

means \$140 billion of additional debt over the next 3 years over and above what Democrats are advocating. This choice is going to be a relatively simple one.

Mr. DASCHLE. I thank the Senator from North Dakota for his contribution. I underscore what he said just now about the stimulative value of confidence. You can't calculate how much of an improvement in the economy it will make when people feel safe again. You know it is there; intuitively, you know that if people feel good about flying and traveling and doing all the things we did months ago, this economy is going to start improving. People are going to start putting their lives back together again with a sense of normalcy that we have not experienced in some time. They have to know it is safe to do so, that our airports and our ports and our nuclear facilities and all of our infrastructure are safer today than they were before.

That is, in essence, what we are talking about, creating that psychology, that confidence, that sense of normalcy that we have not had now for some time. I hope my colleagues will work with us in a way that will allow us to address this need. If we are going to do it next March, let's do it now. Let's do it in a way that we can agree ought to be done.

Homeland security is not a partisan issue, and it should not be in this case either.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the majority leader has outlined for us what we will take up the balance of today and possibly tomorrow as we debate the most important issue of Department of Defense appropriations.

There is something that has to be said in response to what the majority leader has just outlined because while he has opined with great emotion a frustration about the basis of opposition that those of us on this side are expressing to this particular bill, what he has failed to talk about are the very agreements he once made and once entered into with our President.

That agreement first started on October 2, well after September 11, as this country was beginning to assess its needs in light of a terrorist threat and how we might ultimately conclude our efforts in Congress for fiscal year 2002.

The President, the majority leader from South Dakota, the Republican leader, and the House met. They looked at all of these different issues and agreed on a couple of issues. First, they agreed that \$686 billion in discretionary spending was an adequate level, plus \$40 billion that would be dedicated to homeland defense and the very emergencies we are talking about and the effort to deal with the great tragedy in New York City. Forty billion had already been agreed to: \$20 billion of it was to be spent immediately at the discretion of the President; \$20

billion was to be worked out cooperatively with the Congress and the appropriating committees of the Congress. That work has been done.

What has gone on in the meantime is the breaking of a word. I come from Idaho. The majority leader comes from South Dakota. Out there is a ground level expression called "a deal is a deal." You walk up; you look your fellow person in the eye; you shake hands; you arrive at an agreement, and that is the way you operate. We went even beyond that.

The President, in a letter, wrote:

This agreement is the result of extensive discussions to produce an acceptable bipartisan solution to facilitate the orderly enactment of appropriation measures. This agreement and the aggregate spending level are the result of a strong bipartisan effort at this critical time for our Nation, and I expect that all parties will now proceed expeditiously and in full compliance with the agreement.

Sincerely,

GEORGE W. BUSH.

Today the deal is not a deal; the deal has been broken. The DOD bill that comes before us this afternoon is a deal breaker.

What the majority leader did not say, as he opined the criticality of a homeland defense expenditure, was that it was not designed by the appropriate committees. It was not reviewed by all of the committees of jurisdiction. It was largely written in the back room of the chairman of the Appropriations Committee, Senator BOB BYRD. I am not at all here today to impugn the integrity of Senator BYRD. That is not my intent. I work with him on a daily basis. I have high regard for him.

But for the majority leader to come and say that \$15 billion of spending is necessary in all of these categorized areas for homeland defense is totally ignoring the fact that darn few have seen all of where it goes. Our new Homeland Defense Director is at this moment developing an analysis of and an expression of need for a full implementation of homeland defense. That is where he talks, and the majority leader spoke, too—the issue of coming forth next year with recommendations, thoroughly vetted, looked at by all, examined by the committees of jurisdiction and not done in the back room of the Appropriations Committee of the Senate.

I am a bit surprised when the majority leader comes to the Chamber and suggests that Republicans are attempting to play politics with the issue of the stimulus package. It has been openly discussed. That is appropriate. It has been reviewed by the authorizing committees, and that is appropriate. But what has not gone on and that which is being brought to this committee this afternoon is a thorough and responsible examination by all involved. That is why we look at it with great concern, and the very reality that the money we are spending today crosses that line of a balanced budget and into deficit.

There is no question that a stimulus package that will be dealt with

bipartisanly or not is going to have the impact of deficit spending or it likely could happen. But the reason we are willing to look at an investment in the economy today is the hopes of lessening that deficit, getting people back to work, causing things to happen out there.

Before the August recess, 1 million Americans had lost their jobs. We were already in recession by August.

The appropriate committees that examine it and the appropriate Federal agencies that examine it to make the official proclamation had not yet done so. That didn't occur until just a few weeks ago. Any of us going home, any of us spending time in our communities knew this country's economy had turned down dramatically. Now the figures show that it started well before George W. Bush came to town. It started in September of a year ago, and it was accelerating through the fall and into the winter months and across the summer. We now know that as a reality. It is important that we do a stimulus package. We responded to that when we did tax relief earlier this spring, and the then-chairman of the Budget Committee, who is now on the floor, spoke very eloquently as to why we did that. That is all part of the reason we are here.

I am extremely surprised we would now attempt to do what we are attempting to do in this. We will oppose this effort.

A deal is a deal. The President has said he will veto it. I am sorry the message did not get to the majority leader. I am sorry the agreement he once struck is no longer the deal because he says circumstances have changed.

No, frankly, circumstances have not changed. There is still a lot of money out there to spend. This afternoon we will thoroughly debate this issue, but it is important that the statements made this morning be responded to.

I yield the floor.

#### ECONOMIC STIMULUS

Mr. DOMENICI. Mr. President, before we are finished with the appropriations bill that will be before the Senate shortly and the economic stimulus package that someday will come up—I do not know when—I am very hopeful this will not end up being a partisan charade, but I can cite a couple items that do bother me.

I was reading Roll Call a couple days ago. I understood the majority leader made a statement that whoever was on that committee to produce a stimulus, they had gotten the message from the leadership and the Democrats that unless two-thirds of the Democrats were for the package, they could not take it out of this conference committee. It would not come out. That is an interesting statement. I assume it is pretty partisan, too.

Things operate in the Senate on a majority basis. We do not need two-thirds of Democrats and Republicans to

produce a stimulus package. In any event, I hope that is not a sign that it is going to be partisan because we do have a chance to produce a stimulus package that will be worthwhile.

From my standpoint, I think I am going to put together a stimulus package—what would go this with that, that with this. I might do that in the next couple days and at least come to the Chamber and talk about a stimulus package and why it is a stimulus package.

It is important to not just work on what we choose to call a stimulus package. The occupant of the chair would like to know that it produces new jobs, that it puts people to work, along with the other issues, such as unemployment compensation, perhaps some health care activity.

Clearly, we have to put some provisions in the bill that will encourage this economy in a realistic way. I will be watching. Everyone else will be watching. I hope we can get it done in due course.

I yield the floor.

#### EXECUTIVE SESSION

#### NOMINATION OF HARRIS L. HARTZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

**THE PRESIDING OFFICER.** Under the previous order, the hour of 11:40 a.m. having arrived, the Senate will proceed to executive session to consider the nomination of Harris Hartz, to be U.S. Circuit Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

**THE PRESIDING OFFICER.** The Senator from New Mexico is recognized for 3 minutes.

**MR. DOMENICI.** Mr. President, is there some reason for 3 minutes or is it assumed I asked for 3 minutes?

**THE PRESIDING OFFICER.** The Chair was under the impression the Senator wanted 3 minutes.

**MR. DOMENICI.** Can I do this, so I will not feel too pressed: I ask unanimous consent that I be able to speak for up to 5 minutes, which I probably will not use.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

**MR. DOMENICI.** Mr. President, I rise to pay credit to a very distinguished lawyer and judge. His name is Harris Hartz. Today when we vote, if a majority votes for him—and I do not see why we would not; it might be a unanimous vote—he will become the U.S. Circuit Judge for the Tenth Circuit.

To the extent a Senator, based upon observing and asking other people, can fill himself or herself with knowledge about a person, I have to say he is probably one of the most qualified persons I have ever asked the President to put on the bench.

His academic background is so superb that no one can challenge it. If Harvard Law School is a good law school, and he was among its best students—magna cum laude—all of the attributes of a great mind that was being moved and melded into a great leader mind, that happened to him. From that time on, he has been engaged in various activities that have made him a broad-based lawyer to take this job.

He was a circuit judge in New Mexico, which caused him over time to publish 300 opinions, Mr. President. If people do not know him, they have not bothered to read his opinions.

Whether it is being scholarly, whether he understands, whether he plays no favorites, whether he is truly a good judge, in what judges do besides knowing the law—adding all that together, the Senator from New Mexico recommended him to the President. He was thoroughly vetted at the executive branch, and obviously the background checks have occurred, and he came forth with all the right pluses attendant his name.

Today, the 5- or 6-month ordeal which all candidates face—families worrying, wives and children wondering how much longer—will come to an end, and he will be sitting on the bench in the southwestern United States.

I ask unanimous consent that his vitae and the Department of Justice analysis of his background be printed in the RECORD.

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

HARRIS L. HARTZ  
BIOGRAPHY

Harris L. Hartz is a magna cum laude graduate of Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review. He received his AB degree from Harvard College summa cum laude in physics. At Harvard he was one of 9 members of his class elected to Phi Beta Kappa in their junior year.

From 1989 to 1999, Hartz served as a judge on the New Mexico Court of Appeals for eleven years. During that time he authored approximately 300 published opinions. In 1997, Judge Hartz was elevated to the position of Chief Judge. During his last year on the Court, he was a member of the Executive Committee of the American Bar Association Council of Chief Judges.

In 1999 Judge Hartz resigned from the Court of Appeals to join the law firm of Stier, Anderson & Malone as special counsel to the International Brotherhood of Teamsters. He has worked with the Union to develop a Code of Conduct and an internal system for compliance and enforcement.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, New Mexico. During his first three years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent three years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as Executive Director. For the following nine years he was in private practice, primarily in civil litigation.

Judge Hartz has been active in the American Law Institute since 1993 and now serves

as an Adviser for the Restatement of the Law (Third) Agency. He has also participated in activities of the American Bar Association, including membership on the Appellate Practice Committee of the Appellate Judges Conference and the Advisory Committee to the ABA Standing Committee on Law and National Security.

His past civic activities have included being Chair of the New Mexico Racing Commission, where his efforts against drugging of racehorses led to his nomination for the Joan Pew Award and his being appointed co-chair of the Quality Assurance Committee of the National Association of State Racing Commissioners. For the past two years Judge Hartz has been chair of the New Mexico Rhodes Scholarship Selection Committee and chair of the Selection Committee for the New Mexico Ethics in Business Awards. He is active in Rotary, and has served as President of the Rotary Club of Albuquerque.

HARRIS L. HARTZ

#### RESUMÉ

Birth: January 20, 1974, Baltimore, Maryland

Legal Residence: New Mexico

Education: 1963-1967—Harvard College, A.B. degree, summa cum laude; 1969-1972—Harvard Law School, J.D. degree, magna cum laude

Bar Admittance: 1972—New Mexico; 2000—District of Columbia

Experience: 1972-1975—U.S. Attorney's Office for the District of New Mexico, Assistant U.S. Attorney; 1976—University of Illinois College of Law, Visiting Assistant Professor of Law; 1976-1979—New Mexico Governor's Organized Crime Prevention Commission, Counsel, 1976-1977 & Executive Director, 1977-1979; 1979-1982—Poole, Tinnin & Martin, PA Associate; 1982-1988—Miller, Stratvert & Torgerson, Associate, 1982-83 & Shareholder, 1983-88; 1988-1999—New Mexico Court of Appeals Judge (Chief Judge, 1997-99); 1999-present—Stier, Anderson & Malone, LLC Special Counsel

HARRIS L. HARTZ

#### SUPPORT

*Senator Jeff Bingaman, Democrat from New Mexico*

"I have known Harris Hartz for many years, and I consider him to be qualified for this position."—The Albuquerque Journal, June 22, 2001.

*Senator Peter Domenici, Republican from New Mexico*

"I am extremely pleased President Bush has nominated Harris, who has an impressive record of achievement."—The Daily Times, June 22, 2001.

"He has truly outstanding credentials and will make New Mexico proud as a new fixture on the 10th Circuit."—The Albuquerque Journal, June 22, 2001.

*Editorial, The Santa Fe New Mexican*

"The cerebral and academic Hartz is everything America wants in its judiciary."

"But even though appointment-killing has become a popular sport among both parties, Hartz has the credentials—and the class—to overcome any political pettifogger that might arise in the course of his confirmation."

"Hartz will be making 'case law' at a high level, setting precedents to which lawyers look as they build their own cases. Both are daunting tasks—but both are well within Hartz's grasp."—June 23, 2001.

*Lance Liebman, Professor at Columbia Law School*

"I have seen his contributions to half a dozen different areas of law. Just as he was