than anybody could imagine he could do with

the September 11 incident, with the antiterrorism legislation, which took weeks. We have approved 4 top-ranking officials from the State Department, 10 nominees who represent the United States before the U.N. We have approved 45 ambassadors.

We have said time and again this isn't payback time. But look what they did to President Clinton's nominations to be ambassadors. It was embarrassing. Senator DASCHLE and I went to Brazil. We didn't have an ambassador there for 2 years. It is one of the largest countries, not only physically but in the number of people, in the whole world. They would not bring the nomination up so we could have a vote. We have approved 45. We have approved 49 U.S. attorneys. We would approve more, but they haven't submitted them to us. There is also the Commissioner of Customs and the representative of the United States to the European Union. And they complain about Walters. We are going to do that next.

Now they have the theory that the reason Senator LEAHY is not moving forward is we don't want people to go to the Supreme Court. There is a basic rule we have that you don't have to be a district court judge or appellate judge to become a member of the Supreme Court; Rehnquist wasn't, the Chief Justice, for whom I have great respect. I think he is a great guy. He said the reason we are not moving forward is that a Hispanic judge is going to be promoted. I thought Judge Gonzalez, the President's chief lawyer at the White House, was going to be the next nominee to the Supreme Court. They should get their stories straight.

In short, rather than coming over here trying to confuse the American people, remember, we are not on the economic stimulus bill because they raised a point of order. We would be on the bill today. Instead, Senator DASCHLE is having to do some things in his office to work something out with the leadership—Senator BAUCUS, Senator GRASSLEY, and our counterparts in the House.

I am terribly disappointed that we have the minority coming here making excuses for their own delay. We are not delaying anything. We have not had a vote all day. It is not our fault.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I, too, was inspired by the remarks of a couple of colleagues. My colleague from Nevada just described a rather curious circumstance. We had colleagues come to the Chamber of the Senate and ask the question: Where is the stimulus package? Where is the legislation designed to provide economic recovery and lift to the American economy? It is as if they have forgotten the last couple of weeks.

That stimulus package, or the economic recovery package, was before the Senate. We had debate on it. I was here and began debate on that. We were discussing it. Then the other side de-

cided they would make a point of order against that stimulus package.

A point of order was valid against it, as there is against the Republican package authored by Senator GRASSLEY, as there will be against the House package. All of them violate the Budget Act. We understand that. This is an emergency, and all of us understand that passing a stimulus package to provide for economic recovery is outside of the Budget Act. But they are the ones who decided to make a point of order and take it off the floor of the Senate, and they did.

Now they are asking: Where is it? They know where it is. It was before the Senate, it is now on the calendar, but it is not before us for debate because they made a point of order against the bill.

There is a certain genius in being able to ignore facts, but it must certainly be uncomfortable in the long run to do that. This is not about he said, we said, she said, they said. This is about: what do we do to help the American economy recover, how do we do it, and when do we do it? That is what it is about. It is not about pointing fingers.

We have had people come to the Chamber to talk about the majority leader this, the majority leader that. We had a discussion for an hour about energy and the majority leader. The majority leader came to the Senate Chamber today and said we are going to take up energy. He said exactly when we are going to do it, and how we are going to do it, and he is doing exactly the right thing because energy is important for this country. Part of America's security is energy security, that is true. But providing energy security is not developing policies that represent "yesterday forever;" developing policies that say our energy strategy is just dig and drill, and that is our energy strategy for the future. That is not an excuse for an energy strategy.

Yes, we should produce more oil and gas. Yes, we should use more coal. We should do it in an environmentally acceptable way. There is much more to do, as the majority leader knows, to promote strong conservation measures, better efficiency of appliances, and incentives to produce both limitless energy and renewable energy.

As the majority leader knows and some have forgotten, there is more to energy than just supply and conservation. Energy is also about national security and energy security—providing security for nuclear powerplants, providing security for transmission lines, and providing security for pipelines. All of that exists as well, and ought to be part of an energy bill.

That is why the majority leader has waited just a bit to bring all of these things together from all of the committees, so that when we debate energy in the Senate, we are debating a comprehensive energy bill that deals with energy security for this country. It is not just a "yesterday forever" policy.

I mentioned "yesterday forever." I will not repeat the story, but my first car was a 1924 Model T Ford that I restored. When I got my Model T Ford restored when I was 14 or 15 years old, my father had a gas station, and I put gas in that 1924 car exactly the same way you put gas in a 2001 model car. Nothing has changed. You go to a gas pump, take the hose, stick it in your tank, and pump gas. Nothing has changed with respect to the way you fuel an automobile.

Everything else in life has changed. Don't you think maybe when we talk about an energy policy 40 and 50 years from now, we might aspire to have a change?

I drove a car out on the lot of the Capitol Building that was a fuel cell car operating on water and air, oxygen. The fact is, there are technologies, applications, and opportunities for us in a good energy policy dealing with not only transportation and automobiles, but with electricity and the transmission of electricity; with composite conductors, and tripling the efficiency of transmission lines.

There is so much more we can do and should do. That is why the majority leader says: Let's do this. I pledge to do it, here is when we are going to do it, but let's do it right. Let's have it be much more than just the same-old policies.

I asked those who run our energy policy one day—and I could have asked this question of any of the last four administrations, and gotten the same answer—I asked them: What are your plans? Do you have plans for 50 years from now, because we talk about Social Security—is Social Security funded for the next 30 to 50 years? Everybody is gnashing their teeth about that. I asked: What are our energy plans for 25, 35, and 50 years? Do we have any? If so, what are they? Do we aspire to wean ourselves just a bit from fossil fuels, and perhaps go to some other technologies and some renewable, limitless fuels? What is it that we aspire to do?

The answer was: We do not have plans for 25 or 50 years with respect to an energy future. We really do not think in those terms. We ought to. That is why the majority leader says: Let's do an energy bill and let's do it right. Let's do it in a way that says to this country our energy policy for the future is not yesterday forever. Senator DASCHLE makes good sense when he commits to do this, and to do it the right way.

I know one of my colleagues brought out several dozen charts today. I do not need any charts to simply say that we need an energy policy that is balanced, that represents production, conservation, efficiency, and renewable and limitless energy sources, and one that represents energy security for our country. I do not need charts to say that. We need to do that.

The House of Representatives wrote an energy bill that almost drops off the

one side of the page, it is so over-weighted with "yesterday forever" policies.

To those who talk about the energy issues at such great length, I say we are heading toward a real debate on real energy policies that will strengthen this country. The reason we are going to do that is Majority Leader DASCHLE says he is committed to do that in the first work period when we come back in January. We are going to bring the work from all of these committees to the floor of the Senate, and talk about all the facets of energy that we need to employ to give this country some assurance of energy security for the future.

Mr. President, let me get back to the stimulus package. We cannot leave town without passing a stimulus or economic recovery package. We cannot do that. This country is at war. The economy of this country has been in a steep decline. We are in a war and a recession, and we must pass a package that tries to provide economic recovery. There is not a Republican way to do that or a Democratic way to do that.

There are plenty of good ideas in this Chamber. The trick, it seems to me, is for us to discard the bad ones, and embrace the good ones from every part of this Chamber—to come up with a bill that says: America first. We want this country to succeed. We want our economy to grow. We want to provide opportunity for the American people.

We have been in a situation where there was a call for an economic recovery program by virtually everyone, and the House of Representatives wrote one. It is not really worth much. I will just describe a couple of things.

The Ways and Means Committee on which I served for 10 years and was very proud to do that—it is a great committee—wrote an economic recovery plan. God bless them, they just went back to the same old suitcase of tired ideas. One that they trotted out was: Oh, by the way, for economic recovery, let's do this: Let's provide a tax rebate for alternative minimum taxes paid back between now and 1988 for the biggest companies in this country.

What does that mean? Well, Ford Motor Company gets a \$1 billion rebate check. IBM gets a \$1.4 billion rebate check. Is that going to promote economic recovery in our country? I do not think so. It is the same old tired thing, giving the big the most in a way that does not necessarily address the question of economic recovery. That is one example.

The point is the House wrote a bill. It has some good provisions in it; it has some awful provisions. In the Senate, we had a bill that came out of the Finance Committee. I thought it was a good bill, though not perfect. I would have done some things differently, but we brought it before the Senate. The Republican side of the aisle decided they would offer a point of order

against it. They made a point of order that it violated the Budget Act, and they took it down. Now they stand around wondering what happened to it.

If a bill is taken down, it seems to me that if one's memory is not infinitesimally short, one should remember what happened to it when it was taken down. So maybe we need to get some mirrors for useful reminders to people when they say: Where is the stimulus package? Those who voted to take it off the floor of the Senate really dispatched the stimulus package from a debate we were having, which I thought was a pretty constructive debate.

Senator DASCHLE has convened a meeting that is going to happen in 30 minutes. I hope that meeting bears some fruit, because I do not think this is about Republicans and Democrats. It is about trying to get the best ideas we can to figure out what approaches—in spending and tax changes, tax cuts and expenditures, approaches that are both temporary and immediate—can help this country's economy. Whatever they are, wherever they come from, we ought to employ them in a way that cooperates with the President's interests, employ them to try to help this economy. That is what we should be doing at this point.

We had a discussion about judges. I happen to be one who believes we ought to move judges quickly to a vote. We ought to know all there is to know about them, as is the case in any lifetime confirmation. It is a lifetime appointment. When we confirm someone for life, we ought to know everything there is to know to make a judgment. I do not think we ought to hold judges. Let us move them to a vote. I am for that.

The people who are complaining these days were silent for 6 and 8 years when the then-majority party held the Democratic President's judges in a deep prison, and they never saw the light of day. We never heard a peep from these people.

Notwithstanding all the history, it seems to me this country is best served by moving judges after we have determined through hearings what their backgrounds are. My understanding is Senator LEAHY is holding a hearing, and about to report either eight or nine judges this week. So I think we are moving on judges. I think it is important for us to work together to do that.

What we have is a situation where Senator DASCHLE brings forward the Railroad Retirement Act. It has 74 cosponsors. In a 100-Member Chamber of the Senate, 74 Senators have cosponsored this Railroad Retirement Act, and yet we have a filibuster. Next we will try to bring the farm program. That came out of the Agriculture Committee. I am told by some there may be a filibuster on the motion to proceed to the farm bill. I hope very much that is not true. I hope we can get that legislation before the Senate.

With respect to the Railroad Retirement Act, I do not think this ought to

be a cause for a filibuster. I know that has happened in the last day and a half, but the Railroad Retirement Act has 74 cosponsors, years of discussion between the railroads themselves, rail labor, and management, and the principles of those discussions have been incorporated into legislation that has been worked on for a long time. This has a very long gestation period. This has been around a long time. The bill is sufficiently good that it attracts 74 cosponsors. How many times does legislation in the Senate have 74 cosponsors? Not very many. So why does this have 74 cosponsors? Because this has been worked on a long time. It represents a sound compromise that will do a lot of important things.

I very much hope those who take a good look at this, especially those who cosponsored it, will vote to break this filibuster so we can move this bill and pass it through the Senate. But this provides for an expansion of the widow and widower benefits. It deals with important vesting provisions, early retirement provisions. It represents a compromise with respect to investment of funds. It is a compromise that is a good compromise, and has been developed over a long period of time, and one that the Senate really ought to embrace.

I realize when we come to the end of a session, as we have experienced now with probably a week and a half or two left, there are some who do not like the agenda. They say: this bill is brought up, but that is not what they want. They wanted a different bill. The problem is, someone has to be in charge. Our side did not like it when the other side was in charge. I understand that. That goes way beyond, in my judgment, the question of trying to get a couple of very important things done in the next week or week and a half. One is the stimulus package. That, by far, is the most important.

Our economy took a huge hole in its belly on September 11, and it was very weak going in. Economists now say we have been in a recession for some months. This economy is an economy that no one quite understands. It is a global economy. It is safe for me to say that Mr. Greenspan, the Chairman of the Federal Reserve Board, does not understand it. Mitch Daniels, Director of OMB, does not understand it, despite the fact that today he was talking about what might or might not happen with respect to deficits in the years 2002, 2003, 2005, in the outyears.

None of us understands it. I do not understand it. It is a global economy. The modeling does not work. It is a new economy. So what does this mean, this slowdown, this recession? When will it end? What can we do to help it?

It is quite clear to me the most important element by far is consumer confidence. If the American people are confident about the future, they do things that manifest that confidence. They buy a house, buy a car, or take a trip. They do things that represent

confidence and security in their future. If they are not confident about the future, they do exactly the opposite.

From those two reactions, of either being confident or not confident, we have both a contraction or an expansion of the American economy. In this global economy, that is even much different than we used to teach it in college. That expansion or contraction has other elements attached to it as well.

So it is our responsibility, in my judgment, to pass a stimulus package. The sooner, the better. My hope is the meeting at 6:30 this evening will give us an opportunity to reach a compromise between the two parties—to be able to create a package of economic recovery proposals that will really give confidence to the American people that this economy can begin to strengthen, can begin to expand and provide jobs and opportunity once again.

In the month of October, some 415,000 people had to go home one night after work and tell their family they lost their jobs. That is a pretty tough thing to do. These are people who lost their jobs through no fault of their own, people often at the bottom of the economic ladder being told that they no longer have a job. Then on the other side of the coin, about half of them, when they see if they can qualify for unemployment compensation, are told, no, they do not qualify. If they do qualify, they qualify for a rather insignificant quantity of unemployment compensation for a limited time.

That is why I hope when we pass this stimulus package one of the things we will do is recognize, as every economist who has talked to us recognizes, that one of the important elements of every economic slowdown to stimulate the economy and to do the right thing for people who have lost their jobs is to extend unemployment benefits. That money immediately goes into the economy and immediately helps the economy. So that is one of the things I hope will come out of the meeting this evening. I hope Senator DASCHLE, working with the other leaders in the House and with the White House, can reach agreement on a stimulus package that really will help this country.

Let me make one final point that I think some people will wonder about. There is no disagreement or dispute in the Senate about support for the President in prosecuting this war against terror. President Bush called on this Congress to support his prosecution of the war against terrorists. We support him. I think he has done an extraordinary job. I commend him. I commend the Secretary of State and the Secretary of Defense. My heart goes out to all of the men and women in uniform who are risking their lives for this country. We have some disagreements on domestic policy—on how we might put a stimulus package together, or whether there should be a filibuster on the Railroad Retirement Act—but people should understand there is no dis-

agreement about this prosecution of the war against terrorism by this administration.

We support this administration. We applaud them for their efforts and stand behind them and do everything we can to see they succeed. It does not disserve this country's interests to have a discussion and debate about other issues—railroad retirement, farm policy, a stimulus package. It doesn't disserve anyone's interests to have disagreements about that. The best solution will be devised if we have disagreements and come up with all of the ideas, have a competition and select the best from that competition. That is what this Congress, in my judgment, owes the American people. From time to time people will be concerned about what the majority leader did or did not do; we ought not be concerned that this is broken down into some sort of a debate that is unhealthy.

Once in the Washington Post a Member of Congress was quoted as saying: This issue has really degraded into a discussion about principle. I thought: Well, I hope so. That is why we are all here, to debate policies and principles. No one should feel aggrieved because there is debate breaking out in Congress on some of the domestic policies; but no one should be mistaken about the war against terrorism and terrorists and the support this Congress has for this President in the prosecution of that war.

It is my hope we will be able to make some significant progress on these issues in the coming days. Despite the agreements we have had in recent days, I think we will see that progress.

#### PASSAGE OF S. 1684

Mr. DORGAN. Last evening the Senate passed S. 1684, my legislation to provide 1 additional year that was much needed for States, health plans, and health care providers to comply with the transactions and code sets regulation of the Health Insurance Portability and Accountability Act, or HIPAA. We needed an additional year in order to implement that. This legislation has been difficult to get passed, but I thank my colleague, Senator CRAIG, especially, and Senators BAUCUS, GRASSLEY, and KENNEDY, for working with me to reach a compromise on this legislation.

Senator CRAIG and I would prefer this bill go further in providing a bit more time in coordination with the effected entities, but we recognize others would have preferred no action at all. We worked for many months to try to reach a compromise. This compromise is appropriate.

I am still a strong supporter of the Administrative Simplification Act, which is the concept of what is called HIPAA. Ultimately having all the regulations in place will allow our health care system to be better coordinated and much more efficient. This bill provides an extra year to comply with

part of these requirements with which we needed to have time to comply. It doesn't in any way affect the implementation of the medical privacy regulations by April 2003.

Now that it has passed the Senate, I look forward to working with my colleagues in the House to pass the legislation so we can provide for the States, for the health plans, and the providers the certainty they need to plan to implement the important health regulations.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CLINTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### REMEMBER NEW YORK

Mrs. CLINTON. Madam President, I rise today, as I did yesterday, to speak again about the destruction and devastation that took place on September 11 in New York City and with which we are still living, 11 weeks and 2 days later.

Madam President, 79 days after the attacks on our Nation, thousands of businesses and residents who were physically displaced by the destruction, who suffered from the loss of power and telephone access, who have been overwhelmed and hindered by the debris removal efforts, who have breathed the poor air, who have tried to cope with the crime scene designation, who are worried about returning to their homes in and near ground zero, who have lost their jobs, who are worrying whether they can keep the doors of their businesses open, thousands upon thousands of New Yorkers are still awaiting some help, any help from the Federal Government.

As I said yesterday, the U.S. Constitution guarantees to protect every State against invasion. The President said in his joint address to Congress just 10 days after the attacks "we will rebuild New York City." That same day, my colleague, Senator LOTT, said while visiting New York, "We are here to commit to the people" of New York City, "that we will stand with you."

Congressman GEPHARDT, the House minority leader, said in his weekly radio address: "We will work to make the broken places right again. We will rebuild New York."

They were in good company. As this chart shows, so many of our leaders who spoke out made tremendous commitments of help and related to the suffering that was going on and still persists to this day.

Madam President, 79 days have passed since the terrorist attacks on our Nation took over 3,500 innocent lives. Those are lives that, tragically, we cannot get back. But the attacks also took livelihoods. We can do something about that. Not only were 15 to 20