

Bosnia—and I will point out that the media reports are that Zepa has fallen, as well, and events are unraveling there; more U.N. forces are being threatened with being taken hostage again—then I would support that decision as well.

I gave a long speech yesterday on the issue of Bosnia. I also addressed the issue of airstrikes. I am deeply concerned about the prospect of “aggressive airstrikes,” exactly what that means, and what the rules of engagement are, and if those airstrikes fail, what do we do next? I am convinced that if the Bosnians are assured—as they are being assured—that there will never, under any circumstances, be any U.S. ground involvement, we will learn a lesson we have learned throughout this century: air power alone is not an ultimate determinant in the outcome of a conflict.

I yield the floor.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, on that evening in 1972 when I learned that I had been elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned about the magnitude of the Federal debt that Congress has run up for the coming generations to pay. The young people and I always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 22, 1992. I wanted to make a matter of daily record of the precise size of the Federal debt which as of yesterday, Wednesday, July 19, stood at \$4,932,430,021,919.50 or \$18,723.59 for every man, woman, and child in America on a per capita basis.

DESIGNATING SENATOR SIMON TO SERVE ON THE SPECIAL COM- MITTEE ON WHITEWATER

Mr. DASCHLE. Mr. President, I would like to advise the Senate that, pursuant to the authority granted in Senate Resolution 120, the Senator from Delaware [Mr. BIDEN] has designated the Senator from Illinois [Mr. SIMON] to serve as the Committee on the Judiciary's representative on the Special Committee on Whitewater.

CONCERNING LEGISLATION TO SUSPEND THE REACHBACK TAX

Mr. COCHRAN. Mr. President, today I am sending a “Dear Colleague” letter

to all Senators with information concerning S. 878, a bill I introduced to amend the Coal Industry Retiree Health Benefit Act of 1992. Specifically, the legislation suspends the so-called reachback tax. My letter responds to issues raised about this legislation by my distinguished colleague from West Virginia, Senator ROCKEFELLER. I hope this information will be helpful to all Senators in considering the merits of the bill.

I ask unanimous consent that my letter and the enclosed fact sheet be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 19, 1995.

DEAR COLLEAGUE: In late May, I sent you a letter seeking your support for S. 878—a bill to provide equitable relief for the Reachback companies from the retroactive tax imposed by the Coal Industry Retiree Health Benefit Act of 1992 (Coal Act). You have since received a letter from Senator Rockefeller expressing alarm at S. 878 and concern about attempts to amend the Coal Act.

On Thursday, June 22, the House Ways and Means Subcommittee on Oversight held a hearing on the Coal Act. The hearing examined the inequities of the Coal Act, its impact on the Reachback companies, and the current and projected surplus in the Combined Benefit Fund. Last month, a federal district court ruled the Coal Act unconstitutional and enjoined its application to the Unity Real Estate Company.

Contrary to the fears expressed by proponents of the Coal Act, I have no intention of jeopardizing in any way the benefits promised to retired miners by the members of the Bituminous Coal Operators Association (BCOA). Nor will S. 878 do that. A fact sheet attached to this letter specifically responds to some of the concerns expressed in Senator Rockefeller's letter regarding S. 878.

I am optimistic that, based on the record established in the House hearing together with other information which has been developed, we can move forward to amend the Coal Act in a way which relieves its harsh impact on the Reachback companies, while at the same time insuring the benefits which were in fact promised to the retired miners by the BCOA.

Sincerely,

THAD COCHRAN,
U.S. Senator.

Enclosure.

REACHBACK TAX FACTS—A PRIMER ON THE
COAL INDUSTRY RETIREE HEALTH BENEFITS
ACT OF 1992

The Fiction: S. 878 would “create a new tax break for certain companies. . .”

The Fact: Creating a new tax break is the last thing which S. 878 would do. S. 878 would relieve several hundred American companies unjustly subjected to a retroactive tax under the financing mechanism of the Coal Act.

The Fiction: S. 878 “jeopardizes the health benefits of retired miners. . .”

The Fact: This is incorrect. Here is what S. 878 does:

Provides for any surplus in the United Mine Workers of America (UMWA) Combined Benefit Fund to be used as a premium credit for the Reachback companies unfairly and perhaps illegally taxed by the Coal Act;

If there is no surplus in the Combined Benefit Fund, Reachback companies would receive no premium credit;

If the fund falls within 10 percent of its operating expenses, Reachback companies

would be required to immediately resume premium payments.

Trustees of the fund acknowledged, and the GAO confirmed, on October 1, 1994, that the fund had 96,237 beneficiaries receiving coverage for hospitals, physicians, vision, hearing, speech, ambulance, hospice, home health, psychotherapy and group therapy, pregnancy and medically-necessary abortion, drug and alcohol rehabilitation plus prescription drugs and life insurance.

Our best information suggests only 29 percent of those beneficiaries are retired bituminous coal miners. Some 85 percent of those covered by this fund already are eligible for Medicare. The fund covers retired miners and spouses, parents, children, grandchildren and other dependents in the home. Not one of those beneficiaries has ever had a claim rejected because the fund was insolvent—much less in jeopardy of insolvency.

The Fiction: The Coal Act “has successfully ensured that the health benefits which were promised by these miners' employers continue.”

The Fact: Reachback companies never signed contracts promising to provide lifetime healthcare benefits to former employees, much less to their families. Many of the Reachbacks have been out of the bituminous coal business 10, 20, 30 and even 40 years. Others have been non-union operators for decades.

The unfortunate truth is the Congress should not have created a new tax against the class of companies now known as Reachbacks. Reachback companies had no legal or moral commitments or promises—and certainly no binding contracts—which obligated them to pay lifetime healthcare benefits and life insurance for former employees and their families. However, those companies which do have such obligations, should fulfill those obligations.

The Fiction: “In the late 1980s and early 1990s, a number of large companies had stopped paying into the employer fund which financed the health benefits of their former workers. This placed the health benefits of the retirees at risk.”

The Fact: In truth, the crisis atmosphere was created by the UMWA and the Bituminous Coal Operators' Association (BCOA). The BCOA did not comply with the contract provisions for increased health care benefit contributions. The UMWA did not pursue the legal remedies to enforce the contract guarantee provisions which would have assured the financial health of the funds.

Furthermore, it was the BCOA and the UMWA who pooled their resources in 1991 to launch, promote and win passage of a new funding mechanism benefitting both the union and the BCOA. That solution was to reach back across the decades to impose retroactive Federal taxes on private businesses.

Under this ill-conceived policy, any company which had ever signed a National Bituminous Coal Wage Agreement (NBCWA) between 1950 and 1987 would have to pay \$2,349.38 per year, per beneficiary assigned by the Social Security Administration. The annually-adjusted premiums run from 1993 through 2043. The Treasury Department and the Internal Revenue Service also must participate in this overreach of Federal tax authority to impose \$100 per day, per beneficiary penalties on any Reachback company which does not pay promptly.

The Fiction: “. . . Many of these companies (the Reachbacks) have been held liable for the lifetime health benefits of their

former employees in a slew of court decisions based on their contractual commitments."

The Fact: This is inaccurate. This complex claim is traced to a clause inserted in the 1978 pension and benefit trust documents. In short, the clause said any employer which ever employed any participant covered by a UMWA benefit plan is obligated to the terms and conditions of the of the National Bituminous Coal Wage Agreement of 1978, as amended, and to any successor agreements.

The truth is there is nothing in the so-called "evergreen" litigation to suggest—much less to hold—that companies are liable to provide lifetime health benefits to their former employees. More importantly, a final decision on the "evergreen" theory has yet to be made, as the "evergreen" litigation remains pending before at least three different federal judges.

Since passage of the Coal Act, the facts have demonstrated that the Reachback companies never authorized or agreed to any obligation which would have perpetually bound them to contribute to UMWA funds, without regard to the terms of their contracts with the UMWA or whether their employees continued to be represented by the union.

Furthermore, there is absolutely nothing in the so-called "evergreen" clause which would apply to all of the Reachbacks. Consider these two glaring facts, then ask yourself how "evergreen" could possibly be linked to the Reachbacks:

First, the so-called "evergreen" clause did not even appear in any of the trust documents until 1978. Many of the Reachback companies did not sign or agree to the 1978 or later NBCWAs.

Second, even among those companies which did sign the 1978 or later agreement, the so-called "evergreen" clause could impose no liability on the majority of companies which left the bituminous coal industry. That's because the clause is based on the amount of bituminous coal produced and/or the number of UMWA coal miner hours worked. If there is no bituminous coal produced, there are no tons or miner hours to drop into an equation. Therefore, there is no math here on which to build a case of branding the Reachbacks as party to the retiree healthcare program, the Coal Act or the Combined Benefit Fund.

The Fiction: "Holding Reachback coal companies liable for the healthcare benefits of their former employees was the best way to shore up the health benefits trust fund and simply means expecting that promises are kept."

The Fact: The Reachbacks made no promises to provide lifetime healthcare benefits for industry retirees. These Reachbacks satisfied all of their obligations, including claims from the union, when they left the bituminous coal business or ended their association with the union. Far from "dumping" or "orphaning" former employees, as some would suggest, the Reachback companies were participating in a multi-employer retiree health benefits system.

Historically, as companies chose not to participate in subsequent bituminous coal wage agreements, the remaining signatory companies continued covering the costs of retirees who had worked for others. Companies entering the business which signed a bituminous coal wage agreement paid into the funds on the same basis as companies which had been in the business, although they may not have had any retirees. This approach was the core concept behind the multi-employer retiree health benefits system.

When Reachbacks ended their participation in bituminous coal wage agreements, they had contributed many millions of dollars to pay benefits for retired miners from

other defunct companies or from companies which had elected not to sign future wage agreements.

The Fiction: "The Cochran bill pretends that a surplus in the health fund exists. That phoney surplus is then used to give a tax break to this favored group of companies."

The Fact: Trustees and managers of the fund itself have confirmed a huge surplus exists. The fund has reported these surpluses in each monthly statement. A telephone call today will confirm this. The General Accounting Office (GAO) estimated last June the surplus would be at \$103 million at the end of the fund's first fiscal year, October 1, 1994. The GAO was off by 10 percent. The fund actually reported an almost \$115 million surplus on October 1, 1994. Although the magnitude of the surplus was debated by three expert witnesses at the June 22 hearing, it was clear that the fund will continue to sustain a steady surplus into the next century.

The Fiction: Reachbacks are "a favored group of companies."

The Fact: This is incorrect. Congress harmed all of these Reachbacks, devastated many and ruined others. It certainly did not do them any favors. The tax has caused perhaps irreparable damage to many small and family-owned businesses. It has forced the cancellation or postponement of hard-earned raises for hundreds of thousands of innocent working men and women throughout the country.

The Fiction: "Make no mistake about it, the deficit would be increased in order to pay for this tax break. . ."

The Fact: The deficit was increased by passage of the Reachback Tax. Repeal of the Reachback Tax would lower the deficit. The Reachback provision of the Coal Act increased the deficit because it immediately appropriated an additional \$10 million to the Social Security Administration. Those funds were consumed long ago and Social Security still has a staggering backlog of Reachback appeals.

Passage of the Reachback Tax also has forced the Department of Health and Human Services, the Department of Treasury, the Internal Revenue Service, the Department of Justice and other Federal agencies to spend millions of dollars to administer, monitor, enforce and adjudicate the tax. The Reachback Tax also robbed the Treasury of millions in revenues because the tax was fully deductible to the corporations to pay it.

The Congressional Joint Tax Committee has indicated it is likely that Federal tax receipts will increase if the Reachback Tax is repealed. This gain to the Treasury will occur because the contributions to the fund are fully deductible from corporate taxable income.

Furthermore, the presence of a private union welfare plan in the budget is, in itself, improper Federal tax policy and budget policy.

The Fiction: The Finance Committee held Coal Act hearings.

The Fact: No such hearings occurred on the Coal Act. The Senate Finance Subcommittee on Medicare and Long Term Care did hold hearings on the Coal Commission Report on Health Benefits for Retired Coal Miners.

The Fiction: The GAO wrote Senator Cochran May 25 "to inform him there is not a growing surplus in the health fund."

The Fact: Several members of Congress, including me, have asked the GAO to update its audit of the fund. We are waiting for that report, which the GAO said it could not have ready for the June 22 House Ways and Means Subcommittee on Oversight hearing. The GAO has not reported to me that the fund's

surplus is shrinking. What the GAO did report is that a private consulting firm, using medical cost trend rates well above accepted national and industry standards, produced a report per scenarios drawn by the union fund managers that showed the fund might show a deficit in the early years of the next century. However, the GAO and another highly-respected private accounting firm previously have suggested the fund will enjoy surpluses in the next century. Towers, Perrin actuaries forecast a \$2.6 billion surplus when the fund runs its course in 2043.

The Fiction: "The claimed growing surplus in the fund does not exist and has never existed."

The Fact: This is inaccurate. The reality of a surplus is not subject to interpretation. Trustees and managers of the fund have confirmed to all interested parties that the fund is in surplus and has been in surplus the past two years. The annual and monthly reports published by the fund confirm this.

The Fiction: "There are 341 companies that are currently responsible for paying for health benefits under the act."

The Fact: In a June 8 letter from the fund, the acting executive director reported 473 companies are being billed for premiums. There was no accounting for the over 200 other companies which had signed NBCWA contracts between 1950 and 1987 and which were originally published as Reachbacks. That list included such notable American businesses as General Motors, which the fund said was obligated for 90 beneficiaries, or \$2,114,442 this year alone.

The Fiction: "Ernst and Young found that the fund is likely to run a \$39 million deficit by the year 2003."

The Fact: That's only one scenario Ernst and Young suggested in a set of projections commissioned by the fund. Ernst and Young also found a healthy surplus in the fund in another scenario. The scenarios which suggested a deficit used medical cost trend rate projections which are 3.0 to 4.4 percent higher than nationally accepted industry standards. Interestingly, Ernst and Young uses 5.5 percent medical trend rate calculations to provide retiree healthcare projections to clients who are Reachback companies. Ernst and Young agreed to use 8.1 percent to 9.9 percent medical cost trend rates to figure projections for the UMWA's combined benefit fund.

The Fiction: "The Cochran Dear Colleague says that a court ruling on the constitutionality of the Coal Act is a year away."

The Fact: The Federal District Court in Pittsburgh ruled June 7 that the Coal Act was a violation of the Fifth Amendment of the Constitution. (*Unity Real Estate Co. v. Trustees of the United Mine Workers of America Combined Benefit Fund*) Numerous other suits and appeals are pending. It is likely that the Supreme Court will be the final arbiter of the constitutionality of the Coal Act.

The Fiction: "The healthcare and security of many vulnerable people rest on the ability of the Senate to deal with the facts and reject myths being spread by companies looking to back away from their own promises."

The Fact: The UMWA retirees' health benefit plan should not be the responsibility of the Senate. Rather, it is clearly in the hands of the individuals, their trade union and the companies which have signed and agreed to contracts promising such healthcare and security.

The Fiction: "This issue is complex and that complexity can be confusing."

The Fact: This is not a confusing issue. Far from it. Actually, it is quite clear cut and straight forward.

The Congress should never have been drawn into the collective bargaining process between the coal miner union and the coal mine owners.

The union and the owners became strange bedfellows in the coalition which lobbied for passage of the Coal Act and now is fighting any change in the Reachback Tax.

This legislation has cost American taxpayers tens of millions of dollars.

Reachback companies made no promises to provide lifetime healthcare benefits to members of the UMWA and should not be subjected to a retroactive, unfair, unjust and perhaps illegal federally-mandated tax and taxpayer-subsidized straightjacket to pay for those benefits.

Hundreds of innocent private businesses and hundreds of thousands of innocent Americans have wilted because of the poison sprayed on them by the ill-conceived Reachback Tax.

Even if we in the Congress were to enact remedial legislation this week, where would these companies, their employees, managers and shareholders go to recoup the tens of millions of dollars in premiums already dumped into their fund, as well as their lost incomes, lost wages and lost expenses?

M.I.T. PRESIDENT CHARLES M. VEST—IN SEARCH OF MEDIOCRITY: IS AMERICA LOSING ITS WILL TO EXCEL

Mr. KENNEDY. Mr. President, as the budget process continues, Congress is required to define priorities and make difficult choices about funding, particularly funding that will affect educational opportunities for our students, the strength of our research base, and the Nation's competitiveness in the global economy in the years ahead. In a recent address to the National Press Club, Charles M. Vest, president of Massachusetts Institute of Technology, described in compelling terms the need to maintain our strong, bipartisan commitment to funding university-based research. I believe that his address entitled, "In search of Mediocrity: Is America Losing its Will to Excel?" will be of interest to all of us in Congress concerned with these priorities, and I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[From the National Press Club, July 18, 1995]

IN SEARCH OF MEDIOCRITY: IS AMERICA LOSING ITS WILL TO EXCEL?

(By Charles M. Vest)

I appreciate the opportunity to talk with you this afternoon. I note that the company of speakers I join includes, among others, both movie actors and movie subjects. Next week, this Club will hear from Jim Lovell, the astronaut who commanded the Apollo 13 mission. The Apollo 13 drama reminds us that science and technology are an essential part of the human adventure.

But science and technology are not just activities for astronauts and academics.

Science and technology affect our lives every day and they create immense benefits and opportunities for all of us. Their progress over the past few decades has been as dramatic as the movie that Americans are flocking to see.

What are some of these benefits?

You would expect me, as a university president, to have a catechism to recite. But listen instead to what the CEOs of 16 major

U.S. corporations said recently. In an unprecedented joint statement entitled *A Moment of Truth for America*, they said:

"Imagine life without polio vaccines and heart pacemakers. Or digital computers. Or municipal water purification systems. Or space-based weather forecasting. Or advanced cancer therapies. Or jet airlines. Or disease-resisting grains and vegetables. Or cardiopulmonary resuscitation."

That . . . and much, much, more . . . is what science and technology—and our nation's universities—have made possible.

But today, rather than building upon this success, we are about to undermine it.

The Congressional budget resolution proposes to reduce the budget for civilian research and development by over 30 percent. The long-term outlook is no better in the Administration's new budget proposal.

Do we know what that will mean for the advancement of the knowledge that fuels the American economy and creates a better quality of life? Our budget choices would be simpler if we had such wisdom and foresight!

We live in an age in which knowledge holds the key to our security, welfare, and standard of living . . . an age in which technological leadership will determine who wins the next round of global competition . . . and the jobs and profits that come from it . . . an age in which events move so rapidly that almost 80 percent of the computer industry's revenues come from products that did not even exist just two years ago.

The cornerstone of our era—the information age—is education. Today, America's system of higher education and research is the best in the world. Period. But will it be the world's standard of excellence ten years from now? If the nation is to be preeminent a decade hence, if we are not only to compete but lead, then we must sustain these unique American institutions.

Why? What is so special about our research universities?

First, the weaving together of teaching and research in a single organization gives us excellent research, and it gives us superior education. Universities combine research and teaching to create vital learning communities—open communities of scholars that advance our understanding and introduce fresh and innovative young minds into the creation of knowledge * * * thereby educating the next generation of scientists and engineers.

And second, research universities are the foundation of our entire national research infrastructure. Supporting the advancement of scientific and technical knowledge is an investment. It is an investment in the future of our human capital—people and their ideas. It is an investment in the future quality of life, health, and welfare of the American people.

This two-part rationale was articulated 50 years ago this month in a report to President Truman entitled *Science—The Endless Frontier*. It presented the vision of Vannevar Bush, who had directed the nation's wartime science effort. That vision set a confident America on a search for excellence. And America has benefited beyond measure from this quest.

Under current budget scenarios, however, we are in danger of disinvesting in our future. The cost of doing so * * * and of drifting toward mediocrity in science, technology, and advanced education is simply too great to pay.

We must regain our vision, our confidence, and our will to excel.

The Federal government is rightly concerned about the budget deficit. It is making hard choices. We all have to make hard choices. But these decisions have to be based on a vision of the future and on an understanding of what hangs in the balance.

Is a one-third reduction in civilian research and development really a savings? Or is it a body blow to our national innovation system, our future competitiveness, and our leadership?

In the current debate, many seem unwilling or unable to retain, let alone enhance, our national excellence in science and advanced education. Instead of pursuing our endless opportunities, we are in danger of drifting toward mediocrity.

This need not be the case. It must not be the case.

It used to be that universities and the federal government—in the White House and on Capitol Hill—and the voting public—had a broadly shared sense of the benefits to be derived from investing in education and research . . . and a shared commitment to the future.

This commitment is rapidly fading. Although leaders in both parties and in both branches of government are struggling to retain it, it is fading.

Today, the future has no organized political constituency.

Since the 1980s, when I began my career as a senior university administrator, I have seen an unraveling of a once fruitful partnership between universities and the government. Its fabric has been frayed by a steady onslaught of policy and budget instability, rule changes, investigations, and deepening distrust.

Congressional hearings and media exposés on the reimbursement of the costs of federally sponsored research have tarnished the image of universities. Most of the real issues have long since been addressed, but a residue of misunderstanding and cynicism remains.

At the same time, the federal government has steadily asked the universities to take on added missions and requirements without providing the resources to meet them.

It is in this strained environment that the nation is now debating the future federal role and responsibility for university research and education in science and technology.

The issue before us transcends partisan politics. The issue is whether Washington budgeteers and decision-makers have the political will and the vision to serve society's long-term need for new knowledge, new technologies, and, above all, for superbly educated young men and women.

Sometimes the debate sounds strange to the ears of this academic. During an important recent mark-up session, for example, a Congressman actually commented: "I don't give a damn about the science, but I sure love the politics!"

There are those of us who would like to see those sentiments reversed! And this includes the American public. Recent polls show that nearly 70 percent of the American public thinks it is very important for the government to support research, and nine out of ten want the country to maintain its position as a leader in medical research. In fact, 73 percent are willing to pay higher taxes to support more medical research.

What we need now is not a partisan political debate. What we need to come together again in the best interests of the next generation.

We are all facing pressures to cut costs and become more effective and efficient—in government, academia, and industry.

Industry is doing its part . . . by producing better, more competitive products, improving processes, reducing cycle times, improving quality, and meeting environmental challenges. The same intense competitive pressures that stimulated these changes, however, have increasingly focused industrial R&D on short-term objectives. Appropriately so. But research of more general and