A number of things that the President had to say I thought hard to achieve. I believe it will be very difficult when he talks about a tax cut which is obviously, very, very popular, to do so in the context of still cutting the deficit and in the context of increasing other governmental expenditures, as, for example, the defense budget. I believe that the defense budget is now too lean. I would like to see a tax cut. But I am not prepared to enter into the competitive bidding on a tax cut if it will mean adding to the deficit. The way we are looking at this budget, realistically when we talk about a middle-income tax cut and we figure how much it is on a per person basis, that it is more important to avoid increasing the deficit in the United States today.

I was a little more than surprised when the President talked about the North Korean agreement and talked about continuous inspections. That is not the agreement that I have read. The agreement that I have read puts a 5-year moratorium on inspections on spent fuel rods, which is the best way for determining whether there is the development of nuclear weapons by North Korea. I have grave reservations about that agreement as to its substance, and that line particularly, and also the way it has been adopted.

As I read that agreement it has all the indications of a treaty, and under the Constitution the treaty has to be ratified by the U.S. Senate. There have been a number of concerns raised in a number of quarters but so far it is an executive agreement and it has very, very profound implications for the United States. Now only $4 billion is involved and the United States is the guarantor of that, but the moratorium on inspections, I think, poses very, very substantial risks.

When we had hearings in the Intelligence Committee, the Senate Intelligence Committee, a committee which I Chair, I was very concerned when the intelligence officials could not give any assurances or any real ideas as to how long it might be before North Korea would have sufficient ballistic capability to reach the continent of the United States. In the course of that hearing, it was disclosed that North Korea could now reach Alaska. It was disclosed further that North Korea and Iran are working jointly on testing ballistic missiles.

I was very much concerned, Mr. President, about the very limited attention given in the President's very long speech, very limited attention given to foreign policy. He spoke for 1 hour and 21 minutes, which some may have considered a little long. A little easier when you are watching C–SPAN 2 or watching the national networks. You have greater control over the length of speakers. You have the ''off'' button. Perhaps many people are using it now on C–SPAN 2 as I make these few comments. The paucity, the scarcity of comments about foreign policy I thought was revealing and rather indicative of the lack of experience, lack of capability, and, perhaps, lack of interest that is coming out of the administration on this very important issue.

I think in toto, Mr. President, the most telling aspect of the speech last night was the partisanship in the Chamber. That was the 15th State of the Union speech that I ever heard. I have not seen so much partisanship with one side clapping virtually at every sentence and the other side in stony silence on so many of the ideas which were advanced. When I sense that kind of partisanship, it looks to me like we are going to be in for a very tough year. I am hopeful that we will be able to put aside partisanship and really move toward centralism with both parties in addressing the really tremendous problems which confront the people of this country: crime control, nuclear proliferation, health care reform, just some of the problems which we have to address in the national interest.

I thank the Chair and I yield the floor.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 198

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that when the Senate considers amendment numbered 198, that there be 20 minutes for debate to be equally divided in the usual form, that there be no second-degree amendments in order, and that following the conclusion or yielding back of time, the Senate vote on the McCain amendment.

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

Mr. KEMPTHORNE. I yield the floor.

Mr. MCCAIN. Mr. President, I thank both my friend from Idaho and the Senator from Michigan for their cooperation on this amendment. I believe it is an important amendment. I talked about it at length yesterday, Mr. President, and I know there is significant pending business before the Senate. I believe we now still have about 30 more amendments to consider, so I would be more than happy to yield back the balance of my time if that is acceptable to both managers of the bill.

Mr. President, I ask unanimous consent to request if the Senator from Michigan or the Senator from Idaho have any further discussion on this amendment?

Mr. LEVIN. Mr. President, I wonder if my friend from Arizona would yield for a question.

Mr. MCCAIN. I would be glad to yield.

Mr. LEVIN. A question has arisen as to whether the words ''any legislative provision'' on line 7 of his amendment are intended to mean, in effect, authorizing language.

Mr. MCCAIN. It clearly means any authorizing language.

Mr. LEVIN. I thank the Senator from Arizona. My understanding is that the manager on this side supports the amendment. I understand that Senator BYRD is supportive of the amendment, and I would be happy to yield back any time that I might control.

Mr. MCCAIN. I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back. The question is agreeing to the amendment.

So the amendment, No. 198, was agreed to.

Mr. KEMPTHORNE. I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I want to thank the Senator from Arizona for his efforts and his diligence in that. I think it is a particularly important amendment that he has offered. I appreciate the manager on the other side of the aisle and his support on this.

Mr. LEVIN. Mr. President, on Monday night I had a lengthy colloquy with the managers, the principal sponsors of the bill, the Senators from Idaho and Ohio. A number of important questions were left unanswered. In some cases, the answers were conflicted. Those questions concern issues that are central to the way this bill will work. They need to be answered, I believe, before we conclude our work on this legislation.

These are the questions which I have, and I have given a copy of these questions to my friend from Idaho. I want to read them, put them in the RECORD, in effect, and ask they be answered by tomorrow at some point. I am not seeking an answer, one-by-one at this point, because they take some time, I would think, to attempt to answer, if, in fact, they can be answered.

Here are the ones that we had left outstanding. First, the effective date of the mandates. When is a mandate effective? That is an absolutely critical issue because that date sets off a 5-year time period and if during any one of those 5 years there is an estimate that the cost of the mandate is over $50 million, certain very significant things are triggered.

So it is critical to know when is a mandate effective, and we had a long discussion on that on Monday night with a chart.

If that is determined on a case-by-case basis, then who makes that decision and when is that decision made?

The second group of questions relates to the question of whether an estimate can be given in the form of a range; could an estimate be that that will cost from $20 million to $80 million a year, or any other range? And here the questions are as follows:

Can the CBO estimate be in the form of a range?

Can it be in the form of a range for the purpose of the threshold?

Can it be in the form of a range for purposes of the total cost estimate?

If the CBO reports a range, what is the ''specific dollar amount'' for purposes of the point of order? And who makes that decision?

Then there are a series of questions that relate to amendments and their coverage under this bill.

First, are the direct costs of an amendment, added to a bill in committee, to be included in the estimate of direct costs of the bill as reported?

What if the Senate rejects the committee amendment? For instance, let us say a bill is estimated to cost $30 million a year for each of the 5 fiscal years, so it is not over the threshold. But there is a committee amendment that has been adopted in committee that adds another $30 million a year to the bill.

If the $30 million committee amendment is added to the $30 million cost to the bill that was taken up by committee, that would put it over the $50 million and breach the threshold and the bill would not be in order to even be considered by the Senate. But is the committee amendment cost to be included in the cost of the bill before it is adopted by the Senate? It is technically not part of the bill until the Senate adopts it, even though the committee has adopted it.

If it is included in the bill, what happens if the Senate rejects the committee amendment?

Is an amendment offered on the floor subject to a point of order based on the estimate of direct costs of the amendment alone, or the amendment if added to the bill?

Is an amendment offered on the floor out of order if it does not have a CBO estimate of direct cost?

Then there are some questions relating to the exclusions:

Who will decide whether a bill is subject to one of the exclusions? We have a number of exclusions here and there are always going to be questions of interpretation as to whether or not an exclusion applies.

Who will decide that?

What will specifically be required to meet the terms of the bill with respect to a finding of emergency?

And then the final set of questions relates to the length of the estimate, and here, rather than addressing the problem through a series of questions, I will be seeking consideration tonight of one of my amendments which would place a time limit on the estimate.

I have given a copy of a modification to my amendment to the majority manager. I do not know if they have had a chance to look at the modification yet. But I will seek to get that issue resolved by a modified amendment.

The issue here is a kind of fundamental one. Once that threshold is breached, then you have to have an estimate of the direct costs of the bill or the amendment to State and local governments for as long as there are costs. Unless there is a sunset provision in that authorization bill, those costs have no time limit.

Then the CBO would be in the position of trying to estimate cost to State and local governments for decades, 50 years, 100 years. It is an impossible burden which will raise even greater questions about the accuracy of the estimate. An awful lot rides on these estimates. The life or death of a bill or amendment may ride on the estimate.

So I will be offering an amendment in this area to put a limit of 10 years on that estimate so we can get something, hopefully, a little more practical from the Congressional Budget Office.

But those are the questions which I would appreciate having answers to tomorrow. They go right to the question of whether this is a workable piece of legislation. Its goals are very admirable. I supported its predecessor. There is a whole new point of order that has been added this year which is going to create a real different situation on the floor relative to bills and amendments, and we have to think through this process in advance.

We are putting tremendous burdens on the CBO to suggest that they are going to be able to come up with estimates in a matter of hours, perhaps minutes, on amendments, and some people say, ''Well, if you know you are going to offer an amendment, get it to the CBO a day before, 2 days before, 2 weeks before.'' Of course, some of these estimates can take months.

But there is also an answer to that, and that is that, in many cases, we do not know and cannot know that we are going to offer an amendment because an amendment could be a second-degree amendment. We are not all privy to everybody's first-degree amendments around here. We do not have amendments printed in advance. I would like to see a rule, by the way, which would require amendments to be printed in advance, but we do not have any such rule.

So you do not know who is going to call up an unprinted, unfiled amendment to a bill. Somebody can call one up without previous notice, and then, if you want to offer a second-degree amendment, in order for it to be in order, you have to have an estimate from the CBO.

Now, what do we do? Do we hold up the processing of the whole U.S. Senate while the CBO tries to estimate the costs forever, maybe, on 87,000 jurisdictions? We have to work through this in advance. It is a complicated issue and, again, when we had last year's bill, we did not have that final point of order that had such an appropriations impact embedded in it, as we do in this year's bill.

So if the estimate was wrong last year, it did not have serious consequences. It had consequences; the bill would be subject to a point of order if it did not have the estimate. But it did not have this additional point of order with this appropriations aspect to it that this year's bill has.

So, Mr. President, at the appropriate time, I will offer, when the majority is ready, this amendment putting a 10-year time limit on the estimate of the CBO because I think that is a relatively practical length of time for which we can get an estimate.

The modification that I will seek unanimous consent for on this is that the 10-year limit on the estimate apply to both the private sector estimate as well as the public sector estimate. I believe the way my amendment was written and filed, it only applied to the public sector estimate. We should seek practicality and workability for both the private and public sector estimates.

I did not mean to rush the manager on the majority side. I know they may not have had a chance yet to look at this, but whenever he is ready, I am ready to offer this amendment.

Again, I also appreciate his engaging in these colloquies on this bill. He is performing a very important function by trying to clarify the legislative intent, and the questions which I have read and which I will now submit to the desk are questions which I would appreciate your attempting to answer by tomorrow.

I thank the Chair, and I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I appreciate the spirit in which the Senator from Michigan has provided these questions, and I appreciate the fact he is not requiring an immediate response. I always appreciated take-home exams instead of pop quizzes, but I will be happy to provide the answers, to the extent I am capable, sometime tomorrow. I appreciate his effort as we work through this bill.

Mr. President, I know that the Senator from Iowa is here and will be calling up his amendment. I would like to inquire, I believe on the previous unanimous-consent agreement, we had a time agreement of 30 minutes equally divided?

The PRESIDING OFFICER. That is correct.

Mr. KEMPTHORNE. And that no second-degree amendments were in order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Will the Senator yield just for one moment, for a parliamentary inquiry? Is there a unanimous-consent agreement in effect on the Grassley amendment? Is there a time agreement?

The PRESIDING OFFICER. Yes, there is.

Mr. LEVIN. Is there a unanimous-consent agreement indicating when the Grassley amendment will be called up?

The PRESIDING OFFICER. No, there is not.

Mr. LEVIN. At that point, I would note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

Mr. DOLE. Mr. President, some of the Members are inquiring about the schedule for this evening. It is slow, I can tell you that. We are not making any progress. On the 11th day on this bill, we have had only three votes. Two votes. It is worse than I thought.

Now, if this is not delay, I do not know what delay is. So we are going to be here a long time tonight, I am fearful. There will not be any window. We are going to vote as the amendments come up. We just have to stay here and do it.

I regret that I cannot accommodate some of my colleagues on both sides of the aisle. We are spending 90 minutes on immigration amendments. A lot of things have nothing to do with this bill at all. Anything anybody can think of has been offered as an amendment—Social Security amendment having to do with a balanced budget. We have to debate that again on this bill.

I have about reached the point where we will either file cloture tonight or start tabling these amendments unless they are offered and you have limited debate. We do not need 40, 50, 60 minutes on some of these amendments or rollcall votes on some of these amendments.

So I must say that I do not know any other alternative. If somebody stands back here and banters back and forth for a day, that is not my idea of progress. Eleven days ought to be enough. We could have finished this bill in 4 or 5 days.

We will finish the bill this week. If it takes until 10 o'clock tonight, 11 o'clock tomorrow night, and 11 o'clock the next night, we will finish the bill this week. But we may file cloture in the meantime if we continue. We may do that this evening. We have been all day long. Now it is dark outside. People want to be home with their families, so we are going to start voting at 6, 7, 8, 9, 10 o'clock.

So I hope my colleagues will accommodate us—not the leader; I will be here in any event, but accommodate our other colleagues who would like to be home with their children and families. But we have not accomplished much today.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I can appreciate the wishes of the majority leader to move this through, but I would submit that we have disposed of about 12 amendments today.

If I could address the majority leader just a moment, we have disposed of about 12 amendments today. We have worked with them. They have gotten some withdrawn. We have some we have gotten agreement on, and I thought we had been making very good progress today. We are moving right along on this. I had hoped we would be able to—I think we are making a great deal of progress.

Mr. DOLE. How many amendments remaining?

Mr. GLENN. I do not know how many are remaining. I do not know exactly. We have disposed of about 11 or 12 today. Not all of them had votes on them. They either were withdrawn or we had some agreement on them or they were accepted.

Mr. DOLE. We had 39 yesterday, and now we have 34 so I do not know—unless there are some that have not been properly cataloged on our side that have been disposed of. But we still have 34 amendments after 11 days on a bill. We were told last week that there were maybe 30 amendments. Then we got up to 67, and 49, and now we are down to 34, 3 days later. So if that is progress, it is very slow progress. But, again, it is up to our colleagues. If they want to spend Saturday here, that is fine with me.

Mr. GLENN. The procedures by which this bill was brought to the floor, I would submit, are ones that engendered a lot of amendments. We are still trying to work out some of the things we normally would have taken care of in committee had we been permitted to do so. We were not permitted to do any of the amendments in committee. It was sent back to the floor. Had we been able to do that, I think we would have saved an awful lot of trouble and saved much of that 11 days we have been out here in the Chamber, whatever it is now.

I suggest the absence of a quorum.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. GLENN. I withhold.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. GRASSLEY. Mr. President, I will yield the floor if the manager wants it. I reserve my right to get the floor back after he is completed.

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

Mr. KEMPTHORNE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 207, AS MODIFIED

Mr. GRASSLEY. Mr. President, I presented yesterday an amendment of mine. It has been modified, and I would like to send it to the desk and ask unanimous consent that the modification be made.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. GLENN. Will the Senator yield for a question, please?

Mr. GRASSLEY. Yes, Mr. President, I will yield.

Mr. GLENN. The modified language of his amendment, I do not believe we have a copy of that. Does the Senator have a copy he can give us so we will know?

Mr. GRASSLEY. We sure do. Just so the Senator knows I am not pulling a fast one, it has been well known about what we are doing and we will get the Senator a copy so he can be sure of that.

Mr. GLENN. Would the Senator restate the unanimous-consent request, please. Was there a unanimous-consent request?

Mr. GRASSLEY. Yes. Mr. President, the unanimous-consent request I made is for the modification according to the changes that have been made at the request of various staff.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. I have no objection. I believe the Senator can modify his amendment anyway, can he not?

The PRESIDING OFFICER. It requires unanimous consent under the circumstances.

Mr. GLENN. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 32, between lines 5 and 6, insert the following:

SEC. . COST OF REGULATIONS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that the costs of Federal regulations are within the cost estimates provided by the Congressional Budget Office.

(b) STATEMENT OF COST.—At the written request of any Senator, the Director shall, to the extent practicable, prepare—

(1) an estimate of the costs of regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act; and

(2) a comparison of the costs of such regulations with the cost estimate provided for such Act by the Congressional Budget Office.

(c) COOPERATION OF OFFICE OF MANAGEMENT AND BUDGET.—At the request of the Director of the Congressional Budget Office, the Director of the Office of Management and Budget shall provide data and cost estimates for regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act.

Mr. GRASSLEY. Mr. President, as I indicated yesterday, Senator SNOWE is working with me on this approach.

This very simply expresses the sense of the Congress that Federal agencies should review and should evaluate planned regulations to ensure the costs of Federal regulations are within the cost estimates that are provided for the statute by the Congressional Budget Office.

Then there is a second part that is not a sense of the Senate. The second part would allow any Senator to request that CBO provide an estimate of the cost of regulations and compare them with the cost estimates provided by CBO as required for the statute that we are passing under S. 1.

This is just a commonsense amendment that when agencies implement a Federal mandate they should take steps and make a good-faith effort to keep regulatory costs within the CBO estimates called for under S. 1. We do not want to pass legislation, in Congress, thinking when we pass the legislation that it might only be a $1 billion unfunded mandate and then, after several months have passed—in some cases I suppose years could pass—the agency unnecessarily implements regulations that would raise that cost, something above the $1 billion estimate?

I hope we could all agree to this amendment. I know at least on our side of the aisle, after discussing it with our distinguished floor manager, Senator KEMPTHORNE, he had some concerns about it. I think the modifications will satisfy his concerns.

I think it ought to be stated as well that CBO has no problem with the costs of carrying this out. And from that standpoint, this is language similar to what was in the amendment of the Senator from Michigan [Mr. LEVIN] when he called up a previous amendment he got adopted, calling for a report at the instigation of any particular Senator.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. I yield such time as he might need to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I appreciate what the Senator from Iowa is proposing here. To me it seems like a very reasonable request, so again I thank him for his diligence. I will be supporting this amendment. I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that immediately following the next rollcall vote the Senate proceed to vote on a resolution expressing our condolences to the nation of Japan, and I ask it be in order to ask for the yeas and nays at this point.

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

Mr. KEMPTHORNE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Parliamentary inquiry, whose resolution is this?

Mr. KEMPTHORNE. Mr. President, it is a Dole-Daschle-Bingaman bipartisan resolution.

Mr. LEVIN. This is relative to Japan?

Mr. KEMPTHORNE. It is.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I say to my colleague from Iowa, the agencies are already under strictures that come under the President's Executive order to examine costs and benefits before issuing regulations. It seems to me that should really be the test for any regulation—do the benefits outweigh the costs? If they do, the regulations should go forward. If not, the regulations should be killed.

It seems to me the proposed Grassley amendment adds another stricture without taking benefits into account. If a benefit far outweighs a cost, why should the CBO cost estimate become a ceiling?

In other words, what we are doing here is saying CBO—as I understand it—CBO is to make an estimate of the cost. Then once that cost estimate is made, which at best is an estimate, then the cost of implementing whatever the proposal is could not exceed the CBO cost, no matter what? Is that the intent of the Senator from Iowa?

Mr. GRASSLEY. Mr. President, I will be glad to attempt to answer. I am not sure I can, because I am not sure I understand the question of the Senator. But implicit in his question, I believe, is a feeling that the purpose of my amendment is to stop the regulation from going into effect. That is not the purpose of the amendment. There is nothing in the wording of the amendment that does that.

The purpose of the amendment is that if we pass a statute in the year 1996, and CBO says it is going to cost $1 billion, and then 2 years later—it takes a long time to get these regulations written—2 years later the agency might issue regulations that cost something more.

My amendment does not make CBO study that, except at the request of a Senator. But if I would decide, looking at department X's regulations, it looks to me like these are a lot more expensive in unfunded mandates than what we anticipated when we pass the legislation, I want CBO to take a look at those regulations.

CBO takes a look at those regulations and they might say, no, this is not over the $1 billion; or they might say it is $2 billion, it is going to make this statute cost $2 billion instead of $1 billion. My amendment will not in any way keep those regulations from going into effect. But I surely think we ought to have a track record by which we can measure whether or not an original estimate and intent of statute is realized. And if it is not, then at least we know that and it is a matter of public record.

The other thing that might come as a benefit of my regulation is that the regulation writers, if somebody might ask for a review, may be just a little more careful to stay within the cost intent of the statute. I think that is legitimate. I think if we write a statute that we think is going to be an unfunded mandate costing $1 billion, we should not allow some faceless bureaucrat to write regulations that make it cost much more and not be in keeping with congressional intent. That is all I am trying to do. I hope I have answered the Senator's question.

Mr. GLENN. I would have another question I would like to ask, too. That is, it says, ''an estimate of the costs of regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act''—and then goes on, ''a comparison of the costs of such regulations with the cost estimate provide for such Act by the Congressional Budget Office.''

Would this mean that these would all be still prospective? Or does this mean that, because we go back and reference the Congressional Budget and Impoundment Control Act of 1974, that the CBO would be expected upon written request to go back and estimate mandates and how they worked out compared with CBO estimates, clear back over the last 21 years?

Mr. GRASSLEY. Mr. President. It is a very good question. And the answer is it is prospective, and it just covers whatever S. 1 covers.

Mr. GLENN. I have a further question. Would the Senator be willing to have the benefits and costs evaluated at the same time?

Mr. GRASSLEY. No.

Mr. GLENN. The President's Executive order, I would say, covers that and I think that is a necessary part of this thing, to consider the benefits as well as just the costs.

Mr. GRASSLEY. Mr. President, I see the cost-benefit analysis as a very worthwhile procedure. I think I supported that. I have not had a chance to vote on it in past Congresses. But I support the concept. I think, as the Senator said, the concept is to end the rulemaking process. I happen to think that is not a very effective process that we go through. I think it is not refined well enough. I do not think there is a bureaucratic inclination to abide by it in good faith. I support that concept, but I do not think it has any relationship to what I am trying to accomplish by my amendment.

It is a worthy goal the Senator suggests, but it is a little more. I believe it is much more in depth and serves a whole different purpose than what I am trying to serve by my amendment.

Mr. GLENN. Mr. President, if I might add another question in part A, sense of the Congress, it is the sense of the Congress that the Federal agency should review and evaluate planned regulations. And then the next part is

to ensure that the costs of Federal regulations are within the cost estimates provided by the Congressional Budget Office.

It seems to me that sets a ceiling beyond which you could not go. The CBO is at best making estimates. I do not see how you can say that the agency, trying to implement something that may be very involved, should be limited to no more than the estimate of the Congressional Budget Office. I do not know whether that was the intent or not.

What we would be doing is saying with the legislation we pass, we are in effect passing our legislative responsibilities on to the CBO and saying whatever they come up with is the absolute ceiling, when they are required on a rapid basis to give us their best estimates. That does not mean when it gets over to the agency, they get it in more detail. It might exceed a little; it might go under some. But I think to make CBO the final authority on what the ceiling will be, with their rapidly arrived-at estimate of costs, I just do not see how that would work.

Was not the intent to make the estimate of the Congressional Budget Office a ceiling that could not be exceeded in the executive branch when they try to implement the law that we just passed, or implement a mandate?

Mr. GRASSLEY. Mr. President, before I answer this question, there is one further response I want to give to the Senator on his question about the cost benefit. A more explicit answer to the question is, as I said, we only want to do what S. 1 does, and S. 1 deals just with cost.

On the point that the Senator from Ohio just made, there is not a real solid answer I can give because of the very basis of my language being sense of the Senate. I think sense of the Senate implies, first of all, that the bureaucrats and regulation writers do a good-faith effort to be within the congressional intent of whatever the ceiling is of the unfunded mandate.

Second, sense of the Senate is not binding because it is only sense of the Senate. It is not statute. I would feel that the Congressional Budget Office, in making this estimate, could do no more under my amendment than just simply say in a quantifiable way that the agency cost will be so much. That could be higher or lower. The extent to which it is higher, their statement that it is higher in no way, under the statute or under the intent of my amendment, is going to keep the regulation from going into effect.

If I could be perfectly candid with the Senator from Ohio, I think if unfunded mandates legislation is going to mean anything, eventually you have to get to that point where the regulation writers are within the intent of Congress on what the cost is, or else we do not have a very effective statute. But I cannot do that now. I do not know whether now is the time to do that because this legislation is a pioneering piece of legislation. So we ought to feel our way along to that point. I think my sense of the Senate ought to be looked at as giving Congress some additional tools down the road, a track record by which we can make better judgments if this statute needs to be refined.

Mr. GLENN. Mr. President, the Senator treats sense of the Senate just a little more lightly than I think a sense of the Senate should be treated in this regard. Legislative history is made here on the floor, and we talk about sense of the Senate and all the other things that go on in debate. All of these things give the regulation writers the sense of the Senate as to where we want to go. They follow this. They are supposed to follow it.

This is used in its entirety, of course, and sense of the Senate is not as binding as regular legislation. But we are telling the agency that the agencies should review and evaluate planned regulations, not just to think about it. We are saying to ensure that the costs are within the cost estimates provided by CBO.

That is a mighty potent statement, it seems to me. If we are saying it is sense of the Congress, but we really do not mean that, and you people over there just go ahead and do what you think ought to be done, then that is a different thing. But what we are saying is we are telling them it is our sense of the Senate and the Congress to ensure that they stay within the CBO estimate.

Mr. GRASSLEY. Mr. President, will the Senator yield?

Mr. GLENN. Certainly.

Mr. GRASSLEY. Mr. President, this would require further modification. But first of all, before I suggest something, I do not want it to be suggested that I think my amendment does more or is intended to do more than what I said I wanted it to do. I did not doctor up the sense-of-the-Senate language because I do not know how much weaker you can get in any statement of public policy that this body makes in sense-of-the-Senate language. Maybe the Senator from Ohio puts it on a higher plane than I do. But I do not think it deserves such a high plane.

So I did not think about adjusting it any, because I do not think you can be much weaker than a sense of the Senate. But if it would help the Senator, we could put in the same words that we put in the second part of the amendment, and say ''to the extent practicable.''

Mr. GLENN. I am not exactly sure how that would change it that much, Mr. President. I think when you are trying to direct them to ensure that whatever they do with regard to rules and regulations will not go beyond the Congressional Budget Office estimate, no matter what we passed on the floor here, and how many amendments we had, and all the other provisions we may have put on the floor, we are in effect going back to CBO and saying: You are the legislating authority on this because your estimate that you gave us, that might be very sketchy, arrived at in a few hours at best, we are saying that becomes the definitive figure on this thing as far as guidance for the Federal agencies goes, and we want to ensure that.

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

Mr. GRASSLEY. I want to save some of my time, so I do not want to yield. I ask unanimous consent that the Senator have 1 additional minute.

Mr. GLENN. I am sorry we did not know the time here. That is my fault. I ask unanimous consent that Senator LEVIN be granted an additional 5 minutes.

Mr. GRASSLEY. Then I want 5 minutes on this side.

Mr. GLENN. We have no objection to that.

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

Mr. GRASSLEY. Mr. President, may I yield myself such time as I might consume to respond?

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, again, I did not make my suggestion very clear to the Senator from Ohio because he kept concentrating on the word ''ensured.'' We could eliminate ''ensured'' and put in there ''to the extent practicable'' and that may solve the problem. I do not want to do that unless it will solve the problem because I think this is about as weak as you can get.

I yield the floor and reserve the remainder of my time.

Mr. LEVIN. Mr. President, the trouble with this sense-of-the-Senate language is that it delegates the legislative responsibility to the Congressional Budget Office. This is what the Senator from Ohio was alerting us to in his last couple of minutes.

The Congressional Budget Office, if we are lucky, is going to be able to make an estimate of what the cost will be to 87,000 State and local governments for some period, which could last forever, the way the bill is currently worded. But it is going to be decades into the future. These are, at best, going to be guesstimates. We have example after example that they have told us where they cannot make a good estimate. These are not scientific statements of costs; these are guesstimates that are going to be coming out of the CBO. We cannot take that guesstimate and say that it is the sense of the Senate that the agency should ensure that a regulation complies with that guesstimate instead of law.

Let us say we pass a law that says airports must introduce security devices that will pick up levels of metal down to a certain amount. We are doing that for the safety of the passengers of the United States, the American citizens that walk through metal detectors and get on airplanes want to

feel safe. We pass a law that says you must get down to a certain level of detection in these metal detectors. That is the law. We have adopted that law. Now we get an estimate. The CBO gets us an estimate as to how much that is going to cost State and local government. Their estimate comes out that it is going to cost $50 million for all these jurisdictions in one of those years. We have written a law saying you have to do something for the safety of the American people, but we have a CBO guesstimate over there that says $50 million.

It turns out, down the road, that when those detectors are put in, they are going to cost more than $50 million. Are we going to say tonight that we want the agency to abide by the estimate of the CBO instead of our law? Are we putting a CBO guesstimate on a pedestal so that it will take precedence over what we have said is essential for the safety of the American people? Is that our intent? It is not my intent. I am not going to put that guesstimate on a pedestal. I am troubled about the ambiguities of these guesstimates.

We surely do not want that guesstimate of the unelected CBO, for some period out in the future, to supersede the elected representative of the people of the United States. If we say the law is that there must be metal detectors that can capture metal or other material down to a certain level, that is our intent. And we have a guesstimate that says it is going to cost a certain amount in a certain year, OK, that will give us some guidance. But do not give that precedence over what our decision is as to what the law should be, because you are just delegating to the CBO what we as elected officials are responsible to do.

That is one of the difficulties with my friend's amendment. When he says that agencies should evaluate planned regulations to ensure—the key word is ''ensure''—that they are within cost estimates in the budget office, he is just giving the legislative authority away to the budget office and saying, yes, we want those metal detectors to capture a certain level of metal, but we are not really saying that. So I would suggest that we let the staff try to work out some language here. I think I know what the Senator is driving at. I think this language goes too far. I suggest that his staff and the staff of Senator GLENN, and perhaps mine, and any other interested Senator, might get together to work out language to avoid the result that this could otherwise lead to.

Mr. GRASSLEY. Mr. President, first of all, the Senator from Michigan wants us to believe that the sense-of-the-Senate resolution is going to bind every regulator who is working under the constitutional authority of the President—that they will not perform their responsibilities; that a sense-of-the-Senate resolution will somehow amend the Constitution, take away statutory authority of the bureaucrat. No sense-of-the-Senate amendment can or will do that or ever has done that.

The other point is that Congress does not turn anything over to the Congressional Budget Office through this sense-of-the-Senate resolution. This is our decision to make. There is no regulation that in any way can be stalled by either part of my amendment. It is not intended to do that. For the Senator from Michigan, it is not intended to take, nor will it take away any statutory responsibilities or constitutional responsibilities of any employee or officer of the executive branch.

I am always willing to work something out, but I think we have reached a point where yesterday and today we have tried to work out things in this area. One of the very concerns that the Senator from Michigan had previously with my amendment, in some of the discussions before, was the extent to which CBO could do this within their budget. From that standpoint, the Senator from Michigan just got an amendment adopted by this body that, within the same budget limitation of the CBO, asked them to do exactly what I am doing with my amendment.

So I think it is a little bit wrong for the Senator from Michigan to come here and say that I am asking too much of the Congressional Budget Office, or that a sense-of-the-Senate resolution will reduce the statutory responsibilities or the congressional responsibilities of any person within the executive branch.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. LEVIN. If the Senator will yield for a question, I have not objected to your part B which relates to the statement of cost of the Congressional Budget Office. I have not raised an objection.

Mr. GRASSLEY. I think it is because we have satisfied you with our changes in our language.

Mr. LEVIN. For whatever reason, I have not objected to the Senator's amendment as it relates to the additional duty of the CBO.

Will the Senator yield for a question?

Mr. GRASSLEY. I stand corrected from the standpoint that that may have referred to the entire language of the bill.

I yield for a question.

Mr. LEVIN. Under your language, it is the sense of the Congress that the Federal agency should do something to ensure something, and I want to give the Senator a hypothetical.

Assume that the estimate of the CBO was that the metal detector would cost $50 million. But the way the agency reads our law requiring them to get these new metal detectors installed to protect the American people, it turns out that those metal detectors required by our law will cost $75 million. Should the agency ensure the $50 million in that event, even though they read our law to require metal detectors which as it turns out a couple years down the road will cost $75 million? Or is it your sense that they should go with the cheaper $50 million metal detector, which will not do the job, because that was the CBO estimate? Or is it the Senators intention that they comply with our law because the better metal detector will be better?

Mr. GRASSLEY. I think it is a relatively easy question to answer. First of all, S. 1, as far as the unfunded mandates are concerned, the statutory authority that the regulator has to fulfill their responsibilities to protect the public is binding. That is not the sense of the Senate. But I am not saying that because I want to bring less significance to my sense of the Senate. I am saying that because that is the role—that is the place of sense-of-the-Senate resolutions in policymaking in our constitutional system of Government.

The regulator would go ahead and put in the more expensive product to protect the public. But, if I, Senator GRASSLEY, 6 months later said, ''Well, you know, I have some doubts about this. Is it within the cost?'' I ask the CBO to study what the cost is. Let us suppose CBO comes up with the fact that it is over the unfunded mandate estimate.

That is a quantifiable fact that does not affect the decision of the regulators. And that is the intent. But, to be perfectly candid to both of my colleagues who have spoken in opposition to this, I would expect maybe at reauthorization time that that fact could be a basis for maybe tightening up some of the statutes so that regulations cannot circumvent the original intent of the statute.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 9 minutes remaining.

Mr. GRASSLEY. And the other side has?

The PRESIDING OFFICER. No time remaining.

Mr. GRASSLEY. Mr. President, I would like to ask a question of the Republican manager of the bill. Is it the Senator's desire, then, if I would yield back my time, that we would immediately go to a vote on my amendment?

Mr. KEMPTHORNE. Mr. President, that would be my intent.

Mr. GRASSLEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

Mr. GLENN. 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. KEMPTHORNE. 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. KEMPTHORNE. Mr. President, I ask unanimous consent that, with respect to the Lautenberg amendment numbered 199, there be 40 minutes of debate prior to the motion to table, to be divided in the usual form; and that, upon the expiration or yielding back of time, the majority manager or his designee be recognized to make a motion to table. I also ask unanimous consent that there be no second degree amendments in order to the Lautenberg amendment prior to the motion to table the Lautenberg amendment.

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

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

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

AMENDMENT NO. 207, AS FURTHER MODIFIED

Mr. GRASSLEY. Mr. President, we have been able to arrive at some language that satisfies myself and satisfies the Democratic side of the aisle. Pursuant to that, I will have to ask unanimous consent that my amendment be modified as written on this paper.

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

The amendment, as further modified, is as follows:

On page 32, between lines 5 and 6, insert the following:

SEC. . COST OF REGULATIONS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that cost estimates provided by the Congressional Budget Office will be carefully considered as regulations are promulgated.

(b) STATEMENT OF COST.—At the written request of any Senator, the Director shall, to the extent practicable, prepare—

(1) an estimate of the costs of regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act; and

(2) a comparison of the costs of such regulations with the cost estimate provided for such Act by the Congressional Budget Office.

(c) COOPERATION OF OFFICE OF MANAGEMENT AND BUDGET.—At the request of the Director of the Congressional Budget Office, the Director of the Office of Management and Budget shall provide data and cost estimates for regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act.

Mr. GRASSLEY. Mr. President, I will yield back my remaining time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 207, AS FURTHER MODIFIED

The PRESIDING OFFICER. The vote now occurs on the amendment No. 207, as further modified, offered by the Senator from Iowa [Mr. GRASSLEY].

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Helms	Pryor
Campbell	Hollings	Reid
Chafee	Hutchison	Robb
Coats	Inhofe	Rockefeller
Cochran	Inouye	Roth
Cohen	Jeffords	Santorum
Conrad	Johnston	Sarbanes
Coverdell	Kassebaum	Shelby
Craig	Kempthorne	Simon
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

NOT VOTING—1

Simpson

So the amendment (No. 207), as further modified, was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. 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. 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.

EXPRESSION OF SUPPORT FOR THE PEOPLE OF JAPAN

The PRESIDING OFFICER. Under the previous order the Senate will proceed to consider Senate Resolution 72, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 72) expressing support for the nation and people of Japan and deepest condolences for the losses suffered as the result of the earthquake of January 17, 1995.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the resolution (S. Res. 72). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

I also announce that the Senator from Wyoming [Mr. SIMPSON] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chanmber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—98

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Helms	Pryor
Campbell	Hollings	Reid
Chafee	Hutchison	Robb
Coats	Inhofe	Rockefeller
Cochran	Inouye	Roth
Cohen	Jeffords	Santorum
Conrad	Johnston	Sarbanes
Coverdell	Kassebaum	Shelby
Craig	Kempthorne	Simon
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone
Feingold	Lott	

NOT VOTING—2

Bond Simpson

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 72) and its preamble are as follows:

S. RES. 72

Whereas on the morning of January 17, 1995, a devastating and deadly earthquake shook the cities of Kobe and Osaka, Japan killing more than 5,000 people, injuring more than 25,000 and leaving more than 300,000 temporary homeless;

Whereas the earthquake of January 17, 1995, has left more than 46,440 buildings in ruin, destroyed highways, train lines and other infrastructure and has caused losses of as much as $80 billion in Kobe alone;

Whereas the tradition of strength, courage, determination, and community of the people of Japan has been displayed time again by the citizens of Kobe and Osaka and, indeed,