

SENATE—Friday, September 20, 1991

(Legislative day of Thursday, September 19, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*The God of Israel said * * * He that ruleth over men must be just, ruling in the fear of God.—II Samuel 23:3.*

Eternal God, Lord of history, for these perceptive insights from the great King David, we thank You. May we hear and heed his wise counsel.

Gracious Lord, in these tempestuous times help leadership and people to interpret the unprecedented events and comprehend the dynamic days in which we live. Guide both public and private sector to find a way to communicate with each other, to reduce the rift between bureaucracy and a cynical and indifferent public. Lead us in a way to reverse the growing chasm between government and people. Save us from bureaucracy, which is self-perpetuating and an end in itself, and from people who have abdicated their sovereignty, somehow failing to realize that our political system will not function as intended if they divorce themselves from the process. Inspire the press and media to do their part to heal alienation rather than aggravate it.

Judge of all the Earth, awaken us before it is too late, lest judgment come upon us in our intransigence and indifference.

In the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 20, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Am I correct that the Journal has been approved?

The ACTING PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, following the leader time this morning, there will be a period for morning business not to extend beyond 11:15 a.m., with several Senators recognized to address the Senate for specific periods of time under a previous order. Once morning business closes at 11:15, the Senate will proceed to the consideration of S. 1722, the unemployment insurance reform bill.

During proceedings today, there will be debate only on the bills. An amendment may be offered by the distinguished Republican leader, if he chooses. That is the only amendment in order. Under the consent agreement, the Republican leader is not required to offer his amendment today, but may be so, if he chooses.

There will be no rollcall votes today nor on Monday. Once the Senate concludes debate on the unemployment compensation bill today, that will be set-aside until Tuesday morning. On Monday, the Senate will take up consideration of the defense appropriations bill. It is my hope and intention that we will complete action on the unemployment insurance reform bill by the close of business on Tuesday and then return to the defense appropriations bill on Wednesday morning and, hopefully, complete action on that early in the week.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

Mr. President, I yield the floor.

THE PLIGHT OF MR. OVSEY SADY

Mr. WELLSTONE. Mr. President, I would like to speak today about Jewish emigration from the Soviet Union. This issue has tremendous personal meaning to me, since my father, Leon Wellstone, fled prerevolutionary Rus-

sia to escape the pogroms and other forms of discrimination against Jews. I will never forget how grateful my father, who is no longer alive, was to live in our country. I know if he were alive today, he would insist that I do all that I can as a U.S. Senator to help others emigrate to the United States.

When my father lived in Russia, the country was in upheaval. Once again, the Soviet Union is in upheaval, and this time I hope it will turn out well for the people. And during this time of transformation—and I hope and pray it will be a democratic transformation—one manifestation of the changes initiated by President Gorbachev is the Government's willingness to grant Jewish people permission to emigrate.

Last year alone, 180,000 Jews emigrated from the Soviet Union as compared to 1,000 allowed to emigrate in 1986. This spring, the Soviet Parliament passed a new emigration law which codified these changes and established this as a human right in the law of the land. I welcome this initiative and all the democratization that has taken place in the Soviet Union and, once again, hope that it will turn out well for the people.

However, despite the progress, there are many Jews who are refused the right to emigrate because they know alleged "state secrets." These secrecy refuseniks, as they are known, range from engineers to musicians. Many of them had only limited access to classified information, and in other cases, the "secrets of the state" which they knew are now public information and really have become obsolete.

A decade of reform makes it crystal clear that today's refuseniks represent a historic relic of past Soviet repressive policies and could not and must not be an intended outcome of current policy. But the result, Mr. President, is that all too many families are still torn apart, and many lives have been placed on hold by unreasonable refusals of permission to emigrate.

I recently met the wife, son, and the father of one man caught in the Soviet emigration bureaucratic quagmire. That man is Ovsey Sady. Ovsey Sady currently lives in the Soviet Union, anxiously waiting to join his family in Minnesota. Mr. Sady once lived in Lvov with his wife, his teenaged son, and his elderly father. Mr. Sady worked at a factory which consulted with the Soviet space center, producing goods that were used in the military. He had a low-level security clearance. In 1978, he left that job for a different factory job

* This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

in the Ukraine, where he did not need security clearance at all.

Life at that factory was never easy for Mr. Sady, because he was discriminated against as a non-Ukrainian and as a Jew. After 11 years, in 1989, Mr. Sady left that job, and he has been unemployed ever since.

The Sady's applied to leave the Soviet Union for the United States in September 1988. The family planned to join Mrs. Sady's brother and sister, who live in Minnesota. The Sady's were refused permission to leave. The family reapplied 6 months later. This time, only Mr. Sady's father was granted permission.

In early 1990, they applied again, and this time all but Ovsey were allowed to emigrate. Ovsey was refused permission because his secrecy term had not yet expired. Yet, many of his coworkers at his original plant with higher security clearances were granted exit visas. Some current employees at the plant have received exit visas. Mr. Sady was told by the head of the Lvov OVIR office that his secrecy term would expire at the end of 1990.

In October 1990, Mr. Sady reapplied, only to be told by the Lvov visa office that he would now have to wait until 1995 for his secrecy term to end. He has not received any written information concerning the duration of his secrecy term.

Mr. Sady's family waits for him in the United States, and they are trying to build a life for themselves. His wife, son and father live in a small apartment near Minneapolis. Their principal means of support are a variety of different assistance programs. His son is a full-time student in Minnesota Community College, where he studies English, and Mrs. Sady attends community educational classes. They are trying to put down roots and start their lives anew, despite the gaping hole in their family. Mr. Sady's father is 83 years old, and he suffers from glaucoma and high blood pressure. Mrs. Sady also suffers from poor health.

Ovsey Sady is not well himself. He has stomach ulcers which have hospitalized him in the past, and he does not have enough money to follow his prescribed special diet. Unemployed and alone, Mr. Sady remains a hapless victim of unjust, unwarranted bureaucratic recalcitrance.

In the summer of 1990, President Gorbachev traveled to Minnesota. And while he dined with our Governor 10 miles away, Victor and Sima Sady were reminded of their loss by the empty chair at their dinner table.

The Helsinki accords, signed by the Soviet Union, state that "a family should not be separated" and special attention should be given to requests of an urgent character, such as the request submitted by an elderly or an ill person.

I urge the Soviet authorities, from the Senate floor today, to fulfill their

obligation under these accords and permit the emigration of Ovsey Sady and others who were caught in the remnants of the cold war, which is over.

If my father were alive today, he would applaud the recent changes in the Soviet Union. He would be so excited. God knows, I wish he were alive today to see this. But I also know that my father, from his own experience, would worry about the resurgence of anti-Semitism, which is always there beneath the surface. And I know my father, while he would hope for the most from this transformation in the Soviet Union, would guard all of us against the rise of discrimination and persecution of Jewish people. I feel very strongly about this.

Mr. President, in our enthusiasm for the global reunification of the East and the West, please let us not forget our obligation to assure the reunification of families like the Sady's.

Mr. President, I have sent letters to authorities in the Soviet Union. I have sent letters and made calls to our own Government.

Mr. President, I will send a copy of this speech to the Soviet Ambassador, and I will meet with the Soviet Ambassador if I travel to the Soviet Union in December, as I hope to. One reason to go to the Soviet Union is to do everything I can to bring the unification of this family.

It is important to speak from the Senate floor today about the Sady family. It is a call to conscience. This speech will not be the end of it. I hope that as a son of a Jewish emigrant from the Soviet Union, I hope that as a Senator from the State of Minnesota, I can help to bring together this family.

Mr. President, I yield my time.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

NOMINATION OF CLARENCE THOMAS

Mr. ROTH. Mr. President, I am pleased to announce at this time my decision to vote in favor of the confirmation of Judge Clarence Thomas to be an Associate Justice of the U.S. Supreme Court. As the exhaustive hearings before the Senate Judiciary Committee come to a close, the record is clear: Judge Thomas has the judicial temperament, the intelligence, and the integrity to serve on the Supreme Court. And I believe he will serve with distinction.

Throughout the days of testimony before the committee as well as during his tenure on the Court of Appeals for the District of Columbia Circuit, Judge Thomas has steadfastly adhered to the only theory of constitutional jurisprudence compatible with representative government. He believes that the function of the courts created by our Constitution is to interpret the law as written and not to read into the laws

the judge's own personal views. While Judge Thomas is an adherent to natural law doctrine, he has made clear that the only function of natural law in legal analysis is to clarify the meaning of constitutional or statutory provisions written by lawgivers—lawgivers who themselves intended to codify natural law applications. That view is hardly evidence of any incipient judicial activism in Judge Thomas.

I am confident that Clarence Thomas' service in both the Reagan and the Bush administrations will help him as a Supreme Court Justice to understand the importance of judicial deference to the political branches. Likewise, I am confident that Justice Thomas will serve the Supreme Court with the same earnest dedication to its mission as he has shown in his service in both the executive and judicial branches.

If any lesson is to be learned from reviewing the life and work of Clarence Thomas, it is that his independence and impartiality are unquestioned. There is absolutely no doubt that Clarence Thomas is his own man. I am therefore extremely pleased that the President has nominated Clarence Thomas to be a Justice of the Supreme Court and believe that the Senate will soon confirm him to serve for decades to come. His open mind and spirit make him an extremely good selection.

Clarence Thomas was born in the deep South and lived his early days under a regime of segregation. Courageously, he persevered through trials and tribulations that most Americans will never experience. Through it all, he learned to think for himself. As the victim of segregation, he was as dedicated to the goal of equal rights as anyone could be. Yet he was no ordinary black man. He did not join the liberal establishment. No, his independent spirit and open mind led him to question and then to reject that establishment's views on how minorities can succeed.

Quite frankly, that is why there is any controversy at all in this nomination. A role model has risen to the highest Court in the land, a role model who does not think and talk the liberal lingo. No one in America denies a white person the right to be a liberal or a conservative. No one views a white person as unrepresentative of his or her race on the basis of political philosophy.

Before Clarence Thomas was nominated, blacks were not truly free to be independent thinkers, like whites. But now it is different. A civil rights revolution has occurred. Over a century ago, blacks won their physical freedom. In this century, blacks began an ongoing battle for economic freedom. But it was not until this summer that the shackles of intellectual confinement were cast aside.

Mr. President, I am not alone in these observations—especially given

his excellent performance in the hearings. In a letter I recently received from one of the most distinguished African-American leaders in my home State of Delaware urging me to support Judge Thomas, Senator Herman M. Holloway, Sr., stated that while originally he did not support the nomination of Judge Clarence Thomas given early media accounts, he concluded, after Judge Thomas finished his testimony, that he responded to all questions with clarity and thoughtfulness. He impresses me as one who possesses a judicial temperament, unquestioned integrity and sensitivity, and is a fiercely independent thinking individual whom I believe will approach all decisionmaking with impartiality. As an Afro-American citizen who has been privileged to serve in both Houses of the Delaware General Assembly, including 28 years in the Delaware State Senate, I can appreciate the process of intense scrutiny that each Presidential nominee must undergo. As that process evolved—I became convinced that Judge Thomas is a very able and competent individual conditioned by his background, training and experience and one whom all citizens in this country can trust to fairly and impartially interpret and apply the law.

Clearly, the nomination of Thurgood Marshall made history. But it is the nomination of Clarence Thomas that has won for blacks intellectual equality in the political arena. And that is very significant, not only for the Supreme Court, but for all Americans.

Thank you, Mr. President. I yield the floor and yield back the remainder of my time.

Mr. ROCKEFELLER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer.

CHILDREN'S HEALTH CARE PROBLEMS

Mr. ROCKEFELLER. Mr. President, I was glad to hear my colleague from Tennessee, Senator GORE, take the floor the day before yesterday to protest President George Bush's use of the Grand Canyon as a prop to project the illusion of concern for our environment, I rise today to protest an equally outrageous press stunt that took place later that day.

I speak of George Bush's visit to the Primary Children's Medical Center in Salt Lake City.

Mr. President, the United States has a Third World infant mortality rate—22d in the industrialized world. Ten thousand children die needlessly, and another hundred thousand are crippled, every year, because they have no access to the treatments and technology that would save them. Last year, we had a measles epidemic that struck

25,000 people, mostly children. Our immunization rate is lower than Peru's or Nicaragua's. In some cities, only half our preschoolers get the shots they need to protect themselves from diseases we'd almost forgotten exist. Polio, diphtheria, and whooping cough are back—killing kids.

George Bush knows we have a problem. His Health and Human Services Secretary, Louis Sullivan, admits it. The White House Task Force on Infant Mortality he appointed, told him. And in 1988, George Bush promised to act to solve it.

And now that the next campaign is upon us, George Bush has acted—he has embarked on a media tour, cynically using sick children as props, pretending as though children's health care had suddenly become one of his priorities.

If videotape could be turned into vaccine, George Bush might save some lives, but until then he's just another politician with a campaign agenda and no plan for change.

President Bush claimed in Salt Lake City to have asked Congress for \$57 million to fund a demonstration Infant Mortality Program—and received only half of his request. What he didn't say is that those funds would have been taken from community health clinics across the country, leaving millions of other Americans without medical care—robbing Peter to pay Paul. Congress saved the community clinics, and began the Infant Mortality Program. George Bush has never come to Congress with a plan designed to reach more than a quarter of the children who need our help.

His own White House task force wrote a report calling for a comprehensive approach, using existing knowledge to save thousands of lives—and billions of dollars. But, after appointing the Commission with much fanfare, he refuses to release their report. Their findings just aren't consistent with the Bush agenda of world travel and domestic neglect. Just like the old CIA Director he is, George Bush seems to have stamped the report "Top Secret" and turned children's health into a covert operation. He has even continued Ronald Reagan's policy of not bothering to collect data that show how many kids are not getting their shots.

But George Bush cannot cover up the fact that an unconscionable number of American babies die every year—that need not have died—and that they will continue to do so until we take bold action. He cannot ignore the fact over 8 million of America's children have no health insurance whatsoever—they don't go to the doctor when their temperatures hit 103, they can't afford vaccines that cost 10 times what they did when Reagan was sworn in. Our failures in their first years cost them lifetimes of illness and pain.

For 10 years, we have been hearing the same tired rhetoric about helping

children. Now George Bush wants us to watch it on TV. But the sad fact is that the President's commitment to saving children's lives does not include rearranging his priorities to put children at the top of the list.

George Bush may claim to be the "Environmental President." He might call himself the "Education President." But as long as I am able to speak and act; as long as hypocrisy, not healing, dominate his approach to children's health; as long as babies are dying needlessly, I will never allow George Bush to claim the title "Health Care President."

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mr. ADAMS. I thank the Chair.

(The remarks of Mr. ADAMS pertaining to the introduction of S. 1730 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. In his capacity as Senator from South Dakota, the Chair recognizes the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,379th day that Terry Anderson has been held captive in Lebanon.

ADDRESS OF BORIS YELTSIN AT NEW YORK UNIVERSITY

Mr. MOYNIHAN. Mr. President, the extraordinary events of the last several weeks in the former Soviet Union have drawn international attention to Boris Yeltsin, the President of the Russian Republic. I believe, therefore, the Members of the Senate will find of particular interest the text of a major address delivered by Mr. Yeltsin at New York University on June 21, 1991, only a few days after his election.

Mr. Yeltsin was introduced on this occasion by the president of New York University, our distinguished former colleague in the House of Representatives, Dr. John Brademas.

I ask unanimous consent that the transcripts of Dr. Brademas' introduction and an English translation of Mr. Yeltsin's speech be inserted in the RECORD at this time.

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

ADDRESS OF BORIS N. YELTSIN AT NEW YORK UNIVERSITY, JUNE 21, 1991

Dr. JOHN BRADEMAs: *** Ladies and gentlemen, would you be kind enough to take your seats? Mr. President-elect, Ambassador Vorontsov, distinguished guests, ladies and gentlemen, my name is John Brademas; I'm the President of New York University, and it is for me [rousing applause] *** I am not a candidate for public office *** yet! [rousing applause]

It is a very great pleasure to greet all of you here today as well as to welcome to New York University the newly elected leader of the largest republic in the Soviet Union, the Russian Federation. As I have just told the President-elect, this is the largest private university in the world and, therefore, he should feel very much at home.

We are delighted that our distinguished guest was able to come to Washington Square fresh from his visit to Washington, D.C., where he met President Bush. In recent months, New York University has welcomed several visitors from the Soviet Union, the eminent physicist and member of the Congress of People's Deputies, Raoul Sagdeyev; the prominent authority on constitutional reform, Professor Alexander Yakovlev; the editor-in-chief of the Soviet Union's largest weekly, *Literaturnaya Gazeta*, Fyodor Burlatsky; and the Minister of Justice of the Russian Federation, Nikolai Fyodorov. I must add that New York University's Chancellor and President-elect is himself a distinguished scholar and professor of Russian history, Dr. L. Jay Oliva.

I hope, President-elect Yeltsin, you will allow me a more personal reason for why I am so pleased to welcome you and your colleagues here today. It was exactly thirty years ago that I made my first visit to the Soviet Union, and I have been back several times since.

I recall particularly when, in 1979, as Majority Whip of the United States House of Representatives, I was asked by then-speaker Tip O'Neill to lead a delegation of Members of Congress to meet with our counterparts in the Soviet Union. For two days in the Kremlin we exchanged views on arms control, trade, Third-World competition, and human rights. We met with President Kosygin and Foreign Minister Gromyko, and we were the first American political leaders to meet, in Tbilisi, Mr. Shevardnadze, then Chairman of the Party in Georgia.

Two years ago I visited Moscow and Zagorsk during the celebration of the millennium of Christianity in Russia and the Ukraine, and I plan to be in Moscow twice this fall, first with a group of American elected officials—present and former—to observe the new federalism now emerging in the Soviet Union and later to take part in a conference on the role of libraries in a democratic society.

NATIVE OF SVERDLOVSK

Had Sverdlovsk been on our itinerary in 1979, my Congressional colleagues and I might have met the rising young leader, then chief of the local party, who is our distinguished guest today. Born in the Sverdlovsk district to a peasant family, in 1955 he graduated from the Ural Polytechnical Institute. By profession he is a construction engineer, a builder.

He was an official of the Sverdlovsk Party Committee from 1968 to 1985, the last nine years as First Secretary. Moving to Moscow, he headed the Party Committee in the capital city and in February 1986 became a candidate member of the Politburo.

During the late 1980s, the Soviet Union began a process of internal change, moving

toward democratic political institutions and a market-based economy. In the national debate on this transformation, surely one of the world's most important developments of the twentieth century, our guest took an active and often dissenting role. A cascade of dramatic events has now swept him to international prominence. After a pivotal speech in October 1987 to the Central Committee Plenum, he was removed from the Politburo. In March 1989, during the first freely contested multi-candidate elections in the 71-year history of the Soviet Union, our speaker was elected to the Congress of People's Deputies, which in turn chose him a member of the Supreme Soviet. In 1990, our guest won a seat in the Parliament of the Russian Federation, polling more than 90 percent of the popular vote. Elected chairman of the Parliament, he pushed through a declaration of autonomy from the national government, and a month later, in July, he resigned his membership in the Communist Party.

This year, at his urging, for the first time, the Russian Federation held a Presidential election open to popular vote. In the balloting nine days ago, our speaker won a sweeping majority over five other candidates, his fourth electoral victory in little more than two and a half years. With 147 million people, or more than half the nation's population, the Russian Federation stretches from the Black Sea to the Bering Strait. It spans eleven time zones and covers three-quarters of the land area of the Soviet Union. The United States would fit into the Federation twice over.

Ladies and gentlemen, I am privileged to present our distinguished guest, the first democratically chosen leader in the 1,000-year history of Russia, the President-elect of the Russian Federation, His Excellency, Boris N. Yeltsin. [rousing applause]

BORIS N. YELTSIN

President-elect YELTSIN: Mr. President, distinguished ladies and gentlemen. I regret having to underscore at this time that I am not yet an inaugurated President; I am President-elect of the Russian Federation. My official title in Russian is President of the Supreme Soviet of the Russian Federation Who Has Been Elected President of Russia [translator: or President-elect in English]. After I am officially sworn in on the tenth of July of this year before the Congress of People's Deputies of Russia and the Russian people, I will formally take my office as President of the Russian Federation. I appreciate the kind words just spoken by your President which were addressed to me, and I must say he has given you quite a correct rendering of my biography. I also appreciate very much this opportunity to address an audience of one of America's most prestigious universities, New York University.

My first working visit to the United States as President-elect of Russia is coming to an end. I have already addressed the purpose of this visit in detail, and they have been reported in the media, so I need not repeat what I have already said on that score.

Results of visit to the United States

Let me tell you briefly how I see the results of this visit. It has only been three days now that I am in the United States and already we have been able to fulfill quite a bit of program. We have met with United States Senators and members of the House of Representatives. We visited the American Red Cross. We saw the Lincoln Memorial. We talked to the leaders and members of the AFL-CIO. We attended a meeting at the Center for Democracy in Washington. We met

and had a discussion with Secretary of Commerce Mosbacher and with Secretary of Defense Cheney. We met with President George Bush and Vice President Dan Quayle. We also had numerous encounters with American businessmen.

I think that our main goal has been accomplished. We have gotten across to the leaders of the United States and of the U.S. business community our vision of the prospects for reform in Russia. We have discussed the possibility for new business contracts. For the first time in our meeting with President Bush, we have reached an understanding that from now on the United States will maintain direct contact not only with the central government of the Soviet Union, but also the Russian Federation as one of the Soviet constituent republics.

We're not here to ask for money

The first question I got from the press when we arrived at Andrews Air Force Base was how much money, exactly, we were here to ask for. [laughter] "Well, I have to disappoint you," I said, "we're not here to ask for money. What we want to achieve is making sure that the leaders of this country understand us, that they sympathize with our reforms, that they support our cause of bringing radical reform to Russia that will advance along a road to a democratic society, to a free-market economy and to a privatization which would make all forms of ownership, including private property, equal under the law. We must build a Russia which would not be a country asking others for money, but a country where foreign investors would gladly go to invest their money because it would offer attractive terms for investment and profit."

President Bush and I discussed yesterday what we believe should be the four priority areas for cooperative programs between our countries, and I am glad to note that President Bush has agreed that United States experts should take part in the work under these programs. These areas are the processing and storage of farm produce because, at present, our republic wastes about 30 percent of what its farms produce. It is the conversion of our defense industries, because about 80 percent of all the Soviet Union's defense production facilities are located in Russia. It is the training and retraining of managerial personnel, the people who could run a market system in Russia, the people who could help us with building a modern economy and carry out privatization in our republic. We need some 2,500 or 3,000 people trained each year. It is the establishment of joint Russo-American banking institutions and transportation companies.

We have important meetings still in front of us today, but I think that I can already now speak for my entire delegation that we are confident with what we have been able to achieve while we were here. We have been understood.

A special feeling to enter halls of a university

It always gives me a very special feeling to enter the halls of a university. It makes me remember my own college years. Yesterday at the National Press Club in Washington, they mentioned that I sometimes spoke of myself as a mischievous person, something of a hooligan. [laughter] Well, they should have gone a bit further and pointed out that, of course, when one is young, when you're a student, that's normal, but you would not expect much more of that from me now. [laughter] They also asked me about my moral perspective, and I said to that that I've been married for thirty-five years and I

have spent these thirty-five years with my wife and no one else. [laughter] [applause] I realize this may sound quite unexpected or surprising to some. [laughter]

And still your college years are probably the most wonderful time in our lives. It is the world of books, the joy of sports, and most important, a feeling that your entire life is still ahead of you. But I think that even more important is the feeling of creativity, the freedom from prejudice or mental stereotypes, and the quest for the new. I think it is vital for us to preserve these qualities to this day if we want to really appreciate the changes which are sweeping the modern world.

Let me now say a few words about the reform of college education in Russia, which we are presently working on. A few days ago in the city of Tula, I met with an audience of 515 rectors who came from all of the colleges of the Russian Republic. We have a very thorough, productive and exciting exchange which highlighted a number of problems facing our colleges. We talked about many things ranging from funding to the quality of training, and came to the conclusion that a question urgently to be addressed in Russia is the adoption of legislation on the status of public education and colleges, and I made a personal decision that my first decree when I am inaugurated as President—my first Presidential decree—will be precisely on that, on college education and public schools. [applause]

Demise of greatest Utopian vision in history

Of the many challenges confronting today's mankind, the problem of societies choosing their political futures is the closest to me as Russian and as a leader of my republic. Today we are witnessing the demise of what may have been the greatest Utopian vision in history which for decades had shaped the destinies of one-third of mankind. It has led to enormous loss of wealth, the division of the world, and global confrontation between the East and the West.

A crucial lesson to be drawn from our dramatic history is probably this: even the most beautiful and brilliant theory generated by the human intellect, if carried out mechanically and thoughtlessly, is bound to lead to a tragic outcome. After living for more than 70 years under the yoke of a totalitarian system, Russia has finally made its historic choice: it will not go the way of socialism or communism; it will take the civilized road of development long covered by many modern nations, including this country. [applause]

No turning back from path of democracy

Your press is presently making a good deal of noise about the latest developments in our Supreme Soviet and namely, the statements of Prime Minister Pavlov. Whatever Prime Minister Pavlov or KGB Chief Krutichkov or Yarov may indeed have said, Russia will not depart from its chosen road because it is not the leaders that have made that historic decision; it was the people themselves who by voting for their president have demonstrated to everyone that there will not be any turning back from this path of democracy. [applause]

I wish our college education was better in our time than it actually was; I wish I could speak English and would not have to spend twice as much time to listen to such speeches. [laughter] Of course, I could have my interpreter do it all for me. But I am improvising a bit as I go, so let us continue the way we started.

Commandments of the Gospel, the foundation of human morality

Protecting the values which are the common heritage of mankind is today as important as it ever has been. I think it is totally inadmissible that we forget the commandments of the Gospel, which are the foundation of human morality. I also think that revision of the functions of law in the life of society and of the principles of freedom and human rights is fraught with totally unpredictable results. Our tragic history offers perhaps the best possible testimony that a society which tries to assert artificial values which are counter to the human experience can never ever achieve happiness. We have now embarked on a road that will bring us back into the fold of modern civilization. We want that Russia to live governed by the well-known principle that the human being itself is the supreme measure of all things, not excluding politics.

I am now confident that totalitarianism, ideological monopolism, militarism, and violence will forever be gone from the life of Russians. We believe that our development should be driven by the force of free enterprise, not by government coercion. It should rest on laws guaranteeing equal rights and opportunities for all forms of ownership, including private property. Incidentally, I have to tell you that while the Soviet Union has not yet officially legalized private property, Russia is the republic that has already done so, and by voting as they did on the twelfth of June this year our people have given us a mandate to continue along this road.

Protection of human rights vital to civilized society

Protection of human rights is vital for building a civilized modern society. We are determined to achieve a dramatic change in the social balance of forces between the government and the individual in favor of the latter [applause].

Insuring inter-ethnic peace and harmony is particularly important for us at present. There are about 100 different ethnic groups living in Russia today. We see the great ethnic diversity of Russia and the Soviet Union at large as a unique wealth of our country. Today they are vigorously searching for the best ways of living together and promoting their integration. Our republics today are building a new union and working to consolidate their single economic space.

Baltic States should be free to leave union

Let me underscore this point, that the leaders of Russia have always stood and continue to stand firmly in favor of preserving the union. At the same time, we feel that a union like ours cannot be held together with chains. It cannot rest on the power of tanks, personnel carriers, on weapons and violence. It can only continue as a voluntary union of nations. Therefore, if the Baltic states have a desire to withdraw from the union or do not wish to participate in the union, they should be given the opportunity to do as they choose. [applause]

I also would like to tell you that the Supreme Soviet of Russia has recently passed legislation outlawing all assistance to foreign governments or regimes.

I would like in this connection to address the following several points. Our foreign policy course stems from a concept which has been created by the common efforts of the politicians of this generation. We in our foreign policy course intend to take account of the interests of our partners and the challenges facing the international community at large. The bipolar model of the world, the

times of the Cold War and Iron Curtains, of suspicion and hostility, are becoming past history. Russia and the United States both need international relations which will be built on the principles of trust, dialogue, and order. This is quite a new experience for me. [laughter]

Want constructive cooperation and ties with U.S.

Our policy of principle is to pursue constructive cooperation and establish constructive ties with the United States of America. The cooperation which has evolved in recent years between our two countries, the United States and the Soviet Union, can and should become more profound in the relations between the United States and the Russian Republic. Russia has an interest in establishing a firm political foundation for full-scale, open and mutually beneficial cooperation in business activity, commerce, science and technology, in health care and the protection of the environment. We for our part see our task in approaching within the shortest time possible international legal standards in economic legislation governing business activities in the territories of the Russian Federation. Russia and the United States are expanding their common ground on security issues. In yesterday's conversation with Defense Secretary Cheney, I made a very strong point to him, saying that Russia is firmly headed for cutting its defense spending, reducing its armed forces, and consistently advocates the non-proliferation of nuclear, chemical, and biological weapons, 90 percent of which in the Soviet Union are located in the territory of Russia. [applause]

It is particularly important to note that successful reform in Russia—and I have no doubt that this reform will be successful—and I have no doubt that this reform will be successful—will result in the creation of an enormous single common space covering the larger part of the northern hemisphere and that will include in my understanding Russia as well as the United States, which will be governed by similar political and economic principles. The development of ties between Russia and America acquires a global dimension in this context. It is appropriate today to recall in this context the longstanding tradition in our relationship which dates back to the 18th century.

Motto of NYU, "Persist and Prevail," Especially Appropriate for Russia

Nothing in international relations can be more important than humanitarian values. I am profoundly convinced that the future development of relations and cooperation between our two countries will produce new examples of friendliness and of mutual sympathy between our two peoples. We have prepared a program of action on youth problems for consideration by our Supreme Soviet which addresses a wide gamut of issues which face our youth today because it is the young who are going to bear the brunt of renewal in our nation. I am confident that our young people will be able to stand up to the challenge of building a nation in Russia which will offer to its citizens the amount of rights and freedoms that will make them able to build their own prosperity and thus the prosperity of their country. Your motto here [of New York University] says, "Persist and prevail," and we believe that this particular motto is especially appropriate for Russia as it moves forward along the way toward its democratic and prosperous future. [Extended rousing applause]

Thank you and the best wishes for success and prosperity to New York University and

to all the people of America. Thank you very much. [extended applause]

Dr. JOHN BRADEMAS, Mr. President-elect, we thank you, *spacibo bolshoe*, for your powerful and important address. We at New York University are deeply honored that you are with us today, and we hope that you will enjoy the rest of your visit to New York City and to our country.

And now, ladies and gentleman, may I ask you to please take your seats again and to remain in your seats until President-elect Yeltsin and our group have left the auditorium. Following the departure of the President-elect, Ambassador Vorontsov and me, I shall be pleased to host a brief reception in honor of the President-elect in the Greenberg Lounge just opposite this auditorium. All of you are invited, but please remain in your seats until I have escorted the President-elect to the lounge. Thank you all for coming.

IN COMMEMORATION OF "NATIONAL FORMER POW/MIA RECOGNITION DAY"

Mr. MACK. Mr. President, I rise today, September 20, 1991, to commemorate "National POW/MIA Recognition Day" and call attention to the plight of the thousands of Americans who remain unaccounted for throughout the world. I am proud to be an original cosponsor of the Senate Resolution to establish a "National Former POW/MIA Recognition Day," which passed in the Senate on September 16.

It horrifies me to think that American soldiers might still be held against their will in lands abroad. A recent issue of Newsweek indicates that as many as 2,300 United States military personnel might still be held in Vietnam, Laos, and Cambodia. More than 8,000 Korean war veterans remain unaccounted for. And, shockingly, there are approximately 79,000 MIA's from World War II.

These figures alone make a strong argument for the need for Congress to take swift, decisive action—not just provide lipservice on this issue! Couple these figures with the anguish, heartache, and uncertainty of the families and friends of POW's and MIA's and the need becomes even more compelling.

I am pleased to be an original cosponsor of Senate Resolution 82, which will, for the first time, establish a select committee which will be charged specifically with POW/MIA affairs. This committee will provide the vehicle to review and assess the methodology and operations of the POW/MIA Division of the Defense Intelligence Agency to thoroughly investigate live-sighting reports.

I will request that this committee immediately investigate the stunning recent photographs which have surfaced which provide new evidence that Capt. Donald Carr is still alive in Southeast Asia. In today's Washington Post, an article indicates that Pentagon officials believe this photograph is not more than 18 months old. My

thoughts today are with his step-mother, Marie Barzen, who lives in Fort Myers, FL. I will insist that every avenue be exhausted in this effort. Mr. President, I ask unanimous consent that an article from the September 20, 1991, Washington Post appear immediately following my remarks.

I have also cosponsored legislation to require that all POW's receive outpatient care at VA health care centers regardless of disability rating. I cosponsored an amendment to the DOD authorization bill to require that information relating to the fate of POW's and MIA's be released to families.

This is why I am an original cosponsor of Senate Resolution 82, which will establish a select committee on POW/MIA affairs. On August 2, the U.S. Senate unanimously passed this essential legislation. I want to thank Walter "Radar" O'Reilly of the National Forget-Me-Not Association and the many other Floridians who wrote or called Senator DOLE to recommend my appointment to this select committee.

I would again urge my colleagues to find the answers to the many questions plaguing the families of POW's and MIA's. The simple fact is that Americans deserve nothing less than the truth.

[From the Washington Post, Sept. 20, 1991]
PENTAGON INQUIRY TO FOCUS ON 1 PHOTO OF POSSIBLE MIA

The Pentagon said yesterday most of the pictures purported to show live U.S. MIA from the Vietnam War are fakes, but at least one—in color and in focus—is being taken seriously.

It appears to show Army Capt. Donald G. Carr, who has been missing for 20 years since the plane in which he was riding as an observer was shot down over Laos. Carr, the pilot and the plane were never found.

"This is going to be right at the top of our investigative list," said Carl W. Ford Jr., acting assistant defense secretary for international security affairs.

The picture shows a smiling man whose resemblance to Carr, accounting for aging, is readily apparent.

"Of all of the photographs we have received, it is quite striking," said Ford.

Pentagon officials believe that the picture is no more than 18 months old.

Because the governments of Vietnam, Cambodia and Laos have increased cooperation on POW/MIA cases, the Pentagon has created a new high-level position to coordinate search efforts.

Department spokesman Pete Williams said the post of deputy assistant secretary of defense for prisoner of war-missing in action affairs had not been filled, but said the new office would "take advantage of . . . broader access to official records, eyewitness accounts, crash and burial sites and other information. * * *"

CALL TO CONSCIENCE

Mr. PRESSLER. Mr. President, it is no secret that the Soviet Union has persecuted Jews. Over the centuries, Russia has been one of the hotbeds of anti-Semitism. During the reigns of

Ivan the Terrible, Alexander III, and Nicholas II, persecution of Jews was rampant.

With that background, perhaps it is not surprising that during the Soviet Communist era, laws forbade Jews from living outside towns and large villages. Professions were even chosen for Jews. Pogroms, or unofficial mob violence against Jews, were often condoned by the police. This anti-Semitic atmosphere emboldened Soviet Jews to emigrate and was a key impetus for the construction of a Jewish state in Palestine. According to a 1991 book on Soviet history by professors David MacKenzie and Michael Curran, Soviet persecution of Jews is directly "connected with Israel's emergence as a State and the desire of Soviet Jews to emigrate there. * * *"

In this century, the situation of Jews did not improve much. Seventy years under the tyranny of communism, 70 years without political or religious rights, and 70 years of imprisonment in a backward and failing socialist system resulted in more Jewish suffering.

The recent Communist collapse in the Soviet Union has transformed the reformation of immigration laws from an option to a necessity. Whatever the motive, part of the reforms initiated by President Gorbachev included unofficial recognition of the right to emigrate. More than 1 million Soviet Jews are expected to leave the Soviet Union. In 1990 alone, 15,447 Soviet Jews each month migrated to Israel. This was a vast increase over the 1988 preliberalization figure of 181 per month.

Unfortunately, the relaxation of Soviet immigration rules is far from being complete. The new immigration law passed by the Supreme Soviet in May, won't be fully phased in until 1993. Even then, many potential problems exist with this law.

The law draws a distinction between travel passports and exit passports, favoring the former of the two. People who represent State and social groups are favored over individual persons. The law also permits emigration denial on the basis of nonfulfillment of compulsory military service. People can still be denied the opportunity to emigrate if parents or an ex-spouse do not sign an affidavit releasing them from financial obligations. Finally, the new emigration law contains provisions that could imprison prospective emigrants indefinitely in the Soviet Union. If a person is judged to have had access to State secrets, their travel may be delayed up to 5 years, and then prolonged further as the government sees fit. The arbitrary nature of State secrets makes this a useful tool for the denial of emigration.

Let me share with you a real world example of the latter form of denial. Lev Zinovfeich Minkin, currently 71 years of age, is an engineer who left his

job in 1986. Lev has not worked at his engineering job for over 5 years. Therefore, anything that Lev may have published already has been made available in the United States and other Western countries.

Nevertheless, Lev has been refused the opportunity to emigrate on the grounds that he has had access to sensitive government information. The cruelty of this situation is made more perverse by the fact that Lev and his wife have no other relatives in the Soviet Union. Their only children live in California. This is inhumane, Mr. President. This type of State-sponsored family destruction must stop. If the world thinks that the Soviet Union has been transformed overnight from a Stalinist police State to a democracy with open borders, they are wrong. Injustices against Jews in the Soviet Union are still common. Those who wish to flee their cruel past and start anew somewhere else should be allowed to do so. There is no excuse for the Soviet Government to hold people like Lev Minkin and his wife against their will.

Mr. President, on behalf of the congressional call to conscience, I want to remind our colleagues that hundreds, perhaps thousands, of Soviet Jews are being held captive in the Soviet Union with little or no justification. I applaud Senator LAUTENBERG, Senator KOHL, and Senator GRASSLEY for their efforts in bringing this issue to the forefront. Let's not let the dismal history of Soviet mistreatment of Jews continue to be repeated.

NATIONAL POW/MIA RECOGNITION DAY

Mr. RIEGLE. Mr. President, I rise today to honor those American servicemen who were left behind in Southeast Asia. More than 2,200 American soldiers—72 from Michigan—remain unaccounted for today, 16 years after the United States departed Indochina. The POW/MIA issue, however, touches all of us, for it is a national tragedy that grows in scope as each and every day passes.

My thoughts today, on this day of national recognition, are with the friends and families of our missing countrymen. Recently, I met with the families of several Michigan MIA's in an effort to hear directly the impact that years of waiting has had on their lives. Frustration at the lack of information about their loved ones, as well as anger that many families have been exploited, were just two of the common themes expressed during the gathering. I left that meeting strengthened in my commitment and renewed in my resolve to achieve a full and final accounting of all Americans whose fate is yet unknown.

In light of years of executive branch inaction and neglect, Congress needs to

reinvigorate its independent oversight of the POW/MIA issue. To respond to this situation, the Senate recently created the Select Committee on POW/MIA Affairs. As an original cosponsor of legislation which created the bipartisan committee, I strongly believe that this panel will improve congressional monitoring of reports of live sightings of American POW's held in Southeast Asia, analysis of current intelligence pertaining to POW/MIA issues, and development of new approaches to provide services and benefits to families of POW's and MIA's.

In an effort to promote awareness of the continuing need to deal with the POW/MIA issue as a national priority, I have introduced legislation which would allow America's national cemeteries to fly the POW/MIA flag on a daily basis. Two years ago, the Department of Veterans Affairs instructed the Fort Custer National Cemetery in Augusta, MI—Michigan's only national cemetery—to cease its long-standing practice of flying the flag each day in recognition of those still missing. I strongly disagree with the VA's decision and will continue to do everything in my power to reverse it.

One of the most serious problems involved in the POW/MIA issue has been the inability of those concerned to access Government information on POW/MIA's. Many have charged that the Defense Department and other agencies of the U.S. Government are withholding or ignoring data which could resolve the mystery over the status of individual POW/MIA cases. This is why I added my name as a cosponsor of legislation, also known as the "truth bill," which authorizes the release of information pertaining to POW/MIA's, in accordance with the Freedom of Information Act. This legislation has a privacy clause to protect close relatives of POW/MIA's. On August 2, 1991, the Senate passed the truth bill as an amendment to the Defense authorization bill.

To further emphasize my profound concern over the slow pace of POW/MIA issues, today I will join several Senate colleagues in sending a letter to Secretary of State James Baker requesting that normalization of relations with Vietnam be delayed until Vietnam fully cooperates in resolving the POW/MIA issue. We must, at all times, keep Americans missing and unaccounted for foremost in our minds.

This day, POW/MIA Recognition Day, was established to heighten America's awareness of this ongoing national tragedy. The crisis will not end today, nor will it conclude tomorrow; but hopefully, through our persistence and perseverance, we will one day soon have a full accounting of all missing Americans. I am devoted to making the MIA issue a priority in the Halls of Congress. The day when we are sure that there are no Americans missing or

held captive—and we have accounted for each and every person currently missing—that is the day when we can finally close this sorrowful chapter in our history. Until that momentous day, our efforts must not wane and our devotion cannot waiver in our pursuit of a final resolution. Let this day be a reminder of the task that lies before us.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The PRESIDING OFFICER. The Senate will proceed to S. 1722, which the clerk will report.

The legislative clerk read as follows: A bill (S. 1722) to provide emergency unemployment compensation, and for other purposes.

The PRESIDING OFFICER. (Mr. KOHL). Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN] is recognized.

Mr. BENTSEN. Mr. President, I have a longer statement that I would like to insert in the RECORD, but for now I'd like to make just a few major points.

Mr. President, 5 weeks ago, Democrats and Republicans in the Senate and in the House worked together to extend unemployment benefits. We sent a bill to the President. The President must have understood the problem, because he signed the bill. But, speaking the rhetoric of recovery, talking bravely about the end of the recession, he refused to release the money to extend those benefits.

It is important to understand the human tragedy that I think results from the President's decision. He was talking about this economy recovering; it was too late; that we should not do this type of thing; that it really was not an emergency.

But what happened in the meantime? You have not seen that recovery. The economy is moving sideways. In August, you have seen over 300,000 people who are unemployed exhaust their unemployment benefits—over 300,000. This is the highest level in at least 40 years. If a recovery is underway, these people do not know it. For them, this recession is a depression.

Surely, the President has to know the economy is in trouble. You have 8.5 million Americans out of work, looking for jobs, who cannot find them. These numbers are disturbing, but it becomes compelling when one realizes that behind these numbers are individual American families who just cannot

meet their bills, cannot make the mortgage payment, are afraid the noise they hear in the middle of the night is somebody repossessing their car. These families are trying to figure out a way to hang on a little longer in the hopes that this recession turns around.

As we debate S. 1722, the Emergency Unemployment Compensation Act of 1991, there are some new facts that Senators ought to consider, which have happened in the last 5 weeks.

Last week, the Federal Reserve reduced the discount rate to 5 percent. That is the lowest rate since February of 1973—the lowest. Why? Because they know we are in a recession. They are deeply concerned about it, and are trying to find some way to turn it around, trying to give the economy a jump start. That shows you how skittish this recovery is and how uncertain the experts are of anything better than a slow and a muddled recovery.

The GNP estimates for the second quarter of 1991 have now been revised downward from a positive 0.4 percent to a negative 0.1 percent. That is significant. That is in the wrong direction.

The labor market is growing weaker. In August, total civilian employment dropped to 116 million. That is the lowest level in nearly 3 years. Does that sound like recovery? Does that sound like the economy is turning around? At the same time, the economy lost nearly 300,000 jobs. That is on top of the 172,000 lost in July.

As they have become discouraged, American workers are just dropping out of labor force, and they are doing it in increasing numbers. In the last 2 months, the labor force in this country has fallen by 750,000 people who were discouraged and abandoned their search for new jobs.

The capacity of this Nation's extended benefits program to respond to the need of unemployed workers continues to decline. In fact, it is in a condition almost approaching paralysis. There is a strange situation here. Employers are contributing to a trust fund for the specific purpose of paying out extended unemployment benefits. Yet the very time that you see unemployment increasing in this country, the fund to pay these unemployment benefits is also increasing. That does not make any sense. That means it is not working.

The Department of Labor actuaries estimate the number of workers who will exhaust their regular benefits will grow to 3.4 million people in fiscal year 1992. That is not down from 1991. That is up from 3.1 million in 1991. That is another 300,000 unemployed people.

I think there is another point to be brought up. Historically, when you start coming out of a recession, it takes 7, 8, 9, 10 months, for unemployment to peak. You have to anticipate that. Some have said we did not re-

spond quickly enough. One of the problems is, as you are going into a recession, you are never sure that you are going into it. It takes some time for the figures to accumulate before you can be sure what is happening, and the administration kept giving very optimistic estimates as to what was going to happen. OMB kept telling us how much lower interest rates would be than they actually were, and how much higher GNP was going to be than it was.

Let me repeat what I think is one of the most significant numbers to look at. The number of jobless workers whose regular unemployment benefits ran out, who were ineligible for additional weeks of benefits, reached 318,000 in August, the highest level in 40 years. Not an emergency? It would be an emergency if we were talking about Kurds or Turks, but we are talking about folks here at home. We are not talking about the emergencies the administration has declared for these other people in other countries. We are talking about right here, our folks. Three hundred and eighteen thousand exhausted their regular benefits without being able to qualify for further aid.

So let me say those Senators who overwhelmingly supported this legislation 5 weeks ago, the case is even more compelling now in September.

Last month, many of us were deeply disappointed that the President did not choose to use the emergency authority and release the money in the trust fund that has already been collected to pay the benefits to the workers who had exhausted their regular State benefits. I have no doubt that the President was being advised that he would shortly have new labor market numbers that would justify his position.

But the deterioration we have seen in the last 5 weeks really should give him pause. As the senior financial economist for DRI/McGraw-Hill commented last week: "The recovery is progressing but slowly. It still has a ball and chain on its foot."

Mr. President, this ball and chain is causing enormous pain for American workers, whether we are talking about unemployed workers down in Port Isabel, TX, or Jackson, MI, or anywhere else in this Nation where they cannot pay the bills because they are out of work. I think it is time that this Government responds. It has time and time again in the past when we have had these kinds of problems. We need to help these people through a period of recession for which they bear no responsibility. When the economy recovers, they will be back at a job contributing to the economy, paying taxes like everybody else, but for the short term they need our help.

I understand the distinguished minority leader will be offering a substitute amendment, but I also under-

stand that, from what I have heard thus far, apart from the other arguments that can be made against that amendment, it violates the Budget Act and will cause a sequester, because it does not start collecting the bulk of the money needed to pay for benefits, as I understand it, under 1994. But you have to start paying the benefits in 1992. That would be an absolute violation of the budget agreement.

I have gone to great lengths to draft the bill that I have introduced to specifically completely comply with that budget agreement. But if you have the amendment by the minority leader that I have heard about, and you enact that one, you automatically produce a sequester. You will have it for fiscal 1992. And what gets sequestered? Medicare will take one of the biggest hits. Veterans benefits and agriculture programs, where farmers are already in trouble, they, too, will be subjected to sequester.

Senators are going to have to ask themselves, is this a viable alternative to the Bentsen bill? Have you really helped or have you hurt?

Extended unemployment benefits are not favors that we shower on Americans thrown out of work by this recession. It is important to understand that there is nearly \$8 billion in that trust fund for that specific purpose, collected precisely to protect workers from serious hardship when they are out of work. The money is there.

Mr. President, my goal is to get those benefits into the hands of jobless Americans and get them to their families as quickly as possible. My proposal complies with the letter and the spirit of the Budget Act to accomplish that purpose.

I have heard that the President says he will support the amendment from my colleague, the distinguished minority leader. But that is the equivalent of proposing cuts in Medicare, the farm programs, veterans programs, student loans, and a whole host of equally important programs for people across this Nation. I think it really raises a question about the seriousness with which the President is addressing this issue.

This recession is not a gentle crisis. There are 2 million more Americans unemployed today than there were just a year ago. Try telling them that this recession is ending. You know they would like to believe the President, but they just cannot afford to.

I hope the President will change his mind, that he will recognize the kind of tragedy that is taking place, a tragedy for the millions of Americans who have exhausted their unemployment benefits, and join the Congress in responding to this crisis.

These benefits have been paid for and they have been needlessly delayed, and we need to move quickly together to resolve this problem. I strongly urge my colleagues as we vote on this issue next Tuesday to support my bill.

Mr. President, I ask unanimous consent that my aforementioned longer statement be printed in the RECORD.

Mr. President, I yield the floor.

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

THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991, S. 1722

Mr. President, today the Senate begins anew the consideration of emergency benefits for America's long-term unemployed workers.

The bill before us is identical to the bill reported by the Committee on Finance on July 25 by a vote of 16 to 4, and also identical to the bill approved by the Senate on August 2 with one exception: the effective date has been moved forward five weeks to take account of the passage of time.

The President signed that earlier bill just over a month ago. But despite overwhelming votes in the House and the Senate, he declined to free up the trust fund money needed to pay the benefits.

On that occasion, the President expressed the opinion that the economy was improving. He predicted unemployment would decline.

I understand his desire to take the optimistic view. But he, and the Nation, got a healthy dose of reality when the jobless rates came out earlier this month clearly showing that the situation for American workers is becoming worse, not better.

Here are some of the new numbers the President and the Congress should consider:

Last week's action by the Federal Reserve to reduce the discount rate to 5%, the lowest level since February 1973, shows just how skittish this economy is, and how uncertain the experts are of anything better than a slow and muddled recovery. GNP estimates for the second quarter of 1991 have now been revised downward from a positive 0.4% to a negative 0.1%.

In August, 310,000 Americans dropped out of the labor force altogether. In the last two months the labor force has fallen by 750,000 as discouraged workers abandon their search for new jobs.

Last month the economy lost nearly 300,000 jobs, on top of 172,000 that were lost in July.

There are still 8.5 million Americans who are looking for work but unable to find it. And for many of these workers, 1.2 million, unemployment has meant *long-term* unemployment—half a year or more. The median duration of unemployment actually increased in August to 7.2 weeks, up from 6.6 weeks in July.

In August, total civilian employment dropped to 116.4 million—the lowest level in nearly three years.

While the Nation's extended benefits program is in a state of near paralysis—paying benefits to only 5,000 workers in one State—there are about 300,000 jobless workers who exhaust their benefits each month, and more than 3 million will exhaust their benefits over the course of fiscal year 1991.

Perhaps the most significant statistic from the standpoint of the legislation we have before us today is the fact that in July the number of jobless workers whose regular unemployment benefits ran out and who were ineligible for any further unemployment benefits reached its highest level in at least 40 years. Some 318,000 workers exhausted their regular benefits without being able to qualify for any further aid.

In sum, let me say to those Senators who overwhelming supported this bill in August:

The case is even more compelling in September.

Let me remind Senators of the kind of help we propose to give to long-term unemployed workers under this bill during the 9-month period that the emergency benefit program would be in effect (October 1991 to July 1992).

Unemployed workers in 6 States—those with a total unemployment rate (TUR) over the 6-month period February-July of 8% or higher—would be eligible for 20 weeks of emergency benefits.

Unemployed workers in 15 States—those with a TUR of 6% to 7%—would be eligible for 7 weeks of emergency benefits.

Unemployed workers in 13 States—those with a TUR of 7% to 8%—would be eligible for 13 weeks of emergency benefits.

And unemployed workers in 16 States—all those remaining—would be eligible for 4 weeks of benefits.

Under this bill about 90% of the benefits will go to workers in States with higher unemployment rates.

But at the same time, we make sure that workers in *all* States can receive some level of benefits because we know that even in those States with relatively low rates of unemployment on a State-wide basis there can be very serious pockets of unemployment. In June, for example, the State of Minnesota had an unemployment rate of 4.8%, but Red Lake County had a rate of more than 13%. Colorado had a rate of 4.7%, but Lake County had a rate of 13%.

The benefits we're talking about in this bill would be fully Federally funded, paid for out of the existing extended benefits account.

The money is there. Currently there are about \$7.7 billion in the Extended Unemployment Compensation Account. Even after paying for the emergency benefits in this bill, the Department of Labor actuaries estimate that the account will end fiscal year 1992 with a substantial balance of \$3.5 billion. According to the actuaries, the account will be back up to its statutory ceiling of \$9.03 billion by the end of fiscal year 1994.

I want to emphasize that the money in this trust fund has been paid by employers precisely for the purpose we have in mind—to protect employees from serious hardship in times of recession. These benefits have already been paid for.

This bill also establishes a new trigger to determine how many weeks of extended benefits workers in any State will receive. It uses the *total* unemployment rate, or TUR, rather than the *insured* unemployment rate, or IUR.

We know that the present IUR trigger isn't working. Despite a national unemployment rate of 6.8%, only 1 State is currently able to pay extended benefits, and Department of Labor actuaries estimate that by mid-October it is probable that *no* State will be eligible for extended benefits.

In addition, the IUR measures only those workers who are claiming regular unemployment benefits. Unlike the total unemployment rate (TUR), it excludes workers who have exhausted their benefits, as well as new entrants and re-entrants into the labor force. Thus, the TUR has the advantage of being a better measure of the labor market conditions an unemployed worker is facing when he goes out to look for a job.

In the 1980's, there has been a growing gap between the IUR and the TUR, raising questions about the continuing accuracy of the IUR as a fair measure of a State's unemployment. An analysis by the Congressional Research Service shows that between the late

1960's and the early 1980's, the IUR generally ranged from about 41% to 56% of the TUR, and was considerably higher than that during the period of recession in the mid-1970's. But *since 1983* this percentage has declined significantly, ranging from 32% to 37%. The current recession caused a rise to a high of 49% in April. But this percentage has again returned to the earlier levels, hovering in the mid-30's.

There are various reasons for this: changes in the structure of the economy, with workers moving from manufacturing, where a high proportion of the unemployed have traditionally received unemployment benefits, to the services sector, where the number is lower; as well as geographical movement of workers from the Northeast, where the ratio tends to be high to the South and West, where it tends to be lower; and, in general, State unemployment compensation laws are more restrictive.

But there is also the problem that because some States have tighter laws and procedures than others, workers in different States are treated unequally under the IUR trigger. States vary greatly in their unemployment compensation eligibility rules.

For example, workers in New Hampshire must earn more than four times as much in a base period before they can qualify for benefits than do workers in nearby Connecticut. In some States a worker has to be available for full time work before qualifying for benefits, thus ruling out eligibility for a parent who, because of child care needs, can't take a full time job. Other States allow unemployed workers to look for a job that is less than full time.

Although the bill is designed to deal only with this current recession and thus pays benefits only during the 9-month period October 5, 1991 through July 4, 1992, it will reach back to pick up unemployed workers whose benefits expired since April 1 of this year, thus providing additional weeks of benefits to the very long-term unemployed who are most in need of help.

This "reach back" provision applies only to States experiencing higher unemployment rates—those with 6% or higher, recognizing that it is in those States where jobs are hardest to find, and very long-term unemployment is most likely to occur.

In addition, the bill includes a provision to give equity to our Nation's servicemen and women. At the present time, Desert Storm veterans and others who leave the service are required to wait four weeks before they are eligible for benefits, and when they get these benefits they only get half as many weeks as other unemployed individuals—13 weeks as opposed to the normal 26. This bill treats unemployed servicemen and women in the same way we treat unemployed civilians. It repeals the 4-week waiting period, as well as the 13-week limitation.

In this bill we also provide for establishing an unemployment compensation advisory council. As I have watched the lack of responsiveness of the unemployment compensation program over recent months, I have become convinced that the system urgently needs long-term restructuring.

One of the reasons we have such an arcane system is that we tend not to pay attention to the program until we have a recession. And then there isn't time to undertake real structural improvements.

This bill establishes an advisory council appointed every four years to help deal with long-term issues. It would be analogous to the longstanding and effective Social Security Advisory Council, and would examine

the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and other aspects of the unemployment compensation system, and make recommendations for improvements.

Finally, like the earlier bill passed by the Senate, this bill provides for using the "emergency" authority provided in last fall's budget agreement rather than following the rules for "pay-as-you-go." As a participant in the budget negotiations last fall, I hold the view that this emergency authority was established precisely to enable the Congress and the President to respond to the kind of situation we face today.

When we were negotiating the 5-year budget agreement last October, it was far from clear that this recession would inflict the high degree of financial distress on American workers that has subsequently occurred. More specifically, we did not anticipate that the Nation's unemployment compensation program would prove to be as unresponsive to the needs of long-term unemployed workers as has been the case. As I pointed out earlier, the number of workers who have exhausted their regular state benefits without qualifying for any additional weeks of extended benefits has reached a historical high.

Many of us were greatly disappointed that the President did not choose to use the emergency authority and release the trust funds that have already been collected to pay these benefits. I have no doubt that the President was being advised that he would shortly have new labor market numbers that would justify his position.

But the lack of improvement over the last month should give him pause. As the senior financial economist for DR/McGraw Hill commented last week:

"The recovery is progressing but slowly. It still has a ball and a chain on its foot."

Mr. President, this ball and chain is causing enormous pain for American workers. For unemployed parents in Port Isabel, Texas, or Jackson, Michigan, or anywhere else in this Nation who can't pay the mortgage, or meet the car payments—this is a time when they expect their government to respond, to help them through a period of recession for which they bear no responsibility. When the economy recovers these workers will be back at the job, contributing to the economy and paying taxes like everybody else. But for the short term, they need our help.

Last month the President was hearing rosy projections. But he knows now those rosy projections weren't true—at least they didn't materialize in time to help the unemployed workers who are exhausting their benefits at the rate of more than 300,000 a month.

I hope fellow Senators—Democrats and Republicans alike—will join together in support of this bill. There are millions of unemployed workers and their families who need our support. And they need the support of the President of the United States.

We cannot turn our backs on these hard-working Americans. We've seen the new numbers. We—and the President—can have no illusions. We can repair the Nation's broken unemployment compensation system, and pay the benefits. Or we can sit back, say we're sorry, but do nothing to help workers get through this period of severe strain for them and their families.

Mr. President, I think the Congress has no choice but to act. And given what is happening in the economy, I believe the President will be obliged to join with us. The essential

well-being of millions of Americans rests with this bipartisan legislation.

I understand the President is concerned that this bill may be but the first of a series of bills that the Congress will try to move under the emergency authority provided in last fall's budget agreement. But the President, after all, is not a helpless bystander in this regard. He has the ability to choose. He has the power to sign, or not sign, any bill that comes to his desk. And he has shown in the past he is willing to use the power of the veto.

I would agree that the circumstances in which the emergency authority is invoked should be rare, and the decision to invoke it should not be taken lightly. I for one did not take it lightly when the President asked the Congress to use the emergency authority on behalf of the Israelis, the Turks and the Kurds. And I would note that this is the first and only time the Congress has taken the initiative in this regard without the President's prior concurrence. But in this case I believe extraordinary action is warranted.

Mr. President, I hope the Congress and the President will be able to move forward together, and enact this legislation as promptly as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE NOMINATION OF JUDGE CLARENCE THOMAS

Mr. WARNER. Mr. President, for some time now the Senate has had under consideration before the Senate Judiciary Committee the President's nomination of Judge Thomas to become a member of the U.S. Supreme Court. During this period, the American public has had the opportunity to observe the Senate performing its constitutional responsibilities, and to observe and hear Judge Thomas as he replied to intensive, fair, and objective questioning by the members of the Senate Judiciary Committee, and also to observe the free exchange of views by concerned citizens for and against Judge Thomas.

I was pleased to be among those Senators who introduced Judge Thomas to the committee. He resides in Virginia and I have come to know him personally and professionally over the past few years.

Mr. President, I readily acknowledge that this nomination has been another very valuable learning experience for this Senator. I had the opportunity during the summer recess to travel extensively in my State, listening carefully to the views of the widest possible cross section of Virginians. In the major metropolitan areas, I was able to host luncheons attended by primarily, minorities, and to listen to them be-

hind closed doors where they felt the atmosphere and the circumstances enabled them to freely share with me their deepest feelings about this nomination.

Indeed, it was a troublesome nomination in its early days following the President's nomination. As time went on and there was a greater dissemination of knowledge, and particularly after Judge Thomas addressed the Judiciary Committee, I detected a clear lessening of the concerns directed against the nominee. But it was a valuable experience for me. Because face-to-face meetings, when all are present and free to share their views, are indeed the most productive.

I want to commend the Judiciary Committee. It will be winding up its hearings this afternoon, so I am informed. And as a direct result of the work of these Senators, the chairman and the members of the committee, again in a fair and objective manner, and as a direct result of the views expressed by a number of witnesses who have come forward, America now knows Judge Thomas much better.

We are in a position to come to this floor and actively again participate in the process. It is a three-stage process. The first stage is the Presidential decision, which he has a clear right to exercise under article II. The Constitution gives the President the authority to pick those who are his closest advisers and also to pick those who are to sit as members of the Federal judiciary.

Many times I have gone back to read the history of the Founding Fathers and how they struggled with this concept of checks and balances to overcome the harshness and unfairness of the monarchies that existed throughout the world at the time that our Constitution was brilliantly put together. And this is perhaps the most important check and balance.

Article II gives to the President the power to select members of the executive branch and the Federal judiciary. Then, in the same article, it charges the Senate—not the whole Congress, but the Senate—with the responsibility to give or not give their consent to the nomination. And we are now concluding the factfinding part of the process. Not only has the committee received a great deal of information, but individual Senators, through their correspondence and through their travels like this Senator, have independently received, I think, information which is of equal value and equal importance to that that has been brought before the Judiciary Committee.

The details of Judge Thomas' childhood, of his early struggles, bring to light a chapter in the history of our country which today all of us find very troubling.

I am several years older than Judge Thomas and I remember as a young person the prejudice that existed

against minorities. I served in the latter part of World War II in the Navy, and I recall very distinctly the first night on reporting to the recruit depot at 4 or 5 o'clock in the morning. We walked into a hall and instantly it was clear that segregation existed there. I am pleased to have the opportunity today, as a Member of this body, to work with every single Member in this body to do what we can to remove that prejudice that regrettably still exists in our country.

I look forward to the debate which I hope the Senate will undertake, and I understand is now tentatively scheduled, on the civil rights legislation. I think that it is imperative that the Congress of the United States, working with the President and members of the executive branch, reconcile the differences that exist today between these two branches of Government on this key legislation. We have an obligation to our country to meet that challenge, make those decisions, reconcile those differences, and pass a bill this fall that can be accepted by the President of the United States. I personally do not want to see that issue or those issues that are integral to the civil rights legislation be the principal points of contention and debate in the Presidential election, and the senatorial elections, and the elections for the House, in 1992.

The struggles that Judge Thomas faced, and his ability to overcome that prejudice, indeed will shape his views. I have met with him on several occasions. I have listened to his testimony. I have studied his record. And all of that knowledge assures me that he, as an individual, will not turn his back on the lessons learned in early life and, indeed, he will be among the forefront as a fighter on the Court to remove prejudice and racism from our country.

In summary, I have likewise given equal weight and equal time and attention to those who I respect, and those who fervently oppose this nomination. But under the Constitution they have a special burden; they must produce for the Senate, for the American public, a body of evidence, a body of fact on which the Senate can then base its determination to overturn and reject the decision of the President under article II. In my judgment, I say most respectfully, the opponents have not met that burden. Consequently, when the nomination comes to the floor I will actively participate in that debate. I will be an advocate for Judge Thomas. And I intend to vote for Judge Thomas at the conclusion of our floor debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business.

Mr. McCONNELL. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

Mr. McCONNELL. I thank the Chair. (The remarks of Mr. McCONNELL pertaining to the introduction of S. 1731 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 2521

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Appropriations be permitted to file its bill and report on the DOD appropriations bill tonight.

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

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

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

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 9 a.m. on Tuesday, September 24, the Senate resume consideration of the unemployment insurance bill, S. 1722, and that at that time Senator DOLE be recognized to offer an amendment to S. 1722; that the time between 9 a.m. and 11 a.m. on that day be for debate on Senator DOLE's amendment, the time to be equally divided and controlled in the usual form; that at 11 a.m., the Dole amendment be laid aside until 7 p.m. on that day; and that at 11 a.m. Senator GRAMM, of Texas, be recognized to offer an amendment for himself and for Senator WALLOP and others; and that

the time between 11 a.m. and 12:30 p.m. be for debate on that amendment with the time to be equally divided and controlled in the usual form; that at 12:30 p.m. the Senate stand in recess until 2:30 p.m., in order for the two party caucuses to meet; that at 2:30 p.m. the Senate resume consideration of the Gramm-Wallop, et al., amendment; and that the time between 2:30 and 3:30 p.m. be equally divided and controlled in the usual form; and that at 3:30 p.m. the Gramm-Wallop, et al., amendment be laid aside to recur immediately following the disposition of the Dole amendment; that at 6 p.m., there be 1 hour of debate equally divided and controlled in the usual form on the then upcoming votes; and at 7 p.m., the Senate proceed to vote on or in relation to the Dole amendment, to be followed immediately by a vote on or in relation to the Gramm-Wallop, et al., amendment.

The PRESIDING OFFICER (Mr. WELLSTONE). The Chair hears no objection. Without objection, it is so ordered.

Mr. DOLE. If the majority leader will yield, I add that in that period between 3:30 and 6 p.m., it is possible there might be additional amendments that we could debate at that time. There may not be additional amendments, but if there are, hopefully they can be debated at that time, and the votes can follow the vote on the Gramm amendment, if we can work that out.

Mr. MITCHELL. Mr. President, that is not only agreeable, but desirable. I have stated previously, following discussions with the Republican leader, that it is my hope and intention that the Senate will complete action on the unemployment insurance bill by the close of business on Tuesday. If there are to be additional amendments, it would be helpful in that regard if they were offered during that time period, debated during that time period, and then the votes stacked, as the Republican leader suggests.

If there are not to be any further amendments, as discussed by the Republican leader and myself last evening, it is my intention to return to the DOD appropriations bill in the interim period so as not to have the Senate inactive during that time and to make such progress as we can. Although it is not mentioned in this agreement, pursuant to a prior agreement on Monday, September 23, the Senate will take up and begin consideration of the DOD appropriations bill.

Mr. President, accordingly, as a consequence of this agreement, Senators should be aware that the next rollcall vote will occur at 7 p.m. on Tuesday, September 24.

That will be on the Dole amendment to the unemployment insurance bill and that will be followed immediately by a vote on the Gramm-Wallop, et al., amendment to the unemployment insurance bill. That is a vote on or in re-

lation to those amendments at that time. And if other amendments are offered prior to that vote, there will be votes on those amendments as well. If not, we will then continue on the bill hopefully until completion of it on that day.

TENTATIVE SCHEDULE

Mr. MITCHELL. Mr. President, I have had a series of discussions with the Republican leader and with other interested Senators regarding the schedule for the Senate following disposition of the unemployment insurance bill. It is my belief that the previously announced recess around the Columbus Day holiday can be extended providing we are able to complete action on certain measures by a date certain.

It is now my intention to provide that the Senate be in recess from the close of business on Friday, October 4, until Tuesday, October 15, provided that prior to the close of business on October 4 the Senate complete action on all appropriations measures, including appropriations bills, conference reports, supplemental appropriations bill, and where necessary, continuing resolutions, as well as complete action on the Civil Rights Act, the Federal Facilities Environmental Law Compliance Act, the Thomas nomination, the EPA Cabinet-level bill, and either complete action on the family and medical leave bill or prior to October 4 have an agreement assuring completion of that bill immediately upon our return from recess.

I would like now to yield to the distinguished Republican leader for any such comments as he may wish to make in that regard.

Mr. DOLE. Mr. President, I appreciate the majority leader yielding. I think the record should reflect we spent many hours trying to figure out precisely what to do. Obviously that would be based on how much of the agenda we could complete and whether or not we could accommodate Members. I know some would prefer other times in October. But it seems that this will work in my opinion.

I think we can complete action. It is a rather lengthy list, but I think some of these matters can be disposed of quite quickly.

I am not certain about the supplemental. The Senator from Mississippi may be able to help us on what will happen on the supplemental. Hopefully, that could be worked out and we can address that quickly.

With reference to the family medical leave proposal, it might be possible even before that time to dispose of that legislation, but I need to discuss that with the ranking member on the Labor Committee, Senator HATCH, who has been involved almost on a minute-by-minute basis in the Thomas hearings. I

am hoping we have some time today to discuss that with him. Perhaps he could then get together with Senator DODD and see if they could work out some agreement on how to handle it when it came to the floor.

My hope is that we could complete everything the majority leader has spelled out. We have discussed this on our side of the aisle. We have had a conference with the Senator from Mississippi, Senator COCHRAN, just 2 days ago, and I hope we can accommodate the majority leader and accommodate those on both sides of the aisle that want to move these particular pieces of legislation.

Mr. MITCHELL. Mr. President, I thank the Republican leader and will say that I recognize this is an ambitious undertaking. But it is my view, following discussion with a very large number of Senators on both sides of the aisle, personally, that Senators want to proceed expeditiously when we are in session and also to have the opportunity to meet with their constituents on a regular basis. This will accomplish both of those objectives, if we can proceed in the manner suggested.

I wish to emphasize, so there can be no misunderstanding, the Senate not being in session during the period stated, that is the close of business Friday, October 4, until Tuesday, October 15, is contingent upon completion of these measures and that will require intensive action in the Senate during that period and we would hope the ability to proceed following through, but also I do not want to say limited, debate, but debate sufficient to explore the issue and decide it.

Mr. DOLE. If the majority leader will yield, with reference to the debate, I think one that may take considerable time is the DOD appropriation bill. It has been less than a month since we had all the debate on the DOD authorization bill. I would be willing to take whatever was said then and insert it in the RECORD now and not have any debate, but I am certain others would like to repeat. They may have thought of a few other things they did not say then.

That is the one big question. If that bill took 4 or 5 days it would wreck the whole program.

Mr. MITCHELL. Yes. The distinguished Republican leader is, of course, correct. What I hope is that by beginning discussion of that bill on Monday, the managers can begin to get a clear idea of what amendments will be offered and if there are to be amendments, as I expect there will be, on the same subjects previously debated, I will work diligently, I assure the Republican leader, to encourage time agreements on those subjects so that there can be an informed debate but not one that is wholly redundant of everything that has been said just recently on the same subject.

Mr. DOLE. If the majority leader will yield on one additional question, one comment I heard from some of my colleagues, there will not be enough time between now and the stated recess, for the work that has to be done. They have a lot of things in their own State. They are asking about November.

It is my understanding, we have sort of a tacit agreement, that you do not change the November recess schedule, except we try to maybe adjourn a week earlier, by the 22; is that an accurate reflection?

Mr. MITCHELL. Yes, I will make every effort to see that we can adjourn prior to Thanksgiving, if that is possible. I think we have to keep our focus on what our purpose here is, and that is to act on those measures that are necessary and not measure our efforts by the length of time in which the Senate is in session. The two standards are not identical, and it is my desire that we complete action on the measures that are necessary and, as soon as that can be done after thorough exploration of the issues, that we can adjourn. I will make every effort to pursue that as the distinguished Republican leader has suggested.

Mr. DOLE. I think the majority leader has indicated earlier this morning in this office that would be the Energy, Education, Banking, RTC funding, and cable and maybe others?

Mr. MITCHELL. Yes. There may be others.

Yes, those are the principal items, as the Republican leader has outlined them, which we have discussed. As he is aware, there may be others and I hope in the course of our discussion and proceeding that we can identify all of those and proceed to complete action.

Mr. DOLE. The Gates nomination is another one that occurred.

Mr. MITCHELL. Yes, the nominations that may be forthcoming during that period.

Mr. President, if the distinguished Republican leader has no further comment—

Mr. LOTT. Mr. President, will the distinguished leader yield for a couple questions with regard to the schedule?

Mr. MITCHELL. Certainly.

Mr. LOTT. First, I thank the leadership for their efforts to get this worked out so that Members will know what the schedule will be and when we might have that week to be home. I was listening to his comments earlier, and the schedule he has outlined is an ambitious one. Certainly that is what the leadership would want, an ambitious schedule of work. But my question is, what if we do not complete this list on or before the fourth? Are we out then?

Mr. MITCHELL. We will be here on the seventh.

Mr. LOTT. The reason I ask that question is I think most of us can live with anything if we know what it is

going to be. So the Senator is saying, should we plan to be out that week or not. That is what I am trying to figure out.

Mr. MITCHELL. I think you should plan to be out that week and plan to encourage our colleagues to complete action on these bills by that time.

Mr. LOTT. I may have missed this on the way over here because you all were discussing this. But on the appropriations, you said all of the appropriations, the conference reports, the supplemental, and the continuing resolution. I just wonder if that is physically possible before the fourth of October.

Mr. MITCHELL. Obviously those that are available for action. I do not mean to establish an impossible list.

Mr. LOTT. That is my question. We are all trying to figure out how to plan. When the Senator talks about the supplemental and considering it, it depends on many things. On the conference reports, if we miss one of those does that mean we will not be out?

Mr. MITCHELL. No. Obviously, I think everything we do must be done with a spirit of good-faith cooperation and the rule of reason. But I think the Senator is aware that many of the individual Senator's schedules and interests are conflicting, and that we recognize candidly in our competitive political system there is not agreement on what our objectives are with respect to the individual pieces of legislation. We do have agreement, I think widespread consensus, in the Senate that we want to act in a manner that is expeditious and that can accommodate the many tremendous demands upon Senators for their time and schedules. This is an effort to do that.

Speaking directly to the Senator, I would like to say we will have that recess period no matter what. The problem I have with that is it could then result in very little or nothing occurring in the interim.

So at this time I feel it is essential to set if forth as we have discussed. I have total confidence in the good faith of all of the leadership on both sides in trying to accomplish this. I recognize that some things may not be possible. I do not think I have ever been arbitrary and unreasonable in these matters.

Mr. LOTT. If the leader would yield, that was my point. Again, I know the Senator is trying to accommodate a lot of different Senators, and we do appreciate this advance notice. And also I think you have to keep our feet to the fire to get things done. It is an extremely busy schedule to be accomplished in 2 weeks and with no votes occurring today or on Monday. I just want to make sure, if we do not make it by one conference report, that there will be a little give.

Mr. MITCHELL. That is right. I think it all must be considered within a degree of common sense, good faith, and a rule of reason.

Mr. LOTT. I thank the Senator very much.

Mr. MITCHELL. I think the distinguished Republican leader has hit it on the head. If we can get the defense appropriations bill done at a reasonable time next week, I think the rest of this is clearly manageable. Because although I read off a long list of things, many of them will not require long periods of time.

I want to emphasize that I do not, in consideration of the Senate's schedule, or consideration of the Senate's practices, or consideration of the results of Senate activities, equate length of time with accomplishment. We have frequently in the past accomplished very important things in relatively short periods of time with agreement and understanding. And to the contrary, we have often in the past expended great effort and long periods of time with very little to show for it. So I think it is important that we try to move off a frame of mind that suggests that the importance of what you are doing is measured solely or even primarily by how long it takes you to do it.

Mr. COCHRAN. Mr. President, if the leader will yield to me, I think there is another point that is being missed in all of this and that is our productivity should not be measured either by the number of bills that are passed. If those are passed, I do not think we should get credit for doing something that is constructive.

I think what is included in the assumption the majority leader is making is that if the Senate would act expeditiously on the Democratic agenda, then we would get high marks and we would get to have an extra week off in October. I do not think that is a rational approach to the challenge before the Senate. I think we do need to take care and caution when we consider and debate these measures, and it should not be in the nature of a reward to the Senate for passing bad bills that we get out a week early, or a week extra in October that had not been contemplated in the original schedule.

Mr. MITCHELL. I thank my colleague for that comment. And I of course share his view on the standards of measurements to be used. He recognizes that good or bad is a subjective judgment.

I would merely point out that a substantial number of the items which I read off are not matters of the Democratic agenda. The Thomas nomination is not a Democratic agenda. The EPA Cabinet-level bill was included in here at the specific request of the administration. The appropriations bills are not the Democratic agenda. They are the legal and required function of the Senate as an institution.

Certainly, as the majority in the Senate, we have not only the authority but the responsibility to present mat-

ters which we believe are important to the country. We also believe that is reciprocal and we respect the right of the minority to present issues of their importance.

But let us not suggest that we cannot bring up bills of our own. This is a balanced list. It includes some measures we want. It includes some measures the administration wants. It includes some measures Republican Senators want. And it includes some measures that the law requires that we act on.

I respect the Senator's point of view. We obviously do not agree on what may be good or bad, and we are going to try to proceed in that fashion.

Mr. COCHRAN. Mr. President, I thank the distinguished leader for his response. I am suggesting that in the Senate one of the most distinguishing characteristics is the right of debate and careful deliberation, not to impose deadlines for the passage of measures. There are some on the list, including parental leave, that I can recall absorbed the Senate's attention for a considerable amount of time in previous sessions of the Senate. And now to see that bill, just as an example, put on the list and extract a commitment that it must be passed either by a certain date or an agreement reached for its passage on a certain date is an interesting thing to observe.

It is not on the Republican agenda. It certainly could be on the agenda for debate and consideration. But there are certainly other bills that I think would be equally important, such as transportation, which we are still waiting for the Congress to complete action on; education, the President's S. 2 bill, and his suggestions for education reform that have been sidetracked for over 2 years now. These are matters that, it seems to this Senator, are equally as important as some of those that are on the agenda that the majority leader has listed.

Mr. MITCHELL. I thank the Senator.

I find it ironic that he would mention the President's education bill. I would refer the Senator to the CONGRESSIONAL RECORD of October 27, 1990, when I stood at this very spot and attempted to gain approval for passage of an education program that included the President's bill and was prevented from doing so by Republican Senators October 27, 1990.

I did not see the Senator then on the floor encouraging his Republican colleagues to permit us to pass the President's education bill. That would have been an occasion where we would have gotten something done in passing an education bill.

Second, I remind the Senator that earlier this year we were prepared to bring up the Senate Democratic education bill and were asked by the administration, a specific request by the Secretary of Education in behalf of the President, to delay action on the edu-

cation bill until the administration could get its bill up this year, a new bill, not the bill of last year, and that we could consider it. And we agreed to the administration's request. We delayed consideration of the education bill specifically at the request of the President. And we are now hoping to move it in the period following this recess, having now gotten the administration's bill.

I thank the Senator for his comments and I welcome them at all times. Of course, if the Senator feels that the suggestion made here is in any way unfair or inappropriate, I will be perfectly prepared to suggest that we discontinue any consideration of a recess during the period stated and that we stay in session then and we debate fully to satisfy the wishes of every Senator, including the Senator from Mississippi, the issues which he has raised.

Mr. COCHRAN. Mr. President I thank the distinguished leader for his response. I support the leader on this side in his efforts to negotiate an arrangement with the majority leader on the schedule of the Senate.

I raise the question that I raised because of the unusual nature, in my view, of the insistence that we pass certain bills that have been the subject of protracted, extended debate and consideration in the past, as a condition to getting a week off in October which we thought would be certain. We now hear it is maybe uncertain—as to whether or not we complete appropriations bills and other measures.

I am just saying that it may very well bring into question the role of the Senate in the Congress. We are supposed to be the body that takes care and engages in deliberate review of legislative proposals. This seems to me, at least, to be uncharacteristic.

I thank the distinguished leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 310. Thomas Ehrlich, Leslie Lenkowsky, Jack A. MacAllister, and Robert L. Woodson, to be members of the Board of Directors of the Commission on National and Community Service; and

Calendar 311. Johnnie M. Smith, to be a member of the Board of Directors of the Commission on National and Community Service.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action,

and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

The following-named persons to be members of the Board of Directors of the Commission on National and Community Service for the terms indicated:

For a term of 1 year: Thomas Ehrlich, of Indiana.

For a term of 2 years: Leslie Lenkowsky, of Indiana.

For terms of 3 years: Jack A. MacAllister, of Colorado and Robert L. Woodson, of Maryland.

Johnnie M. Smith, of South Carolina, to be a member of the Board of Directors of the Commission on National and Community Service for a term of 1 year. (New position.)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. RIEGLE. May I inquire the order of business now before the Senate?

The PRESIDING OFFICER. (Mr. ROCKEFELLER). The pending measure is S. 1722.

Mr. RIEGLE. Very good.

Let me just make a few comments now. Senator SARBANES will be coming to the floor shortly and is prepared to speak on this issue. We discussed this last night in the debate, in terms of the urgent need to extend unemployment benefits to workers in the country who have exhausted their basic unemployment benefits and yet have not been called back to work. And it is urgent that this problem be taken care of because we have workers now all across America in this situation. Only 1 State of all 50 States under a defective triggering system has triggered on to allow extended unemployment benefits at the present time.

In my own home State of Michigan, there are no extended unemployment benefits right now, although the unemployment rate in Michigan is over 9 percent. And so we have several tens of thousands of workers, men and women out there, who have worked for some

great length of time during their life but have been unemployed now for a full 26 weeks. They have exhausted their basic unemployment benefits, have not been called back to work, cannot find other work, and desperately need these extended unemployment benefits.

In our State alone, there are 170,000 of these workers who would receive extended unemployment benefits. Not only would it help those workers and their families hold their lives together but that would bring into the State of Michigan alone a figure of \$570 million. That, of course, will provide some very important economic strength to the entire State economy and, also, of course, then, that part of our national economy. It will provide some new economic lift.

Those people qualifying for extended benefits will obviously spend those benefits on the basic things they need. That helps create jobs for other people. So that money, then, moves through the economic system. It creates more economic activity and it lifts the economic system so the economy starts to get stronger.

That is part of why we have these so-called countercyclical economic steps that we take when we have serious recessions.

When we have a serious recession and people are out work, we provide the unemployment compensation in part to help that worker and that family sustain themselves. But we also have it there because we want to put some economic strength back into the communities in order to counteract the recession that is going on—to help cure the recession.

So it has those two effects: It helps the individual workers and their families, and it helps the economy as a whole.

As I looked at some of the news coverage of last night's debate, one point I think did not come through clearly in terms of the way this issue and the bill is being summarized. That is, that people need to understand that now for some years we have been collecting a special tax in this country that goes into a special trust fund for extended unemployment benefits. And the money that goes into that trust fund is to be collected when times are good so that when bad times come, we can then draw down that fund by paying these extended benefits to workers who are out of work, exhaust their basic benefits, and yet are not then called back to work.

Therefore, they go into a more extreme situation, and this is designed to help get them through that more extreme situation of a serious recession of the kind that we are dealing with now.

So over the years, as money has been paid into the extended unemployment compensation trust fund, we have now

built the trust fund to the point where there is over \$8 billion collected in that fund for this single purpose. It is there for the purpose of being available when needed to pay these extended unemployment benefits to unemployed workers who do not get called back to work because the recession is too severe and goes on too long.

So the money has been collected and it is in that fund. It is called a trust fund. That is the name we use for a fund like that. Individuals can have trust funds at a bank. We have a Social Security Trust Fund. But a trust fund is money that is collected for a specific purpose and it is kept in trust. In other words, there is a responsibility that attaches to safeguarding that money so that it is used for the purposes for which it is intended. So that is why it has the name "trust fund."

So there is an element of special responsibility, the phraseology that is used, a fiduciary responsibility, to see to it that the money is kept intact and then used for the purpose that it had been collected for.

What has happened is that the Bush administration really wants to use the money for other things that have nothing to do with extended unemployment benefits. They want to be able to count the amount of money in that trust fund, the \$8 billion, that surplus that has built up, in the context of the Federal budget they want to be able to count that amount of money against all of the other spending activities of the Government, which includes everything from spending overseas to the Defense Department to any other program that you want to talk about.

So as a result, by, in effect, applying the dollar value of the trust fund against all the other spending of Government, they then want to turn around and say, yes, even though \$8 billion has been collected in the trust fund, it cannot be used for the purpose that we collected it because we want to count it against an entirely different purpose.

Why would they do that? It is sort of an accounting trick. It is a very misleading device because it is being used to make it seem as if there is not so much spending going on in the other areas of Government. They can sort of hide part of that spending by applying this \$8 billion surplus in the extended unemployment benefits trust fund against all of this other spending. It is a standard Government trick. It has been going on around here for years, but particularly since the start of Reaganomics and since the 1980's because there was a radical supply side economic proposition put into effect which has worked in such a way that has done great damage to the economy. It is part of what has brought us to this recession. It has helped collapse part of our financial system that we are all familiar with. It has helped create mas-

sive Government deficits, the largest by far in our Nation's history.

As we were discussing last night, because an awful lot of people signed on in behalf of that supply-side snake oil back a decade ago, and then the follow-on, which were the so-called budget arrangements, first Gramm-Latta in the House and then Gramm-Rudman in the Senate, a lot of people unfortunately have become locked into defending the kind of budgeting arrangements that have the purpose of trying to make the problems look less than they really are. That is the situation that we are in.

The cold fact of the matter is there has been \$8 billion collected in that extended unemployment benefits trust fund, and if we do not provide these benefits, within a year's time that surplus will grow by another billion dollars. In fact, it will go all the way up to \$9 billion.

As I go around the State of Michigan, I talk with unemployed workers—and I have talked with a very large number of them. I have talked with many of them, most of them who have families—some are single parents, men and women responsible not just for themselves but for smaller children in their family units—they asked me the question: What are we to do? We have been unemployed for 6 months. We have not been called back to work. There are not other jobs available in the community or anyplace we can see because unemployment in Michigan right now is over 9 percent. We have basic bills to pay, the key things like eating each day and keeping a roof over someone's head or paying the doctor bills if a child has to go to the doctor with an illness of some kind.

They are asking why is the Government not responding by providing the extended unemployment benefits in the face of the kind of severe recession that we are dealing with.

They know from what they have heard and the stories that have run that there is this money that has been collected in the trust fund for precisely this purpose. Now the time has come when it is needed. They need it. It was collected in their name. And they are asking, why are you not doing something about it, why is the Government not acting?

So we did. We passed a bill to provide the extended benefits. We sent it down to the President. The President took a look at it and decided that, no, he could not justify, in his mind, allowing that money to be released to go out to the people across the country in this situation. Somebody must have counseled him on this, but in the end he decided it was not an emergency; it did not qualify.

I do not have the precise list in front of me. I can have it hear in a moment. We have responded to a lot of emergencies already this year; very few of

them in this country, by the way. Most of them overseas. The President has come in and asked for money for emergency problems in countries all around the world. In fact, if we had a globe of the world right here and I started listing the countries that the administration has asked us to send money to this year, most people could not find those countries on a map of the world because they are so small and so hard to find. And yet our Government has managed to find them, managed to help them.

Yet, here at home in our own country where we have now, if I count up all the people who are in this category, everybody who is out there looking for work that they cannot find, or who want work and finally have just given up because of the impossibility of finding it—these are the data that are provided today by the Government—the actual unemployed workers in the country, the ones that we identify by name that come within the current benefit system—8,488,000. It is a big number. The number of people who are called involuntary part-time workers—these are people who may be working a few hours a week and want to work full-time but they cannot find full-time work, so they are working part time because that is all that is available to them—in that category there are 5,892,000. So those nearly 6 million have to be added to the other 8.4 million in terms of people who want to be working more than they are able to and cannot find the work.

Then there is a third category called discouraged workers. Discouraged workers is sort of a carefully chosen word to try to describe that group of people whose situation is so impossible that they finally have just given up and they have sort of dropped out of the picture altogether. A lot of them are homeless people. We have homeless people in communities all across this country. In fact, our homeless shelters today are overflowing because there are so many homeless people and there are not enough shelters to take all the homeless people. So if you go around the city of Washington on any night, you will find on the park benches, under the bridges, in cardboard boxes, in doorways, sleeping on the hot air grates on the sidewalk where the Government heating ducts run under the sidewalk, hundreds and hundreds of displaced people, homeless people.

There are some who are so hard boiled about it—actually we had some in our Government a few years ago who said, "well, if they are living like that, they must want to live like that; that must be what they prefer; they are just not willing to make more of an effort to get themselves squared away."

It is a comment that is really unworthy of discussion, because the problem is a very real, very pervasive, very widespread problem. But who is in the

discouraged worker category? The Government now says 981,000 people. I know that number is not right. I know it is a good bit higher than that, just because of everything that one can see with one's eyes.

We went out in the last census to try to count the homeless people, and that was a major fiasco because it is a very difficult job to do. And quite frankly, I do not think the Census Board had its heart in it. In any event, that is the published figure at the moment: 981,000. We add these up, and we are talking about a full 10 percent of the work force, the potential work force of this country. That is a lot of people.

I made the comment last night that I saw the President, a friend of mine, out at the Grand Canyon in this wonderful setting, and so forth. It is nice to see the Grand Canyon. I am glad he saw the Grand Canyon. We have a grand canyon full of unemployed workers in this country. I do not see any attention being paid to that.

I think the President owes it to the country and owes it to the unemployed workers to take a trip down to an unemployment office, to go in and talk to the people who are standing in line—not just those who are out of work and collecting benefits but those who come to try to get benefits and are turned away because no benefits are there for them—to talk to those people, hear what they have to say and take into account what is going on with them. That is part of the American story.

But there is a grand canyon of unemployed people in this country, and yet they do not seem to be able to get on the radar screen in the executive branch of Government. They do not seem to count for enough to become a major interest or point of focus of the policies of the administrative branch of Government.

So we have appealed first by pointing out the problem, and then next by passing the legislation which we are bringing back through again now to try to make it clear that this is an urgent problem that has to be dealt with. It is a human problem of extraordinary dimension. It needs to be dealt with. Our Government needs to respond now. The money has been collected for this purpose, and it ought to be devoted to this purpose.

I will say, the occupant of the chair, the distinguished Senator from West Virginia [Mr. ROCKEFELLER] comes from a State not unlike Michigan in the sense there are very tough economic problems there, hardworking people, people who are used to working in order to make a living. They want to work. They are not looking for a hand-out; they are looking for a job. They cannot find jobs today in sufficient numbers, nor can they in Michigan.

Rather than having our Government respond with an aggressive economic strategy that can start to provide more

jobs so people can go back to work, yes, within the private sector, which is very sick today in our economy and needs tending, rather than do that, the focus is elsewhere.

We spent a lot of time the other day on the fast-track trade authority for a free trade agreement with Mexico. That is a jobs program for Mexico. Mexico needs a jobs program. America needs a jobs program. We should not be spending our time here figuring out how to take and move jobs from the United States to Mexico when we do not have enough jobs to start with.

But to give you an idea of the comparison, the orientation, the administration came in on Mexico and they said: We need to get this done, and we need to do it in a hurry. In fact, we want to do it so fast we want to put it on what is called a fast track.

There is an actual procedure by which you can hurry it up and get it done to get into a free trade agreement with Mexico, which will have the effect of moving jobs from the United States to Mexico. Why does that happen? Because wage levels are higher in the United States; they are very low in Mexico. Manufacturing workers in Mexico earn about 50 cents an hour. There are no environmental protections to speak of down in Mexico. So businesses have a great incentive to move their plants down to Mexico under a free trade agreement.

So the administration comes in and says: Look, we have to move on this. This is important. This is so important that we want to put it on a fast track. So let us get this fast track set up so we can move some of these American jobs down to Mexico.

I was reminded of it yesterday, because I looked in the paper and the administration is now coming forward with an economic plan for the Soviet Union, which obviously needs help, and they want to put that on a fast track. They have to get that on a fast track.

Is there any way to get an American problem on a fast track? Is there any problem in this country that is worth a fast track? How about health care? How about getting a national health insurance program on a fast track that would do something for the people of America? How about getting an aggressive economic growth strategy into place that would do something about providing jobs in America for American workers? How about getting that on a fast track? How about getting the extended unemployment benefits out to the unemployed workers in this country, that have been out of work now longer than half a year, how about getting that on a fast track? How about cracking down on the trade cheating by countries like Japan and others?

We had a record high monthly trade deficit just reported within the last 48 hours. Japan loves to send its surplus

production to the United States. They will not let our production into Japan, for the most part. It is not just manufactured goods; it is also in financial services, and a whole host of other things. Why do we not have a fast track to stop the trade cheating that is taking jobs out of this country and taking economic growth out of this country? Why can we not get that on a fast track?

All the problems that are besetting our people in this country we cannot seem to ever get on the radar screen, let alone on the fast track, in terms of the orientation of this administration. We just cannot get their attention on it.

How about small business? I have been bringing clippings here to the floor from Michigan papers, because small businesses are dying all across the State of Michigan. I am not talking just about mom and pop operations. I am talking about operations that have 400 employees, 600 employees, 800 employees, 1,300 employees. They are being shut down all across the State of Michigan. It is in the RECORD because I put it in there just the other day for reference, for anybody who wants to read the facts, company by company.

We need a plan, an aggressive economic plan to strengthen the business sector of this country, small business in particular. We do not have a plan. We are not even having a debate. How do we get that on the fast track?

Somebody said the other day they were thinking about moving to another country in the hopes that maybe they could qualify, in a sense, for some kind of foreign aid, and maybe they could get their issues attended to that way.

Why does this happen? What causes this to happen? How does a government, an executive branch of government, become so detached from the real problems of people and tune out on those problems? Health care is a classic example. How does this happen? I have a theory about it.

The theory is that the people who are in charge in the executive branch of the Government do not understand the problem and they do not see it because it does not really impact them directly. For the most part, the people in that situation are in very favored circumstances. Their financial positions are strong. Their relationships with people in the business world are strong. By and large, it is not their children standing in unemployment lines. It is not their children standing in line at some understaffed public health clinic to try to get an inoculation against measles or get a checkup when the child has a fever. They are not going without the basic things in life as so many other people in America are. And so they are very far removed from the everyday realities of what is happening in America.

After a while, people in that favored circumstance can get so removed, they

can get so elevated and taken up to such an elite level that after a while they just do not understand anymore what is really going on down there where everybody else lives, and where everybody else is struggling to make a living and keep their families squared away, and such.

The health care problem in this country is extremely serious. We have nearly 40 million people in the country today without a penny of health insurance. We have a million of them living in my State of Michigan, and 300,000 of them are children.

Three hundred thousand Michigan children are without a penny of health insurance today. Do they deserve a fast track? If they do not deserve a fast track, who does? Who should come ahead of that?

I will finish with one little personal observation on the health care issue. I see my colleague from Maryland is here.

We had a medical crisis in our family about 1½ years, 2 years ago now. At that time our daughter Ashley was 4 years old. She had a bad stomach ache. It did not go away for several days. We took her to the doctor. They were checking, but could not quite figure it out. We kept going back. She kept complaining. Nobody could get to the bottom of the problem.

Finally, after about a week's time, we went to the doctor again. He said, "You had better take her over to Children's Hospital." We went to Children's Hospital. The doctors there did a particular kind of an examination, and after they finished this, they said to us, "We think she has serious appendicitis. We need to operate right now."

Like any parent, you are stricken when you hear that news because here she is. She is a little 4-year-old. The notion of something that serious taking place is just chilling. So she was taken away shortly out of our arms by the doctors. God bless them. They are wonderful. I admire so much people who are in the profession of medicine, who devote their lives to saving other lives. They carried her down through the doorway into the operating room. She was crying all the way, "Do not let them take me away," and she went in and had this appendicitis operation.

It was quite serious. She was in the hospital for several days. Thank God for the modern marvels of medicine. The bills ended up costing something over \$5,000. I am fortunate, like everyone around here, in that I participate in the health insurance system through the Government. Most of those bills were covered by that insurance program.

Why should not every child in America be protected the same way? Why is there a single child in this country so unworthy or so unimportant that, if today they should have a pain in their lower stomach and it becomes serious

and turns into appendicitis, why should they not be able to get the care and why should not the parents feel that they can take them because they know that there is a health insurance plan in place, that they will not be turned away, or that they are not ashamed to go, or that are reluctant to go because they will not know they are going to pay the bill?

How many children are there in our society in any day or week or month that are going without the health care, not just in that kind of an extreme case, but across the whole range of needs that children have for health care that they are not getting?

Let's consider the health insurance today that is in place for the top officials of our Government, the President, his family, the Vice President, his family, the Cabinet officers, all of us here in the Senate, the House Members, the top officials in Government.

If suddenly, today, that health insurance coverage were to disappear and be gone, ask yourself the question: How long would it take before the administration would develop a health care plan to put that part of the health insurance back in place? A few hours? Within a day? They would have a plan down here so fast you would not believe it. Talk about a fast track. There would be a very fast track from 1600 Pennsylvania Avenue down here with a plan to put the health insurance back in place for the top officials of this Government and their families.

The question is, is that group somehow more deserving than every other person in this country? We have a flag standing here. We have these wonderful mottoes around the wall in terms of this is a country of equal people and protections under the law, and the kind of decency that we want to have with respect to how people are treated and our relationships with each other. If we can live with a contradiction today of this kind of a double standard on health insurances, of this kind of a disconnection at the top of our Government from the people who are down there living across this country, then something is very, very wrong. Something is very wrong in this area.

We had a health hearing out in Michigan. We had a young woman named Cheryl Eichler come to testify. Cheryl Eichler was 28 years old. We had set up the hearing to look at health care problems. By the day the hearings came, she had been hospitalized because she had what is known as Crohn's disease. It is a very serious problem. She was in the hospital the day of the hearings. She felt so strongly about talking about the problems facing people without health insurances that she checked herself out of the hospital and came to the hearing.

She was saint like, a wonderful, lovely person. She probably did not weigh 90 pounds because she had lost weight

in this illness. She came and made a powerful a statement as I think I have heard in 25 years in the Congress by witnesses up and down the line from citizens to Presidents. She described what it was like for her.

She was working at a 7-Eleven, earning \$12,000 a year, no health insurances, afraid to go to the doctor, usually went late because she did not know how she was going to pay the bills.

She told such a powerful story, I put it in the RECORD before. Six months after the hearing she died. I am convinced that she would be alive today if she had gotten the care she needed when she needed it.

That is a crime. It is a crime against her, it is a crime against us, and society as a whole. There are tens of thousands, millions of people like this across the country.

The other day I had a chance to go down to visit the President on another issue. I was pleased to do it because we have known each other a long time, and I have a great fondness for the President. I took Cheryl Eichler's testimony with me, just two pages. I asked him if he would read it. I did so because I know the President, from news stories I have read, has a child of his own with Crohn's disease. So they have had to struggle with this within their own family circle, dealing with what is a very, very difficult and very painful and very expensive problem. So I thought, in seeing Cheryl's story, it would ring a very loud bell because of the difficulty they had to deal with within their own family circle on this issue.

I asked the President if he would move on the health care issue, that there were a lot of us here in the Congress willing to work with him. I am chairman of one of the health subcommittees. The occupant of the chair is the chairman of another health subcommittee in the Senate. We can produce legislation. If we can produce fast-track answers for every other problem around the world, we can certainly produce an answer in the health care area. It is long overdue. If we do not do it now, when are we going to do it? Five years from now, 10 years from now? How many people do we lose in the meantime? How many Cheryl Eichler's are there out there suffering in our society right now, in pain this minute? Why do we let that go on? No other modern country today in the world lets that go on because they care more about their people than that. And they know it is good economics as well. It is not only humane and decent public policy, but it is good economics because you need healthy people to have a strong nation.

You have to have healthy people to have a strong work force. So money you invest in your people in their good health and in their job skills comes back many times over.

So it is not just an area to spend money. It is the most important investment we make in this country. It makes every other investment trivial by comparison because our people are our most important asset in this country. From that, everything else comes—the factories, all of the industries, all of the products, all the ideas, all the arts, all the medicine, all the professions. It all comes later after you have the people.

We are not looking after our people in this country. This administration just does not want to see those problems. It is too aloof, it is too elite, too far away. They do not see it. They do not understand it, and they are not prepared to do anything about it.

That is why we are not seeing health care proposal. That is why we are not seeing an aggressive economic strategy and a jobs plan. It is why we are not even seeing something as basic and as fundamental and as time tested as extended unemployment compensation benefits, even though \$8 billion has been collected and put in a trust fund for precisely that purpose. People out there desperately need it. The administration says no dice. It is just not that important. That is their answer.

They are wrong, and this Congress has to do something about it.

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

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. RIEGLE. Mr. President, I notice that the Senator from Maryland has come to the floor. I want to say, before he commences his remarks, that I commend him for the outstanding job he has done in his role on the Joint Economic Committee, and for looking at the economic problems that have built up in this country and the need for urgent attention to those problems.

I think probably no one has done more to help get to the fundamental nature of the unemployment problem, the deficiencies of the unemployment system, and responding to that problem, than has Senator SARBANES from Maryland. He has performed a great service to the country in doing so. I want to say, on behalf of the people of Michigan, we are profoundly in his debt for his leadership on this issue.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Michigan for his very kind comments, and I also want to respond by saying that his leadership on this issue has been of extraordinary importance.

I am delighted that Senator BENTSEN, chairman of the Senate Finance Committee, has introduced this legisla-

tion. Senator RIEGLE is a member of that committee and has played a key role in the committee and in helping to move the legislation forward. I have been pleased to join with him, Senator BENTSEN, Senator SASSER, the chairman of the Budget Committee, and many other of our colleagues, including, of course, the majority leader, Senator MITCHELL, who has been very deeply concerned about this issue.

Mr. President, next week we are going to have an opportunity to respond to the pressing need of millions of Americans. I want to take just a few minutes this afternoon to discuss the economic situation in which we find ourselves and why it is so important to seek to address it.

Extending the unemployment benefits will not solve all of the problems, but it will address the most immediate crisis. There are millions of Americans who have lost their jobs through no fault of their own, but because of the economic downturn. They now find themselves unable to meet their basic family responsibilities.

We have received letters from people who are about to lose their homes and are desperate as to how to meet their family obligations. Later, I intend to quote from just a few of those letters, in order to give people some sense of the responsible American citizens about which we are talking. These are working people. These are people who have held jobs for a sustained period of time and now find themselves in this extraordinary crisis.

The first point I want to make is that we are experiencing a much more serious recession than most people have conceded, certainly worse than the administration will concede. The unemployment insurance system was designed to play both a countercyclical role to help stem the downturn, and a vital humanitarian role in a recession. This is the basic safety net for working people who lose their jobs. You cannot draw unemployment insurance unless you have held employment for a continuous period of time. By definition, we are talking about working people.

The current unemployment insurance system is doing an unsatisfactory job of addressing these vital roles. Therefore, it is imperative for the Nation to follow the precedent of the last five recessions of any sustained length, going back to President Eisenhower, and extend unemployment benefits.

We have heard this siren song from the administration from the beginning of this economic downturn. They believe the current recession represents only a minor dip in economic activity. The standard phrase for it that we have heard from administration spokesmen from the outset is that the recession is "short and shallow."

A review of the available data indicates, however, that in many important respects, this is a serious recession.

It is not "short and shallow," but far more serious than is generally perceived. First of all, the recession is clearly not short. This recession, which started in July 1990, has already run for more than 13 months. Only two recessions in the post-World War II period lasted longer, both 16 months: The recession in 1981 to 1982, and the equally long recession of 1973 to 1975.

So this is not a short recession. It is already beyond the average, and it is coming up on the two longest recessions we have experienced since the end of World War II. Second, this recession is not shallow. The decline in employment in this recession has paralleled, in percentage terms, the job loss during the 1981-82 recession; and that was the worst recession we had experienced in this country since the Great Depression of the 1930's.

In fact, the job loss in percentage terms in this recession is worse than the first 13 months of the 1981-82 recession. That is demonstrated by this chart which shows the decline in employment from the prerecession peak. This line is the current recession, and this line is the 1981-82 recession. What you see is that this recession in terms of percentage job loss is worse now than the 1981-82 recession.

So much for the short and shallow argument. In fact, the official unemployment rate understates the severity of this recession. The unemployment rate rose from 5.3 percent in spring 1990 to a peak of 7 percent in June of this year, and it is now at 6.8 percent.

Because the unemployment rate has not risen more, the administration cites it as evidence that this is a shallow recession. In other words, they say the unemployment rate has only gone from 5.3 to 6.8 percent. Of course, if you are one of the people who gets caught in the rise from 5.3 to 6.8, it does not matter to you whether it is shallow or short or anything else. You are out of a job, and you have a problem providing for your family. But this rise in the unemployment rate masks the real extent of the unemployment problem because there has been virtually no growth in the labor force.

In fact, if the labor force had grown as anticipated, more people would now be looking for work, and the unemployment rate would be substantially higher than it is today. We received testimony at the beginning of this month that if the labor force had grown as expected during the past year, the unemployment rate today would be 7.8 percent, not 6.8 percent. People are not entering the labor force. Why not? It is obvious. There are not any jobs out there, so they do not enter the labor force.

Now on top of that, we have discouraged workers. A million of those people get so discouraged that they simply stop looking for a job. There are 8.5 million unemployed, defined as unem-

ployed by the 6.8-percent figure. There are about another million discouraged workers, and there are 6 million people working part time who want to work full time. That is called working part time for economic reasons. There are some people who are working part time who want to work part time. They were looking for a part-time job. That is what they want. That is what fits into their plans. But, there are about 6 million Americans who want to work full time and cannot find a full-time job, and they are working part time. You know as well as I do that part-time work generally means no benefits, no health care, and no retirement. If you add in all of those people, all of the ones I have mentioned, people discouraged, people working part time who want full-time work, the unemployment rate would be about 10 percent.

The Labor Department puts out an unemployment rate which they call the comprehensive unemployment rate. This figure is the official rate. This is the rate that is announced and that we see in the paper. That is the 6.8-percent unemployment rate which people have been mentioning. As we can see, on this chart in the first quarter of 1990, the official rate was 5.3 and the comprehensive rate was 7.9 percent. Look what has happened. The official rate started going up in the third quarter of last year. It went to 5.6 percent. In the fourth quarter it was 5.9 percent.

Let me just make this observation regarding the basic 26-week unemployment insurance program. If you lost your job in the last 3 months of 1990, and the unemployment rate for that quarter was 5.9 percent, you started drawing your benefits about the beginning of this year, by now you would have used up all of your 26 weeks of benefits. You would no longer receive unemployment insurance, and you would be trying to find a job in a job market in which the official unemployment rate is now 6.9 percent and the comprehensive rate is 10 percent. In other words, you would be trying to find a job in a job market that is worse than at the time that you lost your job.

One of the purposes of unemployment benefits and one of the reasons we extended it in past recessions is to get people beyond that point. It is to try to help them so that when the economy picks up again they are in a position of trying to find a job in a job market that is better and improving over what it was when they lost their job.

That has not happened here. So people lose their jobs.

They used up their benefits. They are not trying to find a job, and things are even tougher. Some people are working part time at two and three jobs and it does not add up to a full-time job. I have gotten letters to that effect from people. They are working anywhere

they can find it. They are desperate, absolutely desperate.

In 1990, nearly 20 million Americans experienced at least one period of unemployment sometime during the year. It does not mean these 20 million were unemployed all at one time, but in the course of the year, 20 million experienced at least one period of unemployment sometime during the year. That is about 15 percent of the American work force in 1990. This year, it is estimated that the number will be closer to 25 million Americans who will have experienced a period of unemployment during 1991. That is the depth and length of this recession.

Let me turn to the proposition that the recession is almost over. The Commerce Department at the end of August recently revised downward its estimates for GNP in the second quarter of this year to show that rather than going up by 0.4 percent it went down by 0.1 percent. That means that the gross national product has now dropped for three straight quarters. It dropped by 1.6 percent in the last quarter of last year, 28 percent in the first quarter of this year, and now 0.1 percent in the second quarter.

During this recession we have had 3 quarters of negative economic growth. In fact, economic growth under this administration has been the weakest of any administration in the post-World War II period. The very distinguished chairman from the Senate Banking Committee, spoke about that last night on the floor, as did the chairman of the Budget Committee. Economic growth under this administration has been the weakest by a factor of about one-half of any administration in the post-World War II period.

In addition, other economic indicators show that the recession may not be ending. After rising from February through July, permits of new housing fell by 5 percent in August, suggesting that a weak recovery in the homebuilding industry may soon come to an end.

In August, retail sales fell by almost 1 percent, ending a brief upward trend that began in May. This followed a one-tenth of 1 percent decline in personal income in July, which suggests that weak consumer spending may keep the economy in doldrums for some time to come.

Furthermore, exports are not having a stimulative effect that many had predicted. In July, exports rose by \$300 million, while imports rose \$2.4 billion to the highest level since January. In addition, businesses have sharply cut their investment plans for this year. According to the Commerce Department's latest survey, businesses plan to increase spending by only a half percent on plant and equipment this year. Earlier in the year, they had indicated plans to increase spending by 2.7 percent.

Many other indicators suggest that it is possible for this recession to linger for some time to come. Some have suggested we may well have a double dip recession. We may manage to have some very anemic growth for a quarter or two and then lapse back into negative growth.

We need to move expeditiously in the Congress to deal with the human consequences of this recession. One of the particularly timely responses to the recession is reform of the unemployment compensation insurance system. That is the issue before us. It will be addressed next week. It is the single, quickest thing we can do to provide assistance to those that have been battered, cruelly battered, by this recession.

Recessions generally have the effect of increasing the numbers of long-term unemployed for the very simple reason that people who lose their jobs at the beginning of a recession have to try to find new ones in a job market that continues to deteriorate. I outlined that earlier.

If you lost your job last fall or last winter, you are now trying to find a job in a job market that is worse than when you lost your job. You have run out of your normal benefits. Unfortunately, we can expect this pattern to continue for a number of months.

In fact, one of the things we have to realize is that even after the recession ends—and I contend here there is no convincing evidence that this recession is ending—the number of long-term unemployed continues to rise.

This chart shows the number of long-term unemployed after a recession end. These lines show when the 1975 recession ended. This shows the 1981, 1982, 1983 recession. In each instance, the number of long-term unemployed continued to go up after the recession was over, and there is every reason to expect that the same thing will happen this time.

Recent data confirm that this pattern is repeating itself right now. The number of persons unemployed longer than 26 weeks has steadily risen through this recession, as illustrated by this chart. This is the number of people unemployed for longer than 26 weeks back in June. This is the number of persons unemployed longer than 26 weeks now. You can see that the number of long-term unemployed has almost doubled in the course of this recession.

As a quick targeted program of income replacement for jobless workers, the unemployment insurance system is ideally suited to counteract the effects of a recession. The program was very carefully designed. The funds are spent immediately without a lag in bureaucratic decisionmaking. Moreover, the funds are automatically spent in the areas of greatest distress, namely, exactly where the unemployment is.

The system has two basic tiers. The first consisting of a basic 26 weeks of benefits. The second is a package of additional weeks of benefits for those who have exhausted their regular benefits without finding other employment.

In this recession, the extended benefits program has virtually failed to perform its intended role. In every past recession, the Congress and the President have made certain that extended benefits were available to the long-term unemployed, either by enacting new legislation or by ensuring that existing extended benefits programs worked to support the long-term unemployed.

But in this recession, the extended benefits program has utterly failed to provide income support for the long-term unemployed. Today, workers in only two jurisdictions—Puerto Rico and Rhode Island—qualify for extended benefits. Even though some States have unemployment rates of 8, 8.5, 9, 9.5 percent, they are not qualifying for extended benefits. The program is not working. Only 14,000 of the 8.5 million people officially unemployed are receiving extended benefits.

I want to show a chart of people who received extended benefits in previous recessions compared to this one.

This is the recession in 1974-75. You see how the number of people receiving extended benefits has increased. The economy recovered and the numbers came down. They went back up in the next recession, back down, and then up again. Then 1981-82, during the Reagan administration, persons receiving extended benefits went up. This is what has happened in this recession. You can barely see it—14,000 of the 8.5 million Americans unemployed are receiving extended benefits.

Just as they have done for all five recessions of this length over the last quarter of a century, Congress and the President should act to extend unemployment insurance benefits for people hit by the recession. Such legislation would give a stimulus to the economy and relieve some of the hardship for the soaring number of workers who have lost their jobs.

We have before us today a bill, introduced by Senator BENTSEN, of which I am pleased to be an original cosponsor. The bill would honor these precedents of the past by giving us an extended benefits program to provide additional unemployment insurance benefits for millions of long-term unemployed Americans.

The Bentsen program has a sliding scale. Depending on the severity of the unemployment in a particular State, the bill would provide extended benefits from anywhere from 4 to 20 weeks—20 weeks for those States with the highest unemployment rates—and it would reach back to cover workers back to last spring.

The bill would be temporary, providing extended benefits for the victims of

recession. It is a prudent and responsible approach to honoring our traditional responsibilities to aiding the long-term unemployed, the principal victims of this recession.

Some day, how are you going to fund this program within the budget agreement? Mr. President, first of all the budget agreement provided that we could go outside the budget caps in order to provide for a program if it was an emergency. The President has come to the Congress this year and requested funding, which he received, for emergencies overseas, to send aid out of the country to respond to pressing situations. He came to the Congress and said, "I am asking you to go outside of the budget caps and declare this an emergency, so we can make these expenditures." The Congress agreed with the President. Now we are saying to the President that there is an emergency here at home, and we are calling on the President to find with us that there is an emergency which requires us to meet the pressing crisis in which millions of Americans find themselves. The logic for declaring an emergency is made more compelling by the fact that the extended benefit trust fund has a balance of over \$8 billion.

Let me repeat that. It is very important to understand what is happening here. Employers pay taxes into the extended benefit trust fund to provide for extended benefits. That is the purpose of those taxes. That fund, according to the Office of Management and Budget, began this fiscal year with a balance of \$7.2 billion. In the course of this year, that fund will receive another \$700 million in taxes from employers who were paying those taxes for the purposes of extended benefits.

In addition, it will earn \$600 million in accrued interest. It is estimated that it will pay out over this year \$130 million in benefits.

Think of that. We had \$7.2 billion in the fund at the beginning of the year. We are going to add, between additional taxes and interest earned on the balance, another \$1.3 billion this year, and we are going to pay out \$130 million in extended benefits. So this fund is building up a surplus right in the middle of a recession, when you have millions of Americans not drawing extended benefits.

Of course, if people pay money into the fund for the purpose of paying these benefits, and you do not pay them, you are going to build up the surplus. In my view it borders on the criminal to levy these taxes for this specific committed purpose and then not to use them for that purpose when there are millions of Americans who find themselves in desperate need.

The theory of the fund is you build it up in good times and use it in bad times. Now we find that the trust funds will actually build up surpluses at the very time when they should be drawing

down past surpluses to fund adequate income replacement for laid-off workers.

The Bentsen bill would use part of the funds in the trust fund balance for the purpose for which they were intended; namely, to finance payments of extra weeks of unemployment benefits. I defy anyone to explain to me why tax revenues paid for a dedicated purpose are not to be used to support it in a time of such need.

Last month, we sent the President legislation to declare an emergency and to make it possible for these benefits to flow. The President refused to make that declaration and, as a consequence, we were not able to pay the extended unemployment benefits. That was in mid-August.

All it took at that point was for the President to concur with the Congress that this constituted an emergency for millions of Americans and to declare it so. Then the unemployment extended benefits could have been paid beginning in mid-August with a reach-back to help people confront their circumstances.

The whole purpose of the emergency declaration in the budget agreement was to provide some flexibility in responding to new problems. Today's recession is clearly a new problem not anticipated at the time of the budget summit agreement. Nor do I believe it was anticipated at the time that we would have a massive failure in the existing extended benefits program in meeting the needs of the long-term unemployed.

The President found emergencies overseas, and I want to know why the President cannot find an emergency here at home. Every other President and Congress in the post-World War II period perceived it as such and joined together to enhance the extended benefits programs. That is reflected in the number of persons receiving extended benefits during those recessions. Not this time; not with President George Bush. He does not perceive the emergency we face here at home.

Why are these employers paying these taxes for unemployment extended benefits if they are not going to be paid when we go into a recession? Where is the honor in taking that money from people, taxing them for it for a particular purpose, and then not using it for that purpose when the emergency arises?

I have talked about the economic circumstance in which we find ourselves. First, it has not been a short and shallow recession. Second, we cannot be overly optimistic that the recession has ended; third, even when the recession ends, the number of long-term unemployed will continue to rise for a number of months. So this problem does not end when the recession ends. In fact, this problem gets worse for a period of time after the recession ends, and the recession has not yet ended.

The President signed the bill which extended unemployment insurance benefits, but he did not declare it an emergency. He said he wanted to show his concern for the unemployed. What good does that do? Those are words. You cannot eat those words. The unemployed person has family responsibilities to meet.

I want to close on that note, because on the bottom, this is a human story. This is a story of individuals and families all across this land who find themselves, many for the first time in their lives, in a situation for which they have no fault. The situation is clearly beyond their control, and they are not getting the help to which they are entitled and to which they deserve.

I want to quote from a few letters that I have received. We held some hearings on the unemployed. We actually had before us four unemployed people from across the country to, in effect, tell us their story and what they were confronting. Those hearings were carried on television.

Subsequent to that, we received a number of letters. I am just going to quote from a few of them, because there has to be an understanding of the human dimension of this crisis. These letters are important because they set the context and they make it clear that this is not some blip on the economic radar screen.

Let me underscore the human dimension:

DEAR SENATOR SARBANES: I am writing this letter to you after watching the hearing on television on the problems of unemployed people in AMERICA.

AMERICA, in this letter, is spelled in capital letters.

The reason I put that in capital letters is because we would be better off if we were from a foreign country so that President Bush would see it in his heart to help us out. He does nothing for the Americans that are suffering.

Mr. President, I am not going to read all of this very moving and thoughtful letter, but I am going to go through and take certain portions of it.

I only hope you will be able to get through to Bush and make him realize that we are in an emergency situation in our own country. What we as unemployed people want is to be able to rebuild our self-esteem, pay our bills, and contribute to this country. We are not looking for a handout, but right now we need more help.

It is sad to know the funds are there, but the President will not release them. People have this idea that being unemployed is fun. It isn't. It is extremely depressing. Everyone thought I was lucky having the summer off. I did not enjoy 1 day of this summer, as I was worrying about getting a job. It is on your mind constantly, from when you wake up in the morning until you go to bed at night. Then if you should wake up during the night, it is right there hounding you.

No, I am not lazy, and I do not believe many unemployed people are. They are just victims of a situation that is called a recession, but which my 77-year-old mother calls a depression. She is probably right.

If things are turning around and the recession is ending, then I would like to know in what country this is happening. I hope I do not have to go on welfare, as I am not that type of person, but you really think about it when things get so bad.

If you want statistics, I will give you mine. I am a white, middle-aged female, single parent of two, head of household. I raised my sons basically on my own since they were 3 and 5. I worked full-time from when they were 7 and 9. I had them in all the sports programs I could. I worked 10 minutes from the house, so I could be available should something happen to them, and they needed me.

My life was a car pool, and I am thankful for them. My sons are turning out to be good men. They are both in college and have always been clean, decent individuals. They really never gave me any major problems, just the normal ones every parent has with their children.

I do not want any praise or desire any for what I have done. They were my responsibility, and I lived up to it. What I want now is help from the Government until things get better for me and all the thousands of people that are in the same situation. Please do what you can to help all of us out. We do not want it. We need it, and we need it now.

Please see what you and your fellow Senators can do to help get this country back on its feet, or else this country will be gone. I know it sounds stupid, but I think it could happen if we do not help ourselves and each other. We are falling off the face of the Earth, and no one cares.

And then another letter, Mr. President, that says:

I am writing to you regarding a serious crisis that exists nationally. The subject is the lack of adequate unemployment benefits for working men and women. What has been allowed to happen in this country has been a disgrace. I am writing to you as one of thousands of people who have been laid off from their job this year. As I stood in line every other week, I got to hear firsthand the concern and the voices of the people. The first blow was losing their job. The second was seeing the United States Government abandon them in their hour of need. These are the hard-working people that have, over the years, made this country great.

Mr. President, the previous lady I quoted from had worked 12 years steady in one job.

These are the hard-working people that have, over the years, made this country great. These were workers who have held the same job, in many cases, for numbers of years.

I read in the papers that there is no end in sight to this current recession. I have collected article after article stating that unemployment is rising. I wonder if anyone else is getting this information? If this is happening, then why doesn't President Bush allocate the funds?

What constitutes an emergency? Whenever the unemployment rates have been this devastating in the past, the Federal Government has stepped in. What has made this emergency different? Could it be that no one wants to admit that there is an emergency? As I said earlier, what a disgrace. There are thousands of emergency programs in this country for the needy, and they receive benefits. This extension in unemployment benefits in general are programs for the middle-class working people who have fallen on hard times. They have contributed to this Government. They will pay income taxes on this

money. This isn't a handout. This isn't a freebie. These people will contribute again. It has been proven. This country is in jeopardy of losing one of its natural resources. The United States was made great by working people. This Government should show dedication and loyalty to these people who have contributed both financially with their income tax dollars and physically with their hard work.

Mr. President, that is what it is all about. All across America there are people, just like the two people whose letters I quoted here, facing a crisis in their personal lives through no fault of their own. They are not to blame. These are people with substantial work records. They are productive people. These letters I just quoted, they are the people who paid the taxes. They are the people who have met their responsibilities. They are the people who have built the strength of this country. They are now in difficult circumstances.

There is a balance in this trust fund now of over \$8 billion—\$8 billion—and growing day by day; 14,000 out of 8.5 million unemployed Americans are getting extended benefits. Those not drawing extended benefits are faced with a crisis that is reflected in these letters. They have no health care. They are unable to pay their mortgage payment on their homes, and are in danger of losing the one asset that they have built up over years of hard work. Those that are renting are about to be evicted or have been evicted. Their whole life is falling apart right in front of them.

The money has been paid into this trust fund. The time has long passed to use the money for the purpose for which it was intended. There is an emergency here. Why is it the President can see only the emergencies beyond our shores?

The President says, "Well, you are going outside the budget agreement here." We are not. We are invoking the emergency provisions of budget agreement. The President used this provision to invoke an emergency to send billions of dollars overseas. The President himself came to the Congress and said there was an emergency and asked us to concur in that judgment and to make that money available, and we did so. What about the emergency here at home? What about the 8.5 million people unemployed, the 6 million people working part time who want a full-time job, the million people who have been so discouraged they have completely dropped out of the work force? What about those men and women who have helped to build this country that are now faced with this personal crisis?

It is time for President Bush to recognize the emergency here at home. It is time to enact this legislation, to put it into law, to start paying these benefits and to help to meet the crisis that millions of responsible, decent, honest, hardworking Americans are facing all across this land.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as if in morning business.

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

ARCTIC NATIONAL WILDLIFE REFUGE

Mr. BAUCUS. Mr. President, I began the August recess by traveling to Alaska's North Slope. I took the time to make that trip because the Subcommittee on Environmental Protection, which I chair, is considering legislation to permanently protect the Arctic National Wildlife Refuge's coastal plain as wilderness.

Legislation also is pending in the Senate that would open the Arctic National Wildlife Refuge to full-scale oil and gas exploration and development. Title VII of S. 1220, the Johnston-Wallop National Energy Security Act of 1991, would require the Secretary of the Interior to develop a comprehensive leasing program for the entire 1.5 million-acre coastal plain of the refuge.

I spent 3 days in northern Alaska. I met with Native representatives of the Arctic Slope Regional Corp. who support development.

I toured BP's new oil production facility at Endicott and visited the refuge's coastal plain with BP representatives. I discussed the future management of the refuge at length with U.S. Fish and Wildlife Service officials. And I did what few of my colleagues have done. I took the time to fly to Arctic Village to meet with the Gwich'in Indians who oppose development. Why do they oppose development? Because they have depended for thousands of years on the caribou that breed on the refuge's coastal plain.

I returned from this trip convinced that the coastal plain of the Arctic National Wildlife Refuge should be protected from development.

We should not sacrifice our last stretch of pristine arctic coastline for a possible 200-day supply of oil. We should not jeopardize dozens of species of rare arctic wildlife and one of North America's last true wilderness areas for oil that can be replaced at a lower economic as well as environmental cost using available energy efficiency and conservation methods.

Development of this wildlife-rich wilderness would do little to address the real energy problem facing this country, which is our addictive dependence

on oil at the expense of conservation and renewable energy resources.

I know that many of my colleagues are undecided about this issue. They should know that shortly before the start of the August recess a Federal judge gave the Senate an important reason to not even consider opening up the Arctic Refuge to oil drilling at this time.

On July 22, Judge Joyce Green, of the U.S. District Court for the District of Columbia, ruled that the Interior Department did not consider serious potential environmental effects in issuing its recent revised oil and gas estimates for the refuge. For instance, it ignored an estimated 400 additional tanker trips from the Port of Valdez. Each of these trips risks another possible *Exxon Valdez* type oilspill.

The court also found that the public was locked out of the process regarding this critical new report, while the Interior Department actively sought input from the oil and gas industry.

To correct these violations, Judge Green ordered the Interior Department to issue a draft supplemental environmental impact statement, and to circulate this statement for public notice and comment so that the public, not just the oil and gas industry, can have its say. Of course the oil and gas industry has a legitimate interest. But certainly the public also has a legitimate interest, and that is the interest Judge Green said was not protected.

If the administration is correct about oil development in the refuge, it should be able to win on the merits of its case, based on an open public process.

Instead, it has tried to operate behind closed doors. It has locked out the public from the debate at almost every step. And it has withheld critical information from the Congress about the real environmental impacts of its proposal.

In its ruling, the court also denied the administration's motion to dismiss other parts of this important lawsuit, which challenge the adequacy of the Department's original 1987 1002 report to Congress recommending that the refuge be opened to drilling.

Because of the importance of this case, the court ordered expedited briefing on whether the Department complied with the National Environmental Policy Act in issuing this report.

This court ruling raises serious questions about whether the Senate should consider any bill to open the Arctic Refuge based on information submitted by the administration. When Congress enacted section 1002 of the Alaska Lands Act, we asked for complete, objective information on the environmental effects of drilling in the refuge.

Congress is entitled to this information before it makes its decision on this critical issue. Now, a Federal judge has ruled that the Interior Department violated the law by failing to

evaluate environmental impacts when it issued its recent revision to the 1002 report, and asked the parties whether similar violations occurred with respect to the original 1002 report.

Clearly, it is not appropriate for Congress to decide whether to allow development of Arctic Refuge until we hear from the court whether the administration has presented us with full, fair information of all of the relevant issues.

The court decision confirms my grave concerns about the adequacy of the information presented to the Congress on this issue.

Hearings held by the Environment and Public Works Committee have raised serious questions about the failure of the 1002 report to give full consideration to a wide array of environmental impacts. These include air and water pollution, hazardous wastes, effects on wildlife and wildlife habitat, the threat of oil spills, global warming and a range of other environmental effects of proposed drilling in the Arctic Refuge.

I also question why the Department has not come forward with an analysis of important new information that has come to light since the original 1002 report was written; information such as the effects of the *Exxon Valdez* oilspill, EPA reports of rampant problems with hazardous waste on the North Slope, and a Fish and Wildlife Service report that the environmental impacts of Prudhoe Bay and the Alaska pipeline have been far more serious than predicted.

Mr. President, our decision on this critical public lands issue will be irrevocable. Once we unleash the drilling rigs in the arctic coastal plain, we will not be able to undo any harm that has been overlooked or intentionally withheld by the administration. It was precisely for this reason that the Congress declined to make a final decision on this issue in 1980, and asked instead for a fair, objective and comprehensive report from the Secretary of the Interior.

Based on Judge Green's decision and other information considered by the Environment Committee, it appears that we still do not have this information.

We will not know for sure until Judge Green renders an objective judicial decision on the adequacy of the information to us. Until then, it would be reckless and irresponsible for the Senate to take up any legislation that would force us to make an irreversible decision on this issue.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

REVISIONIST HISTORY

Mr. LOTT. Mr. President, I have been listening to the remarks before the Senate this morning and last night until the late hours, and have been thinking about what is being said, I have been appalled at the revisionist history that is underway.

My colleagues here seem dismayed and in great wonderment about why we are losing jobs in America, why there is unemployment in America.

It is because of what is done in this body, in many instances. We hear talk about tying up lands in America so they cannot be developed, so we cannot have oil and gas production. We talk about wetlands requirements so that individuals and businesses and companies cannot develop their own privately owned land. Regulations from the Environmental Protection Agency, regulations throughout this Government make it impossible for business men and women to make a living, to produce a profit, to create jobs.

And what do we do about the budget deficit?

I loved hearing the talk last night about budget deficits. It is interesting to watch some of my colleagues wring their hands and worry about budget deficits. Where do they think budget deficits are created? Here is where they are created. We raise taxes on the working people of America, the business men and women of America, and think we are going to get more revenue? Baloney. When you raise taxes people produce less, people change their behavior, they do not buy goods and products.

The luxury tax is a great example last year. It is a beautiful political statement to raise luxury taxes. Supposedly we will get more revenue.

First of all, it was an infinitesimal amount of revenue that we were going to get. What happens is people stop buying boats. What you have is unemployment in Wisconsin, other States where they produce boats—the same thing with aircraft and even with jewelry stores in Mississippi. People now are going to come in maybe to get something they inherited, a jewel, set into a ring. They pay taxes now perhaps on something that has already had taxes paid on it before. The net result is you get less revenue.

So I really have just been stricken by the debate last night on waiving Gramm-Rudman, and about how Gramm-Rudman did not work or has not worked.

Well, I remember when I first came to the Congress in 1972. I was dumfounded when I realized that Congress had no process to even know what their budget system was. They just spent all the money they wanted to, they added it up, and there was a deficit.

That is why I voted for the Budget and Impoundment Act even though a lot of the members of my party were

not voting for it. I thought there should be some system of at least trying to control ourselves.

We had Gramm-Rudman. That was supposed to help solve the problem. But no artificial mechanism is going to solve the problem until we decide to vote to control spending.

Yes, you will jump up and say, great, let us control spending, cut defense more. But let us not cut so-called mandatory programs, and let us not cut discretionary spending. Let us just cut defense.

We are doing that—\$15 billion this year alone. We are cutting defense. We are cutting it 3 percent or more over the next several years, and I do not know what will happen in 1994-95. But there will be Senators come in saying, cut even more.

How do they like the base closures? Do they like that? Does it ever dawn on them that a lot of jobs in America are created in the defense industry? When we eliminate bases, when we eliminate plants, when we eliminate programs and projects that affects people that have jobs; welders, pipefitters, people that work on these military installations—

Yes, I think we should cut some of the defense spending because the situation has changed. But how much is enough?

There were speeches made here last night about how horrible the economy was in the 1980's. We are rewriting the history I saw in the 1980's. They said that the supply side tax cuts were bad.

Every year during the 1980's we had increased revenue coming into the Treasury, but we kept spending more money in this institution. We have billions of dollars in mandatory programs that we do not want to deal with. We do not have as much discretionary programs, but there certainly is a lot more that can be done there.

So any time the Congress, particularly the Senate, wants to get the deficit under control, we can do it by controlling our insatiable appetite to spend more money.

With regard to unemployment compensation, I think we have to deal with this problem. I think that we have a couple of solutions before us that will do the job. But to pass an unemployment compensation proposal that will bust the budget agreement, that will cost \$5.8 billion, without paying for it some way, is not the responsible way to do it.

I urge my colleagues to look at what Senators DOLE, DOMENICI, and ROTH have proposed. It is a program that would extend benefits, and a more manageable program on a two-tier basis for 6 weeks and 10 weeks. It would really get to the people that need it. It would get to them in a way they could better use it. The gross cost would only be \$2.4 billion over 5 years instead of the \$5.8 billion under the Bentsen pro-

posal. Most important, it is paid for—maybe not the way I would like for it to be paid for, but there is a financing mechanism.

The proposal that was being advocated here this morning is, let us take \$5.8 billion and bust the budget. It is an emergency, it is said. And we do not have to worry about paying for it.

Well, I think we should pay for it. The Dole proposal would provide a system for paying for it.

Others stood up here today and said, what are we going to do to get growth in the economy? Hey, that is a great idea. Why do they not propose something, other than civil rights legislation, and parental leave legislation, and striker replacement legislation, something that will really produce some jobs and will really encourage the economy to grow.

I urge my colleagues to look at the proposal by Senators GRAMM, KASTEN, WALLOP, and others, including myself, that would really do something for economic growth in America, and that would create some jobs. It would cause new jobs to be created so people could get off unemployment.

We always worry about coming along, trying to help people after we made the mess. How about let us do something that will provide a spurt to the economy?

We should reduce the capital gains tax rate. We should create enterprise zones. We should pass the IRA-Plus plan. We should have homeownership incentives for first-time homeowners that would help the homebuilding industry. There is a long list of things in the Gramm proposal that would have immediate positive impact on the economy and create jobs.

So I think that to rewrite the history and complain about the mess we are in and not do something about it—and what we should do is relieve the tax burden, the regulatory burden on the American people, and give incentives to get out there and create more jobs, and quit griping about what is happening. Somebody has to pay attention to the people who are working and creating the jobs and paying taxes, because they are being left out, and we are seeing more people going on unemployment compensation.

I look forward to hearing more debate on this next week. I urge my colleagues to look at the Dole and Gramm proposal, and let us talk about the real solution to the economic problems in this country. Thank you, Mr. President.

Mr. DOLE. Mr. President, first I want to associate myself with the remarks just made by the Senator from Mississippi [Mr. LOTT]. I think we do spend an inordinate amount of time here, after we have destroyed jobs, saying how can we help somebody who is out of work. He underscored the bottom line. We cannot have it both ways. One

way to make certain we are going to create more unemployment is to increase the deficit by about \$6 billion. That is precisely what will happen if the proposal offered on the other side should pass sometime next week.

Mr. President, up front, I want to respond to the editorial that appeared in this morning's Washington Post entitled "Selling Ether." I think that whoever wrote that article at the Post must have bought some ether and sniffed it before they sat down at the typewriter.

The Post says that budget integrity and the discipline of the budget agreement should be maintained.

I could not agree more with that position. I wish my colleagues on the other side of the aisle did too rather than pushing legislation that will add another almost \$6 billion to the Federal deficit.

The bill I and Senators DOMENICI, ROTH, LUGAR, and others will offer next week maintains the integrity of the budget process. Indeed, it not only pays for itself—it will produce deficit reduction over a 5-year period.

One way that this proposal will pay for itself is through a spectrum auction of frequencies that the Government owns and either does not use or does not need.

The Post editorial says that raising money this way and I quote "is precisely the kind of speculative if not gimmicky revenue proposal that the budget agreement was meant to set aside."

Mr. President, selling the spectrum by auctions is not a new idea. It has been proposed as a deficit reduction option since 1986. Auctions are good public policy, which generate savings according to CBO of \$2.5 billion. That is real money.

Currently, radio spectrum licenses are awarded through hearings and lotteries. The FCC requires users to pay an application fee, usually less than \$150 per license, to cover processing costs. Once a license is awarded, companies consider the license their property, and have sold licenses in the market for as much as \$300 million. Not a bad deal, \$150 for an asset which can be sold for \$300 million.

Private auctions already occur in the resale process except the value goes to the licensee, not the taxpayer.

Our proposal fixes this problem. Auctions bring the license price up to market value and force companies to pay for something they get virtually for free.

Auctions will recapture for the public the market value of the license and the receipts will go to the Treasury.

Companies already complain that the current system of awarding licenses through comparative hearings and lotteries is slow and time-consuming. Auctions will improve an inefficient process by instilling market discipline.

While small rural businesses fear auctions will favor large corporations, the proposal we will offer accommodates this concern by giving the FCC the authority to provide a small business exemption from the auction process.

Mr. President, I ask for unanimous consent that some articles I have on the good policy aspects of a spectrum auction be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOLE. One of these articles is by Robert Samuelson and appeared on May 8 in the Washington Post.

The article is called the "Quiet Giveaway" and says that giving the spectrums away is and I quote "an absurd bit of welfare for corporations and (mainly) the wealthy that, over the years, has aroused barely a squawk of protest."

I hear a lot of talk on the floor about fairness and helping the rich and ignoring the poor. I have not heard much on the other side about this, not one squawk.

My bill gets out front on this issue.

The article goes on to describe some of the winners of this process. In fact, one of them, the Washington Post Co., which owns Newsweek, is typical. According to this article, it had pieces of 10 communications systems and owned one in Miami entirely. By 1988, it had sold all of its stake and reaped an after-tax profit of \$170 million—no wonder there is a little bias in the editorial this morning—\$170 million profit to the Washington Post, almost tripling its investment of \$65 million.

And for comparison purposes, the article says that this profit exceeded the cumulative pretax profit of Newsweek for the last 7 years.

I have not heard anybody complain on the Senate floor. We talk about the rich big corporations and the ripoffs, and this is just one big example of the rich getting richer.

Maybe the Post was thinking of their big profits and how they got richer by this giveaway—and not of the real issues we are trying to address for real people.

It seems to me if we are going to have fun and games and see who can offer the most weeks and everything else, as far as the unemployed are concerned, and not concern ourselves about paying for it, we are going to create more unemployment and make the problem even more difficult than it is. I hope the next time the Washington Post writes an editorial they put in this P.S.: do not forget that we made \$170 million on this deal.

EXHIBIT 1

[From the Washington Post, May 8, 1991]

THE QUIET GIVEAWAY

(By Robert J. Samuelson)

It's a crazy, but invisible, giveaway. For decades, the federal government has doled it

out free and, in the process, spawned huge private fortunes in television and other communications services. It's the radio spectrum: the right to broadcast on a given frequency. Giving it away is an absurd bit of welfare for corporations and (mainly) the wealthy that, over the years, has aroused barely a squawk of protest.

Well, Janice Obuchowski is now squawking. She's the assistant secretary of commerce for communications—not exactly a high-profile job—and she wants private companies to pay for the use of the spectrum. What could be simpler, and how could liberals and conservatives disagree? For liberals, Obuchowski offers populism: Private enterprise should pay for public resources (the spectrum). For conservatives, she offers market economics: Paying for a scarce resource (the spectrum) should promote efficiency.

Guess again. The odds that Congress will pass her plan are less than 50-50. The story of why is a dour reminder of how hard it is to make government work better.

Everyone agrees there's a problem: The spectrum is congested. It's already the lifeline for the television networks and 1,115 commercial television stations (1990 revenues: \$27 billion), 9,356 commercial radio stations (\$8.8 billion), 1,792 noncommercial TV and radio stations, long-distance microwave transmission and mobile radio for everything from taxis to delivery trucks. And demands for spectrum access are multiplying: Cellular phones, pagers and air-to-ground phones are recent new uses.

Virtually everyone also agrees that, to satisfy new demands, about 200 megahertz of frequencies now assigned to the federal government—mainly the Pentagon—should be shifted to nonfederal users. (A megahertz is a measure of spectrum space; a TV channel, for example, is six megahertz wide.) Obuchowski's twist is to require the government to auction off the new frequencies rather than have the Federal Communications Commission award them free on the basis of a hearing or a lottery.

At first glance, you'd expect this proposal to sail through Congress. It blends fiscal prudence and the promotion of high technology. An initial auction of 30 megahertz might raise \$2.5 billion over three years, estimates the Office of Management and Budget. And the increased availability of spectrum space would spur innovation in communications technology: services like computer-to-computer radio connections and smaller portable phones.

The trouble is that, in practice, our politics are concerned less with ideas than with the protection of existing interests. Strike one against Obuchowski's plan is that it's opposed by most (though not all) current spectrum users. Not that they'd be immediately affected; the plan would apply only to awards of new frequencies. But it's easy to understand why incumbents don't like it. Gosh, if you've been getting something for nothing for years, you don't want anyone to be forced to pay for it. Once Congress starts charging, the same principle might ultimately be applied to you. For example, a user's fee equal to 1 percent of revenues would raise about \$360 million annually from TV and radio stations alone. Hey, that's not a bad idea.

Strike two against Obuchowski is that her plan has image problems. Spectrum users argue that they perform public services and that auctions prostitute the broad public interest to crass commercialism. There are two answers to this. First, the plan permits

the FCC to allocate radio spectrum to non-commercial uses, just as it does now, without any auction. Included in this category, for example, would be additional space for police or fire communications. The second response is that most proposed spectrum uses involve primarily commercial services for which free awards create giant private windfalls.

Consider cellular telephones. The industry is now booming, with 5.3 million subscribers (up from 92,000 in 1984). But it couldn't boom until the FCC allocated 50 megahertz for two competing cellular services in 733 separate markets. The FCC spent much of the 1980s doing this. In each market, the local phone company automatically got one franchise. Naturally, a lot of big companies coveted the other. In the top 90 markets, the FCC conducted hearings to pick license holders or encouraged the competing applicants to agree on a joint application.

Winners got a bonanza. The Washington Post Co., which owns Newsweek, is typical. It ended up with pieces of 10 systems and owned one (Miami) entirely. By 1988, it had sold all its stake and reaped an after-tax profit of \$170 million, nearly tripling its investment of \$65 million. For comparison, this profit exceeded the cumulative pretax profit of NEWSWEEK for the last seven years.

Even bigger bucks often went to winners of licenses for 643 smaller areas, awarded by lottery. The FCC got 386,000 applications, often submitted by groups of private investors. A cottage industry of law firms and engineering consultants cranked out applications with design drawings and financial commitments from banks and equipment suppliers, which were required by the FCC. But many applicants had no intention of building a phone system. Winners sold their licenses for gains: a license on Cape Cod went for \$30 million.

This, of course, is nuts. But the lottery actually represents an improvement over awarding all these small licenses in long, costly hearings. That would have delayed construction of new cellular systems.

The solution is to have governments conduct the auction that license holders now conduct themselves. The advantage is not just added revenues. The potential new uses of the radio spectrum are huge: worldwide satellite-to-ground telephone services; data transmission to laptop computers; radio devices to track trucks across the country. All these services may attract lots of companies. No one (including the FCC) can easily know which ones are superior. The best test is to make applicants pay for what they get, encouraging technologies that use the airwaves productively.

It's common sense—but not yet good politics. Last week a House subcommittee voted to transfer the 200 megahertz without an auction. Strike three: Congress loves to give something for nothing.

[From Forbes magazine, May 27, 1991]

WHAT SPECTRUM SHORTAGE?

(By George Gilder)

In the last decade, cellular telephone service has liberated nearly 6 million Americans from the webs of the wire-line telephone. Computing is next. Recent product announcements suggest that this year computer users will begin to join cellular telephone customers in an increasingly wireless world, where voice and data are available wherever there is air.

On Apr. 23, for example, Hewlett-Packard announced an 11-ounce cordless palmtop personal computer code-named the Jaguar. The

6½-by-3½-inch palmtop operates on MS-DOS and runs Lotus 1-2-3 and six other software packages in its permanent memory, including an upgraded H-P financial calculator, plus any other software loaded into its 512,000 bytes of working memory.

Priced at just \$700 and able to run for up to 60 days on two AA batteries, the Jaguar is a full-function personal computer with 16-line display and small query keyboard. Made possible by using an Intel motherboard about the size of a credit card, it is the most impressive feat of American miniaturization since Motorola's Micro-Tac cellular phone. The Japanese have nothing to compete against it, although they surely will.

The Jaguar's most powerful feature is not its size but its communications. Working with H-P, Motorola developed a radio-frequency receiver to connect the Jaguar to the world. Available later this year, the device can download electronic mail or data at any time, anywhere in the U.S., and channel it by software to the appropriate file and data location in the computer. For example, the Jaguar could maintain a stock portfolio, update it as prices change, and provide a continuing computation of net worth and margin position.

Jaguar communicates without wires by receiving its data in digitized form across waves that compose a sliver of the radio spectrum. It uses radio-pager technology, but extends it with powerful software that allows the typing together of short paging messages into sizable documents.

Jaguar's launch was preceded by 24 hours by the announcement of another portable computer: AT&T's long-awaited Safari notebook, a 6-pound, 12-by-9½-inch machine based on a 386SX Intel microprocessor. Particularly attention-grabbing were reports of a future Safari communications peripheral called the Wireless Mailbox. To be marketed in June, the Wireless Mailbox will link the Safari wirelessly to AT&T's EasyLink electronic mail service. Like Jaguar users, owners of the Safari will be able to receive their mail and all manner of other data electronically wherever they want, miles from the nearest telephone wire or coaxial cable.

Within the next few years, such computers will command full two-way links, including voice. The digital palmtop device carried by most people will be a cellular phone with powerful computer features such as the "Charlie" long predicted by Craig McCaw. Capable of receiving and storing both voice and electronic mail, providing maps and navigational aids for the car and performing remote banking, shopping and other tasks, these machines will achieve at last the long-awaited convergence of portable computers and phones.

Meanwhile, back at the office, desktop computers are preparing to shed their wires as well. Apple, Motorola, NCR, Photonics, BICC, IBM and scores of other firms are inventing ingenious ways for disconnecting computers from wire-line networks inside as well as away from office buildings. Although few people recognize the fact, millions of miles of old-tech copper and coaxial cable are becoming obsolete, as wireless systems take over basic voice and data transmission and fiber-optic lines handle heavy-duty communications, such as some video and image traffic.

The common denominator of all these new computing and communicating technologies is the air around us. That is, the technologies share a common need for unused frequencies on the electromagnetic radio spectrum. And there is the rub. According to

the experts in Washington, the frequencies have already been claimed. To allocate a piece of spectrum to a new use would be to dispossess someone who has already laid claim to the band.

Earlier this year Federal Communications Commission Chairman Alfred Sikes called for creation of a new frequency reserve to be used for emerging technologies. But he said that the only way to create this new reserve would be to move some existing users to "new homes," as he put it. Wisely, Sikes did not identify which parties might lose their old homes: The politics of taking frequencies from one interest or industry and giving them to others promises decades of wrangling by lobbyists and political action committees.

Is the electromagnetic spectrum really like waterfront property—a naturally scarce resource of which new supplies can be harnessed only at great and increasing cost? Must the frequencies used for wireless radio be carefully controlled, reserved and doled out by politicians and bureaucrats?

As University of Maryland economist Julian Simon has shown, the last three centuries of political, technological and financial revolution and innovation cast serious doubt on any claims about the economic scarcity of any natural resources, whether arable land, bauxite or oil. This is because the earth's resources, as useful materials, are not really material at all; they are mental, deriving their value from the inventiveness of human beings. Petroleum, for example, was mostly seen as useless gunk until Western inventors discovered uses and markets for it. Today, after some 150 years of intense use and repeated prophecies of dearth and exhaustion, proven oil reserves are larger than ever.

Why then should we believe the claims that cellular phones and high-definition television signals will exhaust the electromagnetic spectrum? The only reason, as Simon and others have observed, is that any source or commodity can be made scarce if its price is artificially controlled or its availability restricted. Whether on oil or housing, milk or water, price controls and other political regulations may balk the human invention that increases the quantity or availability of substances when they become scarce. Anyone who doubts this need look only to the Soviet Union, where practically everything is scarce.

The same analysis applies to the range of frequencies that make up nature's electromagnetic spectrum, including those airwaves up to 30,000 megahertz (30 gigahertz), arbitrarily termed radio frequencies.

Strictly speaking, you don't mine or pump, refine or manufacture radio wave frequencies; they stay the same. If too many people try to use the same frequencies at the same time, the signals interfere with and jam one another; the "resource," so to speak, is used up. Therefore, argue the politicians and sundry interested parties who have already staked their spectrum claims, this crucial and finite resource must be regulated by government, in various ways: by the FCC, by Judge Harold Greene, by the U.S. Congress and by the public utilities commissions that oversee telephone rates and services in the 50 states.

Yet far more than any other resource, the spectrum of frequencies is truly infinite. Useful wavelengths run from AM radio waves the length of football fields, to FM waves measured in feet, to microwaves about the size of a fingernail, to infrared and light waves near one-hundredth the width of a

human hair, to ultraviolet rays a few tenths the width of visible light, to X rays thousands of times narrower than ultraviolet.

As the wavelengths, become shorter, the frequencies rise, from the thousands of cycles a second (kilohertz) of A.M. radio to the millions of billions of cycles a second in X and gamma rays. The lower frequencies have been the easiest to harness for commercial purposes. But from the point of view of physics, the higher the frequency, the greater the potential capacity for sending information. (More precisely: One hertz of bandwidth has the same capacity no matter where it appears on the spectrum. But there is 1,000 times as much information capacity between 1 and 10 gigahertz as between 1 and 10 megahertz.) In other words, there is enormous potential for commercial development of radio waves in the virgin territory of the spectrum's higher frequencies.

Nearly all these frequencies can be used for communications. Today, however, far less than 1% of this range is actually used. What determines use is not the scarcity or other characteristics of different frequencies but the progress of innovation.

Think of the spectrum as Manhattan Island circa 1500. Not much value in the place then. But by 1700 the Wall Street area was bustling, and by 1900 most of the island was covered with buildings, which were then knocked down to build bigger buildings. The value of the area grew—from a few dollars' worth of beads to tens of billions of dollars as people figured out new and more profitable uses to which to put Manhattan.

So it has been and will be with the electromagnetic spectrum. The diagram starting on page 324 shows the relentless exploration and development since the Second World War of a tiny portion of the spectrum band—from 100 to 4,000 megahertz (millions of cycles per second)—that was previously thought to be commercially useless. Over the past 35 years, mobile phone services have moved from systems using low FM frequencies near 100 megahertz, with as few as 150 users in a city, to the 1960s level of 450 megahertz, used by hundreds of thousands of taxis, police cars, ambulances and businessmen, to the current 900 megahertz band accommodating 5.7 million cellular subscribers. The digitization of voice signals will boost this capacity between threefold and twentyfold, depending on which system is adopted.

Cellular telephony is the current craze, but human inventiveness does not stop at 1 gigahertz, any more than the Woolworth Building was Manhattan's last development. Britain and Japan have already approved spectrum near the 2 gigahertz (billions of cycles per second) level for low-power personal communications networks.

Now Motorola is pioneering into the 18 gigahertz zone. In January, Motorola demonstrated a dramatic expansion of available spectrum, creating a wireless local area computer network entirely equivalent to the wired Ethernet and token ring systems that link most office computers with copper lines. Previous proposals for wireless LANs have proposed using frequencies near the UHF band—or between 500 megahertz and 2,000 megahertz. But rather than horn in on someone else's spectrum, Motorola's pioneering LAN system can operate on a virtually virgin microwave frequency band: 18 gigahertz, an area currently used only for a few point-to-point microwave transmissions. Operating at a low power that avoids health concerns and using spectrum otherwise unclaimed, Motorola's system gained ready approval from the FCC, leaving in the dust

Apple and other firms applying for lower, more contested frequencies for their wireless LANs. And as with all spectrum awards, Motorola's price was right; for all winners, spectrum is free.

This exploration and development of spectrum—from 100 megahertz to 18 gigahertz in less than 50 years—represents quite a bit of human ingenuity at work. What's amazing is that at each step, there was a strong consensus among experts in the field that higher frequencies could not be used for mobile telephones. It was said that moving up the spectrum would require prohibitively bigger and more expensive mobile phone handsets and other equipment, with less range, coverage and reliability.

Why have these gloomy, scarcity-based forecasts proved so wrong? Because in each case, advances in microchip design tools, integration of more transistors on single chips, improved design of radio frequency systems and new antenna technology led to the creation of better systems at higher frequencies.

It is exactly as Julian Simon his said. Human intelligence pushes out nature's frontiers; the frontiers do not circumscribe human intelligence.

What I have called the law of the microcosm dictates that the smaller the computing device, the more of them can be put on a single chip and the faster, cheaper, more useful and more durable it is; in a sense, the less space, the more room.

A similar law governs the radio spectrum. The higher the frequency, the shorter the wavelength; the wider the bandwidth, the smaller the antenna and ultimately the cheaper and better the communications. The working of this law will render obsolete the entire idea of scarce spectrum and launch an era of advance in telecommunications comparable to the recent gains in computing.

In creating its new 18 gigahertz wireless networking system, Motorola took advantage of many stunning technological advances. It used new superfast monolithic microwave integrated circuits made of gallium arsenide to reduce the size of the receivers and transmitters of the 18 gigahertz signal from machines the size of refrigerators to the size of a deck of playing cards. To perform the fast logic operations to encode and decode the signals and correct any errors, the firm used the advanced CMOS technology developed with Toshiba for the firm's microprocessors. To reduce the antenna to the size of an ashtray, a team working under Motorola's chief scientist, Thomas Freeberg, invented a hexagonal antenna that uses computer logic to sort out signals bouncing from many directions in an office environment. Motorola also saved years of design and testing time by using a supercomputer to simulate the intricate patterns of propagation and interference of the 18 gigahertz waves. Thus are advances in computers driving advances in communications, which spur the computers/communications nexus to new heights.

Semiconductor integration is in the process of rising from some 20 million transistors on a 16-megabit memory chip to over 1 billion transistors on a chip by 2001. By the next century, there will be about a millionfold rise in the cost effectiveness of computing—that is, a unit of supercomputing power that today costs \$1 million will, in the next decade or so, drop to \$1. This is not hyperbole. For example, a single billion-transistor chip, manufacturable for under \$100, might hold the central processing units of 16 top-of-the line Cray YMP super-

computers that now cost some \$20 million each. With chip densities moving to the level of billions of transistors—or scores of supercomputer central processors—on a single chip, million-fold gains seem a reasonable projection of the accelerating pace of improvement already under way.

Within the next decade, the advance in computing will force a similar expansion of communications power. Those nations that deregulate communications will see an explosive and far-reaching expansion of available spectrum. We will drown in "air" just as surely as we would be swamped with Manhattan housing for all income groups if there were no zoning boards, rent controls and planning commissions to regulate owners' use of their property.

The greatest gains will come from developments in a field not normally seen as spectrum at all: fiber optics. Today Photonics and other firms use wireless infrared rays like those in your TV remote control for line-of-sight computer communications in networks and between buildings. The Jaguar uses infrared for 8-inch direct links to other Jaguars. Fiber optics are just a way of sending infrared light signals along a channel of glass, thus, using for telecommunications a part of the electromagnetic spectrum potentially millions of times more capacious than even the microwave frequencies being used by Motorola's wireless LAN. One fiber-optic thread, for example, can carry thousands of television or other video channels.

A few forward-thinking companies—among them BellSouth, Witel, MCI, AT&T and Canada's Rogers Cablevision—have been laying many miles of fiber every year. But by and large, fiber-optic installation in this country is being stalled by telecommunications regulations. With fiber balked, with spectrum allocations narrowly controlled by politicians and bureaucrats—and with the price of spectrum set at zero—a crisis of spectrum shortage is exactly what one would expect.

Not all is bleak on the regulatory front. Some political leaders, such as Representative Don Ritter (R-Pa.) and Senators Conrad Burns (R-Mont.) and Albert Gore Jr. (D-Tenn.) are beginning to worry that the Japanese and Europeans will develop superior fiber-optic networks if the regulatory logjam is not broken.

In addition, Janice Obuchowski, assistant secretary of commerce for communications and information, is recommending that FCC broadcast licenses be tradable. Thus, for example, CBS could sell its spectrum allocation to McCaw Cellular if McCaw thought it could get more profits from the band than CBS. With backing from the Bush Administration, Representative Ritter and a bipartisan group of congressmen have introduced legislation to authorize auctions of spectrum at fair market value. Driving such proposals is the sensible idea that the market can, to use a real estate metaphor, decide which shacks should get turned into skyscrapers better than politicians can.

If this idea takes root, spectrum that is currently not allocated will probably be auctioned off in regular intervals, as rights to log government-owned timberland have been auctioned off to the forest products companies. This form of spectrum privatization would give communications entrepreneurs access to the radio waves, but without destroying the value of the investments already made by earlier broadcast and cellular entrepreneurs. And it would end, overnight, the notion that spectrum is a scarce natural resource.

A glut of spectrum. Does it sound implausible? So did the ideas that human life ex-

pectancy would double within this century and that communism would not outlive the century. Human ingenuity can sometimes be repressed by human folly, but it cannot be destroyed. Inventions of the sort we have seen in recent months at Motorola, Hewlett-Packard and other firms will certainly abolish any "shortage" of radio bandwidths.

[From the New Republic, Oct. 9, 1990]

THE PHONE FLUSHAWY

(By David Ellen)

About once a month at the offices of the Federal Communications Commission, the federal government conducts a lottery similar to the lotteries that are now a major source of revenue for state governments. They even use one of those pingpong-ball machines to pick the lucky number. But there are two crucial differences. First, instead of raising money, the lottery is costing the government about \$20 billion. Second, the odds are a lot better. A typical state lottery returns about 50 cents on the dollar to the customers. This federal lottery returns about \$20 on the dollar. Even that dollar doesn't go to the government, except for a few nickels. Much of it goes to the lawyers and other experts who have turned this lottery into a small industry.

The lottery is for licenses to operate cellular telephone systems in various chunks of the country. The licenses are valuable, since only two are available for any given area. But you don't actually have to get involved with cellular telephones to play Phone Lotto. If you win, you can "cash in" your "ticket" by selling your license to a company that really does want to run a cellular telephone system. Dozens of people have become instant millionaires. Patricia and Robert Gardner of Ovid, Michigan, sold one license to the cellular giant McCaw Communications for a rumored \$4 million—sellers always sign strict non-disclosure agreements—and recently won another worth roughly \$10 million. A few licenses yet to be lotteried off, like the one for Ocean County, New Jersey, are worth upward of \$60 million.

There are already 3.2 million cellular telephone subscribers, and the number is soaring. Market analysts value cellular telephone licenses by multiplying the number of people in the specified region—"pops," in the lingo—by a per-pop dollar figure that varies by location. At the moment licenses go for between \$25 and \$275 (Santa Barbara, California) per pop. The country as a whole has about 240 million pops. Using a conservative average of \$85 per pop (Goldman Sachs figures \$110), you get \$20 billion as the value of licenses for the whole country. Analysts use this per-pop scheme rather than figuring per actual subscriber because cellular is growing so fast.

Since the Communications Act of 1934, the FCC has allocated chunks of the radio-wave spectrum for various technologies such as broadcast television and amateur radio, and, within those chunks, has assigned specific frequencies to competing commercial providers. In the early 1980s the FCC allocated part of the spectrum for cellular telephone and organized it as a "regulated duopoly." It divided the country into 700 or so geographic markets—305 metropolitan service areas (MSAs) and 428 rural service areas (RSAs). In each, it decided to reserve one exclusive license for a local telephone company (the "wireline" company) and award another license to one outside firm ("non-wireline"). So, for instance, Bell Atlantic and Cellular One both serve the Washington, D.C., area. Having two servers in each area, it was ar-

gued, would retain many of the economies of scale of a monopoly while guaranteeing a bit of competition as well. And keeping the second license open would bring some innovative entrepreneurs into the communications industry. Or so the theory went.

The big question, of course, was how to choose the outside operator. Before 1982 the Communications Act gave the FCC only two clear options: "first-come, first-served" or "comparative hearings," by which the commissioners attempt to judge which of various companies would best serve the public interest. FCC comparative hearings are a long-running Washington farce. In earlier technologies such as television and radio, commissioners have spent years (and contestants have spent millions on lawyers) in efforts to determine who is morally and financially best qualified to be handed a license to print money.

In the case of cellular telephone, the FCC tried comparative hearings for the largest 30 metropolitan markets, but found them (to no one's surprise) lengthy, costly, and totally arbitrary. There was not even the opportunity, with broadcast licenses for rival competitors to promise more high-minded shows, more local or minority subject matter, and so on. These comparative hearings gave away the most valuable licenses of all, mostly to rich companies with the resources needed to endure the long process. It was during these early hearings, for example, that the Washington Post Company, having no previous experience in cellular, was awarded interests in several prime markets, including 100 percent of Miami-Fort Lauderdale and a minority share in West Palm Beach. McCaw has since bought the Post's cellular rights—which, remember, the company got for free from the government because it was ostensibly most worthy to run a cellular phone system—for an undisclosed but assuredly huge amount.

The real fun started in 1982, when Congress, in a deregulatory mood, amended the Communications Act to allow the FCC to give away spectrum space by lottery. Although this was accompanied by the usual free market flag-waving, it was not really the free market solution. The obvious free market solution, if the government has something valuable to dispense, is not to give it away at all but rather to sell it. But the government, having sensibly decided it had no moral basis for deciding who should get \$20 billion of spectrum space, decided to give it away at random instead.

The FCC tested lotteries for low-power television and multipoint distribution systems (pay-per-view television). But nothing could have prepared the commission for the speculative frenzy that followed its announcement in 1984 of "open-entry" lotteries for the rest of the cellular licenses. While the first 30 markets attracted 200 applications, the first 30 lotteried markets drew 5,200. In all, 100,000 applications were filed for the 305 MSA lotteries ending in April 1988, at one point literally bringing down the walls of an FCC storehouse in Gettysburg. For the RSA lotteries now in progress, the volume grew to 280,000.

* * * * *

Almost every argument against having the government auction these valuable rights instead of just giving them away can be answered by the simple observation that they usually are auctioned away by the people who win them (as when the Gardners or the Washington Post Company sold to McCaw). The only difference is that a few lucky private individuals—chosen at random, or in a

farfarcical comparative hearing—get the money instead of the government. It is sometimes argued that if cellular licensees had to pay for their licenses instead of getting them for free, prices to consumers would be higher. Even in those cases where the system operator really did get the rights for free (rather than buying them from a lucky winner), that is economic nonsense. Sellers charge as much as they are able to. The price they are willing to pay for the license—reflects how much they think they will be able to charge.

But what about the small entrepreneur, staunch auction opponents always rejoin, who can't afford to outbid the giants? The answer is that the cost of the license is part of the legitimate cost of doing cellular business, just as leasing expensive jumbo jets is part of the cost of running an airline—or, more apropos, just as paying the auction price of a Department of Interior lease is a cost of offshore oil drilling. It makes no sense for the government to give away billions—and to create or enhance the fortunes of a few millionaires—in the name of promoting small business. Cellular has at least been spared the absurdity, common in other FCC giveaways, of minority preferences: a handful of lucky or well-connected women or blacks being handed multimillion-dollar fortunes on a platter in the name of affirmative action.

Most of the blame for this \$20 billion flushaway lies with Congress. Despite repeated requests by the two Reagan-era FCC chairmen, Mark Fowler and Dennis Patrick, and the Office of Management and Budget, Congress has never given the FCC statutory authority to action off the telecommunications spectrum. Behind the government's perverse generosity, of course, lurk the powerful telecommunications lobbies—traditional media as well as cellular telephone—which fear they may someday have to start paying for what has always been conferred on them for free. Even if a telecommunications or broadcasting company already has an FCC license, there's always renewal time.

Meanwhile, if you're around 20th and M Streets Northwest in downtown Washington on October 4, drop by the FCC and watch Donna Searcy, the Vanna White of the cellular telephone giveaway, pick the next set of lucky winners.

[From the New Republic, June 3, 1991]

OFF THE HOOK

(By Charles Oliver)

On December 20, 1989, the Federal Communications Commission conducted a public lottery for a permit to construct a cellular telephone system in the easternmost section of Massachusetts, a predominantly rural area encompassing Cape Cod. Nine hundred and twenty-five parties had applied, and the lottery proceeding was conducted in a festive atmosphere befitting the holiday season.

In physical terms, the FCC lottery was indistinguishable from Lotto America. Ten pingpong balls numbered 0 through 9 were placed in each of several cages. A blast of air was directed into each of the cages, and the balls swirled around until one of them flew out of the cage. For Cape Cod, three such balls together denoted the three-digit number associated with the winning applicant.

The winner for Cape Cod was a partnership group calling themselves the Rural Area Cellular Development Group (RACDG). But RACDG didn't develop anything. Seventy-three days after obtaining its construction permit from the FCC, it filed an application to transfer its permit to Southwestern Bell Mobile Systems. The FCC quickly granted

its permission, and the transfer was consummated.

According to Cellular Investor Newsletter, a publication of the respected investment firm Paul Kagan Associates, Inc., the selling price for the Cape Cod construction permit was \$40 million. The sale involved no tangible assets of any kind, nothing, that is, but the right to use a certain band of very scarce and valuable radio spectrum—an asset that had belonged to the government, but which the government gave away for nothing.

There was nothing wrong with the behavior of commission officials in this event, nor with that of the lottery applicants. Indeed, you may be kicking yourself that you didn't apply: a 1-in-925 chance of winning \$40 million is worth nearly \$43,000, substantially more than the \$300 fee that some law firms charge for preparing applications. The scandal is that every action by every individual involved was not only perfectly legal but all too typical.

For years the Federal Communications Commission has been urging Congress to pass legislation authorizing it to assign radio licenses through competitive bidding instead of giving them away in lotteries. So far, Congress has refused. More often than not, the winners quickly turn around, sell their tickets to someone else, and pocket the proceeds.

Ultimately, nearly all commercial radio licenses are sold, either through acquisitions or through the gradual process of stock sales in the licensee corporations. After carefully analyzing the prices paid for cellular licenses in recent months, the National Telecommunications and Information Administration has concluded that the current market value of all cellular telephone licenses in the United States is somewhere between \$46 billion and \$80 billion, depending upon which appraisal methodology you use. That's a government giveaway greater than—and maybe twice as much as—the cost of Operation Desert Storm. It's about the same amount cut in the budget compromise last year from Medicare's funding for the next five years.

At a time when Congress and the administration are struggling to close the federal budget deficit, a \$46 billion to \$80 billion giveaway of scarce government assets is a scandal, but it's not the biggest one. When Congress first refused the FCC's requests for authority to auction radio licenses, nobody knew how popular cellular telephones would become or how valuable cellular spectrum would eventually be. But now we know, and the giveaways are still legal.

(Charles Oliver is senior policy adviser to the assistant secretary for communications and information. His views do not necessarily reflect the views of the Commerce Department.)

UNEMPLOYMENT BENEFITS

Mr. DOLE. Mr. President, the distinguished chairman of the Finance Committee—for whom I have a great deal of respect—has introduced the identical unemployment legislation that the Senate passed right before the August recess. It is going to be pretty much a party line vote, and there are more Democrats than Republicans and, therefore, it will pass.

At that time when the legislation was debated on the Senate floor, I said that while the Bentsen proposal was well-intentioned, it was seriously

flawed in its approach to providing extended benefits to America's unemployed workers. For the following reasons, I continue to believe that the Bentsen bill is seriously flawed—indeed, perhaps more so today in light of economic developments over the last few weeks.

So what are we going to do about it? Just vote no, say we do not care about the unemployed? No; we are going to offer a substitute and we are going to pay for it. We are not going to add \$6 billion to the deficit. We are not going to have quite as generous benefits as the so-called Bentsen bill because we are going to pay for it. We are not going to charge it up to somebody's children or grandchildren. We are going to offer a program that is a fiscally responsible and effective response to the unemployment problems we are all trying to address.

The biggest, single problem with the Bentsen bill is that it is a budget buster. We are breaking the budget agreement. We have not even had a budget agreement for a year and we already are breaking it by \$6 billion and we have all kinds of ideas how to break it even more. We do not have any discipline.

Why do we not pay for it? If we are going to help the unemployed, why do we not pay for it? They forget to do that. They just tell you the trust fund is out there even though these trust funds were specifically considered and included as part of the budget agreement.

The Bentsen proposal is going to have two big impacts, in my view, on this country:

First, it is going to increase the deficit by \$5.8 billion requiring the Federal Government to sell that amount in public debt to pay for the benefits at a time when private borrowers are complaining about tight credit.

Second, it is going to undermine the budget agreement critical to this Nation's economic health during the next decade and beyond. Indeed, without the discipline of last year's budget agreement which the Bentsen proposal sidesteps, I ask my colleagues on the other side of the aisle what is going to stop Congress from spending lots more money on programs that will inflate the deficit even billions more? I have an idea more programs are going to be coming.

I think the worst message we can send to those who are trying to make the economy work, people trying to find jobs, trying to keep their businesses open and trying not to lose more jobs, is to send the signal—a big \$6 billion signal—that we do not really care about the budget agreement; we do not really care about the deficit. It seems to me—and I am also going to include in the RECORD a letter I received in July from the Federal Reserve Chairman Greenspan—that this will harm

the economy and Chairman Greenspan's letter indicates just that.

I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOLE. Mr. President, in addition to avoiding the pay-as-you-go requirement of the budget agreement, the proposal on the other side creates a sort of cumbersome and burdensome, from the administrative standpoint, four-tier system of benefits. You ask anybody in the unemployment offices in your States. I do not care what the State, and they are going to tell you it is almost impossible to administer a four-tier extended benefit program. It is going to take time and there are going to be a lot of erroneous payments.

In addition, the maximum level of benefits provided under the Bentsen bill—20 weeks—is itself unnecessarily excessive and under any analysis will produce a disincentive to reemployment.

Third, the Bentsen bill uses the total unemployment rate, or TUR, as the basis for triggering extended benefits. This measure has never been used for triggering benefits for any extended benefits program and is a highly inappropriate standard given that it includes groups that are not and should not be served in such programs.

Because of all the foregoing problems we see on the other side, we have come up with an alternative, an alternative which complies with the discipline of the budget agreement. It was not easy to pass that budget agreement. A lot of people took a lot of heat for voting for the budget agreement. We ought to at least stick to it 1½ years or 2 years. The American people have the right to expect that much.

Under that agreement, last year we said, OK, if we are going to have a new program, we are going to pay for it—not charge it to somebody's grandchildren or somebody's children. Those were the rules. And in fact, we are going to be reading some of the debate on Tuesday—some statements, great statements on each side of the aisle about the budget agreement, patting ourselves on the back for this great vote, this great discipline and now going to stand up and say no. It did not last very long.

I want the record to reflect who made some of those great statements.

So in developing our program of extended benefits, which is estimated to have a gross cost of \$2.4 billion over 5 years, we have included provisions to generate about \$3.1 billion over 5 years with the excess raised earmarked for deficit reduction.

One point two billion dollars is raised by the spectrum auction of frequencies that are owned by the Government and which it does not need or use.

I might add that this provision has nothing to do with a spectrum fee and absolutely no effect on current frequency users or renewals of spectrum licenses.

In addition, the Commerce Department and FCC, in designing the auction process, would be directed to study and, if appropriate, to include provisions addressing bidding access for small businesses because they may otherwise get left out. Indeed, without access for the small bidders, it is going to be the big companies, like the Washington Post, who are going to get most of the gravy, and they have gotten a lot of gravy so far.

One point nine billion dollars is raised by certain student loan reforms which include a permanent extension of the IRS tax refund offset program which allows the IRS to reduce the amount of a Federal tax refund by the amount of debt owed. In other words, if you owe the Government money and you will not make payments, you will not do anything, and you have a tax refund coming, the Government can take that and apply it on the student loan or whatever it may be so somebody else does not have to make that payment for you. That is the law. We just extend it. Our bill provides for a permanent extension.

In addition, certain customary student loan borrowing reforms would be implemented, such as requiring a credit check on borrowers over the age of 21. If you go to a bank and you are over age 21 they are going to do a credit check. We ought to do the same when it comes to student loans. In addition, the bill requires that a borrower provide student identifying information at the time of loan application and exit from the school—again, a pretty basic requirement that should be part of the law. I might add that we are losing hundreds of millions of dollars in unpaid student loans every year.

Finally, let me respond to those who say this alternative will trigger a sequester which is not true.

The bill specifically addresses the issue of spending and receipts and insures that no sequester will occur.

In short, Mr. President, the bottom line effect of this bill is that the bill will reduce the deficit over 5 years and no sequester will be triggered during any year where the bottom line effect of the Bentsen bill is that it adds almost \$6 billion to the deficit.

The extended benefits provided by our alternative are a two-tier system, not a four-tier system but a two-tier system. Every State gets 6 weeks and 10 weeks in those States where the insured unemployment rate or IUR adjusted to include exhaustees is 5 percent or more. Similar in many ways to the Bentsen proposal, it is a 9-month program, beginning the first full week in October and ending June 1992.

In addition, the proposal provides for reachback in States qualifying for 10

weeks of unemployment benefits to include those who have exhausted their benefits since April 1991.

Finally, the proposal provides for parity of treatment between military and civilian workers unlike the Bentsen proposal which would allow those who choose to retire or not reenlist to draw up to 26 weeks. You cannot do that in the civilian sector.

I say, finally, I do not think anybody in this Chamber disputes the pain being experienced by unemployed workers, men and women. It is a tragedy for the individual who wants a job and cannot find a job, tragedy for the person, the man or the woman and their children, and it is tragedy for the country when people are out of work.

But, so what do we do? We say, who can draw up the richest program, provide the most weeks and violate the budget agreement more than somebody else? Is this how we address the concerns of the unemployed?

When the Federal Supplemental Comprehension Program was enacted in 1982, the unemployed rate exceeded 10 percent. When that program expired in 1985, when Congress determined that it was no longer appropriate to pay such supplemental benefits, the unemployment rate was 7.2 percent, a level still in excess of the current 6.8 percent level.

So I just suggest to my colleagues, let us not fall into the trap of the so-called Bentsen proposal which seeks to up the spending ante for no good reason.

I would almost be willing to make a deal with my colleagues on the other side. Let us vote on both these proposals. In fact, there is a third proposal addressed by the Senator from Mississippi, the so-called Gramm-Kasten-Lott-Wallop proposal which is a proposal which this Senator will vote for and speak for.

I am prepared to suggest if we really want to help the unemployed, we ought to make a deal, we ought to say to each other, Democrats and Republicans, OK, we are going to have a vote. We like the Democratic plan even though it busts the budget by \$5.8 billion, even though it is unrealistic, even though it cannot be administered, but we like it because it is good politics, it offers more, and that which offers more around here always wins.

The only people that lose are the taxpayers and their children and their grandchildren. That is why we have a \$3.5 trillion debt. That is why we are paying \$200 billion in interest. But do not worry about that, because we have a better idea, because ours is bigger, and we measure America in this body not by what the content may be but what the price tag may be. And if I have a \$1 million bill and you have a \$10 million bill yours must be 10 times better than the \$1 million package.

So let us make a judgment. Let us decide. Let us just roll the dice. Say,

okay, we are going to vote on the Democratic plan which adds \$6 billion to the deficit and all the things I mentioned. Then we are going to take a vote on the Republican plan. It will probably be the other way around. We will probably vote on the Republican plan first. And then if a veto is sustained on the Democratic plan, we will agree in advance that we are going to take the plan that pays for itself to help the unemployed workers. Why not?

I think the unemployed worker is entitled to more than politics. No doubt about it. There is a lot of pain, a lot of suffering and a lot of cases that need urgent help.

So we have an economy that is sort of shaking along, kind of spotty recoveries; in different parts of the country there are some good signs and some fairly weak signs. But all in all it seems to me that the good signs outweigh the bad signs.

We have had consumer spending rise in 5 out of the last 6 months. Single-family housing starts rose 3.7 percent in July and 20.5 percent since March. We had building permits rise 15 percent since March. Business equipment orders are up 28 percent in the last 3 months. And the number of jobless filing new claims for benefits just released yesterday, fell by 17,000 in the first week of September. Some say that is because of a short work week. Maybe not. Maybe it is a trend.

Well, we have to expect a more robust recovery. But even if we have a robust recovery, there are still going to be some who are not going to be able to find work.

I think, finally, Mr. President, the bottom line around here is not what you pass in the Congress, it is what the President will sign. The President will sign the Dole-Domenici-Roth et al. proposal. He will sign it. President Bush will sign it. And he will veto the other plan, and that veto will be sustained. Make no mistake about it. It will be sustained.

Then the worker can say, "Well, I don't like what President Bush did. I don't like what Congress did. I don't like what anybody did. I'm still unemployed and getting no benefits. Now, maybe one of those big, powerful politicians made some political points somewhere in some union hall, or some union leader, but what does it do for me in Topeka, KS" or in Wyoming, or wherever it may be. It doesn't do anything. You are still out of work and you are still not getting any extended benefits.

So I think sooner or later we ought to stop the charade and the game of politics and the speeches, too, from all of us, including this Senator, and just make a deal, make a deal with the President of the United States and the unemployed workers that we are going to fashion a bill the President will

sign. It may not be quite as generous, it may not be quite as complicated, it may not even include students and others who are going to be in the total unemployment rate, or should not be in the unemployment rate, people moving from one job to the other; it may not have all the bells and whistles the Democratic plan has, but if it is signed by the President it will be money in the pockets of the unemployed workers of America.

So I hope we do not repeat our mistake. I hope we can complete action on this bill by next Tuesday evening. Then it will go to conference. And I assume in the conference they will take out the option the President had in the last bill. And then it has to come back here where it could be amended again, and maybe at that point we can agree to send him down two bills. Why not send him down our bill and the Democratic bill? Give the President a choice. Which one will the President sign?

That would be a test for the President. It would be a test for Republicans. It would be a test for Democrats. And it would be a win for the unemployed workers. Why not pass them both, send them down and say, "OK, Mr. President, you can pick the bill that pays for itself, provides 6 weeks and 10 weeks, or you can pick the bill that adds \$6 billion to the deficit that cannot be administered and makes some other changes that do not properly reflect what should be our policy toward those who are unfortunately unemployed."

EXHIBIT 1

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, July 31, 1991.

HON. ROBERT DOLE,

Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR: The Congress and the Administration face a difficult decision in their deliberations over proposed changes in the unemployment compensation system. We all have considerable sympathy for the hardships caused by unemployment, especially for those who have experienced a prolonged spell of joblessness and who may be exhausting their unemployment insurance benefits. At the same time, we have to recognize the crucial importance of the long-term discipline imposed by last fall's budget agreement and its beneficial effects on financial markets. Issuance of long-term securities by the federal government and by corporations in the process of restructuring their balance sheets has been substantial of late. Aided in part by the prospect that the budget agreement would impose restraint on government bond issuance over time, the market has absorbed this supply with minimal disruption. However, I am most concerned that breaching this discipline would alter perceptions of fiscal restraint and result in some edging up of long-term interest rates.

Sincerely,

ALAN GREENSPAN.

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank the Chair. I want to pay tribute

to my leader, Senator DOLE of Kansas. He is our leader in every sense. It is a great personal honor and privilege to serve as his assistant. I find that a rare privilege to serve with a rare human being. He spoke with great clarity today about where we are on this issue of unemployment.

This has now turned into a point-scoring contest. And I think it very important to keep in mind who the pawns are in this game, and that is American workers. It could not have been stated more clearly.

George Bush is not some heartless man waiting to see if he can eulchre the American worker. He is waiting for a bill that he can sign that is reasonable and responsible and has an ability to be paid for. And that bill is the Dole-Domenici-Roth proposal, of which I am a cosponsor.

I think that is a pretty good deal that our leader has proposed. Send the bill we are discussing now on up and the President will veto it. Or, we can take the one that will truly help the worker. The crux of this bill is: Let us just go back to the Senate again, and we will just keep doing it to them. We will just keep doing it to the worker, because it is gaining—they think—some political advantage.

But it must not yield too much political advantage because for months those on the other side of the aisle just sat and produced nothing in this arena—nothing until just before the August recess when perhaps some wandering focus groups got together in some community far from here, or close to here, and decided that they ought to do something with this issue.

Well, I do not think that is very responsible governing either. We do have unemployed. They are frustrated, embittered, and they need help, and we have a proposal to help them. And it is done by paying for it.

Yes, there is \$8 billion there. Yes, it should be used. Yes, let us use it. I am ready to vote that way. I am not holding back a bit on that. I have no desire to hold back on that.

But you cannot suddenly take a formula just for purposes of some pressure group to say, "now we are going to use a formula which has to do with the 'total unemployed' when we have never used the 'total unemployed' in any kind of those unemployment benefits before. We have used the 'insured unemployed.'"

All we need to do is go back to that, go back to that formula, and then we can produce a bill. But if the purpose is just to deliver a bill that the President will veto, that seems like a pretty shabby procedure to pull on the American worker. Our side does not desire to do that. We will not do that. And that is why the Dole proposal is, I think, very reasonable and should be in every way appropriately considered.

I think we know that Senator DOLE is a fierce fighter, not only just in leg-

islative combat but in combat on behalf of his country in earlier conflicts.

I will not be long. I do not want to intrude on the Chair or on Senator SPECTER'S desire to speak.

But I have watched in recent times, on the Veterans' Affairs Committee on which I serve and which I chaired, the same remarkable procedure which we witness today. That is put together a new bill, instill it with enough emotionalism and wrap a lot of stuff around it, and we will pass it even if there is not a cent to pay for it; no possibility to pay for it.

We have been doing that regularly. It is no reflection on our chairman or the members. But some of us just sit there and say: This is marvelous; it is brand new, and it certainly appeals to every heartstring and every emotion. It is good, populist politics. But how are you going to pay for it?

And there is kind of a nervous shuffling and clearing of throats, and nothing more happens. Pass it anyway; get it out of here, because it cannot miss.

Now, that is what is happening with veterans programs. We have a budget there of about \$32.5 billion for 28 million of us who are veterans. I served for 2 years. I was overseas in Germany. I never had a shell fired at me. And of those 28 million veterans, perhaps only 3 million of them were ever in a combat area. The other 24 of 25 million veterans are often very vociferous as to the benefits.

I have gone through that before, and taken a lot of heat. I say show me the combat veteran from the combat theater, and I say pay him or her anything it takes from a grateful Government. But surely let us get sane about what we do and what we have to do with veterans who never left the United States, never served over 6 months, never were involved in anything more strenuous than special services basketball, where they may have become service-connected disabled from tearing up their knee.

That happens. OK. I have been through all that. You have heard that old saw from me.

But I just say I have watched what has happened in these recent last months, where we are passing legislation with no thought of how to pay for it. We know it will not die. We know it will carry and it will be enacted, and it will go onto the books and then people will say, "How come you did not fund this marvelous program?" And we say, "Well, some of us said we could not fund it from the beginning. That is what we told you."

"Well, I know. That makes no difference."

I bring up that example only for one reason. Because it goes with what we do here, and that is a very extraordinary procedure I have watched now for 13 years. I think it is important to remember that Reaganomics—and I see

that term continues to be brought up. Ronald Reagan served this country in a splendid way, with great honor and great honesty. He is no longer here. So Reaganomics surely cannot be the so-called problem. I think we should finally give that up now. For some reason, it did not work to defeat him. It did not work to defeat George Bush. So maybe we can pass on from that.

But I will tell you what was happening during Reaganomics. I was here all during the 8 years. The President would submit a budget. It would quickly be addressed as being dead on arrival, as not responsive to the American public, as ugly and mean-spirited and terrible and evil. And that he was surely out of touch with America.

Then what would happen? It would go down to our sister body, the House of Representatives, our equal body. They would have hearings in a cursory fashion and just build up every single program 10 or 20 percent; add that to every single budget item and ship it down here and say, "There, try that. Ha, ha. Have a good go. And we are doing serious things."

Yes, they were doing serious things, just plunging us ahead into a \$3.5 trillion debt. That debt was not created by Ronald Reagan or George Bush. They do not get a single vote, and they never did. They get to veto. We get to override. We get to sustain.

Everything done fiscally in the United States has been done and initiated at the House of Representatives, which seems to have been controlled by Democrats longer than the mind of man.

That is how this happens. Kill the President's budget. Whoop it up over there so you can be popular with every clinging, clawing interest group; ship it over here, and hope the poor Democrats and Republicans in this body will grapple with it some way to make sense of it—which we usually do, and usually in a bipartisan way. That is what is happening in America.

Let no one wonder what this is. It is not complex. It is not complex at all.

So maybe we can get away from hearing about Reaganomics, that old tired saw, and "what is this President doing for America?"

I will tell you what he is doing for America. He proposed a Clean Air Act that had a chance of passing, for the first time in decades, thanks to good Democrats and Republicans. We did an Americans with Disabilities Act. We had not done that before, and 41 million people now have access to public and private facilities they never had before.

We did a child care bill, which had not been addressed in this country, and we did that. We have done a lot, domestically, in the United States. It just happens it does not happen to match the domestic agenda of liberal Democrats.

I know that is a curious thing, a hard, harsh thing to say. But nevertheless, this President is fully aware of what has to be done domestically in this country, and more importantly, he has done it. And this Dole substitute is a classic example of how to do it. Let us do something realistic; stay with the same tier system; stay with the same definition of unemployed; pay for it and use the pooled resources to do that.

I know the frustration level is obviously at flood tide for those on the other side of the aisle, especially with regard to running for President. It is nearly the end of September, and we have not yet had the race.

In previous years, we have had not only the race, but the jockeys have been up and their silks have been on, and the infield prepared, and we have been galloping for months prior to this time. That was in previous years.

It is tough to get people to run against an honest, decent, direct, frank U.S. President, with a spouse that is surely one of the greatest role models of the United States. That must be tough for them. I understand that frustration level. It must be a burning, tough time.

But that is no reason to use this issue to somehow say that this President is mean-spirited and will not provide something for the American worker, or to say that because George Bush does not like some of the proposals with regard to the so-called civil rights legislation, he is somehow racist; or to say that George Bush, in discussing recent issues regarding Israel in quite an honest fashion and for those of us who have strongly supported Israel through the years to be faced with the unfounded allegation that he is somehow anti-Semitic. These things trouble the American people.

I have been sitting in the Clarence Thomas nomination hearings. I have been there for days. It is a tedious process in some ways because oftentimes the extremists on both sides of every issue control the national dialog, and the people who suffer are the citizens, the middle people, the middle thinkers, the moderate thinkers.

Our respective leaders have presented us with the upcoming agenda. I think it is fair. The majority leader, GEORGE MITCHELL, and our party leader, BOB DOLE, work well together in this body. And that is to our benefit. They presented an agenda which has some of the things we very much want.

I think several Members of our party said we are not going to stay here just to do the other party's agenda, and see how many embarrassing votes we can be faced with. That is not what are here for, and we will not be part of that. And I do not think that is to be foisted off on us, and we will be watching carefully if it is.

But what is wrong with helping put the world order together? What is

wrong with seeing peace come to parts of the world that we never dreamed in our lifetimes could occur?

What is wrong with helping the world get settled down? I think the finest thing a government can give to its people, of all things, is peace, and this administration has worked on that in the most dazzling and brilliant fashion. It is finally coming to fruition around the world. Once we get that settled down and do what part we can without breaking our own bank, and we are not about to do that, then we, indeed, will have the domestic resources to go forward. What we do not have is the ability to just watch a bill pass with no ability to fund it and just add it to the \$3.5 trillion indebtedness we have right now.

So perhaps we can go forward. I look forward to certainly working with the leadership on both sides of the aisle to meet that agenda. I pledge to do that. But hopefully we can stay away from the ancient litany of Reaganomics. Most of the figures we get that point the negative picture of the Reagan Administration start in 1979. He was not even here. I do now know how you can blame anything that happened with regard to this fiscal decline on something that happened when he was not even in office. But to blame it on a President who does not even get a vote is the height of absurdity, and the American people, I think, have that pretty well figured out.

The little bit of fiscal discipline can start to take place down there. When it does, the American people will be the beneficiaries. We will do a bill. It will not be a political ploy. It will not be a gimmick. It will not be wired to see that it goes off under the Republicans' chair. If we spent all of the time figuring out how to do legislation for the good of the American people instead of watching staff figure out how to diddle the other side or lay the snares, or do this little trick, or put this little paragraph, or slip in this little slider, we could get the Nation's business done.

I commend our colleagues who are working on that program to see what we can do to make the system work, and we have a bipartisan group working on that. I commend them, and I will dedicate some of my energies to that. With that, I yield the floor.

ORDER OF PROCEDURE

Mr. RIEGLE. Mr. President, I ask unanimous consent that at the conclusion of the remarks by our distinguished colleagues, Senator SPECTER and the Republican leader, the Senate stand in recess as under the order.

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair. Mr. President, I have just come from

the hearings on the nomination of Judge Clarence Thomas for the Supreme Court of the United States, which concluded about 10 minutes ago. As it is my custom, I have withheld taking a position on the nomination until the hearings have been concluded. I have been asked, as is the practice for inquirers to be made of Judiciary Committee Senators, what my position would be, and I have declined to comment because I think it is important not to make such a determination until all of the witnesses have had an opportunity to testify because, as a matter of basic courtesy, if a mind is made up and a position is announced, it is difficult to respectfully address witnesses.

But the hearing is now completed. Rather than await an opportunity to have a polished, perhaps written statement, I think it is most appropriate to state my position, which I am about to do.

I support Judge Thomas for confirmation because he is intellectually, educationally, and professionally qualified. He will bring an important element of diversity to the Court. His previously stated opposition to following congressional intent is insufficient, in my judgment, to deny him confirmation.

The proceedings as to Judge Thomas have been highly charged and highly contested. Earlier today, going into the afternoon, there was a very distinguished panel speaking in opposition to Judge Thomas. In the course of that particular exchange, Ms. Eleanor Smeal raised a contention as to process, quoted Newsweek magazine as calling the Judiciary Committee proceeding a charade, and asked our committee to reject Judge Thomas because of his refusal to accord appropriate rights to women and minorities.

In my opinion, Mr. President, our procedure in the Judiciary Committee and in the Senate could be improved, but I believe that we have made significant advances in terms of inquiring into the background and philosophical approach of a prospective Supreme Court Justice and in eliciting information.

Since this country was founded in 1787, no nominee even appeared before the Judiciary Committee until Prof. Felix Frankfurter did so in the late 1930's. It is said that nominee William O. Douglas was waiting outside the Judiciary Committee to see if they had any questions, and there were no questions. In the early 1960's when Justice White was before the Judiciary Committee, it is said that only eight questions were asked of him.

I know that in the almost 11 years that I have been in the Senate and the seven nominating procedures that I have been a party to, I was grossly dissatisfied with the nomination of Justice Scalia because he answered no sub-

stantive questions at all. Following that proceeding, Senator DECONCINI and I were in the process of preparing a resolution to call for a Senate definition on what a nominee should answer. Before that work could be completed, we had the confirmation hearings for Judge Bork. At that hearing, a pattern was established requiring that the nominee answer fairly specific and extensive questions into his judicial philosophy.

So that I believe we have come a substantial way, but I do believe that we have a way to go yet. I personally believe that it is vastly preferable for Judiciary Committee, members not to take positions until the hearings are over, and that the better practice is for all Senators to await the floor debate. But in our body, the decision on how each Senator responds is a matter for each individual Senator's judgment. Of course I respect that.

Mr. President, a further problem, however, is that some Supreme Court nominees answer only as many questions as they have to in order to win confirmation.

When we had the confirmation hearing of Chief Justice Rehnquist in 1986, I pressed him on the issue of taking away the jurisdiction of the Supreme Court in constitutional cases and Chief Justice Rehnquist responded that he thought that was an inappropriate question to answer because the issue might come before the Supreme Court of the United States.

Overnight, I found a fascinating article written by William H. Rehnquist when he was a practicing lawyer in 1958 and which appeared in the Harvard Law Record. Then lawyer Rehnquist chastised the Senate for asking insufficient questions of Justice Whittaker, whose nomination hearings had concluded shortly before he wrote the article. And lawyer Rehnquist said that the Senate had a duty to inquire on questions of equal protection of the law and due process of law.

When I reminded Chief Justice Rehnquist at his confirmation hearings of what he had written many years before, Chief Justice Rehnquist said he thought lawyer Rehnquist was wrong but then proceeded to answer questions, to at least a limited extent, saying that he believed the Congress did not have the authority to take the jurisdiction of the Court on first amendment issues. But he would not answer the question as to whether jurisdiction could be taken from the Supreme Court on fourth amendment or fifth amendment questions, and also declined to answer why he felt there was a distinction between the two.

But we have seen the process evolve, Mr. President, so that Judge Bork answered extensive questions, as did Justice Kennedy and Justice Souter. Judge Thomas, too answered a great

many questions, although he declined to answer some questions.

Judge Thomas answered questions in some detail on the establishment clause of the first amendment, saying that he thought there should be a wall of separation between church and State, an idea first advanced by Thomas Jefferson and a very important doctrine.

He answered questions on the free exercise clause relating to the case of Smith versus Oregon where there was a new lower standard imposed by the Court, below the strict scrutiny standard traditionally used for analyzing governmental intrusions on the free exercise of religion. Judge Thomas said that he agreed with the dissent by Justice O'Connor, preferring the strict scrutiny test, which is, I think, a fair reading of his testimony, although I do not have it before me.

He answered fairly detailed questions on stare decisis, stating that he thought the dissenting opinion of Mr. Justice Marshall was the preferable one in Payne versus Tennessee.

He responded to a question on the death penalty. Many may not like to answer, but he responded to the question.

On the issue of privacy, he commented that he supported marital privacy and a single person's privacy as found in the Eisenstadt versus Baird case. He also stated that he agreed with the validity of the three-part equal protection clause test for discrimination claims.

Many questions he did not answer. He would not answer regarding Bower versus Hardwick and privacy rights for gays and lesbians. He would not respond to the Rust versus Sullivan case, and he would not talk about the validity of victims' impact statements in the sentencing phase of death penalty cases. And most specifically, he would not respond to a question on whether he would overrule Roe versus Wade. That question, of course, is the most divisive issue, the most divisive question to face this country since slavery.

It is my judgment, Mr. President—and Senators differ on this—that it is not appropriate to compel or press nominee to answer any question. My view is that the Senate ought to compel an answer to that question because the case ought to be decided in a specific factual context where there are briefs, arguments, and deliberation among the Justices, and then a final decision is made in the context of a specific case.

There have been a number of witnesses who appeared before the Judiciary Committee, and I would again refer to the testimony of Ms. Eleanor Smeal, who was very powerful witness, as was Ms. Molly Yard, and many others who appeared on both sides.

The hearing was really filled with a lot of emotion, with five African-Amer-

ican Congressmen appearing yesterday and denouncing Judge Thomas as not upholding civil rights and for his views on affirmative action; and others appeared from the African-American community speaking very forcefully on his behalf.

I asked Ms. Smeal directly the question about whether she thought Judge Thomas should state whether or not he would have voted with the majority or the minority on Roe versus Wade, looking to a direct response on that question. And Ms. Smeal responded that she thought he should.

Such critics argue that Judge Thomas really ought to state that he would uphold Roe versus Wade, which I think is unrealistic for a nominee to be pressed to that position, just as I think it is unrealistic to expect the President to appoint someone who is committed to uphold Roe versus Wade in light of what the President's position has been on that issue.

The President has submitted Justice Souter, who did not state a position, and notwithstanding Judge Souter's vote in Rust versus Sullivan, at least in the mind of this lawyer/Senator, I do not think Justice Souter has foreclosed himself on Roe versus Wade. Judge Thomas was explicit in describing his conversations with President Bush, and they did not include any discussion about how Judge Thomas stood on any issue.

Mr. President, I am concerned about the Supreme Court being a super legislature and the Supreme Court exercising a policy judgment. I expressed deep concern about that question to Judge Thomas in terms of where the Court has gone, and specifically on his own position based on his own writings.

In my view—and I think this is a unanimous view on the Judiciary Committee, certainly one articulated very strongly by Senator THURMOND—the Court is supposed to interpret law, not to make law. And yet we have seen—and I only cite two cases because I note my distinguished colleague from New York and my distinguished colleague from Colorado have come to the floor—that in the case of Griggs, the Supreme Court made law. We had a decision by a unanimous Supreme Court in 1971 written by Chief Justice Burger, a conservative judge, stating a position regarding the burden of proof in cases involving title VII of the Civil Rights Act of 1964. Eighteen years later, in Wards Cove, the Supreme Court made new law; a new law was made by four U.S. Supreme Court Justices who placed their hands on the Bible during the course of the past 10 years and swore not to make law but only to interpret law.

Similarly, in the case of Rust versus Sullivan, there was a provision in a 1970 law prohibiting abortion as a means of family planning in federally funded clinics. Then a regulation was

issued by the Secretary of Health and Human Services saying that counseling regarding abortion was permissible. That stood for 17 years until 1987 and a new regulation was issued. That regulation prohibited a doctor from even informing his patient or from speaking to his patient or from responding to a question from his patient on the subject of abortion. The Supreme Court upheld that in Rust versus Sullivan, assigning a number of reasons but one of them was a change in public attitude.

On questions of that sort, Mr. President, I believe that it is established doctrine that it is the intent of Congress at the time the law is passed, and that intent is then amplified by the regulation. And when the Congress allows that regulation to stand for 17 years, it seems to this lawyer/Senator that there is a strong presumption, really a conclusive presumption at that point, that that is congressional intent.

The concern that I expressed in the hearings and repeat here today is that we have a revisionist Court. We do not have a Court which is only a conservative Court. The conservative Court expressed itself in Griggs unanimously with a conservative Chief Justice, Chief Justice Burger. The conservative Court expressed itself in a school case of Swann versus School District, again a unanimous Court opinion written by Justice Burger, again an opinion which has been taken issue with by those on the far right who really seek to revise what the Court has done, not to move to a conservative position, but a revisionist Court, which I think is a major concern because what we really have in that context is the Court making new law.

New laws are the province of the Congress of the United States. We may come to a point, Mr. President, where the Senate will have to assert its role as a full partner in the process of selecting Supreme Court Justices.

(Mr. RIEGLE assumed the chair.)

Mr. SPECTER. It is fascinating to note that when the Constitution was adopted the early draft of the Constitution in the Constitutional Convention gave to the Senate the sole authority to pick Supreme Court Justices. If we are going to be looking at Supreme Court Justice nominees whom you vote for very much like you vote for Senators, and when Senators run for election we state our position on all the issues, it may be that the nominees will have to or should have to—we may move to a point where they will be pressed very hard if they are to be confirmed to answer these public policy questions, if they insist on making public policy.

In the context of Judge Thomas' own background, this was a matter of major concern for this Senator. I questioned Judge Thomas extensively on this

point because he had written extensively observing that in his view Congress was not a deliberative body, Congress did not exercise wisdom, Congress was collectively irresponsible, and Congress looked out for the interests of the individuals as opposed to the general good.

I respect Judge Thomas' views on that subject. But when it comes to what Congress has stated as a matter of congressional intent in the determination of public policy, that binds the Court when it is a nonconstitutional issue.

In one of Judge Thomas' writings before he went onto the bench he had commented about the case of Johnson versus Santa Clara Transportation Co. that he hoped that Justice Scalia's dissent would provide the basis for a future majority position.

In another speech, although not endorsing the broad context, he had stated that a quick fix would be to appoint more Supreme Court Justices. That obviously raises the question in my mind which I asked Judge Thomas about as to whether he would go to the Court with an ideology to obtain the social policy that he desired in light of the Supreme Court decision in Johnson versus Santa Clara County.

He did not like the Supreme Court decision in Local 28 versus EEOC, United Steelworkers versus Weber and Fullilone versus Klutznick. He acknowledged expressly that Congress had the authority to change those Supreme Court decisions interpreting the Civil Rights Act, but recognized that the fact that Congress had not overturned those cases was strong evidence that those cases expressed Congress's intent. These cases were clearly a matter of statutory construction, not of constitutional dimension. I asked Judge Thomas head on if he would have an agenda on the bench to overrule congressional intent, and he was very emphatic in his writings, these philosophical musings, that he would not follow congressional intent.

That is always a difficult matter, Mr. President, as we take a look at what he had written before. It is my judgment that it is insufficient to deny Judge Thomas confirmation in the face of the other qualities which he brings to the bench.

Professor Drew Days, of Yale Law School, who appeared and testified against Judge Thomas, was asked by me whether he thought Judge Thomas was intellectually and educationally capable of handling the very onerous responsibilities of a Supreme Court Justice. Although Professor Days objected to Judge Thomas on philosophical grounds, Professor Days conceded that Judge Thomas had the intellectual and educational capability to be on the Court.

There was impressive testimony given by Dean Calabresi also of the

Yale Law School, who was on the faculty when Judge Thomas was at Yale, and commented about Judge Thomas' qualifications. Indeed, Dean Calabresi said that he thought Judge Thomas merited a "well qualified" designation from the American Bar Association, which only gave Judge Thomas a "qualified," but Dean Calabresi said that Judge Thomas merited a "well qualified" as much as any of the other recent nominees who received that classification by the American Bar Association.

There was impressive testimony given by former chief Judge John Gibbons of the third circuit, a man whom I have known for many years, who is on the third circuit for 20 years. He knew Judge Thomas very well, having served on the board of Holy Cross with Judge Thomas for many, many years. Judge Gibbons had read all of Judge Thomas' opinions, and expressed the view that Judge Thomas was intellectually well qualified for the Supreme Court of the United States.

My own reading of Judge Thomas' opinions led me to believe that he is a solid judicial craftsman. When it comes to the question of Judge Thomas' philosophy and Judge Thomas' approach, reasonable men can differ on a number of the positions which he articulated. I thought his nomination process important to provide a national debate on the subject of affirmative action. Regrettably the proceedings did not really move in much depth in that direction.

Most really move in much depth in that direction.

Most of our time was consumed on the question of natural law. Judge Thomas was criticized for retreating on the position of natural law.

But if you take a look at all of Judge Thomas' writings, and all of his speeches, natural law contained a very small fraction of his attention. Most of what he had to say about natural law looked at it as a basis for the equality of man, for ridding the African-Americans of slavery, and as a more appropriate basis for the desegregation case, *Brown versus Board of Education*.

Mr. President, a very key factor in my own analysis of Judge Thomas is the importance of diversity on the Supreme Court of the United States. I believe that those who seek to pigeonhole Judge Thomas at this time as an extreme conservative or in any particular direction are likely to be surprised. While he did testify in response to my question that he favored the death penalty, he also exhibited real balance I think and real sensitivity on the issue of criminal rights and minority interests.

At one point in the proceeding there was very poignant testimony on his part where he said that as he looks out the window from his own office in the court of appeals he sees the police vans

bringing up African-American defendants, and he looks down and comments that "There, but for the grace of God, would go Judge Thomas."

In a case involving a young Hispanic man named Jose Lopez on the court of appeals, Judge Thomas joined in an opinion, which he did not write but joined, which allowed criminal courts to look into the background of the criminal defendant when sentencing even though the Uniform Sentencing Guidelines prohibited considering socioeconomic circumstances. So that when a test came on applying a broader, perhaps even liberal, if you will, interpretation of the guidelines, Judge Thomas was willing to go the extra mile in giving this young Hispanic an opportunity to mitigate or have a lesser sentence, even though the statute prohibited consideration of socioeconomic circumstances.

Mr. President, I also think that Judge Thomas has the potential to serve as a very important role model for African-Americans and other minorities in this country. I have not gone into his background in Pin Point, GA, under the extraordinary circumstances of the discrimination, segregation, in which he lived, but Judge Thomas has a background which will bring a very, very unique perspective and a very, very different point of view to the Supreme Court of the United States.

One other point, Mr. President, is the potential for Judge Thomas to gain a following in articulating a different point of view from many of those who speak out in the African-American community today—one opposed to affirmative action which he says is harmful to the person who is the beneficiary because it paints a picture of inadequacy.

It is harmful to the individual who is replaced by someone with a lower test score, and it promotes racial divisiveness. My own questioning of Judge Thomas has led, to me, a somewhat different view of affirmative action. But I believe that his view is well within the realm of reasonableness. He articulates a position which I think is entitled to a hearing in America today, to let a more expansive view of affirmative action come to grips with what Clarence Thomas has to say on affirmative action, to let that idea percolate in the marketplace of free ideas.

As a final point, I have not stated a position on Judge Thomas based on any political consideration, but I think that there is an underlying current—and we talked about it a little bit in the hearings—of the Democratic hierarchy being opposed to Judge Thomas, and the traditional African-American leadership being opposed to him because he points out a different perspective.

I know that in Pennsylvania, in Philadelphia, we have a one-party sys-

tem and have had for more than 40 years. And the possibility of having a role model or a conservative Republican who shows great success in climbing the ladder of success is something that is worthwhile in our society—not a reason to nominate a man, not a reason to confirm a man, but a byproduct worth noting.

In essence, Mr. President, I support Judge Thomas, because he has a very high level of intellect. Anybody who doubted that should have sat through the hearings. He dealt with 8, 10 tough lines of questioning by the Judiciary Committee members who went into very substantial detail, and his responses were at a high intellectual level.

His educational background from Yale is excellent. Yale did very well at the hearings this week. We had a lot of talk about the Yale Law School. Taking a look at his work on the Court of Appeals, he has done a very solid job there as well. I believe he will bring a measure of diversity with his African-American roots, which the Supreme Court across the green sorely needs to give a different picture to America.

Judge Calabresi testified about the projection of growth and the projection of development and, in my view, Judge Thomas has that potential, and I believe he is worthy of confirmation, and I intend to vote in favor of his confirmation.

I yield the floor.

Mr. BROWN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

SENATOR BROWN'S SERVICE ON THE JUDICIARY COMMITTEE WITH SENATOR SPECTER

Mr. BROWN. Mr. President, I rise to give tribute to the distinguished Senator from Pennsylvania. I had the pleasure of serving with him these past 2 weeks in the Judiciary Committee, during which time Judge Thomas' nomination was considered. Of the members of that committee, I must say, I was most impressed with Senator SPECTER—his thoughtfulness, ingenuity, perseverance and tenacity, and most of all, an unbiased quest for the truth; I was impressed by this Member greatly.

The simple fact was, if it was a tough question to be considered, Senator SPECTER often offered it. He probed witnesses, and I am convinced the proceedings benefited greatly by his great intellect, and by his quest to bring out the facts.

As one who is serving their first term on the Senate Judiciary Committee, I found sitting next to the distinguished Senator from Pennsylvania a great experience, and I think his probing mind brought a great deal of benefit not only

to the proceedings, but to the members who had the pleasure of benefiting from his questions and his probing discussions.

I yield the floor.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Colorado for those overly generous remarks. It was a pleasure to sit next to Senator BROWN. It is quite a process—the Supreme Court nominating process—where we have been in hearings fully for 2 weeks, absent 2 days of Jewish holidays, and sometimes sitting very late into the day, and a very solid attendance, undertaking one of the most important functions this body has, the advise-and-consent function.

I believe this was Senator BROWN's first Supreme Court nominating process and he acquitted himself with distinction. I thank my colleague for his generosity.

The PRESIDING OFFICER. The Senate has an order to go out after the Senator from Pennsylvania speaks.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Appropriations, with amendments:

H.R. 2521. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-154).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ADAMS:

S. 1730. A bill to provide early childhood staff training and professional enhancement grants, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. McCONNELL:

S. 1731. A bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself and Mr. CHAFEE):

S. 1732. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of leased employees, and for other purposes; to the Committee on Finance.

By Mr. ROTH:

S. 1733. A bill to amend the Internal Revenue Code of 1986 to provide a special rule to treat the European Community as a single country under Subpart F of the Internal Revenue Code and to adjust the high tax exception to Subpart F to an effective tax rate of eighty percent instead of ninety percent; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. DECONCINI, Mr. SPECTER, Mr. BROWN, Mr. BINGAMAN, Mr. MCCAIN, Mr. CRANSTON, Mr. AKAKA, Mr. INOUE, Mr. WIRTH, and Mr. PACKWOOD):

S. 1734. A bill to repeal provisions of law regarding employer sanctions and unfair immigration-related employment practices, to strengthen enforcement of laws regarding illegal entry into the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 1735. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER (for himself, Mr. GRASSLEY, Mr. DOMENICI, and Mr. CONRAD):

S. 1736. A bill to amend title XVIII of the Social Security Act to provide for improved quality and cost control mechanisms to ensure the proper and prudent purchasing of durable medical equipment and supplies for which payment is made under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. D'AMATO):

S. 1737. A bill to prohibit the import from Yugoslavia of defense articles on the United States Munitions List; to the Committee on Finance.

By Mr. DASCHLE:

S. 1738. A bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. DECONCINI, and Mr. HELMS):

S.J. Res. 200. Joint resolution designating the week of October 27 to November 2, 1991 as "National Pornography Victims Awareness Week"; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ADAMS:

S. 1730. A bill to provide early childhood staff training and professional enhancement grants, and for other purposes; to the Committee on Labor and Human Resources.

EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT GRANTS

Mr. ADAMS. Mr. President, I rise today to introduce the Early Childhood Staff Training and Professional Enhancement Grants Act of 1991.

This will add a new program to title V of the Higher Education Act. It is a terribly important piece of legislation in that it seeks to create a training system that corresponds to the professional career ladder for the most critical education area: early childhood development.

Millions of working people need child care. These children not only need access to child care, preschool and Head Start programs, they also need programs of the highest quality. Unfortunately the quality of many of these programs is low and it is limited by the fact that there is no recognized career track for preschool or child care staff. People just have no place to go. They start, they stay at the same place, they see no place to go and they leave. So we have a continual turnover and we have a continual problem with getting truly highly trained people to deal with the most precious resource of this country—our children.

The first national goal is school readiness for American children. High-quality preschool and child care programs are formulated, developed, put together, to enable children to go to school ready to learn; to develop good social skills and high academic achievement. The development and education of children should be our highest national priority.

The problem is very simple. We know what works, and we know what our children need. Yet, we have failed to provide early childhood staff with the tools they need to run high-quality programs, especially for infants and toddlers and children with special needs. We have failed to recruit, train, and retain highly trained staff. As I indicated before, there is no place to go. This is the case in child care, preschool, and other early childhood programs, regardless of family income.

We know that formal education and specialized training in early childhood development are more likely to create a higher quality experience for children. We know that staff retention, continuing education, and professional identification and recognition make for better quality care. And we know that we need to remove obstacles to the delivery of a comprehensive, cohesive training system. A career ladder is essential to every profession and professionalism.

We must address the compensation of child care staff. A typical childhood staff earns, on average, only \$10,000 a year. That is about the poverty level for a family of two. In a recent broadcast on this issue, one woman said she made more money cleaning houses than taking care of children. That is a

pretty bad statement about our national priorities.

Many States, such as my own State of Washington and Connecticut and Delaware, are well on the way to creating a system of training and a progression of roles for early childhood staff. We owe it to the professionals in these States and elsewhere to help them reach their goals and to replicate quality programs for the children and staff across the entire country.

The people who care for our Nation's young children deserve recognition, career growth, and a comprehensive, coherent training system to provide high-quality programs and to enhance their professionalism. I urge my colleagues to join me in supporting this legislation, which I hope will be included in the reauthorization of the Higher Education Act, to be completed this Congress.

Finally, I would like to thank Joan Lombardi of the Child Care Employee Project, Gwen Morgan of Wheelock College, Centers for Career Development in Early Care and Education, and Barbara Willer of the National Association for the Education of Young Children, among others, who gave many valuable suggestions in the writing of this bill and provided much of the experience that has gone into it.

Mr. President, I ask unanimous consent that the text of the bill, an outline of the bill and letters of endorsement be printed in the RECORD.

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

S. 1730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS AUTHORIZED.

Title V of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART F—EARLY CHILDHOOD TEACHER TRAINING AND PROFESSIONAL ENHANCEMENT

"SEC. 575. SHORT TITLE.

"This part may be cited as the 'Early Childhood Staff Training and Professional Enhancement Grants Act'.

"SEC. 576. FINDINGS.

"The Congress finds that—

"(1) 10,000,000 preschool children spend all or part of the day in out-of-home care;

"(2) specialized preparation of individuals who care for young children is a predictor of the ability to provide high quality experiences for such children;

"(3) due to projected increases of children in out-of-home care in the future, it is necessary to expand and improve the training and career growth of individuals who care for and educate young children;

"(4) the present delivery system of child care education and training is disjointed;

"(5) funding for such training is fragmented, sporadic, and distinguishes in-service training from degree or certificate programs; and

"(6) in order to expand and enhance the career development of individuals who care for and educate young children, such individuals

must have training options that promote career growth.

"SEC. 577. PURPOSE.

"It is the purpose of this part to—

"(1) promote the national education goal that all children in America start school ready to learn, by ensuring the existence of sufficient numbers of well-trained early childhood development and care staff;

"(2) provide professional preparation and continued career training for early childhood development and care staff who work with children from birth through preschool, with an emphasis on infants and toddlers and children with special needs; and

"(3) create and implement effective, coordinated models of early childhood professional preparation and in-service training so that such preparation and training corresponds with a career ladder, based on a progression of staff roles, in the field of early childhood development and care.

"SEC. 578. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to States in accordance with the provisions of this part to enable such States to pay the costs of the activities described in the plan submitted pursuant to section 580.

"(b) COMPETITIVE BASIS.—Grants under this part shall be awarded on a competitive basis.

"(c) DURATION.—Grants under this part shall be awarded for a period of 5 years.

"SEC. 579. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State, in consultation with the State educational agency, desiring to receive a grant under this part shall designate an appropriate State agency, to act as the lead agency.

(b) DUTIES.—The lead agency shall—

"(1) administer, directly or through other State agencies, the financial assistance received under this part by the State;

"(2) choose the members of the Advisory Committee that will develop the State plan to be submitted to the Secretary under section 581;

"(3) in conjunction with the development of the State plan as required under paragraph (2), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of training and professional development described in the State plan; and

"(4) coordinate the provision of services under this part with other appropriate Federal, State and local programs.

"SEC. 580. ADVISORY COMMITTEE.

"(a) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—In order to receive a grant under this part a State shall establish, through the lead agency described in section 579, an Advisory Committee to develop the State plan described in section 581.

"(2) APPOINTMENT.—In order to receive a grant under this part the lead agency shall appoint the members of the Advisory Committee in accordance with subsection (b).

"(b) COMPOSITION.—To the extent such entities exist within a State, each Advisory Committee established pursuant to subsection (a) shall consist of a representative of the following agencies, institutions, organizations, divisions, programs or departments of the State:

"(1) The lead State agency responsible for administering funds received under the Child Care Development and Block Grant Act.

"(2) Institutions of higher education, including community colleges and 2-year colleges.

"(3) An organization representing child care providers, including center-based care and family day care.

"(4) An early childhood division of a State educational agency, and the State early childhood teacher certification agency, if such entities are different.

"(5) A child care licensing or regulating agency.

"(6) A local child care resource and referral agency.

"(7) A Head Start agency.

"(8) An organization with significant experience in training in the fields of early childhood development, early care and early education.

"(9) An organization representing parents of young children.

"(10) A State-funded preschool program.

"(11) A State employment and job training agency.

"(12) A State department of community development.

"SEC. 581. STATE PLAN.

"(a) IN GENERAL.—Each State desiring a grant under this part shall submit, through the lead agency, a plan to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The Secretary shall consult with the Secretary of Health and Human Services regarding the contents of such plan.

"(b) CONTENTS.—Each plan submitted pursuant to subsection (a) shall—

"(1) identify the lead agency as described in section 579;

"(2) assess the training offerings and content of such offerings, amount of training required for an early childhood development staff license or certificate, compensation, recruitment and turnover of staff, and any coordination of training offerings and professional growth of early childhood development staff in the State;

"(3) describe the goals of the activities assisted under this part; and

"(4) describe how the State shall—

"(A) identify and maintain a career development path, based on a progression of roles for early childhood development staff, with each role articulated with training and different levels of responsibility and compensation, in such manner as will permit an individual to qualify for a more responsible role;

"(B) identify the core content for each staff role and assure that workshops, courses, seminars, and appropriate certificate and degree programs are available for each such staff role and career advancement;

"(C) ensure that trainers of early childhood development staff in the State are qualified;

"(D) describe the ways in which the State will coordinate training programs among institutions of higher education, including transfer of credits, and assure that in-service training offered in the State carries course credit accepted by an institution of higher education, community college or 2-year college in the State toward a certificate or degree program;

"(E) set forth the ways in which the State will pay the costs of any assessment, credentialing, certification, licensing, training offering, training inventory, increase in staff participation in training, or other services assisted by a grant under this part;

"(F) describe the ways in which the State plans to coordinate the various State and local agencies and organizations to maximize coordination of standards and requirements for certifications, licenses, and accreditations, including Head Start agencies, the State agency responsible for administer-

ing funds under the Child Development Associate Scholarship Act of 1985, the State agency responsible for administering funds received under the Child Care Development and Block Grant Act, and the State agency responsible for early childhood education and preschool programs;

"(G) describe the ways in which the State will compile and disseminate information on—

- "(i) training offerings;
 - "(ii) requirements for admission into courses and programs;
 - "(iii) requirements for a license, certificate, credential, or degree to which such offerings may be applied;
 - "(iv) funding sources available for such activities; and
 - "(v) the cost of training offerings; and
- "(H) describe the ways in which the State will use the funds received under this part and any other funds available to the State to carry out the activities described in the State plan.

*SEC. 582. EVALUATION AND REPORT.

"(a) EVALUATION.—The Secretary, through grants, contracts or cooperative agreements, shall provide for continuing evaluation of activities assisted under this part to determine the effectiveness of such activities in achieving stated goals, and the impact of such activities on developing and coordinating training options and in developing and implementing a career ladder articulated with training.

"(b) LOCAL EVALUATION.—Each State receiving a grant under this part shall evaluate the activities assisted under this part to determine the effectiveness of such activities in achieving State goals, the impact of such activities on the establishment of a career ladder for early childhood development, the impact of such activities on families served if feasible, and the impact of such activities on licensing or regulating requirements for individuals in the field of early childhood development. An interim evaluation shall be submitted to the Secretary not later than January 1, 1995, and a final report shall not be submitted later than January 1, 1997.

"(c) INFORMATION.—Each State receiving a grant under this part shall prepare and submit to the Secretary such information as the Secretary shall request in order to carry out the evaluation described in subsection (a).

"(d) REPORT.—No later than September 1997, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the appropriate committees of Congress, each State agency responsible for administering funds received under the Child Care Development Block Grant Act, and each State educational agency, a report assessing the evaluations conducted pursuant to subsections (a) and (b), including an examination of the strengths and weaknesses of the design and operation of the activities assisted under this part and the effectiveness of such activities in achieving stated goals.

*SEC. 583. AUTHORIZATION.

"There are authorized to be appropriated \$10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996 and 1997."

OUTLINE OF EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT GRANTS ACT OF 1991

The Early Childhood Staff Training and Professional Enhancement Grants Act amends Title V of the Higher Educational Act of 1965 by creating a new program of competitive, 5-year grants to states. The

purpose of the bill is to promote the first national educational goal of school readiness, to provide training in early childhood development and care with an emphasis on infants and toddlers and children with special needs, and to create and implement coordinated professional preparation and inservice training that corresponds to a career ladder in the field of early childhood development, care and education.

The chief executive officer, in consultation with the state education agency, will designate a Lead Agency. The Lead Agency's duties include administering the grant, choosing representative agencies and organizations specified in the bill to be members of the Advisory Committee, holding at least one public hearing, coordinating with other federal, state and local programs, and submitting the state plan to the Secretary of Education.

The Advisory Committee will be composed of representatives of institutions of higher education (including community colleges and 2-year colleges), the lead agency for the Child Care Development and Block Grant, child care provider organizations, and early childhood division of the SEA and the state early childhood teacher certification agency, if different, a child care licensing or regulating agency, a local child care resource and referral agency, a Head Start association, an organization with experience in training in this field, a parent organization, a state-funded preschool program, a state employment and job training agency, and a state department of community development.

The state plan must assess current training, compensation, and coordination, describe the training offerings, transfer of credits, core content of training, coordination of programs and agencies and institutions, and ways in which the state will use these grants funds, and any other funds available, to pay for planning, the costs of training, the cost of assessments, credentials and licensing, and cost of evaluating the program.

The grant recipients will submit interim and final evaluations to the Secretary. The Secretary of Education, in consultation with the Secretary of Health and Human Services, will report to Congress and to each state an assessment of the grantees' evaluation including the strengths and weakness of each program.

The bill is authorized at \$10 million for FY 93 and such sums through FY 97.

SUPERINTENDENT OF
PUBLIC INSTRUCTION,
Olympia, WA, September 19, 1991.

Senator BROCK ADAMS,
U.S. Senate,
Washington, DC.

THE HONORABLE BROCK ADAMS: I want to commend you for introducing the Early Childhood Staff Training and Professional Enhancement Grants Act. As your legislation makes clear, early childhood development and care staff need a better training system and career growth in order to ensure the quality of programs for children.

As you are probably aware, early childhood education continues to be a top priority of my administration. We are currently engaged in discussions and activities in our state directly related to the intent and purposes of your bill. I strongly support your efforts in this area and will watch the progress of your legislation with great interest.

Sincerely,

JUDITH A. BILLINGS,
State Superintendent
of Public Instruction.

CHILD CARE EMPLOYEE PROJECT,
Oakland, CA, September 19, 1991.

Hon. BROCK ADAMS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ADAMS: On behalf of the Child Care Employee Project, I would like to commend you for introducing the "The Early Childhood Staff Training and Professional Enhancement Act". Your initiative in supporting the early childhood workforce is a critical step forward to ensuring that young children receive sound developmental services.

The Child Care Employee Project is a national organization dedicated to improving the quality of child care by enhancing the status and working conditions of people that work with young children. We are particularly concerned over the inability of programs to recruit and retain qualified staff due to the extremely low wages offered child care providers. In 1989, we released the results of The National Child Care Staffing Study, the most comprehensive examination of center-based care in the United States in over a decade. It revealed that inadequate compensation is fueling a rapidly increasing and damaging exodus of trained personnel from our nation's child care centers.

The study found that child care workers earned \$5.35 per hour and there was a 37 percent turnover of staff in a six month period. The picture in your own state, in the City of Seattle, was even more alarming. Child Care providers in Seattle earned only \$5.21 and the six-month turnover rate was 43 percent. Across the country, staff turnover has tripled in the past decade. These statistics are reflected in care that is barely adequate. By failing to meet the needs of the adults that work in child care, we are threatening not only their well-being but that of the children in their care.

We now have sufficient research that demonstrates that the education of child care teaching staff and the arrangements of their work environment are essential determinants of the quality of services children receive. Yet the field of early childhood is plagued by high turnover, lack of appropriate training opportunities and a training system that is often fragmented and insufficient to meet the increasing needs for qualified personnel. These findings call for improved policies to help increase compensation, improve the work environment and expand the educational opportunities for child care providers. Your amendment to the Higher Education Act would help address these serious issues in states across the country.

I look forward to working with you and your staff as the bill moves through Congress. Please let me know if we can be of any further assistance.

Sincerely,

MARCY WHITEBOOK,
Executive Director.

WHELOCK COLLEGE,
Boston, MA.

Hon. BROCK ADAMS,
U.S. Senate, Washington, DC.

DEAR SENATOR ADAMS: Thank you for introducing an amendment to the Higher Education Act to encourage some states to plan for career development in the early childhood field. This federal stimulus could have a big effect on the quality of early care and development programs, for a modest expenditure of federal funds.

Early care and education is a professional field, with a body of knowledge known to

have an effect on the quality of care that children receive. We have a national goal that all children should arrive at school "ready to learn." Before the children arrive at school, they have been in child care programs, which have a potential of meeting that national goal, but only with qualified staff.

Right now the lack of training and career advancement has kept salaries in the field low and turnover is unacceptably high. A National Staffing Study by the Child Care Employees Project found that quality is severely affected by the turnover and lack of training.

For the past twenty-five years, it has been characteristic for colleges to reject all previously earned credits and competencies learned from in-service training when an applicant decided to pursue a certificate or degree program. An individual with extensive training would encounter a stone wall, and would have to start over when trying to cross the bridge from the pre-college coursework they had had, funded by Title XX, JPTA, and other sources, in order to enter a college program, funded by other sources of funds such as Pell Grants. The lack of a bridge with continuity across all the levels of professional training has kept the number of college-trained people in our field to a tiny fraction of what is needed, and assured that low-income people, often members of the child's own community, were denied access to college, while middle-class white people, who could afford a college education, were more likely to be qualified for the better jobs in early care and education. Overall salaries for everyone have been low, and there is no reward system where more highly qualified staff earn more money. An improved educational system is a necessary precursor to improve salary policies.

At the Centers for Career Development, we are studying state policies, and our report will be produced soon after passage of this amendment, should it pass. We believe our report will stimulate further interest among the states. Meanwhile, we know that there is already a great deal of interest. As part of our work, we are providing technical assistance to localities and states where we identified some promising planning for improved career development in early care and education: Delaware, Connecticut, Rochester, New York, a program in California, and a Career Institute in Boston. We are considering beginning work in Kansas City and Detroit. We have been consulted by the states of Hawaii and Colorado. We know of other states and localities where there is planning going on, and where promising practices have started. We believe that demonstration projects funded under this amendment will have an important effect on state policies at this time, when states are already stimulated to improve their child care systems under the Child Care and Development Block Grant. Federal guidelines for the Block Grant will not permit that source of funds to be used to any great extent for planning and training. This amendment is needed to stimulate some models that will address the barriers to higher education in the field. Once the models are in place, states will find there are federal sources of funds that could be, but have not yet been, used for early childhood professional education.

We want to commend you for your leadership in this important policy area, and to

offer any help and support that we can in promoting its passage.

Sincerely yours,

GWEN G. MORGAN,

Director, Centers for Career Development
in Early Care and Education.

NATIONAL ASSOCIATION FOR THE
EDUCATION OF YOUNG CHILDREN,
Washington, DC, September 19, 1991.

Senator BROCK ADAMS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ADAMS: The Early Childhood Staff Training and Professional Enhancement Grants Act, which you plan to introduce tomorrow, is highly compatible with the goals of the National Association for the Education of Young Children, an individual membership organization of more than 77,000 members dedicated to improving the quality of early childhood care and education.

NAEYC is vitally concerned with the need for improving professional development opportunities available to teachers and caregivers of young children. As you are aware, the quality of the teaching staff is the primary determinant of quality of early childhood programs. As we strive to achieve our national educational goals—especially Goal #1: ensuring that all children enter school ready to learn, it is critically important that sufficient numbers of well-qualified personnel are available to provide the high quality early childhood services that assist children to enter school ready to fully take advantage of their educational opportunities.

Despite what we know about the importance of sufficient numbers of well-trained staff to program quality, many early childhood programs are facing severe problems in recruiting and retaining qualified staff. In part, this stems from the very low salaries which characterize the early childhood field. For example, a recent GAO study found that early childhood personnel in programs outside the public school system earn roughly half their public school counterparts with similar qualifications and responsibilities. The National Child Care Staffing Study found that in 1988, the average wages for child care staff were roughly \$10,000 per year.

These low salaries reflect the lack of meaningful paths for early childhood career development that provide incentives for furthering professional growth. The current system of professional development is fragmented; there are serious problems with access and availability of training opportunities. Your amendment to The Higher Education Act would tackle these serious problems. By encouraging states to develop plans to address these issues, you build on the notion of "states as laboratories" and provide the opportunity for innovative and creative solutions to emerge.

We are forwarding the bill for formal endorsement by our Board. Please feel free to call upon us for further assistance as this important bill moves forward. We look forward to working with you and your staff.

Sincerely,

BARBARA A. WILLER,
Public Affairs Director.

By Mr. MCCONNELL:

S. 1731. A bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes; to the Committee on Foreign Relations.

UNITED STATES-HONG KONG POLICY ACT OF 1991

Mr. MCCONNELL. Mr. President, I rise today to introduce the United States-Hong Kong Policy Act of 1991.

This past July, I traveled to Hong Kong. While there, I met with Hong Kong and People's Republic of China Government officials, leaders of the political parties, American and foreign businessmen, and citizens of the colony. I came away from those meetings convinced that it's time for this country to establish a comprehensive, coherent policy for Hong Kong.

Historically, the United States has been reluctant to involve itself in Hong Kong affairs because the territory was a dependent of the United Kingdom and United States economic interests there were less compelling. There may have been a time when that policy was correct.

But times have changed, Mr. President. First of all, London is rapidly preparing to hand Hong Kong over to the People's Republic of China in 1997. Second, America's interests in Hong Kong have increased dramatically, both in terms of the global economy and emerging democratic institutions in Hong Kong. It is time, Mr. President, that our policy changed to reflect these developments.

Let's look at the facts. In 10 short years, the United States-Hong Kong economic relationship has grown exponentially. Hong Kong is now our 13th largest trading partner and United States exports to the territory have been increasingly steadily. In fact, Mr. President, on a per capita basis, Hong Kong now imports three times as much from the United States as does Japan.

Hong Kong is now one of the most important financial hubs in East Asia and serves as the gateway to emerging new markets in the region—a fact not lost on U.S. business. Nine hundred United States firms now maintain offices in Hong Kong and our banks have \$99 billion in deposits there. Thirty-five thousand workers are employed by 158 United States-controlled factories in Hong Kong. Overall, the United States now has about \$7 billion invested in Hong Kong.

More important than these stunning economic developments, true democracy is finally gaining a tenuous foothold in Hong Kong. On Sunday, Hong Kong held its first-ever direct elections to the legislative council. It was a small step toward full democracy—only one-third of the council seats were directly elected—but was a move in the right direction. After 1997, Mr. President, Hong Kong will likely be the only place in China with any democratic freedoms.

Despite a sustained economic boom and emergence of democratic institutions, concern about post-1997 Chinese compliance with the Joint Declaration and the Basic Law, under which Hong Kong was promised a high degree of au-

tonomy under the principle of "one country, two systems," has caused confidence in the colony to ebb and flow. This pattern of uncertainty ill-serves the interests of China, Hong Kong, and the United States.

This uncertainty is manifested in the alarming rate of emigration from Hong Kong. Over 1,000 of the territory's best and brightest people are leaving each week for a more secure future in the United States, Australia, and Canada. This brain drain is sapping Hong Kong's human resource base and jeopardizing its economic viability.

Concern about the future is also evident in the wild swings of the Hong Kong stock market and recent runs on Hong Kong branches of foreign-owned banks.

Clearly, the people of Hong Kong need reassurance that the United States, Japan, and the West are neither indifferent toward nor uninterested in their future after 1997.

Hong Kong will be able to exercise the full extent of autonomy promised it under the Joint Declaration only with the cooperation of the international community. For example, the rights granted to Hong Kong under the Joint Declaration to negotiate commercial treaties or to participate in multilateral organizations are meaningless without the willing participation of countries such as the United States.

Mr. President, America can provide assurance and leadership by pronouncing our policy interests in Hong Kong now. We should step forward to guide the international community in support of the autonomy promised Hong Kong by clearly stating how we will deal with the territory up to and after the 1997 reversion.

The bill I'm introducing today makes such a statement. The United States-Hong Kong Policy Act is based on the 1984 Sino-British Joint Declaration, under which Britain agreed to transfer sovereignty over Hong Kong to China in 1997. The Joint Declaration very carefully details the political, economic and legal systems that Hong Kong is to have after 1997, and it spells out clearly the autonomy that the territory will enjoy. The Joint Declaration makes clear that China, as the sovereign state, will have authority for all defense and foreign affairs issues. It grants Hong Kong autonomy in nine fields: economic, trade, finance, monetary, shipping, communications, tourism, culture, and sport. Hong Kong will also retain more limited powers in aviation and education.

Closely following the wording of the Joint Declaration, the United States-Hong Kong Policy Act addresses United States policy toward Hong Kong in these specific areas.

This bill is necessary, Mr. President, because United States policy toward Hong Kong in these areas is either non-existent or unclear.

For example, how will high technology exports to Hong Kong, now governed by the Coordinating Committee on Export Controls, be treated after 1997? Access to such technologies is critical if Hong Kong is to maintain its economic viability, but the United States must also assure that such items do not wind up in the wrong hands. Also, Hong Kong now enjoys certain bilateral relations with the United States independent of China. After 1997, will those relations be hostage to behavior by hardliners in Beijing?

It is in our own economic self interest, as well as the interest of the people of Hong Kong, to settle these issues before 1997. The more extensive and established United States-Hong Kong ties are before 1997, the more likely that they will be maintained after 1997. A transparent legal framework will assure both sides that ties will not be affected by the change of sovereignty. Also, the more that the United States respects the autonomy of Hong Kong while the territory remains under British rule, the less China will see such policies as an affront to the People's Republic of China sovereignty after 1997. Finally, establishment of a clear policy will boost confidence in Hong Kong and stem emigration. It will show that the leader of the international community is willing to support Hong Kong now and after 1997.

Mr. President, whether you agree with it or not, we do have a definitive policy toward China. Unfortunately, we have been silent on the issue of Hong Kong. It's time to end that silence, Mr. President. It's time for America to develop a Hong Kong policy.

The United States-Hong Kong Policy Act of 1991 establishes the framework for such a policy. It is a starting point, and I look forward to working with my colleagues and the administration in the coming months.

Mr. President, I ask unanimous consent the full text of the bill appear in the RECORD at this point.

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

S. 1731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S.-Hong Kong Policy Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Congress recognizes that the People's Republic of China will resume sovereignty over Hong Kong on July 1, 1997 under the 1984 Sino-British Joint Declaration on the Question of Hong Kong. The Congress recognizes that the United Kingdom will be responsible for the administration of Hong Kong until June 30, 1997.

(2) The Congress recognizes that under the Joint Declaration the Hong Kong Special Administrative Region of the People's Republic

of China will enjoy a high degree of autonomy on all matters other than defense and foreign affairs after July 1, 1997. The United States recognizes that the People's Republic of China will be responsible for the defense and foreign affairs of Hong Kong thereafter.

(3) The Congress welcomes that under the Joint Declaration the Hong Kong Special Administrative Region will be vested with executive, legislative and independent judicial power, including the power of final adjudication. The Congress also welcomes the implementation of the "one country, two systems" policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.

(4) The Congress welcomes that under the Joint declaration the legislature of the Hong Kong Special Administrative Region will be constituted by elections and that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall remain in force.

(5) The Congress welcomes that the basic policy of the People's Republic of China towards Hong Kong, as stated in the Joint Declaration and the Basic Law, is to allow the people of Hong Kong to rule Hong Kong with a high degree of autonomy in furtherance of the principle of "one country, two systems".

(6) The Congress recognizes the important role that Hong Kong plays in the regional and world economy today. The Congress declares that it wishes to see the full implementation of the Joint Declaration so that Hong Kong can continue as an international economic and trade center.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Hong Kong, China" means the reference to Hong Kong required by the Joint Declaration after June 30, 1997;

(2) the term "Joint Declaration" means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984; and

(3) the term "PRC" means the People's Republic of China.

TITLE I—UNITED STATES POLICY

SEC. 101. BILATERAL TIES BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should actively seek to establish direct bilateral ties with Hong Kong in economic, trade, financial, monetary, shipping, communications, touristic, cultural, sport, and other appropriate matters to the extent that Hong Kong is allowed to exercise autonomy in these fields under the Joint Declaration, and to maintain and expand those ties after July 1, 1997.

(2) The United States should seek to maintain after July 1, 1997, with the authorization of the Government of the PRC (as required by the Joint Declaration), the United States Consulate-General in Hong Kong, along with other official and semi-official organizations, such as the United States Information Agency American Library.

(3) The United States should invite Hong Kong to maintain, after July 1, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office and the Hong Kong Tourist Association. The United States should invite

Hong Kong to open and maintain other official or semi-official missions in those fields in which Hong Kong is permitted to exercise autonomy under the Joint Declaration. After July 1, 1997, such offices should operate under the name "Hong Kong, China".

(4) The United States should actively seek to reach appropriate agreements with the Hong Kong Special Administrative Region in those fields in which Hong Kong is permitted to exercise autonomy under the Joint Declaration. In particular, the United States, consistent with its immigration laws, including procedures of the Immigration and Naturalization Service, should actively seek to negotiate and conclude agreements with Hong Kong tending to reduce or abolish visa restrictions, particularly those formalities which hinder United States nationals seeking to work in Hong Kong and covering Hong Kong residents seeking to work in the United States.

(5) The United States should recognize passports and travel documents issued by the Hong Kong Special Administrative Region.

(6) The PRC's resumption of the exercise of sovereignty over Hong Kong should not affect treatment of Hong Kong residents who apply for visas to visit the United States.

SEC. 102. PARTICIPATION BY HONG KONG IN MULTILATERAL ORGANIZATIONS.

It is the sense of the Congress that the following should be the policy of the United States with respect to participation by Hong Kong in multilateral organizations:

(1) The United States should support Hong Kong's participation in multilateral organizations open to non-states which are concerned with those matters in which Hong Kong is permitted to exercise autonomy under the Joint Declaration. After July 1, 1997, such participation should be under the name "Hong Kong, China".

(2) The United States should continue to fulfill its obligations to Hong Kong under international agreements, so long as Hong Kong reciprocates, regardless of whether the PRC is a party to the particular international agreement, unless and until such obligations are modified or terminated according to specified procedures.

(3) The United States should support Hong Kong's application to join all multilateral international conferences, agreements, and organizations, such as the Asia Pacific Economic Cooperation forum (APEC), for which it is eligible under both the Joint Declaration and the organization's bylaws. After July 1, 1997, such applications should be under the name "Hong Kong, China".

(4) The United States should support Hong Kong's continued participation after July 1, 1997, under the name "Hong Kong, China", in all multilateral international conferences, agreements, and organizations, such as the General Agreement on Tariffs and Trade (GATT), in which it participates on June 30, 1997, whether or not the PRC participates.

SEC. 103. COMMERCE BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following should be the policy of the United States with respect to commerce between the United States and Hong Kong:

(1) The United States should seek to maintain and expand economic and trade relations with Hong Kong and should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin.

(2) The United States should continue to negotiate directly with Hong Kong to conclude bilateral economic agreements. After July 1, 1997, the United States should nego-

tiate directly with Hong Kong, under the name "Hong Kong, China", to conclude bilateral economic agreements.

(3) The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after July 1, 1997, should treat Hong Kong as a territory which is fully autonomous from the PRC, for economic and trade matters.

(4) The United States should continue to consider Hong Kong for most-favored-nation trade status by virtue of Hong Kong's membership in the General Agreement on Tariffs and Trade (GATT).

(5) The United States should continue to recognize certificates of origin for manufactured goods issued by the Hong Kong Special Administrative Region.

(6) The United States should continue to allow the United States dollar to be freely exchanged with the Hong Kong dollar.

(7) United States businesses should continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law.

(8) The United States should continue to support Hong Kong's access to sensitive technologies in accordance with COCOM rules, provided that the United States is satisfied that such technologies remain in Hong Kong.

(9) The United States should encourage Hong Kong to continue its efforts to develop a framework which provides adequate protection for intellectual property rights.

(10) The United States should negotiate directly with Hong Kong, in consultation with the PRC, a bilateral investment treaty.

SEC. 104. TRANSPORTATION.

It is the sense of the Congress that the following should be the policy of the United States with respect to transportation from Hong Kong:

(1) Recognizing Hong Kong's position as an international transport center, the United States should continue to recognize ships and airplanes registered in Hong Kong and should negotiate air service agreements directly with Hong Kong.

(2) The United States should continue to recognize ships registered by Hong Kong under the name "Hong Kong, China" after July 1, 1997.

(3) United States commercial ships, in accordance with applicable United States and Hong Kong law, should remain free to port in Hong Kong.

(4) The United States should continue to recognize airplanes registered by Hong Kong, in accordance with applicable laws of the PRC.

(5) The United States should recognize licenses issued by the Hong Kong Special Administrative Region to Hong Kong airlines.

(6) The United States should recognize permits issued by the Hong Kong Special Administrative Region to United States airlines for services which travel to, from, or through Hong Kong and which do not travel to, from, or through other parts of the PRC.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong Special Administrative Region, acting under authorization from the Government of the PRC, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through other parts of the PRC. The United States should negotiate at the appropriate time directly with the Government of the PRC to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights which travel

to, from, or through other parts of the PRC, whether or not the flight also travels to, from, or through Hong Kong.

(8) The United States should negotiate directly with the Hong Kong Special Administrative Region about arrangements to implement international aviation agreements, in effect on June 30, 1997, or which the Hong Kong Special Administrative Government enters after July 1, 1997, with the authorization of the Central People's Government of the PRC.

SEC. 105. CULTURAL AND EDUCATIONAL EXCHANGES.

It is the sense of the Congress that the following should be the policy of the United States with respect to cultural and educational exchanges with Hong Kong:

(1) The United States should seek to maintain and expand United States-Hong Kong relations and exchanges in culture, education, science, and academic research. The United States should encourage American participation in bilateral exchanges with Hong Kong, both official and unofficial, in those fields in which Hong Kong is permitted to exercise autonomy under the Joint Declaration.

(2) The United States should actively seek to further United States-Hong Kong cultural relations and promote bilateral exchanges, including the negotiating and concluding of appropriate agreements in these matters.

(3) The Hong Kong Special Administrative Region should be accorded individual status as a full partner in the Fulbright Program (apart from Britain prior to July 1, 1997 and apart from the PRC thereafter), with establishment of a Fulbright Commission or functionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong residents to travel to the United States for such purposes as business, tourism, education, and scientific and academic research, in accordance with applicable United States and Hong Kong law.

(5) The Congressional Research Service of the Library of Congress should seek to expand educational and informational ties with the Legislative Council of Hong Kong.

TITLE II—THE STATUS OF HONG KONG IN UNITED STATES LAW

SEC. 201. THE STATUS OF HONG KONG IN UNITED STATES LAW.

(a) On and after July 1, 1997, the United States shall continue to treat Hong Kong as a separate territory under United States law in those matters, such as immigration quotas, in the same manner as it does on June 30, 1997.

(b) All United States laws which apply to Hong Kong on June 30, 1997, shall continue to apply after July 1, 1997, unless and until amended or repealed according to law.

(c) The PRC's resumption of the exercise of sovereignty over Hong Kong shall not affect United States obligations under law to Hong Kong.

(d) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and Hong Kong before July 1, 1997, unless and until terminated in accordance with law.

(e) For all purposes under the laws of the United States, including actions in any court in the United States, resumption of sovereignty by the PRC over Hong Kong shall not affect in any way the ownership of or other rights or interests in any property, tangible or intangible, or any other thing of value, owned or held in the United States on

or before July 1, 1997, or thereafter acquired or earned by the Hong Kong Government or Hong Kong residents and held in the United States.

(f) The capacity of Hong Kong to sue and be sued in courts in the United States, in accordance with the law of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the resumption of sovereignty by the PRC over Hong Kong.

TITLE III—REPORTING PROVISIONS

SEC. 301. REPORTING REQUIREMENT.

Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State, after consultation with the United States Trade Representative and the Secretary of Commerce, shall transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the degree to which the Joint Declaration is being implemented in Hong Kong. The report should also discuss the state of United States-Hong Kong bilateral ties and the implementation of the Hong Kong policy set forth in this Act, in particular—

- (1) the state of United States-Hong Kong bilateral ties, including economic ties;
- (2) the nature and extent of Hong Kong's participation in multilateral forums;
- (3) the current state of United States-Hong Kong ties in transportation matters;
- (4) the nature and extent of United States-Hong Kong cultural, education, scientific and academic exchanges, both official and unofficial;
- (5) the current status of Hong Kong under United States law; and
- (6) other matters affecting United States interests in Hong Kong and United States-Hong Kong relations.

SEC. 302. SUBREPORT.

When compiling country reports on such subjects as economic relations and human rights, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a separate subreport on Hong Kong.

By Mr. DASCHLE (for himself and Mr. CHAFEE):

S. 1732. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of leased employees, and for other purposes; to the Committee on Finance.

TAX TREATMENT OF LEASED EMPLOYEES

• Mr. DASCHLE. Mr. President, I rise to introduce a proposal that I hope will be considered for inclusion in any major tax simplification effort this year. Joining me is my colleague from Rhode Island, Senator CHAFEE.

The proposal deals with the application of the pension tax laws and attempts to address the specific concerns of certain physicians in my own State and across the country. To take a brief example, we have pathologists in South Dakota who have their own practices, but who spend portions of their days or weeks supervising or directing laboratories in perhaps several nearby hospitals. The pathologists normally maintain a tax-qualified pension or profit-sharing plan that includes physicians and employees in their practices.

A proposed Internal Revenue Service regulation, however, would have the effect of requiring the pathologists to offer the plan to employees in the hospital laboratory, as well. Ironically, these hospital employees normally are covered already by the hospital's pension plan.

The effect of the IRS rule makes little sense. Typically, the hospital takes care of hiring and firing laboratory employees and pays their salaries. Moreover, the hospital determines their benefits and negotiates with their union, if the employees are unionized. Application of the IRS rule to these doctors creates enormous administrative burdens and may ultimately result in physicians dropping their pension plans altogether.

Emergency physicians and anesthesiologists find themselves in a situation similar to the pathologists. The proposal these physicians have advanced is drafted generically and, while intended specifically to address their concerns, may also provide relief for individuals in other professions who find themselves in similar circumstances.

Earlier this year, my colleagues, Senators BENTSEN and PRYOR, introduced legislation containing a number of measures designed to simplify the pension laws. Their bill is expected to be the vehicle for pension simplification. I am an original cosponsor of that measure and continue to be a strong supporter of it.

My intent in offering the measure I am introducing today is to share with my colleagues a proposal that I believe merits consideration as an amendment to the pension simplification legislation. The physicians have worked hard to come up with a solution to their concerns, and we owe it to them to give it our close attention.

Mr. President, I ask that the text of the bill be printed in the RECORD in full following my remarks.

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

S. 1732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF LEASED EMPLOYEE.

(a) IN GENERAL.—Paragraph (2) of section 414(n) of the Internal Revenue Code of 1986 (defining leased employee) is amended to read as follows:

“(2) LEASED EMPLOYEE.—For purposes of paragraph (1), the term ‘leased employee’ means any person who is not an employee of the recipient and who provides services substantially for the sole benefit of the recipient, if—

“(A) such services are provided under one or more contracts (whether oral or written) between the recipient and any other person (in this subsection referred to as the ‘leasing organization’), pursuant to which payment for such service is made, directly or indirectly, by the recipient to the leasing organization,

“(B) such person has performed such service for the recipient (or for the recipient and related persons) for at least 1,000 hours during a plan year of the recipient, and

“(C) such services are performed by such person under the control of the recipient.

For purposes of subparagraph (C), control exists if the person's relationship to the recipient is substantially the same as that of an employee to an employer.”

(b) DE MINIMUS RULE.—Section 414(n)(4) of such Code is amended by inserting at the end thereof the following new subparagraph:

“(C) DE MINIMUS RULE.—For purposes of this subsection, a recipient may elect not to treat a leased employee as such an employee for any plan year if such employee performs services for the recipient for less than 501 hours during such plan year.”

(c) CONFORMING AMENDMENTS.

(1) Subparagraph (A) of section 414(n)(4) of such Code is amended by striking “the period referred to in paragraph (2)(B)” and inserting “the first plan year referred to in paragraph (2)(B)”.

(2) Subparagraph (B) of section 414(n)(4) of such Code is amended by striking “but for the requirements of paragraph (2)(B)” and inserting “after the first plan year referred to in paragraph (2)(B)”.

SEC. 2. ALTERNATIVE SAFE HARBOR FOR ORGANIZATIONS NOT PRINCIPALLY FORMED TO LEASE EMPLOYEES.

(a) IN GENERAL.—Section 414(n) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) ALTERNATIVE SAFE HARBOR FOR ORGANIZATIONS OTHER THAN PRINCIPAL LEASING ORGANIZATIONS.—

“(A) IN GENERAL.—If a leased employee is employed by an organization the principal purpose of which is not providing the services of leased employees—

“(i) paragraph (5) shall not apply, and

“(ii) in the case of requirements described in subparagraphs (A) and (B) of paragraph (3), this subsection shall not apply to any employee with respect to services performed for a recipient for any period described in subparagraph (B).

“(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), a period is described in this subparagraph with respect to any employee if—

“(i) such leased employee is eligible to participate in a plan which is maintained by the leasing organization which—

“(I) satisfies the requirements of section 401(a), is an annuity plan described in section 403(b), or is a governmental plan within the meaning of section 414(d), and

“(II) provides significant retirement benefits, or

“(ii) such leased employee is a member of a unit of employees covered by a collective bargaining agreement described in section 410(b)(3)(A).

“(C) SIGNIFICANT RETIREMENT BENEFITS.—

“(i) IN GENERAL.—For purposes of subparagraph (B)(i)(II), a plan provides significant retirement benefits to a leased employee if the plan provides either—

“(I) in the case of a defined benefit plan, an annual retirement benefit (as defined in section 416(c)(1)(E)) of no less than 1 percent of such leased employee's average compensation for the testing period, or

“(II) in the case of a defined contribution plan, an annual employer contribution of no less than 2 percent of such leased employee's compensation for each year of participation.

“(i) TESTING PERIOD.—For purposes of clause (i), the term ‘testing period’ means

the period of consecutive years (not exceeding 5), beginning on or after January 1, 1984, during which the leased employee—

"(I) received years of service under paragraph (4)(B), and

"(II) had the greatest aggregate compensation."

(b) CONFORMING AMENDMENT.—Section 414(n)(5)(A) of such Code is amended by striking "In" and inserting "Except as provided in paragraph (6), in".

SEC. 3. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this section shall apply to years beginning after December 31, 1991.

(b) RETROACTIVE APPLICATION.—In the case of any year beginning after 1983 and before 1992, the requirements of section 414(n) of the Internal Revenue Code of 1986 shall be treated as met if either such requirements as in effect before the amendments made by this Act, or such requirements as in effect after such amendments, are met.

(c) EFFECT OF REGULATIONS.—Any final, temporary, or proposed regulation or ruling issued under section 414(n) of such Code shall only apply prospectively from the later of the date of publication or the date of the enactment of this Act.●

● Mr. CHAFEE. Mr. President, I rise today to join Senator DASCHLE in introducing legislation to prevent untaxed hardships caused by the present tax law governing qualified retirement plans.

The leased employee provisions of the Tax Code—section 414(n)—were adopted by the Congress in an effort to prevent discrimination in qualified retirement plans between highly compensated and non-highly compensated employees. I believe reasonable anti-discrimination rules that curtail abusive circumvention schemes are appropriate. The proposed regulations issued by the Treasury Department in 1987, to implement this section of the Tax Code, however, would result in unworkable and overreaching application of the leased employee provision.

In the case of hospital-based physicians, including pathologists, anesthesiologists, radiologists, and emergency room physicians, these regulations have the potential to severely limit their ability to participate in qualified retirement plans. These physicians may base their practices at the principal hospital they serve or in a separate office setting. In addition, they may serve the patients of more than one hospital, travel from hospital to hospital on a regular schedule, or must be available "on-call."

These physician specialists commonly serve as supervisors or directors of hospital laboratories or departments. In this capacity, they medically supervise technologists and other employees who operate equipment, screen the results of various procedures, and provide other support services. As medical directors, these physicians provide essential medical care to patients by supervising personnel in the performance of their patient care duties.

Technical staff and other support personnel have traditionally been em-

ployed by the hospital; the hospital hires and fires these individuals and pays their salaries. The hospital determines their benefits and negotiates with their union, if such employees are unionized. Hospital employees are covered by the hospital's pension plan. The hospital bills patients, or their insurer, for the services of these employees. The physician does not pay the hospital for the services of these employees, nor does the physician bill for their services.

Under current law, leased employees are treated as though they are common law employees for purposes of certain retirement and welfare benefit provisions of the Tax Code. The Congress enacted section 414(n) to prevent abusive circumvention of antidiscrimination rules that require employees who are not highly compensated to be eligible to participate in the same tax-favored retirement plans that employers establish for themselves and their key employees.

In what has been cited as an example of an abusive circumvention scheme, an organization could discharge its own employees, create a separate organization which would hire the discharged employees, and lease the same employees from the separate organization. The new organization would not typically offer the same coverage in a qualified retirement plan, while the previous employer would continue to enjoy higher benefits and meet the antidiscrimination rules.

I am aware of no evidence to indicate that hospital-based physicians have been or could be involved in these schemes. Regulations, however, proposed by the Treasury Department to implement the leased employee rules would require hospital-based physicians to bring hospital employees under their pension plans. Physicians would have to include these individuals in determining whether their plan meets the antidiscrimination rules of the Internal Revenue Code.

In most cases, the physician would have to provide the difference between what the employees would receive under the physicians' plan and what they receive under the hospital plan. These retirement benefits would have to be provided, even though the physician does not pay for the hospital employees' services or have the right to bill patients for the services of the hospital employee.

This requirement would cause a number of significant and unintended problems for these physicians. As a result of a high ratio of employees to physicians, the cost of including hospital employees in the physician's retirement would be extremely high. In addition, determining the amount of benefit, if any, that would have to be provided to the hospital lab employees would be enormously complex and prohibitively expensive. These additional

costs may cause many physicians to terminate their plans, thereby eliminating the retirement benefits for the physician and his common law employees.

The College of American Pathologists, the American Medical Association, the American College of Radiology, the American College of Emergency Physicians, and the American Society of Anesthesiologists have jointly developed a proposal which they believe will clarify the leased employee section of the Tax Code in a manner that prevents abuses but simplifies administration of the lease employee requirements. The measure that Senator DASCHLE and I are introducing today is based on that proposal.

Pension access and simplification proposals, introduced in both the House and Senate, would identify leased employees by substituting some variation of a control test for the historically employed test of current law. The legislation we are introducing today includes a control test, however, it takes into account the fact that good medical practice requires physicians to exercise medical and clinical direction of hospital employees.

In addition to establishing a control test, the legislation is intended to achieve the following three objectives: first, provide a more precise definition of leased employees to make it clear that a legally binding contract is required before leased employee status can occur; second, expand the safe harbor provision to include relief for the unique relationship between hospital-based physicians and hospital employees; and third, prevent detrimental retroactive application of the statute and the proposed regulations.

Mr. President, I concur wholeheartedly with the need for appropriate rules to curtail abusive circumvention schemes designed to avoid anti-discrimination requirement for qualified retirement plans. However, I share the concerns of many physicians that efforts to implement the leased employee section of the Tax Code, as it currently stands, would result in unworkable and overreaching regulations.

The legislation that Senator DASCHLE and I offer today will clarify the leased employee provision of the Tax Code in a manner that prevents abuses and simplifies administration of these requirements. I respectfully urge my colleagues to review this bill and join us as cosponsors of this important corrective legislation.●

By Mr. ROTH:

S. 1733. A bill to amend the Internal Revenue Code of 1986 to provide a special rule to treat the European Community as a single country under Subpart F of the Internal Revenue Code and to adjust the high tax exception to Subpart F to an effective tax rate of 80 percent instead of 90 percent; to the Committee on Finance.

SUBPART F TAX SIMPLIFICATION ACT

Mr. ROTH. Mr. President, I am happy to introduce S. 1733, a bill whose time has come. With EC 1992 fast approaching, it is time that the Congress act to do something that represents a common sense approach to this historic change in the way nations trade, and the way they tax their businesses. In this age of the emerging global economy, it makes no sense to place United States companies operating in the European Community at a disadvantage compared to European or Japanese companies operating in the same uniform market. What my bill attempts to do is to allow companies that are trying to compete in the European Community, and the world market for that matter, to consolidate and streamline their foreign operations.

In recent years, policymakers, world trade experts, and academics have focused considerable and well-deserved attention on our trade imbalance and the apparent inability of U.S. business to compete successfully in the world marketplace. There have been numerous theories and explanations promulgated for the U.S. trade imbalance—some clearly with merit and others perhaps not. There have also been many proposals offered to address this critical problem. These proposals range from broad, long-range re-evaluations of fundamental, societal systems such as our education process to more narrow modifications to our international trade and tax laws which may offer more tangible benefits in the short term.

It is clear that we cannot afford to remain passive while confronting the sea of changes that are restructuring the world's economy. The crumbling of the Soviet economic infrastructure, the emergence of the European Community, and Japan's growing economic hegemony have profound implications for the world marketplace and our role in it. So far, we have responded too late and with too little and our competitive position has continued to deteriorate. For example, last year our merchandise trade deficit was \$108 billion, somewhat lower than the year before, but still twice what it was in 1983. Since 1986, our cumulative trade deficit has totaled more than three-quarters of a trillion dollars. At the same time, a growing number of foreign corporations have set up business on our own shores and are competing very successfully with our domestic manufacturers, particularly in the automobile industry.

Under our tax system today, United States companies operating in the European Community, or elsewhere, are encouraged to become inefficient and bureaucratic as a result of the "subpart F rules" in the U.S. Tax Code. Despite the need for productive, growth oriented policies, our tax laws continue to tie the hands of U.S. businesses,

their best hope for maintaining and building a strong American presence in the global economy is through foreign operations, which in many cases means headquartering a business in one country to serve several surrounding nations. Regionalization allows for economies of scale that translate into more effective competition.

Unfortunately, U.S. corporations that wish to set up regional operations abroad face U.S. tax laws that discourage them and reduce their competitiveness. Under subpart F of the Internal Revenue Code, U.S. multinational corporations can be subject to a current U.S. tax on certain undistributed earnings of their foreign subsidiaries. For example, income earned by such a subsidiary from cross-border transactions may be subject to U.S. taxes. An exception is made when the subsidiary pays an effective foreign tax of at least 90 percent of the U.S. effective rate. These rules create an incentive for U.S. corporations to establish and maintain subsidiaries in each and every country. The result has been that U.S. companies have created subsidiaries in more countries than they normally would because of the incentives in the tax code to avoid the subpart F rules. The resulting bureaucracy of operations is incredibly complex and inefficient. U.S. companies are forced, under this perverse tax system, to expand operations unnecessarily and to track every transaction in order to comply with subpart F. It's time for America to rethink this anti-competitive tax law.

Originally intended to deter U.S. corporations from moving their business operations offshore to tax-haven countries, the subpart F rules have become a lodestone around the necks of U.S. corporations, increasing their costs and decreasing their competitiveness. This bill would reduce the 90 percent standard to 80 percent, giving companies the necessary flexibility to restructure their operations along more cost-effective lines. In addition, because of the rapid changes in the European Community leading to 1992, the legislation would treat the EC as a single country for subpart F purposes.

Given our position in the world marketplace, we can ill-afford to handicap American multinational corporations. Indeed, we should, within the bounds of good public policy, do all we can to support their efforts. I believe this legislation represents an important step in revitalizing America's worldwide competitive presence and I ask unanimous consent that an explanation of the bill, and the bill itself be placed in the RECORD in full.

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

S. 1733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Subpart F Tax Simplification Act."

SEC. 2. EXCEPTION FOR CERTAIN INCOME SUBJECT TO HIGH FOREIGN TAXES.—

(a) Section 954(b)(4) is amended by striking "90 percent" and inserting "80 percent."

(b) Section 954(b)(4) is amended by adding at the end the following new sentence: "For purpose of this paragraph, the effective rate of income tax shall be computed without regard to any net operating losses (including adjustments allowable with respect to depreciation deductions) of the controlled foreign corporation arising under the laws of the foreign country in taxable years ending before December 31, 1991."

SEC. 3. SAME COUNTRY RULES.

(a) IN GENERAL.—Section 964 of such Code is amended by adding at the end thereof a new subsection as follows:

"(e) SPECIAL RULE FOR EUROPEAN COMMUNITY ACTIVITIES.—

"(1) IN GENERAL.—For purposes of this subpart, the countries comprising the European Community shall constitute a single country.

"(2) DEFINITION.—For purposes of paragraph (1), the term "European Community" shall include countries:

"(A) which are members of the Council of Ministers of the European Communities (Belgium, Denmark, France, Greece, the Irish Republic, Italy, Luxembourg, the Netherlands, Portugal, Spain, the Federal Republic of Germany and the United Kingdom) and

"(B) which—

"(i) have a maximum statutory tax rate greater than 90 percent of the maximum rate of tax specified in section 11(b), and

"(ii) do not exempt from taxation pursuant to a tax holiday or similar special rule income of a controlled foreign corporation or a United States person described in section 957 (determined without regard to this subsection)."

SEC. 4. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.—

(a) Section 954(c)(2) (defining foreign personal holding company income) is amended by inserting at the end thereof the following new subparagraph:

"(C) CERTAIN INCOME DERIVED IN ACTIVE CONDUCT OF INSURANCE BUSINESS.—Foreign personal holding company income shall exclude dividends, interest, and gains from the sale or exchange of stock or securities received from a person other than a related person (within the meaning of subsection (d)(3)) derived from investments made by an insurance company of an amount of its assets required to be maintained in a foreign country in accordance with applicable regulatory requirements, excluding assets which are directly or indirectly attributable to the insurance or reinsurance of risk of persons who are related persons (within the meaning of subsection (d)(3)). The preceding sentence shall not apply to the extent assets are maintained in a country with a maximum statutory income tax rate less than 90 percent of the maximum rate imposed under section 11.

SEC. 5. EFFECTIVE DATE.

(a) The amendments made by sections (1) and (2) shall be effective for taxable years beginning after December 31, 1991.

GENERAL EXPLANATION
CURRENT LAW

Generally, a U.S. corporation is not taxed on the earnings of its foreign subsidiaries until those earnings are distributed to the U.S. parent. Under subpart F of the Internal Revenue Code, however, U.S. multinational corporations can be subject to a current U.S. tax on certain undistributed earnings of their foreign subsidiaries. For example, the income earned from certain cross border transactions involving a U.S. corporation's foreign subsidiary may be subject to the subpart F rules. A U.S. corporation may be taxed immediately under subpart F on its foreign subsidiary's income attributable to the issuance of an insurance contract in connection with an activity in any country other than the subsidiary's home country. A "high tax" exception to the subpart F rules is provided to foreign subsidiaries that pay an effective foreign tax of at least 90 percent of the U.S. effective tax rate.

REASON FOR CHANGE

The 90 percent high tax exception is intended to exclude from the subpart F rules those U.S. multinational corporations that operate subsidiaries for legitimate business reasons in full-tax countries. Due to differing depreciation methods and other timing differences between U.S. and foreign tax principles, this 90 percent standard is deceptively difficult to achieve, as well as burdensome to administer. Consequently, the high tax exception does not provide the intended relief from the subpart F rules. U.S. multinational corporations must therefore organize their subsidiaries in a less efficient, more costly structure in order to avoid the subpart F penalty even though the subsidiaries are located in full-tax countries.

In order to allow U.S. business to restructure under this legislation, the high tax standard must be calculated without regard to net operating losses or other timing differences accumulated prior to the change in the law.

The subpart F rules also do not properly take into account the emerging European Community single market. By 1992, the EC expects to have developed the world's largest integrated market and to have eliminated tariffs, customs duties, double taxation, and restrictive trade practices within that market. To take advantage of the new opportunities created by the EC single market, United States businesses must eliminate unnecessary expenses and inefficient business practices. European and Japanese competitors are already consolidating their EC operations and increasing their productivity. The subpart F rules, however, encourage United States businesses to establish or maintain subsidiaries in each European country in order to avoid subpart F treatment of their income, thereby in-

creasing costs and decreasing United States competitiveness.

PROPOSAL

The legislation would reduce the subpart F high tax exception from 90 percent to 80 percent. In calculating whether the high tax standard is achieved, the effective foreign tax rate would be calculated without regard to certain net operating losses or other similar carryforwards earned in tax years ending prior to December 31, 1991.

Further, legislation would treat the European Community as a single country for purposes of the subpart F rules.

This legislation would be effective for tax years beginning after December 31, 1991.

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. DECONCINI, Mr. SPECTER, Mr. BROWN, Mr. BINGAMAN, Mr. MCCAIN, Mr. CRANSTON, Mr. AKAKA, Mr. INOUE, Mr. WIRTH, and Mr. PACKWOOD):

S. 1734. A bill to repeal provisions of law regarding employer sanctions and unfair immigration-related employment practices, to strengthen enforcement of laws regarding illegal entry into the United States, and for other purposes; to the Committee on the Judiciary.

EMPLOYER SANCTIONS REPEAL ACT

Mr. HATCH. Mr. President, today I, along with Senator KENNEDY and several of my other colleagues, am introducing the Employer Sanctions Repeal Act of 1991.

In my opinion, the employer sanctions and verification provisions of the Immigration Reform and Control Act of 1986 [IRCA] have not successfully controlled illegal immigration.

Illegal aliens continue to pour into this country. A cottage industry in counterfeit and fraudulent documents has flourished, and an increasingly lucrative black market in smuggling aliens has thrived.

At the same time, some employers have engaged in illegal discrimination against Americans who look or sound foreign, or have foreign-sounding names, in order to avoid potential lawsuits, fines, and jail sentences under IRCA's sanctions provisions. In particular, Hispanic and Asian Americans have experienced this kind of discrimination. Further, the paperwork and related burdens on America's businesses—some with as few as one or two employees—impose costs that are passed on to the American consumer.

In my view, employer sanctions simply are not worth the price in increased employment discrimination and increased burdens on business. Halfhearted measures, such as underfunded and short-lived employer education efforts, are totally inadequate to avert these consequences. The search for the Holy Grail of a single identification document is doomed to be costly,

lengthy, and futile. Similarly, the Band-Aid approach of expanding anti-discrimination requirements, penalties, and resources will never catch up to all of the sanctions-driven discrimination—only eliminating the source of the discrimination itself will solve the problem.

A different approach should be used to control illegal immigration without the negative consequences of sanctions. Accordingly, I am introducing legislation today that will:

First, repeal employer sanctions in IRCA.

Second, repeal the requirement in IRCA that employers verify the eligibility of employees for work.

Third, repeal the prohibition against employment discrimination contained in IRCA. With the repeal of sanctions, the rationale for this prohibition is removed. The legislation will, however, retain mechanisms for handling all discrimination cases arising prior to the repeal of sanctions.

Fourth, increase the authorized personnel for the Border Patrol of INS for the following fiscal year to 6,600, and authorize such sums as may be needed for such increase;

Increase the number of full-time provisions in the INS antismuggling program to 600 positions;

Provide \$80 million in additional funds for equipment, support services, and training for Border Patrol officers and \$10 million in additional funds for maintenance and repair of equipment; and

Provide \$2 million for inservice training for the Border Patrol.

Fifth, add 250 persons to the Wage and Hour Division of the Department of Labor for the purpose of investigating violations of the wage and hour laws in areas where the Attorney General advises the Secretary of Labor of high concentrations of undocumented aliens.

Sixth, add 21 assistant U.S. attorneys, to be assigned by the Attorney General, for the purpose of prosecution of persons who bring in and harbor illegal aliens.

Seventh, increase the penalty for bringing in and harboring illegal aliens for profit and make clear that employers are not subject to penalty for merely employing illegal aliens.

Eighth, enact a sense-of-the-Senate resolution that the Attorney General and Secretary of State initiate discussions with Mexico and Canada to establish formal bilateral programs to prevent and prosecute smugglers of illegal aliens into the United States.

I am committed to seeing this effort through to a successful conclusion, no matter how long it takes.

I urge my colleagues to join with the original cosponsors in supporting this measure.

• Mr. KENNEDY. Mr. President, I am pleased to join Senator HATCH and so

many of my colleagues in this new bipartisan effort to repeal the employer sanctions in the immigration laws.

Last year, the General Accounting Office found that the sanctions have led to widespread discrimination. In fact, fully 19 percent of the employers surveyed by GAO had engaged in some form of employment discrimination as a result of the new law.

There is nothing in the months since to suggest that this problem of discrimination has disappeared. In fact, the number of immigration-related discrimination charges filed with the Justice Department has increased by 37 percent over the past year.

At the same time, illegal immigration appears once again to be almost as high as it was before employer sanctions were enacted 5 years ago.

In the face of this evidence, there is no justification for Congress to retain on the statute books these provisions that lead to unintended discrimination.

Mr. President, a sad dimension to the history of our immigration laws and policies has been that whenever the potential for discrimination exists, that discrimination occurs.

We witnessed this in the past, when our laws and policies discriminated against those seeking to immigrate from the Asian-Pacific triangle. Congress acted in 1965 to end that discrimination. And so we must act once again today to change our laws in order to remedy discrimination against working Americans and legal immigrants.

We must find new and better ways to achieve the goal of the sanctions, without harming Hispanic-American citizens, Asian-American citizens and other ethnic minorities.

We can remove the incentive to hire undocumented workers by doing a better job of enforcing laws which govern wages and working conditions. We should provide more effective support for the mission of the Border Patrol, and make certain it has the modern tools and resources it needs. And we must do more, through our trade policies and development programs, to address dire conditions which encourage and even compel desperate citizens of other lands to leave their homes and seek illegal employment in America.

In enacting employer sanctions, Congress made the wrong move. We aimed at illegal aliens—but we hit law-abiding Americans, and it is time to correct our mistake.●

● Mr. DECONCINI. I am pleased to join today with Senators HATCH and KENNEDY in introducing the Employer Sanctions Repeal Act of 1991. I have been a longstanding opponent of the employer sanctions provisions of the Immigration Reform and Control Act of 1986 [IRCA] for two fundamental reasons: First, employer sanctions promote discrimination; and second, the enforcement of our immigration laws is the responsibility of the Federal

Government and not the business community of this Nation.

Over a year ago, on March 29, 1990, the General Accounting Office [GAO] issued a report confirming my concerns—the employer sanctions provisions of IRCA have resulted in widespread discrimination in the American job market. The GAO study found that at least 19 percent of the Nation's employers adopted discriminatory practices of some kind as a result of employer sanctions. The numbers are even higher in areas densely populated by minorities. GAO performed a hiring audit with pairs of applicants matched closely on job qualifications, one of foreign extraction with a noticeable accent; the other an Anglo with no accent. The audit showed that the applicant of foreign origin was three times more likely to encounter unfavorable treatment than the Anglo. The Anglo applicants received 52 percent more job offers than the minority applicants. The studies show that employer sanctions have exacerbated discrimination in the job market.

Employer sanctions have also created hardships for the business community. The expense to the business community of complying with the law has been estimated to cost many millions of dollars. Employer sanctions are particularly burdensome for small businesses which are forced to determine eligibility from the 17 different approved verification documents. Businesses should not be asked to scrutinize these documents which are easily counterfeited. As I have asserted from the beginning, businesses are not equipped to act as the enforcer of our immigration laws.

Mr. President, the issue before us is how best to end Government sanctioned, de facto discrimination. Repealing employer sanctions is the only sure way of solving this problem that we have created. The onus of reducing illegal immigration should be placed squarely upon the shoulders of law enforcement where it belongs.

Employer sanctions also prevent the Border Patrol from performing its primary responsibility of monitoring our borders. On March 28, 1991, the GAO issued a report in response to my concerns about the Border Patrol's ability to carry out its duties along the southwest border. According to the GAO, the Border Patrol's added responsibilities since the passage of IRCA in 1986, including checking on employer hiring practices, has resulted in an 11-percent decline in the amount of time spent on border enforcement activities. I question the need for more time spent on nonborder activities which has increased from 29 percent of total hours in fiscal year 1986 to 40 percent in fiscal year 1991. Furthermore, a January 1991 GAO report on immigration management concluded that the overlap of responsibilities between the Border pa-

trol and the investigations division of the Immigration and Naturalization Service [INS] has caused confusion and resulted in an inconsistent enforcement of employer sanctions that threatens the future success of the program.

The legislation we are introducing today takes some positive, rather than negative, steps toward controlling the flow of aliens who enter this country illegally. For example, this bill increases the number of Border Patrol agents and provides the Border Patrol with adequate equipment and support services. It also provides Border Patrol personnel with inservice training to familiarize them with the rights and cultural backgrounds of aliens and citizens in order to safeguard their constitutional and civil rights. These needed resources, along with eliminating the time-consuming burden of investigating employers, will enhance the Border Patrol's efforts to reduce illegal immigration.

Other provisions in this legislation that provide our Government with the necessary tools to effectively enforce our immigration laws include: Increasing the number of positions in the INS antismuggling program; increasing the number of full-time positions in the Labor Department's Wage and Hour Division to investigate violations of our wage and hour laws in areas of high concentration of undocumented aliens; increasing the number of United States attorneys to prosecute persons who bring into the United States or harbor illegal aliens for profit; increasing criminal penalties for persons who are found in violation of this law; and encouraging the Attorney General and the Secretary of State to initiate discussions with Mexico and Canada to establish programs to prevent and to prosecute the smuggling of undocumented aliens into the United States.

We can also take a positive step in reducing illegal immigration by going forward with a Free Trade Agreement with Mexico. An improvement in the economic situation in Mexico will reduce the incentive for illegal immigration to America. I have traveled to Mexico and have met with President Salinas regarding Mexico's trade with the United States. I am hopeful that our two countries can proceed toward an agreement that will enable both countries to prosper. By assisting Mexico in its desire to improve its economy, we can reduce the incentive many aliens have to illegally enter our country.

Employer sanctions are not a viable alternative to our immigration problems. There is no justification for encouraging job-related discrimination against people simply because they appear to be of foreign extraction. We must correct this mistake.●

Mr. SPECTER. Mr. President, I am pleased to join my colleagues on the

Judiciary Committee and others in cosponsoring this bill which would repeal the employer sanctions and verification provisions of the Immigration Reform and Control Act of 1986.

The experience of the last 5 years has convinced me that the employer sanctions scheme simply does not work. Placing businessmen and women under the Draconian threat of criminal and civil penalties in order to enforce extraordinarily complex immigration laws can only lead to discrimination, however innocent. How many businessmen and women know, for example, that a driver's license and a Social Security card are sufficient for purposes of the law and that asking for further identification—like a permanent residence card—may be unlawful? It is no wonder then that studies show that the result of putting businessmen and businesswomen in the role of enforcing complex laws is often discrimination against individuals who look and sound "foreign." In a report issued last year, the General Accounting Office found that fully 19 percent of employers initiated discriminatory employment practices as a result of the 1986 law.

This bill would repeal those laws and redirect enforcement to the place where it is most effective: The borders of this country. It increases our Border Patrol and augments its effectiveness by providing for an antimuggling program and improvements in equipment and support.

I commend my colleagues, Senators HATCH and KENNEDY, for their leadership on this issue and look forward to working with my colleagues on the Judiciary Committee to ensure its passage this year.

• Mr. McCAIN. Mr. President, I am pleased to join Senator HATCH and Senator KENNEDY as a cosponsor of the Employer Sanctions Repeal Act of 1991. Employer sanctions represents a failed, albeit well intended, experiment in illegal immigration control. But the facts are clear, the experiment has failed. It is now time we corrected our mistake.

In 1986 Congress sought to control the flow of illegal immigration into our Nation. We passed the Immigration Reform and Control Act [IRCA]. The results of this law have in many cases been laudable. However, one specific strategy of IRCA, employer sanctions, has not resulted in success.

Employer sanctions placed a new and onerous burden on employers. For the first time ever, the employer was to be responsible for enforcing immigration policy. Under IRCA's regulations, business owners and managers must verify and document their employees' eligibility to work. This is a task our Nation's businesses are neither prepared to do nor able to accurately complete.

Employer sanctions have simply not served our Nation well. They have punished and burdened employers while

not significantly curbing the tide of illegal immigration into our Nation.

America's businesses have tried most admirably, I believe, to fulfill their mandate under IRCA to the best of their ability and without prejudice. However, and most unfortunately, the facts clearly show that IRCA has resulted in a disparate impact against Hispanic and other foreign looking Americans.

In March 1990, the General Accounting Office confirmed that employer sanctions have brought disastrous discriminatory effects upon Hispanics, Asians, and other Americans who may look or sound foreign. The GAO found a widespread pattern of discrimination against authorized workers.

The GAO found that 461,000 employers—10 percent—in the survey population began national origin discriminatory practices as a result of IRCA's provisions. They found an additional 430,000—9 percent—began a practice of not hiring foreign-appearing or foreign-sounding applicants.

Discrimination is inexcusable. If our laws encourage such behavior, then it is time we change our laws. Without even presenting further arguments in opposition to employer sanctions, the fact that these sanctions have resulted in clear, documented discrimination is reason enough to change the law.

However, Mr. President, there are even more reasons that compel us to repeal the employer sanctions provisions of IRCA. Employer sanctions have had a chilling effect on the growth of small business, especially in border States such as Arizona. The law requires that employers engage in tedious and onerous paperwork and background checks, both of which are costly in terms of time and money.

According to the Small Business Administration, employer sanctions have cost our Nation's businesses a staggering \$675 million per year to comply with IRCA's mandated recordkeeping. Merely to complete the paperwork—something the Congress has proven extremely adept at creating—the GAO estimates that businesses are expending \$69 million per year.

Large businesses can readily absorb this cost; small businesses cannot. Small businesses are often on the margin of economic survival and this law places them at risk of economic ruin.

Additionally, Mr. President, Arizona is independent people who do not want big brother government breathing down their backs and watching their every move. Mr. President, my constituents favor laws which uphold the policy of Government non-intervention in the private sector. The imposition of employer sanctions runs directly contrary to this philosophy.

Mr. President, we clearly made a mistake. We now have the opportunity to correct our error.

I believe the best answer to the problem of illegal immigration in the

southern border States is a strong Mexican economy. That is why I so strongly support the Free Trade Agreement [FTA] with Mexico.

Arizona stands to benefit greatly from the FTA. Mexico is Arizona's largest trading partner. Last year exports to Mexico accounted for about 18,300 Arizona jobs. We enjoy the advantage of our location.

A healthy Mexican economy means fewer illegal immigrants, and more Mexican buyers who come to Arizona because of our close proximity. With the FTA, the southern boundary of the United States will become the trade and commerce center between the United States and Mexico, and will not be plagued by people trying to escape to a better life.

Mr. President, there are solutions to the problem of illegal immigration. We will need to be resourceful to find them. In the meantime, we must admit that some of our efforts in the past have failed. It is now time to pursue new, more equitable policies. The Employer Sanctions Repeal bill is a good step in that direction, and I encourage my colleagues to support this bill.

• Mr. CRANSTON. Mr. President, I am very pleased to join my good friends, Senators HATCH, KENNEDY, AKAKA, BINGAMAN, BROWN, DECONCINI, INOUE, MCCAIN, SPECTER, and WIRTH, in introducing the legislation to repeal the employer sanctions provisions of the Immigration Reform Control Act of 1986.

Mr. President, the use of employer sanctions, that is, the imposition of civil and criminal penalties on employers who hire persons without legal authority to work in this country, has resulted in widespread discrimination against those who are perceived as being foreign. In other words, because of employer sanctions men and women who are U.S. citizens, permanent residents, or have legal authority to work in this country are being denied employment or are having the law selectively enforced against them.

Mr. President, we must control our borders, but this is not the way. Hundreds of thousands of employers, fearing sanctions, are refusing to hire Hispanics, Asians, and other minorities for employment because they look foreign or sound foreign. No less insidious is the practice of requiring work authorization documents from only those persons who are perceived to be foreign. In my view, the human indignity and economic hardship that are the direct results of this so called deterrent to undocumented immigration are simply too great a price to pay. The cost in terms of damage to our fundamental constitutional and moral commitment to freedom from bigotry and discrimination is unconscionable.

Mr. President, an absolute repeal of the sanctions is the only right thing to do, and I am very pleased to be part of the effort to retire this failed experi-

ment once and for all. Congress ought to be in the business of eradicating discrimination, not encouraging it. Continued enforcement of employers sanctions is going to lead to continued human indignities and economic hardships for many, many Hispanics, Asian-Americans and others who have already been victimized by the law.

Mr. President the sanctions provisions have proved unworkable. It is time to cut our losses and repeal them. I look forward to working very closely with my colleagues in the Senate to get this law off the books. In my view there is no public policy justification for continuing this rampant discrimination.●

By Mr. CRAIG:

S. 1735. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS ACT AMENDMENTS

● Mr. CRAIG. Mr. President, I am introducing a bill today which this body has previously approved, as an amendment to the first minimum wage bill passed by the Senate in 1989. This bill will solve a problem with interpretation of the Fair Labor Standards Act.

This bill will afford the exemptions of sections 6 and 7 of the Fair Labor Standards Act to a water delivery organization that supplies 90 percent or more of its water for agricultural purposes. It would permit application of the extensions to those who were the originally intended beneficiaries of the law. It would accomplish this by eliminating the literal necessity that fully 100 percent of water delivered by a qualified delivery organization must be used for agricultural purposes.

The exemption for overtime pay requirements was placed in the Fair Labor Standards Act to protect rural parts of the economy. The Idaho Department of Labor, for one, has interpreted the law literally, to the detriment of those Congress sought to relieve by it.

In one case, the delivery of less than 1.5 percent of the total water right used by members of nonagricultural purposes was sufficient to deprive the organization of the exemption. While the user controls the purpose of use of the water, the small portion of water not applied to agricultural purposes was being used for lawns and gardens in municipal areas that have developed from formerly irrigated farms. The overwhelming balance of the water irrigates more than 160,000 acres of agricultural lands. Though more than 98.5 percent of the water was being used agriculturally, exemption was denied to the water delivery organization.

In that case, the farmers and shareholders of that organization paid an assessment of about \$50,000—the exact reverse of Congress's intent.

This amendment promotes the original design of Congress to provide the exemption to irrigation companies who ultimately deliver the majority of their water to agricultural users. The fact that minuscule amounts of water might be used for the grass in a city park should not mean that all the farmers in the company are denied the benefit of the exemption.

This change will also benefit the employees of water delivery organizations. Irrigation has never been, and cannot be, a 40-hour-per-week undertaking. During the summer, water must be continually managed and delivered. Following the harvest, the work load is light—consisting mainly of maintenance duties.

Winter compensation and time off have traditionally been the method of compensating for longer summer hours. If the law is not changed, companies will be forced to lay off their employees in the winter. This measure will thus benefit not only farmers, but also their employees, who will continue to earn a year-round income.

Mr. President, I urge the adoption of this legislation and ask that a copy of the bill be printed in the RECORD.

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

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO FAIR LABOR STANDARDS ACT OF 1938.

Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after "water" the following: ", at least 90 percent of which is ultimately delivered".●

By Mr. SASSER (for himself, Mr. GRASSLEY, Mr. DOMENICI, and Mr. CONRAD):

S. 1736. A bill to amend title XVIII of the Social Security Act to provide for improved quality and cost control mechanisms to ensure the proper and prudent purchasing of durable medical equipment and supplies for which payment is made under the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE DURABLE MEDICAL EQUIPMENT PATIENT PROTECTION ACT

● Mr. SASSER. Mr. President, today I am introducing the Medicare Durable Medical Equipment Patient Protection Act of 1991, along with Senators GRASSLEY, DOMENICI, and CONRAD.

This bill is a result of an investigation and hearings conducted by the Senate Budget Committee which revealed several troubling weaknesses in the Medicare reimbursement system for durable medical equipment and supplies—weaknesses which persist even after major legislative changes over the last 2 years.

Our investigation started, Mr. President, when one of my home State pa-

pers, the Nashville Tennessean, published a series of stories I at first found hard to believe. Investigative reporters on that paper detailed how a Pennsylvania company had made huge profits by buying the Medicare claims of Tennessee Medicare beneficiaries, ostomy patients, and then inflating the bills by more than 1,000 percent and billing them out of State in Pennsylvania. In this specific case, the company was billing for separate components of ostomy supplies, rather than for the entire package, or kit which had been actually supplied and which actually cost much less than the component parts.

As we began looking into these practices, we were told that instances of such "unbundling," or billing for component parts for certain medical supplies and equipment was widespread. We even heard of a wheelchair being billed for piece by piece.

We also began to hear about a lot of other sales and claims practices which cost the Medicare Program millions of dollars: falsifying claims, kickback arrangements between some equipment suppliers and other health care providers, forging physician's signatures on medical necessity forms, routine waivers of the Medicare 20-percent coinsurance requirement, and aggressive telemarketing schemes in which some suppliers aggressively sell equipment directly to Medicare beneficiaries and then pressure the beneficiary's physician to prescribe the equipment after the fact.

Then we began to take a closer look at the existing payment system for durable medical equipment and supplies to see how these practices could apparently go on with little fear of detection, and we found some more unsettling problems.

Reimbursement rates for some equipment and supply items from one Medicare carrier to the next could vary by as much as 600 hundred percent or more. Example: We found reimbursement for a wheelchair pad in Tennessee was \$42, but the same pad was reimbursed at \$249 in Pennsylvania. And allowed utilization policy for some items could also be vastly different. Such differences mean that Medicare beneficiaries across the country do not have the same access to equipment and supplies, and do not realize the same Medicare benefit even though they pay the same premiums for program participation.

Such differences have also led to widespread forum shopping by some suppliers. Under this practice, some suppliers identify a Medicare carrier in the country with the highest reimbursement rates and/or the most lenient coverage and utilization policy, and then solicit business from all across the country to be billed through that carrier. This could be done simply by establishing an office in the juris-

diction of the high-paying carrier. As an example, the Medicare carrier located in Pennsylvania reimbursed up to \$30 for a simple wound care kit, a kit generally consisting of gauze pads, bandages, gloves and small implements such as tweezers, et cetera, to be used as postsurgical dressings. This carrier's utilization policy allowed reimbursement for up to 3 kits per wound site per day per patient, or 90 or more kits per patient per month. The committee took testimony suggesting that this allowed reimbursement was vastly inflated, and that some suppliers were supplying kits that cost no more than \$1 or \$2 and reaping millions of dollars in profit from this one item alone. In contrast, the Tennessee carrier, as well as many others in the country, did not provide reimbursement for wound care kits at all.

We also found that there is very little or no control over who becomes a Medicare supplier and there is widespread manipulation of the supplier provider number system. There is no limit on the number of different provider numbers a supplier can obtain. There are virtually no requirements, and very little information, necessary to receive a Medicare provider number for equipment and supplies. If a supplier is engaged in fraudulent activity, or routinely overbills for some items, he can avoid detection by using several different provider numbers or periodically change company names and obtain new provider numbers. He could be operating in several States, submitting duplicate claims for the same beneficiary under different provider numbers, and no one would know. Under the current system, it is almost impossible to detect fraudulent activity if a supplier is determined to cover his tracks.

The committee also took unsettling testimony suggesting a growing practice of cash or other inducements paid to some nursing homes to solicit their supply business for Medicare part B eligible nursing home patients. These inducements, as much as \$50,000 a year, could be offered by individual suppliers, or as more frequently cited, by third-party billing companies which arrange for supply deliveries to nursing homes from suppliers and then submit Medicare claims themselves on behalf of the Medicare beneficiaries residing in the nursing home. In some cases, the committee heard of loads of supplies being delivered and then simply being stockpiled in the nursing home, perhaps never to be used by a Medicare beneficiary. Among the supply items which have come to the committee's attention are ostomy supplies, urological supplies, surgical dressings, and leg and foot prostheses. Nursing homes are often unwitting participants in such arrangements. The biller may be reaping great profits on unused or under-used items, but the nursing

home may never know what is being billed and their supply needs are being taken care of. Contracts for payment of fees to nursing homes can be drawn which avoid the current antikickback statutes and represent payment of fees for warehousing of supplies and the paperwork involved in identifying Medicare beneficiaries and turning over their beneficiary billing numbers.

Mr. President, this is just an overview of some of the broad themes we found in our inquiry. The bill we are introducing today is a result of that inquiry, and we think it is a targeted response to these problems.

I would also like to point out, Mr. President, that we have had a great deal of interest and cooperation from many parties in arriving at these solutions. National organizations representing ethical and upright suppliers, as well as many individual suppliers, have contributed a great deal and I want to publicly thank them for their cooperation. We have also had invaluable cooperation and assistance from the inspector general of the Department of Health and Human Services and from the Health Care Financing Administration.

Mr. President, I would like to submit an outline and further explanation of a bill we are introducing today, and I ask unanimous consent that they be printed in the RECORD.

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

THE MEDICARE DURABLE MEDICAL EQUIPMENT PATIENT PROTECTION ACT OF 1991, INTRODUCED BY SENATORS SASSER, DOMENICI, GRASSLEY, AND CONRAD, SEPTEMBER 20, 1991 IMPROVEMENTS IN CARRIER CLAIMS PROCESSING

Background: Many of the problems uncovered in the reimbursement of durable medical equipment and supplies could be corrected by better claims screening and control by designated Medical payment agents, called carriers.

Presently, 34 separate carriers are responsible for reimbursement for these items, and claims volume is only three to five percent of total claims volume for any one carrier. The coding system used to determine reimbursement quickly becomes inadequate and outdated with rapid changes in product packaging and marketing of new items eligible for reimbursement, and not all carriers use the same coding system. Reimbursement amounts, and the policy on amount and scope of coverage, for the same items vary considerably by carrier. Standards and screens for appropriate utilization vary enormously. Monitoring of provider entrance into the Medicare program and subsequent performance is a low priority and appears to be non-existent in many areas.

In sum, there is little incentive or ability within the current reimbursement system for durable medical equipment and supplies to develop sorely needed expertise on appropriate reimbursement amounts and coverage policy or to adequately monitor utilization and billing practices.

Section 2. Required Consolidation of Carrier by Region For Certain Medical Equipment And Supplies.

Section 2 of the bill would create an administrative structure capable of more uni-

form policy development and enhanced monitoring ability by requiring the Secretary to designate no more than five carriers nationwide to process and pay all claims for durable medical equipment and supplies.

Section 2 would also require that determination of claims jurisdiction for payment be determined by beneficiary address, rather than supplier or billing company address or "point of rule." This provision, in conjunction with other sections of the bill moving toward more uniform national payment standards, would remove incentives for "forum shopping." Under special circumstances, the Secretary could provide an exception to this "zip code billing" policy if it was in the interest of Medicare program administrative efficiency.

Section 2 provisions would be effective January 1, 1993.

MOVING TOWARD UNIFORM NATIONAL STANDARDS FOR PAYMENT RATES AND COVERAGE POLICY

Background: Wide geographic variations in reimbursement rates for similar items, as well as coverage policy (i.e., differences in the number of items covered or in the duration of use of a specified item during a specified time period), have created a situation in which Medicare beneficiaries residing in one part of the country may find their Medicare coverage much less than others, and have created a climate fostering "forum shopping" on the part of some providers. The Committee has found that a similar item may be reimbursed at a rate well above reasonable cost, or below, depending on carrier jurisdiction.

Legislation was passed last year to gradually phase in a national fee schedule for most covered items, those categorized as durable medical equipment. The full implementation of this fee schedule is expected to reduce the geographic variation in allowed reimbursement for any one item to no more than 15 percent nationally.

Items classified as prosthetics and orthotics, however, which includes many of the supply items the Committee inquiry identified as subject to abusive billing practices, will be subject to a more "flexible" regional fee schedule under current law and much wider geographic variations in prices would remain. Neither are certain supply items identified as subject to billing abuses, such as surgical dressings, currently subject to any fee schedule.

Section 3(a). Development and Application of National Payment Limits on Certain Items.

Section 3(a) of the bill requires the development of a national fee schedule for ostomy supplies, urologicals, surgical and other medical supplies. These items would be included in the same reimbursement category as medical equipment now classified as "inexpensive and routinely purchased," and subject to the same procedures for development of national payment ceilings as other items of durable medical equipment in this category.

Section 3(a) would be effective January 1, 1992.

Section 3(b). Development of Uniform National Standards For Payment Rates and Coverage Policy.

Section 3(b) directs the Secretary, working on collaboration with Medicare carriers processing claims for durable medical equipment and supplies as well as medical professionals and suppliers, to look beyond the national fee schedules and develop further recommendations for national uniform reimbursement rates and coverage policy for du-

rable medical equipment, prosthetics and orthotics, and other medical supplies. The Secretary is directed to provide an interim report to Congress no later than January 1, 1993, and a final report with recommendations on uniform national payment rates and coverage policy no later than January 1, 1994.

Section 3(c). Revision of Codes To Prevent Inappropriate Billing.

Section 3(c) directs the Secretary to revise the Common Procedure Coding System (HCPCS) codes for items of durable medical equipment and supplies to minimize opportunities for unbundling and other inappropriate billing practices. Effective January 1, 1992.

CLOSER SCRUTINY OF SUPPLIER PARTICIPATION IN MEDICARE

Background: Unlike other Medicare providers, such as doctors and hospitals and nursing homes with medical professionals engaged in provision of direct medical services to beneficiaries, equipment suppliers are not subject to any formal survey and certification procedures for participation in Medicare. While some equipment suppliers do also provide professional services, such as those of licensed prosthetists, most of the volume comes from straight forward businesses supplying an off-the-shelf product.

Currently, little or no information is required of suppliers before they receive a provider number with which to bill the Medicare program for equipment and supplies supplied to Medicare beneficiaries. The Health Care Financing Administration and the paying carrier have very little control over who receives these numbers, and there is no limit on the number of provider numbers which any one supplier can receive. With the lack of information and proliferation of provider numbers, there is little ability to monitor billing practices to detect fraudulent or unethical activity or sales practices which lead to overutilization.

Legislation passed last year (Sec. 1124A of the Social Security Act) required that all Medicare Part B providers providing services on assignment (including durable medical equipment and supplies) provide information on the identity of any individuals with a 5 percent or more ownership interest in the provider business, including subcontractors. Such ownership disclosure is not required of suppliers (or other Part B providers), however, who participate in Medicare on a non-assigned basis.

Section 4(a). Disclosure Requirements for Suppliers of Durable Medical Equipment and Supplies.

Section 4(a) would require that, in the case of providers of durable medical equipment and supplies, the current ownership disclosure requirements would also be required of suppliers who participate in Medicare on a non-assigned basis.

Section 4(a) also would require provider numbers to be renewed every two years and mandate additional information disclosure for suppliers of durable medical equipment and supplies as a prerequisite to receiving a Medicare provider number. Additional information required includes:

(1) whether Medicare-billed supplies are directly purchased, warehoused and shipped by the provider, or supplied under arrangement with other suppliers;

(2) the identity of any subcontracting or subsidiary business affiliations directly or indirectly involved in sales of supplies and equipment to Medicare beneficiaries, including advertising and marketing businesses;

(3) a description of all items and services provided to Medicare beneficiaries and/or to other Medicare providers;

(4) identification of all States and localities in which the applicant provides services or supplies reimbursed by Medicare and/or Medicaid; and

(5) additional information as may be required by the Secretary.

Section 4(c). Provider Number Application Fees Authorized.

Section 4(c) authorizes the Secretary, through carriers, to charge medical equipment suppliers a fee of up to \$100 per provider number application and/or renewal in order to defray the costs of administering the new supplier provider number system, including information gathering, review and verification of supplier information, and enhanced claims monitoring.

The provisions of Section 4 would be effective January 1, 1992.

STRENGTHENING OF ANTI-KICKBACK STATUTE

Background: The Committee inquiry has identified certain financial arrangements between nursing homes and providers, or billing agents, of medical equipment and supplies which appear to circumvent the current Medicare anti-kickback statutes. An arrangement commonly seen by the Committee involves direct payments of cash or "free" services or supplies by a third party biller to a nursing home as an inducement for the nursing home's business. Since direct inducements are illegal under the anti-kickback statutes, contractual arrangements frequently take care to categorize such payments as remuneration to the nursing home for services provided.

Section 4(b). Definition of Inducements as Kickbacks Clarified.

Section 6 would clarify that payments to nursing homes by third party billers and/or other suppliers for the "employment" costs of paperwork processing (i.e., provision of Medicare beneficiary eligibility and billing information) and warehousing of durable medical equipment and supply items are not excepted "bona fide employment" monetary transactions and therefore subject to current anti-kickback statutes. Effective January 1, 1992.

STRENGTHENING OF SANCTION AUTHORITY

Background: Current law provides for a wide range of civil and criminal penalties and bases for program exclusions for suppliers and other Medicare providers who are convicted of fraudulent activity. There is little ability at the "front lines," however, at the carrier level, to even temporarily deny payment to a provider suspected of fraudulent activity or unethical billing practices.

Legislation passed last year identified certain durable medical equipment items covered by Medicare with a history of unnecessary and inappropriate use, primarily due to aggressive marketing practices of some suppliers. The Secretary was required to develop a list of such items, and authorized carriers to require prior approval of claims for these specific equipment items, and/or temporarily suspend payment. The prior approval authority, however, does not extend to individual providers or billing entities.

Section 5. Development of List and Prior Approval Authorized For Certain Suppliers.

Section 5 would require the Secretary to develop a list of suppliers, third party billers, and other billing agents for durable medical equipment and supplies which the Secretary determines, on the basis of prior experience, may be engaged in fraud or billing practices which serve to maximize reim-

bursement or promote unnecessary utilization (such as unbundling of claims, parameter billing, or aggressive marketing without physician order, such as telemarketing schemes), and authorize carriers to require prior approval of billings submitted by entities on the Secretary's list. The Secretary would also be required to develop an administrative mechanism to provide due process for entities placed on the Secretary's list. These provisions would be effective January 1, 1992.

Section 6. Limitation on Beneficiary Liability in Case of Sanctions on Supplier.

Currently, a Medicare beneficiary accepting an item of equipment or supplies from provider on a non-assigned basis may be liable for full payment in the event of claims denial for reasons of fraudulent activity or a determination that the provided item was not medically necessary.

Section 6 would clarify that Medicare beneficiaries would not be responsible for payment of items for which reimbursement was denied for reasons of fraud or prior approval suspension and which were supplied on a non-assigned basis. Effective January 1, 1992.

FURTHER STUDY OF NURSING HOME SUPPLY ARRANGEMENTS AND REIMBURSEMENT FOR PARENTERAL AND ENTERAL SUPPLIES AND SERVICES

Section 7. Studies.

Section 7(a) directs the Comptroller General to study and report to Congress by January 1, 1994 on the types, volume, and utilization of services and supplies furnished to nursing homes by third party billers and other direct suppliers and billed to Medicare Part B.

Section 7(b) directs the Secretary to conduct a study to determine the reasonableness of current reimbursement rates for parenteral and enteral supplies and services.

● Mr. DOMENICI. Mr. President, I am proud to be an original cosponsor of the Medicare Durable Medical Equipment Patient Protection Act of 1991, and I want to congratulate Senator SASSER for taking a leadership role on this issue.

After learning of possible abuses in the Medicare durable medical equipment program from a newspaper article in his hometown of Nashville, TN, Senator SASSER moved quickly to examine the extent of the abuses in three very revealing hearings before the Budget Committee.

In those hearings, the Budget Committee heard testimony from the inspector general of the Department of Health and Human Services, from the Administrator of the Health Care Financing Administration, and from many individuals associated with the business of supplying medical equipment to Medicare beneficiaries, including one person who saw many of these abuses up close in a former job.

This testimony clearly pointed to a pattern of abuse and potential abuse that is completely unnecessary in the Medicare Program and is a terrible waste of Medicare trust fund resources. Some suppliers are apparently reaping profit margins of 200 percent or more by engaging in practices that are at best questionable and could be subject to criminal prosecution.

Senator SASSER has moved quickly to put forward this legislation that would address some of the areas of concern. I am glad to join with him in sponsoring this legislation, and I look forward to working with him to eliminate fraud and abuse in the Medicare Program. •

By Mr. DOLE (for himself and Mr. D'AMATO):

S. 1737. A bill to prohibit the import from Yugoslavia of defense articles on the United States munitions list; to the Committee on Finance.

PROHIBITING IMPORT OF CERTAIN YUGOSLAVIAN DEFENSE ARTICLES

Mr. DOLE. Mr. President, early this morning, just as we received news of the breakdown of European community peace efforts regarding Yugoslavia, a 12-mile long convoy of tanks, troops and artillery crossed the Croatian border. Today Yugoslav Air Force jets have continued their bombardment of Croatian towns and villages and the death rate has climbed to over 500—among them many innocent civilians.

With every minute it is becoming increasingly clear that the Communist-led Yugoslav Army has taken matters into its own hands—that it is not answering to the President, who is Commander in Chief, nor to any other officials in the central government. It is also apparent that the Yugoslav Army is in alliance with hardliner Slobodan Milosevic to expand control over Croatia, and bring that young democracy to its knees.

Despite the fact that the West imposed an arms embargo against Yugoslavia, the army has plenty of guns, bombs, tanks, and planes to carry out these objectives.

That is because Yugoslavia has a significant defense industry. And this industry, in addition to supplying the Yugoslav Army, exports arms. Among their customers are the few remaining Communist dictatorships and States who sponsor terrorism, such as Libya.

But, this should not come as a surprise since these weapons factories are state-owned and substantially controlled by the Yugoslav military.

Mr. President, I am here today to introduce a bill that very simply, prohibits the import of arms and munitions from Yugoslavia. It seems to me, having witnessed, over the last 2 months, the destruction brought by the Yugoslav Army on Croatian towns and villages, on Slovenia's countryside in June, and in the streets of Belgrade last march—when army units fired on thousands of peaceful demonstrators—that the United States should not be subsidizing the muscle behind the Yugoslav Army. Especially not by buying guns that will end up in street crimes and drug wars.

Mr. President, the United States needs to do what it can to bring the tragedy in Croatia to an end. I believe

that this is an important step in that direction.

I am joined as a cosponsor by the Senator from New York, and I send the bill to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be appropriately referred.

Mr. DOLE. I am happy to yield to the distinguished Senator from New York.

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

S. 1737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no defense article which is made, produced, or manufactured in Yugoslavia and which is enumerated on the United States Munitions List (as authorized by section 38 of the Arms Export Control Act) may be imported into the customs territory of the United States.

(b) For purposes of this Act, the term "defense article" has the same meaning given to such term by section 47(3) of the Arms Export Control Act.

Mr. D'AMATO. Mr. President, I thank the Republican leader, and I want to congratulate him for this important piece of legislation. These guns are being exported and given to the Yugoslav Army, which is run by the Serbians. Slobodan Milosevic, a hardcore Communist dictator—and his armies are slaughtering innocent people and civilians. Shockingly, the exports of these weapons, these guns as Senator DOLE indicated, are coming here to the United States.

The SS-99—pistols of the Saturday night special variety, cost approximately \$100, and anyone can get one. They have exported as many as 50 million of these weapons in any one year. Law enforcement officials are finding these pistols on our streets, in our cities, in the city of New York, contributing to the slaughter of innocent people. This must stop now.

I would go a step further. There has been no one who has worked harder in this area attempting to wake up the world as to the tragedy that is unfolding than Senator DOLE. I thought we took a myopic view in saying Yugoslavia is Yugoslavia as opposed to what the realities of the situation are.

We embarked the world community on a course of action that did not recognize that Croatians want and should have freedom and independence and that the people of Slovenia should have that, and those ethnic groups in Kosovo, where we have millions of Albanians who are regularly, systematically tortured, beaten, executed, deprived of basic human rights should have protection. We continue under this theory that we must keep Yugoslavia together. Nonsense. It is not going to be kept together. Yugoslavia is now two separate countries.

You are not going to keep people who want freedom shackled because you have some utopian idea of what Yugo-

slavia should look like. You are not going to subject the Croatian, Slovenians, and ethnic Albanians to that kind of servitude. Because they will fight against it, as they should.

One of the things we can and should be doing is thinking of getting the world community and United Nations to see to it that there is the kind of economic embargo—that will stop the tanks and ground the planes. The bombing of innocent people and citizens and villagers must be stopped. We have to go further.

The United States has been playing catch-up ball. We should be in the leadership position of letting the Serbian-led Federal Government and the army they are using know we are not going to sit back idly as people's blood is senselessly spilled. The carnage taking place will increase many times over unless something is done, and done now.

This is the time for the United Nations to come in and make a difference for the people in Croatia, in Slovenia, and the Albanians in Kosovo.

I hope we not only pass this legislation, but I hope the Senate, the Congress, the administration, and world community will heed the words of BOB DOLE and his legislation. He has been a leader in this effort to wake up the world community to the transgressions against mankind that have taken place far too long.

Mr. President, I thank the majority leader for yielding me the opportunity of cosponsoring this bill.

Mr. DOLE. Let me thank the distinguished Senator from New York. I hope everybody will take a look at this legislation. It is very important.

We are importing, as the Senator from New York underscored, products of substantial dollar value each year from this hardline government in Serbia—private sources, government sources in some cases. We ought to cut it off. That is all this bill will do.

I thank the distinguished Presiding Officer for staying here beyond what we thought would have been an earlier recess.

By Mr. DASCHLE:

S. 1738. A bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes; to the Committee on Finance.

PROHIBITING IMPORTATION OF CERTAIN MEAT PRODUCTS FROM THE EUROPEAN COMMUNITY

• Mr. DASCHLE. Mr. President, the U.S. Department of Agriculture is out of date and out of touch. The General Accounting Office reported this month that USDA is unresponsive to the new challenges facing American agriculture.

Trade policy is one example. The GAO report says USDA has focused on increasing the production of raw com-

modities at low prices, while our competitors have been employing sophisticated marketing strategies to swallow up value-added markets. High value produces, such as wheat flour, vegetable oil, and meat, provide greater benefits to the exporting nation than raw commodities because value-added processing creates jobs, boosts economic development, and raises Government revenues. Our competitors are aggressively developing value-added markets through Government-producer teamwork. We're not matching their efforts. As our competitors capture value-added markets, our farmers are forced to produce raw commodities because that's the only markets left to them.

GAO says the new competition has weakened our comparative advantage in low prices. "The United States' continuing emphasis on lowering the production cost of bulk commodities disregards a decade-old shift in global trade from a relatively few major bulk commodities to profitable market opportunities in processed and consumer-oriented products," the GAO report says.

Instead of meeting our competition, we're falling behind. The European Community [EC] commands the biggest share of world trade in value-added agricultural products. The EC takes in almost twice the amount we do in high-value exports. The EC also dominates the high end of the processed market, while U.S. higher value exports tend to be semiprocessed products at the low end of the market.

Our second-place status in the high-value market is no accident. We're being outmarketed. According to GAO, "USDA has yet to adopt a strategic marketing approach that would enable it to lead agribusiness as an educator, researcher and technical service provider."

American producers have been hurt by USDA's failure. The EC pays export refunds on beef, veal, pork, and poultry products to help EC exporters stay competitive. As a result, the U.S. export share has declined steadily during the 1980's, reaching a low of 6 percent in 1986, with a little improvement in 1987. In contrast, the EC share rose each year between 1983 and 1987, reaching a high of 46 percent in 1987. The EC pork producers export more than 600 million dollars' worth of their products, while American pork producers are able to export barely over 100 million dollars' worth of products.

Meanwhile, under the guise of a health regulation, the EC is banning our pork and beef products from being sold there. The regulation, called the third country meat directive, requires that EC veterinarians inspect U.S. meat processing plants and certify that the plants may export products to the EC. The standards in the directive have little scientific basis. Furthermore, the EC does not recognize inspection proce-

dures that provide equivalent levels of food safety, nor is it clear that these standards apply to EC plants.

What's our Government doing to fight this unfair trade barrier? Not much. After months of talk, EC veterinarians voted Wednesday not to relist for import to the EC any U.S. meat plants. This decision is outrageous.

We've had enough delays and enough talk. It's time for action. The matter goes before the EC Council of Agricultural Ministers next week. Our Government must send a strong message that if the EC does not grant our producers full and fair access to its markets, we will deny access for EC producers to our market. If the EC continues to ban our meat imports, we should immediately ban EC meat imports to the United States.

Congress has given the administration powerful trade weapons to fight back against the EC's strategies and unfair practices. The Daschle amendment in the 1988 Trade Act gives the President power to retaliate against the EC's ban on meat imports. But the administration says that approach is too tough. How can that approach be too tough when the EC ignores our demands?

It's time to fight back. Today, I am introducing legislation to declare the third country meat directive an unfair trade barrier and to require the U.S. Government to respond by banning EC meat imports to the United States.

Mr. President, it is time to put this charade to an end. U.S. meat trade with the EC has dropped steadily over the past decade as stocks of European-produced subsidized meat have grown. When the EC decided last year to ban U.S. meat imports, the dollar value of U.S. meat exports at that time was \$30 million. Meanwhile, imports of EC subsidized meat has been flooding the U.S. market. The administration must stop dodging this issue. If the administration does not take action, Congress must. I introduce this legislation today to show we are serious in demanding an end to this dispute.●

By Mr. THURMOND (for himself, Mr. DECONCINI, and Mr. HELMS):
S.J. Res. 200. Joint resolution designating the week of October 27–November 2, 1991, as "National Pornography Victims Awareness Week"; to the Committee on the Judiciary.

NATIONAL PORNOGRAPHY VICTIMS ACT

● Mr. THURMOND. Mr. President, I am pleased to introduce today a commemorative joint resolution which brings national attention to the plight of victims of pornography and addresses the violence associated with it. By considering this joint resolution, the Senate will be taking steps toward recognizing that pornography often promotes violence against women and children.

Without a doubt, pornography is rampant in our society today. It has

increasingly made its way into existing and new media of communication and has become an enormously profitable business as well. In fact, it is not uncommon for video stores to offer hardcore pornography tapes for rent.

The infamous Ted Bundy stated that violent pornography fueled his evil desire to commit the vicious, brutal acts he committed. Prior to his execution, he gave one last interview in which he discussed how hardcore pornography had an addictive, progressive, and destructive nature in his own life. In discussing pornography's role in shaping his life, Mr. Bundy said, "Pornography can reach out and snatch a kid out of any house. * * * It snatched me out of my home 30 years ago." He went on to say that Americans walk past magazine racks "full of the very kinds of things that send young kids down the road to be Ted Bundys." Such a statement is truly alarming. One can only conclude that the victims of Ted Bundy's rampage across the country were also the victims of pornography. This resolution, which recognizes the link between pornography and the growing problem of sexual violence, certainly merits consideration by the Senate.

In closing, we, as a nation, must take every reasonable step necessary to ensure the protection of our society. The interests of our children and those who are the victims of pornography demand our sincere attention and endless efforts.

I urge my colleagues to join with me and support this meritorious resolution.●

ADDITIONAL COSPONSORS

S. 138

At the request of Mr. DASCHLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 138, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 649

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 721

At the request of Mr. ROTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 721, a bill to facilitate the dissemination of patent information.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1324

At the request of Mr. METZENBAUM, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1324, a bill to amend the Public Health Service Act to generate accurate data necessary for continued maintenance of food safety and public health standards and to protect employees who report food safety violations, and for other purposes.

S. 1343

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1343, a bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

S. 1358

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1358, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

S. 1372

At the request of Mr. GORE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1424

At the request of Mr. CONRAD, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1424, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile

health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1455

At the request of Mr. GRAHAM, the names of the Senator from Montana [Mr. BURNS], the Senator from Missouri [Mr. DANFORTH], the Senator from Washington [Mr. GORTON], the Senator from Oregon [Mr. PACKWOOD], the Senator from Montana [Mr. BAUCUS], the Senator from Arizona [Mr. MCCAIN], the Senator from Kansas [Mr. DOLE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1455, a bill entitled the "World Cup USA 1994 Commemorative Coin Act."

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1532

At the request of Mr. METZENBAUM, the names of the Senator from Utah [Mr. HATCH], the Senator from New Jersey [Mr. BRADLEY], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1532, a bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes.

S. 1578

At the request of Mr. THURMOND, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1614

At the request of Mr. GRAHAM, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1614, a bill to amend the Rehabilitation Act of 1973 to revise and extend the program regarding independent living services for older blind individuals, and for other purposes.

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1614, supra.

S. 1628

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1628, a bill to amend the Federal Aviation Act of 1958 to increase competition among commercial air carriers, and for other purposes.

S. 1722

At the request of Mr. BENTSEN, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Maryland [Mr. SARBANES], the Senator from Arkansas [Mr. BUMPERS], the Senator from Illinois [Mr. DIXON], and the Senator from Massachusetts [Mr. KERRY]

were added as cosponsors of S. 1722, a bill to provide emergency unemployment compensation, and for other purposes.

SENATE JOINT RESOLUTION 38

At the request of Mr. THURMOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 38, a joint resolution to recognize the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge.

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Georgia [Mr. NUNN], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Connecticut [Mr. DODD], the Senator from Washington [Mr. GORTON], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 178

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 178, a joint resolution prohibiting the proposed export to the Republic of Korea of certain technical data and equipment related to the sale of F-16C/D aircraft, pursuant to section 36(c) of such act.

SENATE JOINT RESOLUTION 182

At the request of Mr. KASTEN, the names of the Senator from Utah [Mr. GARN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Arizona [Mr. MCCAIN], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 182, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 185

At the request of Mr. KASTEN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Joint Resolution 185, a joint resolution recognizing the 10th anniversary of the enactment of the Economic Recovery Tax Act of 1981.

SENATE JOINT RESOLUTION 188

At the request of Mr. LAUTENBERG, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. GARN], the Senator

from Connecticut [Mr. DODD], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 188, a joint resolution designating November 1991, as "National Red Ribbon Month."

SENATE JOINT RESOLUTION 189

At the request of Mr. GORE, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution to establish the month of October, 1991, as "Country Music Month."

SENATE JOINT RESOLUTION 195

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution providing that the United States should support the Armenian people to achieve freedom and independence.

SENATE RESOLUTION 91

At the request of Mr. METZENBAUM, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Resolution 91, a resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India, and Kashmir.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the names of the Senator from Florida [Mr. MACK] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

SENATE RESOLUTION 178

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. CRANSTON], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Resolution 178, a resolution expressing the sense of the Senate on Chinese political prisoners and Chinese prisons.

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 178, supra.

AMENDMENTS SUBMITTED

SMITH AMENDMENT NO. 1183

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to a measure, as follows:

At the appropriate place, add the following:

"Public Law 101-508 is amended by adding at the appropriate place the following new subsection:

"() TAX INCREASES.—Notwithstanding any provision of this Act to the contrary, it

shall not be in order for either the Senate or the House of Representatives to consider any bill, resolution, or motion which would increase individual income tax rates established by section 1 of the Internal Revenue Code of 1986 for any individual with a taxable income of less than \$49,300 in the case of a single individual, \$82,150 in the case of an individual filing a joint return, \$70,450 in case of a head of household, or \$41,075 in the case of a married individual filing separately, and thereby increase Federal revenues above the level contained in Public Law 101-508, except by a vote of three-fifths of those present and voting in the body in which the bill, resolution, or motion is considered."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Friday, September 20, 1991, at 9 a.m., in SD-138, to hold a hearing on "The Circle of Poison: Impact on American Consumers."

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, September 20, 1991, at 10 a.m., to hold a confirmation hearing on Robert M. Gatex to be Director of Central Intelligence.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Select Committee on POW/MIA Affairs be authorized to meet during the session of the Senate on Friday, September 20, 1991, at 1 p.m. for its organizational meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, September 20 at 9 a.m., to hold a hearing on the nomination of Judge Clarence Thomas.

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

ADDITIONAL STATEMENTS

POLISH ARMY VETERANS ASSOCIATION

• Mr. RIEGLE. Mr. President, on October 6, 1991, the Polish Army Veterans Association, Post No. 7 LWOW, in Detroit, MI is celebrating its 70th anniversary. Organized in June of 1920 by

members of General Haller's Polish-American volunteer army, Post No. 7 has devoted itself through many years of service to their ethnic community and to American society in general.

Many world events have passed into history since the first meeting of these veterans from two continents was called together by Mr. Szczepan Sidor, Mr. Marian Jackiewicz, and Mr. Jan Zbikowski. They had successfully organized a committee of associates—J. Borkowski, F. Chrowat, A. Dudek, S. Jachimowicz, M. Marszal, S. Pogoda, J. Przyprawa, J. Rychlicki, J. Terlecki, T. Wasiak and I. Sapytowski—and these fellow veterans helped to build an organization whose influence and charitable works have done much to improve the quality of life in both the United States and Poland.

In addition to the goals set forth in their bylaws, the veterans of Post No. 7 have successfully sponsored events to assist in the financing of many worthy projects. Among recipients of their generosity were educational, scientific, and social programs in Poland; the linguistic and historical departments of Wayne State University, University of Michigan, and St. Mary's College; emergency relief projects for Poland after World War II and for refugees to the United States fleeing Communist dictatorship; the Polish Veterans Home in Michigan and the Polish Scouting Association in America.

For 70 years the membership of Post No. 7 has been faithful to its motto: "God, honor, fatherland." The veterans risked their lives in two world wars then gave of themselves untiringly for the benefit of the Polonia in Michigan as well as many associate organizations across the world. The reward for their organization has been the heartfelt gratitude of a remembering community. The personal reward for each member has been the realization that their highest goal—the reestablishment of a free Poland—has been realized, and that this new spirit of democracy has acted as a wave across all of Eastern Europe.

Mr. President, I believe it is important to recognize the contributions of this organization and I am certain that succeeding generations will carry on the values of those first soldiers who gathered after World War I and all those who followed in their footsteps. •

WORLD DAIRY EXPO

• Mr. KASTEN. Mr. President, I rise today to inform my colleagues about the largest dairy event in America—the World Dairy Expo.

I am proud to say that the silver anniversary of the world's largest dairy industry show, sale and exhibition, will be held in Madison, WI, October 2-6, 1991.

The World Dairy Expo draws some 2,500 international guests representing

61 countries. The Future Farmers of America, the 4-H, collegiate, and post-secondary students compete in the dairy cattle judging and showing contest, while the best forage producers compete in the World Forage Superbowl Contest. The Expo also includes 6 dairy cattle shows, 4 educational forum seminars, 4 dairy cattle sales, and over 700 commercial exhibits.

The goals of the Expo are to promote international exhibitions of agricultural commodities, dairy cattle, dairy products, and livestock; and promote—within the State of Wisconsin—a national dairy cattle show for exhibitors and owners without restrictions as to their residence and geographical origin.

Mr. President, I salute the 1991 World Dairy Expo honorees: Myrna Sue Jones of Marshall, WI, Dairy Woman of the Year; Donald V. Seipt of Easton, PA, Dairy Man of the Year; Robert M. "Whitey" McKnown of Sandy Creek, NY; Dr. Gonzalo F. Cevallos Urueta of Mexico, International Person of the Year.

Mr. President, 1,500 bovine beauties will cruise the turf of the dairy capital of the Nation—Wisconsin—as over 62,000 consumers and farmers sample these delightful dairy products and examine the newest technology the agricultural industry has to offer.

I join my colleagues in wishing a happy 25th anniversary to the World Dairy Expo. •

THE FIGHT AGAINST DRUGS IN PERU

• Mr. LIEBERMAN. Mr. President, I would like to make a statement today about the war against drugs. This war is being fought on our streets and in our schools, but it must also be fought abroad, particularly in the Andean countries, where nearly all the cocaine in the world is produced. The fight against the international drug cartel will be a long hard fight, one with no clear-cut victories. But it is a fight that must ultimately be won.

This week the President of one of the front-line Andean states, President Fujimori of Peru, is in Washington to discuss how we can win this fight. He is appealing the suspension last month of \$95 million in antinarcotics aid by several congressional committees because of reports of human rights violations by Peruvian security forces.

These reports are serious, and many are no doubt true. I am pleased that Peruvian leaders last week accorded the International Red Cross access, without prior notification, to prisoners in all military installations and access to all police facilities. These are important steps and the Peruvian authorities should continue to monitor the performance of the military on the local level, where the abuses occur. In light

of these recent steps, I hope that the executive and congressional branches can reach an understanding about re-suming aid.

Economic aid for Peru would be used for balance-of-payments support, crop substitution, and public education about drugs. Peru, one of the poorest nations in the hemisphere, earns about \$750 million from cocaine; its legal imports are no more than \$3 billion. A fair amount of the cocaine earnings trickle down to its farmers. The Government is too weak to force them to abandon their coca crop unless they are given some alternative ways of making a living. Economic support will make a modest, but significant, contribution toward building an economy that will provide alternatives.

Funds for military assistance will also help the Peruvian Government to fight drug traffickers, who are allied with the Sendero Luminoso Marxist guerrilla force. Sendero Luminoso probably constitutes the most vicious insurgency since the Khmer Rouge. They systematically mutilate their victims before execution and warn villagers of their presence by hanging dogs from lamp posts. They are also deeply involved in the drug trade. Military assistance is needed to prevent their taking over the country, in addition to providing human rights training for the military.

There is a final reason to help President Fujimori. He has recently embarked on a difficult economic reform program. During the past year, he has cut 50,000 Government employees from a bloated bureaucracy, reduced the Government share of GDP from 10 to 8 percent, doubled tax revenues, and begun efforts to privatize state enterprises. He is trying to save Peru from the dead hand of its socialist past.

Mr. President, we will not gain the sustained cooperation of Peru unless we stay engaged in their fight against narcotics. It is a frustrating fight, with no decisive victories; this is not the gulf war. But persistence can pay off over time. We saw how sustained effort finally led to the liberation of Central Europe. So if we can turn back Sendero Luminoso and the traffickers, we can make progress. And if we can eventually turn around the Peruvian economy, we can achieve victory. We must help President Fujimori because it is in the interests of our children, our schools, and our country. •

TRIBUTE TO PRINCETON

• Mr. MCCONNELL. Mr. President, I rise today to say a few words about Princeton, a small town situated in western Kentucky.

Most strangers to this part of the State do not realize why anyone would want to live in Princeton, and it is these same people who fail to realize the true beauty of such a small town.

Although Princeton is not the wealthiest town in Kentucky, it easily makes up for what it lacks economically in culture, with a strong history dating back to the Civil War. Unknown to outsiders, the residents, even if the economy staggers from time to time, would never trade in their city. These residents realize there are some things more important than money, and preserving their town is one of them.

Terry Bell, who was forced to move to Hopkinsville for work 16 years ago, still returns about twice a week to the Princeton barber shop, sometimes to get a hair cut, but most of the time just to "jaw with the locals." Bell, like the citizens of Princeton, realizes the advantages of life in a small town. It is the personal touch which Bell is seeking, that he comes back for each week. He could get his hair cut in a larger city closer to his home, but he believes that the people of a small town such as Princeton really do care about what they are doing, and are not simply after money or a profit.

Despite its small size, Princeton's economy is pushing ahead with the recent move of Bremner, Inc., from Louisville. This move is giving the small town a strong economic boost. The Bremner factory brings with it openings for 500 new employees. Sam Steger, a local historian, sees this move as "a shot in the arm" to the Princeton economy.

Not only is the town moving ahead economically, but it is also driving forward in education. The residents of Princeton are highly educated, contrary to the stereotype of the uneducated, small town people one might be told to expect. "We probably have more Ph.D.'s than any other community this size in the State," says Mayor Sherman F. Chaudoin.

Princeton advertises itself as a "good place to work, a good place to play, a good place to nurture your dreams, a good place for your children to grow, and a good place to be at sunrise and sunset." Whatever your needs, they can all be found in this wonderful little community.

Mr. President, I would like to insert the following Princeton article from the Louisville Courier-Journal into the RECORD.

The article follows:

THE OLD "ATHENS OF THE PENNYRILE" FIGHTS INERTIA AND DIVISIONS DATING TO THE CIVIL WAR

(By Mark Schaver)

Everywhere you go in Princeton you can see the bruises of past failures and the optimistic signs of the future.

"When I came to this town it was livelier, but now this town is dead," said Roosevelt Small, the owner of a car-cleaning company who moved to Princeton from Florida 30 years ago. "Before, a man could come to town and if he wanted to work he could find something. Even if it was something he didn't want to do, he could find it. But right now, he can't find a thing to do. You can't

hardly find shoes to shine anymore in this place."

That explains why an announcement in May prompted one of the two weekly newspapers to put out a 24-page special edition: "Cookie Company Coming! Bremner Firm Will Be Moving to Princeton!"

Moving from Louisville because of the airport expansion, Bremner Inc. bought a vacant factory building on the edge of town and promises to employ more than 500 people. A few years ago the town had one of the highest unemployment rates in the state; now the number of manufacturing jobs is about to jump by 70 percent.

"It's a shot in the arm," said Sam Steger, 71, a real-estate agent and local historian. "We're not going to die. We're going to live."

Some say Princeton has suffered in years past because too many were satisfied with inertia. "The people who had the property and the money wanted to keep it a small town," said Marvin Pogrotsky, 64, the owner of Finkel's Fair Store on Main Street.

Pogrotsky's dry-goods store, founded in 1923 by his father, is one of the oldest businesses downtown, and Pogrotsky was once the president of the merchants' association. "I tried to get cooperation, but everybody's for himself," he said. "It's just awful hard to get people in this town to cooperate."

That kind of selfishness has sometimes extended to the city government. "At times it's been well-run," Pogrotsky said. "At other times, it's been for the birds."

Princeton and Caldwell County have a reputation for being bellcose. "It seems there's a lot of controversies that come up, and it's not limited to the Fiscal Court or the City Council or the school board," said Chip Hutcheson, the editor and publisher of *The Princeton Leader*. "They've all had their times."

The factionalism goes back to the War Between the States, when the northern part of the county was populated by poor farmers who did not have slaves and sympathized with the Union, while the southern part of the county had richer landholders who owned slaves and favored the Confederacy, Steger said.

The divisions continued with the so-called Black Patch War of the early 1900s, when tobacco farmers from Kentucky and Tennessee—who blamed the North Carolina-based Duke Trust for the low prices they were receiving—formed an association to hold tobacco off the market. The movement's leader was Dr. David Amoss, a physician from Cobb in southern Caldwell County.

Masked night riders intimidated farmers who tried to sell their tobacco to the trust by destroying their crops and burning down warehouses. Steger said some of the more recalcitrant farmers—whom the night riders derided as hillbillies—came from northern Caldwell County.

The "Dark Tobacco District Planters' Protection Association of Kentucky and Tennessee" soon veered into lawlessness as farmers used it as an excuse to settle old scores, and eventually it collapsed as prices rose and the night riders began to be prosecuted in federal courts. (Local courts had shown themselves to be decidedly reluctant to convict anybody.)

Princeton, which celebrates its tobacco heritage every year with the Black Patch Festival, does not lack for boosters. "We have all the things big cities have, just on a smaller basis," said Brooksie Gardner, the executive secretary of the Chamber of Commerce.

Although townspeople say they hold their arms open wide for visitors and newcomers,

that hasn't always been so. "Strangers weren't frowned upon," Pogrotsky said, "but they weren't kissed and petted."

Pogrotsky, who is Jewish, recalled that after his father moved to town from East St. Louis and opened the family store in 1923, merchandise would arrive in crates with "KKK" scrawled on them. These anonymous taunts ended after the Jones brothers—father and uncle of current County Judge-Executive J.D. Jones—made it clear that that sort of nonsense would not be tolerated.

"There never was any more trouble for Dad, and I never had any trouble, and my children never had any trouble," Pogrotsky said.

Still, here is how the Princeton Commercial Club talked up the town in a 1937 booklet: "The population is practically 100 percent native, as the foreign-born element here is negligible. Most of the people in this section are of Anglo-Saxon stock and of average intelligence and education, with a progressive attitude and a desire to get ahead."

This is what the Chamber of Commerce said in its 1990 guide: "Looking for a good place to work, a good place to play, a good place to nurture your dreams, a good place for your children to grow, a good place to be at sunrise and sunset? You can find it here."

Terry Bell, a 39-year-old salesman for Coca-Cola, regrets having had to move to Hopkinsville 16 years ago for work. He visits Herb's Barber Shop two or three times a week to jaw with the locals.

"I bring my little boy down here to get a haircut," Bell said. "And the reason why is, if you go up there to Hoptown, they'll just take your money. They don't care what they do, how they cut your hair, or what they say to you. They're just after a dollar. . . . A young man can walk into this barbershop, and if he sits there and he's quiet and respects his elders like he should, he's going to listen to these men and he's going to learn."

Most of the buildings downtown, with faded signs and empty storefronts, are on the National Register of Historic Places. The sense that time is standing still is helped along by the signs at the Capitol movie theater, closed and boarded up but still advertising "The Money Pit," a 5-year-old film with Tom Hanks and Shelley Long.

Not that the town hasn't modernized. There's the Beauty and the Beast Hair Care Center—"Why look ordinary when you can look extraordinary?"—which offers "Turbo Organic Nails" and "non-surgical face lifts."

If you're looking for quaint, you can find it. There's Newsom's Old Mill Store, an old-fashioned country store near the town square that inspires poetry like this fragment from a work by Princetonian Jennifer Wilson:

"The red and green peppers are pretty and bright,

But the fresh, raw peanuts are my delight,
There are purple damsons for jellies and pies,
Bunches of grapes and bananas to buy . . ."

The store is even more famous for Col. Bill Newsom's country hams, which are sold by mail order from Maine to California. The late chef James Beard praised the hams in *The New York Times*. Julia Child wrote a letter to Newsom extolling their virtues. And a few years ago, *Connoisseur* magazine published a long, admiring article about them called "Ham at Its Best."

"I would say for the amount of work you put out, it's not so much a moneymaker as it is the principle of what you're doing," said Nancy Mahaffey, Newsom's daughter, who runs the store. "To me, you're preserving a part of the past."

Another attraction is Adsmore, a restored Victorian mansion that draws thousands of tourists a year. The former home of the Garret family, it was willed to the town library as a museum. It summons memories of a more genteel era, before Cumberland College left town for Tennessee.

"Princeton back in the last century was called 'the Athens of the Pennyrile'" because of its beauty and its educational facilities," said Mary Grace Pettit, 73, the director of Adsmore. "I've always felt that Princeton had more culture than the average small town because we had fine musicians and fine artists and people who liked beautiful things."

That's still true, townspeople insist. They point to the Art Guild, which sponsors numerous cultural events during the year, and to the University of Kentucky's agricultural research and education center, an experimental farm of almost 1,300 acres.

"We probably have more Ph.D.s than any other community this size in the state," said Mayor Sherman Chaudoin, an insurance agent who moved from Lexington only nine years ago. That has to contribute something to the character of Princeton, he said.

The town has also become something of a retirement haven, drawing many retirees attracted by the nearby Land Between the Lakes. "For people who like hunting and fishing, this is paradise," said Hutcheson, the newspaper editor. "When it's deer season, you can't find a motel room anywhere around here."

For the young, however, the life has been drained from the town. "It's a shame," said Sandy Boaz, 42, who runs *The Saddle Shop* in a building that once housed his parents' drive-in restaurant. "When we were growing up, and it hasn't been that long ago, there were two pool rooms, a drive-in, a picture show, a teen center—and if a bunch of kids wanted to congregate in a parking lot, the cops didn't run you off. Now there's nothing for kids at all."

Downtown has been given over to older people, who congregate on the benches by the art deco courthouse, a soot-streaked monolith in need of a thorough sandblasting.

Nearby, Charles "Floppy" Brennan is selling produce from the back of a pickup truck. "I can remember when Abraham Lincoln freed the slaves as well as yesterday," says Brennan, who claims he was born in 1822. "I was sitting right in the front row. I raised my hand and he said, 'What do you want?' And I said, 'Mr. Lincoln, are you also freeing the poor white people too?' And he said, 'I'm a-freeing everybody.' But he lied—even if he is dead and gone. The damn poor man will always be a slave, no matter what color he is."

Population: Princeton, 6,940; Caldwell County, 13,232.

Per capita income: Caldwell County, 1987: \$10,919, \$1,078 below state average.

Media: Newspapers; *Princeton Leader* (weekly); *Caldwell County Times* (weekly). Radio: WPKY-AM and FM (adult contemporary), Cable: Multivision Cable TV.

Jobs in county: 1988, Manufacturing, 816; wholesale and retail trade, 975; services, 533; state and local government, 632; contract construction, 104.

Big employers: Le Rol Princeton, 450; H & E Apparel Inc., 150; Special Metals Corp., 95.

Education: Caldwell County schools; 2,300 students; Caldwell County Area Vocational Education Center; six institutions of higher learning within 75 miles.

Transportation: Highways; Western Kentucky Parkway, one mile; Interstate 24, 13 miles. Air: Princeton-Caldwell County air-

port, 3,000-foot runway; nearest commercial service, Evansville Regional Airport, 87 miles. Trucking: 16 carriers serve Princeton; Rail: Paducah and Louisville Railway. Water: Port of Lyon County on Lake Barkley, 12 miles.

Topography: Numerous limestone caves and springs. Tradewater River forms part of eastern county line.

FAMOUS FACTS AND FIGURES

Confederate Gen. Hylan B. Lyon, for whose father neighboring Lyon County was named, burned the Caldwell County Courthouse in 1864.

The facade of the present Caldwell County Courthouse, completed in 1940, is said to resemble the gold vault at Fort Knox. Both were designed by the same man.

Princeton once billed itself as "The World's Friendliest City."

During the 1960's, the "world's largest bomb shelter" was three miles east of Princeton in the caverns of the Cedar Bluff Stone Co. It has room for 30,000 people and was stocked with food, water, medicine and a complete hospital.

Caldwell County was one of the rest stops for Cherokee Indians during their 1,200-mile forced march from the Smoky Mountains to west of the Mississippi River. One-third died on the "Trail of Tears."

In 1906, masked night riders burned two warehouses in Princeton that bought tobacco for the Duke Trust, which they blamed for the low prices they were receiving. They reportedly rode out of town singing, "The fire shines bright on my old Kentucky home."

THE EMPLOYER SANCTIONS REPEAL ACT OF 1991

• Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues—Senators HATCH, KENNEDY, DECONCINI, CRANSTON, and others—in this renewed effort to repeal the employer sanctions provisions in Federal immigration law.

It has been 1½ years since the General Accounting Office issued its report detailing a widespread pattern of job discrimination in the implementation of the Immigration Reform and Control Act of 1986. All indications are that the problem has only worsened since the GAO report was issued. According to the Department of Justice, the number of immigration-related discrimination charges filed increased 37 percent over the past year, and illegal immigration is nearly as high as it was 5 years ago, before the employer sanctions provisions were enacted.

Mr. President, the time has come to repeal employer sanctions and put an end to the intolerable form of discrimination these sanctions foster—discrimination based solely on the fact that a person looks foreign.

In 1986, when I reluctantly voted for passage of the Immigration Reform and Control Act, I had hoped that increased discrimination would not be the result. I had hoped that by charging employers with the duty of enforcing our Nation's immigration laws, the livelihood of many Americans would not be put at risk. But I, along with a majority of my colleagues, was wrong. Employer

sanctions do not work. They must be abolished, and we must face our responsibilities to all the citizens and workers of this country.

We must work together to put the duty of enforcing our Nation's immigration laws where it belongs: with the Federal Government.

If a majority of our colleagues, or the President, do not yet agree with us, we must not give up. We must be committed to ensuring that all Americans, regardless of the color of their skin, are guaranteed the basic right to seek and hold a job. We can do no less.

As I stated earlier, Mr. President, we now have clear and convincing evidence that sanctions against employers are not the answer to the underlying problem of illegal immigration. How can a policy that has had the effect of legitimizing discrimination against American citizens and legal permanent residents be considered a viable option any longer?

A more appropriate focus, I believe, is to strengthen existing laws designed to protect workers. Many of these laws can effectively reduce illegal immigration without creating discrimination. This legislation has that focus:

By increasing wage and hour enforcement at the Department of Labor, we can help ensure that violations of labor laws—including subminimum wage payments, excessive overtime requirements, and health and safety violations—are investigated and corrected;

By facilitating greater cooperation between the Attorney General and the Secretary of Labor, we can better target immigration enforcement;

By strengthening the U.S. Border Patrol—through enhanced programs, newer equipment, and increased funding—we can help ensure that increased border enforcement is humane border enforcement; and

Most important, by repealing employer sanctions, we can help put an end to employment discrimination based on the color of one's skin.

Mr. President, I urge my colleagues to look carefully at this legislation and lend it their support. •

THE POETRY OF SONJA GORDON, LOUISVILLE, KY

• Mr. MCCONNELL. Mr. President, although the 50th anniversary of Pearl Harbor is a few months away, I would like to take a moment to share with my colleagues the thoughts of Ms. Sonja Gordon of Louisville, KY.

In April, Ms. Gordon visited Hawaii and toured the U.S.S. Arizona Memorial in Pearl Harbor. Deeply moved by this experience, Ms. Gordon wrote three poems: U.S.S. *Arizona*, *Reflections*, and *Message From the Sea*. Somber in tone, I think they reflect the horror our country witnessed on December 7, 1941.

In order that my colleagues may appreciate Ms. Gordon's poems, I ask

that they be printed in the RECORD following my statement. I am certain my colleagues share my admiration of Ms. Gordon's patriotism and love of all Americans.

The poems follow:

U.S.S. "ARIZONA"

(By Sonja Gordon, April 1991)

Alive is what we were
Resting on the Sabbath.
In they came like African bees;
Zeroing on their targets, delivering deadly stings.
On they came, the second wave.
No place to hide, no time to flee;
All are dead in the sea.

REFLECTIONS: VISIT TO PEARL HARBOR ABOARD THE ARIZONA MEMORIAL

(By Sonja Gordon, April 1991)

"It was a calm Sunday morning, December 7, 1941, much like today. The stars and stripes had just been raised when the drone of planes was heard coming over the mountain to your right . . ."

The midshipwoman's voice
Above the naval vessel's roar
Told of death and dying,
Surprise and gore.

The films we'd viewed
Brought instant tears;
Eyes of wonder, then horror
As death drew near.

Read with reverence
The listed dead from America's shores
That now lie buried
In the ocean's floor.

Beneath our feet
Their watery graves;
The ultimate price
For our freedom was paid.

The total killed: Two thousand four-hundred and three;

Yamamoto's losses, less than one hundred-fifty.

Battleship Row, home to our naval fleet,
Would soon be in flames, its destiny meet.

Commander Fuchida's message to all:
Tora, Tora, Tora, his infamous call;
Our babies are sneaking into their nest,
Our surprise is achieved, we've laid them to rest.

Awake, O sleeping giant
With terrible resolve;
Never more to sleep,
Your lethargy dissolve.

And like the Phoenix
From the graves they did rise.
The battleships floated
To bring death to their eyes.

Our God hovered over
The supply of fuel oil,
Though bombs and destruction
All around them did fall.

By land, sea and air
Our people did fight.
No more would they sleep
Nor wonder the right.

Oh distant land of Rising Sun,
Give ear: Our airplanes drone;
Tora, Tora, Tora . . .
Our Phoenix to your home.

(Admiral Yamamoto, "awakened a sleeping giant and filled him with a terrible resolve.")

MESSAGE FROM THE SEA

(By Sonja Gordon, April 1991)

Hear ye my bones

Rocking in their water-casket.
Hear ye my agony.
Fail not to guard
These shores which call to thee,
Lest ye be buried here with me.
Beware the forces
Bent on sending thee to thy knees;
Ere within or without, who or what they be.
By missiles fired,
Or laser's stealth;
By egalitarian orator's mouth;
By national debt,
Or moral rot;
Hark the message the past has brought.
Hear ye my bones
Rocking in their water-casket.
There is room for thee, in the sea with me.●

COMMEMORATING ERNIE HARWELL'S 32 YEARS AS THE DETROIT TIGERS' BASEBALL ANNOUNCER

● Mr. RIEGLE. Mr. President, this year marks the end of an era for the Detroit Tigers baseball club. For the past 32 summers, William Earnest "Ernie" Harwell has been the voice of summer to Michigan baseball fans. But this is the last season Tiger fans will listen to his sweet southern drawl—Ernie Harwell is hanging up his microphone as the voice of the Tigers.

During a career spanning 6 decades, Ernie Harwell has broadcast more than 7,000 games of our national pastime. Among Ernie Harwell's many accomplishments, he was named Michiganian of the Year by the Detroit News and National Sportscaster of the Year by the National Sportscasters Hall of Fame. In 1985, Sports Illustrated selected Harwell as the radio voice of its all-time dream baseball team. In 1989, Ernie was inducted into the National Sportscasters Hall of Fame and this summer Ernie was selected to the American Sportscasters Hall of Fame where he will be inducted on December 5. Perhaps Ernie's crowning achievement was receiving the Ford C. Frick award for excellence in baseball broadcasting, for which he was enshrined in the Baseball Hall of Fame in Cooperstown, NY—the only active broadcaster to receive this honor. Born in Washington, GA, on January 25, 1918, Ernie began work at the age of 16 as a correspondent for the Sporting News and later served in the sports department of the Atlanta Constitution. When he was 22, he originated a nightly sports news broadcast for Radio Station WSB, Atlanta.

Harwell is a graduate of Emory University and it was there he first met Lulu Tankersley, his wife of 50 golden years. Following 4 years in the Marine Corps during World War II with service in the Orient, Ernie returned to Atlanta as broadcaster for the Southern Association's Atlanta Crackers.

Ernie broke into the major leagues as a play-by-play broadcaster for the Brooklyn Dodgers in 1948 when legendary baseball executive Branch Rickey

traded catcher Cliff Dapper for announcer Ernie Harwell—the only time an announcer was traded for a player. He also broadcast for the New York Giants baseball team and the Baltimore Orioles before coming to Detroit.

One of Harwell's biggest thrills as an announcer was Bobby Thompson's homer off Ralph Branca in the 1951 Dodger-Giants playoff series. The home run, dubbed the "shot heard 'round the world," occurred during the first coast-to-coast telecast of a major sporting event.

Ernie Harwell is one of the game's great storytellers. He turns nine innings of baseball into great drama. We will never forget Ernie's accounts of the Tigers' world championship seasons in 1968 and 1984. He also brought us the excitement of a young Mark Fidrych and took us way back for home runs by Kirk Gibson and Cecil Fielder. Whether the season brought a championship or second-division finish, Tiger fans have had a devoted, much-loved friend in the broadcast booth.

Ernie's talents aren't limited to broadcasting. He has made frequent contributions to the Sporting News, Saturday Evening Post, Esquire, Parade, and Reader's Digest. He authored a widely printed tribute to baseball called "The Game for All America" and wrote a best-selling book, Tuned to Baseball, that won nationwide critical acclaim.

Today I join generations of listeners in congratulating Ernie Harwell for his many years of service to Detroit Tigers fans. His graceful style, vast knowledge of the game, numerous stories and gentle humor will be missed. As Steve Kelly of the Toronto Star put it, "In baseball lingo, Harwell still can turn on a fastball. He can still make the throw from the hole. He can still call the game." We all wish Ernie Harwell continued success and happiness.●

IN RECOGNITION OF POW/MIA DAY

● Mr. MURKOWSKI. Mr. President, today is "National POW/MIA Recognition Day."

Each year since 1979 our Nation has proclaimed a day of remembrance for POW/MIA's. It is a very important day when we take time to remember—and perhaps say a little prayer—for our servicemembers who sacrificed so much to ensure our freedom.

Today, ceremonies are taking place all across America to pay tribute to the men and women who were held as a prisoner of war or who are still listed as missing in action. I regret that I am unable to be in Alaska to join with the fine people of my State in their ceremony.

Our former POW's from all conflicts were very often subjected to inhuman treatment at the hands of their enemy captors. On many days throughout the year we pay tribute to our Nation's

veterans but today we specifically focus on those who suffered for days, months, or even years in captivity.

On this day, we are also ever mindful that there are still those who are unaccounted for. This past year the media has focused increased attention on the issue of those POW/MIA's from the Vietnam war. As a nation we must do all we can to ensure that a full accounting takes place. This must be our Nation's highest priority.

Finally, let us give our support—not just today but every day—to the families of our POW/MIA's.●

FURTHER ACTION MUST BE TAKEN TO STOP THE FIGHTING IN YUGOSLAVIA

● Mr. DECONCINI. Mr. President, the latest efforts by the European Community to restore peace in Yugoslavia have just failed. The most recent agreement to a new cease-fire in Croatia was broken before the ink was dry, and all signs point to a further escalation of the conflict. Tensions are heating up in neighboring Bosnia-Herzegovina as well, and civil war on a massive scale now looms on the horizon.

Who is at fault for this tragic state of affairs? Political leaders on all sides of the conflict have each made their share of mistakes. Most have fanned nationalist sentiment in the service of their own political interests; few have condemned or done anything to stop the discrimination and atrocious, violent acts of hatred this has encouraged. There has been little if any effort to try to meet legitimate concerns of ethnic minorities in the republics where they exist. Most have engaged in a game of mutual accusation and criticism; few have taken serious efforts to improve the economic opportunities or standard of living of the people they are supposed to represent. Ethnic passions and a mad desire for vengeance have conquered objectivity and any attempt at mutual understanding.

This said, there can be no doubt that one man—Serbian President Slobodan Milosevic—is more responsible than any other for the violence, the death, and the destruction which has taken place every day in Yugoslavia over the last 3 months. Others, for all their faults, have agreed on several occasions to stop the fighting and to give international efforts to find a solution to the crisis a chance to succeed. The government of Mr. Milosevic, on the other hand, has encouraged political chaos at the Federal level which has allowed the Federal Army to spin out of control. It has resisted past attempts to reach agreement to a cease-fire and done little if anything to stop those in the field from breaking agreements that have been reached. Now, it is the government of Mr. Milosevic that has stated it would oppose any European

proposal to send peacekeeping forces which could make a cease-fire less fragile. The result: Yugoslav tanks stationed in Serbia have today crossed into Croatia en masse, with fierce fighting in Osijek and other towns and cities in the eastern Slavonian region of the Croatian Republic. The estimated death toll is now moving toward 500, and there are no signs that the killing will stop.

President Milosevic first tested his powers of repression on the Albanians of Kosovo. Now, Croatia is feeling the brunt of his force. Bosnia and even Macedonia may be next. Indeed, as events earlier this year have shown, the Serbian people themselves are not immune from his wrath. His reaction to opposition from within Serbia shows that he does not seem to trust the people he serves as President under conditions of democracy.

With the efforts of the European Community at an apparent impasse, there is a real frustration over what more can be done to remedy this tragic situation. Some are hoping to salvage EC efforts; others are looking for new initiatives from the United Nations. There is a growing consensus that the United States needs to elevate its efforts. I frankly cannot understand why President Bush and Secretary of State Baker are not making greater efforts to utilize the considerable influence the United States has to press for the fighting to stop. This is not just a European problem. Conflicts in Yugoslavia can cause instability and threaten the peace in Europe, which certainly would be to the detriment of United States interests. Moreover, many Americans have close ties to Yugoslavia and are deeply concerned about the welfare of their friends and relatives. The United States, at a high political level, should therefore forcefully and persistently condemn the violence and encourage a positive solution.

As Cochairman of the Helsinki Commission, which has actively followed events in Yugoslavia and sought to encourage a solution to the current crisis acceptable to all, I would urge President Bush and Secretary of State Baker to seek to get the CSCE process more deeply involved. To date, the CSCE has provided support for EC efforts, but it should now seek to involve itself in these efforts as well. The CSCE includes the member States of the European Community, but it includes the remainder of Europe as well. The United States and Canada are also participants and can add their voices to those of Europe opposing the continuation of the conflict. CSCE membership is limited to the most interested countries and can therefore be less cumbersome than the larger United Nations in formulating a response.

In my view, the CSCE States should meet immediately at the level of foreign ministers to condemn the contin-

ued violence. Such a high-level statement would send an important message. The foreign ministers should also consider additional responses, which should continue to include peacekeeping forces. Serbia is wrong to oppose such an international effort. With the Yugoslav Army fighting on the side of Serbian militants, there is no neutral party in Yugoslavia to help keep opposing forces separated. Opposition stems from fear of losing what has been wrongfully gained through the use of force. Economic and other diplomatic measures should also be considered. There can be no assistance nor business as usual with those that are blocking peace and democracy in Yugoslavia.

The United States can and should take these efforts, but, Mr. President, in the end the real solution to the crisis must come from the peoples of Yugoslavia themselves. They are the ones who are suffering from the conflict. Some are losing friends and relatives, some are losing their homes and communities. They will all face the worsening economic circumstances. They must therefore join the effort to restore peace. They must pressure their respective political leaders to agree to stop the fighting if they have not already done so. They must each put hatred and prejudice aside and make an effort to accommodate the legitimate concerns of the others. They must insist upon the democratic conditions necessary for these concerns to be accommodated and for their own rights to be respected. It is not too late for them to pull themselves out of the quagmire into which they have fallen, but they must make their strong desire for peace and democracy clear to those leaders who are prolonging the conflict for their own ends. ●

TO EXPAND AND SIMPLIFY SMALL BUSINESS PENSIONS

● Mr. KASTEN. Mr. President, on September 12, I cochaired a Small Business Committee hearing to examine proposals to expand and simplify small business pensions. The committee heard testimony from Senator BOB PACKWOOD, who has sponsored the prime proposal, and from Secretary of Labor Lynn Martin who outlined the administration's power initiative.

I am a cosponsor of the prime legislation and I am encouraged by the administration's proposal. Both efforts recognize the need for expansion of affordable and simplified pensions for small business. One of the witnesses at the hearing was Mr. Thomas Custis of Brookfield, WI. He is a pension consultant and actuary with the firm of Milliman & Robertson. I found his testimony extremely helpful and I ask that it be included in the RECORD.

The testimony follows:

TESTIMONY OF THOMAS K. CUSTIS, F.S.A.

Good morning Mr. Chairman, Senator Kasten, and other members of the Committee. I very much appreciate the opportunity to testify before you today on the topic of pension simplification and extended pension coverage for small businesses. I applaud your committee for addressing this important issue; I believe it is crucial to the long-term economic security of America's workforce.

As a pension actuary for Milliman & Robertson, I work with employers of various sizes and have first-hand knowledge of the problems of small businesses in providing retirement benefits to their employees. I have observed the steep decline in the interest of small employers in establishing and maintaining retirement plans, especially plans which provide adequate retirement income coverage to employees.

Earlier this year Milliman & Robertson sponsored a research project which included a survey of 100 small and medium-sized company chief executive officers. This survey disclosed a very high level of frustration with retirement plan complexities. Findings of the survey include:

CEO's were nearly unanimous in the view that pension laws and regulations are too complex.

A majority think that the pension laws and regulations discourage employers from sponsoring and maintaining qualified plans.

A substantial majority of CEO's support a moratorium on legislative change.

These findings were strongest among those CEO's representing the smallest of the companies included in the survey. These findings suggest that CEO's would like simpler pension laws and regulations. Perhaps more importantly, they would appreciate a rethinking of basic pension policies. They strongly endorse the concept of a National Retirement Income Policy which would provide a consistent framework for future legislation, thereby avoiding the problem of ever-changing laws, prompted by the competing goals of labor concerns and tax equity. As an appendix to my remarks, I have included an executive summary of the findings of this survey.

There has been much commentary relating to why small employers do not have pension plans. Documentation abounds that current laws and regulations are too complex and qualified pension plans are too expensive to administer to maintain in a small company. It is also important for the Committee to consider what incentives are sufficient for those employers who do maintain qualified retirement programs.

COMMENTS ON SPECIFIC PROPOSALS

I believe that the legislative proposals before the committee are generally good, but I am afraid that they fall well short of accomplishing the goals which have been set for them. The Pryor-Bentsen Bill makes several positive and significant changes in the area of administrative simplification. However, I do not believe any of the changes will be sufficient to encourage a small business employer to start a new plan.

Further changes in the simplification area that are needed to assist the small employer would include consideration of:

(1) Elimination of the top heavy rules under Internal Revenue Code Section 416. With the changes adopted in the Tax Reform Act of 1986, these provisions do little more than add a significant administrative complexity.

(2) Elimination of or modification of the application of the alternative full funding limit relating to current liability.

(3) Elimination of or modification of the family aggregation rules, retroactive to their original effective date.

(4) Modification of the requirement that a full valuation be completed every year for defined benefit plans regardless of size or nature.

Each of these items expands the necessary number crunching and paper pushing that is required to maintain a defined benefit plan for a small employer. The minimum administration charges for the maintenance of a qualified plan have doubled or tripled over recent years as these requirements have been imposed. These added charges do not contribute to the well-being of the participants or to the system itself.

Perhaps most importantly, any legislation intended to simplify current rules and regulations needs to be drafted in a manner that does not require another round of amendments and filings.

I believe that the Administration's Power proposal and Mr. Packwood's prime proposal provide some modest encouragement to the expansion of defined contribution plans to this employer sector. However, I think you must realize that these proposals are not much more than expanded and enhanced Simplified Employer Pensions. In order for you to address pension coverage in the small employer area, it is important that you understand why S.E.P.'s have not been more popular.

I believe that the small business person must be provided with sufficient incentive relating to his or her own retirement security situation to offset the administrative expense and hassle of maintaining a plan. As a rule, the small employer cannot afford to be paternalistic or concerned about the tax situation of employees. It is easier (and relatively well-received by most employees) for the employer to provide a somewhat larger salary increase or a cash bonus instead of establishing a qualified plan.

Therefore, simplified plans which tend to substantially restrict the amount of funding which may be achieved by the owners and more highly compensated employees fail to encourage broad based coverage of rank-and-file employees. I am not saying that discrimination and tax equity rules should be discarded. However, it is apparent that modest defined contribution programs, such as those proposed, are not adequate incentive to entice a middle-aged small business owner to establish a new plan, no matter how simple the administration may be. However, if simplified programs and rules can also be developed to encourage the establishment and maintenance of appropriately designed defined benefit plans, the situation might be more comprehensively addressed.

Again, I commend the members of the Committee for trying to address this important situation. I, and the members of Millman & Robertson's research department, would welcome the opportunity to assist the Committee or its staff by providing greater detail with regard to my comments or in dealing with the specifics of any of these existing legislative proposals. I would be happy to try to address the questions of any Committee member. •

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Senator PRESSLER to participate in a program sponsored by the U.S. Government in the Baltic States, the Soviet Union and Albania from August 22-September 4, 1991.

The committee has determined that participation by Senator PRESSLER in this program, at the expense of the U.S. Government, the Baltic States and the Republics of Moldavia, Armenia, Georgia, Kazakhstan, Uzbekistan, and Kirghizia is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Susan Silveus of the staff of Senator RICHARD G. LUGAR to participate in a program sponsored by the Foreign Policy Institute of Turkey to be held in Turkey from August 9-18, 1991.

The committee has determined that participation by Ms. Silveus in this program, at the expense of the Foreign Policy Institute of Turkey is in the interests of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Chris Dachi of the staff of Senator JOHN H. CHAFEE to participate in a program sponsored by the Foreign Policy Institute of Turkey to be held in Turkey from August 9-18, 1991.

The committee has determined that participation by Mr. Dachi in this program, at the expense of the Foreign Policy Institute of Turkey, is in the interests of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for William Wisecarver of the staff of Senator BOB DOLE to participate in a program sponsored by the Soochow University to be held in Taipei from August 25-31, 1991.

The committee has determined that participation by Mr. Wisecarver in this program, at the expense of the Soochow University, is in the interests of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Marc Michael Rose, of the staff of Senator ROBERT W. KASTEN, Jr., to

participate in a program sponsored by Tamkang University to be held in Taiwan from August 12-18, 1991.

The committee has determined that participation by Mr. Rose in this program, at the expense of Tamkang University is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Dave Bartel of the staff of Senator NANCY LANDON KASSEBAUM, to participate in a program sponsored by the United States-Indonesia Friendship Program to be held in Indonesia from August 16 to 31, 1991.

The committee has determined that participation by Mr. Bartel in this program, at the expense of the United States-Indonesia Friendship Program is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for J. Thomas Sliter, a member of the staff of Senator MAX BAUCUS, to participate in a program sponsored by the United States-Asia Institute and the Chinese People's Institute for Foreign Affairs to be held in China from August 5 to 16, 1991.

The committee has determined that participation by Mr. Sliter in this program, at the expense of the United States-Asia Institute and the Chinese People's Institute for Foreign Affairs is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mike Tongour, a member of the staff of Senator ALAN K. SIMPSON, to participate in a program sponsored by the Foreign Policy Institute of Turkey to be held in Turkey from August 10 to 17, 1991.

The committee has determined that participation by Mr. Tongour in this program, at the expense of the Foreign Policy Institute of Turkey is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for John K. Carson, a member of the staff of Senator ROBERT W. KASTEN, Jr., to participate in a program sponsored by the Tamkang University to be held in Taiwan from August 12 to 18, 1991.

The committee has determined that participation by Mr. Carson in this program, at the expense of the Tamkang University is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for T. Scott Bunton, a member of the staff of Senator JOHN KERRY, to participate in a program sponsored by the A-San Foundation to be held in Korea from August 24 to 31, 1991.

The committee has determined that participation by Mr. Bunton in this program, at the expense of the A-San

Foundation is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Markie Peterson, a member of the staff of Senator LARRY PRESSLER, to participate in a program sponsored by the Chinese People's Institute of Foreign Affairs to be held in China from August 3 to 18, 1991.

The committee has determined that participation by Mr. Peterson in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Andrew Samet, a member of the staff of Senator DANIEL PATRICK MOYNIHAN, to participate in a program in Europe sponsored by the European Community Visitors Program, from November 3 through December 21, 1991.

The committee has determined that participation by Mr. Samet in this program, at the expense of the European Community Visitors Program, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Jason Steinbaum, a member of the staff of Senator DONALD W. RIEGLE, to participate in a program sponsored by the United States-Asia Institute and the Chinese People's Institute of Foreign Affairs to be held in China from August 3-18, 1991.

The committee has determined that participation by Mr. Steinbaum in this program, at the expense of the United States-Asia Institute and the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Elizabeth Criner, a member of the staff of Senator LARRY E. CRAIG, to participate in a program sponsored by the Chinese Cultural University to be held in Taiwan from August 11-18, 1991.

The committee has determined that participation by Ms. Criner in this program, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Steve Humphreys, a member of the staff of Senator WYCHE FOWLER, JR., to participate in a program sponsored by the Soochow University to be held in Taiwan from August 24-31, 1991.

The committee has determined that participation by Mr. Humphreys in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Allen Stayman, a member of the staff of Senator J. BENNETT JOHNSTON, to participate in a program sponsored

by the Indonesian Embassy in conjunction with the United States-Asia Institute to be held in Indonesia from August 18-31, 1991.

The committee has determined that participation by Mr. Stayman in this program, at the expense of the Indonesian Embassy in conjunction with the United States-Asia Institute is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mary Irace, of the staff of Senator PAUL S. SARBANES, to participate in a program sponsored by Tamkang University to be held in Taiwan from August 18-25, 1991.

The committee has determined that participation by Ms. Irace in this program, at the expense of Tamkang University is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Victoria B. Lee, of the staff of Senator RICHARD SHELBY to participate in a program sponsored by the Chinese People's Institute of Foreign Affairs, to be held in China from August 13-24, 1991.

The committee has determined that participation by Ms. Lee in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Cheri Allen, of the staff of Senator DON NICKLES to participate in a program sponsored by the Coordinated Council for North American Affairs to be held in Taiwan from August 24-31, 1991.

The committee has determined that participation by Ms. Allen in this program at the expense of the Coordinated Council of North American Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leon Fuerth, a member of the staff of Senator GORE, to participate in a program in Brussels, sponsored by the Friederich Ebert Stiftung Institution, a privately supported institution, from November 25-December 1, 1990.

The committee determined that participation by Mr. Fuerth in this program, at the expense of the Friederich Ebert Stiftung Institution, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leon Fuerth, a member of the staff of Senator GORE, to participate in a program in the Soviet Union, sponsored by the Soviet Association of the United Nations, a Soviet Government agency, from June 17-24, 1991.

The committee determined that participation by Mr. Fuerth in this pro-

gram, at the expense of the Soviet Association of the United Nations, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Susan Schroeder of the staff of Senator JOHN WARNER to participate in a program sponsored by the Soochow University held in Taiwan from August 24-31, 1991.

The committee determined that participation by Ms. Schroeder in this program, at the expense of the Soochow University, was in the interests of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Michael W. Punke of the staff of Senator MAX BAUCUS to participate in a program in Taiwan sponsored by the Tamkang University from August 19-25, 1991.

The committee determined that participation by Mr. Punke in this program, at the expense of the Tamkang University, was in the interests of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Richard Samans, of the staff of Senator RIEGLE, to participate in a program sponsored by the United States and the Republics of Lithuania, Latvia, and Estonia which was held in Vilnius, Riga, and Tallinn from August 10-24, 1991.

The committee determined that participation by Mr. Samans in this program, at the expense of the U.S. Government and the Baltic Republics was in the interests of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Bradley Belt, of the staff of Senator DONALD W. RIEGLE, JR., to participate in a program in Germany sponsored by the HAUS RISSEN International Institute for Politics and Economics Seminar from August 13-21, 1991.

The committee determined that participation by Mr. Belt in this program, at the expense of the HAUS RISSEN International Institute for Politics and Economics Seminar, was in the interests of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Mark Ashby, of the staff of Senator JOHN BREAUX, to participate in a program in Mexico sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE] from August 27-30, 1991.

The committee determined that participation by Mr. Ashby in this program, at the expense of CCE, was in the interests of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Kevin M. Dempsey, a member of the staff of Senator JOHN C. DANFORTH,

to participate in a program sponsored by the Mexican Business Coordination Council to be held in Mexico from September 3-6, 1991.

The committee has determined that participation by Mr. Dempsey in this program, at the expense of the Mexican Business Coordination Council, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Katherine Brunett, a member of the staff of Senator ALAN A. SIMPSON, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from September 3-6, 1991.

The committee has determined that participation by Ms. Burnett in the program in Mexico at the expense of the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Thomas J. Young, a member of the staff of Senator SHELBY, to participate in a program in Taiwan, sponsored by Tamkang University, from August 18-24, 1991.

The committee determined that participation by Mr. Young in this program, at the expense of Tamkang University, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Thomas J. Young, a member of the staff of Senator SHELBY, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 28-September 1, 1991.

The committee determined that participation by Mr. Young in this program, at the expense of the Chinese People's Institute of Foreign Affairs, was in the interest of the Senate and the United States.●

ORDERS FOR MONDAY, SEPTEMBER 23, 1991

Mr. RIEGLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2:30 p.m. Monday, September 23; that following the prayer, the Journal of proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later in the day.

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

SCHEDULE

Mr. RIEGLE. Mr. President, on behalf of the majority leader, I would like to restate the Senate's schedule for Monday, September 23. On that day, at 2:30 p.m., under a previous unanimous-consent agreement, the Senate will proceed to the consideration of the DOD appropriations bill. There will be no rollcall votes on Monday.

RECESS UNTIL MONDAY, SEPTEMBER 23, 1991, AT 2:30 P.M.

The PRESIDING OFFICER. Under the order, the Senate stands in recess now until 2:30 p.m., Monday, September 23.

Thereupon, the Senate, at 4:02 p.m., recessed until 2:30 p.m., Monday, September 23, 1991.

NOMINATIONS

Executive nominations received by the Senate September 20, 1991:

THE JUDICIARY

REGGIE BARNETT WALTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS, VICE SYLVIA A. BACON, RETIRED.

ACTION AGENCY

MARY JANE MADDOX, OF TEXAS, TO BE DEPUTY DIRECTOR OF THE ACTION AGENCY, VICE JANE A. KENNY, RESIGNED.

INTER-AMERICAN FOUNDATION

WILLIAM KANE REILLY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1994 VICE RICHARD THOMAS MCCORMACK, RESIGNED.

DEPARTMENT OF ENERGY

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION: ELIZABETH ANNE MOLER, OF VIRGINIA, FOR THE TERM EXPIRING JUNE 30, 1994. (REAPPOINTMENT) BRANKO TERZIC, OF WISCONSIN, FOR THE TERM EXPIRING JUNE 30, 1995. (REAPPOINTMENT)

CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 20, 1991:

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR THE TERMS INDICATED:

- FOR A TERM OF 1 YEAR: THOMAS EHRLICH, OF INDIANA. FOR A TERM OF 2 YEARS: LESLIE LENKOWSKY, OF INDIANA. FOR A TERM OF 3 YEARS: JACK A. MACALLISTER, OF COLORADO. ROBERT L. WOODSON, OF MARYLAND. JOHNNIE M. SMITH, OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 1 YEAR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.