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Senate

(Legislative day of Tuesday, January 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Senate will now be opened by a prayer from our guest chaplain, the Reverend Mark Dever, pastor of the Capitol Hill Baptist Church.

PRAYER

The guest chaplain, the Reverend Mark E. Dever, offered the following prayer:

Let us pray:

King of Glory, Divine Majesty, we praise You for being the God You are, the God of justice, of goodness, of all power.

We praise You for the way we see Your power displayed in the weakness of Jesus, Your goodness in His life, Your justice in the cross.

We confess, Lord, that we too often are confused in the rush of events and deadlines. We too easily make mistakes. We mistake Your acceptance for kindness, bare approval for love, simple popularity for rightness.

Leave us not to our own devices. You know the many and great dangers this Nation faces, and that by reason of the frailty of our nature we cannot always stand upright.

Give each Member of this body today a concern for the fairness in the way business is done, a care for those in our society who are helpless, an ability to act in service.

Replace confusion during discussions with clarity. Cherish the good thoughts and motives of those gathered here, cherish them into deeds great and small.

To those gathered here for Your work, commit to them a childlike joy at the honor of trust which has been placed in them, a true peace, knowing that You care for them and this country, and a keen sense of their accountability to You. Give them patience in the process, faithfulness in their duties, and amidst such apparent power surprising gentleness with their colleagues, their staff, and their families.

Use this Chamber in the deliberations to show Your goodness. For Jesus', our dear Redeemer's sake we ask it. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, Mr. COHEN is now recognized to speak for up to 10 minutes.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN and Mr. DORGAN pertaining to the introduction of S. 245 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. INHOFE). The Senator from North Dakota [Mr. DORGAN], is recognized to speak for up to 15 minutes.

INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, I wanted to just touch briefly on three items this morning. I want to talk about some trade negotiations that begin today in Beijing, China. Unfortunately, it tends to glaze over the eyes of many people once you start talking about international trade.

But I will talk about trade because on the car radio this morning I heard that the trade figures released this morning show that our trade deficit for November is now close to $10.5 billion, up 4 percent, and we are undoubtedly going to set another record trade deficit in the history of this country—the largest single trade deficit in the history of this country. It is a crisis, but you do not hear anybody around here gnashing their teeth about it. We talk about the budget deficit, which is also a very serious problem, but the trade deficit that we have with other countries must be ultimately repaid by a lower standard of living in this country.

I want to talk about our trade deficit just for a moment because in my judgment it is out of control. It represents a bipartisan failure, Republicans and Democrats, jointly hugging a strategy on trade that is fundamentally hurting this country.

Today, negotiators from the United States are in Beijing, China, and will begin negotiations with the Chinese. Our trade problem is a serious problem that extends in many directions, the most interesting of which, and serious of which, are with Japan and China. Japan's trade surplus with this country will exceed $60 billion again this year. China's trade surplus with the United States—or our deficit with them—will come very close to $30 billion.

I want to show the Senate a piece of information that I think demonstrates why our trade policies result from a bankrupt strategy. At a time when China is ratcheting up this enormous surplus with us—in other words a deficit that we have with them—shipping us boatloads and planeloads of Chinese goods, flooding our market with Chinese goods, they also need things that we have. Among other things, they need wheat. They had a short wheat crop this past year and so they must

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

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import a lot of it this year—about 11 million tons, the Department of Agriculture expects.

Where are they buying their wheat? From us because they are flooding our markets with their goods and running up this trade surplus? Oh, no, not mostly from the United States. They are off price shopping for wheat in Canada and Argentina.

I want to show a graph that demonstrates the absurdity of what is going on. This line represents our trade deficit with China. You can see what has happened there—straight up. Straight up. And this line demonstrates the United States share of Chinese wheat purchases. You can see what has happened there—down.

As our trade deficit with China goes up because they flood our market with Chinese goods, they are off shopping elsewhere for wheat in Canada and Argentina.

I come from a very small town. In my town, there is an obligation. If someone comes and buys from your business, and then you need something that they have, you have an obligation to go buy from them. That is the way it works.

But that is not the way it works in international trade, unfortunately. It is a case of Uncle Sucker saying, ''Our market is wide open. Do what you want. You have no reciprocal obligation to our producers who want to sell in your market. You can go buy the things you need elsewhere and you can still access the American market.'' Something is fundamentally haywire in this trade strategy. It is hurting this country badly and it must stop.

I have written to Agriculture Secretary-designate Glickman and Trade Ambassador Kantor today, saying when these negotiators are in Beijing they ought to tell the Chinese they have reciprocal obligations in our marketplace. They need wheat? Then they buy wheat from us. If they need what we produce in dozens of areas, they buy from us. They have an obligation. Either we, with our trading partners, are going to work toward balanced trade relationships or we are not. If they are not willing then we ought to change the trade strategy we employ with those trading partners—and we ought to do it soon.

MEXICO'S MONETARY CRISIS

Let me make two other points. One, about the issue of the bailout for Mexico. I have not spoken publicly about it, but I have grave reservations about it. And I want to tell you why. Not that I am unconcerned about Mexico. It is our neighbor. It faces a financial crisis and we must respond in some manner.

But it in some ways relates to what I just spoke about in our trade relationship with China, Japan, and others. That is, trade and business relationships among nations should be reciprocal: There should be a sharing of economic responsibilities among nations who trade and do business with each other. I am wondering if that kind of shared responsbility is happening among nations who do business with Mexico.

What is the current account balance deficit in Mexico? Mexico has had to float bonds in order to underwrite a current account deficit. What does the current account balance deficit in Mexico result from? Largely from a trade deficit. Who is the trade deficit with? Us? Oh, no. No, very little of it is with the United States. Mostly with others.

I do not have all the information because I cannot get it. I have asked for it repeatedly from those in our Government who should provide it, and I am going to get it today, I guess, after some delay. But at least the sketchy information I do have suggests that a fair portion of Mexico's trade deficit comes from Japan and a fair portion of Mexico's trade deficit comes from Europe.

One would ask the question, then, if they issue public debt in Mexico to finance a current account balance, and that current account balance results from trade deficits, and if the trade deficits are deficits with Japan and Europe, should then the American taxpayer be the guarantor of a bailout of Mexico's trade relationship with Japan and Europe? Or is the new global order one in which there is a responsibility for other countries trading with Mexico, including Japan, including the Europeans, and others who have a trade relationship with Mexico, to own up to their responsibility?

Why is it only America's responsibility to come forward and protect Mexico in a monetary crisis? In my judgment this is a time to say to the countries that run a trade surplus with Mexico, or who have otherwise caused an outflow of money from Mexico, to step forward and say they will bear their share of responsibility.That is an issue which I think is very important.

I am greatly troubled by the call for a unilateral bailout of Mexico by the United States. I do not have all the information yet, but I intend to get it very soon. When I do, my hope is that we will be able to discuss this in the context of the obligations of others around the world. What are the obligations of the Japanese and the Europeans, and why are they not meeting them?

TOURS OF THE U.S. CAPITOL

Mr. DORGAN. Mr. President, a lot of ideas are floating around the Hill, some reform, some new, some nutty, and, in a new article I have here, an idea offered by someone from the Heritage Foundation. The foundation is the think tank which helped write the Contract With America. This fellow from the Heritage Foundation came to the Hill to testify and said he thinks we ought to charge the American people for touring the Capitol Building. He said they wear down the steps, they brush up against the walls, and apparently he thinks that we should charge the American people for touring the Capitol.

I would say that those who belong to a think tank who think this way should eliminate the word ''think'' and call it just a ''tank.'' Does anybody really believe it is too old fashioned to think that those who own a building ought not to have to pay an admission fee to tour it or enter it?

There are going to be a lot of things around here under the guise of new ideas or reform. A lot of them are going to be about half goofy, including this one.

I know people do not like to talk honestly about spending and taxing, so they come up with all kinds of other devices to avoid it. I guess to avoid talking about the need for revenue, they say let us talk about admission fees for the American people to the U.S. Capitol.

To those who come from think tanks who think this way, I say think again. Not many people who serve in the U.S. Congress would believe it appropriate to charge the American people an admission fee to enter and tour a building the American people themselves own.

Mr. President, with that, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH] is recognized for up to 5 minutes.

THE EARTHQUAKE IN JAPAN

Mr. ROTH. Mr. President, I would like to take just a moment to express my deep concern and condolences to Japan and the Japanese people over the tragic loss of life and property from Tuesday's devastating earthquake.

The death toll is estimated to exceed 3,100 with another 15,000 suffering injury, and over 600 people still unaccounted for. The earthquake has left over 200,000 Japanese people homeless.

I know my colleagues in the Senate and the House, as well as the American people, share a profound sense of sympathy for those who have lost loved ones or have been devastated by this disaster.

There is unanimous support for the steps the United States has taken to assist the people of the Kobe area, and our thoughts and prayers are with our friends across the Pacific who have acted so bravely in the face of this tragedy.

Mr. President, I have a second statement which I shall read.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH] is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 244 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized for up to 10 minutes.

Mr. GRASSLEY. Thank you, Mr. President.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 243 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. 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. NUNN. 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 Senator from Georgia is recognized.

(The remarks of Mr. NUNN pertaining to the introduction of S. 244 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. NUNN. I thank the Chair.

I yield the floor.

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. BREAUX. 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. BREAUX. Mr. President, I ask unanimous consent that I be permitted to speak in morning business.

The PRESIDING OFFICER. The Senator from Louisiana, Mr. BREAUX, is recognized to speak for up to 15 minutes.

Mr. BREAUX. I thank the Chair.

NATIONAL SERVICE PROGRAM

Mr. BREAUX. Mr. President and my colleagues, I remember when I was practicing law in Louisiana as a very young lawyer. One of the senior lawyers was explaining to me how we should proceed in a courtroom. His suggestion was,

> If you don't have the facts on your side when you are arguing your case, well, you should talk about the law. But if you do not have the law on your side and you are handling a case in court, you should talk about the facts.

He went on to suggest if you do not have either one on your side, you ought to just stand up and shout and walk around the courtroom and act like you know what you are talking about.

Mr. President, I would suggest that some of the Republican rhetoric that I have heard in talking about national service takes the approach if you do not have the facts on your side, just make them up and say whatever you want about a program in order to try to show that it is not a good program.

I think it is very important that we stick to the facts when we talk about programs and things we do in Government. I think the public gets so much misinformation that it is very important to try to point out when the facts are wrong when we talk about programs.

I start off by making these comments because I was really very surprised by the Senator from Iowa, who was on the floor earlier, his remarks regarding national service that I read in the CONGRESSIONAL RECORD.

I supported the program. It was the type of initiative that the President ran on 2 years ago, the type of program that I think is a good program. When I read the gentleman's statements in the CONGRESSIONAL RECORD, I was flabbergasted. I said, This cannot be true.

In essence, what the Senator was saying was that the AmeriCorps Program, part of the National Service Program, was costing $70,000 per student—$70,000 per student—in order to help kids go to college. I said that is ridiculous; I am not going to spend $70,000 a year to send kids to college. I found out some serious mistakes, in my opinion, were made about characterizing this program that is costing $70,000 a student in Pennsylvania, in the city of Philadelphia.

What I found out was that the mistake that was made in using these facts was the fact that they did not take into consideration private law firms that were contributing to this individual's salary; they did not take into consideration the Philadelphia Bar Association's contribution in this particular area. When he added up what the private sector was going to do with up to 11 full-time workers, he came up with the figure of $70,000, when in truth the Federal Government's contribution and the cost to the taxpayers was only $4,911. That is a big difference from $70,000.

The AmeriCorps Program, the National Service Program, is really what I think Republicans have always been talking about. Let us get away from giveaway programs. Let Members terminate programs, and just give money away from Washington to get people to do certain things. The essence of what AmeriCorps is all about—and we have had up to 200,000 young men and women in this country volunteer to participate in the AmeriCorps Program. It is a wonderful concept. It builds on the Peace Corps Program.

By the way, Peace Corps Program volunteers get a stipend; they are paid. Just like the Vista Program has young men and women in this program, that participate in the program and do wonderful things, they get a small salary, as well. The concept of AmeriCorps, and why I think Republicans and Democrats alike should be supportive of it, is because it is a partnership between the Government and the citizens of this country.

It talks about community, responsibility, reciprocity; it talks about saying if the Government is going to help me to go to college, I have an obligation to reciprocate and give something back. What they give back in the AmeriCorps Program is doing community work, doing legal work in the communities, working in a law enforcement program, in a drug rehabilitation program, in a nursing program, an environmental cleanup program, as they are doing in my State of Louisiana, as we are doing in Louisiana where we have young AmeriCorps students who are working in the sheriffs department and local law enforcement.

Mr. President, they are giving something back to a Government that has helped them go to college. It is a partnership. It is not a giveaway program. It does not cost $70,000 for one young student to be able to participate in this program. It is asking the local community to say, do you need these types of students working in your local town? Most of them are saying, Yes, we need some help. We need some help in the environment. We need some help in drug enforcement programs and drug rehabilitation programs.

So the AmeriCorps Program is not a giveaway program; it is a program that encourages young people to participate. We have an all-volunteer army. They get paid, too. They get a salary so they can survive and so they can live. I do not think they detract from an all-volunteer military. The basic fact is we should be encouraging young men and women to give something back to a Government that has helped them get an education.

As President Clinton has said so many times in this country today, what you earn is going to be based on what you learn. The facts are dramatic, that a young person, a young male in this country that graduates from a 4-year college earns about 83 percent more in his lifetime than a person who has not been able to go to college; 83 percent more in a lifetime. That is not just pie in the sky. That is real facts.

That is something that we as a nation should be encouraging. And we do not encourage it under national service by a giveaway program; we encourage it to be a partnership by saying to that young man or young woman that if you would like to go to college and you need some help, we will help you pay for your tuition. But it is not free; it is not free. You have an obligation to try to give something back to your Government—not in India, not in Japan, not in Europe, not in a Third-World country, but right here in America. That is why it is called AmeriCorps. It is not a foreign aid program. We are not sending kids to other nations to help them solve their problems. We are saying that if you accept this challenge, we will let you work in your local community, back where people know you, where you may ultimately end up working as a citizen in a partnership with your local citizens in your local community.

That is why when someone says, well, this program costs $70,000 a student, it is absolutely not factual. It does not cost $70,000 for the taxpayers of this

country. What we have in Philadelphia in this instance is a situation where the local bar association and several law firms in the country have helped put up money to pay the salaries for up to 11 AmeriCorps students who will be working in that community as lawyers and as law students, helping people that have problems, helping people understand the Government and this system. The Federal Government is going to put out $4,900 to allow that student to work in that community. We have helped them get a college education and they are paying back with their services, and getting enough of a stipend from the Federal Government to at least survive and to be able to continue that work and do it full time. We are talking about full-time workers.

This is not a giveaway program. Does it cost anything? Of course, it costs. But how much does it cost to build a prison? We spend $300 million for a national program to try to get people to have a partnership with their Government, to get a college education, and give something back to the community. We spend billions of dollars, I suggest, building prisons in this country and running prisons in this country, to incarcerate young men and women who have gone by the wayside, maybe because they did not have a National Service Program, because nobody cared. Nobody told them they have a reciprocal obligation to give something back to a Government that has helped them get a college education.

I have heard Speaker GINGRICH in the other body talk, time and time again, about communities, family, and service, and giving something back to the communities. This program is an example of giving something back to the communities, of national service, of saying: I want to help my Government do better. If my Government helps me get a college education, I am pleased, but I also recognize that it is not free. I will give back to my Government in the same ratio that they have given to me.

I think that produces a stronger community. I think that produces stronger families. I think that produces a sense of what America is all about. So I would suggest when we talk about national service, let Members first get our facts straight. Let Senators first understand the real cost.

I suggest, second, let Senators join together if there are problems, and let us improve the program. Let us not, by incorrect factual information, try to kill a program that I suggest is in keeping with what America is all about.

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

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

BASE CLOSINGS

Mr. PRYOR. Mr. President, in less than 2 months the Secretary of Defense will forward to the 1995 Base Closure Commission his so-called ''hit list'' of military base closings. Although it is an excruciating exercise, I think we would all agree that closing obsolete military bases is a painful necessity.

With the end of the cold war, the Pentagon estimated that 30 percent of our domestic military bases must be shut down. Due in large part to the efforts of Senator SAM NUNN, of Georgia, and former Senator Alan Dixon, of Illinois, Congress created a bipartisan Base Closure Commission to help us make the necessary choices of which bases to close.

I believe the base closure process is sound. It serves as a model of how to make difficult and politically sensitive budget-cutting decisions. The Base Closure Commission successfully completed base closure rounds in 1988, 1991, and 1993.

As this chart to my left indicates, these three rounds of base closings eliminated some 70 military bases throughout America. Some areas and some States were hit harder than others.

On March 1, 1995, the Commission will begin its very important deliberations once again, and before the year is through, the Commission will seek congressional and Presidential approval to close dozens of additional bases. We have been told that this list will be longer and painful. In fact, it has been said that this base closure round will possibly be equal in size to the first three rounds combined.

To be certain, base closings hurt. In communities that lose a base, thousands of jobs are terminated, businesses close down, millions of dollars in annual revenue disappear from sight. Mr. President, I am personally aware of that pain caused by base closure announcements. The 1991 Commission closed Eaker Air Force Base, a B–52 base located in Mississippi County, AR. They also took away a majority of the work at Fort Chaffee near Fort Smith, AR.

Most of our colleagues in the Senate have witnessed the departure of the military in at least one community in their State. My colleagues from California lost eight major military bases in 1993 alone, as this map so indicates.

We have seen communities react with anger and frustration to the news of base closings. We have witnessed their fear about surviving such a tremendous economic blow. For most base closure towns, the military was the largest employer, as in the case of Eaker Air Force Base in Blytheville, AR.

Mr. President, I visited this base in 1992, 1 year after the closure announcement, to see how the local townspeople were coping with the impending loss of the Air Force.

What I found was a community that desperately wanted to beat swords into plowshares. I found also a community that was receiving virtually no help whatsoever from the Federal Government. In fact, this community claimed that Washington was their largest roadblock to a speedy recovery. The citizens of Blytheville needed the Air Force's cooperation and the Federal Government's resources. What they received instead was bureaucratic lip service and endless red tape.

The same was true in other communities across America. The problems were so severe that the former majority leader, Senator George Mitchell, decided to create a special task force to devise a strategy for easing the impact of defense budget reductions and for making a smooth transition to a post-cold war economy.

Senator Mitchell asked me to become the task force chairman. With 24 Democratic Senate colleagues, we began studying what the Federal Government's role should be, if any, to help in our Nation's ongoing transition from swords to plowshares.

Our 1992 task force concluded that the end of the cold war had caught our country by surprise, and that we were late in devising a national strategy for helping our cold war workers, communities and companies find a new direction.

We also found that the United States of America was better prepared to handle a much larger transition in the years following World War II. As early as 1943, 2 years before the war had ended, President Roosevelt made the decision to begin planning for the war's end and the difficult conversion to a peacetime economy. He had created the War Demobilization Office and charged this new entity with devising a national strategy. From this office emerged the GI bill and many other initiatives that helped our country grow and prosper in the years that followed.

In 1992, however, 3 years after the Iron Curtain began to crack, our Government still had no comprehensive strategy for beating swords into plowshares. History, Mr. President, should have taught us better. The lesson learned after World War II, and in other periods of defense downsizing, was that our Government has a duty to provide comprehensive transition assistance to those affected by reductions in our Nation's defense expenditures.

Some might say, Mr. President, that this is not the function nor the role of Government. I would submit, however, that our Government should become a partner in this endeavor and not an obstacle to economic recovery.

To compensate for our slow start and to finally allow our Government to become a partner instead of an obstacle, our 1992 task force recommended sizable increases in defense reinvestment funding and programs. That same year

a Republican task force, commissioned by then-minority leader Senator DOLE and chaired by former Senator Warren Rudman, drew similar conclusions.

This bipartisan agreement allowed Congress to quickly pass sweeping legislation to begin easing the pain of defense cutbacks and to help our cold war veterans beat swords into plowshares.

In the area of base closures, I am very pleased to report that success stories are just beginning to arise in many communities across our country. I would like to highlight a few.

At Chase Field in Beeville, TX, 1,500 jobs have now been created since the base closed in 1993. Pease Air Force Base in Portsmouth, NH, has created 1,000 new jobs since it closed in 1991. England Air Force Base in Alexandria, LA, has created over 600 new jobs due in large part to the J.B. Hunt Trucking Co.'s decision to use the old runways to train truck drivers.

I might add as a personal note, Mr. President, that the J.B. Hunt Trucking Co., proudly, is an Arkansas-based firm.

Each of these communities is learning that the loss of a military base can often bring opportunities for growth and renewed economic activity. They worked hard to achieve these results. They deserve tremendous credit.

In each of these cases, however, our defense reinvestment programs are helping these communities rebound. Congressionally approved funds for planning grants, worker retraining, environmental cleanup, infrastructure, aviation improvements, and other necessary measures are helping these towns prepare for their future and replace lost military jobs.

Without this assistance, base closure communities would not be able to rebound and find new work. But Congress and this administration provided the necessary support for our defense reinvestment programs. These are good investments, and they are just now beginning to bear fruit in base closure communities across our country.

The same can be said of our technology reinvestment programs that are focusing today on boosting American competitiveness in the private sector by integrating our military and civilian technology sectors. These programs are vital to our economic security, and as a result, are vital to our national security. They are certainly worthy of congressional support.

I am so deeply concerned by the recent statements by some of our colleagues in Congress who are suggesting these programs are pork, that they are a waste of money, and that they are in some way damaging our ability to fight and win future wars.

I truly hope, Mr. President, that our 11 new colleagues in the Senate do not share this view. I would like to caution my new colleagues, and the Senate as a whole, against turning a cold shoulder to the men, the women, the communities, and the companies that fought and won the cold war. We have only begun to see the results of our wise investments.

Mr. President, we are about to enter the base closing season once again. When the Commission submits its final list, workers and communities in our States will suddenly be thrown into economic downturn and in some cases economic despair. When this occurs, these defense reinvestment programs will not appear wasteful. Rather, they will be a helping hand to our communities' economic recovery efforts.

It is my sincere hope that this base closure round, with the pain and economic trauma that it is expected to bring, will once again underscore the importance of helping beat swords into plowshares.

Mr. President, last evening I had a visit with Senator SAM NUNN, the ranking member of the Senate Armed Services Committee. We have decided, Mr. President, to invite Defense Secretary Bill Perry to come to Capitol Hill shortly following the Clinton administration's budget submission to brief any and all interested Members of the Senate on the importance of funding these defense reinvestment programs. Secretary Perry strongly believes that these programs are worthy of our support, and I am proud to join with Senator NUNN in setting up this forum in which Secretary Perry can come forward and answer our questions about these particular programs and why they should be supported in Congress.

I encourage my colleagues, both Republicans and Democrats, to attend this particular briefing, the time and place of which will be announced soon.

Mr. President, I thank the Chair for recognizing me. I yield the floor. I see no other Senators on the floor; therefore, 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. BIDEN. 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. BIDEN. Mr. President, parliamentary inquiry, are we in morning business?

The PRESIDING OFFICER. We are.

Mr. BIDEN. Mr. President, it is my understanding—I ask unanimous consent I be able to proceed to speak in morning business for 20 minutes.

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

OPPORTUNITY, PROMISE, AND ''THE BELL CURVE''

Mr. BIDEN. Mr. President, during a too short ministry among us of Martin Luther King, Jr., he spoke very eloquently, with great insight and I believe with profound wisdom, on many aspects of American life. He taught us about the promise of equality and about the meaning of community and about the greatness of our human potential. But of all the many things that Dr. King taught us—and we just memorialized his birthday the beginning of this week—of all the things he taught us, one in particular has held much meaning for me, particularly in recent months. And that is the standard he set for human behavior and the qualities he identified as being the true measure of humanity.

Dr. King challenged us, in his words, to ''rise above the narrow confines of our individualistic concerns to the broader concerns of all humanity.''

He reminded us that one of the true standards of success is ''the quality of our service and relationship to humanity,'' not, as he put it, ''the index of our salaries or the size of our automobiles.'' Dr. King's standard for humankind, set by him, was a very high one. To take responsibility not only for ourselves but for others as well, to take our guide—more as our guide a moral and rich vision of ourselves and the community of man. In this way he challenged us to become the guardians of our most precious American legacy, and that is the promise that each of us deserves: an opportunity to fulfill our potential, whatever that potential may be.

And that is what I would like to speak to this morning, and about why I am concerned that this Nation, and some of our leadership, is turning away from that promise.

The richness of Martin Luther King's vision has long inspired many Americans but today I find I need, and I believe our country needs, his inspiration even more. For today we hear increasingly from those who speak of human potential, not with hope but with hopelessness; whose voices do not celebrate the strength of community, but echo the fear of diversity; and who would abandon the fundamental American principle of equal opportunity to the long discredited notions of superiority and inferiority.

Today we hear from those who confuse the lack of opportunity with the inability to achieve.

Let me say that again. I think today we are hearing from too many people who confuse the lack of opportunity a person has with the inability of that person to achieve.

Today, we have a new chorus of voices whose sense of community extends no further than those just like themselves and who dismiss the potential of others who are different from themselves. Today those voices are drawing support from a book called ''The Bell Curve,'' the new intellectual sophistry, engaged in, as it has been over the past two centuries in this country, to justify an agenda that is abhorrent, in my view, to American principles.

This book attempts to persuade us with the language of science to forget about hope, to forget opportunity, to forget the power of new challenges and the promise of an inspired mind; to forget, indeed, the very principles on

which this Nation was forged. ''The Bell Curve'' tells us that our genes guide us toward a life of fulfillment or condemn us to a life of emptiness, and that we can do nothing to change our destiny. This book, written by the conservative social critic Charles Murray, and the late Harvard psychologist, Richard Herrnstein, essentially asserts three propositions. And I acknowledge in the brevity of time I will not do full justice to the propositions.

The first of those propositions asserted is that intelligence can be captured by a single quantitative measure, expressed as an IQ score. That is the basic premise. That we can determine the intelligence of a person by an IQ score test.

Second, that intelligence is genetically based and effectively unchangeable.

And third, that intelligence, more than any other factor, determines job performance, dependency on welfare, rates of birth and illegitimacy, crime, and other social behavior.

They are the three basic assertions in this book, among others. In other words, these modern day Social Darwinists posit that differences in what various races achieve result from genetic makeup alone, not from environmental factors, and that they cannot be changed.

Think about the consequences for this country if we adopt that proposition.

So the authors argue society should stop trying to help anybody who is not a member of their so-called intellectual or cognitive elite—that is the phrase they use: the intellectual and cognitive elite.

The science of ''The Bell Curve,'' I believe, and I will at a later date speak to this, has been widely and convincingly attacked on many levels by other experts, intellectuals, psychologists, and psychiatrists. First, many scientists have pointed out that it is widely disputed whether there is such a thing as intelligence quotient, IQ, a single figure that can quantify intellectual capacity, let alone measure creativity or originality or other productive talents.

Second, critics of ''The Bell Curve,'' the scientific critics, have pointed to all of the existing evidence that IQ scores can be improved, that they are not fixed, that they are not immutable. I ask the parents who may be listening, go look at the IQ test your children took when they entered first grade or second grade. Then, if they have had a good education, look at the IQ test they take as they enter high school. You will find a difference. It is changeable as a consequence of opportunity and exposure and education.

Indeed, even ''The Bell Curve'' authors acknowledge that improved nutrition—improved nutrition, not education—raises IQ: Nutrition.

Finally, scientists have rebutted the notion that IQ scores are a predictive of a life of accomplishment. They have identified ''The Bell Curve'' psychometrics as the latest incarnation of the discredited pseudoscience of eugenics. Remember back in the 1920's? I remember studying this when I was in undergraduate school. There was a school that talked about whether or not—all you had to do was measure the circumference of the skull and you could determine whether or not someone had an intellectual capacity that was inferior or superior. While these so-called researchers measured the circumference of a skull in a similarly perverse effort to justify racial discrimination in the 1920's, we now have those who have a different way of doing the same thing. That is, just measure the IQ and you have a determinative of everything that is going to happen to that young child.

You young pages here, if we measure your IQ and you have a high IQ and cognitive ability—and I am sure you all do—then in fact you are marked for success. If you have an average IQ or lower IQ, you are in trouble according to the authors of ''The Bell Curve.''

But it seems to me that exposing the weakness of the authors' science, which I have not done fully and I will over a period of the next 6 months, while necessary, is not sufficient. It seems to me that Dr. King taught us that what is wrong with the conclusions of the authors of ''The Bell Curve'' goes far beyond the errors of their scholarship or the weakness of their science.

It seems to me that the basic premise of what we all celebrated in Dr. King's birthday this week is that Dr. King teaches us that the view of humanity purveyed by those who speak the language of ''The Bell Curve'' is bankrupt because they ignore the very characteristics that Dr. King knew mark the true measure of humanity.

The definition of human value was richer by far than mere IQ, or even of intelligence more broadly conceived and measured. Dr. King told us that:

> Everybody can be great. Because anybody can serve.
>
> You don't have to have a college degree to serve. You don't have to make your subject and your verb agree to serve. You don't have to know about Plato and Aristotle to serve.
>
> You don't have to know Einstein's theory of relativity to serve. You don't have to know the second theory of thermodynamics in physics to serve.
>
> You only need a heart full of grace. A soul generated by love.

Dr. King's words teach us to think more broadly of human achievement:

To think about those achievements that depend on generosity, on thoughtfulness, on sacrifice, on respect for others;

To think about those that depend on creativity and originality: the most inspired painting, the most soothing melody, the most piercing wit, the most graceful dance, the most insightful social commentary, the most unexpected athletic achievement.

In other words, we must be guided by the very things that make life most worth living, when we seek to measure human achievement.

Is not the acknowledged reality of achievement more important than the mere abstraction of I.Q., particularly when we recognize that statistical abstraction—by its very nature—lends itself all too readily to misconstruction in the service of narrow-minded mischief.

Of course, achievement built on talent, discipline and a sense of moral obligation can not be weighed and measured on an arithmetical scale.

Indeed, as each generation finds new ways to outperform the last, we learn how futile it is to place limits on human accomplishment, and how foolish we would be to forget that our potential is as great as our imagination.

In this way, Dr. King spoke to the first fallacy of ''The Bell Curve''—

> The notion that human intelligence, much less human worth, is so narrow and pinched as to mean only what can be measured by an I.Q. score.

Even more importantly, Dr. King warned us that ''intelligence is not enough''; rather, he said, we must strive for what he called ''intelligence plus character.''

Because, as he reminded us, ''the most dangerous criminal may be the man gifted with reason but with no morals.''

King saw that intelligence divorced from morality is worth little.

As an undergraduate at Morehouse College, he wrote that the segregationist former Georgia Governor, Eugene Talmadge,

> possessed one of the better minds of Georgia, or even America * * * he wore the Phi Beta Kappa key.
>
> By all measuring rods, Mr. Talmadge could think critically and intensively; yet he contended that I am an inferior being * * *.

''What did he use all that precious knowledge for?''—King asked. ''To accomplish what?''

''To accomplish what?''

Thus, Dr. King spoke to the second fallacy of ''The Bell Curve.''

> The notion that intelligence uninformed by morality can create a worthy woman or man.

Only an immoral person, no matter how intelligent, could ever think it acceptable to judge another on the basis of his or her membership in a group.

King taught us that no one has the right to say that another's fate should be—or can be—enslaved by the color of his or her skin, or by the nature of his or her religious beliefs, or by the origins of his or her ancestors, or by the wealth of his or her family.

Dr. King understood that there are real differences among individuals.

But for him, those differences reflected the richness of the human condition, they were an accepted part of the greater community of man—not a reason for division, and never an excuse for relegating whole groups of people to a permanent underclass.

He urged each of us, whatever our talents, to accept responsibility for

ourselves and to strive for excellence. He said:

If it falls to your lot to be a street sweeper, sweep streets like Michelangelo painted pictures, like Shakespeare wrote poetry, like Beethoven composed music;

Sweep streets so well that all the host of heaven and earth will have to pause and say, ''here lived a great street sweeper, who swept his job well.

Of course, he also know what artificial barriers could do to limit individual achievement.

He knew that the street sweeper was dealt his hand not solely by the configuration of his DNA, but was the product of a complex tangle of forces shaped by families, by communities, by social and economic systems—and by government.

Dr. King's great struggle, first for civil rights and later for economic justice, was itself a testament to his conviction that people of all races, colors, creeds, and religions deserve an equal chance to achieve their potential—an equal chance, a level playing field.

And so we come to the third fallacy of ''The Bell Curve'': that all people stand today on a level playing field, free to reach their potential, because implicit in the book and those who are espousing its principles is that there is already a level playing field.

The reality, of course, is that we have not yet achieved a society where all people enjoy equal opportunity.

Instead we remain a society where too many minds are stifled by poverty, paralyzed by violence, stunted by poor education, starved by poor nutrition, and diseased by unsanitary housing.

We need only look around us to see how much such deprivation costs us as a society, and we need only listen to Martin Luther King to understand that we can not—indeed, we must not—promise anyone an easy way out.

Dr. King never promised to make it easier on anyone—he sought equal opportunity for all people, but he knew it was up to each individual to seize the challenge.

By assuming personal responsibility, by preparing for the hard work opportunity demands, by striving for excellence in every endeavor, and by dedicating achievement always to moral ends.

Martin Luther King was by no means an easy taskmaster—but he challenged our society as a whole as much as he challenged each of us as individuals.

He knew—and this is the crux of his teaching—that personal responsibility and the drive for excellence can develop and succeed only in the context of equal opportunity.

Ask yourselves: if your personal achievement was limited or blocked by prejudice or by policy.

Would you push as hard as you could to get ahead? Would you be able even to imagine your potential achievement?

Maybe the people on this floor can answer yes to that question. But I ask it another way. How many of you know people you grew up with, if you did not grow up in affluent circumstances, who are still behind, the exception being a person who makes it here or its comparable place in our society when they come from limited means? Why are there so few? Is it because we are so special, or is it because the human condition is impacted upon and one's potential is impacted upon by what is expected of them and what they are exposed to?

When individuals are stereotyped by personal prejudice or by prejudicial statistics, bleak expectations become a sober reality. And the natural talents we all possess in some measure rarely blossom in the shadows of such a circumstance. Do not think for a moment that ''The Bell Curve'' is merely an idle academic debate. The authors do not hesitate to convert their conclusions into policy recommendations, and there are many today eager to act on that advice. Indeed, their recommendations sound all too familiar to anyone listening to the current debate on education, on aid to pregnant women and children, and on efforts to respond to job discrimination, among other issues.

In short, ''the authors of the Bell Curve'' view all programs designed to level the playing field as doomed to fail, because intelligence—or more precisely, i.q.—is the only thing that matters, and it can not be changed, according to them.

Government—or private organizations, for that matter—are simply incapable of making a difference and shouldn't even try.

Now, I believe that a number of Federal programs originally intended to level. The playing field are in need of reform.

For 22 years here, I have tried to get rid of some, voted against others, and am prepared to jettison still others that I thought had a chance but have shown not to work.

Some have had unintended, detrimental consequences; all would benefit by a sharp look at what is working and can be maintained or expanded, and at what is not working and should be jettisoned.

But that is beside the point to the authors of ''The Bell Curve,'' because their attack is aimed at the very concept that Government should try to ensure equal opportunity to all our citizens. The authors argue that we should end, not reform, but end such efforts by Government.

The authors say their recommendations are intended to prevent what they see as the inevitable end of the road we are on, a ''custodial'' state, something like a ''high-technology Indian reservation,'' where the permanent underclass is minimally fed and housed.

To their credit, the authors say they want to avoid this nightmare vision, but what they recommend is obviously insufficient on a practical level and entirely unacceptable on a moral one.

First, the authors suggest that we abandon our efforts to create the equality of condition among all people that our Founding Fathers believed was a self-evident human heritage.

Indeed, they suggest we return to ''an older intellectual tradition,'' unburdened by our historic American belief that ''all men are created equal.''

Instead of trying to ensure equal opportunity so that every person has a fair chance of success, they say we should simply focus on improving the fabric of family and community.

They suggest that we return a wide range of social functions to neighborhoods or municipalities, to improve our sense of community.

They propose that we should simplify Government regulations that make it more complicated for people to function—rules governing education, taxes, Government assistance, to name a few.

They recommend reforming the criminal justice system to make it simpler to know what is a criminal offense and what is the sanction for it.

And they suggest reemphasizing the unique legal status of marriage, as the only relationship with legal benefits, as well as legal obligations. I do not necessarily quarrel with these practical recommendations; it seems to me that some of them may well be worth pursuing.

What I do quarrel with—and vehemently so—is the idea that we, as a society, should give up what has been a bedrock principle of our Nation: that all men are created equal, and thereby abandon any idea that Government has a role in seeing that no one is denied an equal opportunity to life, liberty, and the pursuit of happiness.

Government cannot manipulate people's heredity, and it should not attempt to do so, but I believe a moral government can—and must—pursue policies that treat every person as a resource.

If low IQ's are the problem, why not try to raise them, through better nutrition, which the authors of ''The Bell Curve'' acknowledge does make a difference?

If the fabric of families is torn, why not focus on programs that enable them to mend themselves—

Programs that keep children from going hungry, that help young people get off and stay off drugs;

That keep the streets safe so local businesses can flourish and families can get to and from work and school;

Programs that help new factories open and train and retrain our workers for new jobs.

As we consider this challenge, we should remember what Martin Luther King never forgot—that opportunity is not a substitute for personal responsibility.

New ideas are being proposed that build on the twin pillars of opportunity and responsibility, and new programs are being tested in communities across

the Nation, such as housing and transportation programs that help minorities move out of ghettos and buy their own homes.

If the positive effects of Head Start fade out several years after children leave the program, why eliminate Head Start rather than improve the rest of the education system to extend its success?

If answers tried in the past have failed, it means we should try new answers, not give up on the problem. As a government—and as a society—our policies must have a moral dimension:

They must respect the value of each individual, and never dismiss anyone or any group of people as unworthy of a fair chance.

Shredding the social safety net will not avert a crisis; in my view, it only propels us ever faster toward crisis.

It will swell the divisions between rich and poor; it will lead to more racial animosity and ethnic hatred; it will sacrifice the dream—the very American dream of Martin Luther King, who foresaw a day when his four children would, in his words,

> Live in a nation where they will not be judged by the color of their skin, but by the content of their character.

He spoke of a ''beloved community,'' his vision of an America living in racial harmony, where individuals judge each other on individual merit and achievement; where values triumph over charts, graphs, and stereotypes; where all people are nourished and expected to succeed.

This is a vision of a moral society—the kind of society our forefathers saw as their bequest to the Nation—and it stands in stark contrast to the custodial state envisioned in ''The Bell Curve.''

Fulfilling Dr. King's vision of a beloved community, founded on both individual responsibility and equal opportunity—a community that rewards achievement and places barriers before no one—has always been and remains today the foremost challenge for American society.

Martin Luther King understood that better, perhaps, than any other American of this century, and we can offer him no greater memorial today—we can offer ourselves no greater assurance of maintaining our American heritage—than by rejecting both the arguments and the conclusions of ''The Bell Curve'' in favor of that ''beloved community'' for which Martin Luther King, Jr., lived and died.

Mr. ASHCROFT. Mr. President, I yield the distinguished Senator from Tennessee 7½ minutes of my time.

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

The Senator from Tennessee is recognized.

(The remarks of Mr. THOMPSON, Mr. ASHCROFT, and Mr. BOND, pertaining to the introduction of Senate Joint Resolution 21 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ORDER OF PROCEDURE

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be allowed an opportunity to speak for up to 10 minutes that I was provided for in morning business, and that the time for resumption of consideration of S. 1 and the corresponding time for a vote on amendments that have been set down be moved up accordingly.

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

WELCOME SENATOR ASHCROFT

Mr. LIEBERMAN. Thank you, Mr. President.

Mr. President, before our new colleague from Missouri leaves the floor I want to add my welcome. I do so with a personal sense of pride and pleasure because he and I were classmates together at college. It gives me great pride to see him join Members here.

The Chair will no doubt hold this revelation against the Senator from Missouri and me, but in any case, he was an honorable, decent, intelligent person when I knew him back more years than I will state for the record. I know he brings those talents with him here and beyond. As the senior Senator said, he is a person of extraordinary faith and comes here not only with great talent but with an appropriate spirit and a religious sense of humility. We could use that around here. I look forward to working with him in the years ahead.

Mr. President, I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the introduction of S. 246 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LIEBERMAN. I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS SAID ''YES''

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that ''Reagan ran up the Federal debt'' or that ''Bush ran it up,'' bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. We'd better get busy correcting this because Congress has failed miserably to do it for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,806,933,452,098.25 as of the close of business Wednesday, January 10. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $18,247.20.

MARIO CUOMO AND COMMON SENSE

Mr. HOLLINGS. Mr. President, the wail and cry around Washington today is similar to what we heard 14 years ago when President Reagan came to town—get rid of the Government, downsize, the Government is the enemy. Today, like 14 years ago, the game to blame Government sounds good to many voters across the land. But look at the reality that has been inflicted on our country by 12 years of Republican rule—a deficit that is exploding and a debt that has more than quadrupled. The return of this feel-good kind of blaming in Washington is what Mario Cuomo related in his last official talk as Governor of New York. As he told reporters at the National Press Club on December 17, 1994, the game being played is ''deja voodoo'' and return to ''plastic populism.''

Government is not an evil that the Founding Fathers thrust upon the people. Government in its best form is a means to provide economic opportunity, create jobs, and rebuild our American standard of living. It is time for all of us to work together to rebuild America, instead of only harping, squawking, and howling at the Moon.

Mr. President, I urge my colleagues to read and study this talk by Governor Cuomo. He speaks commonsense truths that are rooted in reality. As he says, we need a cure for our problems not a simple reaffirmation of the disease. We have to fix what is broken, but not break what works. To that end, I ask unanimous consent that his talk be reported in its entirety in the CONGRESSIONAL RECORD.

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

REMARKS OF GOV. MARIO CUOMO AT THE NATIONAL PRESS CLUB, DECEMBER 16, 1994

Governor CUOMO. Thank you very much. Thank you very much. There are a lot of things I wanted to say immediately, just in quick response to Gil Klein's introduction. I—the truth about 1992 was that Klein, or somebody like him, just before that plane took off, over the wire came a story in which I was referred to as a consummate liberal. And that did it. I decided to stay behind in New York State. (Laughter.)

And I must say this—although I was going to say nothing at all, because I don't want to use the 25 minutes they gave me—there's a lot I do want to tell you. I did note with some interest that the two biggest laughs from this rather difficult looking groups were for the postmaster general and Dan Quayle. (Laughter.)

I am going to do something unusual now in this, what appears I think to be the last time I'll be able to speak as a public official, because nothing is going to happen over the next couple of weeks—and that didn't strike me until I sat down and started making some notes. But maybe especially because it is the last opportunity—there is a whole lot I want to get in. And because of that I'll stay close to my notes, closer than I usually do—and I'll rush a bit, if you don't mind, because

I want you to have time to do the questions and answers. You know by now that I was elected a private citizen—(laughter)—effective January 1st.

It wasn't my first choice. Abraham Lincoln's familiar line in a similar situation, which I think the President used the other day, comes to mind. He said he felt like a young boy who has just stubbed his toe; it hurt too much to laugh, but he was too old to cry. The temptation, you should know, is to whine, you know—(laughter)—at least a bit—Why not?—you served 12 years, you're entitled. And I caught myself doing that.

I began pointing out to people that even since the Republican landside on November 8th, it's been getting dark outside a little earlier every day. (Laughter.) You notice that? (Laughter. Applause.) The whining is not what we need. So let me talk to you about some of the things I learned on the way back to private life, and there's a lot. Let's talk just a bit about America and how together we can make her stronger and sweeter. Founded by the most optimistic people in history, in just 200 years, as we all know, would become the most dominant military and economic machine, and the greatest engine of opportunity that the world has ever seen.

But recently, say, within the last 15 years, we have made some terrible mistakes as well. We produced two devastating recessions that stripped from millions of our middle—class families the basic promise of the American dream, and even the simple security of steady work; mistakes that for millions more have produced lives of sheer desperation, dependence, and despair.

Government did not create all these all these problems, but government didn't solve them either. And the people know that. Many of them are frightened, resentful, even angry. The conservative Republicans measured that seething unhappiness with polls, then designed some painless home remedies which they strung together in a new political agenda that they call now the ''Contract With America.'' And tell us it will solve our problems. I don't think so.

Some of the agenda puts the spotlight on relevant issues—at least for the moment. But the truth is, the contract fails to deal substantially with the fundamental problems we face. It's not a plan—it's an echo of selected polls. It adds nothing to the opinion surveys. It makes absolutely no demand on our political leadership, other than that they set sail in whatever direction the political winds appear to be blowing at the moment.

It offers a kind of plastic populism, epitomized by its bold promise of a balanced budget that will bend—or probably break—when tested with the full weight of our real problems. We need something much sturdier. We need an agenda that deals with our real problems—all of them, especially the toughest ones—and proposes real, concrete solutions, even if they are politically inconvenient. The truth is—and I think we all know this, too: America is faced with a double-barreled challenge to our future. The most significant is an economy that is rewarding investors for sure, but at the same time threatening our workers.

You tell a $30,000-a-year factory worker in Georgia or California that this is a growing economy, this third-wave economy, and see what reaction you get. The second challenge is the frightening cultural corruption of drugs, degradation, violence, and children having children, that's deteriorating our cities, crippling much of our potential work force, and alienating many of us from one another. And it is cultural. It is a cultural problem.

But the conservative Republican contract deals only superficially with our economic challenge, and offers us little more than castigation and negativism with respect to our cultural weakness.

Now, Democrats should show America that we can do better. We should start by reaffirming our fundamental democratic principles, beginning with the confidence that this country can provide opportunity for everyone willing to earn it. And the first mistake would be to give up on that aspiration, to believe that somehow we are not as strong as we thought we were—we can't do it—take up the gangplank!—we can't afford them: That would be a mistake, an excuse if not a mistake, a cynical excuse for not making the tough decisions that will make it possible for us to realize what is obvious, enormous potential strength still unused.

Our strong suit as Democrats has always been our concern for the vast majority of Americans who must work for a living—that's where we come from. That means we are committed to creating good jobs in a strong free-enterprise system, and to making sure that every working family in this country can earn enough to live with a reasonable degree of security and comfort. We believe that as part of the Democratic bargain every American has responsibilities.

Everyone who can work should work, instead of expecting others to pay their way. Businesses that thrive should share the rewards with their workers fairly—business has a responsibility as well. And government should help create jobs, not discourage them; nor should it burden the rewards of work with unreasonable heavy taxes.

Now, we believe in law and order. I have built more prison cells than all of the governors in history of New York State before me put together. But we will insist on fairness, and privacy, and civil rights. We agree with Lincoln that we should have only the government we need. But we agree with Lincoln, as well, that we must have all the government we need. We must have all the government we need.

And so a balanced budget that fails to meet the basic needs of the struggling middle class or the desperate poor would be an emblem of failure. We believe in the common sense value of sticks, but we also believe in the common sense power of carrots. We believe that prevention is always a good idea, and almost always cheaper.

We'd rather preserve a family than build an orphanage. We believe that we're too good as a people to seek solutions by hurting the weakest among us—especially our children. And at our wisest—at our wisest, and it's not always true. It is probably not true at this moment. But at our wisest, we believe that we are all in this together, that Jeremiah was right, thousands of years ago, that we will find our own good in the good of the whole community.

Now, this is not the time or the place to give all the details of what we can and must do to deal with the challenges and opportunities, while living up to these principles. But we should reflect on enough of them, and I have the responsibility to give you at least enough of them so that you can see that the agenda offered by the Contract is obviously incomplete, and utterly inadequate to this moment in American history. Most of all, we need to generate more jobs.

We'll accept that—jobs that pay a living wage and make hope a possibility, and a global economy, where labor often costs less in other places in the world—and that's the key. This is a complex challenge. But the Republicans would have us believe that the solution is remarkably simple.

Now, do you know how hard it is? Taiwan and that part of the world, in China, Mexico—they can make things a lot cheaper than you can. That puts an enormous pressure on your manufacturing. How do the Republicans deal with this problem? That's why the $30,000 a year factory worker is scared to death. He knows it. He knows the investors are getting richer, and everybody is downsizing here, and the competition is enormous all over the world—a competition that I grew up without having to face.

Well, their proposal—the Republican proposal is right out of the permanent conservative Republican playbook. Cut the tax on capital gains, boost the defense budget, amend the Constitution to enforce a balanced budget. But let's not get bogged down in the awkward details about what we'd actually have to cut. Cut the taxes, boost the defense budget, and then provide a balanced budget. Does it sound familiar to you? Do you remember hearing that before? Cut your income, raise your expenses, and promise the bank that, this time, you're sure you can make ends meet. Does it sound familiar? It's nothing more than deja voodoo. (Laughter.)

In the early '80s—in the early '80s, the conservative Republicans promised huge tax cuts, a huge military, and a balanced budget—and we wound up, as we all know, with a deep recession and $4 trillion more in debt. Now, why is it different now? Why would it work any differently now? Has something changed? Has there been some kind of cosmic alteration? Only the language has changed.

In the '80s, they talked about the magic of supply side. Now, they have thought up a new way to count. It's called dynamic scoring. Do you know what dynamic scoring means? It means that, for every basket they put in the whole, they get ten points. That's dynamic scoring. And it would be wonderful if it were as easy as that—free up the wealth in the hands of the wealthy, and it will eventually take care of all of us. Now, this country tries that every so often. We tried it in the '80s—the early '80s.

But then the truth re-emerges. Life is more complicated and harder. It includes bothersome details, like a national deficit, leashed in by President Clinton, but ready to run wild at the least relaxation or provocation. Life includes popular entitlement programs that won't be around for our children at all, if we cannot bring ourselves to make intelligent, but different sacrifices now. Everybody in this room knows it. In every conversation in Washington or New York or the capitals of the country, where people know what they're talking about, they all say the same thing. ''You must do something about Social Security.'' We all know that. ''You must deal with Medicare.'' You can't deal with our deficit problem without doing something about Social Security and Medicare.

However, it's political poison, so we won't do it. But didn't you just tell me that, if we don't do something about it, we're in terrible trouble? Yes. And then you tell me that it's going to be very difficult to deal with it politically. Yes. And what do you prescribe then? Keep yourself alive politically, and let the country die. Am I exaggerating? Do you hear it differently? You write about it. You write about it glibly. Everybody comments on it—most of the time, snidely. But nobody changes it. Warren Rudman leaves. Paul Tsongas creates a group. Peter Peterson writes books.

Everybody is saying the same thing, and all the people who are bright, saying they're right, and admitting—at the same time—we do not have the will to change it. Why don't you at least say this to the American people. Why don't you say, ''Look, let's get this clear, because I have the obligation to tell the truth.'' Who knows? Maybe there is a heaven. Worse than that, maybe there's a hell. (Laughter.)

Maybe I'm going to be accountable. Maybe I'd better tell you the truth. So, I'm going to take a chance.

Ladies and gentlemen, all the tax cuts in the world won't wave you. They're popular, but we need a double bypass—and we're talking about giving you cosmetic surgery. And the reason we're doing that is, it's too tough to give you a bypass. We have to cut with a knife. That's very expensive. It's very costly. It's unpleasant for you. We have to do Social Security. We have to do Medicare. You have to apply a needs test of some kind. Everybody knows it.

Now, why, therefore, don't the Republicans tell you that? Well, because they're into popularity. Why don't we tell you that? Because we're into popularity, too. (Laughter.) But we're going to say this to you. As long as the Republicans are in power in the Congress, and as long as it's absolutely clear that they will have a Pavlovian response to whatever you tell them in the polls, start telling them in the polls that you've finally awakened. You know they have to do something about Social Security and Medicare. Please do Social Security and Medicare. They will write a new Contract with America, addendum to the Contract with America. We've seen the latest poll. It just came in over the Internet. Okay. You can have Social Security. (Laughter/Applause.)

There's another—there is another inconvenient truth, and that is that you have to make investments if you want to get returns. The Republicans especially should know that. And that means, if we want to be the high tech capital of the world—which you have to be, because if you're going to compete with cheap labor, how are you going to do it? You're going to have to make things with exquisite high tech capacity and superb productivity so that you can make things better and faster and different from the things that they can make—even with cheaper labor.

How else do you do it? The only other way is to expand a whole other thing beyond manufacturing, make exquisite improvements in services. We're doing that. We're the service capital of the world already—and we will stay that way for a long time, especially as long as New York stays strong, because you have banking, investment banking, and a lot of that there, publishing, et cetera. We're doing fine with services. On the manufacturing side, you can't do it without high tech. You have to do what we're doing in New York State—make a unique lens that we just sold to the Japanese. And when I complained to the University of Rochester about selling a unique lens to the Japanese, who are so good at replicating our products and getting—and producing something cheaper, they said, ''Don't worry about it. We're working on a second lens.'' (Laughter.)

Making a new mammography machine on Long Island through high tech—a mammography machine that solves the problem that the woman has with the old machine, where she has to press herself up against this plate, where there's constriction, discomfort, and a poor picture. This one inclines. Bennett X-ray. You incline and gravity does the work. And there's a full picture. And my daughter, the radiologist loves it. And the woman is pleased by it. And the physician who has to operate feels better about it because he has a better picture. And we sell it to the Germans that make surgical instruments. And when I say to Bennett X-ray, ''I created a center of high technology. Now you take this wonderful product. You send it to the Germans. How long before they replicate it?'' He says, ''Five months.'' I said, ''Well, what are we going to do about that?'' He said, ''Don't worry about it, Governor. We're working on digitalizing it. We're taking the digital engineers from Grumman who have gone down, because they're no longer making planes. They're coming here. They're working on our mammography machine.'' You have to stay one step ahead of them in high tech.

That's the way you became great the first time around. You used to make all the things of value in this world. You were the makers and the sellers, the creditors and the bankers. That's how we became dominant. You can't get out of that business now because you're in a global economy. You have to make things. That means high tech. That means research. That means investment, investment, investment. And someone has to pay for it. There are plenty of good way of making our workers better equipped, too. And you can't do that.

You can't leave that factory worker where he is now, or she is now, at $30,000, and say, ''Look, in this high tech world where we have to be smarter and slicker than they are, I'm afraid you're going to fall behind because you don't have the training.'' The GI Bill is a good idea for workers. Training vouchers is a good idea. Head Start is absolutely essential—learning technologies.

Is there any way you can explain how every kid in the United States of America doesn't have the opportunity to learn at a computer? How do you explain that to yourself? The richest place in world history, with all the tremendous wealth you have. How do you explain to yourself that there are kids who never see a computer—in my state, where people have Porsches parked or BMWs parked next to Jaguars? How do you explain it, when you're selling the airwaves for billions of dollars that you didn't even expect to have? Vice President Al Gore is right. Let's take some of that money and invest it in learning technologies.

Tax cut—hell of an idea. Learning technologies—an even better idea. Make your children the smartest in the world. Everybody knows that that's the avenue to the future. You write tracts about it. Kids write essays about it in the 8th grade.

But we're not doing it. That's the real world. It means investing, then capitalize, on the most extensive higher education system in the world. Promoting its strength and research, and making sure that it does not—that it becomes accessible to everybody. It means infrastructure. There is no money for infrastructure. Have you heard any Republican step forward and say, ''And another thing we're going to do is we're going to build the infrastructure.'' Why? Infrastructure is an arcane word. You get no political points for infrastructure.

I wish I could think of some sexy way to say roads, bridges, telecommunication, fiber optics. Infrastructure. Forty percent of the roads and bridges are in trouble. Overseas, they spent $6 billion, Maglev, they're way ahead of you. You cannot succeed economically unless you invest in infrastructure. Where are you going to get the money? They didn't even mention it. How could you not mention it? Is there anybody alive with any brains at all who knows anything about the economy who would not say to you that, ''Of course, we must invest more in the infrastructure.'' Or do they get challenged?

Does the public rise up after they have heard somebody on television say, ''Well, I'll never vote for you. You never even mentioned—what was that—infrastructure.'' Infrastructure. (Laughter.)

Those conservative Republicans cannot deny that all of these investments are essential. They simply ignore them because they're politically difficult truths, and because the polls don't give you points for arcane things like infrastructure. They know America needs a double bypass. And they know they're only suggesting cosmetic surgery. But as long as its popular, that's what they're going to give you.

Now, massive tax cuts of any kind would surely ring the popularity bell. But would you insist on them, if it meant that local tax rates would explode across the country—which they could, if you cut back programs that the states are going to have to pay for instead. Would they insist on tax cuts if they knew that bridges would collapse, that the deficit might go up again, that you were failing to meet your educational needs? And if we can afford to lower taxes, would you give 70 percent of the immediate benefits to people who make $100,000 a year, or would you give 70 percent of the immediate benefits to the ordinary families across America?

And as long as you Republicans are so quick to point out that the people have spoken—who told you? The poll. Why don't you take a poll on it. Mr. and Mrs. America, we're going to give you a tax cut. What do you want? A tax cut the immediate benefit of which goes to—70 percent of which goes to the people above 100,000, or one that goes to people under 100,000? What do you think the poll would say? How about this one. Mr. and Mrs. America, would you like to shorten the congressional session and cut everybody's salary in half—senators and congressmen? What do you think they'd say? (Laughter.)

Last time I looked, it was 82 percent said yes. I didn't see a single Republican hold up, ''The people have spoken.'' (Laughter.)

Of course, Democrats respect and believe in the efficiency of capitalism. A capital gains tax cut, in some circumstances, could be a very, very good thing. Deregulation—a very, very good thing. I did a lot of it in my own state. But if our system works only for investors and leaves millions of our people without the skills or opportunity to do more than tread water against the tide, our system fails. Now, if they're silent on these important things, what are they loudest on? Now, I'm really going to have to rush—and it's a shame.

Welfare. Why? Because it's popular. Don't you see what's happened? They've turned the middle class against the crowd beneath them. In the depression, you know, when everybody was angry, in 1932, whom did they blame? They blamed the power. The people who made it happen.

The bankers. The government. Everybody turned on the government—and they were right. And what's happened this time? Now they've turned the middle class downward. Instead of looking up at the people with the wealth, they're looking down at the people who are the victims. And who are you blaming?

The immigrants. That's easy. They have no political power, really, to speak of. Forget the fact that everybody here is an immigrant and that we all started by killing the only real entitled people to the place—the Native Americans. We butchered them. We savaged them. Everybody else is an intruder by your popular current definition. Forget that, because I'm lucky to be here now. It's the immigrants who are our problem. It's that baby who's making a baby. Forget about the fact that you allowed her, at the age of two, to be a toddler in streets surrounded by pimps and prostitutes and every kind of disorientation, that you allowed her to be seduced by somebody with a crack pipe when she was only nine years old.

Forget about that, that you allowed that society, that you allowed it to happen. She's the problem. Punish her. Punish the mother. No benefits for that child. Stick the child in an orphanage. You really think that's the answer? I don't.

In New York State we have problems, but we have answers, too, and they're not orphanages. We can show you ways to bring

down teenage pregnancy dramatically, and we have with the new Avenues to Dignity program in New York. That's not as popular as draconian devices, like what they want to do with welfare or the death penalty. In the end, behind nearly every one of the Republican proposals lurks the same harshness and negativity. And I think we need better from our leaders than to have them distill our worst instincts and then bottle the bitter juices and offer them back to us as a magic elixir.

We need a cure, not a reaffirmation of our distress. We must understand that our great social problems are not visited upon us like earthquakes and floods. They are uniformly avoidable disasters. And with intelligent and timely action, we can prevent them before they pull our children down. Punishment has its place, of course. But prevention requires more than fear. In New York, the movement toward prevention is the strongest element in our approach to health care.

Incidentally, that's what reforming health care should be all about, prevention. The reason you need to cover those 39 million people is not compassion. It's not that they're not getting health care. They are getting health care. In my state, everybody gets health care, even the people without insurance. They fall down in the street and they're taken to the emergency room. Or they come with a terrible pain in their belly that would have been nothing if they had been insured and been to a doctor early, but now is acute. And we take care of them. What would we do, let them die? ''You have no Medicaid. You have no insurance. Lay here and die.'' Of course not. We operate. You can find in the hospitals of New York City women and men on machines being kept alive for nobody knows how long except God, without any insurance, without any name, and we take care of them. You can't afford that.

Health care costs are going through the roof everywhere except in New York State. And they're high there, but we're the lowest-growing in the United States of America. That surprises a lot of people.

You have to do something about those 39 million people. And if Congress closed its eyes because it couldn't find a proper solution last time, you can't simply say, ''This is too difficult; leave the problem there.'' You will go bankrupt. Really? Of course. You all know that. It's not just Ira Magaziner. You can't make it go away by saying, ''Well, it was very unpopular.'' So do something else. Do something like what we're doing in New York. At least let the children of working people get insurance, get them into plans. We subsidize them to get them into plans. Why? Prevention. If you can vaccinate them, it's cheaper than trying to deal with their disease; so, too, with drugs. What is the answer to drugs? Look, you can build all the prisons you want.

You can contrive all the draconian punishments you want. You can say what the Republicans say, that more police, more prisons, more executions and reversing the ban on assault weapons will take care of the drugs and take care of the crime. It won't. Forget all about the complicated talk. Imagine this. Imagine a village. Imagine a village where the young people are drinking at a poisoned lake. And it makes them mad, and they come in every night to the village and they commit mayhem. And they rape and they kill and you arrest more and more of them and you stick them into jails in the village, and the jails are getting bigger and bigger and you have more and more village police and the villagers are complaining because they can't afford it.

And the generation of criminals keeps pouring out of the hills, having come from the poison lake. Wouldn't somebody with some brains say, ''For God's sakes, let's dry up the lake; let's find another source of water''? Of course you would. But why aren't you doing it here? Why doesn't it occur to you that unless you stop the generation of these drug-ridden people who become criminals and then violent criminals—your biggest problem now in terms of crime: children with guns. You're not going to get at that. Take it from me.

I told you, I've built more prison cells than all the governors in history before me put together, and it's not going to work. Ask any policeman. Fifteen years ago they would have told you something else. You have cultural problems. I'm going to have to end it now, and it really is a shame because I'm leaving out a lot of the good stuff. (Laughter.)

I really am. But let me leave with maybe the largest point, and maybe the largest point that I have learned in public life, and it's something that I kind of intuited before I was in public life. It's something I spoke about in my first speech before I ever even ran, and this was up in Buffalo in 1973 and I was talking about mama and papa and what was important about mama and papa and what they taught me, these two illiterate people, what they taught me by their example.

And what they taught me, basically—and then a Vincencian priest, you know, added to it, and then good books, you know, taught you most of all, that you're going to spend your whole life learning things and experiencing things, most of all disappointment and occasionally moments of joy. But in the end, you've got to find some raison d'etre. You have to find some reason for living. You have to find something to believe in. And for it to work, it has to be larger than you, that you will discover that you are not enough to satisfy yourself. Now, you might get to be 70 years old before you figure it out, but sooner or later you'll figure it out, that you must have something larger than yourself to hold on to.

Where have you gone, Joe DiMaggio, Bobby Kennedy, Martin Luther King, Jr.; some great cause, some great purpose? The Second World War did that. I remember a little bit of that. The Second World War was a horrid thing, but it unified everybody in America. They were evil; we were good. They were Satan; we were doing God's work. And everybody got together—the men, the women, the blacks, everybody; forget about poor, forget about middle class, forget about everything else.

There's a grander purpose here. There's a greater truth here, something we can give ourselves to, and we'll fight like hell. And we did. We haven't had anything like that since, and you don't have it now.

You're turning those white factory workers all over the country against people of color. You're turning them against the immigrants. They're blaming them. And I understand why they're blaming them. their life is vulnerable. They say, ''You're doing nothing for me, everything for them.'' That's the truth of it. You know it. We all talk about it. We don't all write about it that clearly, but you know that the society is being fragmented.

It used to be the middle class against the rich, but now somehow, I think with a little encouragement from some of the politicians, you have turned the middle class to look downward instead of up. And they're now pitted against the poorest. So here are the least powerful people in your society, the least fortunate, squabbling with one another.

Ladies and gentlemen, unless we find a way to put this whole place together, unless we find a way to see that your interest depends upon your seeing the child in South Jamaica, that Latina, that little Hispanic girl who just had a baby, that little black girl who just had a baby, as your child, or unless you see that factory worker in Georgia as your father about to lose his job, unless you understand that it's not as a matter of love, not even at Christmas and Hanukkah time; I wouldn't ask that of anybody in a political context. It's too much to use the word compassion. Forget that. You'll lose.

As a matter of common sense, you cannot afford the loss of productivity. You cannot afford the cost of drug addiction. You cannot afford it. We will not make it in this country unless we invest in dealing with those problems. And to deal with those problems, you have to give them other avenues to dignity instead of streets of despair. You will not frighten them into being good. You will not punish them into stopping drugs. You have to teach them. How to teach them?

Have a crusade; not just a rhetorical crusade, a real crusade. Invest in it. How would you teach children not to have sex too soon, to treat it as a great gift, not to be violent, not to take the drugs? How would you teach them? How do you teach anybody? Well, at home; their family is broken. In school; the teacher is too busy. In the church, the temple, the mosque; if they went there, it wouldn't be a problem. How do you teach them? Let the government teach them with laws. There's a role there, yes.

What's the best teaching instrument you have? Television. Yes, that's right. Why don't we teach them every night on prime time? Well, we have Partnership for a Drug-Free America. Once every week or two weeks they'll see those great commercials by the Partnership for a Drug-Free America. You read the New York Times this week. Drug use is up with teenagers. Why? Part of the reason, Partnership for a Drug-Free America isn't being seen enough. How do you explain that to yourself? You know it works.

You know the best thing you can do is teach the children not to take the drugs. The best way to teach them is television. Why aren't you on prime time? How can you settle for once a week or once every two weeks? If you were a mother of a child in South Jamaica, my neighborhood, and you knew that they were out there, going to tempt her with a crack pipe, and you had to go to work, would you settle for a stick-it note on the refrigerator once a week saying, ''Hey, dear, if they come at you with a pipe, make sure you don't take it. See you tonight. Mother.'' Would you settle for that?

We're settling for it as a society. You want to talk about tax cuts? You want to talk about all these nice things? Talk about the real problems. Talk about how to invest in your economy, how to create jobs, how to invest in a real crusade that would have to—put up some money. Buy some time. Sit down with Tisch at NBC and all the others. Say, ''We'll put up 5 million bucks. We want you to do the same.'' Let's saturate the place. Let's have billboards. Let the National Press Club write about it. Let all the community groups talk about it. Let's go at this problem for real because it's killing them and it's killing us.

Look, I lost an election. I've lost more than one, but I've learned a whole lot on the way, and I haven't forgotten any of it. And I'm telling you that I am absolutely certain we are not being honest about our problems. And the person who stands up and is honest with America and reminds America that they're now in charge—politicians used to think of themselves as shepherds. That's all over now.

Now the politicians are following the sheep. Read the polls. They'll tell you where they should go to pasture. And as long as

you know that, you had better send the right signals to your government, because if you tell them you want the death penalty, you'll get it. If you tell them you want tax cuts, you'll get it. If you tell them to take up the gangplank, you'll get it. If you tell them to ignore sick people, you'll get it. If you tell them to ignore the poor, you'll get it. If you tell them to victimize young children, you'll get it.

Be careful what you ask for, because they're listening for you. And ask for the right things. Ask for the truth. Ask for the real solutions to the real problems. I learned that. I won't forget it. Thank you for your patience.

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR THE 104TH CONGRESS

Mr. PRESSLER. Mr. President, pursuant to the requirements of rule XXVI of the Standing Rules of the Senate, I herewith submit for publication in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Commerce, Science, and Transportation. These rules were adopted by the committee January 12, 1995.

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

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION[1]

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he or she may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee, or any subcommittee, when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or subcommittee prescribes.

4. Field hearings of the full Committee, and any subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

II. QUORUMS

1. Ten members shall constitute a quorum for official action of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. Seven members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill or nomination; provided that proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the subcommittee unless he or she is a member of such subcommittee.

2. Subcommittees shall be considered *de novo* whenever there is a change in the chairmanship, and seniority on the particular subcommittee shall not necessarily apply.

[1] Adopted by the Committee January 12, 1995.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

UNFUNDED MANDATE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Committee amendment No. 11, beginning on page 25, line 11, pertaining to committee jurisdiction.

Gorton amendment No. 31 (to committee amendment No. 11) to prohibit the approval of certification of certain national history standards proposed by the National Center for History in Schools.

Levin/Kempthorne/Glenn amendment No. 143, to provide for the infeasibility of the Congressional Budget Office making a cost estimate for Federal intergovernmental mandates.

Bumpers amendment No. 144 (to amendment No. 31) to authorize collection of certain State and local taxes with respect to the sale, delivery and use of tangible personal property.

The PRESIDING OFFICER. Under the previous order, there shall now be 30 minutes for debate to be equally divided between the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from West Virginia [Mr. BYRD].

Who yields time?

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I yield time to the assistant majority leader.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Idaho for yielding this time to me. I want to again commend him for the work he has been doing on this very important piece of legislation and for the patience and diligence he has exhibited over the past several days as we have crawled toward final passage of this unfunded mandates legislation.

We have now spent 5 very full days discussing procedures and unrelated matters on this very important legislation. That is the way the Senate works. It is a very deliberative body, and that is the way it has been historically.

I do want to urge my colleagues this morning to allow us to move forward, to debate seriously this very important legislation and to start dealing with germane amendments—amendments that really do relate to the substance of this bill.

A lot of charges have been made that this legislation was being moved too quickly. This obviously is not the case. The distinguished majority leader has exercised a lot of patience and has allowed all the time that Members could

possibly want to bring up amendments, even unrelated amendments, and debate them at great length. We have spent 5 entire days, and, yet, we are only beginning to discuss the serious parts of the pending bill. This pace certainly could not be considered rushing the bill through to judgment.

Further, this legislation is not a new concept. Senator KEMPTHORNE, Senator ROTH, Senator GLENN, and others, have been working on this legislation for 2 years. Senator KEMPTHORNE has personally worked with our Nation's Governors, mayors, and local legislators, as well as the White House, to craft a bill that would accommodate all concerns. So the document before us represents a carefully drafted and extensively researched and debated piece of legislation.

It has been charged that we did not have a report on time when it was brought to the floor. But now the reports are available. Members have had time to study these reports: Thursday, Friday, Saturday, Sunday, Monday, Tuesday, and Wednesday. So certainly there has been time now to read and reread the reports and to study the bill.

I think it is time we begin to move forward toward final passage of this very important legislation.

I hope that there will be a vote in support of the cloture motion today so we can get to the consideration of germane amendments. Members would not be prohibited from offering the amendments they have filed. There will be plenty of time for extended debate on those amendments, and then we could get to the point where we can finally consider final passage.

One of the things I suggest to our colleagues today is to call home. Check with your Governors, your county commissioners, your mayors, your small business men and women. Ask them what they think about the unfunded Federal mandates they have been dealing with. Ask them how much it has been costing. Ask them about the harm unfunded mandates have done—the tax burdens, the delays and the numerous other problems these unfunded mandates have inflicted upon counties, cities, States, and businesses.

The Washington Post reported today that 74.2 percent of State municipal leagues cited unfunded mandates as the most vexing issue local government faces, in a survey released by the National League of Cities. Numerous government and business organizations have endorsed unfunded mandates legislation, including the National Governors Association, the U.S. Conference of Mayors, the National Association of Counties, the National Federation of Independent Businesses, the National Conference of State Legislatures, the National School Board Association, and the U.S. Chamber of Commerce.

These groups represent the men and women across this country who are on the front lines, at the State and local level, fighting to do their jobs. They are urging Congress to examine more carefully the mandates that we place upon them. This legislation just establishes a process so we can seriously consider what we should do with these unfunded mandates and a way we can block them if they are not going to be properly funded.

The American people are asking us to move this much needed legislation. My prediction is that we will get to final passage of this legislation sometime, if not later this week, next week. But why must we delay the serious consideration of important and germane amendments to this legislation? Especially when we all know this bill will pass with overwhelming bipartisan support. Even President Clinton has called for enactment of unfunded mandates reform legislation.

So I just thank the Senator for yielding me this time. I urge my colleagues to vote for this cloture motion and allow us to move forward toward completion of this important legislation.

I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I appreciate greatly the comments of the assistant majority leader. How much time is remaining on our side?

The PRESIDING OFFICER. Eleven minutes.

Mr. KEMPTHORNE. Mr. President, I yield myself 7 minutes.

The vote Senators will cast today reflects their determination to establish a new partnership with our State and local and tribal governments and a better working relationship with the private sector. Mayors and county commissioners, Governors and school board officials and the private sector understand the significance of this vote.

This vote is the first test of Senators' commitment to reform Washington's dominance of State and local government. For too long Congress has been far too willing to merely pass the bill and then pass the buck to the States and localities, but the ultimate billpayer is the same weary American taxpayer.

This is a cloture vote on S. 1. S. 1 is nothing but a process to address a rational commonsense way to the long overdue problem of unfunded mandates. What this vote means is that Senators are willing to start voting on key issues related to this legislation. We will get on with the business of 30 hours of debate, debate on amendments that are germane to S. 1, debate on the specifics of the bill, debate, if you will, on what S. 1 is all about, which is unfunded Federal mandates.

Yesterday, Mr. President, as you know, we discussed for a number of hours education standards and abortion clinic violence—very important issues. But S. 1 is simply about unfunded mandates, and it is time to focus our attention on this very important issue.

S. 1 has two simple concepts: First, the National Government should know and pay the costs of mandates before imposing them on State and local governments.

Second, the National Government should know the costs and the impacts of mandates before imposing them on the private sector.

I support the decision of majority leader, BOB DOLE, to have this cloture vote. Senators on the other side, as has been pointed out, say that Republicans are rushing this bill; that we are moving too quickly; that we have not had a full debate; that there are serious issues to resolve. But Governors, mayors, and county commissioners believe the opposite is true. They say Congress has taken too much time and mandated and forced them to raise local taxes and cut local services and raise property taxes too much. I agree. I know from personal experience as a former mayor what unfunded mandates do. Federal mandates divert scarce local resources to Federal priorities, not local priorities. Mandates raise property taxes.

Ben Nelson, a successful Democrat Governor of Nebraska, I think summed it very well when he said:

> I was elected Governor, not administrator of Federal programs for Nebraska.

I also know from personal experience as a Senator the difficulty of passing reform legislation. I know the months spent last year trying to craft a bipartisan bill and then to see the delays that kept last year's bill from coming to the Senate floor, the effect that nongermane amendments had in preventing that bill from coming to the floor and being voted on.

I know the efforts I extended to seek what ought to be routine Senate approval of committee amendments, many offered by Democrats, that were all adopted unanimously by the committees. But as late as last night, we could not get agreement to adopt the remaining committee amendments.

I know the Senators I have talked with this week encouraging them to bring their amendments to the floor so that we can debate them so that we can vote on them. But I know there are many side issues that have been at play and situations. These are important issues all on their own, but debating those issues only slows down the effort to put in place a process to identify the costs of mandates and have Congress pay for them.

So it is time to move ahead and to focus debate on S. 1, a dynamic and fundamental change in the process of reestablishing a working partnership with our States and localities. S. 1 is bipartisan legislation. S. 1 is supported in this body and in the House of Representatives. S. 1 is supported throughout the Nation. The adoption of S. 1 can serve as a launching pad for other bipartisan legislation in this Congress and, therefore, Mr. President, I urge Senators to vote for cloture on S. 1.

I yield back the remainder of my time to our side.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time remains on the debate prior to the vote?

The PRESIDING OFFICER. The Senator from West Virginia has 15 minutes.

Mr. BYRD. And the other side has?

The PRESIDING OFFICER. It has 6 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, first let me compliment the managers of the bill on both sides, each manager, both managers. They have been very courteous, very understanding, and I have been impressed by those managers.

This cloture vote, may I say to my friends on both sides, is nothing but a blatant attempt to shut the minority out of the chance to amend this legislation. That is right, I say to the Senator from New Mexico. Just as there was an attempt to shut the minority out of offering their views in both the Budget Committee and the Governmental Affairs Committee, now we see the same tactics employed on the Senate floor.

There is a supreme arrogance about operating in this manner. We are being told by the majority: Do it our way or it will not be done at all.

This is a massive, complicated bill. There are major questions about its impact on the private sector, about its impact on the consideration of future legislation in terms of points of order, its possible cost, the ability of the Congressional Budget Office to make the required estimates, constitutional questions, and agency bureaucrats making decisions that elected officials ought to be making.

The people need to hear these things debated, and we Senators have a responsibility to make sure that this legislation is understood, not only by the American people but also by ourselves. How can we serve the people if we give up our right to debate and amend? We came here to represent our constituents. How does one serve those constituents if one simply acts like a doormat, if the minority acts like a collective doormat when it comes to the thorough consideration of legislation?

I for one cannot be a party to this slam-dunk process. I may vote for the legislation in the final analysis. I do not have any doubt that it will pass overwhelmingly at some point when it is fully debated and we have had an opportunity to amend it. I do not have any doubts that it will pass, but there are problems with this bill and those problems need to be addressed. Blind justice may be fine, but blind legislating is dangerous. And with this type of rush, this rush agenda, make no mistake about it, we are flying blind.

I hear a lot of talk about the so-called Contract With America. Well, apparently there is a lot of fine print in that contract that somebody around here does not want to read. They want to rush it through. Do not read the fine print. The American people need to know what is in that hard-to-read fine print, and the American people's elected representatives in the Senate and House need to know.

I wish to know a great deal more about this bill before I cast my vote on it. Let us put some sunshine into this process by allowing amendments and full debate on those amendments. Let us not pull down the blinds, slam the doors, and shut the American people out of the debate. They have had enough of the arrogance of power. They do not want any more of daddy knows best. That is the attitude from Washington, DC, the daddy-knows-best attitude. The American people do not want that.

When the minority is denied their right to question, to amend, to debate, then the American people are being denied their rights as well. I have stood for the rights of the minority heretofore, as Senators will know, when I was in the majority and when I was in the minority. And when the minority is denied that right to question, to debate, and to amend, then the American people are denied their rights as well. They are being denied their right to have important legislation thoroughly debated and debugged and made better.

That is all that we in the minority are asking. The Senate is the only place where that kind of careful consideration can occur, but the procedure of ramming legislation through the committees and through the Senate is the very antithesis of what the Framers and our earlier forebears in this Senate had in mind when they crafted the concept of a Senate with unlimited debate.

Mr. President, I reserve the remainder of my time. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. And the Senator from Idaho has 6 minutes.

Mr. KEMPTHORNE. Mr. President, I yield 3 minutes to the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first I wish to thank the Senator who is managing this bill for the outstanding job he has done. I once again commend him not only for the management but for his leadership.

Mr. President, I have great respect for the institution of the Senate. Perhaps at this point in time I have too much. Some people would say that I really like the Senate and I like what it does and how it operates. Well, I do. But I say to my good friend, Senator BYRD, if we are operating blind, it is not the fault of the majority. We have been on this for the fifth day. If we are still blind, somebody is causing us not to get to the issues.

I submit that the majority leader filed this petition because we have been sidetracked. If the last election meant anything—and I do not purport to be one who knows what it meant in great detail—I think it meant a few things, and I believe honestly it meant that the American people would like to see us get our job done and not to delay and dillydally around when we know we ought to do something.

Now, that is what the majority leader's petition for cloture is all about. I believe the issues raised by my good friend from West Virginia, which he just cited, are important issues. I submit they could have already been discussed.

Five days on the floor of the Senate, and I will not recap what we have done, but I believe it is time, No. 1, that we stop the plethora of amendments floating to the floor here. The staff and Senators are bringing them up in bushels. If we do not impose cloture, the 123 that we have will soon be 250. I would be surprised if very many of them, I say to my good friend, have anything to do with what the Senator states bothers him and should bother the American people. They are on all kinds of issues. I think our people, the mayors, the Governors, the county commissioners, and everyone they represent know that is undue delay, to just offer amendments on any subject under the sun on a clear-cut proposal that deserves debate.

How much debate? How many amendments? We are totally recognizing the minority rights. Some of us have been more times than not on the minority side. We are merely urging that we get on with the bill.

If the cloture does not pass, I hope we have sent a signal. And perhaps by the minority side's own analysis, maybe you have received a signal. Maybe you all want to get on with this bill. Maybe my friend from West Virginia is saying that when he says we deserve the right to tell the American people.

Do we deserve the right to tell the American people about small business and businesses that cannot collect sales tax because they are in some kind of catalog business? Do we deserve the right to have that debated on this bill? I think the Senate has the right to say we are not going to do that.

That is what this debate is about. Get to the point. Get your amendments if they are relevant. Come to the floor and let us get the questions answered. How much time do we need to get this bill analyzed and answered? We have already had enough. We ought to have cloture today. If we do not get it today, then we are going to get it pretty soon. And sooner or later, we are going to pass this bill by an overwhelming majority, and that point should be made. When that is the case, we are just causing delay because it is going to pass by a lot of votes.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, does this Senator control time?

The PRESIDING OFFICER. The Senator from West Virginia controls the time.

Mr. BYRD. Mr. President, I yield 2 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I think it was only about 100 days ago, as I recall, that we were on the floor and the shoe was on the other foot. We were trying desperately to get something through and there was a scorched-earth policy on the other side and everything that came up attracted amendments like flies to honey and so bogged things down with supernumbers of amendments and filibusters and we could not get anything through.

I submit this. The congressional coverage bill and the S. 939, which is this bill expanded a little bit, were ready for floor action. We could not get them out and get them taken up because there were authorization and appropriations bills that still had to be dealt with. So we put them over to this year.

What happened this year? Well, what happened in committee the other day was: We submit the bill in committee 1 day, we want markup the next day, and passage on the floor the next day. We tried in the committee to make amendments to the bill—good amendments, substantial amendments, genuine things we had concern about—and we were told no, we cannot have that. We will have a party-line vote—and we did. They came out as party-line votes on a number of amendments and we were told that, no, we will take those up on the floor. We will be able to take up any amendments on the floor.

What happens when we get to the floor? There is no report along with this. We tried to vote that in committee and get a report. We could not get it. Senator BYRD, to his credit, brought this up on the floor and insisted that we have it. That delayed this. It delayed things for quite some time.

We have not been the only ones delaying things. I submit the amendment of Senator GORTON yesterday afternoon took up about, what, 3, 3½ hours, I believe. So that was on the other side of the aisle, as far as the delay goes.

When we came out on the floor, then I—I am a sponsor of this bill. I am part coauthor of this bill. Parts of it, S. 993, we worked on last year. So I am a proponent of this. I want to see this get through. But when we say we are going to put things on such a fast track that all the rules are going to be set aside and we are somehow going to just bring this out on the floor and we will all agree to it, we cannot accept that over here. I think due process on something that is changing——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, I yield the Senator 1 more minute.

Mr. GLENN. When we have something as important as this bill, which I think is truly landmark legislation—this starts defining the new relationship that is going to exist from here on, as opposed to what has existed since the days of Franklin Roosevelt and the Federal programs that came in when local communities and States could not take care of their own problems. That set of rules and that set of legislation that has gone through all these years now is going to be reversed.

Will the States pick this up? Will they pick up the responsibilities they either did not or could not assume at this time? I think we have to see on that. But this is the first piece of legislation that really starts defining that new relationship, and as such it is going to be effective for a long, long time. I think to hustle it through because somebody set an artificial 100-day limit or whatever it is, I think just is not realistic.

I hope we will not vote cloture so we can consider this bill and make it as good as we possibly can. It is going to be around for a long time, affecting Federal-State relationships for a long period of time.

I thank my friend from West Virginia for yielding time.

The PRESIDING OFFICER. Who yields time? Who yields time?

The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I yield 1 minute to the chairman of the Governmental Affairs Committee.

Mr. ROTH. Mr. President, as chairman of the Governmental Affairs Committee I want to urge my colleagues to support the cloture motion. I cannot emphasize too much how critically important this legislation is. What the American people want is action and not merely talk.

Let me point out, as far as this piece of legislation was concerned last year, 993 was not held up by the then-minority side. It was a fact that amendments were offered from the majority side, amendments that were not relevant to the legislation before us that prevented consideration of this bill. In fact, the then-minority sought unanimous consent that this legislation be considered without amendment, but that proved impossible because of the action on the other side.

The PRESIDING OFFICER. The Senator has used 1 minute.

Mr. KEMPTHORNE. Mr. President, I yield another 30 seconds.

Mr. ROTH. But, as I was saying, the important thing is for us to move ahead. The public, I might say every level of State and local government, have supported this legislation and have asked that we enact this legislation as quickly as possible, without major change. This is true of the Governors' Association, the legislatures, the mayors, the county commissioners.

Mr. President, I urge we act on this legislation and for that reason I hope cloture is voted in the immediate future.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. BYRD. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, Senate rules do not require that amendments be germane except under rule XVI dealing with appropriations bills. We are hearing all this hue and cry the last day or so that some of the amendments are not germane. I hope Senators will continue to offer amendments that they feel will improve the bill, remembering that amendments that were not germane have been offered many times by those now in the majority when they were in the minority. There is no Senate rule against nongermane amendments, except under cloture, under rule XVI, and when barred by unanimous consent.

Mr. President, I have no doubt we will see a solid party-line vote on my right. Our Republican friends are going to vote solidly. If minority rights mean anything in this body, I hope that the minority will stand up for its rights. We are in the minority and the American people—talk about what the American people want—the American people want to know what is in this bill. They also want their Senators to know what is in the bill. They want their Senators to take the time to understand it.

We are not up against a fiscal year deadline or an adjournment sine die or a deadline that the debt limit has to be raised. This is not an emergency bill. It does not provide moneys for earthquakes or other disasters. This is a bill that is up here on the 19th of January and we have all this rush to go to immediate judgment.

What is in the bill that the majority is afraid of? Why not put it under the microscope? Why not give it the strongest scrutiny? That is what we owe to the American people. We also owe it to ourselves.

So, Mr. President, I am not concerned about a Contract With America. Here in my hand is my contract, the Constitution of the United States. And I have some constitutional questions about this legislation.

Our forebears in this Senate did away with ''the previous question.'' They have provided for us, since the year 1806, no ''previous question'' in the rules, no immediate shutting off of debate.

We have the cloture rule and we are given an opportunity to shut off debate. I hope we will not shut off debate on this measure until we can have some votes on amendments that the minority feels are important. We have that right and we ought to demand it.

I know that my good friend on the other side——

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. BYRD. I will take 1 more minute.

I know the majority leader on the other side, BOB DOLE—he is my good friend. I am fond of him. But he probably thinks we are going to fall apart here in the minority. We have a duty to stand up for the rights of the minority and the rights of the American people to understand what is in this legislation before we buy into it.

I hope every Member of the minority will show some guts and stand up for the people's right to know. That is what this is all about. What is all the rush? We have plenty of time.

It is only the 19th of January. Let us take the time to understand what we are voting on.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia has 37 seconds and the Senator from Idaho has 27 seconds.

Mr. KEMPTHORNE. Mr. President, in summation, may I just say that this vote on cloture does not close off debate. It says we will now have 30 hours of debate but the amendments will pertain specifically to the legislation before us. That is what the American people would like. They would like us to deal with unfunded Federal mandates. Our partners are in the public and private sector. There would be 30 hours of debate on amendments specific to S. 1. That is what the American people are asking for. We are prepared to deliver.

I yield the remainder of my time.

Mr. BYRD. Mr. President, this bill does not even take effect until next January. Why can't we take a few more days here and have a closer look at this legislation that is included in the so-called ''Contract With America?'' I may favor the final bill. It does not take effect until January. We have plenty of time, and if the minority has any spine, any steel in their spine, and fire in their bellies, they will stand up against this effort to stampede and run over the minority. It was done in the committees. It is being tried on the floor. Now is the time, Mr. President, for the minority to take a stand on behalf of the people's right to know.

I thank all Senators.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the question is on agreeing to the amendment of the Senator from Michigan, amendment No. 143. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

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

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

[Rollcall Vote No. 26 Leg.]

YEAS—99

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

NOT VOTING—1

Johnston

So the amendment (No. 143) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Democratic leader.

Mr. DASCHLE. What is the pending order of business?

The PRESIDING OFFICER. Under the previous order, we would go into the cloture vote.

Mr. LEAHY. May we have order, Mr. President, so the Democratic leader can be heard?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Mr. DASCHLE. Mr. President, I would like to use a couple of minutes of my time, if I could, to talk about the pending vote.

Mr. DOLE. Mr. President, may we have order, so the distinguished leader can be heard?

The PRESIDING OFFICER. Senators will take their seats.

The Senate is still not in order.

The Democratic leader.

Mr. DASCHLE. I thank the Chair.

Mr. President, I will not delay the vote very long, but I want to make a couple of points, if I may.

The vote that we are about to cast is not a vote on the bill, nor is it a vote on a filibuster. There is no filibuster occuring at this time. In fact, many of us on this side of the aisle support the intent of this legislation and very much want to work with our colleagues on the other side in an effort to achieve a resolution to this bill at some point in the not too distant future.

There essentially are two issues that relate directly to upcoming vote. The first issue relates to the process of considering this bill.

There appears to be a rush on the part of the Republicans to pass this legislation. It was rushed through committee. Amendments offered by Democrats were defeated on a party-line vote. We were told in committee, both in the Budget Committee as well as in the Committee on Governmental Affairs, that we would have the opportunity, ample opportunity, to consider amendments here on the floor. And thus the bill was rushed through two committees in the course of a few days.

The bill was then rushed to the floor. Despite objections by our Democratic colleagues, the decision was made by the Republicans not to file committee reports. Ultimately, reports were filed after the fact, once the bill had been brought to the floor. Now, we are about to vote on cloture, having only disposed of three Democratic amendments.

And, I might say, those amendments were agreed to overwhelmingly. I do not know that there was a negative vote on any of the amendments that were offered on our side. There was one nongermane Republican amendment on which we spent more time than all of the three Democratic amendments put together.

Yesterday, I offered to the distinguished majority leader a list of specific amendments, a finite list of amendments, that we would like to have considered. We discussed the possibility of considering his list and our list. Despite our efforts to reach an agreement, and, as is his right, he chose to go forward with the cloture petition we are voting on today.

The problem is simple. If cloture is invoked today, there are many Democratic amendments, relevant amendments, amendments that ought to be considered, amendments that in good faith we have offered in committee and again now on the floor, that we will not be allowed to offer. I am very concerned about that.

Under this bill, as it exists, future legislation designed to protect people from age discrimination could be held up by the procedures established by this bill. We have had assurances from the other side that they would like to correct this. Yet the distinguished Senator from Michigan has tried now on several occasions to correct it, to no avail.

The distinguished Senator from Ohio, the ranking member, would like to offer a substitute. If cloture is invoked today, he will not even be allowed to offer a substitute—a bill that is very similar, if not identical, to the bill that was passed on the floor last year.

If cloture is invoked, we will not have the right to offer relevant amendments that, in some cases, may not be germane to the bill. We do not know.

As every Senator knows, there is a difference between relevancy and germaneness. There are a number of relevant amendments that will be precluded from consideration by the Senate if cloture is invoked. That is the first issue.

The second issue is a much larger one. The second issue relates to something our Republican colleagues certainly appreciate, and that is the rights of the minority—the right to be heard, the right to offer amendments, the right for them to be considered as we raise these issues one by one on the Senate floor. That issue is at stake here today.

All we want is an opportunity to be heard and for our amendments to be considered in a meaningful way. That is all we are asking.

Again, let me reiterate, this is not a filibuster. Ultimately, I hope that on a bipartisan basis, we will have a vote on this bill. I hope our colleagues on the other side of the aisle will take into account our sincere intention to proceed ultimately to a vote on this bill, vote ''no'' on the cloture motion, and allow us to offer our amendments.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Was leaders' time reserved?

The PRESIDING OFFICER. It was.

Mr. DOLE. Mr. President, I appreciate what the distinguished Democratic leader has had to say. It may not be intended to be a filibuster, but this is their fifth day. We spent 5 days on the bill before that that took the House 1 hour and 20 minutes to pass on congressional coverage. That was not intended to be a slowdown either, but we had all these amendments.

The next amendment is not germane. It has to do with catalogs; nothing to do with unfunded mandates. It has nothing to do with this bill, but we will spend probably 2 or 3 hours on that.

We spent about 4 hours yesterday on violence at abortion clinics. Nobody quarrels with that, but it has nothing to do with this bill. We spent most of the afternoon either in recess or negotiating what to do with that amendment. It was not germane, not even relevant to this bill.

I am a very patient person. Of course, you have to be a little patient in the Senate, because there are certain things you cannot do. You cannot just say, ''Well, that's it. It's over. Move on to something else.''

We have a letter signed by a number of Governors supporting the cloture motion today. They know what is happening. The American people know what is happening.

We are on the 11th committee amendment. Generally, it is routine to adopt all the committee amendments. We are on No. 11. We have had votes of 99 to zero, 98 to 1, wasting time with votes of this kind on amendments that ought to be accepted. Anything to take up time. Anything to delay this process. A bill that everybody supported on that side of the aisle last year suddenly has become very controversial because we have had a change of management, apparently.

But I notice that Governor Dean from Vermont, Governor Thompson, and Governor Nelson of Nebraska all suggest that we ought to move ahead with this bill and support the vote on cloture.

Mr. President, I ask unanimous consent that that letter be made part of the RECORD. It is signed by at least 20-some Governors in both parties.

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

U.S. CONFERENCE OF MAYORS, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL CONFERENCE OF STATE LEGISLATURES, INTERNATIONAL CITY MANAGEMENT ASSOCIATION, NATIONAL GOVERNORS' ASSOCIATION, NATIONAL LEAGUE OF CITIES,

January 18, 1995.

To Senators Not Cosponsoring S. 1, The Unfunded Mandate Reform Act of 1995:

We are writing to urge your support for S. 1, legislation that will relieve state and local governments from the burdens of future unfunded federal mandates. As you know, the bill is pending on the Senate floor. The first few days of consideration have been plagued by parliamentary delaying tactics and ongoing, unlimited debate. To expedite action on pending amendments and final passage of S. 1, Senate Majority Leader Bob Dole filed a motion to invoke cloture on January 17 and a vote is expected on January 19.

As the elected leaders of State and local governments, we strongly urge your support for the Senate Majority Leader's motion to invoke cloture to allow Members to proceed with consideration of amendments and final passage of S. 1, Senator Dirk Kempthorne's mandate relief bill.

Again, thank you for your support. The collective members of our organizations stand ready to assist you in any way we can to ensure the immediate passage of this important legislation.

Sincerely,

Howard Dean, M.D., Governor of Vermont; Chairman, National Governors' Association.

Tommy G. Thompson, Governor of Wisconsin; Vice Chairman, National Governors' Association.

George V. Voinovich, Governor of Ohio; Co-Lead Governor for Federalism, National Governors' Association.

E. Benjamin Nelson, Governor of Nebraska; Co-Lead Governor for Federalism, National Governors' Association.

Victor Ashe, Mayor of Knoxville, Tennessee; President, U.S. Conference of Mayors.

Norman B. Rice, Mayor of Seattle, Washington; Vice President, U.S. Conference of Mayors.

Richard M. Daley, Mayor of Chicago, Illinois; Chair, Advisory Board, U.S. Conference of Mayors.

Jane L. Campbell, Assistant Minority Leader, Ohio House of Representatives; President, National Conference of State Legislatures.

James J. Lack, Senator, New York State Senate, President-Elect, National Conference of State Legislatures.

Michael E. Box, Representative, Alabama House of Representatives; Vice President, National Conference of State Legislatures.

Carolyn Long Banks, Councilwoman-at-large, Atlanta, Georgia; President, National League of Cities.

Gregory Lashutka, Mayor of Columbus, Ohio; First Vice President, National League of Cities.

Sharpe James, Mayor of Newark, New Jersey; Immediate Past President, National League of Cities.

Randall Franke, Commissioner of Marion County, Oregon; President, National Association of Counties.

Doug Bovin, Commissioner of Delta County, Michigan; First Vice President, National Association of Counties.

Michael Hightower, Commissioner of Fulton County, Georgia; Second Vice President, National Association of Counties.

Carl S. Nollenberger, Chief Administrative Officer, Duluth, Minnesota; President, International City and County Management Association.

Mr. DOLE. Now, I assume that if it is a party-line vote, we will not get cloture. Maybe not today; maybe not tomorrow; maybe not Saturday. I do not know when we will get cloture.

If the other side of the aisle, the minority, is sincere about amendments, why not give Members a list? We were negotiating yesterday about 38 amendments. We got a list last night of 78 amendments. We thought we were going to cut them down. We doubled it, and added two for good measure. There are 117 amendments filed at the desk, and there has been cloture invoked.

We can do trimming on this side, too; we have too many amendments, 30. That is a total of 108 amendments. The way we are grinding along, we would not finish this bill before the Easter recess, or there would not be any Easter recess. Nobody is in a hurry to pass this bill. They do not want to do it before the President gives a State of the Union message.

I say, Mr. President, we have been trying to be helpful on Mexico, and we have heard a lot of silence on the other side of the aisle. But Mexico comes up right after unfunded mandates, after it is completed, if it is a week from now or 2 weeks from now. That is up to the President of the United States and the Democrats in Congress. Maybe it is not important to anybody there. This is important to the President, and we have made a commitment to the President to try to be helpful.

However, it is fairly difficult for me to stand here as a Republican leader to try to help the President of the United States and the other party, when the other side in this Chamber has done everything they can to prevent a vote on unfunded mandates.

Call it what you will. I have learned a lot about delay. In fact, we taught a course in the last 2 years. We got A's, good grades. We stopped a lot of things. So I am not here to suggest we should not do it, because we have not used the rules, because we have. I have learned—I forget most of it—but everything I learned, I learned from my friend from West Virginia, Senator BYRD. He knows more than all of us put together, which is dangerous, in a way.

I asked him for advice before I talked to him. Can I do this or can I do that? I do not want to be embarrassed, and I know he would not do that.

In any event, I just suggest as the Republican leader that I know that we want to accommodate our friends on the other side of the aisle. So if there is an effort to give Members a real list of relevant amendments, maybe we can do business. But do not give me a list of five amendments for this person, five for this person, everybody take five. We had 78. Give me a list of relevant amendments, relevant to this bill, and germane amendments. I bet they would not total over 15 or 20. We will do the same on our side of the aisle, and maybe by 2 or 3 p.m., we will have it down to 30 amendments. Then we might do business. But not with 100 or some.

We may never get cloture, but we will continue to try. Maybe the Governors and the mayors and the county commissioners and the taxpayers of America will understand, maybe not today, maybe not tomorrow, maybe not next week, but sooner or later, we need to pass this bill. There are not that many amendments. We will have every nongermane, nonrelevant amendment anybody has ever thought of. They are cleaning out their wastebaskets trying to find amendments.

We are prepared to do business. We urge our colleagues on both sides of the aisle to support this cloture motion. That will reduce the number of amendments drastically, but they would all be relevant. They would all be germane to this bill. They would be important amendments. We will probably spend an hour and a half or 2 hours on the catalog amendments. We spent an hour last night. It has nothing to do with this bill. So we are a little bit frustrated. The American people are frustrated.

We promised the American people we would listen to them, and we have not listened to them. We listened to everybody else. The American people want Members to pass this bill. The Governors, Democrats, Republicans, mayors, commissioners, you name it, want the Senate to pass this bill. We are not going to do it because the minority party says, ''No, we don't want to do it.'' There is no hurry; we do not normally do work in January.

This is not a normal year. We are trying to deliver on the message the voters gave us last November, all of us on both sides of the aisle; not just Republicans.

However, if we are thwarted from our effort to deliver, they will not blame us. So we will stand here every day, at every opportunity, and tell the American people why we could not pass unfunded mandates. Two days would have been plenty for this bill; 2 days.

So I hope we will invoke cloture and move on to pass this bill, and then try to accommodate the President's wishes on Mexico, and following that, the balanced budget amendment.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on S. 1, the unfunded mandates bill:

Bob Dole, Dirk Kempthorne, Don Nickles, Connie Mack, Trent Lott, Thad Cochran, Alfonse D'Amato, Al Simpson, Strom Thurmond, Pete Domenici, Ted Stevens, Bill Cohen, Christopher S. Bond, Frank Murkowski, Jesse Helms, Spencer Abraham, Bob Smith, Larry E. Craig, Mike DeWine, and Bill Frist.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the bill, S. 1, the unfunded mandates bill, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Louisiana [Mr. JOHNSTON]. If he were present and voting, he would vote ''no.'' If I were permitted to vote, I would vote ''yea.'' I, therefore, withhold my vote.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

On this vote, the Senator from Rhode Island [Mr. PELL] is paired with the Senator from Louisiana [Mr. JOHNSTON].

If present and voting, the Senator from Louisiana would vote ''nay'' and the Senator from Rhode Island would vote ''aye.''

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

The yeas and nays resulted—yeas 54, nays 44, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—54

Abraham	Faircloth	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McCain
Bond	Gramm	McConnell
Brown	Grams	Murkowski
Burns	Grassley	Nickles
Campbell	Gregg	Packwood
Chafee	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Helms	Santorum
Cohen	Hutchison	Shelby
Coverdell	Inhofe	Simpson
Craig	Jeffords	Smith
D'Amato	Kassebaum	Snowe
DeWine	Kempthorne	Specter
Dole	Kyl	Stevens
Domenici	Lott	Thomas
		Thompson
		Thurmond
		Warner

NAYS—44

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	

NOT VOTING—1

Johnston

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, for

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, as an original cosponsor of S. 1, the Unfunded Mandate Reform Act, I rise in strong support of this legislation.

The unfunded mandate reform bill is not only important in its own right, but it is also important to ensure that the balanced budget amendment to the Constitution—an amendment which I believe will be approved by the Senate and House of Representatives in the coming weeks—will be implemented as the American people intend.

The ideal balanced budget amendment would do more than just require a balanced budget. It would, in my view, limit Federal spending as well as the ability of the Federal Government to impose unfunded mandates.

As the Washington Times editorialized recently, ''the real problem,'' referring to the budget deficit, ''is lawmakers' dipsomaniacal spending habits. This is what we must control, one way or another.'' The Times went on to note my balanced budget/spending limitation amendment Senate Joint Resolution 3, which includes an explicit spending limitation, saying, ''this version has obvious appeal—it is simple and straightforward,'' and, as such, that ''a spending limit may do the job better than a tax limit.''

Mr. President, I would assert that a spending limit is more than just ''simple and straightforward.'' Whether or not a spending limitation is included in the balanced budget amendment, the only way to comply with a balanced budget requirement will be to limit Federal spending.

Some will no doubt argue that tax increases must be part of the solution. But I believe that, if they were, the budget would be balanced by now. We have had record-setting tax increases in 1990 and 1993. The cold fact is, however, that tax increases do not work—

will not work—because tax increases ultimately change people's behavior. Higher tax rates discourage work, production, investment, and savings, so there is less economic activity to tax and less revenue than expected to the Treasury. Lower tax revenues, on the other hand, encourage people to work, produce, save, and invest, so more revenue flows to the Treasury as a result of increased economic activity.

As pointed out in a column which appeared in the Wall Street Journal in March 1993 by W. Kurt Hauser, a member of the board of overseers of the Hoover Institution, ''no matter what the tax rates have been, in postwar America tax revenues have remained at about 19.5 percent of gross domestic product.'' Hauser went on to write that, ''if history is any guide higher taxes will not increase Government's take as a percentage of the economy.''

Hauser's observation is borne out in President Clinton's last budget, which reported revenues fluctuating around a relatively narrow band of about 18 to 20 percent of GDP for the last 40 years. That is despite tax rate increases and tax cuts, bull and bear markets, and Presidents of both political parties.

Over that same period, Federal spending has risen from 17.8 percent of GDP in 1955 to more than 23 percent in 1991 and 1992, and now stands at about 22.5 percent.

It is Federal spending that is the problem. Congress spends too much, and it will never be able to balance the Federal budget until it constrains spending. With that reality in mind, I believe the ideal balanced budget amendment to the Constitution ought to include an explicit spending limitation.

We will have that debate in the coming weeks. I suspect that the votes aren't there for an explicit spending or tax limitation in the balanced budget amendment, but as legislation to implement and enforce a balanced budget amendment is considered in the months ahead, I will vigorously pursue the issue.

Today, however, we are considering a second component of what it would take to implement what I consider to be the ideal balanced budget amendment. S. 1 represents the first step toward resolving the problem of unfunded Federal mandates. Without such legislation, a balanced budget amendment might merely encourage Congress to shift the burden of programs and policies it is unable to fund to State, local and tribal governments, as well as the private sector. That shifting of the burden is not what the American people intended when they overwhelmingly voted for change—and less government—last November.

Mr. President, I said that S. 1 represents a first step, a first step because it only applies to future mandates. It does not address the problem of existing mandates, which already impose a significant burden on State, local and tribal governments and the private sector. And, it is the burden of existing mandates that has so enraged the American people. I believe they care less about this Congress relieving them of future mandates which we have yet to conceive of or impose, than they do about relieving them of the burden they currently bear, the morass of Federal mandates and regulations that are strangling our economy.

According to the Clinton adminstration's own National Performance Review, the cost of private sector compliance with Federal regulations is at least $430 billion a year, or 9 percent of our GDP. Other economists believe the regulatory burden imposed on the private sector and State, local and tribal governments is between $500 to $850 billion per year, more than the amount collected in personal income taxes in 1994. Add to that the indirect and cumulative productivity losses from Federal regulations, and the annual costs could double.

Let me talk for a moment about some of the existing mandates, which are discussed in a superb report prepared by the Goldwater Institute in Arizona, a report aptly titled, ''Summary Orders from Distant Gods.'' Dr. Douglas Munro, in a preface to the Institute's report, characterized the problem of unfunded mandates very succinctly: that Federal mandating is rooted in the idea ''that the Federal Government's solutions to all problems are preordained to be superior to others.'' They are not.

In Arizona, for example, the Salt river is fully regulated and monitored—at State expense—to be in compliance with standards set by the Clean Water Act for fishing and swimming. That is despite the fact that the Salt River is usually dry for 50 of the 52 weeks of the year, and when it's running, people do not fish or swim in it.

Citing testimony before the Arizona State Legislature by the president of the Water Utility Association of Arizona, Paul Gardner, the Goldwater Institute reports that as many as 200 to 500 small water businesses in the State are expected to go bankrupt over the next 5 years as a result of the costs of testing for contaminants which are very rarely present. The director of the Arizona Department of Environmental Quality, Ed Fox, further testified to the problems faced by small water companies under the Safe Drinking Water Act [SDWA], noting that those small companies must test for an additional 25 or so EPA-selected pollutants every 3 years, regardless of whether or not any pollutants are ever found as part of the regular testing process. But, the access by those small companies to the funds necessary to conduct such testing is severely limited.

According to Goldwater Institute data, the State of Arizona will pay at least $184 million in direct, unfunded mandate costs. Add to this the $693 million that the State will spend to secure matching grants and the $145 million in maintenance of effort requirements, and the result is about $1.2 billion, or 15 percent of Arizona own-source revenue is directly tied to Federal directives.

Probably the largest portion of costs to the State of Arizona—49.5 percent of the total—are associated with the provision of services to, or incarceration of, undocumented aliens. This, of course, is not the result of a Federal mandate per se, but rather the Federal Government's failure to adequately perform its responsibility to control the Nation's borders. That, in effect, has the same effect as an unfunded Federal mandate. That the Federal Government does not do its job foists additional costs on other levels of Government to fill the gap.

According to the National Conference of State Legislatures [NCSL], there are now 192 operative legislative mandates, an all-time high. The overall cost of mandates to the State, local and tribal governments is hard to pinpoint, but a report by the NCSL put estimates at between $15 and $500 billion. Price-Waterhouse reports aggregate fiscal year 1993 costs for just 10 mandates—mainly environmental—at over $54 million for just the 4 Arizona cities of Gilbert, Phoenix, Scottsdale, and Tucson.

I would emphasize, as the Arizona Republic did in a January 11 editorial, that resolving the problem of unfunded mandates does not ''mean, say, that environmental regulations would not be approved. Just that Congress will have to prioritize its spending to fund them.''

Most of what S. 1 addresses relates to mandates imposed on State, local and tribal governments, but the burden of unfunded mandates is borne by the private sector as well. S. 1 merely requires reporting of the costs to the private sector of future mandates. It does nothing to make it harder for Congress to impose future mandates on the private sector except document their cost, nor does it require the Federal Government to help offset their cost.

That is why I believe S. 1 really represents just a first step. It is what is doable now, but bolder steps must follow to satisfy the public's demand for real change, for relief from the crushing burden of Federal mandates and regulations.

If the Federal Government's solutions to problems were indeed superior, then the Federal Government should be willing to back those solutions, those mandates—future as well as existing mandates—with the funds to implement them. That Congress has not, at least until now, been willing to fund the mandates it imposes on State, local and tribal governments, or the private sector, illustrates that either Congress has found a convenient way to elude budget constraints while still imposing its will on others, or that it does not believe the mandates are important enough to back them with Federal dollars.

Responsible budgeting is a matter of prioritizing. If the functions that the

Federal Government mandates on others are truly important, then they should be of high enough priority to warrant a commitment of Federal funds to pay for them. Congress and the President must be constrained in the amount of taxpayer dollars they are able to commit, either directly or indirectly in the form of unfunded mandates. That is the essence of responsible budgeting, and indeed responsible government.

Mr. President, we should support S. 1 now and immediately go to work to protect the private sector from Government mandates and determine effective ways to end inappropriate existing mandates on State, local and tribal governments and the private sector.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise to make a couple of comments about some of the discussion that was held prior to the last vote on the floor of the Senate. I am uncomfortable leaving that discussion where it was left.

It is interesting how, in the Senate, two different views of the same picture produce two different descriptions of where we are. This is a very important piece of legislation. Reforming unfunded mandates is not a small undertaking. This bill, which would substantially change the way that the Congress has behaved in recent decades, is not a small issue or a small matter.

Many of us believe that this legislation should move forward. And it will. It will with the votes of many of us on the Democratic side of the aisle, I am convinced. But we are told that at this moment on this side of the aisle Members are engaged in tactics to delay, to stall—dilatory tactics, some say.

Let me again review where we are and why. It is the intention of some to move this legislation very, very quickly for their own reasons. The Committee on Governmental Affairs had a markup on this almost immediately when Congress reconvened. We were told in the committee that it was the intention of the majority to move this legislation to the floor without substantive amendments—and they did that. The majority assured us that amendments could then be offered on the floor. But S. 1 came to the floor from two committees, and the committee reports that were appropriate to go with the bill were not made available.

The Senator from West Virginia very properly indicated that they ought to be made available and that we ought not consider this legislation until they were. Dilatory? Hardly. He was simply asking for the sort of information we would expect as legislators.

When the reports were made available, a good many of us had amendments available to be offered on the floor of the Senate. Have we been able to offer those amendments? No, unfortunately not.

It seems to me that we will break this impasse when those who bring this legislation to the floor say all right, we are ready to entertain your amendments. Offer them, debate them, and let us vote on them. Those are the assurances we were given in the committee when this legislation moved out of the committee.

I know some who have responsibility to run the train want the train to run on time. But others who are on the train want to understand which train it is, which track it is on, and where it is heading. These days, with all the reform ideas and new ideas, and, yes, some nutty ideas that are bouncing around the Halls of the Congress, I think we ought to at least slow down the train enough so we understand exactly what we are hauling and where we are headed.

Will we see legislation one of these days that provides for the nutty idea of providing tax credits to the poor to buy laptop computers? If it is in legislation, I hope it comes through here slow enough so I can see it and flag it.

Or the new idea from the Heritage Foundation, that maybe we ought to charge admission for the American people to tour the Capitol? That is a novel, nutty idea—let us charge people to tour the building they own?

It is one thing to try to run the train. It is another thing to want to do things right. This legislation in my judgment is going to pass and be signed into law by the President of the United States. But I find it ironic that the ranking member, Senator GLENN, who has been one of the coauthors of this legislation, who has amendments to offer to this legislation—even the ranking member now finds that we do not have time. Gee, we are stalling because we want to offer amendments.

I have great respect for my friend, the Senator from Idaho, who I think has done excellent work on this subject. As I have indicated before, this is a meritorious subject for us to be considering. In the end I hope to vote with the Senator from Idaho because I believe in the unfunded mandates bill. In fact, I helped write some of it during the last session. Some of the language I helped write with respect to the private sector is in this bill. But I say to those who are concerned about timing, I say to those: Let us do it. Open the bill up, allow us to offer amendments, allow us to debate the amendments, and allow us to vote on amendments and we will be through in my judgment.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. DORGAN. But if the process is going to be let us do this in a way so when we offer amendments you second-degree them all, if we slam-dunk this bill—I am sorry, that is not the way this body works. Senators have certain rights. We have the right to offer amendments and we want them voted on. I would especially say on behalf of my colleague—I am sure the ranking member will say this on his own behalf—we have the right to do that and we intend to exercise that right. At the end, I think this legislation will be better legislation and will ultimately pass this Congress.

I will be happy to yield to my friend.

Mr. KEMPTHORNE. I appreciate it very much.

Mr. President, I would like to reiterate—I appreciate what the Senator from North Dakota has said and also the leadership he provided in constructing many of the provisions in this legislation, in particular helping the private sector.

But I want to assure the Senator that invitation is there. I have repeatedly been offering that invitation to please bring your amendments to the floor, let us deal with them.

One of the impediments, apparently, is we have not been able to get through committee amendments yet. But yesterday and the day before I have been calling Senators on both sides of the aisle encouraging them, saying, I know you have an amendment that affects this legislation, and while I may or may not agree with it, please bring it to the floor now. Let us put it before the desk, and let us debate it. But again there have been other impediments.

Mr. DORGAN. I appreciate that. The Senator from Idaho operates in good faith, as do almost all of our colleagues, and understands the rules very well. I was here yesterday. I could not help but hear someone complain recently about nongermane amendments. We spent 4 hours yesterday on the amendment offered by Senator GORTON on this legislation. So it is all in the eyes of the beholder.

I was also here yesterday most of the day when Senator BOXER wanted to offer her amendment and finally got it, I guess, after 10 hours. I would simply say I have a couple of amendments. I would love to offer them very soon and have a debate and an up-or-down vote. If the Senator from Idaho is willing to let me do that, let us do that this afternoon. I am willing to agree with respect to time limits on my two amendments. I expect most other Members on the Democratic side of the aisle would say yes, give us the opportunity to have our amendments brought up and debated. And we will be plenty happy to do that. I know the ranking member, Senator GLENN, wants to speak on this as well. But that is all we ask for at this point.

Mr. KEMPTHORNE. Will the Senator yield? I would just say that I will take the Senator up on that offer.

Mr. DORGAN. I will be here.

Mr. President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. GLENN. Will the Senator yield?

Mr. BUMPERS. Yes. I will be happy to yield.

Mr. GLENN. Mr. President, I support this legislation. I know the necessity for it, and I want to see this legislation go through. I wanted to see its predecessor last fall go through, S. 993, also.

That got caught up in all the things we recall all too well of last fall when there was delay after delay after delay on the floor. And I would say, had there not been that kind of delay, perhaps we would have had time to bring up not only the congressional coverage bill that we finally got through this year, but also S. 993, and we would not have to be dealing with those matters in this particular Congress.

But more to the point right now, with all due respect, the statement was made that if cloture is invoked, we would still be able to offer amendments on the bill because we would have 30 hours of debate. But you go under a different set of rules, Mr. President. Different rules apply once cloture is invoked.

After cloture is imposed only germaneness amendments can be offered. The meaning of germaneness is not the same as you may look up in your office or look up in your home in the Webster's definition of ''germaneness.'' The ordinary meaning of germaneness would mean ''basically relevant.'' It has a technical meaning here in the Senate under Senate custom and Senate judgment of what that means. That is far more narrow than the word ''relevant.''

For example, if I were to offer an amendment to S. 1 that would expand CBO's responsibilities under the bill, which is basically what would happen if I tried to introduce S. 993, even though we all approved of that, 67 cosponsors last fall to S. 993, certainly that would not be relevant because, compared with the current legislation we are considering, S. 1, it would expand a little bit the CBO's responsibility.

So the definition under Senate rules is that it would not be germane because it expands that responsibility of the bill being considered. That would be the case if we went under cloture.

There are many Democratic amendments to this bill, ones that we wanted to offer in committee that would improve the bill and would have made it better coming out on the floor. Those were defeated in the committee by a straight party-line vote.

Let me say this. In committee I made a prediction. I said that if we did not take that up, take the relevant amendments up and try to make this as good a bill as we could to come out of committee, when it hit the floor it would attract other amendments like ''flies to honey.'' I think that was the term I used. That has proven true in this case beyond anything that even I foresaw when I said that over in the committee room the other day.

What we have had now, this being the first couple of bills out, the congressional coverage and now this bill, S. 1, this is the first opportunity that people have to offer amendments on the floor. Under Senate rules they can offer those amendments. Cutting off debate, invoking cloture on this, would mean that a lot of those amendments would no longer be germane, would no longer be germane and could not be offered.

Ordinarily, you may say that is OK. But the problem is we were not permitted to offer amendments in committee that would have improved the bill and some of them under cloture would be ruled nongermane now. So that is the reason that I voted to not invoke cloture just a few minutes ago.

I think this has been pointed out. The message of last November, I think, can be construed in a lot of ways. I think if you ask any two people out on the streets, you are liable to get three, four, or half a dozen answers from even two people. But I think there was no message that said we wanted to return a bill that is as important as this legislation.

I have said repeatedly that I believe that this is landmark legislation. We are literally changing, starting with this bill to make the first major changes in processes that have been in place in our Government for over the last 60 years, since the days of Franklin Delano Roosevelt. In those days the communities and States had lost control of being able to control their own destiny. Communities no longer were able to really do what had to be done to take care of the people in their communities. They lost control.

So for the first time the Federal Government came in and said, if States and local communities cannot do that, the Federal Government will play a role. So a lot of the programs that have developed over the last 60 years, many of which went to excess, many of which should not have gone to the excess that they went to—and I am the first to agree with that—but they filled a role that the States and local communities were not able to fill back in those days of the Great Depression. You remember the ''Okies'' heading west with the mattress on top of the car or whatever. Those States and local communities could not do the job. Did the Federal role then go too far? It may have; probably did.

This legislation is landmark in that for the first time now we say that we want to start putting some of those responsibilities back to the States and local communities. They are now able to do many of these things, and we do not need to do it from the Federal level. That is an enormous change, going in an enormous difference of direction.

While I am for this bill as a way of setting up a framework to say that we in the Congress, as a first step, are forced by our procedures here by a point of order to consider the costs up front and vote on it, if the demand is made, we will be forced to take cognizance of the costs up front. And then it does not say in this legislation that we have to furnish the money or the mandate will never be there. It says we have to consider it and have an outline of the money there to vote on it. And then we can even still say by vote of the Senate, yes, States, you do it; we are not providing one nickle. But it would be a conscious up-front acknowledgment of the cost and then the vote, and we would say, yes, it is going to be good for the future of this country, for everybody, and that is it. States still have to do it. But we would be forced to take this into account up front.

That has been carefully crafted in this bill. It means that we could no longer act as in the past where we just pass something and say, States, take care of it. We are sure you guys can handle it.

There are a lot of things now the States cannot necessarily handle. There are a lot of examples of that. I gave some the other day. I live in Grandview, OH, a suburb of Columbus, a part of greater Columbus. The mayor, who was chairman of the National Council of Mayors for a while, has done a real study in Columbus. They have estimated that just 14 major environmental mandates, between 1991 and the year 2000 will cost the city of Columbus $1.6 billion, not the biggest city in the country; $1.6 billion. Obviously, if you multiply that by all the different cities in the country, there is no wonder the mayors and Governors are concerned about this whole problem.

So the point I am making is it is a mammoth problem. We for the first time are reversing the trend of the last 60 years. And the point is we had better do this very carefully in making sure that as many of these problems as can be worked out with regard to this legislation had better be worked out in advance and right here on the floor and not under the pressure of a cloture vote that would cut off debate after 30 hours.

I do not think that is fair. I do not know what the majority leader's plan would be if cloture is invoked. But one of his options is to run 30 hours right on the bill, right around the clock, and that is it. What gets in gets in and what is not gotten in at that point is out.That might be the way he would do this. I would not want to see that kind of pressure brought on what I view as landmark legislation. We were denied in committee the right to make those changes. I think technically, from the Republican side, frankly, that was a mistake because it removed the debate to the floor and did attract amendments like flies to honey, as I said in the committee room the other day. That is what happened on this particular piece of legislation.

Unfortunately, when you go under cloture, you foreclose not just the extraneous amendments, but a lot of good amendments that might not be worked in during that time period of 30 hours, which is all that is permitted after the vote.

I do not want to delay this. I want to see this legislation get through. But after having lived 60 years with the buildup of things being provided from the Federal Government, I do not think it is too much to ask that we have the opportunity, for just a few

days, to make sure we work our way through this. If we do not have cloture, is it still in order for other amendments to be brought up—which I wish would not be brought up, too—but is it legal under Senate rules? Yes, unfortunately, it is.

Unless cloture has been invoked, the germaneness rule is not applicable in the Senate as it is in the House. It is the right of any Senators on the floor here to bring up whatever amendments they want to. I would rather work through it that way, even though we may have to deal with a lot of things that people consider are not germane to the bill. I would rather do that and make sure everybody is dealt with fairly and where everybody that has a legitimate concern about this bill has an opportunity to get their corrections and their amendments in. I would rather see that happen and take the extra time to do it, to make sure this landmark legislation, which literally is changing the direction or starting to change the provisions of what the Federal Government role has been over the last 60 years, is fully considered. We better do that very, very carefully, or we will find States and local communities out there still that are not able to cope with this. We will find that our first moves are not satisfactory at this. I want to do this carefully.

The rush, it seems to me, has been pushed by the fact that somebody set up an artificial 100 days to do great and wondrous things. It may be fine to try and match that to the days of the New Deal where they, too, had there 100-day priority that Roosevelt had back then. We are supposedly having another 100 days to reverse some of that.

I think we better be very careful with this, and that is the reason I did not support the move to filibuster.

I know the Senator from Arkansas has basically been waiting. I appreciate his yielding to me. I wanted to put that into context before we had any offers of other amendments.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Arkansas is recognized.

AMENDMENT NO. 144 TO AMENDMENT NO. 31

Mr. BUMPERS. If I may continue on what the Senator from Ohio was saying, I am not a signatory to the contract. I was not asked to sign it, and, of course, would not have signed it had I been asked. It does not apply to me. What applies to me is to do what I think is best for the country and to make certain that these bills are not rammed through here before people who have legitimate interest in them, and who want to improve them, have an opportunity to do so.

I have never seen a time when the Senate, for the most part, was not better served when it slowed things down and forced the Members of this body to think about it, rather than to do what was political.

Last night, the senior Senator from Maine came over and said, first of all, he did not know I was going to bring the amendment up. He said he was at home and did not know it was coming up. Let me say to the Senator from Maine and everybody else, I am not in the habit of calling people, particularly people I think are going to be opposed to my amendments, to tell them when I am going to bring up an amendment. Nobody has ever done that with me, and I do not do it to anybody else. The way this works is, you hang around here until legislation and amendments are offered, and if you have an interest in them, you go over and talk on them.

The Senator from Maine also talked about ''business as usual,'' ''gridlock,'' and that my amendment was ''nongermane.'' Let me make a couple of observations on that. Surely he has not forgotten that in the 103d Congress Democrats had to file, or vote on, 72 cloture motions—72.

Senator, after the Republicans brought this place to a standstill time and time and time again last year, and you won overwhelmingly on November 8, we decided we will try it if it works that well. Maybe in the election in 1996, people will reward us.

Mr. COHEN. If the Senator will yield, I assume the Senator from Arkansas is saying he is going to engage in the delaying tactics you think brought victory to the Republicans; is that what he is saying?

Mr. BUMPERS. I am saying that we have a perfect right to offer our amendments, and we are not going to be shut out if we can keep enough discipline to keep 41 votes in the saddle.

Mr. COHEN. I would agree with that. If we had a vote on cloture, the Senator's amendment would be ruled to be nongermane.

Mr. BUMPERS. The Senator from Maine and I both know that the germaneness rule in the Senate will take down almost any amendment. The Senator from Maine thinks my amendment is not germane. Let me just cover that for a moment. The Senator might want to be seated because I am going to wax eloquent here for a while.

Mr. COHEN. Well, he is going to wax.

Mr. BUMPERS. I am going to wax eloquent. I hope the Senator from Maine will pay close attention, because what I am talking about makes eminent common sense. Last night, somebody said on the floor of the Senate: ''Call your Governor and see how he or she feels about this mandate bill. If you call your Governor, your Governor will say: Please vote for the Kempthorne bill.''

I have a sequel to that: Call your Governor and ask him how he wants you to vote on the Bumpers amendment. All but about eight of them will say: Please, for God's sake, support the Bumpers amendment.

Every single Republican will vote the way their Governor wants them to on the first, and not one single Republican will vote the way the Governor wants them to vote on my amendment.

When it comes to gridlock, we are pretty good students. We have watched the other side bring this place to a standstill time and time again. I do not want to bring it to a standstill. I want to vote on this. But one of the reasons I am not for cloture is—and it is not just my amendment, there are other amendments that will make this a better bill—the debate might dress it up to the point that I would vote for it. But when it comes to germaneness, how many times have you heard Senators stand on the floor of the Senate and make these great speeches about what a terrible burden the Congress places on the States, cities, and counties? Here is an amendment that would help the States to fund those burdens. It does not require a State to do anything.

So what happened? Because the Supreme Court says this is a burden on interstate commerce which only Congress can authorize, the burden of collecting the tax now falls on the person who buys the merchandise. Forty-five States have laws now obligating consumers to pay taxes on merchandise bought out-of-state.

I think the State of Arkansas collected $10,000 last year. There is not 1/1,000th of one percent of the people in Arkansas that even know that bill is on the books.

In 1992, the Supreme Court said only Congress can permit a State to require out-of-State companies to collect the use taxes on goods they ship into the State. That was the case of Quill versus the State of North Dakota. The Court said, such a collection requirement no longer violates the due process clause and, although such a requirement imposes a burden on interstate commerce, Congress has the right to determine whether that burden will be allowed.

So if Congress wants to give the States the discretion—not the mandate, but the discretion—of requiring people who ship merchandise into their States to collect sales tax, Congress can do so. That is what the Bumpers amendment will do.

Last night, the junior Senator from Maine said, ''Let the States decide.'' She ought to support my amendment. That is precisely what I am saying—let the States decide.

Where are all these States righters now? Everybody is talking about what a terrible burden Congress imposes on the States, and here is an amendment that says we are going to give the States discretion. And this amendment will not get a single Republican vote—not one.

The sum of $3.301 billion is what the Advisory Commission on Intergovernmental Relations says this could give the States. This is the amount of money they could use to deal with landfills. I mean, after all, the 7,500 mail-order houses in this country contribute 3.3 million tons of garbage in

catalogs alone. There are places in this country where it costs $100 a ton to dispose of that stuff. And what is their contribution to the State? Not one thin dime. And it is not just 3.3 million tons of catalogs. It is also those packages that your merchandise comes in. That has to be disposed of, too.

This mail-order business is growing like Topsy—$100 billion a year. L. L. Bean in Maine is the second biggest mail-order house in the country, headed for $1 billion in 1995. I am not criticizing the Senator from Maine; if I were from Maine, I would probably be making the same speech he is making.

But let me ask you this simple question: What if, instead of $100 billion of retail sales a year, these mail-order houses represented about 50 to 70 percent of all the sales in this country and not one dime of sales tax or use tax was collected? How would you educate your children? Who is going to pay the policemen, the firemen? Who is going to take care of the landfills?

Wal-Mart, KMart, they have made their contribution, to the shuttering of Main Street. These mail-order houses are making their contribution, and they do not pay anything. And my amendment does not say they have to. It simply says, ''Governor, if you and the legislature think they should, you can have that right.''

That is what this amendment says. It is just that simple.

Mr. DORGAN. Will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. DORGAN. As I understand it, the Senator is offering a proposal that does not involve a new tax of any kind.

Mr. BUMPERS. The Senator is absolutely right.

Mr. DORGAN. The Senator indicated, when I walked in the Chamber, that the question of whether this is a taxable kind of circumstance is not changed by anything he would propose. If someone makes a major purchase from a mail-order catalog somewhere and that item is shipped to them, they have a responsibility, under most State laws, to pay a use tax. The fact is almost none of it is ever paid and almost none of it is ever collected.

As I further understand the Senator's amendment, he is not suggesting that a State must do one thing or the other. He would simply change the law to comport with the Supreme Court decision in the Quill case that says the State will have the opportunity. This is an interstate commerce clause issue and the States are now prevented from the opportunity of making their own decision. The Senator would simply remove that prevention and say, ''Give the States the right to decide.'' That is what I understand the Senator is doing.

I might say that I offered a piece of legislation like this in the House of Representatives when I was a member of the Ways and Means Committee. In fact, we voted it out of the subcommittee. Then it looked to me like it was snowing in July, because the mail-order catalog companies began blizzarding the country and Capitol Hill with postcards, sending postcards out, asking people to sign them and send them in saying, ''This is a proposal that would increase taxes.'' Of course, it was simply untrue. No one was proposing that, least of all myself.

So I understand, when you raise this issue, it has not snowed yet this winter in Washington, DC, but it may because literally millions of cards can be generated quickly by those who are engaged in this business.

My own view of it is they perform a real service and many of them offer some wonderful products and the American people ought to be able to take advantage of it.

I would only view it, when they come into a State to do business, that they simply be required to subscribe to the same kinds of burdens and obligations other people who are now doing business in that State must meet every day.

So I think the Senator from Arkansas is making some good points. And I do think that we need to underscore that you are not suggesting a new tax—that has nothing to do with this proposal—nor are you requiring or suggesting the States must do anything. Your proposal simply allows the States the opportunity to make their own judgments about certain tax obligations in cases like this.

I think the Senator's proposal is very worthwhile. I might suggest, if I were writing it—and I have written one in the past—a higher threshold than $3 million which, as I understand it, is the threshold. But that is a technical issue.

The fundamental issue the Senator is raising, I think, is right on point. I appreciate the fact that he is raising it today in the Senate.

I thank him for yielding to me.

Mr. BUMPERS. I thank the Senator for his comments. He was perhaps even more eloquent than I have been and said more concisely and clearly what I have been trying to say.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. KEMPTHORNE. I appreciate the courtesy of the Senator yielding to me. My question is only procedural. Would the Senator from Arkansas be willing to enter into a time agreement at this point, with time equally divided?

Mr. BUMPERS. Not yet. I am not trying to delay. I hope to be through here very shortly.I assume that the floor manager will wish to move to table. As I said, my design is not to try to impede the unfunded mandates bill. But 80 percent of the people who walk through that door when the rollcall buzzer goes off will not have a clue as to what this amendment is about in a sense that they fully understand. As the Senator from North Dakota has just stated, this amendment is discretionary. It does not require the States to do anything.

We have had 27 votes since we came back into session, and two Republicans defected on one vote. I do not expect any defections on this one. I am not anticipating a big vote. I am not anticipating prevailing, but this is an idea whose time, if it has not yet come, is coming.

The National Governors Association, the National League of Cities, National Conference of Mayors, and National Association of Counties, all have strongly endorsed this measure. I think we can conclude from that that we really do not care what people think unless it comports with what we think.

Now, Mr. President, last night, the senior Senator from Maine talked about what a burden this was. And I alluded to the fact that one of our very own Members, Senator BENNETT from Utah, was one of the founders of a business that ships catalogs of office supplies all over the country, over $200 million a year in business. When they started out they made a conscious decision to collect sales taxes for every State they shipped into that had a sales tax. He tells me that virtually one press of the computer button at the end of each month does the whole thing. They have never had a minute's problem with it.

Now, why would the States maybe want to do this? Forty-five States have a use tax right now, but it is on the consumer. If I bought a computer and it was shipped across State lines to me from a mail-order house, in 45 States I would be obligated to pay use tax on that computer. Most consumers do not know that, but now some States are beginning to enforce the use tax.

Let me show you something. Here in Indiana, some people are getting rather rude awakenings. People from the revenue department are knocking on their door and saying, we know that you bought something from Lands' End or whoever. You owe us the use tax on that out-of-State product. In 1993, 10,500 people in Indiana were assessed for unpaid use taxes; in New Jersey, 10,000 people; in Ohio, 7,100 people.

Some comment was made last night about Maine having this very unique thing on their tax return. Know what it is? I will tell you how unique it is. On your State income tax return in Maine it says multiply .0004 times your adjusted gross income and that is how much you will pay for mail-order purchases that you made last year. If I lived in Maine I would contest the constitutionality of that. I did not buy anything from a mail-order house last year so why should I pay the State of Maine a percentage of my adjusted gross income? Other States are doing different things to collect use tax to help them comply with all these terrible mandates we have been putting on them.

Somebody else says this is going to be a terrible burden on mail-order companies. I have already alluded to Franklin Quest, the company that Senator BENNETT started, and the fact that

Franklin Quest collects taxes in every State where they ship products. Look, I have about 50 or 60 catalogs here. This is a 1-week stock at my house. Here is Franklin Quest, Senator BENNETT's firm. Franklin Quest says, ''Add sales tax on the subtotal for all States except Alaska, Delaware, Montana, New Hampshire, Oregon, and Puerto Rico.'' Know why? Those States do not have a sales tax. So what does Franklin Quest say for the other 45 states? ''Add sales tax.'' Is that complicated? Of course not.

Here is CW. CW is located in North Carolina. They say, ''In California, North Carolina, New Jersey, and New York, add sales tax. In New York, add applicable sales tax to shipping and handling and express delivery charges, too.'' Complicated? Why, of course not. The reason they are saying add sales tax in those States is because they have a presence in those States. And that is all this amendment would do. If the State does not want to implement the legislation, it does not have to do so.

So, Mr. President, you must bear in mind, this is going to happen. It is just a question of when. The mail order business is burgeoning—L.L. Bean had a 17-percent increase in sales last year, whereas retail sales in the Nation were fairly static. You put all these mandates on the States and you say, ''We want a point of order raised on every issue as to whether or not we are fully funding this mandate,'' but I come in with an amendment on behalf of myself and Mr. GRAHAM, of Florida, Senators DORGAN and CONRAD, of North Dakota, Senator HARKIN, of Iowa—we come in here and offer a real bill to help States comply with mandates and they say, ''Well, that's not germane. It would be too big a burden.''

They say:

> Call your Governor and see how he wants you to vote on the mandate bill, but don't call him to ask him how he would vote on the Bumpers amendment. We don't want that. We want the Federal Government to belly up and pay all these mandates.

Mr. President, let me tell you, in closing, that I understand the concerns behind the unfunded mandates bill. I was a Governor in my State for 4 years, and we used to squawk continually about that bad old Federal Government, unless we were having a flood or a tornado. Did you see that cartoon in the Washington Post the other day, with the guy standing up on top of his house with flood waters up to the roof? Under the water you can see a sign in his front yard saying: ''Get the Government off my back.'' And he sees this boat from FEMA coming and says, ''Thank God the bureaucrats are coming.''

As I say, as Governor, Federal mandates drove me crazy sometimes. But I never hesitated to come to the Federal Government for help when I was Governor, and I usually got it. I am not one of these people who think Government is the root of all evil. Here is an opportunity for this place to stand up and do something responsible and reasonable and it will actually help.

I yield the floor, Mr. President.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Maine.

Mr. COHEN. Mr. President, the Senator from Arkansas kept at least part of his pledge. He waxed eloquent but not for his usual length of time. I am sure he has a lot more in store for us this afternoon, but I commend him for the enthusiasm with which he is pursuing his particular amendment.

First, let me clarify that this amendment is not about whether or not mail order purchases are subject to State sales taxes. They are. Every State, other than the four that have been mentioned, impose taxes on mail order purchases.

The issue at hand is the method by which these taxes are collected. Under the current law, States cannot force out-of-State mail order companies to collect taxes for them, and the reason is simple: There are over 6,000 different tax jurisdictions in the country, and once you account for all of the various State, county, local taxes, it would be absurd to expect mail order companies to know and understand every tone and nuance of these various 6,000 tax jurisdictions. Maine has a snack tax it imposes. I have a copy of the Bureau of Taxation document from the State of Maine. It is only a summary, but it takes some seven pages to explain just the exemptions. And every State has exemptions from their sales tax.

Here is the Maine regulation dealing with fruit baskets, for example. It says:

> Baskets or dishes filled with fruit or other grocery staples are not subject to tax. If the fruit basket is composed mostly of grocery staples, the addition of a minimal quantity of otherwise taxable items, such as a few small pieces of candy, does not affect the taxability of the fruit basket.
>
> If the fruit basket contains nonfood items of a significant value, the seller must either collect sales tax on the price of the basket, or else separately and reasonably account for the taxable and nontaxable portions and collect tax on the taxable items.

This is proposed amendment would certainly create a lot of work for tax lawyers and accountants who advise mail-order companies on tax provisions in Maine and every other State in this country.

So this is an example of what would happen if the Bumpers amendment were to become law. The problem is not the rate of taxation. It is 6 percent in Maine. That is simple enough to understand. The complexity is in determining what the tax applies to? And that is the kind of burden we would be imposing on all of these mail order companies. Are we going to expect a fruit basket company in California or Florida or Wisconsin to understand the intricacies of the sales tax, snack tax, of the State of Maine?

The mail order industry for years has said, ''Look, we are willing to work something out with the States in order to satisfy their problems.'' They simply ask that taxes be simplified so they collect one simplified, uniform tax and not be expected to hire an army of tax lawyers and accountants.

Second, I point out that about 30 percent of all these purchases through mail order are paid by check. So if the people involved incorrectly make out their check or miscalculate the tax due, the mail order company is put in a difficult situation. They then have to go back to the consumer and say, ''By the way, you miscalculated. Please send us another check.'' That would undermine one of the essential benefits provided by mail order companies—convenience.

The industry, as I indicated, and the revenue agencies in the States came very close to reaching an agreement in 1992. I respectfully suggest that they go back to the bargaining table to see if something can be worked out, but I think for the Senate to adopt this amendment would be a serious mistake. First of all, it is a tax bill. The Finance Committee has not held a single hearing on this issue—not this year, not last year or the year before. There has been no hearing before the Senate Finance Committee. As a matter of fact, I have a statement, which I will insert for the RECORD, from of the chairman of the Finance Committee where he indicates, ''Whether to require out-of-State companies sales taxes is a matter within the jurisdiction of the Senate Finance Committee.''

The chairman of the Finance Committee urges that we oppose the amendment offered by the Senator from Arkansas, at least until such time as the Finance Committee has an opportunity to examine this with some scrutiny.

I ask unanimous consent that the statement of Senator PACKWOOD be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. COHEN. I think it would be wrong and inappropriate for the Senate to pass judgment on an important matter that I believe deserves at least full-scale hearings before the Senate Finance Committee.

At a time when we are trying to put the brakes on the onslaught of regulations, the Bumpers amendment would in fact bring a new regulatory scheme on mail order companies. There is something in this particular amendment that caught my eye. Under this amendment, States requiring mail order companies to collect out-of-State taxes would be required to set up a 1–800 number.

It sounds to me like another unfunded mandate. And that is what we continue to do here. This is supposed to be a bill to reduce unfunded mandates. Yet this amendment appears to contain its own unfunded mandate.

The notion that mail order companies attract customers because they offer some great tax shelter is incorrect. I do not think people buy from L.L. Bean because they offer a great way to avoid taxes. They buy from L.L. Bean because they get a great product. They have great service. You call up and order something, or you mail in your order and often within 48 hours you have your product. They have a return policy that if you have a product you think is defective, whether you find it defective in 30 days or a year or 2 years or 5 years, you can return the product and have it replaced, no questions asked.

That is why L.L. Bean is so well renowned. That is why it is one of the biggest mail-order companies in the country. And that is why people order; not because they can buy a sweater from L.L. Bean and avoid taxes. As a matter of fact, if you buy a sweater and you have to pay the shipping and the handling charges, it will exceed any taxes you could save if you were inclined to avoid them. For the Senator from Arkansas to say only about 1 percent of the people of Arkansas even know that they have to pay a tax when they buy from out of State, the answer is why do we not simply educate the people or impose a collection mechanism like the State of Maine has where there is a presumptive amount of tax, based on your income?

Mr. BUMPERS. Will the Senator yield for one observation?

Mr. COHEN. Please wait until I finish my statement, and I will.

Now, I know that the Senator last night was bemoaning the plight of small shops on Main Street America.

I might say that what has probably done more damage to those shops on Main Street America is Wal-Mart. If you want to hear complaints from people about what has happened to mom-and-pop stores on Main Street, be it Bangor, ME, or elsewhere, look at Wal-Mart.

I do not fault Wal-Mart. I think they provide great benefits for consumers. We have one in Bangor, in Portland, and elsewhere. They do a very fine job. But they put many small businesses out of business. I simply want to make the point that this amendment is not about defending small town America or small mom-and-pop shops.

In her own statement to the Small Business Committee last year, a spokeswoman for the International Council of Shopping Centers, supporters of the Bumpers bill, said that retailers were happy to collect sales taxes because they ''realize that these sales taxes play an important role in financing important State and local services on which the shopping centers rely.''

So I would say, if fairness is going to be the issue, is it really fair to ask a company some 3,000 miles away to collect another State's taxes? Some would say no. The mail order industry, to its credit, however, has never said no. As I have pointed out, they have said: We are willing to reach an agreement with these State collection agencies, but let us make it a reasonable agreement. Do not expect us to calculate all the taxes and have different taxes and different exemptions, and figure out what Maine means versus Vermont or Massachusetts or Arkansas or California or Wisconsin or elsewhere.

The Senator from Arkansas suggests that this is really a small business bill. Well, last fall the National Federation of Business, NFIB, polled its members on the issue and found that 67 percent of the members opposed forcing mail order companies to collect out-of-State taxes, and I think it is probably the best window that we have into the soul of small business in this country.

If they oppose the measure so significantly, it is difficult to see how you can portray it as being helpful to small business. But that is debatable, I concede. That is debatable.

What I think is not debatable is to bring this tax-related amendment up on this bill. It is not germane to the bill. The Senator from Arkansas is correct. He has every right to bring it up under the Senate rules. But, if the Democratic response to what happened last November is going to be to stall legislation and think that holds the key to a Democratic victory in 1996, I suggest the Democrats have misread what happened in the elections.

I think the people want action to be taken. I think they want to have less regulation. I think they want to see both Houses of Congress move as expeditiously as possible. And if the Democrats' answer is, well, we are just going to stall this thing right into 1966, then I suggest there may be far more Republicans elected in 1996.

The success of Republican candidates in November not because Republicans were stalling in the 103d Congress. There was significant disagreement with the health care proposals that were coming before the bodies of this Congress. There was substantial reaction to what they saw as a massive centralization of the health care system in this country. And they saw a drift among Democrats away from the center back to the left.

That, in my judgment, accounts for what happened in November. And so if the answer of the Democratic Party is going to be to just simply slow everything down, to come up with whatever amendment they feel is important, no matter how relevant or germane to the bill at hand, then I suggest we are going to see a lot more Republicans in 1996 in the Senate and House than we did in 1994.

Mr. President, I yield the floor.

EXHIBIT 1

STATEMENT BY SENATOR BOB PACKWOOD ON BUMPERS' MAIL ORDER SALES TAX AMENDMENT

Whether to require out-of state companies sales taxes is a matter that comes within the jurisdiction of the Senate Finance Committee.

The conflict in this area is between states wanting to collect revenue, local merchants, mail order companies, like Norm Thompson and Harry and David located in my home state of Oregon, and consumers.

However, the conflict does not include the federal government. The American people want less government and fewer federal regulations. The unfunded mandates bill is directed at just this.

Currently, states collect their own sales tax without interference from the federal government. Ten states collect these taxes from consumers through a separate line on their state's income tax form.

For example, the State of Maine has found an effective solution for collecting mail order sales taxes. It included a default provision for these circumstances. If a taxpayer leaves the sales tax line blank on their income tax form, then the state automatically adds an amount equal to the average tax owed on out-of-state purchases. Maine calculates this amount at 0.0366 percent of the taxpayer's income. In other words, a taxpayer making $30,000 per annum would pay a tax of $11.00.

Obviously states are fully capable of dealing with the collection of their sales taxes without the interference of the federal government.

For these reasons, I oppose the amendment of the Senator from Arkansas.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I come here today to express my opposition to the amendment offered by my colleague from Arkansas [Mr. BUMPERS].

I would like to begin by noting the irony of our current situation; namely, that as we attempt to relieve the burdens imposed on State and local governments, we very well may, unless we reject this amendment, end up using the same legislation to impose new mandates on job-creating businesses across our country.

Mr. President, the proposed amendment would allow States to require companies that mail goods to their States to collect taxes on those goods. Under my colleague's proposal, mail order businesses would be saddled with the immense burden of complying with multiple sets of procedures and regulations, different tax rates, and various filing requirements. And in those instances where a State allows a company to collect local taxes according to a blended average local tax rate, consumers, in many cases, could end up paying more tax than they actually owe.

Mail order companies are part of a growing industry. They serve people who like the convenience of phone shopping or who are unable to leave their homes to shop. They also offer rural and small town consumers an unsurpassed variety of goods, many of which are simply unavailable in smaller markets. This industry also affords small specialty businesses, like the Pleasant Co. of Middleton, WI, the chance to grow into successful big businesses. And growing mail order business like Swiss Colony and Lands' End, also located in Wisconsin, account for 5

percent of U.S. employment or approximately 5 million jobs.

The last time that this measure was considered by Congress, over 500,000 mail order consumers wrote in to voice their strong objections to this measure. They did so because they are tired of the ever increasing mountain of federally mandated paperwork and taxes. I believe that we need to heed their message and move in the direction of eliminating, rather than increasing these burdens.

Moreover, Mr. President, I note that my colleague's proposal has not been reviewed by the Finance Committee. At a minimum—and certainly without presuming to speak for either Chairman PACKWOOD or Senator MOYNIHAN—I would urge my good friend to work with the Finance Committee to achieve a considered resolution to this matter.

In closing Mr. President, it is said that the only sure things in life are death and taxes. This amendment represents both: taxes for consumers and certain death—crushed under a load of tax rules, regulations, and requirements—for many mail order companies.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that there be 20 minutes further debate on the Bumpers amendment, equally divided, and that will be controlled by the Senator from Arkansas and the senior Senator from Maine; that prior to the motion to table—and at the conclusion or yielding back of the time Senator COHEN or his designee be recognized to make a motion to table the Bumpers amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, I must object to that at this point. Senator GRAHAM wants 10 or 15 minutes and I have 3 or 4 minutes of wrap-up I want to do.

Could the junior Senator from Maine give us some idea how much time she might wish?

Ms. SNOWE. Probably about 8 minutes.

Mr. COHEN. About 8 minutes.

Mr. BUMPERS. We would be willing to accept 20 minutes on our side and 8 minutes for her, which would be 28 minutes.

Mr. KEMPTHORNE. Mr. President, I again submit my unanimous-consent agreement: That we have 30 minutes, 20 minutes on the Democratic side and 10 minutes on the Republican side, at which point then Senator COHEN will be making a motion to table.

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

Several Senators addressed the Chair.

Mr. COHEN. Mr. President, I yield 8 minutes to the junior Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I think the amendment pending before the Senate today is an example of why we should have invoked cloture, because it is nongermane to the pending subject of unfunded mandates.

As has already been mentioned during the course of this debate, this nongermane amendment has not had a hearing from the committee that rightfully would consider it and is responsible for tax legislation—that is, of course, the Finance Committee. There was one hearing on this issue in the last Congress that was held in the Small Business Committee.

Last night I joined the Senator from Maine [Mr. COHEN] in opposing this amendment because it not only oversimplifies an issue that should be properly discussed and analyzed by the Finance Committee, but it also disregards the true balance that exists between the mail order companies and local businesses with the already tested options and the viable options that are available to States and mail order companies, and certainly the options that have been pursued already by the State of Maine.

There is nothing that precludes any State in America from collecting these taxes. We have already demonstrated that in the State of Maine. Taxpayers in the State have a choice. They either can pay a flat tax percentage of their income on their income tax return, or they can pay for the specific tax on their out-of-State purchases.

No one questions the veracity of the citizens of the State of Maine with respect to submitting that information on their income tax return. In fact, it is interesting to note that in the last 2 tax years in the State of Maine, we have collected more than $3.5 million on sales from out-of-State mail order companies or other kinds of purchases from other companies. So it can work. And it has worked. And it can work for other States as well.

What will be the impact of the amendment offered by the Senator from Arkansas? We have already held it is certainly going to exact more costs to companies. They will be required to contend with 46 sets of procedures and 6,000 different tax jurisdictions throughout the United States that will result in 6.5 times greater costs to the mail order companies in order to comply with this amendment. Who is that fair to? Should the consumer be denied a choice in ordering from a mail order company? No. I happen to live in a very rural State. People like to have choices in rural districts and they certainly should not be denied that choice. In Maine, taxpayers pay for those purchases by, again, placing it on their income tax return.

So it is not only going to result in more costs to the mail order companies, it is certainly going to result in lost jobs because of the increased costs in terms of compliance and increased cost in taxes.

Some have suggested a blended tax rate. Who is that fair to, since many of the taxpayers then will have to pay a higher tax rate and some a lower tax rate than they would already be required to pay? The industry has worked in the past, as Senator COHEN mentioned—they had worked out a tentative agreement. I think we should encourage such an agreement between the mail order industry and their associations and tax administrators and the tax commission, so that we can encourage that kind of resolution to this issue that would be fair and not onerous and not be applying greater costs in terms of taxes and administrative burdens on the mail order companies. That is only fair.

This is a very complex issue. It does deserve the benefit of consideration, of hearings, and of different perspectives. It certainly is going to result in more costs to the mail order companies. In fact—we have mentioned L.L. Bean. Their compliance costs alone would be at least $500,000 in order to hire additional workers for administrative, legal, and accounting costs.

So I do not think in the final analysis this benefits anybody. It does not prevent States right now from collecting this kind of tax.

I hope my colleagues here in the Senate will reject such an amendment because this deserves more consideration than this issue has been given here on the floor, in terms of the ramifications for not only the companies but also the consumers who live in the various States, who choose to make their purchases through mail order companies.

So I urge the defeat of this amendment and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield 12 minutes to my colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, the statement has been made that this is not a germane amendment. I suggest to the contrary, this goes to the very essence of why we are concerned about unfunded mandates. The basic concern is that the Federal Government has been imposing financial responsibilities on State and local governments without providing the means by which those responsibilities be discharged. What this amendment speaks to is enhancing the capacity of State and local governments to deal with those very responsibilities.

It is particularly germane in the context of what I think is going to be a surprise and disappointment to many of the supporters of this bill, of which I am one. That is that the legislation before us only deals with actions which will occur in the future. Those Governors and mayors and commissioners who have calculated the current cost of unfunded mandates to their States, to

their communities, run the potential of having unrealized expectations if they think we are about to do something in this bill that is going to lower that current cost of current mandates.

What we are doing with this amendment is providing some revenue to State and local communities so they can discharge their responsibilities, including those responsibilities which we have in the past imposed upon them without funding and for which we do not have any intention to provide funding under this legislation.

This goes beyond, however, an issue of appropriateness to some issues of basic fairness. A constituent of mine in Bonita Springs, FL, is named Joyce Maloney. In 1994, at the hearing before the Small Business Committee that was alluded to a few moments ago, she testified and she talked about one aspect of unfairness. She talked about how when she had moved into her new home in Bonita Springs, she and her husband wanted to buy some furniture and they went down to the local furniture stores, they looked at the furniture, looked at the prices. Then someone called them up and said, ''Could I come out and see you about possibly buying your furniture through a mail order house from out of State?''

In the course of making his presentation on the furniture he indicated to them that, ''Since the furniture was to be delivered to our home in Florida, no sales tax would be applied to the sales. Beside that, he told us, the delivery charge which you are paying will offset the sales tax that you will not be required to pay.''

Of course he was defrauding Ms. Maloney because she was responsible—not for a sales tax but for its exact equivalent, the use tax, upon her receipt.

In fact, she ended up being one of the people that the Florida Department of Revenue contacted about unpaid use tax on this large furniture order. Ms. Maloney received a bill from the Florida Department of Revenue for $226.26 for unpaid use tax. She was misled. She not only was taken away as a potential customer from the local business, but she ended up having to pay a tax, a use tax, the equivalent of a sales tax, which she had been led to believe would not be her responsibility.

I will just quote, before submitting for the RECORD the full text of Ms. Maloney's concluding paragraph:

> Mr. Chairman and members of the committee, it is time to correct this situation and bring about truth in the marketplace. I have no problem in paying sales tax that is due on any purchase I make. But what I despise is receiving inaccurate and fraudulent information regarding my obligation to remit sales taxes. It is time to shift the sales tax remittance burden from the consumer to the retailer so that everyone plays and pays by the same rules.

I agree with Ms. Maloney.

Mr. President, her letter also indicates the other major area of unfairness, and that is unfairness to the local retail community. It is very difficult for the small business person, whether they are selling furniture in Bonita Springs or whether they are selling men's garments in Hot Springs, AR, to compete when your competition starts by being able to sell 5, 6, or 7 percent below you because they are not being required to collect and remit the sales tax.

Why we would countenance a system that would allow that degree of inequality and unfairness in the marketplace is beyond me, except I know why we did it up until 1992. We did it because there was an assumption that under the U.S. Constitution, test of reach of one State to assess tax in another, it was unconstitutional and unconstitutional in a form that was not susceptible to remedy for a State to require an out-of-State mail order house to remit sales taxes on items sold.

But in 1992, in the case of Quill Corp. versus North Dakota, the Supreme Court held that States may not require out-of-State companies to collect use tax because to do so would impose a burden on interstate commerce. But the court went further by saying that Congress could authorize such a burden on interstate commerce, and that if it did so, States would then be allowed to make such collection.

So it has been since 1992 that the U.S. Supreme Court has extended to us the opportunity to do what Senator BUMPERS proposes that we do today. I hope that we will follow his leadership; that is, to authorize States, if they choose to do so, to utilize this new authority to apply their sales taxes to sales made by firms which solicit business within a State which mail items into the State but which today are not required to collect and remit the sales tax on those items.

Mr. President, this is not an insignificant issue. Senator BUMPERS has distributed the estimate of the Advisory Commission on Intergovernmental Relations on what the total potential additional revenue to the States and local communities would be from mail order sales using 1994 numbers. In my State of Florida alone, it is estimated that $168.9 million of sales currently is not subject to our State sales tax because they are sales from out-of-State mail order houses selling into the State of Florida. That $168 million would go a long way to funding the mandates that the Federal Government has made on the State of Florida and its communities, for which there will be no compensation under this legislation; $168 million would allow the State to better meet those standards of expectation which the Federal Government has set in transportation, in law enforcement, in environmental protection, and in a whole array of areas in which we have seen fit to impose these burdens on States and communities.

I believe that this is an extremely important and germane amendment. It speaks to fundamental issues of fairness and to our responsibility as the Federal Government to treat fairly our partners in government at the State and local level, and more importantly, to treat fairly our citizens, citizens whether they are the small merchants trying to survive in an increasingly competitive market or whether they are the misled purchasers, the Ms. Maloneys of America, that they would also be treated fairly.

This will provide to our communities a greater capacity to be able to accept the obligations that we have forced upon them in the past, and will continue to apply to them whether this underlying legislation is adopted or not.

For those reasons, Mr. President, I commend the Senator from Arkansas for his commitment, his wisdom, and his tenacity in advocating this position. I urge my colleagues to follow his leadership.

Thank you, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. First, Mr. President, let me thank very sincerely my distinguished colleague, Senator GRAHAM, for his very fine statement, very accurate statement, and very heartfelt statement. Like me, he is a former Governor. He understands precisely what we are talking about.

Mr. President, I ask unanimous consent that Senators GRAHAM, DORGAN, CONRAD, and HARKIN be added as original cosponsors.

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

Mr. BUMPERS. Mr. President, let me address one of the things the Senator from Maine, Mr. COHEN, said about 6,000 different tax jurisdictions in the country. Our bill would involve only 45 different tax rates because it provides for a blended rate within each state.

As for the exemptions on food, which the State revenue department of Maine told the Senator would be an impossible chore, I want to point out to you that I believe the biggest seller of food by mail order houses in the country is Harry and David. They ship fruit and they ship nonfood articles. What do they say on their order form? ''Please add sales tax. See page 2.'' Page 2, ''Sales tax information. We collect State and local taxes on all nonfood items delivered to the following States.''

Then they have stars and asterisks, and so on. They have about 30 States listed here. Then, down below, it says, ''These States also require sales tax on all candy items.'' Illinois requires 1 percent tax on all food items. Then there is a pound mark. ''These States require sales tax on all items.''

If Harry and David can handle it with one hand behind them, why is that such a big impediment?

The truth of the matter is that is just another smokescreen. The truth of the matter is, there is absolutely no trick to it. Otherwise, dozens of companies would not be doing it. If the Boy Scouts of America can collect sales tax

on their catalogs, surely L.L. Bean and Lands' End can.

Then, Mr. President, bear in mind, there are 7,500 mail-order houses in this country. My amendment would exempt all with sales less than $3 million a year. So there are no mom-and-pop operators that are going to suffer under this amendment. How many does that leave? It leaves 825, and 6,675 are exempt under my amendment. We have a 1–800 number for every State revenue department so any catalog house that has any question can call toll free to the States and find out what they are supposed to do, if they have any question.

The Senator from Maine has very appropriately raised the question about what Wal-Mart—which he knows well is in my home State. We are proud of them. We have a lot of billionaires in Arkansas, and we are proud of every one of them. But I will tell you what Wal-Mart does. They collect sales tax. They collect sales taxes that go to the local schools and other purposes. Their sales in 1994 were over $100 billion, and they collect sales tax on every dime of it. You see, Wal-Mart alone does about the same amount of business that all these mail-order houses do. And the big difference is Wal-Mart is a good citizen, collecting taxes to keep the schools going, to keep the fire department going, to keep the police department going, to keep the landfill going. And many mail-order companies collect nothing.

It is an elemental question of fairness. I have letters from all over the United States. Here is a woman I happen to know, Debbie White, Benton, AR. It says: We have ''a small retail furniture business. I have personally lost individual sales in my area for $15,000 to $20,000. They go out of State. They come in here and pick out what they want and they go to the catalog and order it. We support the schools. We have the merchandise here that they can feel and touch. We carry a big inventory and we employ nothing but Arkansas people. We lose thousands of dollars of business every year to people who pay nothing.''

Here is a letter from a little 75-year-old woman in Portland, TN, Mr. President: ''I buy several hundred dollars' worth of mail-order merchandise per year. I am 75 years old and can no longer drive to the city to shop.'' She said she knows there are a lot in her situation. ''Since I have always tried to be a law-abiding citizen, I added up all my records—because the other day I found out that our State has a tax that I am supposed to pay on anything I buy from a mail-order house.'' She said she once ordered many Christmas gifts through catalogs. She said, ''I believe it is the duty of the mail-order companies to collect sales taxes due just as other stores and grocers do. Modern computers certainly make it easy for them.''

Here is a letter from a man in Hilton Head, SC. Just briefly, paraphrasing, he says: ''We bought thousands of dollars' worth of North Carolina furniture to furnish our new home in South Carolina because we were told if we bought it in North Carolina and had it shipped in, we would not have to pay any sales tax. So we went up to North Carolina and bought all this merchandise and what happens? Four years later, we got a letter from the South Carolina Department of Revenue, saying we have to pay sales tax on this, and because of the penalties, it cost us $700.''

I ask unanimous consent that all three of those letters be printed in the RECORD at this point.

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

WHITE FURNITURE CO.,
Benton, AR, January 19, 1994.

Senator DALE BUMPERS,
Dirksen Building–229,
Washington, DC.

DEAR SENATOR BUMPERS: I want to make you aware of an unfair tax situation that has been occurring for years in the furniture business. For quite some time we tried to ignore this, but when you see or hear the results every day of the week you have to finally stop and take notice.

My family has a small retail furniture business in Arkansas. We have paid taxes in the same small town for years. Now we have customers who are being educated by advertisers to shop their local retail stores for model numbers and prices—then call North Carolina and order and avoid paying our state sales taxes.

I have personally lost individual sales in my area for fifteen to twenty thousand dollars. We have found that the larger sales are the ones that people do out of state because of the high percentage of tax.

I'm not crying about the prices; I would just like to have a level playing field. We service our clients with free delivery; we furnish the showrooms where they can touch and feel the merchandise; we finance the merchandise locally, and we employ Arkansas people to sell and deliver the furniture.

Last year NBC did a travel segment and, on over 200 stations across our country, showed people how to take their vacations in North Carolina, shop while they are there and save enough in sales tax to pay for their vacation. Then CBS did a week long special on ''Good Morning America,'' devoting one day to furniture, one to cars, and another to clothes, etc.

I don't know about the other 49 states, but I do know that our state could use the revenue from those lost sales taxes for our schools, roads, and local government.

I will be proud to support you in any effort you can make to help our state collect these unpaid taxes.

Thank you.

DEBBIE WHITE.

PORTLAND, TN,
September 8, 1994.

Senator DALE BUMPERS,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BUMPERS: When I moved from Nashville to a small town a number of years ago, I discovered the convenience of mail-order buying. I buy several hundred dollars worth of merchandise per year. I am 75 years old and can no longer drive to the city to shop. I know there are probably thousands in my situation.

Several months ago I heard on our local news that people purchasing goods from mail order catalogs must pay State sales and use tax on these items. That was news to me. I, and I know many others, have always thought that merchandise purchased outside our state was not subject to sales tax unless such a vendor had a store within our state.

Since I have always tried to be a law-abiding citizen, I added up from my records all purchases made in recent years, figured the sales tax, and mailed a check to the State Department of Revenue. But what about those many people who still do not know they are liable for these taxes? This situation makes it unfair to those who are paying.

I once ordered many Christmas gifts from catalogs. Now I am inclined to send money to my out-of-town relatives, avoiding the hassle of tax-record keeping.

I believe it is the duty of mail order companies to collect sales taxes due, just as other stores and grocers do. Modern-day computers certainly make it easy for them.

I understand you are working on legislation to correct this situation. I hope you will succeed.

Sincerely yours,

MAMIE R. WILLIS.

HILTON HEAD, SC,
September 12, 1994.

Hon. DALE BUMPERS,
Chairman, Committee on Small Business, U.S. Senate,Washington, DC.

DEAR SENATOR BUMPERS: While on a trip to North Carolina a few years ago, my wife and I visited a furniture store to look for items for our winter home in Hilton Head, South Carolina. As you are no doubt aware, North Carolina is the furniture center of America. People come from all over America to buy furniture in North Carolina, drawn by word of mouth and various means of advertising.

As we shopped at one store in High Point, my wife and I found a number of furniture pieces that we were interested in buying. While considering the purchase, we were told by the sales staff that if this furniture were delivered to our home in South Carolina, no sales tax would be collected. This represented a savings of several hundred dollars, and became one factor in our decision to make the purchase. Subsequently, we concluded the purchase agreement, and the furniture was delivered to our home in South Carolina a short time later.

Approximately four years after making that purchase, we were surprised to receive a letter from the South Carolina Department of Revenue informing us that the furniture we had purchased in North Carolina was subject to South Carolina's use tax. (South Carolina had learned about the purchase when North Carolina audited the furniture company and shared the audit information with South Carolina.) In addition to the 5 percent tax, we owed interest and penalties because we had failed to pay the tax promptly. On our furniture purchase of some $10,000, the total amount we owed for tax, interest and penalties was approximately $700.

As you can imagine, we were shocked and upset at this news. We had no idea that we owed tax on this purchase. Like most consumers, we were accustomed to having sales taxes collected at the time of purchase, and it seemed odd to expect the customer to know when, where and how much tax to pay. And because the furniture salesman had told us that no tax would be ''collected,'' we assumed that no tax existed.

I am not complaining about the tax itself. I certainly do not enjoy paying taxes, but had we known about this tax at the time of purchase, it wouldn't have been so bad. In that case, we could have considered the tax

as part of the cost of the transaction and then made an informed decision about whether to make the purchase or not. Indeed, it's quite possible that we would still have bought the furniture. But we were blindsided. We were led to believe that there was no tax, then told four years later that there was a tax. That simply is not fair.

The worst part of this situation is that we were expected to pay interest and penalties. As I told the South Carolina Department of Revenue, I felt that this was particularly unreasonable since we didn't even know we owed the tax—and they didn't know we owed the taxes for four years. In the end, I won half the battle: they agreed to waive the penalties, but we still had to pay the interest.

I understand that the State of South Carolina cannot control what North Carolina merchants tell their customers. But the United States Congress can and should do so. I urge you to pass legislation immediately correcting this situation so that other consumers do not have the same bad experience we had.

In my opinion, you should require merchants who ship goods to other states to inform those customers that taxes may apply. The disclosure should be in writing, and the customer's signature should be required. Any merchant who fails to give the disclosure should have to pay 50 percent of any penalties or interest that occur. I believe this would discourage companies from failing to share important information with the consumer.

Thank you for the opportunity to share my thoughts with you on this issue. I hope that you will move quickly to ensure that other consumers aren't misled the way my wife and I were.

Sincerely,

JOHN DIX.

Mr. BUMPERS. How would you like to be Debbie White? She also sells wallpaper. How would you like to be Debbie White, paying State sales taxes, privilege taxes, every tax under the shining sun the State can impose on you, working just to keep your head above water, and have somebody walk in and take your time for an hour looking through wallcoverings, and they walk out saying nothing, and suddenly you realize that they saw this ad that said: ''Shop in your neighborhood, write down the pattern number, and then call us.''

Who here thinks that is fair? Or here, a boat company. I put a letter in the RECORD last night where a woman and her husband in the boat business in California spent all kinds of time and thousands of dollars trying to make a $250,000 boat sale. After spending all that money and time trying to sell this boat, the customer says, ''Thank you very much for your time, but we have just discovered we can go to Oregon and buy this boat and keep it out of the State of California for some prescribed period of time and bring it here and save ourselves $19,000.'' And here, what does this boat company's ad say? ''No sales tax added outside of North Carolina.''

Who here thinks this is fair? Not one. Not one. I would love to debate this, as I did before the National Governors' Conference last year. I think there were seven Governors in that room who objected to this—the Governor of Wisconsin and others who have big mail order houses in their states. This amendment, I promise you, will provide more relief, by far, to the States than the mandates bill ever will. The problem with the mandates bill is, by the time we debate a point of order on every single bill we pass in the future, that is all we will have time to do. You talk about gridlock. You wait until these points of order start being raised.

Mr. President, when Senator PRYOR and I were Governors, we used to condemn the Federal Government for its mandates. If I were Governor today, I would condemn the Federal Government for not passing this amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Maine controls 4 minutes 3 seconds.

Mr. COHEN. Mr. President, I was intrigued with the comments made by the Senator from Florida. He indicated that this was an important subject matter. He said it was not an insignificant issue. I agree. That is precisely my point. This is not an insignificant issue. This is something that deserves a hearing before the appropriate committee.

He also said that $168 million in Florida is not subject to sales tax. I do not believe that is correct. It is subject to a sales tax. The State has a right to collect it from its citizens.

As my colleague from the State of Maine has indicated, 10 States now, since the Supreme Court decision, have adopted statutes that impose a collection burden upon their own citizens. Other states can do the same. It is not unreasonable to ask the States to educate their own citizens somehow, perhaps with a notice with their income tax forms saying ''If you have made purchases out of State, mail order or otherwise, a sales tax is owed.''

The Senator from Arkansas said, ''If Harry and David can handle the sale of candies and sweets through interstate commerce, why cannot everybody else?'' I say, what about Thelma and Louise? Harry and David may be able to do it, but maybe the smaller companies cannot. That is the problem with this approach. Again, this is why a thorough hearing before the Senate Finance Committee is necessary.

I quoted earlier from the Senator from Oregon, chairman of the Finance Committee. He said:

Currently States collect their own sales tax without interference from the Federal Government. Ten States collect these taxes from consumers from a separate line on the State's income tax. Obviously, States are fully capable of dealing with the collection of their sales taxes without the interference of the Federal Government.

Mr. President, if Mrs. Maloney was defrauded, she has a legitimate complaint. But we ought not paint the entire industry with the same brush. No reputable mail-order company is out there willfully defrauding their customers.

But again, those are serious matters that deserve to be fully aired before any legislation is adopted. The Senator mentioned his testimony before the Governors' Conference, and I respectfully say to him he should bring his debate before the Finance Committee. That is the appropriate jurisdiction to argue the merits and equity and seek a proper resolution of this issue, not with an amendment to an unfunded mandates bill that we are currently considering.

For those reasons, Mr. President I move to table the amendment of the Senator from Arkansas and I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator yield back his remaining time?

ADDITIONAL COSPONSOR

Mr. COHEN. Before yielding back my time, Mr. President, I ask unanimous consent to add Senator DOMENICI to the bill that I introduced earlier this morning, the health care fraud bill.

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

Mr. COHEN. I yield back the remainder of my time.

The PRESIDING OFFICER. Time has been yielded back.

Mr. COHEN. I renew my motion to table the amendment and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine [Mr. COHEN] to table the amendment of the Senator from Arkansas [Mr. BUMPERS]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

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

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—73

Abraham	Feinstein	Mikulski
Ashcroft	Frist	Moynihan
Baucus	Glenn	Murkowski
Bennett	Gorton	Murray
Biden	Gramm	Nickles
Bond	Grams	Nunn
Boxer	Grassley	Packwood
Breaux	Gregg	Pell
Brown	Hatch	Pressler
Burns	Hatfield	Reid
Campbell	Helms	Rockefeller
Chafee	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Jeffords	Shelby
Cohen	Kempthorne	Simpson
Coverdell	Kerrey	Smith
Craig	Kerry	Snowe
D'Amato	Kohl	Specter
Daschle	Kyl	Stevens
DeWine	Lautenberg	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Exon	Mack	Warner
Faircloth	McCain	
Feingold	McConnell	

NAYS—25

Akaka	Bradley	Bumpers
Bingaman	Bryan	Byrd

Conrad	Hollings	Pryor
Dodd	Inouye	Robb
Dorgan	Kennedy	Sarbanes
Ford	Leahy	Simon
Graham	Levin	Wellstone
Harkin	Lieberman	
Heflin	Moseley-Braun	

NOT VOTING—2

Johnston	Kassebaum

So, the motion to lay on the table the amendment (No. 144) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, let the RECORD show that we have now completed action on another nongermane amendment. We had a cloture vote at 12:15. So we have consumed half the day on a nongermane amendment. We have not had a germane amendment yet to this bill. We are on the fifth day. If anybody can tell me with a straight face that they are serious about passing this bill on the other side, then I would be happy to entertain such thought.

We are not getting anywhere with this bill. We are getting calls in our office from mayors and county commissioners and Governors: ''Why won't you pass this bill?'' I am prepared to pass the bill. We are prepared to listen to real amendments. We have not had any real amendments. Then we get some nongermane amendment and took an hour last night and 2 hours today—3 hours on an amendment that does not even belong on this bill.

So I guess the question is, are we going to have any real amendments or are we going to continue this game of nongermane, nonrelevant amendments just so we can eat up the time and suddenly just let this bill go away, I guess.

But, again, I urge the President of the United States, who supports this bill, maybe to call some of his colleagues and say, ''Why don't you pass the bill?'' The Governors want it, the President wants it, Democrats, Republicans. Why do we have to have 78 amendments? What is wrong with the U.S. Senate? Why can we not move?

My view is the American people, whether they are watching or not, know what is happening—nothing; nothing is happening. If it is not going to happen today, it is going to happen tomorrow, it is going to happen Monday. It is going to be late, late, late tonight, late, late, late tomorrow night, if we have to go through the amendments one at a time and waste 3 hours on a nongermane amendment. If we cannot get time agreements on some of these amendments, that is fine; we understand the game that is being played. The American people do not, but they will before it is over. This is day No. 5, and we have yet to have a germane amendment to this bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, with great respect, let me rise to clarify what I think the situation is. We had a Levin-Kempthorne amendment this morning. As I understand, it was germane. If people are now coming to the floor offering their nongermane amendments, in part it may be because they are worried about invoking cloture and again not having the ability to offer amendments, whether they are relevant or germane or not.

But I will say again to all of my colleagues that we are prepared to work through the pending amendments, maybe in some cases come to some time agreement, whittle away some of the amendments that may not be necessary. I have already been able to get an agreement from some of our colleagues that they will not offer some of the amendments that were on the list that I presented to the distinguished majority leader yesterday.

So let there be no mistake, this may be day five, but this was only the fourth or fifth amendment that we have had the ability to debate.

So I hope that we can continue to work away in good faith on these amendments. I hope that before the end of the day, we might again have another list which will give both the majority leader and myself the opportunity to see where we are realistically and certainly move ahead with this legislation. There is no one on this side who does not want a vote on final passage at some point on this bill. We simply want our ability to offer amendments and to raise legitimate concerns protected.

I hope we can work together to accomplish that. I know we can. And I hope that in the not-too-distant future, we can find an agreement and ultimately come to some meaningful conclusion of this legislation.

Several Senators addressed the Chair.

Mr. DASCHLE. I yield to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I will propose maybe a different line here. Last year, we brought out S. 993, and for reasons we are all familiar with and I will not go back over again, we were not able to get it through last year. It was a good bill. We worked on it very hard. Senator KEMPTHORNE had taken the lead on that and did a terrific job in putting that together. I worked with him. We brought it out of committee.

We had 67 cosponsors, I will tell the majority leader. On S. 993, we had 67 cosponsors, and I think almost all those people would still be available if we proposed S. 993. That was supported by the big seven groups of State, local, and county officials, and so on. Under cloture, I guess there might be a germaneness rule against that only because our provisions in that bill for CBO had some additional requirements that S. 1 does not now have.

S. 1 was to be an improvement over S. 993, but what it does basically is it changes some of the ways the points of order are administered. But S. 993 is still a basic bill, a little simpler than this. It still would draw major support on our side. I would think we could get an early vote on that. Maybe that would be one option here.

Let me just add while we have the majority leader on the floor that I said in committee that I hope we could consider all these different things that would improve S. 1 in committee because when we got to the floor, it was going to draw amendments like flies. I did not know how true that was going to be.

But maybe going back to S. 993 would be a very rapid way to get out of this because we had 67 cosponsors last year. I doubt we would lose many of them now. I think we would gain back some of the people who are objecting to some of the procedures on S. 1.

Mr. DOLE addressed the Chair.

Mr. GLENN. I ask the majority leader's opinion as to whether we should go back to S. 993.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I do not have an opinion on that. I think we have a good product before us, if we could just move on it. S. 993 may have been good. This may be even a little better.

I think it is still a bipartisan effort, the last I understood. It was not a partisan effort. We do not want to make it a partisan effort, but we want to finish the bill. I want to propound a unanimous-consent request when the Senator from Ohio——

Mr. GLENN. I yield the floor.

The PRESIDING OFFICER. The majority leader has the floor.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I made this request last night. Again, I will say generally it is just routine around here that we adopt the committee amendments. Any former chairman or present chairman knows that we adopt the committee amendments. Now and then—rarely—you get an objection. We are only on, what, No. 11, 5 days. We had to table some. Just to get action, we tabled some of the committee amendments.

So I ask unanimous consent that all remaining committee amendments be agreed to en bloc and treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I object.

Mr. DASCHLE. Reserving the right to object. What is the pending order of business, Mr. President?

The PRESIDING OFFICER. The Gorton amendment No. 31, as amended, is the pending question.

Mr. DASCHLE. I suggest the absence of a quorum.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. A unanimous-consent request has been propounded. Is there objection?

Mr. BIDEN. I object.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS addressed the Chair.

Mr. KERRY. The absence of a quorum was suggested.

Mr. DOLE. I suggest the absence of a quorum.

Mr. BAUCUS. Will the majority leader yield while I give a statement on another matter? Perhaps he can work this out while I give a statement on another matter, 10 minutes total? Thank you.

Mr. DOLE. Maybe you can talk some of your people out of objecting to these routine requests while we are at it.

Mr. BIDEN. Will the Senator yield for 2 seconds?

Mr. BAUCUS. I yield.

Mr. BIDEN. The reason I objected was I thought—more appropriately, I would like to reserve the right to object, but since the minority leader asked for a quorum call—I assume to talk with the majority leader—that is why I objected. I have no intention of objecting, if they can agree, and I would just like to point out, as back in the bad old days when I was chairman of the committee, this floor never agreed to the amendments from the Judiciary Committee on a bill.

So it is a practice that maybe we should establish, but in my experience in 6 years as chairman of that committee I can never remember one single occasion when I came to the floor where we routinely agreed to the committee amendments from the Judiciary Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I first want to commend the majority leader, who I know is trying to get a very important bill passed, as well as the distinguished manager of the bill, Senator KEMPTHORNE from Idaho, who I think has done yeoman's work, a very good job of managing this bill, as well as the Senator from Ohio.

I think all of us in the Chamber know that this bill is going to be enacted, it is going to pass. I think all of us want it to be a good, solid piece of legislation, and in putting it together, I urge my colleagues, those on the other side of the aisle, to give Senators who have legitimate amendments time to offer their amendments.

It is a very important bill. It is very complicated. It is not at all understood. Speaking for myself, I could tell the majority leader that I support the underlying legislation and I think a lot of Senators do. We would just like to have legitimate time to get the amendments. This is not a filibuster to kill a bill. It is not a filibuster to kill a bill. It is just an opportunity to offer amendments so we can vote on final passage on a bill that is probably improved upon.

BRINGING MICRON TO BUTTE

Mr. BAUCUS. Mr. President, I rise today to pay tribute to the citizens of Butte, MT, and other Montana communities, in their efforts to bring Micron Technology, Inc., a major U.S. semiconductor manufacturer, to Montana.

Butte-Silver Bow County is a finalist for a $1.3 billion Micron manufacturing plant. The plant would create 3,000 to 4,000 jobs with an annual payroll of $200 million. Good paying, high technology jobs that would bring a better standard of living to both Butte and Montana. Micron would also propel Butte forward on its journey as a major U.S. technological center.

The possibility of Micron locating to Montana has banded the citizens of Butte together—in fact, the entire State together—in a very inspiring way. I wish you could see it, Mr. President. It has been exciting and heartening for me to experience and be part of the enthusiasm and vigor by which Montanans have gone after this golden opportunity.

For those of you who have never been to Butte—and I guess that would include most of you—Butte is truly a unique, all-American city. It is known throughout Montana as the Can Do City, and if ever a city in this country could do it, it is Butte.

There was a time, after the Anaconda Co. shut down its mines, that Butte was believed to be destined to join the many ghost towns dotting the Rockies. Yet, through hard work, loyalty, determination, and a very strong entrepreneurial spirit, the people of Butte-Silver Bow fought their way back.

They have made Butte a national center for the development, testing, and application of revolutionary environmental technologies. They are making the Port of Butte a major hub for intermodal shipping across the Nation. And they created a top educational institution—Montana Tech—voted by college presidents in a U.S. News & World Report poll as the top-ranked science program in the United States among smaller comprehensive colleges.

Newsweek has described Butte as the ''bright spot amidst the tumbleweed'' in the West and commended the community for ''engineer[ing] the most dramatic turnaround.''

See this poster behind me? The local newspaper in Butte printed it up so thousands, and thousands, of Butte citizens could hang it in their windows, displaying to Micron—and Micron, I hope you are watching this—their enthusiasm and support. And see this stack of papers? They are editorials and articles from all over Montana, written in support of Micron. Editorials have been pouring in on a daily basis.

Take the editorial from the Missoulian, for example. As the editorial board penned:

> The people of Butte are survivors proud and passionate about their community * * *. If Micron's managers have any yearning to be adored and supported by an entire community in their every endeavor, they will build in Butte.

Similarly, the editors of the Independent Record in Helena write, ''it is difficult to think of a town in the country that deserves as much admiration as Butte, a city that doesn't know how to quit.''

And the Billings Gazette board stated last week that ''Butte, MT, can offer everything that Micron seeks and more. It also offers an intense desire to attract companies such as Micron, to treat them well and to provide incentives for relocation.''

I think Daniel Berube, chairman and CEO of the Montana Power Co. in a guest editorial in the Montana Standard sums it up right: Butte is ''a good place to live, a good place to work, and a good place to raise a family.'' I strongly share his belief that there cannot be a better matched city for Micron than the city of Butte.

Like Butte, Micron based its phenomenal growth and success on the Western ideals of working hard and thinking big.

Like Butte, Micron has become a leader in its field, serving as a shining light for the rest of the Northwest.

And like Butte, Micron is preparing itself for the 21st century, while at the same time, maintaining the unique quality of life and scenic location found only in Montana and the Northwest.

I cannot think of a better home for Micron than in Butte. And I commend the community and the State of Montana in their efforts to deliver this message to Micron.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I must respond to this statement by the Senator from Montana. He is so correct in pointing out that Micron is worth attracting to your State. Micron is an outstanding industry, and I know that because Micron is located in Boise, ID, of which I was mayor for 7 years. There are a number of communities in Idaho that also are desirous of the expansion of Micron. So I commend my colleague from Montana. He knows something good. I just say that we certainly intend to keep an eye on it.

Mr. BAUCUS. Mr. President, I, too, would like to commend the distinguished manager of this bill, a former mayor of Boise, ID, home of Micron. We all are together. We very strongly support and are enthusiastic admirers of Micron and what they have done over the years. It is a good competition going on here to get Micron. The depth of competition indicates the quality of the company. And I just say to my friend, may the best city win. And we very much hope that Butte, MT, is the finalist in the plant location.

I thank my good friend.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 151

(Purpose: To exclude laws and regulations applying equally to governmental entities and the private sector)

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I would call up amendment No. 151.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. KERRY, Mr. LEVIN, Mr. LAUTENBERG, Mr. BUMPERS, and Mr. DORGAN, proposes an amendment numbered 151.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, and the following:

''(6) EXCLUSION.—For purposes of paragraph (1)(B), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

Mr. LIEBERMAN. Mr. President, I have called up this amendment on behalf of Senators KERRY, LEVIN, LAUTENBERG, BUMPERS, DORGAN, and myself. And I am pleased to say that this is a very germane amendment.

I share the very, very serious concerns that have been raised by officials of State and local government about the regulatory compliance and other burdens that have been placed on States and local governments by the Federal Government, by us. There is a problem here. It is a real problem, and we ought to deal with it.

Last year, there was bipartisan legislation, S. 993, reported by the Governmental Affairs Committee on which I am privileged to serve, which I thought adopted a balanced approach to addressing the justifiable concerns of State and local governments about unfunded mandates. We established the principle there that Congress must be forced to confront the costs that may be incurred by the State and local governments when we pass legislation, whether or not we have authorized funding for those costs. There must be an opportunity for the fullest discussion, if there are not funds provided in the legislation we adopt to cover the costs on State and local governments.

In other words, that kind of legislation should be subject to a point of order if there is not information about the costs. I think that was a very important principle that was established in S. 993, a very important response to a very real problem, a very constructive response.

I was pleased to be a cosponsor of S. 993 because it was all about knowledge and congressional accountability. But I regret to say that in my opinion S. 1, though it does some very good things, in one particular way—others as well—but in one particular way it goes too far. It simply takes a good idea and takes it so far that it creates a new, and I think very threatening presumption.

Under S. 1, if the bill, joint resolution, amendment, motion, or conference report increases the Federal intergovernmental mandate by more than $50 million in a given year, a point of order will lie unless there is a funding mechanism provided.

S. 1 also provides that if the funding mechanism is an authorization of appropriation for the full amount of the mandate, then the bill must designate a responsible Federal agency, and establish procedures for that agency to direct that the mandate will become ineffective or reduced in scope if the full amount of the appropriations is not provided in any fiscal year.

In short, the presumption in S. 1 is that the Federal Government will pay 100 percent of the cost of obligations imposed by the Federal Government on States and localities. If the legislation states that the Federal Government will pay the cost, the money must be appropriated or the agency must declare the mandate ineffective or reduced in scope.

So S. 1 is a much more extensive reach, a much different approach to the problem of unfunded mandates than that adopted in S. 993, which was reported out of the committee last year. That is why I say it takes a problem, unfunded mandates, and in its response reaches too far; and in doing so, creates an unintended—but I am convinced very real and inequitable—burden on private-sector entities, businesses that are affected by these mandates. And it also puts at risk a whole array of Federal law protecting the environment, people's health, people's safety, people's rights, that the public simply does not want to endanger, that the public wants us to continue to protect.

So under the mantle of dealing with unfunded mandates, this bill will have the consequence, I am convinced, of putting extra burdens on business, particularly small business, and in the process will create a hurdle that will impede the protection of people's environmental health, safety, and employee rights.

Let me say that in trying to separate out those mandates that uniquely place responsibilities on State and local governments, and for which we should feel a special obligation to pay the costs of those mandates, and those mandates which deal with a problem and in doing so place responsibilities—call them mandates—on public as well as private sources of that problem, we are creating a real inequity.

But let me say what this amendment leaves intact. It leaves intact in the underlying bill, S. 1, the requirement that Congress confront the cost of our actions. It may be when doing so, no matter how worthy the aims of the particular legislation, how protective it may be, how popular it may be, that Congress, Members of Congress, in our wisdom, will decide that it is not worth the cost. That is left in place in this bill.

Also left in place is the second point of order, with all the extra burdens, all the extra responsibilities on the Federal bureaucracy to pay for the cost of mandates, or cut back or terminate those mandates if they apply specifically to State and local governments.

The amendment is structured on a principle, and that principle is that if Congress requires other levels of government to perform governmental services, then Congress should pay the State and local governments to do that. The appropriate area for legislation is where States and localities are providing those governmental services, mandated by Congress, that Congress is unwilling to fund; responsibilities that are exclusively governmental, that do not apply to private industry or private citizens.

The purpose of the amendment is to assure a fairer partnership between those State and local governments and the Federal Government in carrying out governmental programs. In its report on S. 1, the Governmental Affairs Committee stated:

State and local officials emphasized in the committee's hearings . . . that over the last decade the Federal Government has not treated them as partners in the providing of effective governmental services to the American people, but rather as agents or extensions of the Federal Government.

But there is an enormously expensive governmental service obligation associated, still, with many of the programs covered by this legislation that our amendment would not affect. In fact, they are the big-ticket mandate items for States and local governments: Medicaid, AFDC, child nutrition, food stamps, social service block grants, vocational rehabilitation State grants, foster care, adoption assistance and independent living, family support welfare services, and child support functions. Those are all examples of programs where the Federal Government has put responsibilities on State and local governments, not on private entities. We essentially delegated a governmental responsibility from the Federal to the State and local governments. And those are mandates whose treatment would be left untouched by my amendment; whose treatment under S. 1 would be left untouched by my amendment.

For Congress to act to pass or reauthorize those mandates beyond the $50 million annually exempted, there would have to be the finding that Congress had put the money forth to pay for the State and local costs of those

programs or the point of order would appropriately lie and Congress would be tested to express its will. Governor Voinovich of Ohio has stated:

> Many States cannot spend a greater share of tax dollars on education because new Medicaid mandates consume more and more of our resources. They account for 70 percent of Ohio's mandate costs, nearly $1 billion over 4 years. Medicaid was 19 percent of Ohio's budget in 1982. It represents one-third today.

So to me these are the most consequential, most costly mandates that we at the Federal level have put on the States. And those are the ones where we ought to have the process be forced to go through the extra hurdles in S. 1.

Senator BOND, our colleague from Missouri, at the hearing held on S. 1 this year said:

> Unfortunately, the State [State of Missouri] projects that unfunded mandates will exceed $250 million. These are costs that have been documented with respect to specific measures. The Clean Air Act cost, in 1997, two-thirds of a million dollars; total environmental mandates are estimated only at $3.5 million.

I stop my quote from our colleague from Missouri here. Let me just emphasize that I think what many of us have been thinking about is the unfunded mandates, environmental particularly. As our colleague from Missouri said in his testimony before the committee, consumers put a relatively small burden—and as I will come back and argue, it is a fair burden because it is also one placed on private sources of pollution.

Then the Senator goes on to say the Carl D. Perkins Vocational Act cost the State $16 million in unfunded mandates, $16 million as compared to $3.5 million for total environmental mandates on Missouri. The Department of Social Services, as one would expect, Senator BOND says, was the big winner having the privilege of almost $130 million of a very limited budget to comply with Federal mandates. The Federal unfunded mandates survey for the National Association of Counties lists the most costly unfunded mandate as the Immigration Act. That is the type of mandate that applies specifically to State and local governments and the type of mandate for which we should be tested, forced to confront the costs, and go over the higher hurdle set in S. 1.

The city of Chicago survey of mandates listed airport restrictions, arbitrage rebates, and bond financing restrictions, as the most consequential to the city. I would distinguish these mandates from other so-called ''mandates'' which really are about the adoption of a law at the Federal level to respond to a problem—clean air, clean water, safe drinking water, fairness to employees, as in the Family and Medical Leave Act, where the source of the problem or potential problem is both public and private. This amendment would eliminate that inequity.

It exempts from the definition of a Federal intergovernmental mandate, as is in the bill, it is a very simple amendment with big consequences. It simply changes the definition of Federal intergovernmental mandate in the bill and exempts from that definition, for purposes of the requirement that the legislation must provide a funding mechanism for 100 percent of the cost to avoid the point of order, provisions which apply in the same manner to the State, local, or tribal governments and the private sector.

For example, suppose legislation requires that all incinerators limit emissions of dioxin to 12 parts per billion by the year 2000. That would apply obviously to both public and private sector incinerator operators. Under the amendment, the authorizing committee in its report is still required to state the amount—this is under S. 1 if the amendment were adopted—the authorizing committee in its report is still required to state the amount of any decrease or increase in funding whether the committee intends the mandate to be funded or unfunded and any sources of Federal funding. Under the amendment, the director of CBO would still be required to provide an estimate of the cost to State and local governments of this requirement having to do with emissions of dioxin that I have set up as the hypothetical here, and to state if those costs are greater than the $50 million threshold in the bill.

Under this amendment, if it is agreed to, the point of order would still lie if the committee report does not contain that estimate except as modified by the amendment of the Senator from Michigan which we adopted earlier today.

However, under this amendment, there would be no point of order if the bill did not provide a funding mechanism for 100 percent of the cost of compliance with this dioxin reduction proposal for the State and local governments.

Mr. President, this amendment covers only the situation where duties and obligations apply in the same manner to private sector and State and local governments. S. 1, in its current form, potentially, under its procedures, sets up a two-track process here between private and public entities and would exempt State and local governments from the environmental safety, employee rights, and environmental standards that competing private businesses must meet. So S. 1 would potentially result in a competitive disadvantage for private enterprises engaged in the same activities that the State or local governments are engaged in.

In the example I gave a moment ago, the burden would fall on the privately operated incinerator to spend whatever was necessary to reduce the emissions of dioxin whether or not Congress gave any help in meeting the cost of that upgrading but would not similarly apply to the publicly owned incinerator if Congress did not provide full funding.

Of course, the other consequence here, Mr. President, is that the application of S. 1 as it exists now would probably result in disproportionate risks to our citizens. I can tell you that the people living around that incinerator would not care whether it was publicly or privately owned. They want to be protected from toxins coming from the incinerator.

Let me give some other examples. Under S. 1, the bill before us, and in future legislation, State and local governments could be exempt from paying their employees an increase in the minimum wage or providing family and medical leave, requirements that all private businesses would have to meet. Publicly owned or operated incinerators could be exempt from air pollution standards while privately operated incinerators would be required to meet those standards. Publicly run drinking water systems might not have to provide pure water in the same way that private water companies would have to provide. Public universities and hospitals could be exempt from the requirements for handling radioactive wastes while private hospitals, including nonprofit hospitals, religiously supported hospitals and labs, would be required to meet those standards.

Cars owned by the State or local government could be exempt from requirements to run on cleaner burning fuels which apply to all other citizens of the State, not just to private businesses, but to everybody else in the State. States or local governments that operate schoolbuses could be exempt from safety requirements that would apply to buses operated by private companies. State-owned liquor stores could be exempt from standards of conduct that would be applied to privately owned and operated stores. States and municipalities could be exempt from requirements to retrofit or replace air conditioning units to remove CFC's while private entities would have to do that.

Certainly, Mr. President, we do not mean to say that there should be a presumption, if Congress determines a law is necessary to regulate safety, for instance, on school buses, safety of our kids, that they must also provide 100 percent of the compliance costs of publicly owned buses or else they do not have to meet that standard. The point here is that in adopting legislation which we have given—I think unfairly in this case—the pejorative term ''mandate'' for expressing a value, for setting a national goal, we are trying to protect people. I do not think that the people who sent us here want us to protect them any more from dirty air or dirty drinking water than from accidents of their kids on school buses. They do not want any lower level of protection if the source of those threats to their safety and well-being are from public as opposed to private sources.

Let me talk for a moment about the consequences of public health. It has been my honor to serve on the Environment and Public Works Committee,

and this is an area in which I have spent some time. And I am particularly concerned about the unintended, and I think undesired by the American people, consequences of S. 1 on environmental laws. When we pass a law, we have determined that the national interest requires that law to achieve a goal, that there is a problem out there that requires a national solution to protect public health or the environment. For example, more than 25 years ago, Congress determined that the basic principle is that the Federal Government should be the ultimate guarantor of minimum standards for clean water and clean air. And there is a rationale for that. It is not just a power grab by the Federal Government for the sake of having power. Environmental problems do not end at State borders. Dirty air and dirty water move. Only the Federal Government can ensure that an up-river or upwind city or State does not dump its pollution on downwind or downstream States or localities.

Only the Federal Government can ensure that one area of the country does not so lower its standards for clean air or clean water for the purpose of attracting business, for instance, to the detriment of its neighboring States. Federal pollution standards apply to all sources of pollution. It is obvious that you cannot solve the problem if you just apply a national solution to one part of the problem, whether or not the source of pollution is run by a public or by a private entity.

I can tell you that a family where the grandparents are suffering from emphysema do not care if the incinerator that is belching dirty air is publicly or privately owned or operated. They believe that the Government has an obligation to ensure that they have clean air. The parents whose child gets diarrhea from drinking dirty water does not care whether a public or private entity provided that water. They want the Government to ensure that the water is pure, regardless of who is providing that water.

During the last 25 years, the Federal Government, in fact, has chosen to provide billions of dollars to assist State and local governments in complying with some of these pollution control laws. I have fought myself for that funding and will continue to do so. But it seems to me that when we identify a serious national problem such as dirty air and dirty water, dirty drinking water, it is wrong to place a mandate on ourselves to say that if we are not able to pay for 100 percent of the compliance cost, that a State or local government can escape those pollution controls that apply to all other sources of pollution. If we took it to its extreme, it would take the concept that is generally accepted, which is that the polluter pays. We can turn it on its head and say we have to pay the polluter.

S. 1 could result in vastly different levels of protection for citizens throughout this country, or even within one State. Citizens living near or downwind from a publicly owned facility could be exposed to toxins emitted from an incinerator which could be exempted from pollution control standards, while citizens living near a private facility would be protected from those emissions because that private facility would not be exempt.

Let me talk about the competitive consequences I have referred to. Obviously, results like those I have talked about would put private entities at a competitive disadvantage. In a letter to our colleague from Idaho dated December 16, 1994, Browning-Ferris Industries, a waste management company, discussed some of the potential consequences of unfunded mandate legislation:

> The results would severely skew the marketplace in favor of Government rather than the private sector services, because the private sector would have to add in prices to its consumers for compliance with these various Federal rules that customers of the public sector would not have to pay.

The Environmental Industry Association, in a letter dated January 9, 1995, an association of a lot of companies that produce environmental cleanup equipment and are involved in the waste business, states this—and they support a lot of this bill:

> Notwithstanding provisions in the bill for parity of treatment between the public and private sectors for the purposes of analysis, there seems to be an inconsistency in actual treatment between the two sectors because the legislation subject to the point of order vote applies only to the Federal intergovernmental mandates and not private sector mandates.

This is the Environmental Industry Association Business Group:

> We respectfully restate our basic concern that to exclude State and local government—but not the private sector—from the costs of compliance with providing goods and services where both sectors compete would be both unfair and unfaithful to the core principles of the Job and Wage Enhancement Act— art of the contract for America—of which S. 1 is the first piece.

Those are strong statements from private sector entities who fear exactly the disproportionate burden that this amendment of ours would eliminate from the bill.

Mr. President, the unintended consequences of the legislation, in fact, and ironically, may be to encourage an expansion of Government, which is exactly the opposite of what the people supporting this in its current form want. Government could be motivated to contract out fewer services to private industry because the cost charged private industry probably would be higher.

This issue was highlighted for me by the National School Transportation Association, which represents the portion of the familiar yellow or orange school bus fleet operated by the private sector which is about a third of the Nation's school bus fleet. Presumably, those school districts which have contracted out this function have saved money. But in a letter dated January 10, 1995, the private operators point out that one of the consequences of S. 1, the legislation before us, may be to remove the incentives for school districts to contract out for those services, because by keeping the services in-house, the costs of compliance with various Federal requirements can be avoided. The letter states:

> Such an outcome would be sharply at odds with the burgeoning wave of privatization that is realizing, for financially strapped school districts, significant savings and could disrupt the level playing field for our industry that has worked so hard over the past decade to achieve these advances.

Mr. President, I ask that the full text of two letters from the National School Transport Association be printed in the RECORD at this point.

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

NATIONAL SCHOOL TRANSPORTATION ASSOCIATION,
Springfield, VA, January 10, 1995.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The National School Transportation Association, representing the nation's owner-operated yellow school bus fleet, applauds your leadership efforts on the unfunded mandates legislation. We are heartened that this session's legislative vehicle contemplates analysis by the Congressional Budget Office (CBO) of regulatory and fiscal impacts on private industry as well as state and local governmental entities. This is a critical provision which must be included in any final legislation if the Congress and the American public are to be fully apprised of the consequences of new federal requirements.

As the debate moves to the Senate floor and the impacts on private industry competitiveness are assessed, we wanted to bring to your attention concerns of the school transportation industry which reflect those also presented you by Browning-Forris Industries and others. NSTA members operate in all fifty states and in total operate some 110,000 buses constituting about one-third of the nation's yellow school bus fleet. School districts have come to realize significant operational cost savings by contracting out pupil transportation services. We are fearful that one unintended consequence of the legislation may be to remove incentives for school districts to consider contracting for these services if by keeping such services in-house the costs of compliance with various federal requirements can be avoided to some degree.

Such an outcome would be sharply at odds with the burgeoning wave of privatization that is realizing for financially-strapped school districts significant savings, and could disrupt the level playing field our industry has worked so hard over the past decade to achieve. We urge that attention be given to this concern as the debate proceeds. At the very least, any CBO analysis should also include some assessment of impacts on present and future competition for provision of services. If local governmental entities, such as school districts, are to be absolved of responsibility to comply with new federal requirements, then certainly equity and competition demand that like treatment be extended to the private sector.

We stand ready to work with you and your staff on possible remedies to this problem.

Please feel free to contact Peter Slone at NSTA's governmental relations firm, Gold & Liebengood, 202/639–8899 and he would be pleased to provide further assistance. NSTA remains hopeful that this legislation becomes the law of the land and that these unintended consequences can be avoided. Thank you for your careful attention to this issue.

Sincerely,

NOEL BIERY,
NSTA President.

NATIONAL SCHOOL TRANSPORTATION ASSOCIATION,
Springfield, VA. January 17, 1995.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: The National School Transportation Association (NSTA) applauds your efforts to bring common sense and equity to the debate on unfunded federal intergovernmental mandates. In particular, NSTA enthusiastically supports an amendment you intend to offer which would ensure that nothing in the procedural and fiscal protections established by the bill have the effect of limiting the ability of private sector service providers to compete for the ability to meet the needs of many state and local governmental entities such as school districts.

NSTA is the national trade association for the owner-operated component of the nation's yellow school bus fleet. We have been a leader in advocating safety advances and make a significant contribution to the nation in helping transport some 24 million school children each day. The State of Connecticut has a long tradition of contractor-provided school transportation services with over 90 percent of that state's yellow school bus fleet owned and operated by a host of transportation providers, many of which are small businesses. By contracting out such services, school districts have come to realize more cost-effective and reliable service. Today, NSTA members operate some 110,000 school buses in fifty states.

We are fearful that if the effect of the legislation under consideration is to scale back to some degree the need for school districts to comply with important environmental, workplace, safety and other new federal requirements, then our nation's school children may well be imperiled. Further, by subjecting school districts which operate their school bus fleets to a lesser standard than their private sector counterparts, the Congress would in effect establish a dangerous double standard and remove incentive for privatization of those services. At a time when many school districts are financially-strapped and facing further budgets curtailments, we should promote rather than impede their ability to contract for services where savings could be realized and safe and reliable service ensured.

Thank you for your leadership role on this important competitiveness issue. We are hopeful that through your thoughtful persistence the nation can avoid unintended consequences from this legislation which raises serious safety and fair market competition issues.

Sincerely,

NOEL BIERY,
NSTA President.

Mr. LIEBERMAN. Mr. President, at the same time, by exempting the smokestacks and discharge pipes operated by State and local governments from complying with future environmental standards, S. 1 would force a wide range of businesses to bear even more of the burden to meet overall clean air and clean water goals. For example, if publicly owned incinerators or landfills do not reduce emissions contributing to smog, carbon monoxide, and particulates, private sources of pollution would have to do more in order to meet the cleaner environmental goals.

Let me illustrate, if I might, in a little greater detail how this legislation could hurt private businesses. States and businesses advocate water pollution laws that establish an overall pollution loading limit for individual bodies of water. That has been something that the sources of pollution, potential sources, have asked us to do. We have done it. This is based on the notion that each body of water is best managed for cleanup based on a scientific understanding of what that river or lake or bay can withstand in the way of pollution, identifying the sources, and then assigning the source's limits based on what they contribute. This is very fair, and it creates a cooperative effort to clean up a body of water. All sources of pollution, whether industry or sewage treatment plants operated by cities, get divided up for that pollution limit; so much for this sewage treatment plant, so much for that factory, et cetera, et cetera. But if publicly owned wastewater treatment plants are permitted to discharge, for instance, more nitrates into our rivers and bays, well, who are we going to have to turn to to make up the difference to reach the standard, the threshold, the goal that we have for cleaning up that water? Is it going to be the factory along the water, the rancher, or the farmer who is using fertilizer upstream? Not only would S. 1 hurt business under this scenario, it would usurp State and local efforts to clean up their rivers, bays, and lakes, based on sound science and local control.

Mr. President, those of us who represent States which, in some part at least, are victims of pollution from upwind or downstream are particularly vulnerable and feel so under this proposal. Let me be very specific. If municipal sewage plants in New York will be relieved of future requirements to comply with water pollution standards because the Federal Government has not paid 100 percent of the cost of that cleanup, Connecticut industries and residents will bear a much greater burden if we are ever going to clean up Long Island Sound.

In fact, it would be impossible to ever clean up the Sound if New York City sewage treatment plants were exempt from water pollution control requirements. New requirements for more flexible approaches to cleaning up our rivers, coast lines, lakes, and estuaries focus on watershed-based planning in which wastewater treatment plants, industrial discharges, and farmers all work together to meet the loading tolerance of a particular body of water. These are zero sum gains. If the requirements on public sources of water pollution go down, the requirements on the private sources will go up and, believe me, they will be costly and burdensome.

Connecticut also has one of the most severe air pollution problems in the country, because we are the victims of dirty air transported from upwind States. Emissions of sulfur dioxide and oxides of nitrogen from powerplants in upwind States, including Midwestern States, contribute significantly to our smog problem and are responsible for the acid rain that falls on our State and many States throughout New England. If powerplants that may be operated by a public entity are exempt from future requirements under the Clean Air Act, Connecticut's industries will bear a greater cleanup burden, and the plain fact is—and it is a sad fact—that our citizens will breathe dirtier air and they will be sicker. I share the concerns raised about the potential negative impact of unfunded mandates legislation on Connecticut's severe air pollution problems, particularly dirty air transported into Connecticut from other States, by my colleague Congressman CHRIS SHAYS during the markup of House unfunded mandate legislation in the House Government Reform and Oversight Committee. The same points he raised apply to S. 1.

Mr. President, let me provide just some general statistics relating to the unfair burden that may be inadvertently created by S. 1. In its 1992 report to Congress, EPA examined the sources of pollution in estuary waters. Of the 8,000 square miles of impaired estuarine waters, municipal sewage treatment plants affect 53 percent of impaired miles, and urban runoff/storm sewers affect 43 percent of those impaired miles. Obviously, if we allowed some or all of these sources to be exempt from future water pollution requirements, the resulting burden on industries contributing to the pollution would rise dramatically if we are to succeed in cleaning up our estuaries.

Mr. President, I find it particularly ironic that we are considering this legislation right after we passed S. 2, the Congressional Accountability Act, because we finally have managed to impose the discipline of our laws on ourselves and now we are talking about a huge potential loophole in applying our laws to State and local governments.

In a way, I fear that this act, S. 1, might, if it is passed as it reads now, come to be known as the State and Local Government Unaccountability Act of 1995.

There are other consequences of the presumption in S. 1 that could result which are perverse and clearly unintended. A town that operates its own hospital and incinerator would, in effect, be receiving tax dollars from a town where there was a private incinerator and hospital. In other words, it is unfair to the taxpayers who pay for the disproportionate burden.

Mr. President, finally, I am also concerned about the potential legal issues raised about this point of order that is created in S. 1. In a letter to Senators ROTH and DOMENICI, dated January 8, 1995, seven professors of law contend that the procedure in this point of order may create problems under article 1, section 1 of the Constitution. Although it is settled that Congress may delegate to executive agencies the power to devise policy to meet congressional objectives, Congress must establish an intelligible principle to which the executive must conform. These professors state that the procedure in S. 1 might go far beyond such delegations because Congress could expressly authorize administrative agencies to amend or temporarily nullify statutes which could be held to be an unconstitutional attempt to delegate legislative powers to executive agencies.

I do not know if this analysis is correct, but I am concerned about it. I am concerned about whether we have assurances that agencies will be fair and evenhanded when they determine how to reduce the scope of the mandate and whether S. 1 contains adequate safeguards in that regard.

Mr. President, this amendment would simply narrow the scope of the second point of order in S. 1. It leaves intact most of S. 1. In fact, it leaves intact the 2 points of order that would lie against the largest costs on State and local governments of Federal mandates. They are all still left intact. It would still ensure, that is to say, that a point of order would lie if we do not have full information about the costs of mandates to State and local governments. It would still ensure that the committee report state whether there is funding for those mandates. It would still contain the second point of order for mandates that relate specifically to State and local governments, and are not part of trying to solve a broader national problem.

But for those mandates that apply to State, local, or tribal governments and the private sector, it would close a loophole that is unfair to the private sector and which would potentially exempt State and local governments from a whole host of environmental health and safety laws. And it would have, therefore, severe consequences, in my opinion, for the health and safety of the American people.

So let us pass a good bill here, Mr. President. I want to vote for S. 1, but I just feel that, in its current state, it goes too far. Let us pass a bill, not a Pandora's box filled with unintended consequences.

Again, I say, if the American people knew about the impact of this legislation, it would have not only unintended consequences but undesired consequences, consequences which the American people clearly do not desire.

Mr. President, I urge adoption of the amendment and I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to inquire of the sponsor of the amendment if it would be possible at this time to enter into a time agreement so that we could have some predictability on when the next vote may occur. Would an hour and a half, equally divided from this point, be in agreement with the Senator?

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum so Senators on our side can consult.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. 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. KERRY. Mr. President, I will just ask my colleagues if it might make sense if one of us kept going while they confer. This Senator has no problem with a time agreement. If they want to discuss the time agreement, that will be fine, but I think we might use the time advisedly.

Mr. President, I first want to all start by congratulating the Senator from Connecticut and also the Senator from Michigan, Senator LEVIN, for their efforts on this bill. I think the Senator from Connecticut has done an outstanding job of laying out in great detail the problem here, and I am not going to repeat all that he has said.

I might say, though, I saw that the distinguished majority leader was on the floor a moment ago. I heard him prior to that say to the Senate, chastising us for not proceeding faster on this bill, that the amendments that have been brought have not been relevant to this bill.

I might say to the distinguished majority leader and to the other side that the pending amendment before the Senate right now, I believe, is the Gorton amendment; is that correct?

The PRESIDING OFFICER. The pending amendment is the Lieberman amendment to the Gorton amendment.

Mr. KERRY. I believe, if I am correct, the Gorton amendment is on national historical standards; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KERRY. I simply point out to my colleagues that this is an amendment to a Republican amendment, and the Republican amendment which consumed most of yesterday afternoon has nothing to do with this legislation. I happen to support the Republican amendment.

So the Republicans have exercised their right of coming to the floor in order to attach to this legislation something they thought was important and, in fairness, that right ought to also lie, as it always has through the centuries of the Senate, with the other side.So I think it is inappropriate at this point, only several days into this, to be complaining about the fact that there are some amendments that some deem to be relevant but not germane, or germane but not relevant, whichever the case may be.

The Senator also asked somebody to look them in the eye and say they want to pass this legislation and they are not delaying it. I will look them in the eye if they are here and I will tell them I want to pass this legislation and I am not delaying. I will say it again: I want to pass this legislation and I am not delaying.

It seems to me that we ought to be able to work out among Members an agreement on a number of amendments that are relevant to this and, hopefully, proceed forward in a way that is intelligent. Let me emphasize ''intelligent.''

I remember the majority leader coming to the floor many times last year saying to America ''We are not delaying. We are just trying to save America from bad legislation.'' Or, ''We are trying to save the country from something that goes too far.'' Or, ''We are trying to save the country from legislation that we think can be improved.'' That is what we are doing, not saving it from a bad idea but making a good idea better.

We support the notion that we need to reevaluate unfunded mandates. Mr. President, we should not in the process of passing a bill on unfunded mandates do so in an irresponsible way that does not allow for fixing what we all know in the legislative process is the capacity of one word misconstrued or one word misplaced, to have an unintended consequence.

Moreover, I can remember in 1986 when we passed the Tax Act here. I went to Senator Russell Long because we were concerned about a particular component of that bill with respect to real estate. He said, ''Don't worry about that. We will pass that now and come back and fix it.'' Being new to the Senate, I believed him. I would not believe that statement today. The fact is that we did not come back and fix it. Over the years, the results produced, I think, terrible unintended consequences of devaluing certain amounts of property in America with unintended consequences to banks, to the savings and loans, and to a host of economic interests in this country.

Now, we ought to do a better job, Mr. President, of evaluating the cost of programs. It is irresponsible for the Senate to pass a program mandating actions by States or local communities of which we do not understand the implications.

I think the days have long passed by which Americans have come to conclude that they want to have a better sense of weighing the value of a particular environmental concern or a particular health concern against the totality of cost or the rate at which that cost might be imposed on them.

I also ask my colleagues to remember back to the 1960's and 1970's when a river in Ohio used to catch fire regularly: the Cuyahoga River. In response to rivers that caught fire and toxic and hazardous waste dumps which we knew were causing cancer and killing people in this country, we passed a set of standards.

A mandate is not just a mandate. It is not just a mandate to spend some money. It is our collective view as a Nation of something to which we want to aspire. It is our view of a goal or a standard by which we want to live. So when President Bush came to the Congress and joined the fight to protect the environment and said we ought to have clean air, he was expressing the hope and desire of millions of Americans to be able to breathe air that is clean. The result was Congress passed a notion of how we wanted to live, of a standard.

Subsequently, in the 1980's, particularly under President Reagan, there was an enormous shift in the revenue versus expenditure relationship. We all remember the promises made back in the early 1980's—if we cut taxes and raise defense spending we were going to churn up the engine of this economy and we were going to ultimately have increased revenues.

Well, we took the debt of the Nation from $1 trillion to over $4 trillion in the span of a decade. It was that diminution of the Federal partnership throughout the 1980's that has begun to create this new rush to reevaluate Federal mandates.

What happened during the Reagan era was the Federal Government left the mandate in place because it expressed the will of the people, but it took the money away. That is what has brought Members here. A perpetual process of the reduction of funding to States and local communities, leaving in place a series of mandates and, indeed, I might add, adding some mandates.

Most of the mandates that we are currently operating under were put it place in the 1960's and 1970's—not the 1980's—with the primary exception being the Clean Air Act. But I do not think most Americans have decided they do not want to breathe clean air. I do not think most Americans have decided that they want their kids living next to toxic waste dumps, and they are ready to have them get cancer and die. I do not think most Americans have decided that they are prepared to have a whole erasing of the standards of safety on our roads, on the standard of safety that we know have saved lives. I do not think that is what they are saying.

Now, if this bill, unintentionally—and I insist, unintentionally—if this bill not as a matter of purpose but as a matter of unintended consequence, is going to have the impact of diminishing the capacity of people in this country to have those higher standards of health or safety, then I think people would think twice. If this bill unintentionally creates a disadvantage to the private sector, I think people would say ''Wait a minute, is that really what we are meaning to do here?''

Now, I am 100 percent in support of our requirement that we evaluate the cost of Federal requirements to both the public and private sector. We ought to evaluate how we spend our money. In that evaluation, Mr. President, we also ought to consider the full measure of the relationship between the Federal Government and the States and localities. For instance, we allow the States and localities to benefit by virtue of a $66 billion a year deduction on State and local government income taxes and other tax deduction.

In effect, part of the Federal-State partnership and relationship is our payment of 40 percent of higher income people's State and local taxes. Is that taken into account in this mandate bill? Is that taken into account in the requirement of the commission to evaluate Federal mandates? The answer is ''no.'' That is an unfunded mandate, in essence, on a whole lot of low-income people that do not deduct, because that is a benefit that only goes to people who deduct. If you itemize your taxes and you deduct you get the benefit.

So, in effect, the Federal Government is paying for 40 percent of the local and State taxes of upper-income people as a consequence of our allowing that deduction. There are a whole set of tax expenditures, similarly, in the Federal-State relationship for which we are assuming the burden.

Now, I say this as background to this particular amendment that the Senator from Connecticut and the Senator from Michigan are joining together and bringing to the floor, because it underscores the complexity of this relationship. It underscores the fact that if we take one piece of this broad mosaic of our economy and we suddenly rip it off, we may have a whole set of consequences that impact other people. And we are just respectfully suggesting, in an amendment that is really very narrow in scope, in a very limited amendment, we are suggesting that there is a way for the Senate to legislate intelligently and avoid an unintended consequence.

Now, what is that unintended consequence? Just very quickly to go back to my colleague from Connecticut and his excellent description.

Mr. President, we have a very broad definition in here of a Federal mandate. The definition we have in this legislation covers all State and local activities including activities where there is a governmental role, such as in administering any appropriate program but also where there are activities that are not of a governmental nature. So we are saying in this bill, any Federal program mandated that covers an activity where the activity or entity acts in a governmental way or in non-governmental functions we are going to apply this bill.

If you do that, Mr. President, you are covering activities where the Government entities are acting as employers and where they compete in the marketplace with the private sector.

An example of that would be a landfill or an incinerator. You could have a local government-owned landfill or incinerator operated in competition with a private landfill or incinerator operator. As it is currently written, this bill will set up a different relationship between the public entity and the private sector. It will exempt the public entity from having to live up to a Federal mandate, but it will not exempt the private entity from that same mandate.

So we will continue to say, as I think the American people want to, that with respect to the environment or health or public transportation safety or workplace safety, we will continue to say, ''You, the public entity, are exempt unless we have decided to pay 100 percent, and, you, the private entity can continue to operate under the burden of the Federal mandate,'' which means that the public entity has a lower cost of doing business, which means we have advantaged them in the private sector.

I received a letter from BFI, which is Browning-Ferris Industries. We all know them. I know they have written a letter to my colleagues subsequently retracting some of what they said in this letter, but not retracting the substance, which is what I want to emphasize here. What they said to me was:

> DEAR SENATOR KERRY: * * * Without legislative language along the lines of the enclosed, unfunded mandates legislation—even if it is prospective only—

And I underline.

> could have the effect of subjecting the private sector to a regulatory (and cost) burden that the public sector would not face absent Federal funding. The enclosed language would merely have the effect of assuring a level playing field between the public and private sectors in those instances where there is some form of competition between the two (hospitals, transit, higher education, waste management, et cetera).

This letter was dated December 22. On January 11, they wrote to Senator KEMPTHORNE—I think it is probably in response to concern about the other—and they said:

> We expressed our views at a time when one of our concerns was that unfunded mandates legislation could have a retroactive effect. It is evident that S. 1 has a prospective effect only, which we understand was your intent all along.
>
> After reviewing the legislation that will be considered on the floor and after discussions with your office, we recognize that among your objectives for S. 1 is creation of a favorable climate for the private sector. In fact, S. 1 seeks creatively to address the concern in some quarters that unfunded mandates legislation could disadvantage the private sector where public-private competition takes place. Moreover, after many years of experience in working with you—most of them prior to your tenure in the Senate—

BFI is convinced that your dedication to free enterprise is unsurpassed.

They go on to say:

* * * we are pleased to strongly support S. 1.

I am not holding them out as not supporting it, but they nowhere in their second letter—nowhere—address the concern they express in their first letter. They simply say that ''we understand that it is not going to be retroactive.'' In their first letter, they said, ''even if it is prospective only.''

The fact is that by taking it out of retroactive, you are not diminishing the capacity for future unfunded mandate requirements to create this unlevel playing field, Mr. President.

What would happen is, you would have these public entities that engage in the hiring of employees and compete with the private sector, they would be exempt from obeying worker protection laws, like the Parental and Medical Leave Act; they would be exempt from the environmental health and safety requirements which the rest of the private sector has to comply with; publicly owned incinerators would be exempt from air pollution standards; school buses, as my colleague from Connecticut has pointed out, would be exempt from safety standards; cars owned by local government could be exempt from emission standards; State-owned liquor stores could be exempt from standards of product that apply to privately owned stores; publicly owned hospitals could be exempt from requirements for the proper disposal of medical waste.

I do not think anybody in the Senate wants to do that. I really do not believe that my colleagues think that is good policy or that that is what this bill is supposed to do.

I know my colleague is going to stand up and he is going to point to language added to S. 1 calling for committee report language. And in his language in the report he says that the evaluation has to include a description of the activities taken by the competition to avoid any adverse impact on the private sector of the competitive balance between public and private sector.

However, that is the report. That is not substantive. It is not a requirement nor is it an exemption. What that language does is, in effect, acknowledge that this is a problem. It says that you have to go out and make this evaluation, which means you are going to have this imbalance in the marketplace, you are going to have to go make the evaluation, you are going to have a point of order lie with respect to it, as my colleague has said, then you have to come back and jump through hoops of points of order and try to pass something to redress what any free enterprise capitalist should not want to have happen in the first place.

In effect, if you pass this bill as is, it is a kind of socialism because what you are doing is advantaging the Government against the private sector. You are, in effect, voting to say we are willing to take an unfunded mandate away from the public entity and we are going to leave it on the private entity. That does not make sense to this Senator. And for the life of me, I cannot understand why so many folks on the other side of the fence are so sanguine about this reality of the imbalance.

I asked them to look at the language. I asked them to measure it. This is not an exaggeration. I do not think the Senator from Connecticut has anything remotely resembling a reputation that is any less than diligent. He is one of the strongest advocates in the U.S. Senate for the interests of competition and business and the private sector. I think if you take a hard look at this, one has to be concerned about this relationship.

So we are here, respectfully suggesting to our colleagues that the goal of making the judgment about expense is absolutely worthy, but to undo the partnership completely in a way that imbalances this relationship between public and private is not worthy of this legislation and it is not what we ought to be seeking to do in the U.S. Senate.

I assure my colleagues, if this happens, we are going to be back here revisiting the quagmire of competition or of imbalanced competition that we will have created as a consequence of that.

Again, I say, I applaud the work the Senator KEMPTHORNE and Senator GLENN and others have done in trying to create a responsible climate of evaluation of costs before we impose them. But there is a responsibility in the Federal partnership to try to be fair. I think that, regrettably, we will not have met that standard unless we try to adopt some change within this legislation.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

UNANIMOUS-CONSENT AGREEMENT

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that time prior to a motion to table the pending Lieberman amendment be as follows: 45 minutes under the control of Senator LIEBERMAN; 20 minutes under the control of Senator KEMPTHORNE; and 30 minutes under the control of Senator LEVIN; that following the conclusion or yielding back of time, Senator KEMPTHORNE, or his designee, be recognized to make a motion to table the Lieberman amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object—and I do not expect to object—Mr. President, I 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. KEMPTHORNE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Mr. KEMPTHORNE. Madam President, while this unanimous-consent request is being considered on this side of the aisle, I suggest it would be very appropriate for the chairman of the Governmental Affairs Committee to go ahead with his remarks concerning this amendment.

The PRESIDING OFFICER. The Chair now recognizes the Senator from Delaware.

Mr. ROTH. Madam President, I strongly oppose this amendment. Its effect would be to exempt from the requirements of this act those Federal mandates involving State and local government activities, when the private sector is also engaged in the same activities. Now, this exclusion would seem to appeal to notions of fairness but in fact would effectively gut the bill.

In truth, there is very little that State and local governments do that no one in the private sector is also engaged in doing. This is especially true since proponents of the amendment include those instances where one city franchises a private contractor to render a service for which another city might directly use its own employees.

Trash collection and disposal is one example sometimes cited. Waste disposal companies are said to compete with the public sector in that they try to convince governments to contract out such service and therefore have to show that they can do it cheaper than government.

It has been argued that Federal subsidies to State and local governments would in that type of instance upset some competitive balance.

But other than enacting laws, everything a city or a State does could be covered by such competitiveness principles, particularly as more and more governments are moving to contract out a broader range of functions and services.

Let me give a few examples. Police departments. Police departments compete with private security guards and private residential patrols.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. ROTH. I will be very happy to yield.

Mr. KEMPTHORNE. I thank the Senator for that courtesy.

Madam President, I again renew my unanimous-consent request. If necessary, I will restate it.

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

Mr. KEMPTHORNE. I thank the Chair. I thank the Senator from Delaware.

Mr. ROTH. Madam President, as I was saying——

Mr. LEVIN. Madam President, if the Senator will yield again, is the Senator from Delaware—

Mr. ROTH. I will be happy to yield without losing my right to the floor.

Mr. LEVIN. Is the Senator speaking under controlled time?

The PRESIDING OFFICER. The time is now under control. The question is yielding.

Mr. KEMPTHORNE. Madam President, the Senator from Delaware is on my time. I will yield 10 minutes to the Senator from Delaware.

Mr. KERRY. Madam President, I ask if the Senator will just yield for a question.

The PRESIDING OFFICER. Will the Senator yield?

Mr. ROTH. I would like to complete my statement.

As I was saying, fire departments compete with private, for-profit fire departments such as used by Scottsdale, AZ; public building inspectors compete with privately contracted building inspection services such as used by Sunnyvale, CA, during building booms; public road construction crews compete with private construction contractors, and even with private toll roads such as is being built in northern Virginia; public schools and community colleges compete with proprietary trade schools; public hospitals compete with private hospitals; city attorneys compete with private, fee-for-service attorneys such as are used by many towns too small to have a full-time lawyer on staff; public libraries compete with bookstores and video rental stores. Many libraries now lend movie videos. Public swimming pools and golf courses compete with private facilities and country clubs; municipal revenue collection departments compete with private collection agencies such as those that will collect on overdue parking tickets for a percentage of the revenue; city computer operators and IRM departments compete with private-sector computer service companies, such as EDS, which will contract to do a city's payroll; and municipal buildings and ground maintenance crews compete with private-sector maintenance companies.

In other words, Madam President, it is not just a few selected areas where government and the private sector render the same or similar services. Much more than just pollution control and waste disposal is involved. This amendment would cover virtually every activity of State and local government.

This is why the distinction between public-sector and private-sector activities ought to be decided on a case-by-case basis. In fact, the legislation does acknowledge that there may be occasions when such issues of competitiveness are of legitimate concern. The bill states that committee reports shall explain how the matter has been addressed by the committee. Then Congress can judge how best to deal with that individual instance where a real problem might exist. Through the use of the waiver provision of S. 1, we can decide that funding a particular mandate for the public sector is unfair to the private sector.

Madam President, I think this is a far, far better way to deal with this issue, and that is why I strongly urge my colleagues to reject this amendment. As I stated, its adoption would effectively gut the bill. The exception would swallow the whole.

Madam President, I yield back the remainder of my time. I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Will the Senator from Connecticut yield me 2 minutes off his time?

The PRESIDING OFFICER. Will the Senator from Connecticut yield to the Senator from Ohio?

Mr. LIEBERMAN. Madam President, I yield as much time to the Senator from Ohio as he needs.

Mr. GLENN. I just need a couple of minutes. I want to be added as a cosponsor on this legislation.

I do not see how the Government can possibly come down on the side of a government entity that is in competition, in effect, with a private industry, whether it is waste management, whether it is water provision, whether it is sewer provision, whether it is—whatever—and come down and say we will partially federally fund or totally federally fund whatever the mandate is with regard to the public entity and give that competitive advantage to the public entity in competition with a private industry, whether it is electricity or sewer or whatever the provision might be.

So I think the amendment obviously makes sense to me. I ask to be made a cosponsor of the amendment and yield the remainder of my time.

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

The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield myself as much time as I need.

I have just a brief statement to thank my friend and colleague and leader from the Governmental Affairs Committee, the Senator from Ohio, for his cosponsorship of this amendment. He has been a leader in the whole crusade to force the Federal Government to confront the costs of its enactments on State and local governments and on the private sector.

He is a cosponsor of the underlying bill, S. 1, and so I am particularly heartened and appreciative that he has agreed to cosponsor this amendment, which, in my opinion, does not go to the heart of this measure. It goes to the margins, which is its application and applicability.

It is a simple amendment which slightly narrows the definition of the term ''Federal intergovernmental mandate'' so it does not include a provision ''in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities or services of State, local or tribal governments and the private sector.''

The Senator from Ohio has stated his concern about the unintended consequence here, that this will put disproportionate burdens on the private sector in excusing the public sector. Again, I thank him for his leadership on this issue and for his support.

I hope in the end I can join him in supporting S. 1 by itself. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. KEMPTHORNE. How much time do we have remaining on our side, Madam President?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. KEMPTHORNE. Madam President, I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. Madam President, I thank the distinguished Senator from Idaho for the opportunity to respond to this amendment by the good Senator from Connecticut. When the Senator described this as a simple amendment it took me back to my days in the State legislature. That was the first signal that you had trouble. In effect, this amendment renders this legislation that we have been discussing for days upon days, and was in preparation for almost 2 years, moot. That is the effect of the simple amendment.

It is simple in the context that it makes this entire effort a moot effort, because by saying, as this amendment does, it is not an unfunded mandate if it in any way affects the private sector, it has the effect, it literally would say, there are no unfunded mandates.

The curiosity about this for me is that this amendment is being offered in the nature of being a defense for the private sector. I have always found it curious, when our membership talks about its support of the private sector, only to find that the private sector itself expresses itself quite differently.

I have before me a letter dated January 3, 1994, from the National Federation of Independent Business, who support this legislation without this amendment.

I ask unanimous consent it be printed in the RECORD.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
January 3, 1994,

Hon. PAUL COVERDELL,
U.S. Senate, Washington, DC

DEAR PAUL: On behalf of the over 600,000 members of the National Federation of Independent Business, I urge you to vote in favor

of S. 1, the unfunded mandates legislation, when it is considered by the Senate in January.

Unfunded federal mandates on the states and local governments end up requiring these entities to raise taxes, establish user fees, or cut back services to balance their budgets. Small business owners are affected by all of these actions.

Between 1981 and 1990, Congress enacted 27 major statutes that imposed new regulations on states and localities or significantly expanded existing programs. This compares to 22 such statutes enacted in the 1970s, 12 in the 1960s, 0 in the 1950s and 1940s, and only two in the 1930s. The Congressional Budget Office estimates that the cumulative cost of new regulations imposed on state and local governments between 1983 and 1990 was between $8.9 billion and $12.7 billion. These include environmental requirements, voters registration requirements, Medicaid, and others.

It was not the states and cities who paid roughly $10 billion in unfunded mandates during the 1980s; it was taxpayers—small business owners as well as everyone else. In June 1994, a poll of all NFIB members resulted in a resounding 90% vote against unfunded mandates.

I urge you to strongly support S. 1.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

Mr. COVERDELL. I also have a letter before me from the National American Wholesale Grocers Association, a group with a very large membership across the country, who support the legislation without the amendment.

I am not going to enter all of these into the RECORD.

We have a letter in our hands from the U.S. Chamber of Commerce which represents hundreds of thousands of businesses across the country in support of the legislation without the amendment. And the list goes on and on and on of people who actually are out there meeting a payroll, running a business, who have supported the legislation managing unfunded mandates as offered by the Senator from Idaho.

Why the incongruity? Why would we have people here on the Senate floor who are suggesting that we have to have an amendment such as this to protect the private sector and yet we have this outcry from the private sector saying pass the bill as it is?

The answer is very simple. The private sector is already paying the effects of unfunded mandates. If you own a piece of property in any city, county, or other jurisdiction across this land of ours, about a third—depending on the type of jurisdiction—about a third of that property tax bill that you are paying every year is directly related to Federal orders—mandates—with no check to pay for them.

I spoke about the motor-voter bill the other morning, which cost my State $6.6 million in the first year and then $2 to $3 million thereafter. That is Federal folly. It is totally unnecessary in my State. Registration was being handled very adequately.

So we have a policy wonk in Washington trying to establish what the policy on a very local question ought to be and ordering that it be the way we think it ought to be in Washington and then sending the bill to the local government. That local government bill goes right down, ultimately, to an impact on property taxes. And that is why we have these letters from the U.S. Chamber of Commerce. That is why we have the letters from the National Federation of Independent Business, and Grocers, et cetera, et cetera. Because they are bearing the burden.

Governments do not pay taxes. People and businesses and families and corporations, they pay taxes. They are the direct recipients of the burden of the last 10 to 15 years of unfettered orders from the Federal Government without any payment to cover it.

Madam President, I will just say one more thing and I will yield my time back to the Senator from Idaho. In the final analysis, the other aspect of the legislation that is very important to note is that, if the impact is greater than $200 million on the private sector, CBO is required to publish that knowledge and we in the Senate would have the opportunity to understand the impact and by a majority vote, if the consequences create a massive destabilization of fair competition across our country, we have the prerogative—and for the first time, I might add, the knowledge—to understand what we are doing and can act accordingly.

This amendment makes the measure moot. The private sector does not concur with the suggestions that they need this type of protection. They are for the measure without the amendment. And the reason is because they pay for the unfunded mandates in the end.

I think it is time we moved on and got to this final measure and gave America and all America's mayors and county commissioners and school superintendents what they have been asking for for nearly 2 years.

I yield the remainder of my time back to the Senator from Idaho.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. KEMPTHORNE. I thank very much the distinguished Senator from Georgia, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I will yield in a moment to my colleague from North Dakota, but I want to say in response, on my own time, to one of the statements made by the Senator from Georgia, that the reference to the Motor-Voter Act is in point. I want to reassure him that under this amendment, the motor-voter law would still have to pass the two hurdles, be subject to the two points of order, and could be suspended in its impact if the Federal Government did not pay the costs of the State's implementing it because it is a unique governmental function.

The State and local governments, in implementing the Motor-Voter Act are not competing with any private sector businesses. This is a delegation of responsibility that we put on the States uniquely unless, under the terms of the bill which are generally part of S. 1, there was an estimate that it would not cost $50 million in any given year of its implementation.

So the example is a good one to indicate exactly how S. 1, if our amendment were adopted, would impact mandates, mandates uniquely on State and local governments such as motor voter or the large most costly mandates that I indicated earlier, and referenced specifically earlier, would still be faced with the two hurdles. That is quite different from mandates, such as the Safe Drinking Water Act, which are aimed at solving a national problem, guaranteeing people pure drinking water regardless of whether they get it from public or private sources.

Madam President, I yield now 5 minutes to my friend and colleague from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Madam President, thank you very much. I thank my friend from Connecticut.

The issue of the private sector is one I am well familiar with. Senator DOMENICI and I offered the legislation last year that became the basis for the language in last year's bill and also became the basis for the language in this year's bill on the private sector. We are the ones that indicated that we wanted the private sector included. If there is an aggregate cost exceeding $200 million that is going to be imposed on the private sector as a result of a mandate, my own view was God bless the mayors and the Governors. They certainly have legitimate complaints about mandates. But what about the mom and pop business on Main Street? What about the private sector folks trying to make a living? What about the mandates we impose on them? Why should not there be a comparable requirement with respect to the private sector?

I am pleased to say with the cooperation of the Senator from Idaho and active work on behalf of a lot of folks here that that was included. And that makes this bill a better bill. We are not just concerned about State and local governments. We are concerned about them and addressing their interests. But we are also concerned about the businessman and the businesswoman all across this country on Main Street who also have to respond to mandates.

There is only a point of order here, not funding with respect to the private sector, but a point of order that exists. We are debating a law today or proposed law. One of the interesting laws in Congress is a law of unintended consequences. It springs up between every desk and in every crevice and every

day in every way, the law of unintended consequences.

I will tell you what you will hear about this law if you do not pass this amendment. You will hear about that law immediately if this amendment does not pass. The first time that you have a State or local government engaged in an enterprise in which the private sector is engaged in the same enterprise and a mandate is moving through the Congress, what you have is a circumstance where the Congress will pay for the cost of complying for the mandate for the local level of government and the private sector competitor out there has said you have the same mandate but which we are sorry, partner, you are on your own. You have created a competitive unfairness by definition, end of argument. You have created unfair competition.

I heard the last speaker talk about the surprise about the private sector. There is nothing about the intent of this amendment that in any way erodes or undermines the provisions in this bill that address the private sector. I know because I helped write it. Nothing that is proposed by my friends with this amendment would undermine those provisions of the law.

The only thing they have tried to do is say where you set up conditions in which you will have competitors as between levels of government and the private sector, we shall not have circumstances in which a point of order will lie if you do not fund it for the government but ignore the private sector. That is all the Senator from Connecticut is trying to do, and it is why I am pleased to cosponsor it and pleased to support it.

It makes eminent good sense. I hope after it is thought through and discussed some that the other side of the aisle would decide to accept it. Those who say the private sector does not want this, I will guarantee you this. Anybody in the private sector who is going to be set up for an unfair situation is going to want this as soon as they understand that they cannot compete in that circumstance.

So let me just again end where I started. This bill includes the private sector in a significant and important way. I support that, and I helped write it. I helped make sure it was here.

This amendment does nothing to undermine or erode what we are trying to do for the private sector. In fact, this amendment comes to that part of the private sector that will otherwise have in my judgment a circumstance of terrible unfairness imposed upon it and says we do not want that law of unintended consequences to come from this piece of legislation.

If we do not include this, I guarantee you we will discuss this again on the floor of the Senate. I guarantee you that those who discuss it will not be able to stand up and defend the circumstance that brings it to our attention the next time.

Madam President, I yield the floor.

Mr. LIEBERMAN. Madam President, I thank my friend and colleague from North Dakota. His advocacy for small business, for small farmers, and for common sense is well known and respected in this Chamber. He did in fact help write the bill, in fact strongly supports the underlying purpose of the bill, but also supports the amendment which gives me great confidence to go forward. I thank him for his very eloquent words.

Madam President, I ask unanimous consent that the Senator from Nebraska [Mr. KERREY] be added as cosponsor of the amendment.

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

Mr. LIEBERMAN. Madam President, I would at this point yield up to 10 minutes of my time to the Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. I thank the President and the distinguished Senator from Connecticut.

I want to take this opportunity to talk on behalf of the support for this amendment offered by the distinguished Senator from Connecticut, Senator LIEBERMAN, which will exempt from S. 1 all legislation that affects the private and public sectors.

Equally knowing that this amendment is recommended and authored by the Senator from Connecticut comes as no surprise. He is thoughtful. He recognizes from his own experience on the Environment and Public Works Committee, and the things that we have attempted to do for some time now, the need to go to the private sector wherever possible to get the job done, whatever that may be, most efficiently.

So I think this is an appropriate amendment. I am not sure where the controversy lies between the two parties because this amendment by any count really makes sense and it is consistent with the review over the last couple of years, the last several years, to turn, as I said before, to the private sector whenever we can do so.

Just last week, we passed the congressional coverage bill because we said that Congress should be subject to the same laws as everyone else. It would be absurd if only a week later we passed legislation which exempted State and local governments from the laws which applied to the private sector. But that is exactly what S. 1 as currently written does.

Under this legislation, the presumption is that States and local governments will be exempt from requirements that apply to the private sector unless the Federal Government foots the bill for compliance.

At the same time firms operating in the private sector—and there is example after example—I mean private water treatment facilities versus public water treatment facilities, sewage facilities, privately and publicly, but firms operating in the private sector would have to comply with these requirements, with these standards that are set by perhaps the Federal or the State government even though no one would be helping them to pay the costs of compliance,setting a competitive condition that is contrary to the mission that all of us have these days—that is, to get the job done in the best way possible for the least cost, in the most efficient manner. This is not just a theoretical inequity, it can have real and serious consequences. For example, in many jurisdictions, waste treatment facilities, as I said, are operated by government entities as well as private firms, each with the same obligation.

Under S. 1, the State-owned facility would not have to comply with any new laws designed to reduce pollution, unless the Federal Government pays the cost.

The private-sector competitor, however, would not have any choice. They would have to comply, and they would have to pay.

Consider the case of a research facility in a State university and a private-sector firm conducting similar research. S. 1, as currently drafted, institutionalizes a competitive advantage for the State-run facility and punishes the private-sector enterprise. That is not, I am sure, what the authors intended. But it is the result.

Madam President, many of those who support this legislation recognize the problem and want to fix it. Indeed, earlier in our consideration of this bill, an amendment was adopted which will require committees to consider the disparate impact of mandates and mandate relief on public and private concerns. But while recognizing the problem, that language does nothing to correct it. It does not provide the kind of assurance or consistency which is needed to deal with the problem.

The amendment of Senator LIEBERMAN, however, addresses the problem we all seem to recognize in a meaningful way. Under the amendment of the Senator from Connecticut, State and local officials would have to follow the same Federal laws as everyone else. Our workers and our environment would be protected similarly, and private businesses would have a level playing field.

So I believe this amendment is essential to a fair and equitable unfunded mandates bill, and I strongly urge my colleagues to support it.

I yield the floor.

Mr. KEMPTHORNE. Madam President, I yield 4 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND] is recognized.

Mr. BOND. Madam President, I thank the manager of the bill. I rise as a very strong supporter of S. 1, the unfunded mandates bill.

I came to this body having served 8 years as Governor of Missouri, and I found that State government budgets were devastated by the costs of Federal

mandates. I also know that they have been devastating in their impact on local governments. Kansas City, MO, finds the one-time cost to the city of implementing all the federally mandated environmental regulations in 1993 was some $56.2 million. Local governments are seeing their budgets robbed by Federal mandates. State governments find that they cannot utilize the tax dollars they want to, as they believe their voters and constituents want to, because they are preempted by the Federal Government.

I believe this is a good measure. I took a look at this amendment that has been crafted by my good friend from Connecticut. I read it, and it is absolutely stunning in its simplicity. It says that Federal or governmental mandates does not include any provision in any bill that would apply in the same manner to activities, facilities, or services of State and local or tribal governments and the private sector.

Madam President, that wipes out a tremendous sector of where the Federal mandates hit the State and local governments. That is not just a loophole big enough to drive a truck through, that is a loophole big enough to push this whole Capitol through.

Motor-voter, as mentioned by my colleague from Connecticut, may be one of the few areas that would not be exempted. But all of the other laws that impose the burdens on State and local governments would be wiped out. Is this an automatic requirement that we fund State governments and local governments in competition with the private sector? No. It simply says that you have to consider that; you can waive that. There is no requirement that we cannot change by a majority vote—and that will be brought to the attention of this body—if there is an impact on governmental and private-sector entities.

I have been made almost breathless by the statements of concern for the private sector from some sectors where I have not traditionally heard that support. I hope that those same people will support us in privatization efforts.

Frankly, what we are talking about here is an exemption that is so broad that it will make the basic provisions of S. 1 not applicable in most of the expensive areas where State and local governments are significantly oppressed by Federal Government mandates.

I urge my colleagues to reject this amendment. This bill is vitally needed. Governors, mayors, legislators, Republican and Democrat, across this country, particularly in my State, know that we need S. 1. They cannot afford to have S. 1 with this kind of loophole put in it.

I urge my colleagues to reject the amendment.

I reserve the remainder of my time.

Mr. KEMPTHORNE. Madam President, I thank the Senator from Missouri so much for his perspective as a former Governor and for expressing the importance of this legislation.

I reserve the remainder of my time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized.

Mr. LEVIN. Madam President, before I get to the amendment pending before us, I would like to use part of the time that has been allocated to me under this unanimous-consent agreement to pick up kind of where I left off the other day, about the bill itself.

I think, like most of us, that we must address the problem of unfunded mandates. I was a cosponsor of last year's bill. I am a former local official. I understand the impact of a mandate when Washington imposes it on us at a local level. By the way, private business persons understand those impacts, too. So we have to understand that it is not just local and State governments that are concerned with mandates imposed by us. The private sector is concerned with mandates imposed by us, as well. This bill treats them differently.

Sometimes the private sector and public sector are in direct competition; yet, they are treated differently in this bill. I am going to get to that in a minute when we talk about the amendment of the Senator from Connecticut.

I want to talk about, first, some of the problems that I see in the bill itself. First of all, it has been suggested that because amendments are being offered—there are many amendments that are going to be offered, and there are many that are needed, and some of them have already passed—that, therefore, people are filibustering this bill.

I have seen some pretty strange things in this Senate, but I have not seen many people filibuster their own bills. The Senator from Ohio, who is the ranking member of the Governmental Affairs Committee, is the prime cosponsor of S. 1. He was the principal sponsor last year of the bill that came to the floor. He believes vehemently in what is in this bill. He also, very strongly, opposed cloture—Senator GLENN did—because it would have immediately wiped out a whole host of relevant amendments—I emphasize ''relevant amendments,'' relevant to this bill. They were not technically germane for postcloture purposes, but they were very relevant to the bill, including a substitute which he is considering offering which is closer to last year's bill.

Are we serious that we want to prevent the ranking member of the Governmental Affairs Committee from offering a substitute bill similar to the one he sponsored last year? Is that a fair treatment of minority rights, to tell the former chairman, whose bill this was last year, that now as ranking member he will be preempted because of a technical postcloture rule from offering a substitute to this bill, should he so choose? I think the answer is no.

Therefore, when the Senator from Ohio and the Senator from Nebraska, who is also a cosponsor of S. 1, who is the ranking member of the Budget Committee, vote against cloture so that Members can continue to offer relevant amendments, the suggestion that they are, therefore, participating in a filibuster means they are filibustering their own bill—a bill that their name is on. When you look at the sponsors of S. 1, the third name on that sponsorship list is the Senator from Ohio. The sixth name is the Senator from Nebraska, Senator EXON, and so forth. This bill is different from last year's bill in some very significant ways.

Again, I cosponsored last year's bill. I would like to vote for this bill. I hope to be able to do it. But I am determined, and others are, too, that we are going to take the time to analyze some very, very significant provisions that will change the way we function on the floor here when amendments are offered, when bills are brought up. There is a new point of order in this year's bill, a very significant point of order, which was not in last year's bill which can be raised on any bill that does not fund that mandate for State and local governments under certain circumstances.

Now what has been the delay? Well, a couple of the days that have been used here were simply used to extract committee reports. On both committees, both Budget and Governmental Affairs, we made an effort to obtain committee reports. The effort was rejected on a party-line vote.

Now why—when you have a bill that is introduced on a Wednesday night, that goes to a hearing the next morning, that is supposed to be marked up the next day, that is very different from last year's bill—we are not given a committee report without being put through the process that we had to go through here this week to get committee reports, I do not know. But we were put through that process in both committees.

There was an amendment offered. Senator PRYOR, in Governmental Affairs, asked for a committee report so that Members of this body could study these provisions. They are very, very significant provisions. Senator PRYOR's motion in Governmental Affairs was tabled on a party-line vote. A similar thing happened in the Budget Committee. And so the effort was made then on the floor, finally successfully, to get committee reports. That took 2 days.

Now, in committee, I offered an amendment which said that if the Congressional Budget Office cannot make an estimate of the cost of an intergovernmental mandate, that it should be able to say so, just the way the bill allowed a mandate in the private sector to be so regarded by CBO. If the Congressional Budget Office is unable to say what the costs of a mandate on the private sector are, under this bill, it was allowed to say so. But purposefully, explicitly, the bill did not allow the Congressional Budget Office to say

that it could not estimate the cost of an intergovernmental mandate.

And let us be real clear: It is that estimate that is so critical. It triggers all kinds of activities. It requires appropriations to be in the amount of the estimate. So that estimate is the critical triggering device in this bill.

In last year's bill, if there were not an estimate, it would be subject to a point of order. And that was fine. This year's bill goes way beyond that, because it creates a point of order if we do not either appropriate directly the money to equal the estimate or unless we do some other things to make sure that downstream there is an appropriation for that estimate. So that estimate becomes absolutely critical.

But what happens if the CBO cannot make the estimate? I offered an amendment in the committee saying they ought to be able to say so. If it is absolutely impossible to make an estimate—for instance, if the amount of the mandate is going to depend upon the action of an agency which has not been taken, if it depends upon the content of a regulation that has not been written, then it may be impossible to say so. Let them be honest. That amendment was rejected in committee on a party-line vote.

Now, why have we used so much time in the last few days? For many reasons. One of them is I spent 3 hours here the other day debating that issue as to whether or not the CBO ought to be able to state that. And finally, today, we adopted the amendment which was rejected in committee. Was that useful? You ''betcha.'' It is going to make a big difference when this bill becomes law—and I have no doubt that this bill will become law—it is going to make a major difference as to how the Congress operates. Because there will be times, we have been told by the CBO, when they will not be able to estimate how much an intergovernmental mandate costs.

There have been other reasons we have used up some time. We had an amendment by the Senator from Washington on the Republican side, totally nongermane, totally nonrelevant to this bill. It took us hours yesterday, hour after hour after hour, on a totally nonrelevant, nongermane amendment having to do with education standards.

There are a lot of problems with this bill and they need to be addressed. This bill says that certain civil rights laws that protect people against discrimination based on race, religion, gender, ethnic origin, or disability are not the subject of this bill; that States and local governments are going to have to comply with those without any mandate protection in this bill.

Well, they left out a few things, including age. Do we want to protect people from age discrimination the way we do from race discrimination? I think so. Do we want to correct that? I hope so. And I will offer an amendment later on to correct it.

Is that dilatory? Is it dilatory to suggest that, since every amendment that any Member of this body might offer is subject to a point of order unless it contains a certain estimate as to how much it might cost State and local governments, every one of us is going to be subject to this point of order when we offer an amendment? And I think most of us probably say, that is right. Many think it should apply to amendments. But that is not my argument here.

The bill says that the point of order applies to amendments. An amendment which we offer must have that estimate of the cost to State and local governments or it is subject to a point of order. Can we get the estimate as individual Senators? Do I have a right to it? My amendment is going to be subject to a point of order if I do not have it.

Well, the bill says only the committee chair and the ranking member can ask for the estimate. That is what the bill says. Is my legislative life then going to be put in the hands of the committee chair and ranking member? Maybe they disagree with my amendment.

I am going to be offering an amendment which says any individual Member has a right to ask for the estimate, which is so crucial if that person's amendment is not going to be subject to a point of order. That just seems to me to be fundamentally fair and required and protects all of us.

This has nothing to do with private and public and whether we should have an estimate and all of that. This just goes to a basic right of a Member to obtain the estimate, which is absolutely essential under this bill to avoid a point of order on his or her amendment.

Now, is that germane after cloture?

We have been told it is probably not germane. Is that dilatory? Is it, in any fair sense of the word, dilatory for Members to clarify that issue by an amendment? It is surely relevant. I am confident that the Parliamentarian would rule it is relevant. But it is not germane, technically not germane, because postcloture is a very, very tight definition of germaneness.

Do we want to clarify it? Is it worth taking a few days? This bill will not be effective by its own terms until next January. Now, maybe some people will suggest that does not mean we should not use all the time between now and next January debating that bill. I could not agree more.

I can see my friend from Mississippi, the wheels in his head moving around. I beat him to it. I hate to take away a good response. So be it. Is it worth taking a few days, a few weeks, if necessary, to answer these amendments? These are relevant amendments. They affect each one of us. I think it is.

Now, getting to the amendment of the Senator from Connecticut.

Mr. LOTT. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. LOTT. The Senator was kind enough to mention my name and is fixing to get to the important discussion of the amendment. The Senator is absolutely right, even though we take a little time, it will not go into effect until January.

I want to make this point. I am pleased that we are now getting to some substantive amendments. This one clearly needs to be thought about and debated as it is being debated. I presume there are a few more. I think that the work that has been done by the distinguished floor managers on this bill last year and this year, a lot of good work has already been done. Surely there are a few good amendments. We should get to them.

Nobody here believes that there are 78 on your side or 30 on our side. Let Members get this list dwindled down to the amendments that really are relevant. Let Members talk about those. I suspect that some of them will be accepted, and we will get the job done and move on.

Certainly there is not a railroad involved here. We are taking lots of time on this legislation. I do think that the leader is right to expect that after 5 days we get down at least to the relevant or germane amendments. We are about to get there.

Here is my question to the Senator, if he would yield for the question. The Senator was talking about when would this be used. It seems to me that there would not be a whole lot of amendments that this might apply to. We are talking about a relatively small number, the dollar amount that is involved here. Is it not true that you probably would not have this applying that often? I am asking from genuine curiosity. How much are we talking about that would really kick in, $50 million?

Mr. LEVIN. There are 800-some bills, which estimates were able to be made on the bills as I understand it in the last 12 years. That is where estimates could be made. And a whole bunch that could not be made. I do not think that the current law which requires that an estimate be made, some act as though there has not been a law on the books that requires these estimates of intergovernmental mandates to be made. There has been a law on the books.

I am not sure many of us have read those estimates they have made, but nonetheless to answer the Senator's question directly, I do not believe it is applied to amendments. So, we are skating out on a new pond. The language applies this now to amendments, the point of order to amendments relative to intergovernmental mandates. When I say ''the law'' I am talking about estimating the amount of the intergovernmental mandate, the mandate on State and local government.

To try to directly address my friend's question, we do not know whether or not that threshold of $50 million per year some year down the road—could be 10 years down the road—is reached until we ask for the estimate. So how

many amendments will, in fact, be calculated or estimated to include an intergovernmental mandate of more than $50 million in any one of 5 fiscal years after it becomes effective? There are an awful lot of squishy words in there, by the way, but how many of them? What percentage of our amendments? I do not know. I just cannot answer.

Mr. LOTT. Mr. President, let me conclude, because I know the Senator wants to make some other points. Perhaps the Senator would want to respond to this.

I have found the people out across the country, certainly my State, are astounded when they find out that in fact we do not know the cost estimates of amendments that we are offering on the floor. They are shocked. We wander in here and say, hey, here is my amendment. It might cost $10 million, or $50 million, or $200 million, and they say, ''you mean, you don't know?'' Do you not think the people would want Members to know the consequences of our amendments on the floor? I think that is what this bill does. Which I believe the Senator supports.

Mr. LEVIN. I do. I agree with that. The problem is not the requirement that there be an estimate. That is not the problem.

Mr. LOTT. Without an estimate, how do we know?

Mr. LEVIN. The Senator asked me what percentage, and I am saying how do we know without an estimate. So I could not answer your question as to what the percentage is without these estimates being made. They have not been made yet on amendments. So, we will find out.

I agree, we should know the consequences of our acts. We should know the impacts on local and State governments. I used to be that local official 8 years. I came to this town because I did not like what the Federal Government was doing to me and my town—not me personally but my town—including mandates, including the way they operated programs. Believe it or not, that was a big part of my first campaign. As a local official I understood that. And I still believe it. And we should know the consequences of our acts.

Now, this amendment that is pending before the Senate is saying there are some areas where we sure should equally know the consequences on the private sector, and equally treat the private sector. There are areas where the private sector and the public sector are in direct competition. You have a hospital, one is a publicly owned hospital, say, university hospital, the other one is a private hospital. They are in competition. You can take two incinerators or two anything. Now, assume that in our wisdom or lack of wisdom—there will be a debate over that—there is an increase in the minimum wage. I do not want to debate the wisdom of the increase in the minimum wage, but assume there is an increase in the minimum wage. Do we really want to create a presumption that the private hospital is not going to have to pay that minimum wage increase but—excuse me, let me reverse it. Do we want to create the presumption that the private hospital is going to have to pay the increase in the minimum wage but that the public hospital is going to be off the hook unless we pay their increase in the minimum wage? Do we want to create that presumption?

Now, I had an amendment in committee which said, no, we will not do that when it comes to those employment laws like minimum wage and family and medical leave. We should not create that presumption. The amendment before that is a broader amendment, addressing the same point.

Take the two incinerators.

Mr. KEMPTHORNE. Would the Senator yield?

Mr. LEVIN. I am happy to.

Mr. KEMPTHORNE. Mr. President, just in response to that, this concept of having a public hospital, the private hospital, are we going to presume that we would then proceed and only pay for a minimum wage increase on the private hospital?

Mr. LEVIN. Mr. President, the bill does not presume that we will pay for the increase on the private hospital. It does create a presumption that we will for the public hospital. Of course it can be waived by 50 votes. There is a presumption in the bill.

Mr. KEMPTHORNE. That is the point, Senator, that is the point. If that scenario were to unfold, No. 1, would it not be very healthy for the Senate to have the information as to what is the cost of that mandate?

Mr. LEVIN. So far we are together.

Mr. KEMPTHORNE. In minimum wage.

Mr. LEVIN. Together so far.

Mr. KEMPTHORNE. Ask to have a CBO analysis on the cost and on the private sector.

Mr. LEVIN. We are together.

Mr. KEMPTHORNE. What sort of cost is it to the private sector?

Mr. LEVIN. We are together.

Mr. KEMPTHORNE. What sort of adverse impact might that have on competition between the public and private sector?

Mr. LEVIN. So far so good. Keep going.

Mr. KEMPTHORNE. Then we are together.

Mr. LEVIN. Mr. President, no, no. Excuse me, I will reclaim my right to the floor and then I will be happy to yield.

This bill goes one step beyond that and creates the presumption that we are going to either pay for that increase for the public hospital or waive it. It does not do that for the private hospital.

So, we go right down the road together, arm in arm as last year's bill did, which the Senator from Ohio is the prime sponsor of.

This year we go one step further. This year we create the presumption, and it is pretty embedded in there, that we will pay. We are implying to people, we are sending out the message, we are creating an assumption that we will either pay that increase for the public hospital or waive it.

That is where we have problems.

(Mr. COVERDELL assumed the chair.)

Mr. KEMPTHORNE. Will the Senator yield?

Mr. LEVIN. I will be happy to yield.

Mr. KEMPTHORNE. I certainly will respect your time. But, Mr. President, that is the point. There is all of this emphasis, all of this discussion on a point of order. At any point—at any point—you may seek a waiver of that point of order. In all likelihood, if you are going to have an increase in the minimum wage, we all know that will require a majority vote in the Senate. It may be the same majority that would also vote to waive that. The point of order also is not self-executing. Somebody has to raise that point of order.

Mr. LEVIN. One Senator.

Mr. KEMPTHORNE. One Senator has to raise that point of order.

Mr. LEVIN. Correct. Is there any doubt in your mind one Senator will raise any point of order? There is not 1 out of 100 Senators who opposes—by the way, the Senator from Idaho is a cosponsor of last year's bill.

Mr. KEMPTHORNE. Yes.

Mr. LEVIN. Which does not go as far as this year's bill does and create this presumption that we are going to treat the public sector different when it comes to funding this mandate than we will the private sector. It is not as though last year's bill was a weak bill. I do not think my friend from Idaho would have cosponsored a weak bill. Last year's bill was a strong bill, which went right down the road, step by step—and you outlined those steps. I agree with each of those steps.

This year's bill adds that additional point of order, and it is there that it creates a competitive disadvantage, in many cases, to firms that are competing with each other. And that is where the amendment of the Senator from Connecticut will allow us to say that if it applies to both, to both incinerators, public and private, that we should then deal with them in the same way.

I wonder if I could ask of the Chair how much time I have left.

The PRESIDING OFFICER. The Senator has 5 minutes remaining of his time.

Mr. LEVIN. I thank the Chair.

I just want to read from some letters from the private sector, from some parts of the private sector.

This is a letter from the Environmental Industry Associations. There are three associations that are part of a larger umbrella group. I understand this has about 2,000 total members. This includes the National Solid Waste Management Association, the Hazardous Waste Management Association, and the Waste Equipment Technology

Association. We all understand that the private sector is divided on this bill, that there are parts of the private sector—for instance, I understand the Chamber supports the bill—but there are parts of the private sector that are the most likely ones to be directly impacted that have a lot of problems with this bill.

I want to read from just one portion of the private sector. Again, this is three different subassociations that are represented here, about 2,000 members:

Notwithstanding provisions in the bill for parity of treatment between the public and private sectors for purpose of analysis—

And this is what my friend from Idaho was talking about, for purpose of analysis.

there seems to be an inconsistency in actual treatment between the two sectors because the legislation subject to the point of order vote applies only to Federal intergovernment mandates and not private sector mandates. We respectfully restate our basic concern that to exclude State and local government—but not the private sector—from the costs of compliance with unfunded mandates in conjunction with providing goods and services where both sectors compete would be both unfair and unfaithful to the core principles of the Job Creation and Wage Enhancement Act, of which S. 1 is the first piece.

So there is a significant portion of the private sector that very much is troubled by this.

I ask unanimous consent that the letter from those three associations that make up the Environmental Industry Associations be printed in the RECORD.

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

ENVIRONMENTAL INDUSTRY ASSOCIATIONS,

Re: S. 1, Unfunded Mandate Reform Act of 1995.

January 9, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Washington, DC.

DEAR SENATOR KEMPTHORNE: I recently wrote you, December 22, 1994, on behalf of the Environmental Industry Associations (EIA) to provide you our viewpoint on the important matter of unfunded federal mandates. Now that we and other stakeholders in this debate have had the benefit of a Joint Committee hearing on this initiative, I want to provide you with additional comments as your bill goes to markup and an early floor vote.

We are pleased that the bill requires that the Congressional Budget Office (CBO) provide legislative authorizing committees and agencies anticipating rule promulgation detailed economic and competitive impact analysis on both intergovernmental and private sector mandates. Clearly, this is a major improvement to promote more informed and deliberate decisions by Congress on the appropriateness of federal mandates in a given instance. We are especially pleased that the accompanying CBO Report on federal mandates must include a statement of the degree to which the mandate affects both the public and private sectors and the extent to which federal payment of public sector costs would affect the competitive balance between State, local, or private government and privately-owned businesses.'' (Committee Print, page 14, line 3–9). Again, we voice our strong support for this centrist approach.

Notwithstanding provisions in the bill for parity of treatment between the public and private sectors for purpose of analysis, there seems to be an inconsistency in actual treatment between the two sectors because the legislation subject to the point of order vote applies only to federal intergovernment mandates and not private sector mandates. We respectfully restate our basic concern that to exclude state and local government—but not the private sector—from the costs of compliance with unfunded mandates in conjunction with providing goods and services where both sectors compete would be both unfair and unfaithful to the core principles of the Job Creation and Wage Enhancement Act, of which S. 1 is the first piece.

To ensure that there is a level playing field between the public and private sectors, we suggest that the term 'Federal intergovernmental mandate' beginning on Committee Print, page 4, line 22, be amended by including a new paragraph ''(C)'' following line 14, pages 6, that would read as follows:

(C) *The term 'Federal intergovernmental mandate' shall not include any mandate to the extent it affects the commercial activities (including the provision of electric energy, gas, water or solid waste management and disposal services) of any state, local or tribal government.*

We look forward to working with you in the months ahead by providing the views of our members on legislative initiatives in which they have an interest.

Sincerely,

ALLEN R. FRISCHKORN, Jr.,
President and CEO.

Mr. LEVIN. Mr. President, let me read a letter from Consumers Power Co. This is a major energy supplier in my home State of Michigan. This is dated January 11:

The Unfunded Mandate Reform Act of 1995 is intended to relieve State and local governments of unfunded Federal mandates. While we support the intent of the bill, Consumers Power Company has some concerns over the impact the bill would have on investor owned electric utilities and its customers. We believe it will have the effect of placing certain private companies at a competitive disadvantage with local governments when they provide identical services.

Consider, for example, that the private sector would be required to comply with Federal environmental mandates at costs creating intolerable competitive disadvantages, while the public sector would be excused from compliance because funding is not provided by the Federal Government. Compliance with Clean Air Act Amendments of 2001, should they pass, would be such a case. Should municipal utilities be exempt from NOx reduction requirements because the Federal Government does not pay for implementation?

I ask unanimous consent that the entire letter be printed in the RECORD.

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

CONSUMERS POWER,
Washington, DC, January 11, 1995.

Hon. CARL LEVIN,
Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: The Unfunded Mandate Reform Act of 1995 (S. 1) is intended to relieve state and local governments of unfunded federal mandates. While we support the intent of the bill, Consumers Power Company has some concerns over the impact the bill would have on investor owned electric utilities and its customers. We believe it will have the effect of placing certain private companies at a competitive disadvantage with local governments when they provide identical services.

Consider, for example, that the private sector would be required to comply with federal environmental mandates at costs creating intolerable competitive disadvantages, while the public sector would be excused from compliance because funding is not provided by the federal government. Compliance with Clean Air Act Amendments of 2001, should they pass would be such a case. Should municipal utilities be exempt from NO_x reduction requirements because the federal government does not pay for implementation?

Senator Thad Cochran intends to introduce an amendment, as early as today, which would correct this unintended competitive disadvantage. We urge your support for the Cochran amendment which explicitly assures that where state and local governments engage in commercial activities, they must meet the same requirements as private firms offering the same product or service.

Attached for your review and consideration is the draft amendment language. Please call me or Mary Jo Kripowicz of my Washington staff should you wish to discuss this issue further.

Sincerely,

H.B.W. SCHROEDER.

Mr. LEVIN. So, Mr. President, a number of these amendments raise very important points. I, too, am glad that we finally have gotten to these kinds of amendments, and there will be a number of other amendments that are offered. But this is one of the most significant amendments for us to consider and worry about. However we vote on this amendment, I think each of us ought to be concerned about the possible competitive disadvantage that this bill is likely to place the private sector companies in that compete with the public sector.

I want to commend my friend from Connecticut for his tremendous work in this area and his concern for the private sector. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I am proud to yield 1 minute to the senior Senator from Idaho.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague, Senator KEMPTHORNE, for yielding. First of all, let me recognize the effort that he has put in now for, I guess, over 3 days on the floor to push an issue that the American people have spoken so clearly to, and I congratulate him for this effort and the work that goes on here to fashion this most important piece of legislation toward final resolution.

But I now speak specifically to the Lieberman-Kerry-Levin amendment of which, if you want to gut a good bill, here is where you start. This is the first substantive effort we have seen on the part of the other side to substantially change the course and the direction of this bill. Basically, the private sector has an opportunity to compete

with any segment of the public sector, and vice versa. And if you start making all of these broad exceptions, you create gaping holes in this legislation that you can drive billions of dollars through.

This amendment says that wherever there may be competition between the private and public sectors, S. 1 would not apply.

If this amendment actually did anything to stop the Federal Government from imposing mandates on the private sector, I'd be the first in line to cosponsor it.

This amendment would not stop unfunded mandates on the private sector. In fact, it would help Government go on imposing them.

As I understand it, since the private sector might conceivably compete for virtually any public sector activity, this amendment would make S. 1 meaningless. It would gut the bill.

As my colleague from Idaho has pointed out from his experience as a city mayor, the private sector competes with the public sector in a host of activities such as police services and fire services, planning services, prisons, education, recreation, civil engineering—to name only a few.

Under this amendment, unfunded mandates relating to activities or services like these would not have to comply with S. 1.

We are told that S. 1 would put the private sector at a disadvantage in competing with the public sector, because the private sector would have to pay for mandates it operates under, while the Federal Government would absorb the cost of any mandates on the public sector.

This amendment is based on wrong assumptions about S. 1.

S. 1 is a process reform that makes it harder to enact unfunded mandates on either the public or private sector and opens up the process to public scrutiny.

This amendment does not try to stop the Government from imposing costly mandates on the private sector. Instead, the amendment just exempts a huge class of mandates.

As a result, this amendment would remove the procedural speed bump that S. 1 puts in the path of those unfunded mandates.

In other words, this amendment will hurt the private sector by keeping it easy for the Government to impose unfunded mandates on either the public or private sector.

Exempting a long list of mandates from this bill just means making it easier for Congress and the Federal Government to continue putting the cost of mandates on somebody else's bill—and making it harder for Congress to find out ahead of time how much the mandate will cost the American people.

The process today is broken. It is biased toward irresponsibility. It frustrates information gathering. It prevents the American people from having a clear view of what decisions are being made by Congress and the Federal regulators.

S. 1 would end all that.

S. 1 gives us a tool to determine the actual cost of Government mandates before we are asked to vote on them.

For the first time in history, it will be standard operating procedure for CBO to analyze the cost of mandates on the private sector, and for Federal agencies to review the costs of mandates on the private sector.

Without a CBO estimate, a bill imposing unfunded mandates on the private sector would be subject to a point of order.

Most important, S. 1 changes the bias of the current system to make Congress and the Federal regulators accountable for the real outcome of their decisions, by giving the American people a clear view of the decisions being made.

American business understands all this. We have heard the letters from business leaders who are in the best position to evaluate the bill's impact on competition. Those letters support S. 1.

Exempting actions from S. 1 will not help any business in America. It will only keep a broken process in place.

If you think unfunded mandates on American business are unfair, you should support S. 1 and oppose this amendment.

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

Mr. KEMPTHORNE. Mr. President, I just want to thank my colleague from Idaho. I am proud to be a partner with him.

Mr. LOTT. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. LOTT. How much time is remaining on both sides?

The PRESIDING OFFICER. Five minutes for the Senator from Idaho and 27 minutes for the Senator from Connecticut.

Mr. LOTT. So at approximately sometime shortly after 5:30 or 5:35, we can anticipate a vote on this issue?

The PRESIDING OFFICER. 5:40 to be specific.

Mr. LOTT. Thank you, Mr. President.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I will speak on my own time. I say also to my friend from Mississippi that we may not consume all the time available on our side. There is one other Senator who has asked to speak in support of the amendment, and if he arrives on the floor, obviously, I will yield to him. Otherwise, I will speak for a brief time. I presume that my friend and colleague from Idaho will want to speak for a little bit. And if it is OK with him, I would like to wrap it up.

Mr. President, I do want to make clear here a few points in response to some of the opposition to the amendment. This is not some special exemption that we are creating. We are in fact trying to create an equality of enforcement of S. 1 to make it clear that it applies equally to the public and the private sectors, and that it does not, by setting a higher hurdle for so-called mandates on State and local governments, exempt them and put them at a competitive advantage in regard to, or in respect to private entities that are doing the same thing that they are doing.

I feel very strongly, Mr. President, that this amendment does not go to the heart of this bill. This bill, which I fully support, one, wants Congress to be forced to face an estimate of the costs of what we are about to do. It sounds as if we should have done it a long time ago, and we should have. What is rational or fair about passing a bill which requires other levels of Government or the private sector to take action when we do not know how much it will cost them? As much as we support some of the goals that are the subjects of legislation we adopt, we might decide that it is not worth it, that on a cost-benefit basis, it is not worth it.

My amendment leaves that intact. We will be forced to face the cost of potential legislation. CBO must give an estimate of the cost impact on both public and private entities of anything we are about to do.

The amendment, if passed, leaves the second point of order in place created by S. 1 so far as it relates to mandates specifically on State and local government for governmental functions where there is no private-sector competition. In my opinion, that affects the most significant and certainly the most costly mandates that we put on State and local governments. They still would be covered by S. 1, if amended by the amendment that we have put in. And it is just there in the dollars and cents. It was there in the testimony that I read from Governor Voinovich of Ohio and, indeed, from Senator BOND. When you look at the impact, the big-ticket items, the big-ticket mandates, the most costly mandates on the State and local governments are the ones that are uniquely on them—education and social services particularly.

The current occupant of the chair made the point there are other mandates we put on the States uniquely, and the motor-voter legislation, which the current occupant of the chair cited, is a good example. There is no private sector impact of that. In a sense that is the classic Federal mandate. We had a ''good idea,'' and we asked the States and localities to do it. We forced them to do it. But we did not give them the money to pay for it. And that would still, if my amendment passed, be required to pass the second hurdle, be subject to the point of order, and be

put on the track which would eventually lead to no money, no mandate. And that ought to be.

But when we are dealing with something that affects both the public and private sector, I just do not think it is right to lower the bar, the hurdle, for the public sector and keep it up here for the private sector. That is inevitably going to mean that the private sector will be put at a competitive disadvantage where they are playing a zero sum game as they are in so many clean air, clean water situations where you have a set level of pollution reduction that the public and private sector share. If we ask less of the public sector, the private sector is going to have to bear more of a burden and pay more of a cost. And ironically, and unintended, I know, is one of the consequences that I foresee, which is that, if this amendment were passed, it would inhibit the move toward privatization which so many of us support here, privatization of public functions, because a private entity performing a public function will be held to higher responsibilities, have higher costs, and therefore governments will be less likely to privatize because they will get this bargain.

So I think this is an amendment that is equitable. The underlying bill is very necessary, and the amendment does not diminish the impact of the underlying bill. In fact, it supports it and it supports it in a way that is more fair because it does not increase the burdens on the private sector.

Now, people who feel there are too many regulations generally, Federal regulations and Federal mandates, may think that if this passes in this form, because of the inequity that is being created between the public and private sector, the next step will be to remove mandates from the private sector.

I would respectfully suggest that is a big step which is not likely to follow, and therefore the private sector will be left holding the bag, paying the extra cost of this proposal. The reason I think that big step would not be taken is that then—and I speak as someone who has worked on market incentives for environmental protection and is concerned about deregulation—but if you started to talk about pulling off some of the regulations, then you are going to put in play a lot of laws that the public wants us to keep out there.

Mr. LOTT. Mr. President, will the distinguished Senator yield?

Mr. LIEBERMAN. I will be glad to yield to my colleague.

Mr. LOTT. Just for a little discussion and maybe a question.

I certainly respect what the distinguished Senator from Connecticut is trying to do. He always gives great thought to any amendment he pursues or any bill he supports, and he really has an impact when he does that.

I presume that the Senator is—I think I know the Senator well enough that he is for the concept of this legislation.

Mr. LIEBERMAN. The Senator is correct.

Mr. LOTT. The Senator thinks we ought to take a look at the costs of mandates we have been putting on State governments. Having been a State attorney general, he knows what is involved here, and I know he would like for us to review that and relieve the States and the local governments of some of these mandates that cost millions of dollars.

So I know the Senator does not want to undermine the basic purpose of this legislation, and the Senator does not want to in any way render it moot, as I believe I heard somebody say earlier here.

The thing that bothers me about the amendment, more and more, you are going to find that there are areas where both private and public are already involved. I believe the distinguished chairman of the Governmental Affairs Committee has indicated earlier that already you have private activities in the police departments, in fire departments, in public building inspectors, public road construction, public hospitals, and city attorneys compete with the private, fee-for-service attorneys.

So I was just rolling over in my mind as the Senator was speaking that there are so many public-sector services now, at both the State and the county and the city level, where you would have this private-sector competition and that so much of the bill might be in fact wiped out if we pass this.

How does the Senator respond to that? Because I am concerned about what the impact would be. We do not want to wipe out major portions of the bill because we know it is good. But with the potential impact that might have on the private sector, we do not want to kill the whole thing when you are trying in good faith to address a problem. When you analyze it, it looks to me as if almost everything could be covered here now.

Mr. LIEBERMAN. Mr. President, I appreciate the question from my friend, and it is a good one. Let me first state that not only is there not the intention to wipe out most of bill, I am convinced the impact of the amendment is not to do that. And let me assure my friend from Mississippi that I wish to support this bill. I was a cosponsor of S. 993 last year.

I was the attorney general of Connecticut before I came here. I believe in federalism. I know that the States have not been treated fairly in a whole host of mandates that we have put on them. But it is just the point that the Senator is making that is part of my argument. We are in a time now, I do not have to tell my friend, where we are quite appropriately reviewing the whole structure and focus and purpose of government, and taking a look at whether government is best suited to perform certain functions or whether the private sector can pick up those functions.

I am afraid that if we pass this bill unamended, without the amendment that I have put in, all the incentives go toward keeping governmental functions in the Government and not giving them over to the private sector, because the private sector is held to the higher standard. The public sector can be held to a lower standard if we do not fully pay the cost of any mandate. So, if I understand the Senator's question correctly, it is in fact because: First, I do not want to put the private sector at a competitive disadvantage and, second, I agree the Government has grown too big and we ought to figure out ways in which we can have private entities perform some public functions.

But this bill as it sits now will discourage that, as the school bus operators—I read a letter, before my friend was on the floor, from the school bus operators association, National School Transport Association where they urge support of this amendment because of their fear that the result of it, unintended, will be for fewer municipalities to contract with them to provide school bus service because the municipalities will not have to carry out Federal mandates regarding safety equipment on the bus so they will have a lower cost whereas the private school bus operators will have to carry that out.

So I repeat, I feel very strongly that this amendment does not gut the bill. The bill remains strong, very strong. And frankly it is revolutionary in its impact, forcing us to face the cost, setting hurdles, and including setting that high hurdle when we mandate that a State and local government perform a function uniquely. And that is where most of the dollars are that we mandate the State and local governments to pay.

So I urge my colleagues to consider supporting this bill across party lines. I think it is fair. It is good for the private sector. And it is good for the public, too, insofar as they are concerned about us protecting their health and safety.

Mr. President, I yield the floor at this time.

Mr. LOTT. Mr. President, I believe the distinguished sponsor of the legislation is perhaps ready to speak. How much time is remaining now?

The PRESIDING OFFICER. There is 5 minutes remaining to the Senator from Idaho, 10 minutes for the Senator from Connecticut.

Mr. LOTT. Does a quorum count against the time?

The PRESIDING OFFICER. Equally divided.

Mr. LOTT. Time would count. So at this point we could yield back time on either side and perhaps have the closing statements?

Are we ready? Could I ask the distinguished Senator from Ohio, are we ready to conclude the debate at this point?

Mr. GLENN. In just a moment. I think the distinguished minority leader, I believe, had indicated he might want to have a few words on this. We have sent word in to him that we are down to about the last 5 minutes so we might delay just a couple of minutes here.

Mr. LOTT. If that is the case, I do not believe the sponsor of the legislation would want to use his time.

Do you want to just put in a quorum and let it count? Or do you want to speak now?

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I will yield such time to myself as I may need.

Mr. President, a few points. No. 1, Senate bill 993, which I was a cosponsor of, principal sponsor last year—it was a very good bill. S. 1, much of the base of that is 993, but it is a new and improved version. I strongly support S. 1.

When we talk about this issue of competition between the public sector and the private sector—I will put my voting record up. For example, my ranking from the U.S. Chamber of Commerce is a 92 percent voting record in support of business issues; National Federation of Independent Business, 94 percent. I am not going to be part of any legislation that in any way is going to have an adverse impact on our business community. And I have not done that in S. 1.

One of the members of the business community I spoke with last week made this very, very good point—Bob Bannister, National Association of Homebuilders. He said, ''There is no such thing as an unfunded mandate. Everyone of them are funded but they are funded by tax dollars. We in the business community that are paying the taxes—we pay them.'' That is why the business community strongly supports S. 1 as written.

But now we have the amendment. I respect my colleague from Connecticut, but this amendment says that in those areas where there may be competition, then we are not going to allow this process to work. But that is what S. 1 is, it is a process.

Why would we not want to know the cost of some potential mandate before we vote? I think the people of America want us to know how much it is going to cost. What is the impact? And included in there is if in any way this creates some sort of adverse impact to the private sector—which are the ones paying the taxes anyway—we will know it.

The Senator from Massachusetts made the point, he said, and I am paraphrasing: If it creates a disadvantage to the private sector, he says, I think the people would say wait a minute.

Guess what? Now we will know, because of this process. And do you know who will say wait a minute on behalf of the people? Congress will. Because then we can come to the floor, and now it is not based on all of these scenarios that we have heard. It is based upon empirical data. Every one of these scenarios, as it has been pointed out, if they develop then this is where we resolve it: Majority rules. But it is the process that we know this ahead of time.

The Lieberman amendment will have the effect of eliminating from S. 1 any cost estimate for any conference reports, amendments or motions which contain mandates. The estimates on these only come from subsection C(1)(b) which the amendment makes inapplicable. So we are going to say, you know what, there just may be a lot of these problems out here. So rather than knowing that, rather than knowing how much it is going to cost, we would rather not know. So let us just wipe it out. That does not set well with me. That does not set well with mayors and Governors and county commissioners and schoolteachers throughout the United States nor our private sector partners throughout the United States.

Mr. President, I will ask unanimous consent to have printed in the RECORD the following letters. From the U.S. Chamber of Commerce—I will only read a line from each of these.

The U.S. Chamber of Commerce has loudly and wholeheartedly endorsed this legislation.

That is dated January 18, 1995.

A letter from W.M.X. Technologies, which is a large, large company dealing with the waste management issue.

I am writing to express our appreciation and support for your efforts in crafting the text of S. 1, the Unfunded Mandate Reform Act of 1995.

NFIB, National Federation of Independent Business:

On behalf of the over 600,000 members of the National Federation of Independent Business, I urge you to vote in favor of S. 1.

The National Retail Federation:

On behalf of the Nation's retail community and its 20 million employees—1 in 5 U.S. workers—we are writing to commend you for your sponsorship of S. 1. . . . S. 1, which would restore accountability and responsibility at the federal level, is the strongest legislative initiative in which to counter this growing problem.

I do not think the American public realizes for how many years we have cast votes in this well on mandates to the citizens of this country and we never knew how much they cost. To this day we do not know because nowhere do we require it.

We will now, with S. 1. And at any point that you want to have a waiver of the point of order, just come to the floor and a majority rules and we waive the point of order. But we are going to start making informed decisions. We are not abdicating decisionmaking. We are enhancing decisionmaking through S. 1—a process.

Mr. President, I reserve the remainder of my time and ask unanimous consent the letters be printed in the RECORD.

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

NATIONAL RETAIL FEDERATION,
January 4, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the nation's retail community and its 20 million employees—1 in 5 U.S. workers—we are writing to commend you for your sponsorship of S. 1, The Unfunded Mandates Reform Act of 1995. This legislation is the most effective way to confront the problem of unfunded federal mandates while simultaneously resuscitating the concept of federalism and giving the states back control of their budget obligations.

The problem is well documented and the solution is clear—unfunded federal mandates must end. Over the past decade, an unprecedented increase in unfunded federal mandates in environment, labor and education, to name just a few, has forced state and local governments to undertake actions that drain their resources and are often in conflict with the best interests of their citizens as well as our industry.

As representatives of the retail industry in each of the fifty state capitals, we have experienced first hand the profound adverse impact of unfunded federal mandates on our industry and our state's economic well-being.

Unfunded federal mandates are simply another Washington practice of circumventing a fundamental responsibility in governing, the obligation to bring desires into line with revenues. Such mandates are Washington's way to dictate to the states, even though it has exhausted its resources. S. 1, which would restore accountability and responsibility at the federal level, is the strongest legislative initiative in which to counter this growing problem.

Again, we sincerely appreciate your leadership on this important matter.

Sincerely,

Tracy Mullin, President, National Retail Federation; George Allen, Executive Vice President, Arizona Retailers Association; J. Tim Brennan, President, Idaho Retailers Association; Bill Coiner, President, Virginia Retail Merchants Association; Spence Dye, President, Retail Association of Mississippi; Bud Grant, Executive Director, Kansas Retail Council; Jo Ann Groff, President, Colorado Retail Council; John Hinkle, President, Kentucky Retail Federation; John Mahaney, President, Ohio Council of Retail Merchants; Charles McDonald, Executive Director, Alabama Retail Association; Grant Monahan, President, Indian Retail Council; Sam Overfelt, President, Missouri Retailers Association; Ken Quirion, Executive Director, Maine Merchants Association.

Lynn Birleffi, Executive Director, Wyoming Retail Merchants Assn.; John Burris, President, Delaware Retail Council; Bill Dombrowski, President, California Retailers Association; Janice Gee, Executive Director, Washington Retail Association; Brad Griffin, Executive Vice President, Montana Retail Association; Jim Henter, President, Association of Iowa Merchants; Bill Kundrat, President, Florida Retail Federation; William McBrayer, President, Georgia Retail Association; Larry Meyer, Vice Chairman & CEO, Michigan Retailers Assn.; Mickey Moore, President, Texas Retailers Association; Nick Perez, President, Louisiana Retailers Assn.; Dwayne Richard, President, Nebraska Retail Federation.

Bill Sakelarios, Executive Vice President, Retail Merchants Assn. of N.H.; Paul Smith, Executive Director, Vermont Retail Association; David Vite, President, Illinois Retail

Merchants Assn.; Melanie Willoughby, President, New Jersey Retail Merchants Assn.; Mary Santina, Executive Director, Retail Association of Nevada; Chris Tackett, President, Wisconsin Merchants Federation; Jerry Wheeler, Executive Director, South Dakota Retailers Assn.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, January 3, 1995.

Hon. DIRK KEMPTHORNE,
Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR DIRK: On behalf of the U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, and 1,200 trade and professional associations, I sincerely commend your hard work and tenacity on the ''Unfunded Mandate Reform Act of 1995,'' S. 1. The Chamber membership identified unfunded mandates on the private sector and state and local governments as their top priority for the 104th Congress. Accordingly, the Chamber supports this legislation and will commit all necessary time and resources to ensuring its passage early in this session.

I particularly want to thank you for responding to our concerns about the role of the private sector in this debate and the potential impact it could have had on the business community, especially small businesses. Your willingness to include the private sector in Title II of S. 1, ''Regulatory Accountability and Reform,'' and your recognition of the potential unfair competition issue between business and state and local governments, make this a much strong bill that can have a significant impact on the current regulatory burden.

Again, Dirk, we appreciate your commitment to this issue. I look forward to working with you to secure passage of S. 1 as well as other issues that we can join forces on for the 104th Congress.

Sincerely,

RICHARD L. LESHER.

SMALL BUSINESS LEGISLATIVE COUNCIL,
January 10, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: We wish to express our support for the Unfunded Mandates Reform Act of 1995, S. 1, and urge you to vote for it. In particular, we strongly support the provision requiring the Congressional Budget Office to conduct an analysis of the direct cost of proposed mandates on the private sector.

Several years ago, we arrived at the conclusion that many of our ''regulatory'' problems were actually ''legislative'' problems. Congress had effectively assumed the role of regulator. Therefore, we concluded, the analysis of new ''regulatory'' requirements should begin during the legislative process. In effect, we argued that Congress should impose upon itself, the discipline of the Regulatory Flexibility Act.

For this reason, in addition to our general concerns about unfunded mandates, we support this legislation. It is important that Congress understand fully, the economic consequences of its actions on small business, in a timely manner. Small business is at the regulatory braking point. All too frequently, small business owners tell us, ''I am not sure I can advise my son or daughter to join me in the business. It is not worth it, the hassles outweigh the joys. They just might be better off working for someone else.'' That is not a healthy trend for the country.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sections as manufacturing, retailing, distribution, professional and technical services, construction, tourism, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ,
President.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Association, Inc.
American Warehouse Association.
American Wholesale marketers Association.
AMT-The Association for Manufacturing Technology.
Apparel Retailers of America.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Chimney Sweep Guild.
National Association of Catalog Showroom Merchandisers.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
National Wood Flooring Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Passenger Vessel Association.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.

JANUARY 10, 1995.

DEAR SENATOR: On behalf of the broad-based coalition listed below, representing millions of hardworking, tax paying voters, we urge your strong support of S. 1, the Unfunded Mandates Reform Act of 1995. Congress must begin to control the ''unfunded mandates'' crisis facing America today.

Our members are quite concerned over the burgeoning number of federal mandates imposed on state and local governments which lack adequate financial assistance for development, implementation and compliance. Without adequate funding, states and localities are forced to pass on these costs and the true financial burden is shouldered by private business and citizens through fees and taxes.

S. 1, a bi-partisan effort sponsored by Senator Dirk Kempthorne (R-ID) and John Glenn (D-OH) and supported by a majority of the Senate, is the critical first step to controlling the unfunded mandates crisis. This bill requires the non-partisan Congressional Budget Office (CBO) to analyze new legislation and determine the cost of any proposed mandate imposed on state and local governments. The bill also requires CBO cost estimates for impacts on the private sector. If these estimates are not completed, any proposed legislation may be ruled out of order.

This bill does not halt government actions. It is an important educational tool for Members of Congress who need to know the financial impact of legislation being considered before voting on it.

Now is the time to act. Support S. 1 without weakening amendments and begin to alleviate the burden of unfunded federal mandates.

Sincerely,

Associated Builders and Contractors, Inc.
Building Owners and Managers Association.
Denver Regional Transit District.
International Council of Shopping Centers.
National Association of Home Builders.
National Association of Real Estate Investment Trusts, Inc.
National Association of Realtors.
National Restaurant Association.
National School Transportation Association.
Small Business Legislative Council.
U.S. Chamber of Commerce.
Washington Metro Area Transit Authority.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC January 10, 1995.

Members of the U.S. Senate:

The Senate is scheduled tomorrow to consider S. 1, the ''Unfunded Mandate Reform Act of 1995.'' On behalf of the U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 72 American chambers of commerce abroad, I strongly urge you to vote ''YES.'' The Chamber will include this vote in its annual ''How They Voted'' vote ratings.

The U.S. Chamber conducts a survey of its membership each congressional cycle to determine the most important legislative issues for the coming Congress. This year, the Chamber membership identified unfunded mandates on the private sector and state and local governments as its number one issue for the 104th Congress. We believe that the coverage S. 1 provides for the private sector represents a significant step forward in our ongoing battle to tame federal regulatory burdens. Accordingly, we have endorsed S. 1 and are devoting all necessary time and resources to secure its passage.

All the private sector seeks in this debate is information and accountability. We do not seek federal funding for any private sector mandate. Our goal is to ensure that before any significant legislation can be passed or any major regulation imposed on the private sector, a cost impact analysis be done and made public. We also seek, at a minimum, a requirement that before any public sector mandate is funded, an analysis of the potential for unfair competition between the public and private sectors in the provision of the same goods or services is provided and aired. Our intent is to secure full and honest debate and to allow the public to communicate to Washington where their limited resources should be spent. Every day, American business and households, as well as state and local governments, have to consider the impact their actions have on their own bottom lines. Congress and federal regulators also should be required to consider the financial impact of the mandates they impose.

This issue is about good government, jobs, and competitiveness. The business community recognizes that state and local governments struggle with such basic necessities as funding for additional police officers, ambulances and schools because an increasing portion of their budgets go toward complying with unfunded federal mandates So too do businesses struggle—particularly small buuinesses—with generating jobs, making their businesses grow, and sometimes just staying in business.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS,
Washington, DC, January 11, 1995.

Hon. [Name],
U.S. Senate,
Washington, DC.

DEAR SENATOR [Last Name]: Shortly you will be called upon to consider S. 1, ''The Unfunded Mandate Reform Act of 1995.'' As you know, in addition to addressing unfunded mandates imposed on state and local governments, the legislation includes a requirement that the Congressional Budget Office conduct a cost-impact analysis whenever Congress wants to impose an unfunded mandate of more than $200 million on the private sector. On behalf of the 45,000 companies represented by the National Association of Wholesaler-Distributors (NAW), we strongly urge you to fight for passage of S. 1 as drafted, and oppose any efforts to remove or weaken the private-sector coverage language.

Clearly, S. 1 will force Congress to confront the real world impact of unfunded mandates on the millions of businesses, and their employees, that drive our economy, and who must implement and pay for the laws, rules and regulations that are imposed on them by Washington. Indeed, your support for S. 1 with its strong private sector coverage provisions, will tell every employer and employee in [State] and across the country that before considering an unfunded mandate you will carefully review the costs to American business associated with that mandate. This, in our estimation, represents sound government policy, sound business policy and sound economic policy.

With thanks for your consideration and best regards.

Cordially

DIRK VAN DOGEN,
President.
ALAN M. KRANOWITZ,
Senior Vice President.

BROWNING-FERRIS INDUSTRIES,
Washington, DC, January 11, 1995.

Hon. DIRK KEMPTHORNE,
Dirksen Building,
Washington, DC.

DEAR SENATOR KEMPTHORNE: We appreciate the attention you have given to views we previously expressed in connection with unfunded mandates legislation. We expressed our previous views at a time when one of our concerns was that unfunded mandates legislation could have retroactive effect. It is evident that S. 1 has a prospective effect only, which we understand was your intent all along.

After reviewing the legislation that will be considered on the floor and after discussions with your office, we recognize that among your objectives for S. 1 is creation of a favorable climate for the private sector. In fact, S. 1 seeks creatively to address the concern expressed in some quarters that unfunded mandates legislation could disadvantage the private sector where public-private competition takes place. Moreover, after many years of experience in working with you—most of them prior to your tenure in the Senate—BFI is convinced that your dedication to free enterprise is unsurpassed.

With your commitment to assure equality for the private sector—no more, but no less—where competition exists between the public and private sectors, we are pleased to strongly support S. 1.

Sincerely,

RICHARD F. GOODSTEIN.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, January 3, 1994.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR DIRK: On behalf of the over 600,000 members of the National Federation of Independent Business, I urge you to vote in favor of S. 1, the unfunded mandates legislation, when it is considered by the Senate in January.

Unfunded federal mandates on the states and local governments end up requiring these entities to raise taxes, establish user fees, or cut back services to balance their budgets. Small business owners are affected by all of these actions.

Between 1981 and 1990, Congress enacted 27 major statutes that imposed new regulations on states and localities or significantly expanded existing programs. This compares to 22 such statutes enacted in the 1970s, 12 in the 1960s, 0 in the 1950s and 1940s, and only two in the 1930s. The Congressional Budget Office estimates that the cumulative cost of new regulations imposed on state and local governments between 1983 and 1990 was between $8.9 billion and $12.7 billion. These include environmental requirements, voters registration requirements, Medicaid, and others.

It was not the states and cities who paid roughly $10 billion in unfunded mandates during the 1980s; it was taxpayers—small business owners as well as everyone else. In June 1994, a poll of all NFIB members resulted in a resounding 90% vote against unfunded mandates.

I urge you to strongly support S. 1.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

WMX TECHNOLOGIES, INC.
Washington, DC, January 12, 1995.

Hon. DIRK A. KEMPTHORNE,
U.S. Senate, Washington, DC.

DEAR SENATOR KEMPTHORNE: I am writing to express our appreciation and support for your efforts in crafting the text of S.1, The Unfunded Mandate Reform Act of 1995.

As you know, WMX Technologies, Inc. is the world's largest environmental services company. In the United States, the WMX family of companies provides municipal solid waste management services in 48 states. These services include 132 solid waste landfills and 15,000 waste collection vehicles serving approximately 800,000 commercial and industrial customers as well as 12 million residential customers and contracts with nearly 1,800 municipalities. In addition, our 14 trash-to-energy plants produce energy from waste for the 400 communities they serve. Finally, our recycling programs provide curbside recycling to 5.2 million households in more than 600 communities and to 75,000 commercial customers throughout the United States.

We provide these services in a heavily regulated and highly competitive environment. In many cases, State, local and tribal governments are our valued customers, while in others they enter the market and provide

services as out competitors. While we do not object to their entry into the market, we have consistently sought to ensure that there is a level playing field upon which we can all compete fairly in the marketplace. For this reason, we have been keenly interested in efforts to ensure that the private sector is not competitively disadvantaged by unfunded mandate legislation that would preferentially relieve public sector participants from the costs of complying with Federal mandates.

WMX is deeply grateful to you for your sensitivity to this potential difficultly and your willingness to work with us to resolve it. We are confident that the legislation and amendments you will support on the floor of the Senate will provide the necessary safeguards to avoid unintended adverse impacts upon the private sector.

We look forward to working with you and your staff on this and other matters of mutual concern.

Sincerely,

FRANK B. MOORE,
Vice President
for Government Affairs.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, January 18, 1995.

LETTERS TO THE EDITOR,
New York Times, West 43d Street, New York, NY.

TO THE EDITOR: Your editorial in today's paper, ''What's the Rush on Mandates?'' categorically misrepresents the position of the U.S. Chamber of Commerce on the unfunded mandates legislation pending before Congress.

Over a year ago, we began working with Senator Kempthorne and Representative Clinger, the respective leaders on this issue in the U.S. Senate and House of Representatives, to ensure comprehensive coverage for the private sector. We have nothing but praise for their leadership on this issue and for their openness to the concerns of the private sector. Indeed, when we brought the issue of the potential for unfair competition to their attention (caused when only the public sector receives funding for mandate compliance in an area where they compete with businesses), they responded immediately by including language in both the Senate and House bills to specifically require Congress to address this issue.

The U.S. Chamber of Commerce has loudly and wholeheartedly endorsed this legislation and has committed all necessary time and resources to ensuring its passage and successful implementation. Contrary to your reporting, every communication we have sent to both Congress and our membership federation of 220,000 on this issue since the advent of the 104th Congress emphatically states our support for quick passage of this legislation.

Sincerely,

R. BRUCE JOSTEN.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I do want to respond to my friend from Idaho and say it is certainly the intention of the sponsors of the amendment—I am confident the desired impact of the sponsors of the amendment—to leave most of the contents of requirements of S. 1 intact, including the requirement that there be a Congressional Budget Office analysis of the cost of every Federal law which might result in a mandate on public and private entities, and that a measure would be subject to a point of order—a point of order would lie if there was not such an estimate.

So we want to keep those facts in there, and we want to keep the second point of order in there with regard to the mandate that would impact State and local governments in the capacity of State and local governments, unique as it is, when they are not competing with anyone from the private sector. All we want to do here is to say that it is unfair to lower the bar on State and local governments when they are performing a function pursuant to a mandate that the private sector is also performing.

Yes, the Senator from Idaho is correct, this is just a point of order. But a point of order is more than just a point of order. It sets up here a two-track system, and we are saying to State and local governments, ''You have the opportunity to put yourself on a course that says no money, no mandate, no responsibility,'' while the private sector has to pay the cost of fulfilling that mandate regardless.

Mr. President, I ask unanimous consent that the Senator from Illinois, Ms. CAROL MOSELEY-BRAUN, be added as a cosponsor of the amendment.

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

Mr. LIEBERMAN. Mr. President, I yield such time as he may need to the distinguished Democratic leader.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Connecticut and commend him for the amendment.

I have watched the debate and am very moved by his arguments. I hope our colleagues will support the amendment. It is a crucial amendment, in my view, to improving the quality of this legislation.

As the Senator was just indicating, as currently written, this bill could create unfair competition between the public and private sectors by creating a presumption that public sector costs to comply with mandates should in nearly all cases be subsidized by the Federal Government.

In some cases, Federal mandates will affect both the public and private sectors in similar and, in many cases, nearly identical manners. The costs of compliance with minimum wage laws or environmental standards are incurred by both the public and private sectors.

Subsidization of the public sector in these cases could create a competitive advantage for activities performed by the public sector as it competes with the private sector in the same markets.

In the past few weeks, there have been a number of efforts made by both majority and minority staff to develop a compromise on this issue. I appreciate the work by Senator KEMPTHORNE to deal with this problem. He and others on the Republican side of the aisle recognize the potential problem here and have worked in good faith to address it.

I felt that we were close to a solution with an agreement that language would be included in the committee report that would have clearly stated the policy of the Congress that where mandates would affect the public and private sectors equally, and where Federal subsidization of the public sector would competitively disadvantage private businesses, a Federal subsidy should not be provided.

At least this would have established a basis for a Senator to go to the floor and argue for a waiver of the point of order in such cases.

Unfortunately, when the final committee reports were filed, the language that we had proposed to address this situation was substantially weakened. No strong statement of such policy was included to clarify that Congress should not be expected to subsidize the public sector to the detriment of the private sector.

Such a statement of policy is clearly needed in this bill. The pending amendment will provide that statement by establishing a well-considered and reasonable exclusion.

The exclusion is not intended to create a massive loophole, as some Members have suggested. It merely ensures that the competitive balance between the public and private sectors be maintained.

I urge my colleagues on both sides of the aisle to support this wise and fair amendment.

Mr. President, I think the Senator from Connecticut and others who have put a great deal of effort into structuring this amendment have thought through many of the very difficult obstacles that we face as we address this bill.

We want to support this bill. We want to find ways in which to address what we consider some of the shortcomings. Certainly as we consider some of the most significant problems with the implementation of this legislation, this is one of the most serious issues of all.

So, again, I hope our colleagues will see fit on both sides of the aisle to find a way to support this and to recognize its importance. It is important. We ought to pass it. I hope we can pass it this afternoon.

I thank the Senator for yielding. I yield the floor.

Mr. LIEBERMAN. Mr. President, I inquire of the Chair how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 4 minutes, and the Senator from Idaho has 1 minute.

Mr. KEMPTHORNE. Mr. President, I appreciate this discussion. This is what we ought to be doing.

Just for clarification of the Lieberman amendment, where competition exists, paragraph B does not apply. So in the bill, on page 21, line 24,

all of page 22, all of page 23, page 24 down to line 21, it is exempt.

So, again, I think that we have stated the case. Why would we not want to go through the process of knowing what the cost is, the impact, and if there is some adverse impact with the private sector? I think the American public wants us to know that information so that we can discuss that and then the majority can rule. At any point you can seek a waiver and say, ''No; in this case, we don't need to do that.'' But rather than inventing all of these scenarios, let us let the will of the Senate work by giving them a process that will enhance that.

Mr. President, I ask unanimous consent that immediately following the next rollcall vote Senator BIDEN of Delaware and Senator KEMPTHORNE from Idaho be allowed to engage in a colloquy not to exceed 10 minutes.

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

Mr. LIEBERMAN. Mr. President, I want to thank my friend and colleague from Idaho for what has been a very good, substantive debate and to make two points.

One, he is right that this amendment would have that effect regarding section (1)(B). So we remove from any mandate that equally affected the private and public sectors the requirement of section (1)(B), but it leaves (1)(A) intact. (1)(A) is the requirement to report the cost of any bill before the Senate can act on it. It says very simply it shall not be in order in the Senate to consider any bill or joint resolution that is reported by the committee unless the committee has published a statement of the director of CBO on the direct cost of Federal mandates in accordance with this proposal. So that remains intact. The evidence will be there.

Finally, I want to say this to my friend from Idaho. I think that he and Senator GLENN have done extraordinary work here. This measure, S. 1, really would force us finally to do what we should have done a long time ago. I sincerely believe that the passage of this amendment that I have offered leaves almost all of the intent of the bill intact, and certainly that part that imposes the most serious cost on State and local governments.

I think, with the amendment passed, the bill is a better bill. And may I say with thanks and appreciation to the Senator from Idaho, if we pass it with the amendment it is a truly historic accomplishment and will begin to dramatically affect the way in which we behave here and force us to behave in a much fairer way to our friends in the State and local and private sectors who have to live with the laws that we adopt.

Mr. President, I thank the Chair. I yield the remainder of my time.

Mr. KEMPTHORNE. Mr. President, I move to table the amendment, and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from Connecticut. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from South Carolina [Mr. THURMOND] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [MR. LEAHY] are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] would vote ''no.''

The PRESIDING OFFICER (Mr. BENNETT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—53

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Packwood
Burns	Hatch	Pressler
Chafee	Hatfield	Roth
Coats	Heflin	Santorum
Cochran	Helms	Shelby
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dole	Kyl	Thomas
Domenici	Lott	Thompson
Faircloth	Lugar	Warner
Frist	Mack	

NAYS—44

Akaka	Exon	Lieberman
Baucus	Feingold	Mikulski
Biden	Feinstein	Moseley-Braun
Bingaman	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Kennedy	Robb
Campbell	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Wellstone
Dorgan	Levin	

NOT VOTING—3

Johnston	Leahy	Thurmond

So, the motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware [Mr. BIDEN] and the Senator from Idaho [Mr. KEMPTHORNE] are to be recognized for up to 10 minutes.

DELEGATION OF CONSTITUTIONAL AUTHORITY BY CONGRESS

Mr. BIDEN. Mr. President, I thank the Chair.

Mr. President, yesterday, or maybe even the day before yesterday, I responded to an assertion that I thought was overbroad—not made by the Senator from Idaho but by another Senator—as to what was within the constitutional authority of the Congress to delegate or not delegate in terms of legislative power. Mr. President, I got into this discussion about the constitutional issue and separation of powers issue, of how much we could and could not delegate and whether or not particular sections of this legislation, in fact, exceeded the constitutional authority we had to delegate power.

Before I begin this colloquy, I want to thank the Senator from Idaho and his staff for spending the time with me and going through it. Mr. President, this bill adds a new section to the Budget Act, section 408(C). That section, as I understand it, provides that a simple majority point of order shall lie against any authorization bill that imposes a mandate unless the authorization bill provides for the possibility that the Appropriations Committee may not appropriate the estimated cost set forth in the authorization bill to pay for the mandate.

Section 408(C) provides that the authorization bill must deal with that eventuality by designating a responsible Federal agency and by establishing criteria and procedures for that agency to scale back the mandate to match the funds that the Appropriations Committee has provided, or to declare the mandate to be in effect.

Now, let me ask my friend from Idaho, what would happen under this provision, and the provision I am referring to is section 408(C), if an authorization bill imposed a mandate, named a responsible Federal agency to implement the mandate, but did not provide any criteria at all for the agency to use in scaling back the mandate or declaring it ineffective? Would a point of order in section 408(C) lie in that case?

Mr. KEMPTHORNE. Mr. President, I say to my friend from Delaware, yes, that the point of order would lie.

Mr. BIDEN. Now, further, I ask my friend from Idaho, what if the authorization bill did claim to set out criteria and procedures for the responsible Federal agency but those criteria said in effect, ''Federal agency, do what you think is right if the Appropriations Committee does not fund the full amount set forth in the authorization bill.'' Would a point of order lie in that circumstance?

Mr. KEMPTHORNE. Mr. President, yes, it would.

Mr. BIDEN. Mr. President, I thank the Senator from Idaho for his answers. I do appreciate them.

Mr. KEMPTHORNE. Mr. President, I would like to pose a question to my friend from Delaware. That is, can my colleague and ranking member of the Judiciary Committee tell me if his constitutional concerns regarding the delegation of authority to executive

branch agencies in this section have been satisfied?

Mr. BIDEN. Mr. President, the answer is yes.

As this colloquy has helped show, at least from my perspective, section 408(C) provides that authorization bills that impose a mandate and delegate authority to a Federal agency shall include criteria and procedures to guide the Federal agency's actions. To the extent that an authorization bill contains such criteria and procedures, it increases the likelihood that the delegation of authority is constitutional. To the extent that such a bill lacks appropriate criteria and procedures, it increases the likelihood that the delegation is unconstitutional.

The Senate could, of course, vote to overrule any point of order raised on this basis. But that does not necessarily mean that the delegation is constitutional because the Senate overruled a point of order. The ultimate question of constitutionality is for the courts to decide. Of course, ultimately, all these questions of the constitutionality of a delegation of authority through an executive agency are through the courts.

I am satisfied that the attempt has been made in the legislation to meet the constitutional requirements. I thank my colleague, the Senator from Idaho, for making these points clear to me. As far as I am concerned, on this point, I have no further concern.

Mr. KEMPTHORNE. Mr. President, I say to my friend from Delaware how much I appreciate his looking into this issue and sitting down so that we could go through this point by point.

Because of the universal respect for your legal ability, that was important to me. So I appreciate that the Senator made that effort, and I appreciate that the Senator has entered into this colloquy so we can, I hope, lay this issue to rest. It allows Members, again, to move forward on this bill, which is so important to all Members.

I do thank and show my respect to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank my colleague from Idaho for his overly generous references to my legal abilities.

In the event that the next election does not turn out as I wish, I hope everyone listened to it. And I wish it were true, although it is not warranted. I appreciate the sentiment.

Mr. BYRD. Mr. President, will the distinguished Senator from Idaho yield?

May I say that I, too, have great respect for the opinion and viewpoints of our friend from Delaware, the ranking member of the Judiciary Committee. He teaches courses in law, and has served as the chairman of that Judiciary Committee for many years.

And what he says carry great weight with me. But I must say that this Senator's concerns are not allayed. I will expound upon those concerns in due time, and I also expect to have an amendment prepared, and perhaps a couple of amendments, which, if agreed to, will allay my concerns.

Mr. KEMPTHORNE. I thank the Senator from West Virginia.

Mr. LEVIN. I wonder if the Senator will yield briefly on this point and my friend from Delaware will also perhaps engage me in a colloquy, because I also have some continuing concerns on this issue, although I do think there has been some significant clarification.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Michigan?

Mr. KEMPTHORNE. Yes, Mr. President, I yield but retain my right to the floor.

Mr. LEVIN. My question would be this: The word ''specific'' is not in here. Would this be clearer, does the Senator from Delaware believe, if the word ''specific'' were added before the words ''criteria and procedure''?

Mr. BIDEN. Mr. President, if I may respond, the answer is yes. I do not think it is necessary, but it would not do any damage to the section.

Again, I do not want to take too much time, but if you look at the case law here, the real issue is not whether or not we can delegate authority, it is how much authority can we delegate and with what specificity do we delegate.

So to the extent that we demand specificity, it increases the prospect that whatever authority is delegated is constitutionally permissible. That is why I said in my colloquy with my friend from Idaho that to the extent that an authorization bill contains such criteria and procedure, specific criteria and procedure, to the extent it does, it does not make it constitutional, it increases the prospects that it will be constitutional. To the extent that it lacks specificity, it diminishes the prospect that it would be held to be constitutional.

So neither the Senator from Idaho nor I, I believe, are asserting that this does not have the potential to raise a constitutional question, but merely to suggest, and I would refer —maybe what I should do before this bill is finished is refer to some of the case law that I think indicates that it is likely—likely—that the Court would, in fact, rule that we have not delegated authority beyond what we are constitutionally permitted to do.

And to relate to the degree of specificity, I have no objection. It is not my bill, so it is presumptuous of me to suggest what should and should not be added. I have no objection it be added. I think it strengthens it marginally without in any way weakening the intent of the legislation.

Mr. LEVIN. I thank my friends from Idaho and Delaware.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Idaho has the floor.

Mr. KEMPTHORNE. Mr. President, thank you.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 169 TO AMENDMENT NO. 31

(Purpose: To ensure Federal agencies provide a written estimate of the costs private sector mandates on the private sector during the regulatory process)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. DOMENICI, and Mr. SHELBY, proposes an amendment numbered 169.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the pending amendment, add the following:

(6) Notwithstanding any other provision of this Act, an agency statement prepared pursuant to Section 202(a) shall also be prepared for a Federal Private Sector Mandate that may result in the expenditure by State, local, tribal governments, or the private sector, in the aggregate, of $100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year.

Mr. NICKLES. Mr. President, first, I wish to compliment the leaders of this legislation, Senator KEMPTHORNE and Senator GLENN, for their patience and for their diligence in pursuing a piece of legislation which I think is very much needed and is a very good piece of legislation. They have taken giant steps toward eliminating unfunded mandates on public entities.

This legislation says if we pass legislation, we should know how much it costs on public entities, and if we are going to mandate something on a public entity that if we do not provide the funding that a point of order can be raised to stop that mandate. I think that is a good step. We should know what it costs and, frankly, if we are not going to provide the funding, we should have some capability to stop it, and this legislation has done that and I compliment the authors.

The legislation also says that if we have legislation pending that has a negative or has an impact on the economy of over $200 million on the private sector, that CBO should score it; CBO should tell us what that impact is before it becomes final. I think that is good. If we are going to pass legislation, if we are going to make laws, we should know what its impact is on the economy before it is too late. Maybe the impact is positive, maybe it is negative, but we should know what it is. I think that makes us a lot more accountable. Hopefully, it will make us better legislators. So I think that is a very good provision.

The legislation also says that regulatory agencies, if they are going to implement regulations that would have an impact on the public sector of over

$100 million, they should at least identify what that cost is. So if you have the EPA or OSHA or if you have any other regulatory agency make a regulation that has a negative impact or a positive impact on the public sector—State, city governments—we should know what that cost is if it exceeds $100 million.

The amendment that Senator DOMENICI and myself and Senator SHELBY offered, and in which others have an interest, would go a step further and says if the regulatory agencies make a regulation that has a negative impact on the private sector of over $100 million, we should know what that cost is, too.

In other words, the legislation does a great job in identifying costs and unfunded mandates from the legislators, from Congress, and it does a good job from the regulatory side in at least identifying the costs—not prohibiting it but at least identifying the costs from the regulatory side—as it impacts the public sector, but it is silent right now as far as the regulatory impact on the private sector.

That is what our amendment would do. It would say—and it does not prohibit the regulatory agency from implementing it, it says they would have to identify the cost.

I think it is a good amendment. It is one with which I hope my colleagues can concur.

I thank my friend and colleague, Senator DOMENICI, for his leadership because actually we have been working on this now for a couple of years. This is supported very, very strongly by all the business sector, all the private sector. I think it is an amendment that should receive unanimous support.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

UNANIMOUS-CONSENT REQUEST

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that there be 60 minutes of debate on the Nickles amendment No. 169, equally divided between Senators NICKLES and GLENN, and at the conclusion or yielding back of time, a vote occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object—and I will object—we have objection on our side to proceeding with that time limit at this time. We might be able to agree to it later but not now.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I join Senator NICKLES in urging the Senate adopt this amendment. I do not know how many Senators have participated with numbers of small business people in their States, but I happen to be a fortunate one.

I set up a little project in my State. I called it Small Business Advocacy Council, and asked five small business leaders to head it from all over the State. Then we proceeded to invite groups of small businesses to five different parts of New Mexico for 2 to 4 hours to talk about the regulatory processes of this country as it applied to their well-being, to their businesses, to their ability to have more jobs and grow, and whether the regulations were reasonable and made common sense.

I was absolutely dumbfounded to hear with almost one voice, regardless from what sector—whether they were retailers, realtors, manufacturers, service businesses—with one voice, they were saying three things: One: ''Senator, the Federal Government's bureaucratic agencies enforcing regulations treats us as if we are their enemies, not constituents, not customers, not taxpayers, not small business people earning a living and paying people, but as if we are their enemies.''

I say this loud and clear: I do not have an answer to that. This amendment will not answer that. But I tell you, it is part of this great motion out there against big government. It is as much a part of big government ought to get littler as the literal size of government is being attacked.

Second, I regret to tell you that, again, with almost unanimous feeling, the three agencies of this Government that are most adversarial, less friendly, and thus for some less American happen to be OSHA, the Environmental Protection Agency, and the IRS. Now, frankly, I did not think the IRS was still in there since we reformed the tax laws, but they are, I say to my friend. They are right up there as the agency that treats people as if they were aliens, illegal, enemies.

Then the second thing that was harmoniously spoken about, nobody has a chance of looking at these regulations to see if they make sense and to see how much they cost. They cited innumerable examples of both unreasonable regulations and legislation that costs so much money that if slightly changed toward common sense could dramatically reduce the cost on people, on businesses, on our livelihood and our entrepreneurial advantage called opportunity America.

The third was, why does not somebody look at these before they adopt them—loud and clear—these regulations?

Now, again, we will through the year, under the leadership of Senator NICKLES and others, address these issues in a more specific manner as we talk about overregulations, unpropitious regulations, regulations that make no sense. But we can at least in this bill, which purports to try to help small business in some way, require that we know how much they are going to cost; that is, regulations to be promulgated and rendered effective against American business, whether it be in Idaho, Utah, Oklahoma, New Mexico, or New York.

All this amendment does is say to the regulatory processes of this country, if a regulation is going to exceed $100 million, you must weigh it and tell us about its economic disadvantages.

Now, frankly, some may say we are not going to be able to do that in every case. We may not. But just as it is time to reorient our Federal Government versus our cities and States and counties in something we choose to call, again, refederalism, a new partnership, a return to the 10th amendment, which said we are not supposed to be doing so many things up here, we ought to do the same thing for small business to the extent that we can. We ought to be more understanding and more in partnership with them than adversarial. And a very simplistic, but, I believe, necessary approach to that, is to say these kinds of regulations are going to be measured in terms of their dollar impact, or cost is another way to say it, cost to American business, be it in your State, Mr. President, or mine, or in California. All total, a $100 million impact is to be noted as to its effect on competitiveness, its effect on other aspects so it is more apt to be vested with something very, very simple, and that is that we understand before we do it because we have some evaluations, so we act with knowledge.

If we acted with knowledge of the impacts, I do not think my group in New Mexico, the small business advocacy group, in its four or five hearings with a lot of business people, would be telling us the horror stories we hear, nor would they be harboring the animosity, anger, and anguish they hold toward their own Government today.

Anybody who thinks that does not exist is just not talking to them. And anybody who thinks that is just because they do not want anybody to tell them what to do on anything is just not talking to the responsible business people I have been talking to. They just do not want to be treated irresponsibly. They want to be treated responsibly.

While I say we are not going to do that with specificity, we are not going to have a new approach to the whole regulatory process, we are not going to have a new approach which I believe we should have to receive input from those affected, we are not going to have statewide councils that might look at these regulations and report before they become effective so we might have some common sense, these are ideas that came out of these conferences of which I spoke. They are good ideas. We ought to do them. We ought to even consider on the regulatory process having them evaluated on an annual basis by an outside group for customer satisfaction.

Every businessman that serves a lot of people does that, has a private company come in and in a random way ask: Did we do what we said when we said we would take your $138 and fix your car? Did we treat you right? They get

graded so the businessman knows if they are customer friendly.

We do not have a chance of doing that with Federal regulations. Maybe we will in the future. Let us take one small step today and put small business in this bill. If we are going to affect them nationally over $100 million, let us get the impact of that in ways that are understandable. We may have to develop a few new techniques, but it is sure worth it to get started down that path just as much as it is for the public sector.

I thank the Senator for letting me join, and I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the problem of regulatory review is one that goes across the length and breadth of the whole Government, as we are all aware. We can pass all sorts of laws in the Senate or the Congress, the House of Representatives, whatever; we can pass all sorts of laws and then we pass them over to the executive branch to have the rules and regulations written, and sometimes the way things come out is completely different than what we expected when we passed the legislation. So regulatory review is a most important item with which we have to deal.

Now, I have been working in this area of regulatory review on the Governmental Affairs Committee for a long time, for a number of years, and I am very concerned about it. I compliment my colleagues from Oklahoma and from New Mexico for the work they have done and the interest they have taken in this particular area, and I think that is great.

I had originally thought that perhaps I would oppose this on one ground and that is—not on substantive grounds but on the fact that I have legislation that will be in hearing on February 8 by the Governmental Affairs Committee. It is S. 100. It is a bill that deals with regulatory review in general all across Government. I hope we will take a broad view of this and make more sense out of regulatory review than the way we run it now.

We worked with IRA, Information and Regulatory Affairs, through the years, and OMB, through the last two administrations and this administration, and we hope that the new legislation will make more sense out of regulatory review across the whole length and breadth of Government, and make sure that we do not just let the regulation writers proceed without some bridle on them as far as ignoring the costs to public and private interests out there all across the country.

So, having said that, I am very, very sympathetic to what the distinguished Senator from Oklahoma is trying to do here in making sure that we get regulatory review.

Now, staff tells me that what Senators are proposing here is very similar or nearly identical—very similar anyway to the Presidential Executive order that deals with this same subject. We are checking that right now. We are also checking with some of the people on our side who we think might have a particular interest in this particular amendment, and I will be able to give my colleague an answer as to whether we can accept this shortly. I do not want to delay this. But unless he wanted to talk or somebody else wanted to talk, I would just put in a quorum call at the time until we get an answer back. I hope it will be just a few minutes. It was my understanding in discussing this with my friend from Oklahoma he would be willing to have a voice vote on this and we could get on with other business.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the comments from my friend and colleague from Ohio. To answer a couple of his questions, I am happy to have a voice vote. I am happy to proceed.

I have a hard time imagining anybody really opposing this amendment because, as you mentioned, it may parallel what the administration is trying to do. Certainly if regulatory agencies are going to have mandates on the private sector in excess of $100 million, they should at least identify it. I think in any of the regular reform bills that will probably be included.

Plus the fact we are, in this legislation, telling the regulatory agencies to identify the costs if they have an impact on the public sector in excess of $100 million. Certainly, if they are going to do that for the public sector, they should also do it for the private sector. They can probably do it at one and the same time. A lot of bills have impacts on both the public and private sectors. So I do not even think it will be a duplicative effort. It will just be done.

Again, if a regulatory agency is going to take an action that has an impact of over $100 million, for all practical purposes they should have a cost estimate.

So I appreciate my colleague's interest in this. I also want to compliment him and assure him and Senator ROTH and others, Senator DOMENICI, Senator BOND, Senator HUTCHISON, and others—a lot of people have done a lot of work on regulatory reform. It is going to be very extensive. I am looking forward to that.

And we are not doing that here. I am talking about cost-benefit analysis, risk assessment, using science, as my friend and colleague from Ohio has alluded to in the past. It is important that we use real science in making some of our determinations.

I look forward to that debate and that bill, because I think it will be a giant step, one that should be bipartisan and one that will help rein in the excessive costs of regulation.

This particular amendment does not do anything to rein it in. It just says it should be identified. That by itself might help rein it in. If someone in the private sector disagreed with it, we could dispute it. We could have a hearing. And if someone says this regulation from EPA costs $500 million per year to the private sector, maybe the private sector would come in and say, we disagree, it costs $3 billion. That would be good interest, good information for people to have. This does not stop the regulations from coming into effect. It just says they should be identified. It is identical with the regulation on the public sector. We think we should identify it for the private sector as well.

I know there was an interest a moment ago to have a 1-hour time agreement. I told the managers of the bill that is not necessary for this Senator. I think this is a commonsense amendment, readily understood. Hopefully, it will be agreed upon.

Several Senators addressed the Chair.

Mr. GLENN. Mr. President, just one further comment. I see another Senator seeking the floor here. Just one comment on this.

The only other caveat I had on this, this bill originally set out to deal with unfunded Federal mandates. We now have gotten into public overlap and so on, and we are into cross-pollination here in so many areas.

I do not think this particular amendment breaks any new ground in this. So I do not have any objection on that ground. We are going to try to deal with a lot of these things, though, in the regular review of S. 100.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President I also rise in support of the amendment. As I think has already been articulated, the small businesses, and the private sector more generally, of this country are heavily inundated with burdens imposed by government and direct kinds of taxes and costs. They are actually, I think, burdened by regulations that impose mandates on them. So I believe the amendment is well in order and should be supported.

Mr. President, I rise in support of S. 1, which, of course, addresses the problem of unfunded Federal mandates. S. 1 would significantly limit the Federal Government's ability to require State or local governments to undertake affirmative activities or comply with Federal standards unless the Federal Government was also prepared to reimburse the costs of such activities or compliance. As with direct Federal expenditures, the financial burdens of such mandates fall squarely upon the middle-class taxpayer. I strongly commend Senator KEMPTHORNE for continuing leadership on this issue and for his sponsorship of S. 1.

Perhaps nothing better reflects contemporary trends in government than the enormous growth in the level of unfunded Federal mandates over the past two decades. An unfunded mandate arises when the Federal Government

imposes some responsibility or obligation upon a State or local government to implement a program or carry out an action without, at the same time, providing the State or local government with the necessary funding. Several recent illustrations of unfunded mandates include obligations imposed on States and localities to establish minimum voter registration procedures in the Motor Vehicle Voter Registration Act; obligations imposed on States and localities to conduct automobile emissions testing programs under the Clean Air Act; and obligations imposed on States and localities to monitor water systems for contaminants under the Safe Drinking Water Act. These examples, however, are only the smallest tip of the iceberg.

While there is virtually no area of public activity in which Federal mandates are absent, such mandates are most visible in the area of environmental legislation. Of the 12 most costly mandates identified by the National Association of Counties in a 1993 survey, 7 of them involve environmental programs such as the Resource Conservation and Recovery Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Safe Drinking Water Act, and the Superfund Act.

The negative effects of unfunded Federal mandates are at least fivefold: First, such mandates camouflage the full extent of Federal Government spending by placing an increasingly significant share of that spending off-budget, in the form of costs imposed upon other levels of government. While it is extraordinarily difficult to assess the dollar costs of unfunded mandates, a sense of their magnitude is evidenced by a 3-month study done earlier this year by the State of Maryland, in which they concluded that approximately 24 percent of their total budget was committed to meeting legal requirements mandated by Congress. Assuming the rough accuracy of this estimation, and assuming that Maryland is not subject to extraordinary levels of mandates, this would amount to approximately $80 to $85 billion imposed nationally upon all State governments. This figure does not include mandates imposed upon local governments. To calculate the true burden of Federal spending, the costs of these mandates must be added to an already bloated Federal budget. The Federal Government consumes the limited resources of the people every bit as much when it compels State or local governments to do something as when it directly does something itself.

Second, the impact of the unfunded Federal mandate is to distort the cost-benefit analysis that Congress undertakes in assessing individual pieces of legislation. The costs imposed by the Congress upon States and localities are rarely considered, much less estimated with any accuracy. As a result, the presumed benefits of legislative measures are not viewed in the full context of their costs. Legislative benefits tend consistently to be overestimated and legislative costs tend consistently to be underestimated.

Third, unfunded Federal mandates burden State and local governments with spending obligations for programs which they have never chosen to incur while requiring them to reduce spending obligations for programs which they have chosen to incur. For the options are clear when mandates are imposed by Washington: Either State and local governments must raise taxes—since they do not have the same access to deficit spending as the Federal Government—or they must reorder their budget by reducing or terminating programs which had already been determined to merit public resources. With State balanced budget requirements and with taxpayers already burdened to the hilt by government demands for a share of their income, State and local governments are forced into a zero-sum analysis by unfunded mandates; every new Federal mandate must be compensated for directly by a reduction in another area of State or local spending. Further, every Federal mandate must effectively be treated as the number one spending priority by State and local governments, notwithstanding the sense of their community and the judgment of their elected officials. Such governments must first budget whatever is necessary to pay for the mandates and only afterwards evaluate the level of resources remaining for other spending measures.

Which leads to the fourth impact of the unfunded Federal mandate. An increasing proportion of State and local budgets is devoted to spending measures deemed to be important not by the elected representatives in those jurisdictions, but rather by decisionmakers in Washington. In 1993, for example, compliance with Federal Medicaid mandates cost the State of Michigan $95.3 million, which exceeded by $7 million the combined expenses of the Michigan Departments of State, Civil Rights, Civil Services, Attorney General, and Agriculture. Although the Supreme Court in recent years has reduced the 10th amendment to effective insignificance, I believe nevertheless that there are constitutional implications to this trend. It is lamentable enough that the Federal budget has grown at the pace that we have witnessed over the past generation; for Washington additionally to be determining the budgetary priorities of Michigan and Texas and Pennsylvania is for it to trespass upon the proper constitutional prerogatives of the States. To the extent that the States are straitjacketed in their ability to determine the composition of their own budgets, their sovereignty has been undermined.

Indeed, the Constitution aside, it is difficult to understand how a reasoned assessment of the efficacy of Federal Government programs over the past several decades would encourage anyone in the notion that Washington had any business instructing other governments how best to carry out their responsibilities.

Finally, unfunded Federal mandates erode the accountability of government generally. The average citizen now finds that his State and local representatives disavow responsibility for spending measures resulting from Federal mandates, while his Washington representatives also claim not to be responsible. Lines of accountability are simply too indirect and too convoluted where Federal mandates are involved. The result is that the citizenry come to feel that no one is clearly responsible for what government is doing, and that they have little ability to influence its course.

I am particularly supportive of S. 1 because I believe that it will result in governments at all levels thinking more seriously about the proper scope of government. In truth, unfunded mandates are but one symptom of the more fundamental problem that the Federal Government has lost sight of the proper scope of its functions. While there are some mandates that are reasonable, Congress should be prepared to reimburse the States for the costs attendant to such mandates. In cases where the wisdom of mandates is more dubious, S. 1 would force upon Congress a more balanced and a sober decision-making process. Instead of neglecting the hidden pass-the-buck costs entailed in unfunded mandates, Congress instead would be forced to make hard-headed decisions about the costs and benefits of new programs. In at least some of these cases, I am confident that the legislative balance will be drawn differently than that we have consistently seen over recent decades. I am confident that the virtues of federalism will be recognized more readily when new programs are no longer free but must be explicitly accounted for in the Federal budget. The one-size-fits-all mentality which tends to underlie most Federal mandates may also be reconsidered in the process.

At the same time, State and local officials will also have to make difficult decisions. With Congress likely to curtail or terminate altogether some mandates when confronted with the requirement that they have to pay for them, State and local governments will have to determine whether they are willing to support such programs on their own. No longer will they be able to enjoy the benefits of such programs while being able to divert responsibility for their costs to the Federal Government. Rather, they will have to make equally hard decisions as those that will have to be made by Washington lawmakers about the relative merits of public programs.

Perhaps the greatest long-term benefit of the present legislation is that it will force more open and honest decisionmaking and budgeting upon all levels of government. When greater governmental accountability is achieved, the public will be better positioned to

punish and reward public officials for actions. As a result, government will be more responsive to the electorate in its spending decisions. Government, in short, will be made more representative by this legislation.

Further, Federal bureaucracies themselves will have to be more respectful of the costs that they impose upon State and local governments. Currently, these bureaucracies give little or no consideration to such costs because none of those costs are borne by the agencies themselves. When the real costs of Federal regulation are attributed to the agency responsible for such regulation, agencies will gain an extraordinarily useful perspective on the burdens that they are imposing on other levels of government.

Going beyond the present measure, I would hope that we will be able to address several related matters in the near future. First, I do not believe that the bar on unfunded mandates should be limited to future initiatives. Given the burdens currently being borne by State and local governments, I favor in certain instances the retroactive application of the commonsense principle incorporated in this legislation. Second, I favor legislation that addresses the problem of conditional mandates. Conditional mandates arise when the Federal Government provides grants-in-aid to the States with strings or conditions attached. While these conditions may be reasonable and designed to ensure that money dispensed is being utilized effectively, other conditions may be far more tangentially related to the grants. I do not believe that Federal grant programs should be used to circumvent the present legislation's bar on direct Federal mandates. Therefore, I would support legislation such as that offered by Senator HATCH, which would prohibit conditional mandates unless they were directly and substantially related to the specific subject matter of the Federal grants-in-aid.

Mr. President, by changing the rules of the legislative process and forcing upon Congress more accountable decisionmaking, the present legislation will, in my judgment, contribute greatly to a more responsible and balanced legislative product. This measure is not antienvironment, anti consumer safety, or antiregulation, as its opponents have suggested. Rather, it is pro open and honest government decisionmaking. If a majority of the Congress continues to support a particular mandate, that majority has the unfettered discretion to promulgate the mandate; they are constrained only in their ability to hide the costs of the mandate and to obscure where governmental responsibility lies for the mandate.

I ask unanimous consent to have printed in the RECORD several resolutions and letters I have received from governmental bodies in Michigan in support of this legislation. In view of the strong support for this measure from the National Conference of State Legislators, the National Association of Counties, and the National League of Cities, as well as on the basis of my own conversations over the past year, I am convinced that these writings reflect the overwhelming sentiment of Michigan communities, as well as communities across the United States.

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

CITY OF INKSTER,
Inkster, MI, January 5, 1995.

Re unfunded mandates.

Senator SPENCER ABRAHAM,
Dirksen Building,
Washington, DC.

DEAR SENATOR ABRAHAM: Unfunded Mandates have very debilitating effects upon cities similar to Inkster. Perhaps I should not repeat the litany of complaints that you have already heard, but I am compelled to advise you of the limiting factors which automatically places the City of Inkster in a position of default under the existing rules and regulations related to these unfunded mandates.

Inkster is mandated to erect three (3) retention basins in regard to the Combined Sewer Operation program imposed by the Federal Government.

Listed below you will find some very important factors about the City of Inkster and how unfunded mandates affect our community:

We have an annual General Fund Budget of only $10,908,350.00;

By Michigan law we can levy no more than 20 mills Real Property tax;

Our current levy is 19.52 mills;

Our water and sewer rates are controlled by the amount charged by the City of Detroit and they are outrageous;

Our bonding capacity is such that our share ($23 million) for the first basin has to be guaranteed by Wayne County to the Michigan State Bond Authority and the State Revolving Fund;

Additionally, Inkster must lease the land upon which the basin will be sited for $1,500.00 per year;

I need not go on. You can see the untenable position that we are in. I very strongly urge you to vote relief for all cities caught in this impossible web by supporting and seeking support to HB 5128 and SB 993 which will soon be considered.

Very sincerely,

EDWARD BIVENS, Jr.,
Mayor.

CITY OF TAYLOR,
Taylor, MI, January 12, 1995.

U.S. Senator SPENCER ABRAHAM,
Dirksen Office Building,
Washington, DC.

DEAR SENATOR ABRAHAM: As Mayor of the City of Taylor, I have watched with growing dismay the increase in unfunded federally mandated programs. Congress should implement the following provisions for any future legislation:

1. Require that state and local officials be afforded the opportunity to provide meaningful input (given a real voice in the planning.)

2. Require an assessment of costs and benefits associated with the planning and/or implementation of any federally mandated programs.

3. Federal funds should be budgeted/appropriated prior to enactment of any such legislation.

Senator Abraham, if implemented these suggestions will go a long way toward building a meaningful partnership between the federal, state, and local governments, to better serve the American people. I wish to commend you for your pro active position on this vital issue and urge the support of your colleagues.

Sincerely,

CAMERON G. PRIEBE,
Mayor.

CITY OF MUSKEGON,
Muskegon, MI, January 12, 1995.

Hon. SPENCER ABRAHAM,
State Senator,
Warren, MI.

DEAR SENATOR ABRAHAM: I appreciated the opportunity to talk to you yesterday regarding my concerns about Unfunded Federal Mandates and the burden they place on cities such as Muskegon. These mandates create an undue burden that compounds the problems and difficulties already encountered by local municipalities. Therefore, I encourage you continued efforts in eliminating unfunded mandates.

Thank you for your assistance in this very important matter.

Sincerely,

JAMES W. PRUIM,
Mayor.

CITY OF WYANDOTTE,
Wyandotte, MI, January 12, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: I am writing this letter as a result of the discussion I heard while watching C–SPAN this morning, January 12, 1995, at approximately 10:00 a.m. This discussion, which took place before a committee chaired by Senator Nancy Kassabaum from Kansas, has prompted me to send this FAX.

I thought Governor Thompson did an excellent job, however, I was disturbed by the comments made by Democratic Senator John Breaux from Louisiana and by Senator Ted Kennedy from Massachusetts, whose statements indicated their apparent distrust of the individual states. What I feel was really said by these senators was that we at the local level of government would not be sensitive to the needs of the poor unless the programs developed to assist the poor were designed in Washington. Where have they been?

Why do people in Washington feel that they are more honest and do a better job than those of us on the firing line day in and day out? As Governor Thompson suggested, let us design our own projects and hold us accountable for the results rather than having to abide by mandates written by bureaucrats in Washington who are, in my opinion, out of touch with what goes on in our cities on a daily basis.

Evaluate us based on our results rather than trying to pass laws and make rules that reduce the flexibility we all need. (Local) Government must have the authority to react more quickly in order to serve the people that Senate Kennedy and Senator Breaux, as well as the other senator from Minnesota, thought we would ignore.

This letter is meant to be straightforward and direst so there is no misunderstanding concerning my feelings about the issue of unfunded mandates.

Sincerely,

JAMES R. DESANA,
Mayor.

CITY OF DEARBORN,
Dearborn, MI, January 12, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: In response to your initial request for my opinion regarding

national issues requiring immediate attention, the issue of unfunded mandates stands out in my mind as one with extremely direct consequences for local governments.

According to studies conducted by Price Waterhouse, unfunded federal mandates will cost local governments nearly $90 billion over the next five years. Cities will pay about $6.5 billion this year and $54 billion over the next five years, while counties will incur costs totaling $4.8 billion this year and $33.7 billion over the next five years.

I have attached a copy of a resolution that was adopted by our City Council. The resolution attempts to focus local and national attention on the threat unfunded federal mandates pose to local budgets and local citizens. It urges our representatives to force change in the way the federal government considers future mandates.

I believe that any action on this issue that views local governments as partners in the governance of this great country will benefit all of us who call ourselves public servants.

Respectfully submitted,

MICHAEL A. GUIDO,
Mayor.

RESOLUTION

Whereas: Unfunded federal mandates on state and local governments have increased significantly in recent years (according to Price Waterhouse, unfunded mandates will cost local governments nearly $90 billion over the next 5 years); and

Whereas: Federal mandates require cities and towns to perform duties without consideration of local circumstances, costs, or capacity, and subject municipalities to civil or criminal penalties for noncompliance; and

Whereas: Federal mandates require compliance regardless of other pressing local needs and priorities affecting the health, welfare, and safety of municipal citizens; and

Whereas: Excessive federal burdens on local governments force some combination of higher local taxes and fees and/or reduced local services on citizens and local taxpayers; and

Whereas: Federal mandates are too often inflexible, one-size-fits-all requirements that impose unrealistic time frames and specify procedures or facilities where less costly alternatives might be just as effective; and

Whereas: Existing mandates impose harsh pressures on local budgets and the federal government has imposed a freeze upon funding to help compensate for any new mandates; and

Whereas: The cumulative impact of these legislative and regulatory actions directly affect the citizens of our cities and towns; and

Whereas: The National League of Cities, following up on last year's successful effort, is continuing its national public education campaign to help citizens understand and then reduce the burden and inflexibility of unfunded mandates, including a National Unfunded Mandates Week, October 24–30, 1994; therefore, be it

Resolved: That the City of Dearborn, by its Mayor and City Council, endorses the efforts of the National League of Cities and supports working with NLC to fully inform our citizens about the impact of federal mandates on our government and the pocketbooks of our citizens; be it further

Resolved: That the City of Dearborn endorses organizing and participating in events during the week of October 24–30, 1994, and throughout the year; be it further

Resolved: That the City of Dearborn resolves to continue our efforts to work with members of our Congressional delegation to educate them about the impact of federal mandates and actions necessary to reduce their burden on our citizens.

CITY OF ST. CLAIR,
St. Clair, MI, November 9, 1994.

Senator Elect SPENCER ABRAHAM,
Senate Office Building,
Washington, DC.

DEAR MR. ABRAHAM: Enclosed with this letter is a resolution adopted by the St. Clair City Council on Monday, November 7, 1994. The resolution details the City of St. Clair's stance on Unfunded Federal Mandates and the need for Congress to address this matter.

Also included is a pledge to vote on legislation which addresses Unfunded Federal Mandates. I, the members of the City Council and the residents of the City of St. Clair ask that you please sign the attached pledge to push for a vote on the unfunded federal mandates legislation. Please return a signed copy of the pledge to me at the following address: Bernard E. Kuhn, Mayor, City of St. Clair, 411 Trumbull Street, St. Clair, Michigan 48079.

Thank you in advance for your attention to our concerns. If you have any questions, please do not hesitate to contact me.

Sincerely,

BERNARD E. KUHN,
Mayor.

RESOLUTION NO. 94–54

Whereas, unfunded federal mandates on state and local governments have increased significantly in recent years; and

Whereas, federal mandates require cities and towns to perform duties without consideration of local circumstances, costs or capacity, and subject municipalities to civil or criminal penalties for non-compliance; and

Whereas, federal mandates require compliance regardless of other pressing local needs and priorities affecting the health, welfare and safety of municipal citizens; and

Whereas, excessive federal burdens on local governments force some combination of higher local taxes and fees and/or reduced local services on citizens and local taxpayers; and

Whereas, federal mandates are too often inflexible, one-size-fits-all requirements that impose unrealistic time frames and specify procedures or facilities where less costly alternatives might be just as effective; and

Whereas, existing mandates impose harsh pressures on local budgets and the federal government has imposed a freeze upon funding to help compensate for any new mandates; and

Whereas, the cumulative impact of these legislative and regulatory actions directly affect the citizens of our cities and towns; and

Whereas, the National League of Cities, following up on last year's successful effort, is continuing its national public education campaign to help citizens understand and then reduce the burden and inflexibility of unfunded mandates; now, therefore, be it

Resolved, That the City of St. Clair endorses the efforts of the National League of Cities and supports working with NLC to fully inform our citizens about the impact of federal mandates on our government and the pocketbooks of our citizens; and

Be it further resolved, That the City of St. Clair endorses organizing to receive a written pledge from our representatives in Washington to vote on federal relief from unfunded mandates; and

Be it further resolved, That the City of St. Clair resolves to continue our efforts to work with the members of our Congressional delegation to educate them about the impact of federal mandates and actions necessary to reduce their burdens on our citizens.

UNFUNDED FEDERAL MANDATES WEEK PLEDGE

I pledge to the voters and taxpayers of the City of St. Clair to ensure a vote in Congress on federal unfunded mandates relief legislation for state and local governments before April 1, 1995.

If we in Congress fail to have a recorded vote to demonstrate accountability by that date, I pledge to submit a written report to the Mayor and Council of the City of St. Clair specifically detailing my efforts and the specific steps I will take to ensure action.

Signed: .

MICHIGAN TOWNSHIPS ASSOCIATION,
Lansing, MI, January 12, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: The Michigan Townships Association urges your yes vote on S. 1, the Unfunded Mandates Reform Act. On behalf of all Michigan township officials, I also encourage you to resist any and all amendments that would weaken the intent of this proposed legislation.

Michigan has had a state law since 1978 designed to prevent the imposition of mandated costs on local governments. During its passage, however, 15 or more ''loopholes'' were written into the language that weakened the intent of the Bill. Please hold the line against these attempts to water down the intent of S. 1.

Sincerely,

JOHN M. LA ROSE,
Executive Director.

Mr. NICKLES. Mr. President, I wish to congratulate the Senator from Michigan for an outstanding speech, a relatively new Member to our body, but as evidenced by his speech and by his work in the Senate this month he in my opinion will prove to be an outstanding asset to the State of Michigan without any doubt and certainly to this body and to our country.

So I compliment him on his remarks. I thank him very much for his support of our amendment as well.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Chair.

Mr. President, I wanted to ask a question of my friend from Oklahoma about the meaning of his amendment. As I understand it, the statement that would be required to be prepared, pursuant to section 202(a), if this amendment is adopted, would have to be prepared for either the private sector or the public sector providing they reach in either case $100 million annually adjusted for inflation. Is that correct? In other words, if the public sector mandates the cost of $100 million in any one year, that will trigger the reform.

Mr. NICKLES. The Senator is correct.

Mr. LEVIN. If the private sector mandate is $100 million more, that would trigger the reform.

Mr. NICKLES. The Senator is correct.

Mr. LEVIN. But if they were both $60 million, there would not be a report triggered.

Mr. NICKLES. The Senator is correct again.

Mr. LEVIN. I thank the Senator for that clarification.

I have one other question. Perhaps my friend from Ohio will want to help on this. There could be an easy answer to it. In any 1 year, is that any one of the 5 fiscal years that are estimated, or is that any 1 year? When? Anytime, ever? What does that 1 year reference? I am sorry I did not have a chance to ask it of either Senator before. I am asking this on the floor. Perhaps we could get an answer to that later. I am just not sure what that means, ''1 year.''

Mr. NICKLES. Mr. President, just looking at the language on page 35 of the bill, that is really where we are amending the section, that section 202, that is the one which defines the call for reports. Basically it says the report shall be issued if you have regulatory impact of in excess of $100 million or the public sector in any one year. I would think that would be any one calendar year. Regulatory agencies would be analyzing the cost of their changes, and they would have an annual cost. They may do an annual cost over several years. My guess would be that would be in any one particular calendar year. That is just my reading. We did not amend that language. We just included private sector in our amendment.

Mr. LEVIN. I thank the Senator from Oklahoma for that. Maybe I should address this then to the managers. What does the reference ''any one'' year mean, on line 15, page 35? Is that any one year, ever? Is that any one year of the 5 years of the 5 fiscal years? What is that reference?

Mr. KEMPTHORNE. Will the Senator yield?

Mr. LEVIN. I would be happy to.

Mr. KEMPTHORNE. I apologize. Will the Senator repeat the question?

Mr. LEVIN. My question is this: On line 15, page 35, there is a reference to the $100 million which the Senator from Oklahoma is now amending to apply to either public or private. And my question that properly should have been addressed to the Senator from Idaho is: Is that 1 year, 1 year of the 5 fiscal years for which the estimate is being made? Or is that some other reference? I assume that means a fiscal year, too. I am trying to clarify what the reference is.

Mr. NICKLES. If the Senator will let me respond, again, I think you are right. The reference is to the legislation. My guess is that the regulatory agencies would determine the fiscal impact. I would think they would do it not on fiscal year but on calendar year—I may be incorrect—and that if the regulatory impact exceeded $100 million, as adjusted for inflation in subsequent years, then they would have to identify the costs.

Again, I do not see that as a big burden. If you are going to have a regulatory impact on the public sector in excess of $100 million, they should know it and identify it. If they are going to have a regulatory impact on the private sector in excess of $100 million, for subsequent years—my colleague mentioned 5 years, and I do not know what regulatory agencies—we do 5-year budgeting, although not very well. But I do not know that when they issue those regulatory statements, they automatically cover 5 years. I am not sure.

Mr. LEVIN. While we are on this line—I am wondering, while we are focused on this one line of the bill, I have not had a chance to ask my friend from Idaho this question either. Is the reference to ''adjusted annually for inflation,'' adjusted from the effective date of the law, so that if the law is effective January 1, 1996, that that is the baseline for the $100 million, and then if it is 3 percent inflation, on January 1, 1997, this then will reread $103 million? Is that the intent of the Senator from Idaho?

Mr. KEMPTHORNE. In response to the Senator, Mr. President, that is my understanding of the intent, yes.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. GLENN. 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. GLENN. 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. GLENN. Mr. President, we have finished checking on our side, and we would be glad to accept the amendment of the distinguished colleague from Oklahoma. As I said earlier, we will be addressing this same regulatory review problem in the Governmental Affairs Committee with the hearing on S. 100, which is legislation I put in on a broader gauge of regulatory review consideration. We welcome the Senator's input on that, so we can work this out together. We would be happy to accept his amendment on this side.

Mr. KEMPTHORNE. Mr. President, we also would be very supportive of accepting this amendment. We thank the Democratic side for the agreement. We commend Senator NICKLES and Senator DOMENICI for their work on this. It is an important addition to the bill.

Mr. NICKLES. Mr. President, I thank my friends from Idaho and Ohio, as well as Senators DOMENICI and SHELBY. I appreciate their cooperation.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 169) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized.

AMENDMENT NO. 170

(Purpose: To include gender in the statutory rights prohibiting discrimination to which the Act shall not apply)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. GLENN, Mr. KEMPTHORNE, and Mr. GRASSLEY, proposes an amendment numbered 170.

The amendment is as follows:

On page 12, line 18, insert ''age'' after ''gender,''.

Mr. LEVIN. Mr. President, this bill has certain exclusions in certain areas where sponsors of the bill have determined that it should not apply. Section 4 on page 12 reads that ''The provisions of this act and the amendments made by this act shall not apply to any provision in a bill, or joint resolution before Congress, and any provision in a proposed or final regulation that''—and then there is a list of six exclusions. These are important exclusions, because what the bill would do is to say where any of these six things exist, no point of order would lie, and there is not going to be any presumption that a mandate has to be funded in order to apply to State and local governments. For instance, if a mandate enforces the constitutional rights of individuals, that mandate is going to apply to State and local governments and there is not going to be any presumption of nonapplicability in the absence of a mandate.

The next exclusion under section 4 is, ''If the bill or the joint resolution establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicap or disability status.''

It is that exclusion that I believe is deficient, and it is that exclusion to which my amendment is addressed. We have laws that protect people against age discrimination, which are very vital laws in this country.

Those laws have been fought over, fought for, and they are vital to Americans. We have mechanisms to enforce that antidiscrimination law. And it is important that age discrimination be placed in the same paragraph and also excluded from this bill's applicability and that we also require State and local governments to carry out the national purpose of no discrimination based on age.

Just as we have said that where there is a statutory right that prohibits discrimination based on race or religion or gender or national origin or handicap or disability status, this law is going to not be applicable. A mandate,

even if it is unfunded, is going to apply to State and local governments where it establishes or enforces rights that prohibit discrimination based on any of those factors.

So this amendment would add the word ''age'' to that subsection 2 so we would protect age discrimination laws the way we do other discrimination laws and we would apply age discrimination laws to State and local governments without any presumption that they would have to be given the funds in order to implement this mandate.

That is the heart of this amendment.

I know that the managers have accepted the amendment, since both of them are cosponsors of it. I understand that the Senator from Ohio, however, may have a modification to it and that he may want to address that.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

The Chair would advise the Senator from Michigan that the amendment is out of order.

Mr. LEVIN. I thank the Chair.

I am wondering if we could note the absence of a quorum so we could discuss this.

Mr. GLENN. Perhaps we could go ahead and I could discuss this without it being out of order while we get an input from a couple other Senators that have an interest in it. If we could discuss it until we get that information, we might just save a little time.

The PRESIDING OFFICER. Is there objection? Hearing none, the Senator from Ohio is recognized.

Mr. GLENN. I thank the Chair.

Let me congratulate my friend from Michigan. He has not been pointed out much on this whole bill, but there is no one who has looked into this in any more detail and with real detail on specific wording and taking an active part and making sure that this legislation, if passed, is going to be workable—workable. And that is the important thing of having someone like the Senator from Michigan, who does look into details. We, too, often pass things out of here that do not have that kind of scrutiny and we wind up regretting later that we really did not take time to go into details.

In committee, in considering this legislation the other day when we were brushed aside pretty much in the committee by party-line votes, he was trying to lead the charge there on making sure that the language was workable, that we corrected errors in the bill, and that we made it as workable as possible.

Now, that was not possible in committee, but he is continuing that effort here on the floor. He certainly deserves every credit for what he has been doing on this, and I am the first to acknowledge that. He has really been a tiger in seeing that this thing was done properly, and I want to commend him for that.

I think, once again, he has come up with the suggestion here where age was left out. In almost all the legislation we pass now, we make sure that these areas of minority discrimination, of age and disabilities and so on are left in the bill.

I had originally planned to put in an amendment on this myself. My amendment would have been a little more broad than the one that the Senator from Michigan has proposed. My amendment would have said, ''that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.'' So in one line it was taking a little broader sweep than just correcting age.

I believe, in the original planning of the bill, that color was also left out. And that is normally considered as part of our standard litany in new legislation with regard to those people we wish to protect within our society.

Mr. President, with the parliamentary situation being what it is, I cannot offer a second-degree amendment to the amendment that the distinguished Senator from Michigan has proposed. I submit to him, I wonder if he might prefer to swing the little broader loop that I was going to propose with my amendment and perhaps, if he wished to modify his amendment with some of this language, that would take care of not only the age but the color that was also left out and in one line then include the things we normally include in it. And it would read, then, ''that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.''

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me thank my good friend from Ohio for his very fine comments. His leadership on the Governmental Affairs Committee has been extraordinary over the years. He is now ranking member. He has continued to not only insist on legislation which is workable, as he phrases it, which is so important, but he has also fought hard to protect the rights of all the members of that committee so that we would have an opportunity to offer amendments.

I would remind this body that the Senator from Ohio is a chief cosponsor of this legislation and was the principal sponsor of last year's legislation, which was somewhat different but not greatly different and aimed at exactly the same purpose. So he is an expert on this subject of unfunded mandates and has been a leader in the fight to try to reduce the number of unfunded mandates.

Whatever is easier, I would be happy either to modify the amendment or that it be second degreed as soon as we can get clearance that I can make my amendment in order by asking that the committee amendment be set aside so that it be in order.

Mr. BYRD. Mr. President, is the Senator making that request?

Mr. LEVIN. Mr. President, I ask unanimous consent that the committee amendment be laid aside so that the amendment which I sent to the desk be in order. I understand it is not in order and I understand why. So I do ask unanimous consent that the committee amendment be laid aside for that purpose and then apparently it would again become the pending business as soon as this amendment and its modification were disposed of.

Mr. BYRD. Mr. President, reserving the right to object; of course, I will not object.

Mr. President, as I say, I have no objection and will not object, but I want to compliment the Senator for a trait that I discovered many years ago about this Senator from Michigan. He goes over matters with a fine-tooth comb. He is meticulous. He is a meticulous, careful craftsman. And I have said this to him privately on several occasions. I congratulate him. I want to do it publicly.

And also I think this points out the beneficial effects of proceeding with a little more care, taking a little more time and not acting in quite so much haste. It underlines what I said a number of times, that we need to slow down and take a look and carefully examine what we are doing. And it seems to me that in this instance we can feel assured that we did the right thing. I congratulate the Senator.

Is the Senator going to ask for the yeas and nays?

Mr. LEVIN. Mr. President, I believe they will accept this amendment. If they do, in this case I will not ask for the yeas and nays unless there are others that would request the yeas and nays. I believe the managers have accepted this and, indeed, have cosponsored it. In this instance I will not ask for the yeas and nays. But there may be others who would want the yeas and nays.

Mr. KEMPTHORNE. Would the Senator yield?

Mr. LEVIN. I yield.

Mr. KEMPTHORNE. That is correct, Mr. President. We are certainly supportive of accepting this amendment and would state that I agree with the Senator, that there was no intention to leave out these classes. In fact, we had discussed that they would be included in the managers' amendment. I think this is very appropriate to proceed with this amendment as proposed by Senator LEVIN.

I would point out also when we think about the pace, that the language that we have in S. 1 dealing with this is the identical language that was in Senate bill 993 last year that went through committees in both the Senate and the House. This was not addressed.

Again, it was not done intentionally. This is appropriate to correct it. We appreciate the Senator from Michigan.

Mr. LEVIN. Mr. President, I do not know if I have the floor or not.

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

Mr. LEVIN. Mr. President, let me say to my friend from West Virginia that he is the legislative craftsman par excellence, as far as I am concerned. And he has been a role model in this regard, reminding all Members of the importance of taking the time to craft laws which will work in the real world.

There are times we have the best of intents and we have the worst of unintended consequences. We have to take the time to work through bills such as this. That is a different bill from last year in very significant ways. He has been a role model, indeed, in this area for me and to the extent that I got involved with nuts and bolts, as he has pointed out.

I am grateful for his comment. It is in large measure because there have been a lot of people who have set a standard in this area, that I think is very important for me to follow. I am thankful for the comments.

Mr. BYRD. Will the Senator yield?

Mr. President, I think it is important to the extent that it ought it to be given public recognition. The kind of public recognition that is given to a rollcall vote. We have had rollcall votes on matters of lesser importance, at least in my view. I am just looking at it from one man's vantage point. I think we ought to have a rollcall vote on it. This is an important amendment. At some point in time we ought to do that.

I have not made the request, but I will make the request at the appropriate time.

The PRESIDING OFFICER. The request made by the Senator from Michigan is pending.

Mr. LEVIN. Mr. President, if the majority leader would just withhold, I have a pending unanimous-consent request that they have not yet ruled on, that the committee amendment be set aside in order that my amendment, as modified by the Senator from Ohio, be in order. That was a pending unanimous-consent request, and I am wondering if the majority leader might withhold to see if there is any objection to that.

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

Mr. LEVIN. Mr. President, I thank the Chair and I thank the majority leader.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOLE. The Senator from West Virginia has the floor. I want to make an inquiry.

If the yeas and nays are ordered, I wonder if we might have that vote occur at about 8:30. I think a lot of people left with the understanding there might be debate but no vote. I will check with the Democratic leader. I do not have any quarrel with the rollcall. Maybe we can have a couple more amendments by that time, too.

Mr. BYRD. Mr. President, I certainly have no problem with that.

May I say to the distinguished leader I felt that this is a very important amendment. We will have this bill, it is very important to a lot of people in this country. The word ''age'' and other words, that I understand the Senator from Michigan and the Senator from Ohio are interested in. It gives the public recognition to an amendment just that important. A rollcall vote is more noticed in conference with the House, as well, than a voice vote. It also shows that this bill is being improved by our taking a little time. By our taking a little time, studying the bill, debating, probing. So we are making some improvements.

Would the distinguished majority leader like to lock in the vote at this point?

Mr. President, while we are on this amendment, 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. 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. ROBB. 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. ROBB. Mr. President, I ask unanimous consent, although it is not necessary, that we turn to a period of morning business for about 7 minutes.

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

Mr. ROBB. Mr. President, thank you.

The Senator yields to the Senator from Ohio.

AMENDMENT NO. 170, AS MODIFIED

Mr. GLENN. If the Senator would yield for a moment. When we sent the Levin amendment to the desk, it did not have the changed language that I suggested. He was changing his own amendment. The copy that was sent to the desk was not the proper copy. We would like to modify that amendment, and since the yeas and nays have been ordered that would normally not be in order.

I would ask unanimous consent that Senator LEVIN be permitted to modify his amendment.

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

The amendment will be so modified.

The amendment (No. 170), as modified, is as follows:

On page 12, strike lines 17 through 19 and insert ''that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap or disability;''.

Mr. GLENN. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

CORPORATION FOR PUBLIC BROADCASTING

Mr. ROBB. Mr. President, there is a serious debate going on over whether the Federal Government should continue to play a role, the small part it currently plays, in supporting the Corporation for Public Broadcasting.

On Tuesday, in a speech before the National Press Club, Ervin Duggan, president of the PBS, outlined reasons why support from the Government is important, and I ask unanimous consent to have Mr. Duggan's speech printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. ROBB. Mr. President, today I would like to reiterate my support for public broadcasting because of the important educational role it plays in our society. We invest very little and we get a lot in return.

Public broadcasting does not rely solely, or even mostly, on Government support. Only 14 percent of its budget comes from Congress, approximately $1.09 per person. The rest of its funding comes from 5 million Americans and hundreds of corporations who understand the importance of quality commercial-free educational broadcasting.

Public broadcasting is no longer just MacNeil/Lehrer, ''All Things Considered,'' ''Sesame Street,'' and the Civil War series. I have been particularly impressed with the way public broadcasting is using new technology for education. Hundreds of thousands of Americans, who otherwise would not have the opportunity, can earn their high school or college degree through courses shown on public television. At 60 colleges—and that number is growing—students can earn a 2-year degree through PBS telecourses.

Millions of teachers use television's best programs, like Ken Burns' remarkable Civil War series, in the classroom. Many of these programs are now available to educators on laser disk for interactive learning.

Many public broadcasting stations are currently on the Internet, along with PBS, NPR, and the Corporation for Public Broadcasting.

In times of budget deficits, we all understand that we have to make the most of our limited resources, but we must also understand that one of the targets of our resources is education and that education, as we know it today, encompasses more than just a classroom. It is libraries, movies, television, radio, computers, museums, and the many other outlets of information available.

In today's society, where quality educational programming is so rare, public broadcasting fills a unique and important niche, and it asks us to invest so little—one-fiftieth of 1 percent of our budget.

Most of us in Washington have the opportunity to enjoy local public television programming through WETA, one of the top five public broadcasting stations in the country. But public television also reaches out to the far corners of our country—and in my own

State, to Richmond, Charlottesville, Roanoke, Norfolk, and Marion. Public broadcasting brings its viewers and listeners programs they might not otherwise have the chance to experience. For example, the majority of viewers who watch opera on public television do not have a college degree and make less than $40,000 a year.

Mr. President, I believe our very small contribution to public broadcasting is one of the best investments this Government makes. As Mr. Duggan so aptly points out, public television could operate for 10 years on what Fox paid for one program of NFL football. I hope the Congress will continue its commitment to public broadcasting.

Mr. President, I thank you, and I thank the majority leader and the floor managers for allowing me to use these few minutes while they are concluding their effort to resolve this particular question.

Mr. President, I yield the floor.

EXHIBIT 1

THE LIVING TREE OF PUBLIC BROADCASTING

(Remarks of Ervin S. Duggan)

INVESTING WELL

The little town where I grew up—Manning, South Carolina—was small enough that we could walk to church on Sunday. My Sunday School teacher was a Southern matriarch named Virginia Richards Sauls, one of nine daughters of a South Carolina governor. Miss Virginia, as we called her, never tired of telling us the great stories of the Bible. Her favorite was the Parable of the Talents.

In that parable, a rich man leaving on a journey entrusts his property—measured in what were called talents—to his three servants for safekeeping. He returns to find that two servants have invested their talents well—so well, in fact, that their worth has doubled. The other, foolishly, has buried his talent in the ground. The master scolds and punishes the foolish, hoarding servant, but says to the wise and fruitful ones: ''Well done, thou good and faithful servants; you have been faithful over a little; I will set over you much.''

That story, of course, is about the generous, productive use of gifts; about sharing, building and creating. I mention it because I am convinced that the people of public broadcasting—the local volunteers, trustees, producers, professionals and supporters who make up this enterprise—are good and faithful servants who are living out a modern reenactment of the Parable of the Talents. They do not eat tax dollars; they plant them and grow others. They are faithful over a little; they turn it into much.

I'm concerned, however, that everything those good and faithful servants have built over two generations is suddenly, seriously at risk.

For the next few minutes I'd like to talk about four things:

I want to talk first about a genuine crisis that faces the nation we love. I call it the triple crisis.

Second, I want to describe the remarkable local and national partnership that constitutes public broadcasting—a treasure not unlike our national parks, or The Smithsonian Institution. I want to sketch its true nature, because too many people seem not to understand it.

Third, I'd like to say a few words about the dangers of loose talk, of careless rhetoric, about ''privatizing'' public broadcasting. If privatizing turns out to be only a euphemism for defunding public broadcasting in a way that would commercialize it; if privatizing, in the end, leads to breaking it into pieces to be sold for salvage, much could be lost, never to be regained.

Fourth and finally, I want to suggest that there are better, more creative possibilities for this great national asset, this living tree called public broadcasting: possibilities for more hopeful and constructive than merely zeroing it out, or hacking the tree down to a stump.

THE TRIPLE CRISIS

Consider, first, the triple crisis that we face.

First there is the crisis of education: Can we send all our children to school ready to learn? Once they're there, can we give them an education good enough to help them become productive, responsible citizens and workers in a competitive global economy?

We face, second, a crisis in our popular culture—a steadily coarsening, ever-more-tawdry, popular culture, driven by marketplace imperatives to be increasingly violent and exploitative. Today's electronic culture of gangsta rap and kick-boxing superheroes not only makes it harder to be a parent; except for a few honorable exceptions, our media coldly abandon parents who yearn to give their children decent values to live by. Telling those parents simply to turn off the set if they don't like the violence and tawdriness that they see is like telling people to wear gas masks if they don't like pollution.

We face, third, a crisis of citizenship. Can we still speak with civility to one another? Can we approach our mutual problems in an atmosphere of shared purpose? We citizens in the center wonder—and we wince as our elected leaders vilify one another in an atmosphere of gridlock. We wince to hear commercial talk shows disintegrate into shouting matches and peep shows for the lurid and bizarre. Can we create what Father Richard Neuhaus calls a civil public square?

THE POPULIST BROADCASTING SERVICE?

That triple crisis points me to my second topic: I know of one institution that can constructively address every aspect of that triple crisis. It is an imperfect institution, yet one with many virtues. Its entire mission is education, culture and citizenship. It is called public broadcasting.

We could substitute, for that word ''public'' in public broadcasting, the more elaborate words of Abraham Lincoln: ''of the people, for the people, by the people.'' For public broadcasting stations are not owned or controlled by monolithic bureaucracies a thousand miles away. They're owned by local boards, by universities, by school systems, by nonprofit civic organizations.

What could be more populist, more Jeffersonian? I can almost see Thomas Jefferson in his study, watching Bill Buckley's ''Firing Line'' debates. Jefferson, a child of the Enlightenment, would have loved the enlightening mission of public broadcasting. Jefferson the small-d democrat would have loved its universal reach. Jefferson the inventor would have wanted to meet the pioneers who brought the world closed captioning for the deaf and an audio channel for the blind. It is not far-fetched to say that public broadcasting is Mr. Jefferson's other memorial: a temple of minds and voices; a temple not built of stone.

That word ''public'' means something else: free and universally available to all. To enjoy its riches, no one has to pay thousands of dollars for a computer and software and a modem. If you do have a modem, however, we have a great new service called PBS ONLINE. And you'll find many public stations on the Internet, along with PBS, NPR, and the Corporation for Public Broadcasting. To enjoy the riches of public broadcasting, moreover, you don't have to plug in a cable, or rent a converter, or pay hundreds of dollars a year in subscriber fees or pay-per-view charges.

That word ''public'' in public broadcasting refers to something else, as well: a mission that cannot be replaced by commercial operators any more than your public library can be duplicated by Crown Books, a public school replaced by a New England prep school, or a national seashore duplicated by a commercial theme park.

Our unique mission is service to teachers, students and schools. This year, hundreds of thousands of Americans will earn their high school or college degrees through courses screened by local public television stations. Millions of teachers will use classroom versions of our most famous programs; my ninth-grade son, right now, is learning about the Civil War from his teacher—and from a laserdisc version of Ken Burns's masterpiece. As I speak to you, teachers across the nation are learning the new Goals 2000 math standards through a service called PBS MATHLINE. At 60 colleges—60 and growing—students can earn a two-year degree totally through PBS telecourses, without going to campus.

That is a side of public television many viewers, and many members of Congress, don't know enough about. That mission, however, sets us apart from every other broadcast and cable service in America. For us, you see, education isn't an afterthought, or window dressing or a sideline. It is in our institutional genes. It is central to our purpose.

Then there's our funding, public in the broadest sense of that word. Public television, for example, has between five and six million contributing members—five million householders who give generously to something they could get for free.

Locally and nationally, hundreds of public-spirited corporations underwrite programs—Mobil, General Motors, Archer Daniels Midland and AT&T. They can buy commercials elsewhere. Here, they care about another mission.

Generous and visionary foundations like Olin, MacArthur, the Pew Charitable Trusts, and Bradley also give.

And then, joining all these stakeholders in our enterprise, there's Congress. How much does Congress contribute each year to public broadcasting? Roughly 14 percent of the budget for this public-private enterprise. Fourteen percent. To put the question another way, how much of the Federal budget does the Corporation for Public Broadcasting account for? One fiftieth of one percent; two hundredths of the Federal budget. In decimal form, point zero two.

That's $1.09 per person, 80 cents of it for television. If you bought just about any newspaper in the country last Sunday, you paid more for that paper than you pay for public broadcasting for an entire year. Think of it: Sesame Street, MacNeil/Lehrer, NOVA, All Things Considered, Morning Edition—all this, all year, for less than the cost of a cup of coffee in Chicago. All of public television's buildings, facilities, stations, programs, all year—everything—for a dollar a year. We could operate PBS for ten years for what Fox paid for just one program: NFL Football.

Suppose we paid for interstate highways through such a public-private partnership, with Congress appropriating only 14 percent of the total. Suppose we used this model to pay for battleships or Capitol Hill offices and staffs? Government leaders of both parties, who rightly care about frugality and efficiency, about stretching every dollar, would, I'm sure, hold parades in the streets to celebrate such feats.

Well, public broadcasting IS funded through such a frugal, efficient partnership. Those who are taking aim at it, in my judgment, should instead be saying, like the master in that biblical parable, ''Well, done, thou good and faithful servants. Enter into the reward laid up for thee.''

CUT DOWN THE LIVING TREE, OR SAVE IT?

Some of our leaders, however, are speaking in a different way. They have targeted public broadcasting for a quick, sidelong choke that could mean its eventual extinction. They intend, they say, to ''privatize'' public broadcasting by stripping it of federal funding. The professional political term, inside the Beltway, is ''zeroing-out.''

So let me turn now to my third topic—privatizing, which at this point in the debate cannot be distinguished from another word: commercializing.

The opponents of public television deny that their opposition is ideological; they deny they want to censor or silence voices they don't like. After much complaint about that issue, they now say they have other, more innocuous reasons. Let us take them at their word.

They argue that the federal government has ''no mandate'' to keep funding public broadcasting; that noncommercial educational broadcasting is ''not essential'' to the nation. Surely, then, they plan to zero out, as well, The Smithsonian Institution? The National Gallery? The Kennedy Center? Federal support for the Internet? For these, too, are public institutions of education and culture, like public broadcasting. And these too, are not essential; not necessary to life. They are simply among the things that make life worth living, for rich and poor alike. Why single out public broadcasting? I wonder why.

Another complaint is that public broadcasting is elitist, a ''sandbox for the rich.'' All the factual evidence, all the research, all the data suggest the opposite: that the people who love public broadcasting are the very same people who make up America. The majority of viewers who watch opera on public television, for example, don't have a college degree, and their household incomes are less than forty thousand dollars a year.

What about the contention that public broadcasting is too expensive? the numbers you have heard poke big holes in that argument—especially when you add, to the numbers, the matching efforts that expand and multiply the federal contribution. To defund this enterprise for that reason—suddenly, unilaterally, and without consulting the millions of other stakeholders who produce far more of its support—would be pound-foolish, not economical. To people outside the Beltway, to thousands of local board members and volunteers, such talk doesn't sound like reform. It sounds like assisted suicide—a mask pressed down upon a patient who wants no such assistance, and whose family isn't allowed into the room.

Told how frugal we are, some of these detractors about-face, awkwardly, to yet another explanation: It's such a tiny amount, they say, it could easily be made up from ''other sources''—from toy sales, for example, tied to our programming. The numbers don't add up, but who's counting?

We need to be clear on one important point: In our economy, there is no such thing as nonprofit venture capital. That relatively small amount of federal funding—that 14 percent of public broadcasting's budget—is our seed money, our risk capital. If ''privatize'' means to ''zero out'' (and we're told it does); and if no clear plan exist for replacing that seed capital (and none has emerged), then to ''privatize,'' means, perforce, to commercialize. Take away public broadcasting's seed funding, starve it financially of its only venture capital, however small—and you force it headlong into the alien world of ad agencies and costs-per-thousand and merchandising, rather than the world of teachers and historians and community volunteers.

Surely those who speak of a quick, unilateral ''privatizing'' don't intend that to be the final destination. Or do they?

Finally, we hear that cable can do everything public television can do. Why not let a cable network, or several cable networks, program PBS—as a sort of re-run channel? Leave aside for the moment the implication here; the whiff of trickle-down TV. Ask some other questions: Is this in the public interest, or a commercial parody of the public interest? Would America like to lose what would be lost? Would America's existing commercial networks like such an outcome? What would such a scheme do public television's historic role as found and wellspring of innovative program ideas?

What, exactly, is the vision of those who would ''privatize'' public broadcasting? Is it a vision that preserves the original dream, or does it torch and destroy that dream? They don't say. Is it a vision worthy of those public-spirited Republicans and Democrats of the Carnegie Commission, who created a new model called public broadcasting 25 years ago? They don't say. Is it a vision for a new and better future? Or is it, in fact, a death warrant disguised as a new charter?

WHAT THE PEOPLE SAY

Perhaps our leaders on Capitol Hill need to listen to what the people say. A national poll conducted by opinion Research Corporation was released today. It suggests that most Americans—84 percent—want that small but vital federal stake in the partnership maintained or increased. Support for federal funding totals 80 percent among Republicans; 86 percent among independents; 90 percent among Democrats.

What do these numbers tell us? They suggest that the parents and teachers and grandparents of this nation—the people who live in homes with cable, and in the 32 million homes that don't subscribe—may want a better plan. They seem to want something more than vengeful zeroes, or ''privatization'' schemes that threaten to commercialize or kill.

Fortunately, the people of public broadcasting, and the people who cherish public broadcasting all over the nation, have lots of good ideas. All over the country, local stations are becoming educational teleplexes. They're planting the flag of education on new technologies. They're turning the existing infrastructure of public broadcasting into a free educational launching pad into cyberspace.

People within the world of public television have good ideas, as well, about renewing and refreshing public television: ideas, for example, about insulating its governance and financing from the political vagaries of each appropriations season. The original Carnegie Commission, made up largely of Republican business leaders, called for a national endowment, raised from a few pennies on the sale of each TV set and radio. That's one idea. A reserve of spectrum auction money is another. Tax credits and ''education technology grants'' are another.

The local leaders of public broadcasting are forward-looking. They are highly capable of planning the future of their enterprise. Before changes are hatched that might be ill-considered, we need some decent ground rules. Let me suggest three:

First, all of the stakeholders who support this local enterprise ought to be invited to the table. Otherwise, any outcome is likely to be imposed, not democratic.

Second, the process should be orderly, not precipitous; careful, not headlong. Public broadcasting has taken 40 years to achieve its present excellence. Why all this haste to dispatch it in 100 days, by a quick, sidelong fiscal choking?

Third, we need to be candid about the real motives underlying proposals for change. What are we to think about would-be surgeons who seem to despise their patient?

DO THEY HEAR US?

It was Edmund Burke who pointed out that the true conservatism lops off dead branches, in order to preserve the living tree. Public broadcasting, however imperfect it may be, is part of the living tree: the tree of education, culture and citizenship. To chop up that tree and sell it off as cordwood would be violent and extreme, not conservative.

The volunteers, professionals and board members of America's public broadcasting stations are eager to tell their leaders about the worth and potential of that living tree. They see a historian and educator as the House Speaker and they say, ''History: that's what we're about.'' They hear Speaker Gingrich discuss our need to nurture and care for our young and say, ''Education: that's what we're about.'' They hear Speaker Gingrich's speeches about futurism and technology and the Third Wave—about laptops for the poor—and they say, in so many words, ''Technology for humane ends: that's what we're about. Is he listening? Does he know we're here?''

Those same leaders look at the biography of Senator Pressler and see a son of Harvard; a Rhodes Scholar, a Senator whose constituents, many of them, live in rural places or are too poor to afford a monthly bill for cable, great as cable is. They say, ''We have a great deal to say to him. Will he listen?''

The people of public broadcasting—thousands of them, who have created jobs and educational services and community outreach projects out of their local stations, are ready to join in a discussion about its renewal and its future. But they will also fight the reflex to destroy what they have built. Today they know that millions of Americans agree with them.

Mr. ROBB. 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. PELL. 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. PELL. I ask unanimous consent that I be allowed to proceed for a few minutes as in morning business.

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

THE CLOTURE VOTE

Mr. PELL. Mr. President, I refer to my position on the vote we took earlier today on the cloture motion to curtail debate on the unfunded mandates bill. On that vote I declared a live pair but indicated I would have voted for cloture.

I was not comfortable with that vote, particularly because it placed me at cross purposes with the leadership on this side of the aisle in their campaign to assure fair treatment of the minority.

But I took the position I did in the context of the long-standing practice I

have followed since I first came to the Senate in 1961. And that practice is simply to support termination of debate except in extraordinary circumstances and to allow a majority of the Senate to work its will.

Over the 34 years that I have served in the Senate, I have cast 327 votes in favor of cloture, and some 55 of those were cast when our party was in the minority.

But in the same period I have always reserved the right to support continued debate—or at least not voting for cloture—when there were clear and extraordinary circumstances which called for extended deliberations.

Indeed, there have been some 32 occasions in which I either paired or, as in two cases, voted against cloture, or was absent. In the future, I expect to continue my longstanding practice of voting for cloture.

Mr. President, I ask unanimous consent that I may print in the RECORD a listing of issues on which I have voted for cloture from the 87th Congress through the 103d Congress.

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

PELL CLOTURE VOTES

87TH CONGRESS

Amend rule 22.
Literacy tests (2).
Communication satellite.

88TH CONGRESS

Amend rule 22.
Civil rights.

89TH CONGRESS

Voting rights.
Right-to-work (3).
Civil rights (2).
D.C. home rule.

90TH CONGRESS

Amend rule 22.
Open housing (4).
Fortas nomination.

91ST CONGRESS

Amend Rule 22 (2).
Electoral college (2).
Supersonic transport funds (2).

92D CONGRESS

Amend rule 22 (4)
Military draft.
Lockheed loan.
Rehnquist nomination.
EEOC (3).
U.S. Soviet Arms Pact.
Consumer Agency (2).

93D CONGRESS

Voter registration (3).
Campaign financing reform (4).
Rhodesian chrome (3).
Legal services (3).
Genocide treaty (2).
Government pay raise.
Public debt ceiling (3).
Consumer Protection Act (4).
Export-Import Bank (4).
Trade reform.
Supplemental appropriations (school desegregation).
Social Services.
Upholstery import regulations/Taxes and tariff.

94TH CONGRESS

Regional railroad reorganization.
Cloture reform (2).
Tax reduction (2).
Consumer Protection Agency.
Personal Senate committee staff.
New Hampshire Senate contest (6).
Voting Rights Act (2).
Oil price ceiling.
Labor-HEW/busing (2).
Common-site parking (2).
Railroad reorganization.
New York aid.
Rice production.
Antitrust bill (2).
Civil rights attorney's fees.

95TH CONGRESS

Vietnam draft evader pardon.
Campaign financing (3).
Natural gas deregulations.
Labor law reforms (6).
Tax reduction.
Energy tax conference report.

96TH CONGRESS

Windfall profits tax (4).
Nomination of William A. Lubbers to general counsel, NLRB (2).
Rights of institutionalized persons (4).
Draft registration.
Nomination of Don Zimmerman to be a member of NLRB (2).
Alaska lands.
Vessel tonnage/surface mining.
Fair Housing amendments (2).
Nomination of Stephen Breyer to be U.S. Circuit Court Judge.

97TH CONGRESS

Dept. of Justice authorization/busing (2).
Broadcasting of Senate Chamber proceedings.
Criminal Code Reform Act of 1982.
Urgent Supplemental Appropriations, 1982.
Voting Rights Act extensions.
Temporary debt limit increase/abortion.
Temporary debt limit increase/school prayer (4).
Antitrust contributions (2).
Surface Transportation Assistance Act (5).

98TH CONGRESS

Emergency jobs appropriations.
Emergency jobs appropriations, amendment on interest and dividend tax withholding (3).
Natural Gas Policy Act Amendments.
Capital Punishment.
Hydroelectric Power Plants.
Budget Act Waiver, agriculture appropriations (2).
Nomination of J. Harvie Wilkinson, III, to be a circuit judge.
Financial Services Competitive Equity Act (2).
Broadcasting of Senate Proceedings (2).
Continuing Appropriations, Civil Rights Act of 1984.

99TH CONGRESS

South African Anti-Apartheid (4).
Line Item Veto (3).
Public Debt Limit/Balanced Budget.
Conrail Sale (2).
Sydney A. Fitzwater to be District Judge.
Metropolitan Washington Airports Transfer (2).
Hobbs Act Amendment.
National Defense Authorization Act, FY 1987.
Military Construction Appropriations, 1987 (Contra Aid).
William Rehnquist to be Chief Justice.
Product Liability Reform Act.
Anti-Drug Abuse Act of 1986.
Immigration Reform and Control Act.

100TH CONGRESS

Contra Aid Moratorium (3).
Stewart B. McKinney Homeless Assistance Act.
DOD Authorization FY '88 & '89 (3).
Senatorial Election Campaign Act (5).
Omnibus Trade and Competitiveness Act of 1987 (3).
Melissa Wells to be Ambassador to Mozambique.
Senatorial Election Campaign Act (3).
DOD Authorization FY' 88 & '89 (2).
C. William Verity to be Secretary of Commerce.
War Powers Act Compliance.
Energy and Water Development Appropriations.
Polygraph protection.
Intelligence oversight.
High-Risk Occupational Disease Notification/Prevention Act (4).
Constitutional Amendment on Campaign Contributions (2).
Extension of the Immigration and Nationality Act.
Death Penalty for Drug Related Killings.
Great Smokey Mountains Wilderness Act (2).
Plant Closing Notification Act (2).
Textile, Apparel, and Footwear Trade Act.
Minimum Wage Restoration Act of 1988 (2).
Parental and Medical Leave Act (2).

101ST CONGRESS

National Defense Authorization Act FY 1990–91.
DOT Appropriations.
Eastern Airlines Labor Dispute (2).
Nicaragua Election Assistance.
Ethics in Government Act.
Armenian Genocide Day of Remembrance (2).
Hatch Act Reform.
AIDS Emergency Relief.
Chemical Weapons.
Federal Death Penalty Act of 1989 (2).
Air Travel Rights For Blind.
Civil Rights Act of 1990.
National Defense Authorization Act FY 1991.
Motor Vehicle Fuel Efficiency Act (2).
Family Planning Amendments, 1989.
National Voter Registration.
Foreign Operations Appropriations, 1991.

102D CONGRESS

Retail Price Maintenance (2).
Violent Crime Control Act of 1991 (5).
National Voter Registration Act (4).
Veterans and H.U.D. Appropriations, 1992.
Foreign Assistance Authorization (3).
Unemployment Compensation.
National Defense Authorization Act FY 1992–93.
Department of Interior Appropriation, 1992.
Federal Facility Compliance Act of 1992.
Civil Rights Act of 1992.
National Energy Security Act.
Deposit Insurance Reform Act.
Hostages in Iran Investigation.
Crime Control Act of 1991.
National Literacy and Strengthening Education for American Families Act.
National Cooperative Research Act Extension of 1991.
Lumbee Tribe Recognition Act.
Corporation for Public Broadcasting Reauthorization.
Appropriations Category Reform Act.
NIH Reauthorization Act, 1992.
Workplace Fairness Act (2).
Comprehensive National Energy Policy Act (2).
Product Liability Fairness Act (2).
National Literacy and Strengthening Education for American Families Act (2).
Labor-HHS Appropriation, 1993.
START Treaty.
Comprehensive National Energy Policy Act.
Tax Act.

103D CONGRESS

National Voter Registration Act (4).

Supplemental Appropriations, 1993 (4).
Campaign Finance Reform Act (6).
Natl. and Community Service.
Walter Dellinger—Atty. General.
Interior Conference Report (3).
State Department; 5 Nominees.
Brady Handgun (2).
Janet Napolitano to be US Attorney.
National Competitiveness Act.
Fed. Workforce Restruct. Conf. Rpt. (2).
Goals 2000: Conf. Rept.
Derek Shearer.
Sam W. Brown etc. (2).
Product Liability Fairness (2).
Striker Replacement (2).
Crime Bill Conference.
California Desert Protection.
Ricki Tigert.
H. Lee Sarokin.
Elem. & Second. Education.
Lobbying Disclosure (2).
California Desert Protection.

MEXICAN FINANCIAL CRISIS

Mr. PELL. Mr. President, over the last 3 weeks a steep decline in the value of the Mexican peso has precipitated a financial crisis with worldwide implications. The peso's loss has not only shaken investor confidence on the Mexican stock market, but triggered a short-term debt crisis that is affecting currencies and markets throughout the hemisphere. Without a swift and sure response to this crisis, Mexico could face serious economic decline and political instability.

President Clinton was quick to recognize the long-term danger this poses for all of us. A Mexican crisis would hit the United States economy hard by reducing Mexico's ability to import United States goods and services. It could increase illegal immigration and destabilize the Mexican Government. Finally, it could spread to other emerging market economies and further reduce U.S. exports.

In light of these potential consequences, the administration moved expeditiously to propose a package of loan guarantees to address the problem. The Departments of Treasury and State have been working closely with the bipartisan leadership of the House and the Senate to craft a loan guarantee package that will bring an end to the crisis without costing money to the American taxpayer. I hope that soon we will be able to move forward on legislation to help resolve the Mexican crisis while addressing the legitimate concerns that many have raised.

I am concerned that the loan guarantee program be structured so it will not become a cost to our taxpayers.

In addition it is important there be full disclosure to Americans of those investors, United States, Mexican, and others, who will benefit by our United States action to guarantee up to $40 billion of Mexican Government bonds used to satisfy Mexican Government obligations to those investors.

Mr. President, yesterday at the Department of Treasury, President Clinton spoke about the broader implications of the Mexican situation and about the package being put together to respond to it. I believe his remarks were very helpful and instructive, 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:

REMARKS BY THE PRESIDENT, JANUARY 18, 1995

The PRESIDENT. Thank you very much, Secretary Rubin and Ambassador Kantor.

Ladies and gentlemen, we wanted to be here today to make the clearest public case we can for the proposal, which has been developed by the administration and the bipartisan leadership in Congress, for dealing with the present situation.

We have worked hard with an extraordinary group of people who have joined forces because all of us realize how important this proposal is—not only to the people of Mexico but also to the United States and to our workers. We are acting to support the Mexican economy and to protect and promote the interests of the American people.

As Ambassador Kantor said, and as all of you know very well, we live in an increasingly global economy in which people, products, ideas and money travel across national borders with lightning speed. We've worked hard to help our workers take advantage of that economy by getting our own economic house in order, by expanding opportunities for education and training, and by expanding the frontiers of trade, by doing what we could to make sure there was more free and fair trade for Americans. And we know, and all of you know, that those efforts are creating high wage jobs for our people that would otherwise not be there.

Our goal, our vision must be to create a global economy of democracies with free market not government-run economies; democracies that practice free and fair trade, that give themselves a chance to develop and become more prosperous, while giving our own people the opportunity they deserve to reap the benefits of high-quality, high-productivity American labor, in terms of more jobs and higher incomes.

We have pursued this goal with vision and with discipline, through NAFTA, through the Summit of the Americas, through a number of other international endeavors, like GATT and the Asian Pacific Economic Cooperation Group. But we have pursued it especially here in our own hemisphere, where we are blessed to see every nation but one governed in a democratic fashion, and a genuine commitment to free market economics and to more open trade.

We have to know that the future on this path is plainly the right one, but as with any path, it cannot be free of difficulties. We have to make decisions based on a determined devotion to the idea of what we are pursuing over the long run. We know that given the volatility of the economic situation in the globe now, there can be developments that for the moment are beyond the control of any of our trading partners, themselves developing nations, which could threaten this vision and threaten the interests of the American people.

Mexico's present financial difficulty is a very good case in point. Of course, it's a danger to Mexico, but as has already been said, it is plainly also a danger to the economic future of the United States.

NAFTA helped us to dramatically increase our exports of goods and services. It helped us to create more than 100,000 jobs here at home through increased exports to Mexico. But over the long run, it means even more. It means even more opportunities with Mexico, it means the integration of the rest of Latin America and the Caribbean into an enormous basket of opportunities for us in the future. And we cannot—we cannot let this momentary difficulty cause us to go backward now.

That's why, together with the congressional leadership, I am working so hard to urge Congress to pass an important and necessary package to back private sector loans to Mexico with a United States government guarantee. Let me say, I am very gratified by the leadership shown in the Congress on both sides of the aisle.

By helping to put Mexico back on track, this package will support American exports, secure our jobs, help us to better protect our borders, and to safeguard democracy and economic stability in our hemisphere—because America and American workers are more secure when we support a strong and growing market for our exports; because America and American workers are more secure when we help the Mexican people to see the prospect of decent jobs and a secure future at home through a commitment to free-market economics, political democracy and growing over the long term; and because we're more secure when more and more other countries also enjoy the benefits of democracy and economic opportunity; and, perhaps most important, over the long run, because we are more secure if we help Mexico to remain a strong and stable model for economic development around our hemisphere and throughout the world.

If we fail to act, the crisis of confidence in Mexico's economy could spread to other emerging countries in Latin America and in asia—the kinds of markets that buy our goods and services today and that will buy far more of them in the future.

Developing these markets is plainly in the interests of the American people. We must act to make sure that we maintain the kind of opportunities now being seized by the Secretary of Commerce and the delegation of American business leaders who have had such a successful trip to India.

If you take Mexico, just consider the extraordinary progress made in recent years. Mexico erased a budget deficit that once equalled 15 percent of its Gross Domestic Product. It slashed inflation from 145 percent a year to single digits. It sold off inefficient state enterprises, dramatically reduced its foreign debt, opened virtually every market to global competition. This is proof that the Mexican government and the Mexican people are willing to make decisions that are good for the long run, even if it entails some short-term sacrifice for them, they know where their future, prosperity and opportunity lie.

Now Mexico, of course, will have to demonstrate even greater discipline to work itself out of the current crisis. Let me say, through, it's important that we understand what's happened. And the Secretary of Treasury and I and a lot of others spent a lot of time trying to make sure we understood exactly what had happened before we recommended a course of action.

It is clear that this crisis came about because Mexico relied too heavily upon short-term foreign loans to pay for the huge upsurge in its imports from the United States and from other countries. A large amount of those debts come due at a time when because of the nature of the debts, it caused a serious cash flow problem from Mexico, much like a family that expects to pay for a new home with the proceeds from the sale of its old house only to have the sale fall through.

Now, together with the leadership of both houses, our administration has forged a plan that makes available United States government guarantees to secure private sector loans to Mexico. The leadership in Congress from both sides of the aisle and the Chairman of the Federal Reserve Board developed

this plan with us. It is something we did together because we knew it was important, important enough to the strategic interest of the United States to do it in lockstep and to urge everyone without regard to party or region of the country or short-term interests to take the long view what is good for America and our working people.

We all agree that something had to be done. Now, these guarantees, it's important to note, are not foreign aid. They are not a gift. They are not a bailout. They are not United States government loans. They will not affect our current budget situation. Rather they are the equivalent of cosigning a note, a note that Mexico can use to borrow money on its own account. And because the guarantees are clearly not entirely risk-free to the United States, Mexico will make an advanced payment to us, like an insurance premium. No guarantees will be issued until we are satisfied that Mexico can provide the assured means of repayment. As soon as the situation in Mexico is fully stabilized, we expect Mexico to start borrowing once again from the private markets without United States government guarantees.

The U.S. has extended loans and loan guarantees many, many times before to many different countries. In fact, we've had a loan mechanism in place with Mexico since 1941. And Mexico has always made good on its obligations.

Now, there will be tough conditions here to make sure that any private money loaned to Mexico on the basis of our guarantees is well and wisely used. Our aim in imposing the conditions, I want to make clear, is not to micromanage Mexico's economy or to infringe in any way on Mexico's sovereignty, but simply to act responsibly and effectively so that we can help to get Mexico's economic house back in order.

I know some say we should not get involved. They say America has enough trouble at home to worry about what's going on somewhere else. There are others who may want to get involved in too much detail to go beyond what the present situation demands or what is appropriate. But we must see this for what it is. This is not simply a financial problem for Mexico; this is an American challenge.

Mexico is our third largest trading partner already. The livelihoods of thousands and thousands of our workers depend upon continued strong export growth to Mexico. That's why we must reach out and not retreat.

With the bipartisan leadership of Congress, I am asking the new Congress to cast a vote, therefore, for the loan guarantee program as a vote for America's workers and America's future. It is vital to our interests; it is vital to our ability to shape the kind of world that I think we all know we have to have.

No path to the future—let me say again—in a time when many decisions are beyond the immediate control of any national government, much less that of a developing nation, no path to the future can be free of difficulty. Not every stone in a long road can be seen from the first step. But if we are on the right path, then we must do this. Our interests demand it, our values support it, and it is good for our future.

Let me say again that the coalition of forces supporting this measure is significant—it may be historic. The new Republican leaders in Congress, the leadership of the Democratic Party in Congress, the Chairman of the Federal Reserve Board—why are they doing this? And I might say, I was immediately impressed by how quickly every person I called about this said, clearly, we have to act. They instinctively knew the stakes.

Now, in the public debate, questions should be properly asked and properly answered. But let us not forget what the issue is, let us not read to little into this moment, or try to load it up with too many conditions, unrelated to the moment. The time is now to act. It is in our interest. It is imperative to our future. I hope all of you will do what you can to take that message to the Congress and to the American people.

Thank you very much. (Applause).

Mr. PELL. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

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

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

AMENDMENT NO. 171 TO AMENDMENT NO. 31

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Senator DODD be listed as a cosponsor to the amendment.

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

Mr. LOTT. Mr. President, will the distinguished Senator yield?

Mr. WELLSTONE. I am pleased to yield.

Mr. LOTT. Just to clarify a couple of points that we discussed, if the leadership should come in and need some time for discussion, I am certain the Senator's intention is to yield for that. Is that correct?

Mr. WELLSTONE. Mr. President, the Senator from Mississippi, the majority whip, is correct.

Mr. LOTT. Is the Senator going to seek a time agreement on this amendment?

Mr. WELLSTONE. Mr. President, I will be pleased to seek a time agreement. If we are going to plan for it around 8:30, 30 minutes would be fine, equally divided. I ask, if the other side does not need 15 minutes, I might need a little bit more than 15 minutes. Is that all right?

Mr. LOTT. I think it would be appropriate to ask unanimous consent that the time limit on this amendment be limited to 30 minutes equally divided, Mr. President.

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

Mr. LOTT. If the Senator will yield for one more moment, I will ask unanimous consent, if it meets with the approval of the Democratic side. I ask unanimous consent that a rollcall vote occur at 8:30.

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

Mr. LOTT. I thank the Senator.

Mr. WELLSTONE. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. DODD, proposes an amendment numbered 171 to amendment No. 31.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the language proposed to be inserted, add the following:

SEC. . CHILDRENS' IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

Mr. WELLSTONE. Mr. President, thank you.

Mr. President, this amendment is a children's impact statement that Senator DODD and I proposed. This amendment says, and I quote for my colleagues:

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

Mr. President, this essentially says—and it is very consistent with this overall piece of legislation—that if a committee with legislation reports out a separate report, as we often do, then that report should include an impact statement of the impact of that piece of legislation will have on children, and if it does not, then that piece of legislation will not be in order on the floor.

Mr. President, that is the same point of order that is the methodology of this piece of legislation.

Mr. President, I want to be clear with my colleagues that this is very different from the amendment that I proposed last week. The amendment I proposed last week said that if we were going to be moving forward on an agenda that I believe is going to be very mean spirited, it is important that we go on record with an assurance to people that we will not be passing any piece of legislation, any cut, any amendment, which could lead to an increase in homelessness or an increase in hunger among children. That amendment was voted down. I will bring that amendment back to the

floor for a separate vote. I will continue to do so because I think this is something on which all of us, Democrats and Republicans, should go on record.

Mr. President, this particular amendment, this children's impact statement, is a little bit different. What I am essentially saying is that if we are going to be talking about the impact of legislation on State governments, the impact of legislation on local governments, the impact of legislation on large corporations, or for that matter small businesses, then we ought to be willing to look carefully at the impact of legislation on our children.

By the way, I say to my colleagues, this is a very moderate proposal. I am just simply trying to require that when committees have a report, that included in that report there be a children's impact statement. We will all look carefully at the impact of what we are doing with our legislation on children.

In context, Mr. President, The Children's Defense Fund just came out with a study. Unfortunately, this closely parallels some fairly rigorous analysis that is being done right now about where we are heading by the year 2002, if in fact we move forward with a balanced budget amendment. But part of the balanced budget amendment equation is that we increase Pentagon spending, we engage in this continuing war for more and more tax cuts, and in addition we leave other major spending categories out or we put them in parentheses. The question becomes, then, what do you need to do to cut $1.2 trillion or $1.3 trillion? The assumption is, we may very well, with what is left in the budget, be talking about a 30-percent cut in programs that help children and families.

If that is the case the Children's Defense Fund estimates that in the United States, just looking at fiscal year 2002, we would be talking about overall 1,992,550 babies, preschoolers, and pregnant women losing infant formula and other WIC nutrition supplements.

Mr. President, this is an estimate of how many children would be affected in fiscal year 2002. This is very well the direction we could be going in. By the way, Mr. President, I think one of the reasons some of leadership that has been pushing so hard on a balanced budget amendment is unwilling to talk about where the cuts will be before they get a vote on this amendment is because the arithmetic is so compelling. And in many, many ways, by the way, we are going very much against the mandates from people in this country. I thought we were trying to act on that mandate, because one of the things people have said to us is to be truthful, be straightforward, and be honest with us, do not try and finesse us.

I think one of the reasons—and I am only taking one part of this agenda—a good part of the leadership—Mr. ARMEY is just one—that is unwilling to talk specifically about where the cuts are going to take place before people vote up or down on this proposal is because of where the cuts will take place. While I cannot be certain, given what has been taken off the table, given what Senators do not seem to be willing to look at by way of cuts, then we can only look at that part of the budget which is on the table. And when we look at that part of the budget which is on the table, unfortunately, we are talking about cuts in programs that are extremely important for the most vulnerable citizens in this country, and I am talking specifically about children, Mr. President.

So, Mr. President, within that context, let me simply move forward and talk a little bit about some of these projections, because they are frightening. I want people in the country to know about them, and I want my colleagues to understand the context of this amendment.

The context of this amendment, again, is that by 2002, on present course, we could very well see 1,992,550 babies, preschoolers, and pregnant women who would lose infant formula and other WIC nutrition supplements. Women, Infants, and Children is what WIC stands for. By the way, as a former teacher, I argue that the most important education program in the United States of America is to make sure that every woman expecting child has a diet rich in vitamins, minerals, and protein. Otherwise, that child, at birth, will not have the same chance. These are the kind of cuts: 4,258,450 children would lose food stamps; 7,564,550 children would lose free or subsidized school lunch program lunches. Mr. President, it is not very easy for children to do well in school if they are hungry. It is a stark reality that all too many children go to school hungry. Mr. President, 6,604,450 children would lose Medicaid health coverage; 231,100 blind and disabled children would lose supplemental security income, SSI; 209,050 or more children would lose the Federal child care subsidies that enable parents to work or get education and training; 222,150 children would lose Head Start early childhood services.

Mr. President, how interesting it is—I am not going to go through all the figures—that all of us in public service want to have our photos taken next to children, and the only thing I am trying to do with this amendment is to simply say that before we go too far, why do we not at least—consistent with the overall framework of this legislation—as long as we are talking about impact statements, why do we not at least say that committees, when they have their accompanying report—and quite often that is the case—have as a part of that report a child impact statement so that we at least know what we are doing. This is, from my point of view, a very moderate proposal.

Mr. KEMPTHORNE. If the Senator will yield, Mr. President. In order that other Members of the Senate can have some sense as to what may take place tonight, we do have one vote that has been ordered, which will occur at 8:30.

I ask unanimous consent that we designate that that will be the Levin amendment, at 8:30.

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

Mr. KEMPTHORNE. Further, Mr. President, it will be my intention to move to table the current amendment that is being debated, and at that point I will be asking for the yeas and nays so that all Senators will know that after the first vote occurring at 8:30, in all likelihood there will be a second vote to immediately follow.

Mr. LEVIN. Reserving the right to object. I understand the Wellstone amendment is a second-degree amendment to my amendment. So it would have to be—

If the Senator from Idaho would withhold.

Mr. WELLSTONE. Will the Senator yield for a moment?

Mr. LEVIN. Yes.

Mr. WELLSTONE. I was about to ask unanimous consent that my amendment be considered as a second-degree amendment to the Gorton amendment. I do make that request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEVIN. Mr. President, reserving the right to object, and I will not. As I understand the unanimous-consent request—or the statement of the manager, it is that there would be a rollcall vote on the Levin amendment at 8:30, and immediately following that, a rollcall vote on the Wellstone amendment—excuse me, to vote on a motion to table that the Senator from Idaho intends to make on the Wellstone amendment.

Mr. KEMPTHORNE. That is correct. I will be requesting the yeas and nays.

Mr. LEVIN. I thank my friend from Minnesota.

Mr. KEMPTHORNE. Mr. President, again, I thank the Senator from Minnesota for the courtesy of letting me interrupt.

Mr. WELLSTONE. I thank the Senator from Idaho, and I appreciate the work he is doing on the floor.

Mr. President, I have to say to my colleague, whom I really respect, that I am disappointed and a little bit dismayed at what would be, I gather, a motion to table this amendment. Mr. President, I have a State-by-State projection of what could very well be the impact of the balanced budget amendment on children in the United States. This report was written by the Children's Defense Fund. I intend to distribute a copy to all of my colleagues, so they can see these projections for themselves.

Mr. President, one more time, first let me start with some pretty amazing figures. I just do not quite think we are

grasping this here in the Chamber, right here in this legislative body.

''One Day in the Life of American Children,'' was the Children's Defense Fund yearbook of 1994. I never heard anybody refute these statistics, by the way. I would like to persuade the Senator from Idaho to have a different motion. ''One Day in the Life of American Children'': 3 children die from child abuse in the United States of America; 9 children are murdered; 13 children die from guns; 27 children in the classroom die from poverty; 30 children are wounded by guns; 63 babies die before they are 1 month old; 101 babies die before their first birthday; 145 babies are born at very low birthweight; 102 children are arrested for drug offenses; 207 children are arrested for crimes of violence; 340 children are arrested for drinking or drunken driving. I could go on and on and on.

Mr. President, again, here are some figures that I have used: Every 5 seconds a child drops out of school in the country; every 30 seconds a child is born into poverty; 1 out of 5 children in the country today is poor, going on 1 out of 4; 1 out of every 2 children of color are poor; every 30 seconds a child is born into poverty; every 2 minutes a baby is born severely underweight. I combine these with these figures.

Now we are talking about a Contract With America, where, by the way, there is not one word or one sentence in this Contract With America that calls on any large financial institution, any large corporation, to make any sacrifice whatsoever. My fear—and I have to tell you by this motion to table that I fear my fear is being confirmed—is that what we are going to do is have deficit reduction. We can have deficit reduction without riding roughshod over children. All that I am asking my colleagues to do, on both sides of the aisle, is given these projections, 1,992,550 babies, preschoolers, and pregnant women would lose infant formula and other WIC nutrition supplements, in the year 2002, given where we are heading—I could be wrong—I hope I am wrong—but I could be right.

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

Mr. WELLSTONE. I ask unanimous consent that I may have 5 more minutes.

Mr. KEMPTHORNE. I have no objection. In fact, Mr. President, I yield 5 minutes of my time to the Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Idaho.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. WELLSTONE. Mr. President, all I am asking of my colleagues is, given the direction we could very well be going, before we pass legislation, pass amendments, make cuts that are going to hurt children in America, those citizens that are most vulnerable, that could very well take the poorest of citizens in our country and put them in a worse position, if we are considering legislation that says we should consider the impact of what we do on businesses, on State governments, on county governments, is it too much for me to ask my colleagues that we pass an amendment that committees with their accompanying report have in that report a children's impact statement; that is to say, what is the impact of this legislation on children in this country? And, if not, then there could be a point of order lodged.

I do not know how many of my colleagues right now are watching C–SPAN, but let me just be blunt. Sometimes we do not know—I say this to my good friend from Idaho—sometimes we do not know what we do not want to know. Let me repeat that. Sometimes we do not know what we do not want to know.

And I think this may be an example. The only thing this amendment asks us to do is to make sure that in our legislative work we have a children's impact statement. It could very well be that, as a result of where we are heading with this contract, where we are heading with this balanced budget amendment, we are not going to make any cuts in oil or coal subsidies or military contracts but we are going to make cuts in programs that provide basic nutritional assistance to children in this country. Is it too much for me to ask of my colleagues that they agree that we do impact statements in reports that accompany committee legislation?

What is anyone afraid of? Why would anyone vote against this? What is unreasonable about this?

Mr. President, I say to my colleagues, I think we should have 100 votes for this. This is a moderate proposal.

The only reason that I can see why Senators would vote against this is because, in fact, the Children's Defense Fund's projections about what we are going to do in 2002 are correct.

Mr. President, I would like to finish on this note. I am a U.S. Senator from Minnesota. The floor is where we bring amendments. The floor is where we do our work. I am not trying to put people in a politically embarrassing position on votes. Senators can vote any way they want to.

But I want to say to my colleagues, I am going to fight hard on these issues and I am going to come back with this amendment, I am going to come back with another amendment on this bill—I am hoping I can get support for this amendment—because I want people in the United States of America to know the direction we are going in.

There is too much goodness in this country to support these kinds of cuts. There is too much goodness in this country to end up hurting children.

And now I have an amendment to just ask my colleagues to go on record to do an impact statement on legislation that comes out of committee with an accompanying report. I heard there is going to be a motion to table. I want people in the country to see that. I want people in the country to understand that I am going to come back over and over again. And I do not care whether any of this is ever used in any 10-second, 15-second or 30-second ads. As a matter of fact, I am told that conventional wisdom these days is that it is ''not a winner'' to be so active on children's issues.

But I do not believe that. I think people care about goodness. I think people care about fairness. I think people care about opportunity. And I do not think the citizens in this country, the citizens in Minnesota, think it is unreasonable that we do a children's impact statement on the legislation that we are dealing with and on the budget cuts that we are dealing with.

Again, sometimes we do not know what we do not want to know. At least should we not be willing to include the children's impact statement? I hope my colleagues will vote for this amendment.

Again, I do want to make sure that Senator DODD is listed as an original cosponsor. I would be pleased to speak a little more, but the Senator from Idaho may want to respond.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, first, let me commend my friend from Minnesota, who is a strong and a great advocate for children, as I feel that I am, also.

When he made the comment there at the end that you may not be a winner currently if you are a real advocate for children, I think he and I will agree that we will reject that notion. We need to do all that we can for children.

Now I appreciate the Senator's concern and I appreciate what he said tonight. But I think we are taking different tacks in order to accomplish really what he is talking about.

The committees that have jurisdiction over programs with jurisdictions affecting children would include this information on their report on relevant legislation. S. 1 is a bill about unfunded mandates on States and cities, unfunded mandates for cities and States to use scarce dollars that would otherwise be spent on discretionary programs, including programs to help children.

Now, Boyd Boehlje, who is the president of the National School Boards Association, said:

> * * * the more than 95,000 locally elected school board members nationwide * * * strongly support S. 1. This legislation would establish the general rule that Congress shall not impose Federal mandates without adequate funding. This legislation would stop the flow of requirements on school districts which must spend billions of local tax dollars every year.
>
> Today school children throughout the country are facing the prospect of reduced classroom instruction because the Federal Government requires, but does not fund,

services or programs that school boards (must) implement * * *. Our nation's public school children must not pay the price of unfunded federal mandates.

And he said on another occasion, Mr. President, that the very children that Congress is most concerned about protecting are hurt most often by these unfunded Federal mandates.

This amendment would require all committees to prepare such a report on all legislation, including legislation dealing with the Securities and Exchange Commission, which would have to file a report even when the legislation does not affect children. This amendment was part of another amendment the Senate considered earlier this year and was tabled by a vote of 56 to 43.

Mr. WELLSTONE. Will the Senator yield?

Mr. KEMPTHORNE. In just a moment.

Mr. President, again, this bill is a process bill. Those committees that have jurisdiction must include in their report the very aspects that the Senator from Minnesota has been pointing out.

So again, it is with all due respect that I will be making the motion to table, but with a great deal of respect for the Senator raising this issue.

I yield the floor.

If I may inquire, how much time is remaining?

The PRESIDING OFFICER. The Senator has 6 minutes 45 seconds.

Mr. KEMPTHORNE. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota

Mr. WELLSTONE. I thank the Senator from Idaho.

Mr. President, first of all, just so my colleagues have a full understanding of what is at issue here, this amendment is not in opposition to this unfunded mandates legislation at all. And the fact that, Mr. President, that local school board official or others say that they think the unfunded mandates bill would benefit children does not in any way, shape, or form detract from this amendment. This amendment is actually meant to just support this piece of legislation. This amendment speaks not to the unfunded mandates bill, but this amendment speaks to where we are heading with our budget cuts.

Mr. President, I believe the Senator from Idaho will hear from many locally elected officials, including school officials, who are very worried that if, in fact, we cut into all of these kinds of programs, starting with child nutrition programs, that States and/or local governments are going to have to pick them up—maybe school districts—out of a property tax.

Actually, what the Senator was talking about was kind of an apples and oranges proposition. This amendment is not in opposition to the unfunded mandates legislation. This amendment just says that if we are going to look at the impact of what we are doing on State governments or if we look at the impact on what we are doing on companies, we ought to look at the impact of what we are doing on children. That is all this amendment says. This amendment says that if a committee is going to file a report, and if the committee is working on legislation or budget cuts that affect children, then there ought to be a children's impact statement. That is all this amendment says.

One more time, it strengthens this piece of legislation. It just gives the Senate the same concern about children, that we are at least willing to look at the impact of what we are doing on children. And Mr. President, these numbers by Children's Defense Fund, that are backed up by numbers by a lot of organizations, suggest we could very well be going in the direction with this Contract With America of cutting programs that provide essential support for the most vulnerable citizens in this country—children.

I am saying before we rush headlong down that path, at least let Senators be intellectually honest and policy honest and have the child impact statement.

Again, I do not really understand the opposition from my colleagues. We want to look at the impact of what we do on State governments. We want to look at the impact of what we do on businesses. But for some reason, we do not want to look at the impact of what we do on children in America.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Idaho has 3 minutes and 20 seconds remaining.

Mr. KEMPTHORNE. Mr. President, I inquire of my friend from Minnesota, I have nothing else to add, but if the Senator would like the remaining time, I would like to yield the time.

Mr. WELLSTONE. I thank the Senator from Idaho for his courtesy. I yield the rest of my time.

Mr. KEMPTHORNE. Mr. President, I yield back the remainder of my time. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. KEMPTHORNE. 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. 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.

VOTE ON AMENDMENT NO. 170, AS MODIFIED

The PRESIDING OFFICER. The question occurs now on agreeing to amendment No. 170, as modified, offered by the Senator from Michigan, Mr. LEVIN. The yeas and nays have been ordered. The clerks will call the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

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

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—96

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

NOT VOTING—4

Helms	Leahy
Johnston	Pressler

So the amendment (No. 170), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

Mr. DOLE. Mr. President, if we can have order, I wanted to make a brief statement here before the next vote.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I submitted to the distinguished Democratic leader a unanimous-consent request and have not yet had an opportunity to talk with the Democratic leader. So, because I am not certain this will be the last vote, I suggest the absence of a quorum while we have that conversation.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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, let me say that we have been working in good faith on both sides today and part of yesterday to put an agreement where we would be in session tomorrow but not have any votes, and on Monday, consider amendments but no votes before 4 o'clock. The proposal was that all the amendments that we had agreed to be put in this little basket to be offered by 3 o'clock on Tuesday. We thought that was fair. We whittled our numbers from 30-some down to 11, and I think on the Democratic side, it was 78 down to 42 or 43. Some of those may or may not be offered. We are unable to get that agreement, unfortunately.

I will first ask unanimous consent that all remaining committee amendments be considered, en bloc, and agreed to and, failing that, we will have a vote on a motion to table the pending amendment, and there will be 5 additional votes on the committee amendments.

So I ask unanimous consent that all remaining committee amendments be considered, en bloc, agreed to, and the motion to reconsider be laid upon the table, and that they be considered original text for the purpose of further amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object, Mr. President. I hope that the majority leader will present the entire agreement that was proposed.

Mr. DOLE. I am happy to read it. I tried to summarize it.

Mr. BYRD. I am looking at it here and I am sorry to say the summary does not reflect all that the agreement entails. I hope the majority leader will read the agreement, let us listen to it, and see if we want to agree to it.

Mr. DOLE. That is fair enough. Let me do that. This is the agreement I proposed and that we discussed, as I say, on both sides in good faith:

I ask unanimous consent that the following amendments be the only amendments in order to S. 1; that they be offered as first or second-degree amendments, if Committee amendments are available to offer them to, and that they be subject to relevant second-degree amendments.

Then I would either read or submit the list. You had about 40, and we had about 11.

I further ask consent that all first-degree amendments must be offered on 3 p.m. on Tuesday, January 24, and that at 2:30 p.m. on Tuesday, the minority manager be recognized to offer any amendment on the list from the minority side of the aisle; that no later than 2:45 p.m. on Tuesday, the majority manager be recognized to offer any amendment on the list from the majority side of the aisle.

I further ask unanimous consent that following the disposition of the above-listed amendment and any remaining committee amendments, that the bill be advanced to third reading, and the Senate proceed to final passage of S. 1, as amended, all without any intervening action or debate.

I further ask unanimous consent that once the Senate has read S. 1 for a third time, and the Senate has received the House companion bill, it then be in order for the majority manager to call up the House companion bill and move to strike all after the enacting clause and insert the text of S. 1 as amended.

I further ask unanimous consent that the Senate proceed to vote on the Senate amendment, to be followed by third reading and final passage of the House companion bill, and that all of the action occur without any intervening debate.

I ask unanimous consent that the cloture vote scheduled for tomorrow be vitiated, and that no votes occur throughout Friday's session of the Senate.

I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until 9:30 a.m., Monday, January 23, 1995, and that the Senate resume consideration of S. 1 at 10 a.m., on Monday, January 23.

Finally, I ask unanimous consent that any votes ordered throughout the day on Friday and Monday be postponed to occur on Monday, January 23, beginning at 4 p.m.

That would have been the request. And then I had some explanatory material at the bottom.

I would say that the reason for 3 o'clock on Tuesday was to make certain that both policy luncheons would have an opportunity to discuss the bill and both the majority and minority side would have time to come back after the luncheons and say, ''Well, we want to offer the following amendments,'' and they could be offered by the manager or by any Senator who had an amendment.

It seemed to me that this would have accommodated our colleagues on the other side of the aisle as far as tomorrow is concerned, and all of our colleagues as far as Monday is concerned until 4 p.m.

I might further state that it seems to me—I know the Senator from West Virginia would agree that only the following amendments be in order, but they would not have to be offered at any time. In my view, that would mean if we would debate those amendments, 40 or 50 amendments, we could debate those the next 30 days. So we wanted some cutoff time. After that time, no amendments could be offered.

It is an agreement we have entered into many, many times in the past. In fact, we have entered into agreements in the past where we said all amendments must be disposed of by a certain hour.

But that is the essence of the agreement. I hope that it might be acceptable to our colleagues on the other side. But if not, then I will proceed, as I have indicated, with the vote on the pending amendment, a motion to table that, plus a motion to table each of the committee amendments. And I believe there are four remaining. So there would be four votes on the motion to table committee amendments.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from West Virginia reserves his right to object.

Mr. BYRD. Yes, I reserve the right to object.

Mr. President, I thank the distinguished majority leader for reading the request that has been presented to me.

First of all, let me say I think we are shortcutting the legislative process too much. Let me be specific in two or three instances here.

All first-degree amendments must be offered by 3 p.m. on Tuesday, January 24, and that at 2:30 p.m. on Tuesday, the minority manager be recognized to offer any amendment on the list from the minority side of the aisle, and that no later than 2:45 p.m. on Tuesday, the majority manager be recognized to offer any amendment on the list from the majority side.

Now what does that mean, ''offer any amendment on the list''? I do not have any amendment that I consider just to be a minor, inconsequential amendment. If I have an amendment, I consider it important enough that I be here to offer my own amendment. This is not the legislative process in accordance with the rules.

I do not know what that means—''must be offered.'' If I offer an amendment, I may want to take 2 or 3 hours on it. If somebody else offers an amendment, I may want to offer an amendment in the second degree to it. We have had too much of this business of accommodations. We have streamlined this process to the point that Senators are going to lose the knowledge of their responsibilities here. We do not have the responsibility to shortcut this process. We do not have the responsibility to put it on automatic pilot. We have a responsibility, as Senators, to be here, to call up our amendments and not be under the gun to have to call up 30 or 40 amendments by 3 o'clock next Tuesday or Wednesday or whatever it is.

We have fallen into that habit. Our business as Senators is to be here and be here at work. We are very early in the session. I do not think we have to operate under the gun like this.

I am very willing to have a listing of amendments. We have done that many times. I think that would be an accommodation, if one wants to call it an accommodation, to every Senator, that we have a list of amendments and know what is going to be called up.

But this idea of having the minority manager offer any amendments on the list from the minority side, and the majority manager—and I trust them both; this is not anything against the managers at all. They are both here and they are doing a good job. They are carrying out their responsibilities. If they can be here to offer amendments, why cannot Senators who are the authors of the amendments be here to offer them?

Mr. DOLE. We would be happy to change that. We put that in just to accommodate, to make it more efficient. But we would be happy to change that.

Mr. BYRD. We have too much efficiency now. The constitutional framers did not create the United States Senate to be an efficient organization. The Senate was intended to be a second House in which the Members would have longer terms and thus be more independent in their votes; where legislation passed by the House in a hurry could cool off; where it could be meticulously studied, thoughtfully amended, reasonably agreed to or rejected.

I know the impulse here is to ram things through. Thank God for the U.S. Senate. One Senator can stand as long as he is able to stand on his feet and object. I do not mind doing that.

If you insist on our being here tomorrow and our colleagues want to go to a retreat, you will not be interrupted by any rollcall. I will get you away and I will talk all day. So do not let that be a compelling gun to your temple.

Let us do our business here as we are expected to do it by the people who sent us here. Let us carry out our responsibilities to offer the amendment.

What does it mean to offer an amendment? How is my manager going to call up 20 amendments?

Mr. DOLE. We hope they would not call up all the amendments.

Mr. BYRD. Well, all the amendments may not be called up.

We made excellent progress today. The Senate has worked its will today in an orderly fashion. Amendments have been ably debated, carefully studied. That is the process we ought to continue on.

Senators ought to know the rules. Too many Senators do not know the rules. They do not know what offering an amendment means.

I may want to offer an amendment. I may want to talk on it a while. Why should I be bound by this? I should not be hemmed in and fenced out with respect to an orderly process by which I can debate my amendment at length. That is what we signed up for when we came to this Senate.

I would not have given my unanimous consent to taking up this bill if I had not been misled by promises which were made in good faith; no intention to mislead anyone. But I gave consent to take up this bill on the promise that there be a committee report the next morning. The committee report did not appear, but I had already given my consent to take it up. Had I known the committee reports were not going to be available, I would not have given my unanimous consent. So let Members take our time. We want to have a cloture vote; well, that is in accordance with the rules. Let Members go by the rules here. Let Members slow down here a little bit. Let Members know what we are doing.

Then, after all these amendments have been disposed of, the bill will be advanced to third reading and the Senate will proceed to final passage, all without any intervening action or debate.

Suppose I, in my view, once we have gotten through this amendment process, feel that there ought to be some more talk on this bill? Any Senator may be displeased with the action that is taken on amendments in the intervening time. Why should he be gagged? I say to my own leader over here, I apologize. He is doing his level best to press this legislation forward in an orderly way. He was kind enough to come to me with this agreement.

I do not understand this business of letting the majority manager or the minority manager call up all first-degree amendments, must be offered by 3 o'clock p.m. on Tuesday. What is meant by ''offered''? All first degree amendments must be offered by 3 o'clock p.m. on Tuesday. We are supposed to be out tomorrow. That only leaves Monday, and up to 3 o'clock on Tuesday. Then on Monday, by a certain time.

Mr. DOLE. By 4 o'clock on Monday. Votes will occur after 4 o'clock.

Mr. BYRD. Yes, any votes ordered throughout the day on Friday.

Mr. DOLE. Or Monday.

Mr. BYRD. Or Monday. Friday and Monday, be postponed to occur.

So we will set up votes. Sometimes in the legislative process, the necessity for offering a second-degree amendment does not arise in advance. I just think that we are getting in too much of a hurry on this important issue. The number is S. 1. Obviously, it is an important bill.

I know some Senators may be unhappy with me, but I am sorry. I think we need to slow down. If we want to enter into a list of amendments, that is fine. We have done that before. But I have seen this Senate deteriorate, one reason being this very thing, entering into agreements like this that relieve Members of our responsibilities to be here on this floor and do our own work, doing it painstakingly and carefully.

I am not going to agree to this. This is too important a bill. We have the Contract With America. Here is my ''Contract With America'' right here, the Constitution of the United States. I am not going to roll over and play dead. If my friends feel that standing up for the rights of the minority and an orderly legislative process calls for my expulsion from the Senate, then let the Senate proceed.

I say what I have said with respect to the majority leader. I told our friends over here earlier while we were on the debate, cutting down on the filibuster, that that leader over there is tough. Wait and see. He will use the rules on me. And I respect that and I admire that. And I also respect the fact that I can stand up, and I have a right to oppose those efforts to the limit of whatever rights and powers that I have.

This is just jamming and ramming legislation through. The American people out there do not want that done. We have time. It is only the 19th of January. What is all the rush? The Senate will be in session, it says, on Friday, in order for Members to offer amendments contained in a list.

List? Who is going to know? If I offer an amendment on the list, who will be here to listen to me? They may not listen here on the floor, but they may be over in their house and know what is going on. They follow the debate, and their staff hears, as well. What kind of legislation is this when the Senate allows itself to come in on Friday, and no one will be listening to Senators, just come in and offer your amendments, and all the amendments have to be offered by a certain time on Monday or Tuesday?

What does offering the amendment mean? Does it just mean leaving amendments at the desk? What parliamentary statute does offering an amendment give them, except when it is done in accordance with the rule? When I get recognized, Mr. President, I send an amendment to the desk. That is offering an amendment. But I am not going to have any Senator stand up here and offer 15, 20, 30, or 50 amendments just to offer them, no action taken on them. What happens to them when Senators just offer amendments? What happens to them if no action is taken? How do we get rid of one amendment and go to the next?

Senators who have been around here a while who know how the process works, answer that question for me. Somebody tell me. I stand up here as the manager of the bill. I am going to offer 20 amendments. What does that mean? Does that mean sending 20 amendments up there en bloc? I do not know what that means in that context. I know what it means to offer an amendment under the rules.

Now, Mr. President, I apologize to the majority leader and my colleagues for detaining them. I object to the request.

The PRESIDING OFFICER. The objection is heard.

Mr. BYRD. Mr. President, I have no objection to listing the amendments, and there may be some other agreement that could be worked out. I cannot agree to this.

The PRESIDING OFFICER. Objection is heard. The majority leader.

Mr. DOLE. Mr. President, let me say first of all, the Senator is certainly within his rights. I have no quarrel with that, and never have. Certainly, the Senator from West Virginia or any other Senator on either side has that right.

I did want to indicate we have had 15 votes on this bill. We started Thursday, January 12, at 10:30 a.m. Up until about 6 o'clock, we had had approximately 25 hours of debate; the Democrats used 15 hours, the Republicans 10. But in the 15 votes taken on this bill, 5 were unanimous, and 3 were sense-of-the-Senate. I think we have only really voted on two or three amendments to the bill.

We were getting a list today of 78 or 80, and not many were even relevant. But few were germane. And then our list was some 30 amendments. We whittled our list down to 11. There are still 40-some on the other side.

It seems to me that the Senator from West Virginia has exercised his rights and will continue to exercise his rights. And I have no quarrel with that.

We must do what we must do as the majority, to try to move the bill along. It is not going to be easy. So I have asked unanimous consent that we just agree to that, and that has been objected to. So I would propose another unanimous-consent request and see if we might be able to save some time; that it be in order for me to table the Gorton amendment and the four remaining committee amendments en bloc, and one vote count as five rollcall votes.

Mr. BYRD. I object.

The PRESIDING OFFICER. There is an objection. The majority leader.

Mr. DOLE. Mr. President, we have tried by consent to have them agreed to. We have tried by consent to have one vote count as five. And, failing that, have the yeas and nays been ordered on the pending amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered on the motion to table.

AMENDMENT NO. 171 TO AMENDMENT NO. 30

The PRESIDING OFFICER. The question occurs on agreeing to the motion to lay on the table the amendment of the Senator from Minnesota [Mr. WELLSTONE]. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—55

Abraham	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Nunn
Bingaman	Grassley	Packwood
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Chafee	Heflin	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Cohen	Jeffords	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Dole	Lugar	Thurmond
Domenici	Mack	Warner
Faircloth	McCain	
Frist	McConnell	

NAYS—42

Akaka	Boxer	Bryan
Baucus	Bradley	Bumpers
Biden	Breaux	Byrd
Campbell	Harkin	Moseley-Braun
Conrad	Hollings	Moynihan
Daschle	Inouye	Murray
Dodd	Kennedy	Pell
Dorgan	Kerrey	Pryor
Exon	Kerry	Reid
Feingold	Kohl	Robb
Feinstein	Lautenberg	Rockefeller
Ford	Levin	Sarbanes
Glenn	Lieberman	Simon
Graham	Mikulski	Wellstone

NOT VOTING—3

Helms	Johnston	Leahy

So the motion to lay on the table the amendment (No. 171) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I would ask unanimous consent that the vote on the next four amendments be limited to 10 minutes each.

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

Mr. DOLE. And I move to table the Gorton amendment and ask for the yeas and nays.

Mr. BYRD. Mr. President, after the Senator gets his yeas and nays, will he withhold his motion to table a minute that I might ask him a question?

Mr. DOLE. Pardon?

Mr. BYRD. After the Senator gets his yeas and nays, will he withhold his motion?

Mr. DOLE. Oh, yes.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 2 minutes notwithstanding that debate is not allowed on a tabling motion.

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

Mr. BYRD. Let me ask of the distinguished majority leader.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

The PRESIDING OFFICER. The distinguished Democratic leader.

UNANIMOUS-CONSENT REQUEST

Mr. DASCHLE. Mr. President, I ask unanimous consent that the following amendments be the only amendments in order to S. 1, that they be offered as the first- or second-degree amendments if the committee amendments are available to offer them to, and they be subject to relevant second-degree amendments.

I will send the list of the amendments to the desk.

The amendments are as follows:

DEMOCRATIC AMENDMENTS TO S. 1

Bingaman:
(1) Relevant.
(2) Relevant.
(3) Relevant.
Boxer.
(1) Sensitive subpopulations.
(2) Immigration costs.
(3) Child porn/abuse/labor exclusion.
Bradley:
Relevant.
Byrd:
(1) Relevant.
(2) Relevant.
(3) Relevant.
Dorgan:
(1) Metric conversion.
(2) Federal Reserve.
(3) C.P.I.
Ford:
(1) Imposing standards on House.
(2) Imposing standards on House.
(3) Imposing standards on House.
Glenn/Kempthorne:
(1) Relevant.
(2) Relevant.
(3) Relevant.
(4) Relevant.
Graham:
(1) Immigration.
(2) Fund allocation.
(3) Relevant.
Harkin:
(1) Relevant.
(2) Relevant.
Hollings:
(1) Relevant.
(2) Sense of Senate Balanced budget.
Johnston:
Relevant.
Kohl:
Relevant.
Lautenberg:
Relevant.
Levin:
(1) Relevant.
(2) Relevant.
(3) Relevant.
(4) Relevant.
(5) Relevant.
(6) Relevant.
(7) Relevant.
(8) Relevant.
(9) Relevant.
(10) Relevant.
Moseley-Braun:
Relevant.
Moynihan:
Relevant.
Murray:
(1) Hanford.
(2) CBO.
(3) CBO.
Wellstone:
(1) Relevant.
(2) Relevant.
(3) Sense of Senate Children's impact.
(4) Children's impact statement.
(5) Relevant.

REPUBLICAN UNFUNDED MANDATES AMENDMENTS

McCain: Appropriations point of order.
Gramm: 60-vote point of order.
Gramm: Treatment of conference reports.
Hatfield: Local flexibility act.
Hatch: Brown-judicial review.
Hatch: FACA.
Brown: SOS/Review of S. 1.
Grassley: CBO vs. actual costs study.
Grassley: 60-vote waiver redirect costs.
D'Amato: Comptroller of the currency.
Kempthorne: Manager's technical amendment.
Roth: Chairman's technical amendment.
Dole: Relevant.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I object.

The question is on the motion to table.

VOTE ON AMENDMENT NO. 31, AS AMENDED

The PRESIDING OFFICER. The question is on the motion to lay on the table amendment No. 31. 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 North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced, yeas 54, nays 43, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—54

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Byrd	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Heflin	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—43

Akaka	Feingold	Mikulski
Baucus	Feinstein	Moseley-Braun
Biden	Ford	Moynihan
Bingaman	Glenn	Murray
Boxer	Graham	Nunn
Bradley	Harkin	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Bumpers	Kennedy	Robb
Campbell	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Wellstone
Dorgan	Levin	
Exon	Lieberman	

NOT VOTING—3

Helms	Johnston	Leahy

So, the motion to lay on the table the amendment (No. 31), as amended, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1, the Unfunded Mandate Reform Act:

Bob Dole, Dirk Kempthorne, Bill Roth, Trent Lott, Judd Gregg, Alfonse D'Amato, Craig Thomas, Jon Kyl, John Ashcroft, Mike DeWine, Fred Thompson, Paul Coverdell, Conrad Burns, Larry E. Craig, Bill Frist, Ted Stevens, John McCain, Rod Grams, Don Nickles, Pete V. Domenici, Strom Thurmond, Phil Gramm.

COMMITTEE AMENDMENT ON PAGE 25, LINE 11, AS MODIFIED

Mr. DOLE. Mr. President, I move to table the committee amendment found on page 25, line 11, as modified by Senator GLENN, and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the committee amendment on page 25, line 11, as modified by Mr. GLENN. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—55

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bingaman	Grams	Packwood
Bond	Grassley	Pressler
Brown	Gregg	Roth
Burns	Hatch	Santorum
Byrd	Hatfield	Shelby
Chafee	Heflin	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Snowe
Cohen	Jeffords	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

NAYS—42

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Campbell	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Levin	Wellstone

NOT VOTING—3

Helms	Johnston	Leahy

So, the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 27 LINE 9

Mr. DOLE. I move to table the next committee amendment on page 27 line 9 and 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. BYRD. 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.

The PRESIDING OFFICER. The question is on the motion to table.

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 North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—55

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bingaman	Grams	Packwood
Bond	Grassley	Pressler
Brown	Gregg	Roth
Burns	Hatch	Santorum
Byrd	Hatfield	Shelby
Chafee	Heflin	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Snowe
Cohen	Jeffords	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

NAYS—42

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Campbell	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Levin	Wellstone

NOT VOTING—3

Helms	Johnston	Leahy

So the motion to lay on the table the committee amendment on page 25, line 9 was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 33

Mr. DOLE. Mr. President, I move to table the committee amendment found on page 33, and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the committee amendment on page 33, line 11.

The Clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—55

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bingaman	Grams	Packwood
Bond	Grassley	Pressler
Brown	Gregg	Roth
Burns	Hatch	Santorum
Byrd	Hatfield	Shelby
Chafee	Heflin	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Snowe
Cohen	Jeffords	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

NAYS—42

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Campbell	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Levin	Wellstone

NOT VOTING—3

Helms	Johnston	Leahy

So the motion to lay on the table the committee amendment on Page 33, line 11 was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I move to table the last remaining committee amendment found on page 34, and 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. DOLE. Mr. President, before the clerk starts the vote, let me indicate that I have been in discussion with the distinguished Democratic leader. We are now in the process of seeing if there can be some agreement with a slight modification suggested by the Senator from West Virginia. So I cannot say this is the last vote. If we are in tomorrow, we will come back at 9:30 in the morning and the first vote will be on cloture.

VOTE ON THE MOTION TO LAY ON THE TABLE THE COMMITTEE AMENDMENT ON PAGE 34, LINE 10

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the committee amendment on page 34, line 10. 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 North Carolina [Mr. HELMS] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—55

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bingaman	Grams	Packwood
Bond	Grassley	Pressler
Brown	Gregg	Roth
Burns	Hatch	Santorum
Byrd	Hatfield	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Cohen	Kassebaum	Specter
Coverdell	Kempthorne	Stevens
Craig	Kohl	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

NAYS—42

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Heflin	Pell
Bumpers	Hollings	Pryor
Campbell	Inouye	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Levin	Wellstone

NOT VOTING—3

Helms	Johnston	Leahy

So the motion to lay on the table the committee amendment on page 34, line 10 was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. 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.

PROGRAM

Mr. DOLE. Mr. President, let me indicate to my colleagues on both sides of the aisle there will be no further votes this evening. I have now submitted a modified agreement to the distinguished Democratic leader.

If agreement is reached, then there will be no votes tomorrow but there will be a period for morning business tomorrow. There will be no amendments offered but there will be a period for debate, as long as you wish.

If we do not reach an agreement, then I will move the Senate stand in recess until 9:30, and a cloture vote would occur at about 10:45—between 10:30 and 10:45, and there would by additional votes tomorrow, probably four or five.

So if we get the agreement, no votes, morning business only. If we do not get the agreement we will be in recess, cloture vote about 10:30, 10:45, with additional votes throughout the day.

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

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

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak for 3 minutes in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE NEW GENERATION OF THE SPECTER FAMILY

Mr. SPECTER. Mr. President, I had intended to wait until the conclusion of all of the Senate's business before speaking very briefly on the new generation of the SPECTER family, celebrating her first birthday today. But as the hour is 11:25 p.m., I fear that if I do not take advantage of this break in the action, it is unlikely that I will have a chance to speak before January 20, which will be after her first birthday.

So I just consulted with our distinguished majority leader, who thought that I might take a moment or two now.

As I say, 1 year ago today was the first arrival of the new generation of our family, Silvi Morton Specter. And it is an occasion, on her first birthday, to comment about children, a child, the future of our country, the future of her generation and the generations beyond.

I think that we are making some progress in the United States Senate on protecting her generation and the generations that follow with the progress which we are making on the balanced budget amendment. I certainly would not think of charging any of my expenses to her credit card, and I think as a nation, as we move to the balanced budget amendment, we really are looking after her generation and the future generation.

Similarly, I think we have a great deal to do on national security. As I have taken on a role on the Senate Intelligence Committee on the issue of nuclear nonproliferation, I think recently of her and her generation, just as I do on the issue of personal security, on the crime on the street, thinking about the fundamental duty of Government to protect its citizens.

Silvi Morton Specter, my son's daughter, has a unique opportunity. She has extraordinary parents, Tracey Pearl Specter, a devoted and loving mother. I characterize them when I see them playing together as her mother being her daughter's favorite playmate, and her father, Shanin, is extraordinarily attentive, as are her maternal grandparents, Carol and Alvin Pearl, and her grandmother, my wife, Joan, and I are.

As I reflect on the child, I just wish that all of America's children and all of the world's children had her great advantages.

So I thank my colleagues for indulging me for a few moments. I think we still have ample time before midnight to perhaps take up another subject or two.

I thank the Chair. I thank my colleagues, and I yield the floor.

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. 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.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE. Mr. President, let me say for the benefit of all Senators, we are going to go through this unanimous consent agreement. I think there will be a couple of questions asked. In fact, I wish to make a statement after the questions have been asked and each side is satisfied with the response, because it has to be in good faith. Otherwise, it is not going to work; there is not going to be another agreement. You would not give us one, and we would not give you one. If it is not in good faith, this may be the last agreement of its kind.

I ask unanimous consent that the following amendments be the only first-degree amendments in order to S. 1, and that they be subject to relevant second-degree amendments.

I will not read that list, but there are 47 Democratic amendments, and 15 Republican amendments, a total of 62 amendments.

I further ask unanimous consent that all first-degree amendments must be offered by 3 p.m. on Tuesday, January 24.

I further ask unanimous consent that following the disposition of the above-listed amendments, the bill be advanced to third reading.

I ask unanimous consent that the cloture vote scheduled for tomorrow and Saturday be vitiated, and that no votes occur throughout Friday's session of the Senate.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, January 20, and that there be a period for the transaction of routine morning business with Senators permitted to speak therein.

I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until 9:30 a.m. on Monday, January 23, 1995, and that the Senate resume consideration of S. 1 at 10 a.m. on Monday, January 23.

I ask unanimous consent that if a Senator with an amendment on the list sends the amendment to the desk to be printed on Friday, that be considered as having satisfied the 3 p.m. requirement for having amendments offered.

Finally, I ask unanimous consent that no votes occur on Monday, January 23, prior to 4 p.m.

That is the request. But before I put the request, I think there are some questions some might want to address.

Mr. DASCHLE. Mr. President, let me thank the distinguished majority leader for the good faith in which we have attempted over the last several hours to work through this agreement.

There are a couple of questions on our side I would like to reference as they related to the agreement. The first has to do with the reference to all amendments being ''offered.'' Could the majority leader define for us what you mean by the word ''offer?'' What will be required of a Senator to meet the obligations under this unanimous-consent requirement?

Mr. DOLE. Well, I assume if there is a pending amendment, they would have to get consent to set it aside and send their amendment to the desk, and that would be offered.

Mr. DASCHLE. So it is the intent of the unanimous-consent agreement to allow any Senator who has an amendment to take it to the desk and be protected for consideration of that amendment during this debate?

Mr. DOLE. That is correct. We have made an exception for tomorrow morning. If somebody wanted to send an amendment and have it printed in the RECORD, that would satisfy the requirements of that section. But it is sending the amendment to the desk and first getting consent. That is why I think, as we have been in the past—it depends on the good faith of side. Somebody can say ''I object to setting the amendment aside,'' and he puts in a quorum call and waits until 3 o'clock and there is one amendment pending. I think that is one thing we cannot let happen.

Second, I would hope that all these amendments are not offered. There are 60-some amendments. Any Senator could take as much time as he wanted after the amendment is offered. He can spend half a day on an amendment. We can be here 30 days.

So this does not preclude—if it is in the judgment of the majority leader and since we are not acting in good faith—filing cloture. Nor does it preclude cloture if we agree to the request by the Senator from West Virginia that we go to third reading and have a period of debate, and if that period of debate goes on and on and on, then I assume no one objects to someone filing a cloture motion.

I do not assume all these amendments will be offered. I think many may be worked out. Many may be there for some reason but will not be offered. But I am prepared to proceed in good faith. I am certain the Democratic leader is, also.

Mr. DASCHLE. Mr. President, that is certainly my intention. I think I speak for all colleagues on this side of the aisle. We want to work through the amendments. There are a number on our side, and we are prepared to offer them.

The distinguished majority leader anticipated a second question, and for clarification let me again emphasize that it is my understanding that the motion to go to third reading is debatable under this unanimous-consent agreement.

Mr. DOLE. As I understand, we would go to third reading, and there would be a period for debate.

Mr. DASCHLE. That is my understanding, after the motion.

Mr. DOLE. After we have gone to third reading. Any further amendments would not be offered, but we would still have a period of debate. There is no limitation. We do not say 1, 2, 3, 4 hours. There may not be any. As I understand it, the Senator from West Virginia wants to protect his interests, in the event some amendment may have been adopted, or not offered, or not disposed of properly, to at least raise that

point. Maybe other Senators on either side have the same position.

Mr. DASCHLE. This unanimous-consent agreement is the product of a great deal of effort on both sides of the aisle by a number of participants. I thank all of those Senators involved on our side, especially the Senator from West Virginia for his guidance and his indulgence in trying to accommodate all Senators as we come to this agreement. I do hope that we can move through the amendments in good faith, that we can offer them tomorrow, Monday, and Tuesday. Certainly, if this agreement is accepted, Senators are protected. That was our desire all along.

So I have no objection to this agreement.

Mr. FORD. Mr. President, may I enter into this colloquy and ask one question? When you say the amendments are to be offered by a certain time, are those amendments that have already been filed considered ones that you just—you could repropose them now?

Mr. DOLE. Those were filed because of the cloture rule.

Mr. FORD. Under this unanimous-consent agreement, if you have, as I do—and we have worked them out, I think, with the majority floor leader, my amendments, which then the rest of them would go away. But I have to refile those on the basis of setting aside the pending amendment, and we go to my amendment, or put them at the desk tomorrow; is that the way?

Mr. DOLE. Correct.

Mr. FORD. All I have to do is Xerox it and put it in tomorrow afternoon or tomorrow sometime?

Mr. DOLE. I think all anybody has to do—parliamentary inquiry. Is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. DOLE. So there would not be any amendment pending. After the first one is offered, you would have to set that aside and simply send the amendment to the desk. I do not know how we decide which amendments we take up first. I think that is another question, whether the first amendment offered should be taken up first. I assume that would be the normal way to do it. Whoever offers their amendment first—many Democrats will not be here tomorrow. We will be here. That would advantage us. There has to be a way to work that out.

Mr. FORD. May I continue just a moment? I do not want to belabor it, but I want to be sure that my colleagues understand that if they want to propose an amendment, they have to be here to do that, under this unanimous-consent agreement. And any amendment that has been filed at the desk that was filed based on cloture, those amendments are, for all practical purposes, under this unanimous-consent agreement, null and void?

Mr. DOLE. That is correct.

Mr. FORD. I thank the majority leader and the Democratic leader.

Mr. LEVIN. Will the majority leader yield for a question on that one statement of my friend from Kentucky about having to be here to offer the amendment. I understand that tomorrow, for those of us who might not be able to be here, that somebody could offer the amendment on our behalf, get it to the desk, and that would then constitute the filing of that amendment in time?

Mr. DOLE. It says here if a Senator with an amendment sends it to the desk to be printed. It would take consent to send an amendment to the desk on behalf of someone else. That gets back to the very thing that the Senator from West Virginia objected to—somebody else, in effect, proxy management, or whatever, sending amendments to the desk. In fact, if you want to offer amendments tonight, send them to the desk, I do not see any reason that could not be done, as long as we are on the bill.

Mr. LEVIN. I thank the majority leader.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. Mr. President, I do not believe the leader has made the request yet.

Mr. DOLE. I said I would withhold until the questions have been presented. I do now make the request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. Mr. President, I reserve the right to object and I do not intend to object. I think this is a good agreement.

Mr. BYRD. As I understand it from the distinguished majority leader's responses to the minority leader's questions, and to those of Mr. FORD, and others, the second paragraph which uses the word ''offer,'' offered by 3 o'clock p.m. on Tuesday, that means that any Senator who has a bona fide amendment he intends to call up must offer that amendment by 3 o'clock p.m. on Tuesday. If he stands up and offers the amendment and Senators indicate a desire to debate that amendment and take action on it, that is OK, we can do that Monday. We can do that up until 3 o'clock. We can get action on some amendments or we can agree to stack the rollcall votes, as I understand it.

Mr. DOLE. Until 4 o'clock on Monday.

Mr. BYRD. Where is that?

Mr. DOLE. On page 2, second paragraph.

Mr. BYRD. Yes.

Now when we reach the hour of 3 o'clock p.m. on Tuesday, if Senators have not had an opportunity to offer their amendments by that time but in the meantime they have filed the amendments at the desk, they may offer them, have them temporarily set aside, and then they qualify under this agreement as having offered the amendment.

The Senator who has the amendment offers it. If for some reason, by the time we reach 3 o'clock p.m. on Tuesday, that Senator has not had an opportunity to offer his amendment, he can offer it and, if there are other amendments pending at that point, he can offer it but no action will be taken on it. It will be temporarily set aside. But it has to be on the list— I am just trying to get an understanding—it has to be on the list of amendments that have been read and submitted.

I do not contemplate any great problem with this. Most of these things have a way of working themselves out. And Senators act in good faith. I take that as a given. I hope all Senators take that as a given with me, that I am acting in good faith. That is the only way I know to proceed here, is to be fair with each other.

Mr. DOLE. I would say, if I might respond to the Senator, if there was some unforeseen reason a Senator on either side was unable to send the amendment to the desk by 3 o'clock, I think we can probably work that out. But, it seems to me we have all had notice and if somebody got up at 3 o'clock and started sending five or six amendments to the desk, there could be an objection to setting aside any amendment.

Mr. BYRD. I want to say this, Mr. Leader. The leader and I have worked together many years in various capacities. No leader has ever offered as many cloture motions as I have and seen them all fail to be adopted.

It is conceivable that a Senator might have a death in his family.

Mr. DOLE. Yes.

Mr. BYRD. I think we, being reasonable people, would understand even at that point that another Senator could get unanimous consent that another Senator could offer the amendment on his behalf.

Looking at this, if I understand correctly, I think it is a good agreement. I want to compliment both leaders and all others who have participated in working out this agreement. This preserves, this fulfills, this meets the majority's desire to know who really has amendments, who intends to call up those amendments and what those amendments are. It assures all parties on both sides that all first-degree amendments must have been offered, not by the managers but by Senators themselves.

If I want to come over here and offer my amendment, I have no reason to complain when the hour of 3 o'clock on Tuesday evening next arrives.

If I am saying anything that the majority leader thinks is not accurate, I hope he will say so.

That each Senator offers his or her own amendment, all amendments will have been offered by 3 o'clock p.m. on Tuesday, and those amendments, of course, may be disposed of and they are expected to be disposed of as we go along. We made progress today and we

hope to make further progress a day later.

And then, once those amendments have been disposed of, we are not saying that the disposition has to occur by 3 o'clock p.m. on Tuesday. We are saying they have to be offered. The disposition may be 3 o'clock Tuesday or it may be 3 o'clock next Tuesday. Once the amendments have been disposed of, we advance to third reading and then no further amendments can be offered.

That is the case now. Once we are on third reading, except by unanimous consent, no further amendments are in order.

And then we are not closed out of debate at that point. And, of course, the leader, as he always has a right to do, has a right to offer a cloture motion. That is his right.

So, I hope that, as a reasonable man, if we reach that point and it is clear that somebody wanted to debate in a reasonable time, the leader would be willing to let that go forward. If it is obvious that someone just wants to tarry and delay, nobody can quarrel with the fact that the leader has that right to offer a cloture motion.

I would ask this question. Is there any time limit? You say that Senators will be permitted to speak tomorrow during a period for routine morning business. They may speak for how many minutes? Is there a time limit?

Mr. DOLE. I say to the Senator, we did not put a time limit because some might like to speak on their amendment. Even though they cannot offer amendments, they might like to suggest, ''I intend to offer this amendment,'' and they could get rid of some of the debate tomorrow, at least on this side. You would have a chance to rebut that, or whatever.

But we did not put any time limit. We had hoped they would be constrained if they wanted to talk about their amendment, discuss it for a reasonable time, and then move on.

I want to say one other thing about the 3 o'clock deadline. Obviously, if there is some unusual circumstance, somebody's plane was delayed, we have a bad storm or something, I think the two leaders would agree, after consultation with each other, whoever it was on either side would be permitted to offer his or her amendment or amendments.

Mr. BYRD. So it is not the intention of the majority leader to put a limitation on the time for speeches on tomorrow?

Mr. DOLE. We could put a limitation of 15 minutes.

Mr. BYRD. If they want additional time, they could ask for unanimous consent.

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, again, I think this is a good agreement. I think it is a reasonable agreement. It seems to me it protects all Senators' rights. It is a reasonable approach.

I again compliment both leaders and all Senators. Many Senators have participated in developing this agreement. I not only compliment them, I thank them for their further indulgence.

I reserve the right to object, but I have already indicated so.

I want to say this: I hope we close this session in a good spirit. I was sitting here a while ago while a rollcall vote was going on and I thought of Paul's epistle to the Colossians and I wrote it down. ''Let your speech be always with grace, seasoned with salt, that ye know how ye ought to answer every man.''

Sometimes I have to stop and write that down and read it and try to apply it to myself. I find that often fails.

I hope we will all feel good about having reached an agreement, and go home tonight. I think the leaders have done a good job. I think we have accomplished something. I am happy. I think it preserves everybody's rights. It is a reasonable agreement. It does not prostitute the legislative process.

That is what I have been complaining about. I thank the distinguished leader.

Mr. GLENN. Would the distinguished majority leader yield for a question?

Mr. DOLE. Let me say that we will have people speak for not to exceed 15 minutes to amend requests.

Mr. GLENN. I have been asked during the business tomorrow, it says morning business, and speakers can speak on whatever they wish including their possible amendments for next week or whatever; but there will not be any business conducted on S. 1 directly tomorrow, is that correct? So there can be no misunderstanding.

Mr. DOLE. That is correct.

The PRESIDING OFFICER. Does the distinguished majority leader renew his unanimous consent request?

Mr. DOLE. Mr. President, let me thank my colleagues on both sides of the aisle and let me thank the Senator from Massachusetts for his persistence. I did not mean to offend him earlier. I think we have an agreement that satisfies most everyone on each side of the aisle.

Mr. President, I renew my request. I ask unanimous consent the list of amendments be printed in the RECORD.

The list of amendments follows:

DEMOCRATIC AMENDMENTS TO S. 1

Bingaman:
(1) Relevant.
(2) Relevant.
(3) Relevant.
Boxer:
(1) Sensitive subpopulations.
(2) Immigration costs.
(3) Child porn/abuse/labor exclusion.
Bradley:
(1) Relevant.
Byrd:
(1) Relevant.
(2) Relevant.
(3) Relevant.
Dorgan:
(1) Metric conversion.
(2) Federal Reserve.
(3) C.P.I.
Ford:
(1) Imposing standards on House.
(2) Imposing standards on House.
(3) Imposing standards on House.
Glenn:
(1) Relevant.
(2) Relevant.
(3) Relevant.
(4) Relevant.
(5) Relevant.
Graham:
(1) Immigration.
(2) Fund allocation.
(3) Relevant.
Harkin:
(1) Relevant.
(2) Relevant.
Hollings:
(1) Relevant.
(2) Sense of Senate Balanced budget.
Johnston:
Relevant.
Kohl:
Relevant.
Lautenberg:
Relevant.
Levin:
(1) Relevant.
(2) Relevant.
(3) Relevant.
(4) Relevant.
(5) Relevant.
(6) Relevant.
(7) Relevant.
(8) Relevant.
Moseley-Braun:
Relevant.
Moynihan:
Relevant.
Murray:
(1) Hanford.
(2) CBO.
(3) CBO.
Wellstone:
(1) Relevant.
(2) Relevant.
(3) Relevant.

REPUBLICAN UNFUNDED MANDATES AMENDMENTS

McCain: Appropriations point of order.
Gramm: 60-vote point of order.
Gramm: Treatment of concurrence reports.
Hatfield: Local Flex. act.
Hatch/Brown: Judicial review.
Hatch: FACA.
Brown: SOS/Review of S. 1.
Grassley: CBO vs. Actual costs study.
Grassley: 60-vote waiver re: direct costs.
D'Amato: Comptroller of the Currency.
Kempthorne: Manager's technical amendment.
Roth: Chairman's technical amendment.
Dole: Relevant.
Kempthorne: Relevant.

Mr. LEVIN. Mr. President, I would send six amendments to the desk and ask that they be printed, and this be considered compliance with the Friday paragraph of the unanimous consent request.

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

Mr. LEVIN. I thank the Chair.

Mr. DOLE. Any further business to come before the Senate?

Mr. DORGAN. Mr. President, if the majority leader would yield, I would simply send three amendments to the desk.

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

MORNING BUSINESS

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

HYMAN BOOKBINDER HONORED

Mr. WELLSTONE. Mr. President, I rise today to pay tribute to my friend, Hyman Bookbinder. On October 2, 1994, Bookie was honored by the National Jewish Democratic Council as the recipient of the First Annual Hubert H. Humphrey Humanitarian Award.

It was very fitting that this honor was bestowed on Bookie. Over the years, Hyman Bookbinder has been indefatigable in his efforts to spread the message on labor, civil rights, and economic justice with a commitment to American ideals.

Admired, loved by family, friends, and colleagues, Bookie has served our country and the Jewish community with honor and distinction. His commitment to his faith and humanity is truly an inspiration. His distinguished career and many contributions was a cause for celebration by NJDC.

All of us owe him a debt of gratitude for his many years of dedicated and exemplary service to others. The celebration of Hyman Bookbinder as the first recipient of the Hubert H. Humphrey Humanitarian Award was a significant milestone in the life of this extraordinary man.

I am pleased to submit to my colleagues, Bookie's remarks upon receiving the Hubert H. Humphrey Award.

NJDC HUBERT HUMPHREY HUMANITARIAN AWARD

(Response by Hyman Bookbinder)

This is the nicest ''This Is Your Life'' episode I've ever seen! As I look at the names of the Honorary chairs, the list of speakers, the names on the Tribute Committee—and, above all, as I look around this room, I know how lucky I have been all my life to have had such friends and associates. Some of us go back more than sixty years. To have been part of your lives, and you part of mine, to have at times shared with you great pain over society's delinquencies, but at other times to celebrate together over some victories—labor's right to organize, breakthroughs in civil rights, commitment to end poverty, our nation's embrace of Holocaust remembrance and security for Israel—to have been associated with you in pursuit of these and other causes, I express my profound appreciation.

Oh, how I would like to go around the room and identify and thank each of you and say what you individually have meant to me. But limited time, and fear of leaving out some, compels me merely to note how gratified I am to see associates from the earliest days of my trade union work, the Amalgamated and the CIO and the AFL–CIO, from six decades of civil rights alliances and battles, from the halls of Congress since 1950—including its current senior member and chair of a non-existent Jewish caucus—from the war on poverty, including its founding general (although his name is Sargent), from three decades with the American Jewish Committee, including its outgoing President getting ready now to become Ambassador to Romania—and from every campaign since Harry Truman. . . .

I've had a special spot in my heart for our Honorary Chairman for fifteen years now. When another black leader declared that black anger at Jews at the time was just a declaration of independence, Vernon Jordan publicly rebuked him, saying that what was needed was a declaration of inter-dependence.

And there is one name above all, of course, that I wish I could point to. Oh, how I wish he were still with us. Oh, what a different country this might have been if in 1968 a few hundred thousand more Americans had voted for him. I cannot begin to tell you what an honor you have bestowed on me by linking my name with that of Hubert Humphrey. And what an honor to have his son and his sister with us tonight.

Others have already commented on the meaning and the goals of NJDC. Let me add a few words. I'm proud to get its award because its very name—National Jewish Democratic—combines three great commitments and loyalties of my life. National means to me, despite its failures and defaults, a nation we can and do love for its underlying compassion and respect for individual freedom. *Jewish* in our NJDC stands for a Judaism we love because it seeks to live by Hillel's admonition to be not only for ourselves. Democratic, because it is the party that best lives up to our American and our Jewish ideals. Small wonder that such large majorities of Jewish voters have consistently supported Democratic candidates.

I am proud of all three of these identifications and loyalties—and am reminded of that story about Henry Kissinger and Golda Meir. After a long argument with Henry, Golda looked sternly at him and said, ''I'm really quite upset with you—you, a Jew!'' At which point, Kissinger started to pontificate. ''Madam Prime Minister,'' he said, ''I want you to know that first I am a human being, a citizen of the world. Then I am an American. And then I am a Jew.'' ''That may be OK for you in America,'' Golda responded, ''but here we read from right to left.''

I hope that nothing I have said smacks of chauvinism. I am a proud American. But I have known many great people who are not American. I am a proud Jew, but—if you will pardon the expression—some of my best friends are not Jewish. I am a proud Democrat, but have had high regard for some—not many, but some—Republicans.

Three years ago, I tried to capture some of the exciting, poignant moments in my life in a book with the sub-title ''Memoirs of a Public Affairs Junkie.'' Permit me to cite briefly two of those precious memoirs that sort of sum up the public passions of my life—one fifty years ago, the second fifteen years ago.

In the late Forties, I was active in the campaign to raise the Federal minimum wage to 75 cents an hour—yes, 75 cents. I helped locate a garment worker in Tennessee who would testify on what 75 cents an hour might mean for her. All we did was urge her to talk frankly to the members of the Senate Labor committee. I sat next to her, not to prompt her, but to put her at ease. Ora Green was her name, and from the official transcript, here are some of her words:

''My youngest girl, she's nine now, goes straight to the piano when we go to a house where they have one. She wants to play so bad. I've thought that maybe I could save fifty cents or a dollar a week to buy a second hand piano for her, no matter how old or battered. But try as hard as I can, and save and squeeze, I haven't found a way to do it. By this time, the Senators had stopped shuffling their papers before them. They had leaned forward and were looking directly at this woman from Tennessee. She went on:

''Maybe I've been foolish to talk to you about music for one of my children when the main problem is getting enough to eat or wear, or blankets to put on the bed, or even a chair to sit on. But down in Tennessee we love music, and factory workers don't live by bread alone any more than anyone else does.''

I cherish that moment because it tells us so much. It tells us that in every human being there is indeed a spark of the divine, that with all its imperfections, our American democracy makes possible such magical moments to occur, and it reminds us how great it is to have a labor movement that cares about the Ora Greens of the world.

Oh, yes. One of the freshman Senators at that hearing was Hubert Humphrey.

My second story. . . The year was 1979. I was one of fifteen Americans appointed by Jimmy Carter to the President's Commission on the Holocaust. Miles Lerman, the present Chairman of the Holocaust Council and the Museum, was another. And so was Ben Meed, the chief co-ordinator of the world's survivors. Both are here tonight. And then there was Bayard Rustin, the late, great black trade unionist and civil rights leader. To help us develop recommendations for a suitable American memorial, we visited a number of concentration camps and existing memorials in Europe and Israel. On this particular day, after a painful tour through Auschwitz and Birkenau, we stopped for a short outdoor service at a row of memorial tablets. In front of the one inscribed in Hebrew, Elie Wiesel spoke as only he can speak. We joined in reciting the Kaddish. As we were about to leave, Bayard whispered to me, ''Should I?'' I knew exactly what he meant; I said ''Sure'' and asked the group to remain. Accompanied only by the soft winds of the vast open expanse, Bayard started to sing one of his favorite Negro spirituals:

''Freedom, oh Freedom, oh Freedom over me,'' he sang.
''And before I'd be a slave,
I'd be buried in my grave,
And go home to my Lord and be free.''

When he finished, there wasn't a dry eye. Tears were being shed, tears not only in reverent memory of six million Jews, but also for untold millions of American slaves who had been deprived of lives of dignity and freedom. Tears, we were reminded, have no color.

On the last page of my book, I quoted some words I had spoken on an earlier occasion. I'd like to conclude tonight with those words.

''If it should be true that in my lifetime I have helped even one Jew or one Haitian or one Pole escape persecution; if I have helped even one ghetto youngster escape poverty; if I have helped one daughter of a Tennessee shirtmaker get to play on her own piano . . . If these things are indeed true, then all that is left to say is that I thank God that I was given some opportunities to help make life a little easier, a little sweeter, a little more secure, for some fellow human beings.''

And I thank every one of you for being here tonight to share this proud moment.

Thank you very much.

TRIBUTE TO SGT. MANUEL BOJORQUEZ-PICO

Mr. SHELBY. Mr. President, I rise today to honor and congratulate U.S. Sgt. Manuel Bojorquez-Pico of Alabama's Redstone Arsenal, on the day of his swearing-in ceremony as a U.S. citizen. A dedicated patriot and loyal protector of this country and its people, Sergeant Bojorquez is not only an inspiration and role model but a symbol of American democracy and freedom.

Born in Mexico, Sergeant Bojorquez obtained permanent residency status while living in the United States as a child. For a short period of time he moved back to Mexico due to a family illness, but returned to the United

States as an adult and applied to reactivate his permanent residency. It was granted and he enlisted in the Army. A few years later, the Board of Immigration Appeals reversed its decision and ordered Sergeant Bojorquez deported.

For several years he filed motions and appeals, and in a final attempt to become a citizen of this country, Manuel contacted the President on July 12, 1994, and requested that he designate the Persian Gulf war a period of military hostility which would allow active duty aliens, such as himself, to apply for naturalization.

Despite the concern, support, and assistance of Representative CRAMER and myself, 2 weeks before Thanksgiving the District Director of the Immigration and Naturalization Service informed Manuel he would be deported on February 1, 1995. With little hope left, Manuel contacted the President again and finally his prayers were answered.

Impressed by Manuel's commitment to serving his adopted country, the President passed an Executive order which not only allows Manuel to become a citizen, but also includes other active duty aliens who fought in the Persian Gulf war. This young, vibrant family man proved to us all that the American dream still lives.

Manuel's selfless dedication to defending our country, which he could not call his own until today, is a superior example to all American citizens. I applaud him for his tireless efforts and I thank him for the reminder of how lucky we are to live in this great Nation.

REPORT OF THE AGREEMENT BETWEEN THE UNITED STATES AND ESTONIA RELATIVE TO FISHERIES—MESSAGE FROM THE PRESIDENT—PM–1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to 16 U.S.C. 1823(b), to the Committee on Commerce, Science, and Transportation, and to the Committee on Foreign Relations.

To the Congress of the United States

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith the Agreement between the Government of the United States of America and the Government of the Republic of Estonia Extending the Agreement of June 1, 1992, Concerning Fisheries Off the Coasts of the United States. The Agreement, which was effected by an exchange of notes at Tallinn on March 11 and May 12, 1994, extends the 1992 Agreement to June 30, 1996.

In light of the importance of our fisheries relationship with the Republic of Estonia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 19, 1995.*

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. GRASSLEY:

S. 243. A bill to provide greater access to civil justice by reducing costs and delay, and for other purposes; to the Committee on the Judiciary.

By Mr. NUNN (for himself, Mr. ROTH, Mr. GLENN, Mr. BOND, Mr. BUMPERS, Mr. PRESSLER, Mr. LIEBERMAN, Mrs. HUTCHISON, Mr. JOHNSTON, Mr. DOMENICI, Mr. HOLLINGS, Mr. NICKLES, Mr. BREAUX, Mr. WARNER, Mr. ROBB, Mr. COCHRAN, Mr. BRYAN, Mr. SMITH, Mr. LAUTENBERG, Mr. MACK, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 244. A bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COHEN (for himself, Mr. DOLE, Mr. SIMPSON, Mr. STEVENS, Mr. D'AMATO, Mr. GRAHAM, Mr. COATS, Mr. GREGG, Mr. WARNER, Mr. NICKLES, Mr. PRYOR, Mr. BOND, Mr. CHAFEE, Mr. FORD, and Mr. DOMENICI):

S. 245. A bill to provide for enhanced penalties for health care fraud, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 246. A bill to establish demonstration projects to expand innovations in State administration of the aid to families with dependent children under title IV of the Social Security Act, and for other pruposes; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. COCHRAN):

S. 247. A bill to improve senior citizen housing safety; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. GRAMM, Mr. NICKLES, and Mr. WARNER):

S. 248. A bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. BROWN, Mr. D'AMATO, and Mrs. FEINSTEIN):

S. 249. A bill to amend title IV of the Social Security Act to require States to establish a 2-digit fingerprint matching indentification system in order to prevent multiple enrollments by an individual for benefits under such Act, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL:

S. 250. A bill to amend chapter 41 of title 28, United States Code, to provide for an analysis of certain bills and resolutions pending before the Congress by the Director of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 251. A bill to make provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. FRIST, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. PACKWOOD, Mr. SMITH, and Mr. THOMAS):

S.J. Res. 21. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. LOTT, Mr. INHOFE, Mr. THOMAS, and Mr. MACK):

S.J. Res. 22. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN:

S. Con. Res. 2. A concurrent resolution expressing the sense of the Congress that the People's Republic of China should purchase a majority of its imported wheat from the United States in order to reduce the trade imbalance between the People's Republic of China and the United States; to the Committee on Finance.

By Mr. SIMON (for himself and Mr. BROWN)

S. Con. Res. 3. A concurrent resolution relative to Taiwan and the United Nations; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 243. A bill to provide greater access to civil justice by reducing costs and delay, and for other purposes; to the Committee on the Judiciary.

THE CIVIL JUSTICE REFORM ACT OF 1995

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation to reform America's Federal Civil Justice System. The purpose of this bill, the Civil Justice Reform Act of 1995, is to improve deserving parties' access to the Federal courts by reducing the volume of frivolous cases, to reduce the costs of Federal civil litigation, and to encourage the settlement of disputes. It is similar to the bill introduced by Senator DECONCINI and myself in March 1993.

This bill introduces some modest reforms that will reduce the economic and social costs our society has borne due to the litigation explosion. Our society spends billions of dollars every year on civil lawsuits. More than $1 billion goes just to pay for the Federal district courts, which handle hundreds of thousands of civil cases annually. It has become clear to most Americans that our system of dispute resolution through adversarial lawsuits has gotten out of hand, and reason needs to be restored to it. More litigation does not necessarily translate into more justice.

Many of the elements of this bill are based on the 1992 Access to Justice Act. For example, my bill reintroduces a modified English rule on attorney's fees that will award prevailing parties in Federal diversity cases reasonable attorney's fees, with adequate safeguards to protect against possible injustice. This provision is hardly the radical proposition some will paint it as being. In fact, for those of my colleagues who are always fond of pointing out that the United States is the only industrialized country that fails to provide some benefit or another, I would point out that this so-called English rule is followed by most industrialized countries, with the United States being the most notable exception. So I think it is worth trying in the United States in a limited class of cases—diversity suits—in order to see if it is effective in discouraging frivolous lawsuits.

By limiting the rule to diversity cases, the bill ensures that no one will be denied a forum for their dispute, since all such cases can be filed in State court. If the defendant removes the case to Federal court, then the loser pays rule will not apply. This limited English rule will expire in 5 years unless Congress chooses to continue it, after a fourth-year report by the administrative office of the courts on the effectiveness of the rule.

The bill also includes a number of safeguards to avoid any unintended consequences. The amount the loser must pay is limited to the amount of his or her own fees. Moreover, the court is given broad discretion to limit the amount the loser must pay if it finds such payment to be unjust under the circumstances of the case before it.

The bill also requires 30 days advance notice of intent to sue—something most responsible lawyers already do. It also requires prisoners with civil rights cases—which currently constitute of around 10 percent of the Federal civil docket—to first exhaust their administrative remedies before filing suit in Federal court.

To promote early settlement of cases and reduce litigation costs, the bill contains a statutory offer of judgment rule. It is similar to a proposal by Judge William Schwartzer, former director of the Federal Judicial Center. This rule will allow either party to a lawsuit to offer a settlement to the other party at any point in the litigation. If the settlement is declining and the party rejecting the offer ultimately gets a judgment less favorable than the settlement offer, he or she is then responsible for the offeror's attorneys fees from the time the offer was made. This will give parties a strong incentive to offer and accept reasonable settlements.

Another provision of my bill will begin to curtail some of the excesses of the expert witness battles that dominate too many Federal trials. Following the example of several States, particularly Arizona, my bill will limit parties to one expert witness on a given issue.

The Civil Justice Reform Act of 1990 has had a positive effect on the Federal courts in reforming pretrial, processes to reduce costs and delay. This bill takes the next step by making some limited fee shifting proposals and a few other modest reforms for reducing litigation costs. I look forward to the hearings I intend to hold in the Subcommittee on Administrative Oversight and Courts, and to discussing these proposals with my colleagues on the Judiciary Committee, as well as the full Senate.

I ask unanimous consent that the full text of the bill appear in the RECORD.

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

S. 243

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 ''Civil Justice Reform Act of 1995''.

SEC. 2. DIVERSITY OF CITIZENSHIP JURISDICTION; AWARD OF ATTORNEYS' FEES TO PREVAILING PARTY.

(a) AWARD OF FEES.—Section 1332 of title 28, United States Code, is amended by inserting after subsection (e) the following new subsection:

''(f)(1) The prevailing party in an action under this section shall be entitled to attorneys' fees only to the extent that such party prevails on any position or claim advanced during the action. Attorneys' fees under this paragraph shall be paid by the nonprevailing party but shall not exceed the amount of the attorneys' fees of the nonprevailing party with regard to such position or claim. If the nonprevailing party receives services under a contingent fee agreement, the amount of attorneys' fees under this paragraph shall not exceed the reasonable value of those services.

''(2) In order to receive attorneys' fees under paragraph (1), counsel of record in any actions under this section shall maintain accurate, complete records of hours worked on the matter regardless of the fee arrangement with his or her client.

''(3) The court may, in its discretion, limit the fees recovered under paragraph (1) to the extent that the court finds special circumstances that make payment of such fees unjust.

''(4) This subsection shall not apply to any action removed from a State court under section 1441 of this title, or to any action in which the United States, any State, or any agency, officer, or employee of the United States or any State is a party.

''(5) As used in this subsection, the term 'prevailing party' means a party to an action who obtains a favorable final judgment (other than by settlement), exclusive of interest, on all or a portion of the claims asserted in the action.''.

(b) STUDY AND REPORT.—(1) The Director of the Administrative Office of the United States Courts shall conduct a study regarding the effect of the requirements of subsection (f) of section 1332 of title 28, United States Code, as added by subsection (a) of this section, on the caseload of actions brought under such section, which study shall include—

(A) data on the number of actions, within each judicial district, in which the nonprevailing party was required to pay the attorneys' fees of the prevailing party; and

(B) an assessment of the deterrent effect of the requirements on frivolous or meritless actions.

(2) No later than 4 years after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall submit a report to the appropriate committees of Congress containing—

(A) the results of the study described in paragraph (1); and

(B) recommendations regarding whether the requirements should be continued or applied with respect to additional actions.

(c) REPEAL.—No later than 5 years after the date of enactment of this Act, this section and the amendment made by this section shall be repealed.

SEC. 3. OFFER OF JUDGMENT.

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

''CHAPTER 114—PRETRIAL PROVISIONS

''Sec.

''1721. Offer of judgment.

''§ 1721. Offer of judgment

''(a)(1) In any civil action filed in a district court, any party may serve upon any adverse party a written offer to allow judgment to be entered for the money or property specified in the offer.

''(2) If within 14 days after service of the offer, the adverse party serves written notice that the offer is accepted, either party may file the offer and notice of acceptance and the clerk shall enter judgment.

''(3) An offer not accepted within such 14-day period shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine reasonable attorney fees.

''(4) If the final judgment obtained by the offeree is not more favorable than the offer made under paragraph (1) which was not accepted by the offeree, the offeree shall pay the offeror's reasonable attorney fees incurred after the expiration of the time for accepting the offer, to the extent necessary to make the offeror whole.

''(5) In no case shall an award of attorney fees under this section exceed the amount of the judgment obtained. The court may reduce the award of costs and attorney fees to avoid the imposition of undue hardship on a party.

''(6) The fact that an offer is made under this section shall not preclude a subsequent offer.

''(7)(A) Subject to the provisions of subparagraph (B), when the liability of 1 party has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, any party may make an offer of judgment, which shall have the same effect as an offer made before trial.

''(B) The court may shorten the period of time an offeree may have to accept an offer under subparagraph (A), but in no case shall such period be less than 7 days.

''(b) A party making an offer shall not be deprived of the benefits of an offer it makes by an adverse party's subsequent offer, unless the subsequent offer is more favorable than the judgment obtained.

''(c) If the judgment obtained includes nonmonetary relief, a determination that it is more favorable to the offeree than was the offer shall be made only when the terms of the offer included all such nonmonetary relief.

''(d) This section shall not apply to class or derivative actions under rules 23, 23.1 and 23.2 of the Federal Rules of Civil Procedure.

''(e)(1) Except as provided under paragraph (2), the provisions of this section shall not be

construed to prohibit an award or reduce the amount of an award a party may receive under a statute which provides for the payment of attorney's fees by another party.

''(2) The amount a party may receive under this section may be set off against the amount of an award made under a statute described in paragraph (1).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

''114. Pretrial provisions ..... 1721''.

SEC. 4. PRIOR NOTICE AS A PREREQUISITE OF FILING A CIVIL ACTION IN THE UNITED STATES DISTRICT COURT.

(a) IN GENERAL.—Chapter 23 of title 28, United States Code, is amended by adding at the end the following:

''§ 483. Prior notice of civil action

''(a)(1) No less than 30 days before filing a civil action in a court of the United States the claimant intending to file such action shall transmit written notice to any intended defendant of the specific claims involved, including the amount of actual damages and expenses incurred and expected to be incurred. The claimant shall transmit such notice to any intended defendant at an address reasonably expected to provide actual notice.

''(2) For purposes of this section, the term 'transmit' means to mail by first class-mail, postage prepaid, or contract for delivery by any company which physically delivers correspondence as a commercial service to the public in its regular course of business.

''(3) The claimant shall at the time of filing a civil action, file in the court a certificate of service evidencing compliance with this subsection.

''(b) If the applicable statute of limitations for such action would expire during the period of notice required by subsection (a), the statute of limitations shall expire on the thirtieth day after the date on which written notice is transmitted to the intended defendant or defendants under subsection (a). The parties may by written agreement extend that 30-day period for an additional period of not to exceed 90 days.

''(c) The requirements of this section shall not apply—

''(1) in any action to seize or forfeit assets subject to forfeiture or in any bankruptcy, insolvency, receivership, conservatorship, or liquidation proceeding;

''(2) if the assets that are the subject of the action or would satisfy a judgment are subject to flight, dissipation, or destruction, or if the defendant is subject to flight;

''(3) if a written notice prior to filing an action is otherwise required by law, or the claimant has made a prior attempt in writing to settle the claim with the defendant;

''(4) in proceedings to enforce a civil investigative demand or an administrative summons;

''(5) in any action to foreclose a lien; or

''(6) in any action pertaining to a temporary restraining order, preliminary injunctive relief, or the fraudulent conveyance of property, or in any other type of action involving exigent circumstances that compel immediate resort to the courts.

''(d) If the district court finds that the requirements of subsection (a) have not been met by the claimant, and such defect is asserted by the defendant within 60 days after service of the summons or complaint upon such defendant, the claim shall be dismissed without prejudice and the costs of such action, including attorneys' fees, shall be imposed upon the claimant. Whenever an action is dismissed under this subsection, the claimant may refile such claim within 60 days after dismissal regardless of any statutory limitations period if—

''(1) during the 60 days after dismissal, notice is transmitted under subsection (a); and

''(2) the original action was timely filed in accordance with subsection (b).''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 23 of title 28, United States Code, is amended by adding at the end the following:

''483. Prior notice of civil action.''.

SEC. 5. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) by amending subsection (a) to read as follows:

''(a) In any action brought pursuant to section 1979 of the Revised Statutes of the United States, by any adult convicted of a crime confined in any jail, prison, or other correctional facility, the court shall continue such case for a period not to exceed 180 days in order to require exhaustion of such plain, speedy, and effective administrative remedies as are available.''; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting immediately after ''(b)'' the following:

''(1) Upon the request of a State or local corrections agency, the Attorney General of the United States shall provide the agency with technical advice and assistance in establishing plain, speedy, and effective administrative remedies for inmate grievances.''.

(b) PROCEEDINGS IN FORMA PAUPERIS.—Section 1915(d) of title 28, United States Code, is amended to read as follows:

''(d) The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

SEC. 6. EXPERT WITNESSES.

(a) IN GENERAL.—Chapter 119 of title 28, United States Code, is amended by inserting after section 1828 the following new section:

''§ 1829. Multiple expert witnesses

''In any civil action filed in a district court, the court shall not permit opinion evidence on the same issue from more than 1 expert witness for each party, except upon a showing of good cause.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 119 of title 28, United States Code, is amended by inserting after the item relating to section 1828 the following new section:

''1829. Multiple expert witnesses.''.

SEC. 7. SEVERABILITY.

If any provision of this Act or the amendments made by this Act or the application of any provision or amendment to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of such provision and amendments to any other person or circumstance shall not be affected by that invalidation.

SEC. 8. EFFECTIVE DATE.

Except as expressly provided otherwise, this Act and the amendments made by this Act shall become effective 90 days after the date of the enactment of this Act. This Act shall not apply to any action or proceeding commenced before such effective date.

By Mr. NUNN (for himself, Mr. ROTH, Mr. GLENN, Mr. BOND, Mr. BUMPERS, Mr. PRESSLER, Mr. LIEBERMAN, Mrs. HUTCHISON, Mr. JOHNSTON, Mr. DOMENICI, Mr. HOLLINGS, Mr. NICKLES, Mr. BREAUX, Mr. WARNER, Mr. ROBB, Mr. COCHRAN, Mr. BRYAN, Mr. SMITH, Mr. LAUTENBERG, Mr. MACK, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. 244. A bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes; to the Committee on Governmental Affairs.

THE PAPERWORK REDUCTION ACT OF 1995

Mr. NUNN. Mr. President, I rise this morning on behalf of myself, Mr. ROTH, Mr. GLENN, Mr. BOND, and Mr. BUMPERS, to introduce the Paperwork Reduction Act of 1995. This bill is substantially identical to S. 560, which was unanimously approved by the Senate in the closing days of the 103d Congress.

I am pleased that the bill enjoys even broader bipartisan support this Congress. It is being cosponsored by the chairman and ranking Democratic member of the Committee on Governmental Affairs, BILL ROTH and JOHN GLENN, both have worked long and hard on legislation to strengthen the Paperwork Reduction Act of 1980 and to reauthorize appropriations for the Office of Information and Regulatory Affairs [OIRA], which has been without authorizing legislation since October of 1989. Leading cosponsors also include the chairman, Mr. BOND, and ranking Democratic member, Mr. BUMPERS, of the Committee on Small Business. The Committee on Small Business, of which I am the senior member, has played a crucial supporting role on behalf of the small business community in maintaining the effort to enact legislation to strengthen the 1980 act. We are being joined by 22 of our colleagues from both sides of the aisle, many of whom are present or former members of the Committee on Small Business of the Governmental Affairs.

Mr. President, as previously mentioned, the Paperwork Reduction Act of 1995 is substantively identical to S. 560 introduced in the 103d Congress. That bill represented the culmination of years of work which began in the 100th Congress. It represents a skillful blending of S. 560, as introduced by me and S. 681, a bill introduced by my friend from Ohio, Mr. GLENN, then chairman of the Governmental Affairs Committee. His skill and leadership, and the tenacity of all of the those involved in both bills made possible the crafting of this text of S. 560. It garnered unanimous support within the Governmental Affairs Committee. S. 560, as reported last year, had the support of the Clinton administration and I am hopeful that the administration

will also support this bill I introduce today.

Senator ROTH, chairman of the Governmental Affairs Committee indicated to me that we will have a markup on this bill next week. It is my hope that it will be an early legislative initiative in this Congress. I have also talked to Speaker GINGRICH about the bill, and it is my hope that they will make it an important part of their legislative agenda on the House side. So I am hoping, Mr. President, we will be able to get this bill to the President's desk in the next several weeks, certainly in the next several months, for actual implementation as law.

It also had the support of the broad-based Paperwork Reduction Act Coalition as well as elected officials, and many in the educational and nonprofit communities. S. 560, the Paperwork Reduction Act of 1994, passed the Senate by unanimous voice vote on October 6, 1994. The following day, the text of S. 560 was attached to a House-passed measure, H.R. 2561, and returned to the House. Unfortunately, the House Governmental Operations Committee declined to clear either measure before the adjournment of the 103d Congress, so we start anew with our legislative effort this year.

In this congress, I am hopeful that the House of Representatives will be more receptive to this legislation and that we can see it enacted into law. A modified version of S. 560 has been included in H.R. 9, the Job Creation and Wage Enhancement Act of 1995, which includes many of the regulatory and paperwork relief provisions of the Republican Contract With America. Representative BILL CLINGER, the new chairman of the House Committee on Government Reform and Oversight, the new name for the Committee on Government Operations, was the principal Republican cosponsor of H.R. 2995, the House companion to S. 560.

The Paperwork Reduction Act of 1995 provides a 5-year reauthorization of appropriations for the Office of Information and Regulatory Affairs [OIRA]. Created by the 1980 Act, OIRA serves as the focal point at the Office of Management and Budget for the act's implementation.

The principal purpose of the Paperwork Reduction Act of 1995 is to reaffirm and provide additional tools by which to attain the fundamental objective of the Paperwork Reduction Act of 1980—to minimize the Federal paperwork burdens imposed by individuals, businesses, especially small businesses, educational and nonprofit institutions, and State and local governments.

Mr. President, let me highlight some of the provisions of the bill. This legislation reemphasizes the fundamental responsibilities of each Federal agency minimize new paperwork burden by thoroughly reviewing each proposed collection of information for need and practical utility, the act's fundamental standards. The bill make explicit the responsibility of each Federal agency to conduct this review itself, before submitting the propose collection of information for public comment and clearance by OIRA.

The bill before us reflects the provisions of S. 560 that further enhance public participation in the review of paperwork burdens, when such burdens are first being proposed or when an agency is seeking to obtain approval to continue to use an existing paperwork requirement. Strengthening public participation is at the core of the 1980 act.

The Paperwork Reduction Act of 1995 maintains the 1980 act's Government-wide 5-percent goal for the reduction of paperwork burdens on the public. Given past experience, some question the effectiveness of such goals in producing net reductions in Government-wide paperwork burdens. I believe that the bill should reflect individual agency goals as well, and although this provision is not in the bill introduced today, I am hopeful it will be strengthened in the future. If seriously implemented, such agency goals can become an effective restraint on the cumulative growth of Government-sponsored paperwork burdens.

Mr. President, the bill includes amendments to the 1980 act which further empower members of the public to help police Federal agency compliance with the act. I would like to describe two of these provisions.

One provision would enable a member of the public to obtain a written determination from the OIRA Administrator regarding whether a federally sponsored paperwork requirement is in compliance with the act. If the agency requirement is found to be noncompliant, the Administrator is charged with taking appropriate remedial action. This provision is based upon a similar process added to the Office of Federal Procurement Policy Act in 1988.

The second provision encourages members of the public to identify paperwork requirements that have not been submitted for review and approval pursuant to the act's requirements. Although the act's public protection provisions explicitly shield the public from the imposition of any formal agency penalty for failing to comply with such an unapproved, or bootleg, paperwork requirement, individuals often feel compelled to comply. This is especially true when the individual has an on-going relationship with the agency and that relationship accords the agency substantial discretion that could be used to redefine their future dealings. Under this bill, which we are introducing today, a member of the public can blow the whistle on such a bootleg paperwork requirement and be accorded the protection of anonymity.

Next, Mr. President, I would like to emphasize that the Paperwork Reduction Act of 1995 clarifies the 1980 Act to make explicit that it applies to Government-sponsored third-party paperwork burdens.

These are recordkeeping, disclosure, or other paperwork burdens that one private party imposes on another private party at the direction of a Federal agency. In 1990, the U.S. Supreme Court decided that such Government-sponsored third-party paperwork burdens were not subject to the Paperwork Reduction Act. The Court's decision in Dole versus United Steelworkers of America created a potentially vast loophole. The public could be denied the Act's protections on the basis of the manner in which a Federal agency chose to impose a paperwork burden, indirectly rather than directly. It is worthy of note that Senator Chiles, now Governor Chiles, the father of the Paperwork Reduction Act went to the trouble and expense of filing an amicus brief to the Supreme Court arguing that no such exemption for third-party paperwork burdens was intended. The Court decided otherwise. I know that Governor Chiles will be gratified that this bill makes explicit the Act's coverage of all Government-sponsored paperwork burdens. Once this bill is enacted, we can feel confident that this major loophole will be closed. But given more than a decade of experience under the Act, it is prudent to remain vigilant to additional efforts to restrict the Act's reach and public protections.

The smart use of information by the Government, and its potential to minimize the burdens placed on the public, is a core concept of the 1980 Act. The information resources management [IRM] provisions of the Paperwork Reduction Act of 1995 build upon the foundation laid more than a decade ago by our former colleague from Florida, Lawton Chiles, the father of the Paperwork Reduction Act. These provisions of the bill are the major contribution of my friend from Ohio, Senator GLENN, who has emphasized the potential of improved IRM policies to make government more effective in serving the public.

Mr. President, I will not take any more of the Senate's time today to discuss the individual provisions of the Paperwork Reduction Act of 1995.

Mr. President, the Paperwork Reduction Act of 1995 enjoys strong support from the business community, especially the small business community. It has the support of a broad Paperwork Reduction Act Coalition, representing virtually every segment of the business community. They have worked long and hard on this legislation for many years. Without them, we would not be able to have the consensus bill that we have today.

Participating in the coalition are the major national small business associations—the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], and National Small Business United [NSBU] as well as the many specialized national small business associations,

like the American Subcontractors Association, that comprise the membership of the SBLC or NSBU. Other participants represent manufacturers, aerospace and electronics firms, construction firms, providers of professional and technical services, retailers of various products and services, and the wholesalers and distributors who support them. I would like to identify a few other organizations that comprise the Coalition's membership: the Aerospace Industries Association [AIA], the American Consulting Engineers Council [ACEC], the Associated Builders and Contractors [ABC], the Associated General Contractors of America [AGC], the Chemical Manufacturers Association [CMA], the Computer and Business Equipment Manufacturers Association [CBEMA], the Contract Services Association [CSA], the Electronic Industries Association [EIA], the Independent Bankers Association of America [IBAA], the International Communications Industries Association [ICIA], the National Association of Manufacturers, the National Association of Wholesalers and Distributors, the National Security Industrial Association [NSIA], the National Tooling and Machining Association [NTMA], the Printing Industries Association [PIA], and the Professional Service Council [PSC]. Leadership for the coalition is being provided by the Council on Regulatory and Information Management [C–RIM] and by the U.S. Chamber of Commerce. C–RIM is the new name for the Business Council on the Reduction of Paperwork, which has dedicated itself to paperwork reduction and regulatory reform issues for more than a half century.

The coalition also includes a number of professional associations and public interest groups that support strengthening the Paperwork Reduction Act of 1980. These include the Association of Records Managers and Administrators [ARMA] and Citizens for a Sound Economy [CSE], to name but two very active coalition members.

Mr. President, given the regulatory and paperwork burdens faced by State and local governments, legislation to strengthen the Paperwork Reduction Act is high on the agenda of the associations representing elected officials. The Governor of Florida, my friend Lawton Chiles, has worked hard on this issue within the National Governors Association. During its 1994 annual meeting, the National Governors Association adopted a resolution in support of legislation to strengthen the Paperwork Reduction Act of 1980.

Mr. President, I urge my colleagues to join me in supporting this legislation.

As I mentioned, Chairman ROTH and Senator GLENN are both cosponsors of this legislation, as is Senator BOND, the new chairman of the Small Business Committee, and the previous chairman and now ranking member, Senator BUMPERS.

It is my understanding that we will have a markup on this bill next week. It is my hope it can be on an accelerated schedule here on the Senate floor. It is my hope that the Paperwork Reduction Act of 1995 will get similar expedited treatment on the House side, so that President Clinton will have this bill on his desk in the next few weeks. So that with a strengthened Paperwork Reduction Act we can continue the difficult but very important process of cracking down on Federal agency paperwork burdens that do not meet the Act's standards.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 244

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 ''Paperwork Reduction Act of 1995''.

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

''Sec.
''3501. Purposes.
''3502. Definitions.
''3503. Office of Information and Regulatory Affairs.
''3504. Authority and functions of Director.
''3505. Assignment of tasks and deadlines.
''3506. Federal agency responsibilities.
''3507. Public information collection activities; submission to Director; approval and delegation.
''3508. Determination of necessity for information; hearing.
''3509. Designation of central collection agency.
''3510. Cooperation of agencies in making information available.
''3511. Establishment and operation of Government Information Locator Service.
''3512. Public protection.
''3513. Director review of agency activities; reporting; agency response.
''3514. Responsiveness to Congress.
''3515. Administrative powers.
''3516. Rules and regulations.
''3517. Consultation with other agencies and the public.
''3518. Effect on existing laws and regulations.
''3519. Access to information.
''3520. Authorization of appropriations.

"§ 3501. Purposes

''The purposes of this chapter are to—

''(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

''(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

''(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

''(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

''(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

''(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

''(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

''(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

''(A) privacy and confidentiality, including section 552a of title 5;

''(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

''(C) access to information, including section 552 of title 5;

''(9) ensure the integrity, quality, and utility of the Federal statistical system;

''(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

''(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§ 3502. Definitions

''As used in this chapter—

''(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

''(A) the General Accounting Office;

''(B) Federal Election Commission;

''(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

''(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

''(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

''(A) reviewing instructions;

''(B) acquiring, installing, and utilizing technology and systems;

''(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

''(D) searching data sources;

''(E) completing and reviewing the collection of information; and

''(F) transmitting, or otherwise disclosing the information;

''(3) the term 'collection of information'—

''(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

''(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

''(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

''(B) shall not include a collection of information described under section 3518(c)(1);

''(4) the term 'Director' means the Director of the Office of Management and Budget;

''(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

''(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

''(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

''(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

''(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

''(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

''(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

''(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

''(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

''§ 3503. Office of Information and Regulatory Affairs

''(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

''(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

''§ 3504. Authority and functions of Director

''(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

''(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

''(B) provide direction and oversee—

''(i) the review of the collection of information and the reduction of the information collection burden;

''(ii) agency dissemination of and public access to information;

''(iii) statistical activities;

''(iv) records management activities;

''(v) privacy, confidentiality, security, disclosure, and sharing of information; and

''(vi) the acquisition and use of information technology.

''(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

''(b) With respect to general information resources management policy, the Director shall—

''(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

''(2) foster greater sharing, dissemination, and access to public information, including through—

''(A) the use of the Government Information Locator Service; and

''(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

''(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

''(4) oversee the development and implementation of best practices in information resources management, including training; and

''(5) oversee agency integration of program and management functions with information resources management functions.

''(c) With respect to the collection of information and the control of paperwork, the Director shall—

''(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

''(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

''(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

''(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

''(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

''(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

''(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

''(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

''(e) With respect to statistical policy and coordination, the Director shall—

''(1) coordinate the activities of the Federal statistical system to ensure—

''(A) the efficiency and effectiveness of the system; and

''(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

''(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

''(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

''(A) statistical collection procedures and methods;

''(B) statistical data classification;

''(C) statistical information presentation and dissemination;

''(D) timely release of statistical data; and

''(E) such statistical data sources as may be required for the administration of Federal programs;

''(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

''(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

''(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

''(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

''(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

''(A) be headed by the chief statistician; and

''(B) consist of—

''(i) the heads of the major statistical programs; and

''(ii) representatives of other statistical agencies under rotating membership; and

''(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

''(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

''(B) all costs of the training shall be paid by the agency requesting training.

''(f) With respect to records management, the Director shall—

''(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

''(2) review compliance by agencies with—

''(A) the requirements of chapters 29, 31, and 33 of this title; and

''(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

''(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

''(g) With respect to privacy and security, the Director shall—

''(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

''(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

''(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

''(h) With respect to Federal information technology, the Director shall—

''(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

''(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

''(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

''(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

''(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

''(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

''(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

''(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

''(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

''§ 3505. Assignment of tasks and deadlines

''In carrying out the functions under this chapter, the Director shall—

''(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

''(A) reduce information collection burdens imposed on the public that—

''(i) represent the maximum practicable opportunity in each agency; and

''(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

''(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

''(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

''(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

''(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

''(B) plans for—

''(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

''(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

''(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

''(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

''(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

''§ 3506. Federal agency responsibilities

''(a)(1) The head of each agency shall be responsible for—

''(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

''(B) complying with the requirements of this chapter and related policies established by the Director.

''(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

''(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

''(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

''(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

''(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

''(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

''(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

''(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

''(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

''(b) With respect to general information resources management, each agency shall—

''(1) develop information systems, processes, and procedures to—

''(A) reduce information collection burdens on the public;

''(B) increase program efficiency and effectiveness; and

''(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

''(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

''(3) develop and maintain an ongoing process to—

''(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

''(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

''(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

''(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

''(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

''(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

''(c) With respect to the collection of information and the control of paperwork, each agency shall—

''(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

''(A) review each collection of information before submission to the Director for review under this chapter, including—

''(i) an evaluation of the need for the collection of information;

''(ii) a functional description of the information to be collected;

''(iii) a plan for the collection of the information;

''(iv) a specific, objectively supported estimate of burden;

''(v) a test of the collection of information through a pilot program, if appropriate; and

''(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

''(B) ensure that each information collection—

''(i) is inventoried, displays a control number and, if appropriate, an expiration date;

''(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

''(iii) contains a statement to inform the person receiving the collection of information—

''(I) the reasons the information is being collected;

''(II) the way such information is to be used;

''(III) an estimate, to the extent practicable, of the burden of the collection; and

''(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

''(C) assess the information collection burden of proposed legislation affecting the agency;

''(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

''(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

''(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

''(iii) enhance the quality, utility, and clarity of the information to be collected; and

''(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

''(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

''(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

''(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

''(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

''(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

''(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

''(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

''(iii) an exemption from coverage of the collection of information, or any part thereof;

''(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

''(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

''(F) contains the statement required under paragraph (1)(B)(iii);

''(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

''(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

''(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

''(d) With respect to information dissemination, each agency shall—

''(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

''(A) encouraging a diversity of public and private sources for information based on government public information, and

''(B) agency dissemination of public information in an efficient, effective, and economical manner;

''(2) regularly solicit and consider public input on the agency's information dissemination activities; and

''(3) not, except where specifically authorized by statute—

''(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

''(B) restrict or regulate the use, resale, or redissemination of public information by the public;

''(C) charge fees or royalties for resale or redissemination of public information; or

''(D) establish user fees for public information that exceed the cost of dissemination.

''(e) With respect to statistical policy and coordination, each agency shall—

''(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

''(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

''(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

''(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

''(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

''(6) make data available to statistical agencies and readily accessible to the public.

''(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

''(g) With respect to privacy and security, each agency shall—

''(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

''(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

''(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

''(h) With respect to Federal information technology, each agency shall—

''(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

''(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

''(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

''(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

''(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

''(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

''(B) the use by the committee of specified evaluative techniques and criteria to—

''(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

''(ii) estimate and verify life-cycle system initiative costs; and

''(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

''(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

''(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

''§ 3507. Public information collection activities; submission to Director; approval and delegation

''(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

''(1) the agency has—

''(A) conducted the review established under section 3506(c)(1);

''(B) evaluated the public comments received under section 3506(c)(2);

''(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

''(D) published a notice in the Federal Register—

''(i) stating that the agency has made such submission; and

''(ii) setting forth—

''(I) a title for the collection of information;

''(II) a summary of the collection of information;

''(III) a brief description of the need for the information and the proposed use of the information;

''(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

''(V) an estimate of the burden that shall result from the collection of information; and

''(VI) notice that comments may be submitted to the agency and Director;

''(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

''(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

''(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

''(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

''(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

''(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

''(A) the approval may be inferred;

''(B) a control number shall be assigned without further delay; and

''(C) the agency may collect the information for not more than 2 years.

''(d)(1) For any proposed collection of information contained in a proposed rule—

''(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

''(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

''(2) When a final rule is published in the Federal Register, the agency shall explain—

''(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

''(B) the reasons such comments were rejected.

''(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

''(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

''(A) from disapproving any collection of information which was not specifically required by an agency rule;

''(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

''(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

''(D) from disapproving any collection of information contained in a final rule, if—

''(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

''(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

''(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

''(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

''(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

''(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

''(3) This subsection shall not require the disclosure of—

''(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

''(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

''(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

''(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

''(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

''(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

''(g) The Director may not approve a collection of information for a period in excess of 3 years.

''(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

''(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

''(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

''(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

''(A) publish an explanation thereof in the Federal Register; and

''(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

''(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the

Director for review and approval under this chapter.

''(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

''(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

''(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

''(A) a collection of information—

''(i) is needed prior to the expiration of such time periods; and

''(ii) is essential to the mission of the agency; and

''(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

''(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

''(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

''(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

''§ 3508. Determination of necessity for information; hearing

''Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

''§ 3509. Designation of central collection agency

''The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

''§ 3510. Cooperation of agencies in making information available

''(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

''(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

''(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

''§ 3511. Establishment and operation of Government Information Locator Service

''In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

''(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

''(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

''(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

''(4) consider public access and other user needs in the establishment and operation of the Service;

''(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

''(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

''§ 3512. Public protection

''Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the collection of information subject to this chapter—

''(1) does not display a valid control number assigned by the Director; or

''(2) fails to state that the person who is to respond to the collection of information is not required to comply unless such collection displays a valid control number.

''§ 3513. Director review of agency activities; reporting; agency response

''(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

''(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

''(1) be taken to address information resources management problems identified in the report; and

''(2) improve agency performance and the accomplishment of agency missions.

''§ 3514. Responsiveness to Congress

''(a)(1) The Director shall—

''(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

''(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

''(2) The Director shall include in any such report a description of the extent to which agencies have—

''(A) reduced information collection burdens on the public, including—

''(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

''(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

''(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

''(B) improved the quality and utility of statistical information;

''(C) improved public access to Government information; and

''(D) improved program performance and the accomplishment of agency missions through information resources management.

''(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

''§ 3515. Administrative powers

''Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

''§ 3516. Rules and regulations

''The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

''§ 3517. Consultation with other agencies and the public

''(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and

persons early and meaningful opportunity to comment.

''(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

''(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

''(2) take appropriate remedial action, if necessary.

''§ 3518. Effect on existing laws and regulations

''(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

''(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

''(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

''(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

''(B) during the conduct of—

''(i) a civil action to which the United States or any official or agency thereof is a party; or

''(ii) an administrative action or investigation involving an agency against specific individuals or entities;

''(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

''(D) during the conduct of intelligence activities as defined in section 4–206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

''(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

''(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

''(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

''§ 3519. Access to information

''Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

''§ 3520. Authorization of appropriations

''(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

''(b)(1) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

''(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.''.

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on June 30, 1995.

S. 244, THE 'PAPERWORK REDUCTION ACT OF 1995'—SUMMARY

The ''Paperwork Reduction Act of 1995'' will—

Reaffirm the fundamental purpose of the Paperwork Reduction Act of 1980: to minimize the Federal paperwork burdens imposed on individuals, small businesses, State and local governments, educational and nonprofit institutions, and Federal contractors.

Provide a five-year authorization of appropriations for the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget, the paperwork ''watchdog'' under the Act.

Clarify that the Act's public protections apply to all Government-sponsored paperwork, eliminating any confusion over the coverage of so-called ''third-party burdens'' (those imposed by one private party on another private party due to a Federal regulation), caused by the U.S. Supreme Court's 1989 decision in Dole v. United Steelworkers of America.

Seek to reduce the paperwork burdens imposed on the public through an annual Government-wide paperwork reduction goal of 5 percent.

Emphasize the fundamental responsibilities of each Federal agency to minimize paperwork burdens and foster paperwork reduction, by requiring—

a thorough review of each proposed collection of information for need and practical utility, the Paperwork Reduction Act's fundamental standards, which enables an agency to collect needed information while minimizing the burden imposed on the public;

agency planning to maximize the use of information already collected by the public;

better notice and opportunity for public participation with at least a 60-day comment period for each proposed paperwork requirement;

agency certification of compliance with public participation requirements and the Act's fundamental standards of need and practical utility for each proposed paperwork requirement before its submission to OIRA for review, approval and assignment of a control number clearance; and

Strengthen OIRA's responsibilities in the fight to minimize paperwork burdens imposed on the public, by—

empowering OIRA to establish standards under which Federal agencies can more accurately estimate the burden placed upon the public by a proposed paperwork requirements;

working with the Office of Federal Procurement Policy (OFPP) to reduce the substantial paperwork burdens associated with Government contracting; and

Empower the public further in the paperwork reduction fight by enabling an individual to obtain a written determination from the OIRA Administrator regarding whether a Federally sponsored paperwork requirement complies with the Act's standards and public protections, in the same manner that a determination can be sought from the OFPP Administrator regarding whether a procurement regulation issued by an individual agency or buying activity is consistent with the Government-wide Federal Acquisition Regulation.

Improves the Government's ability to make more effective use of the information collected from the public by—

specifying responsibilities of individual agencies regarding information resources management (IRM);

enhancing OIRA's responsibility and authority for establishing Government-wide IRM policy;

establishing policies for linking information technology (IT) budgeting and IRM decision-making to agency program performance, consistent with ''Best Practices'' studies conducted by the U.S. General Accounting Office.

Strengthen OIRA's leadership role in Federal statistical policy.

THE PAPERWORK REDUCTION ACT COALITION

Aerospace Industries Association of America.
Air Transport Association of America.
Alliance of American Insurers.
American Consulting Engineers Council.
American Institute of Merchant Shipping.
American Iron and Steel Institute.
American Petroleum Institute.
American Subcontractors Association.
American Telephone & Telegraph.
Associated Builders & Contractors.
Associated Credit Bureaus.
Associated General Contractors of America.
Association of Manufacturing Technology.
Association of Records Managers and Administrators.
Automative Parts and Accessories Association.
Biscuit and Cracker Manufacturers' Association.
Bristol Myers.
Chemical Manufacturers Association.
Chemical Specialties Manufacturers Association.
Citizens Against Government Waste.
Citizens For A Sound Economy.
Computer and Business Equipment Manufacturers Association.
Contract Services Association of America.
Copper & Brass Fabricators Council.
Dairy and Food Industries Supply Association.
Direct Selling Association.
Eastman Kodak Company.
Electronic Industries Association.
Financial Executive Institute.
Food Marketing Institute.

Gadsby & Hannah.
Gas Appliance Manufacturers Association.
General Electric.
Glaxo, Inc.
Greater Washington Board of Trade.
Hardwood Plywood and Veneer Association.
Independent Bankers Association of America.
International Business Machines.
International Communication Industries Association.
International Mass Retail Association.
Kitchen Cabinet Manufacturers Association.
Mail Advertising Service Association International.
McDermott, Will & Emery.
Motorola Government Electronics Group.
National Association of Homebuilders of the United States.
National Association of Manufacturers.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of the Remodeling Industry.
National Association of Wholesalers-Distributors.
National Federation of Independent Business.
National Food Brokers Association.
National Food Processors Association.
National Foundation for Consumer Credit.
National Glass Association.
National Restaurant Association.
National Roofing Contractors Association.
National Security Industrial Association.
National Small Business United.
National Society of Professional Engineers.
National Society of Public Accountants.
National Tooling and Machining Association.
Northrop Corporation.
Packaging Machinery Manufacturers Institute.
Painting and Decorating Contractors of America.
Printing Industries of America.
Professional Services Council.
Shipbuilders Council of America.
Small Business Legislative Council.
Society for Marketing Professional Services.
Sun Company, Inc.
Sunstrand Corporation.
Texaco.
United Technologies.
Wholesale Florists and Florist Suppliers of America.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
American Wholesale Marketers Association.
AMT–The Association for Manufacturing Technology.
Apparel Retailers of America.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Chimney Sweep Guild.
National Association of Catalog Showroom Merchandisers.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Passenger Vessel Association.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.

Mr. ROTH. Mr. President, I am pleased to join today with the distinguished gentleman from Georgia [Senator NUNN] in introducing the Paperwork Reduction Act of 1995. Last year, this legislation, after thorough consideration by the Committee on Governmental Affairs, was reported unanimously and then passed the Senate on two different occasions, also unanimously.

This legislation is part of the Contract With America. While the contract contains the original version which Senator NUNN and I introduced in the last Congress, we believe that the new House leadership would be receptive to the improved version we are today introducing. I am hopeful that the Senate will take the lead once again in passing this legislation. As chairman of the Committee on Governmental Affairs, I intend to process this legislation quickly, and ask my colleagues on the committee to join with Senator NUNN, Senator GLENN, and myself in this effort.

I would hope that this legislation could be acted on this month to become the third Governmental Affairs bill in this young session to be considered on the floor.

This legislation enjoys widespread support among the business community, both big and small, as well as among State, local, and tribal governments and the people—all who bear the burden of Federal Government paperwork collections. This legislation strengthens the paperwork reduction aspects of the 1980 act and directs OIRA to reduce paperwork burdens on the public by 5 percent annually. By overturning the 1990 Supreme Court decision in Dole versus United Steel Workers of America, it extends the jurisdiction of the act by 50 percent. One could thus expect the burden-saving results of this legislation to be substantial.

The Committee on Governmental Affairs has broad jurisdiction over subjects of paperwork burdens, information technology, and regulations. No one piece of legislation can adequately deal with all facets of those subjects. This legislation is not the last that

will be addressed on those subjects by the committee.

On February 1, 1995, the committee will hold a hearing on the Government's use of information technology as part of the Committee's Reinventing Government effort.

On February 8, 1995, the committee will begin a set of hearings on the broad subject of regulatory reform.

Mr. GLENN. Mr. President, it gives me great pleasure to join with my colleagues from the Government Affairs Committee, Senator NUNN and Senator ROTH, to cosponsor our bipartisan legislation to reauthorize the Paperwork Reduction Act. The legislation we introduce today reflects the compromise we achieved in the last Congress, which the Senate passed by a unanimous vote on October 6, 1994. I am confident that this bill will once again be passed by the Senate and then move quickly in the House.

This legislation has two very important and closely related purposes. First, the Paperwork Reduction Act is vital to reducing Government paperwork burdens on the American public. Too often, individuals and businesses are burdened by having to fill out questionnaires and forms that simply are not needed to implement the laws of the land. Too much time and money is wasted in an effort to satisfy bureaucratic excess. The Paperwork Reduction Act of 1980 created a clearance process to control this Government appetite for information. The Paperwork Reduction Act of 1995 strengthens this process and will reduce the burdens of Government redtape on the public.

Second, the act is key to improving the efficiency and effectiveness of government information activities. The Federal Government is now spending over $25 billion a year on information technology. The new age of computers and telecommunications provides many opportunities for improvements in Government operations. Unfortunately, as oversight by our committee and others has shown, the Government is wasting millions of dollars on poorly designed and often incompatible systems. This must stop. The Paperwork Reduction Act of 1980 took a first step on the road to reform when it created information resources management [IRM] policies to be overseen by OMB. The Paperwork Reduction Act of 1995 strengthens that mandate and establishes new requirements for agency IRM improvements.

In these and other ways, this legislation strengthens the Paperwork Reduction Act and reflects the concerns of a broad array of Senators. As my colleagues know, I have been working for several years to reauthorize this important law. I am very pleased with the result. With this legislation, we:

Reauthorize the act for 5 years;

Overturn the Dole versus United Steelworkers Supreme Court decision, so that information disclosure requirements are covered by the OMB paperwork clearance process;

Require agencies to evaluate paperwork proposals and solicit public comment on them before the proposals go to OMB for review;

Create additional opportunities for the public to participate in paperwork clearance and other information management decisions;

Strengthen agency and OMB information resources management [IRM] requirements;

Establish information dissemination standards and require the development of a government information locator service [GILS] to ensure improved public access to government information, especially that maintained in electronic format; and

Make other improvements in the areas of government statistics, records management, computer security, and the management of information technology.

These are important reforms. They are the result of over a year long process of consultation among members of the Governmental Affairs Committee, the administration, and the General Accounting Office. Of course, reaching agreement on this legislation has involved compromises that displease some. It may also not completely resolve conflicting views on many of the OMB paperwork and regulatory review controversies that have dogged congressional oversight of the Paperwork Reduction Act. But again, this legislation is a compromise that addresses many important issues and will help the Government reduce paperwork burdens on the public and improve the management of Federal information resources. I believe this is a very good compromise that can and should pass both the Senate and the House. I urge my colleagues to support this legislation.

By Mr. COHEN (for himself, Mr. DOLE, Mr. SIMPSON, Mr. STEVENS, Mr. D'AMATO, Mr. GRAHAM, Mr. COATS, Mr. GREGG, Mr. WARNER, Mr. NICKLES, Mr. PRYOR, Mr. BOND, Mr. CHAFEE, Mr. FORD, and Mr. DOMENICI):

S. 245. A bill to provide for enhanced penalties for health care fraud, and for other purposes; to the Committee on Finance.

THE HEALTH CARE FRAUD PREVENTION ACT OF 1995

Mr. COHEN. Mr. President, I rise today to introduce, on behalf of myself, Senators DOLE, SIMPSON, STEVENS, D'AMATO, GRAHAM of Florida, COATS, GREGG, WARNER, NICKLES, PRYOR, CHAFEE, BOND, and FORD, the Health Care Fraud Prevention Act of 1995.

Mr. President, health care reform has now taken a back seat to some other measures that are now before the Congress, as our colleagues in the House debate their Contract With America provisions and this body debates unfunded mandates, a balanced budget amendment, and entitlement reform. Apparently health care reform is going to have to wait. But I must say that it is just as important as these other issues as far as the American people are concerned. But as we await the debate on health care reform, which I believe must come this session, we also have to take steps immediately to toughen our defenses against fraudulent practices that are driving up the cost of health care for families, businesses and taxpayers alike.

You may recall that last year I introduced a measure which contained some additions to the criminal law provisions of our title 18 statutes. Those provisions were adopted unanimously by the Senate. They were sent over to the House where they were stripped out of the anticrime bill at conference because the majority rationalized that these provisions should not go on the crime bill but on a health care reform bill. As we know, there was no health care reform bill passed last year.

On a number of occasions, I sought to attach the provisions to pending legislation, for example, the D.C. appropriations bill and the Labor, HHS appropriations bill. I was prevailed upon to withdraw the legislation at that time so as to allow the appropriations bills to go forward. And I pointed out at that time, which was at the conclusion of last year's session of Congress, that we would lose as much as $100 billion a year due to health care fraud and abuse. That amounts to $275 million a day or $11.5 million every single hour.

Mr. President, I do not think we can afford to delay this any longer. Over the past 5 years, we have lost as much as $418 billion from health care fraud and abuse, which is approximately four times the total losses associated with the savings and loan crisis.

Just imagine the furor that enveloped this country over the bailout necessary because of the savings and loan problems that afflicted this country. It is four times that as far as health care fraud is concerned, and yet there does not seem to be much of a sense of urgency on the part of our colleagues to do much about it.

Mr. President, I have worked with the Justice Department, the FBI, Medicaid fraud units, inspectors general, and others in developing this legislation. As I pointed out last year there is a song, I think it was by Paul Simon—not our PAUL SIMON but the song writer Paul Simon—who had a song called ''Fifty Ways To Leave Your Lover.'' We showed through an Aging Committee's year-long investigation at least 50 ways in which to pick the pockets of Uncle Sam and of private insurers.

I will not, because of the length of the report, introduce it now into the RECORD. I will simply ask unanimous consent that at the conclusion of my remarks the executive summary of this year-long investigation be introduced in the RECORD and included as part of it.

Let me simply add a few more examples of the kinds of activities that are taking place now while we are debating

other amendments, germane and nongermane, to the pending unfunded mandates bill. First, let me point out that there are roughly a half billion Medicare claims processed each year and the overwhelming majority of those are submitted for legitimate services by conscientious health care providers and beneficiaries—the overwhelming majority. It is the minority who are taking as much as $100 billion out of the system.

Let me give you examples of what is going on. A doctor promoted his clinic in television, radio, newspaper, and telephone book ads as a ''one-stop, walk-in diagnostic center.'' You can walk in, and they can take care of any problem you have got. So a person might go in for an examination for a shoulder injury and be subjected to a huge battery of tests which have nothing to do with the shoulder, resulting in bills of $4,000 and more per patient.

Using the names of dozens of dead patients, a phantom laboratory in Miami allegedly cheated the Government out of $300,000 in Medicare payments in a matter of just a few weeks for lab tests never performed. The lab that was submitting the bills for the tests was basically a rented mailbox and a Medicare billing number. That was it.

Employees of an airline were indicted for filing false and fraudulent claims for reimbursement to a private insurance company for medical care and services they claimed to have received in another country. The allegations are that the employees attempted to mail false and fictitious forms totaling close to $600,000 for treatments and services never performed.

A durable medical equipment company, its owner and sales manager pled guilty to supplying unnecessary medical equipment such as hospital beds and oxygen concentrators to residents of adult congregate living facilities and then billing Medicare for more than $600,000. These conspirators induced the facilities' managers to allow them to provide the equipment by promising to leave the equipment when the patients died or were transferred.

Physician-owners of a clinic in New York stole over $1.3 million from the State Medicaid program by fraudulently billing for over 50,000 phantom psychotherapy sessions never given to Medicaid patients.

Finally, a medical equipment supplier stole $1.45 million from Medicaid by repeatedly billing for expensive back supports that were never authorized by the patients' physicians.

These cases are but a small sample of the fraudulent and abusive schemes that are plaguing our health care system daily, freezing millions of Americans out of affordable health care coverage, and driving up costs for taxpayers.

The bill I am introducing today will go far in strengthening our defenses against health care fraud.

Specifically, it will:

Give prosecutors stronger tools and tougher statutes to combat criminal health care fraud. It would, for example, provide a specific health care offense in title 18 so that prosecutors are not forced to spend excessive time and resources to develop a nexus to the mail or wire fraud statutes to pursue clear cases of fraud, or to track the cash-flow from health care schemes in order to prosecute under money laundering statutes.

It will allow injunctive relief and forfeiture for criminal health care fraud; provide greater authority to exclude violators from Medicare and Medicaid programs; create tough administrative civil penalties and remedies for fraud and abuse so that a range of sanctions will be available; and coordinate enforcement programs and beef up investigative resources, which are now woefully inadequate. For example, the HHS' inspector general states that it produces $80 in savings for each Federal dollar invested in their office yet their full-time equivalent position level has actually decreased over the last few years.

The FBI recently testified that they have over 1,300 cases pending but that regardless of this prioritization, the amount of health care fraud not being addressed due to a lack of available resources is growing and that health care fraud appears to be a problem of immense proportion which is presently not being fully addressed.

I might point out we have been reading about the extent of global international crime, even all the way from Russia, now moving into this country and ripping off the Medicare-Medicaid Programs and other health care systems by the millions. This is a growing problem of great concern to me, so the FBI needs help. This bill helps agencies like the FBI and HHS and DOD inspectors general by financing additional health care fraud enforcement resources with proceeds derived from forfeiture, fines, and other health care fraud enforcement efforts.

It will also provide guidance to health care providers and industries on how to comply with fraud rules, so they will know what is and what is not prohibited activity.

I have worked closely with law enforcement and health care fraud experts in developing these proposals, and am continuing to work with industry representatives to ensure that fraud and abuse statutes and requirements are fair, clearly understood by health care providers, and reflect the changing health care market. Our goal should not be to burden health care providers with complicated, murky rules on fraud and abuse, but rather to lay down clear rules and guidance, followed by tough enforcement for violations.

Mr. President, when we are losing as much as $275 million per day to health care fraud and abuse, we cannot afford to delay any longer. The only ones who benefit from delay on this important issue are those who are bilking billions from our system. The very big losers will be the American taxpayers, patients, and families who cannot afford health care coverage because premiums and health care costs are escalating to cover the exorbitant costs of fraud and abuse.

I want to thank Senator DOLE for his steadfast support and leadership on this issue and I urge my colleagues to support and act expeditiously on this legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed.

EXECUTIVE SUMMARY

GAMING THE HEALTH CARE SYSTEM: BILLIONS OF DOLLARS LOST EACH YEAR TO FRAUD AND ABUSE

For the past year, the Minority Staff of the Senate Special Committee on Aging under my direction has investigated the explosion of fraud and abuse in the U.S. health care system. This report examines emerging trends, patterns of abuse, and types of tactics used by fraudulent providers, unscrupulous suppliers, and ''professional'' patients who game the system in order to reap billions of dollars in reimbursements by Medicare, Medicaid, and private insurers.

The consequences of fraud and abuse to the health care system are staggering: as much as 10 percent of U.S. health care spending, or $100 billion, is lost each year to health care fraud and abuse. Over the last five years, estimated losses from these fraudulent activities totaled about $418 billion—or almost four times as much as the cost of the entire savings and loan crisis to date.

Our investigation revealed that vulnerabilities to fraud exist throughout the entire health care system and that patterns of fraud within some provider groups have become particularly problematic. Major patterns of abuse that plague the system are overbilling, billing for services not rendered, ''unbundling'' (whereby one item, for example a wheelchair, is billed as many separate component parts), ''upcoding'' services to receive higher reimbursements, providing inferior products to patients, paying kickbacks and inducements for referrals of patients, falsifying claims and medical records to fraudulently certify an individual for government benefits, and billing for ''ghost'' patients, or ''phantom'' sessions or services.

This report provides 50 case examples of scams that have recently infiltrated our health care system. While these are but a small sampling of schemes that were reviewed during the investigation, they serve to illustrate how our health care system is rife with abuse, and how Medicare, Medicaid and private insurers have left their doors wide open to fraud.

Patients—and, in the case of Medicare and Medicaid, taxpayers—pay a high price for health care fraud and abuse in the form of higher health care costs, higher premiums, and at times, serious risks to patients' health and safety. For example;

Physician-owners of a clinic in New York stole over $1.3 million from the State Medicaid program by fraudulently billing for over 50,000 ''phantom'' psychotherapy sessions never given to Medicaid recipients;

A speech therapist submitted false claims to Medicare for services ''rendered to patients'' several days after they had died;

A home health care company stole more than $4.6 million from Medicaid by billing for home care provided by unqualified home care aides. In addition to cheating Medicaid, elderly and disabled individuals were at risk from untrained and unsupervised aides;

Nursing home operators charged personal items such as swimming pools, jewelry, and the family nanny to Medicaid cost reports;

Fifteen hundred workers lost their prescription drug coverage because a scam drove up the cost of the insurance plan for their employer. The scam involved a pharmacist who stole over $370,000 from Medicaid and private health insurance plans by billing over one thousand times for prescription drugs that he did not actually dispense;

Large quantities of sample and expired drugs were dispensed to nursing home patients and pharmacy customers without their knowledge. When complaints were received from nursing home staff and patient relatives regarding the ineffectiveness of the medications, one of the scam artists stated ''those people are old, they'll never know the difference and they'll be dead soon anyway'';

Durable medical equipment suppliers stole $1.45 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians;

A scheme involved the distribution of $6 million worth of reused pacemakers and mislabeled pacemakers intended for ''animal use only.'' The scheme involved kickbacks to cardiologists and surgeons to induce them to use pacemakers that had already expired; and

A clinical psychologist was indicted for having sexual intercourse with some of his patients and then seeking reimbursement from a federal health plan for these encounters as ''therapy'' sessions.

Our investigation found that scams such as these are perpetrated against both public and private health plans, and that health care fraud schemes have become more complex and sophisticated, often involving regional or national corporations and other organized entities. No part of the health care system is exempt from these fraudulent practices, however, we found that major patterns of fraud and abuse have infiltrated the following health care sectors: ambulance and taxi services, clinical laboratories, durable medical equipment suppliers, home health care, nursing homes, physicians, psychiatric services, and rehabilitative services in nursing homes. Our investigation further concludes that fraud and abuse is particularly rampant in Medicaid, and that many of the fraudulent schemes that have preyed on the Medicare program in recent years are now targeting the Medicaid program for further abuse.

GREATER OPPORTUNITIES FOR FRAUD WILL EXIST UNDER HEALTH CARE REFORM

As our health care system moves toward a managed care model, opportunities for fraud and abuse will increase unless enforcement efforts and tools are strengthened. The structure and incentives of a managed care system will result in a concentration of particular types of schemes, such as the failure to provide services and quality of care deficiencies in order to cut costs. In addition, while efforts toward simplification and electronic filing of health care claims offer tremendous savings, they also pose particular opportunities for abuse. Thus, it is crucial that any such system be designed with safeguards built in to detect and deter fraud and abuse.

FINDINGS OF INVESTIGATION

Deficiencies in the current system expose billions of health care dollars to fraud and abuse

A. Current Criminal and Civil Statutes Are Inadequate to Effectively Sanction and Deter Hearth Care Fraud:

Federal prosecutors now use traditional fraud statutes, such as the mail and wire fraud statutes, the False Claims Act, false statement statutes, and money laundering statute to persecute health care fraud. Our investigation found that the lack of a specific federal health care fraud criminal statute, inadequate tools available to prosecutors, and weak sanctions have significantly hampered law enforcement's efforts to combat health care fraud. Inordinate time and resources are lost in pursuing these cases under indirect federal statutes. Often, even when law enforcement shuts down a fraudulent scheme, the same players resurface and continue their fraud in another part of the health care system.

This cumbersome federal response to health care fraud has resulted in a system whereby the mouse has outsmarted the mousetrap. Those defrauding the system are ingenious and motivated, while the government and private sector responses to these perpetrators have not kept pace with the sophistication and extent of those they must pursue.

B. The Fragmentation of Health Care Fraud Enforcement Allows Fraud to Flourish:

Despite the multiplicity of Federal, State and local law enforcement agencies, and private health insurers and health plans involved in the investigation and prosecution of health care fraud, these enforcement efforts are inadequately coordinated, allowing health care fraud to permeate the system. While some strides have been made in coordinating law enforcement efforts, immediate steps must be taken to streamline and toughen our response to health care fraud.

RECOMMENDATIONS

Based on our investigation and findings, we recommend the following to reduce fraud and abuse throughout the health care system:

1. Establish an all-payer fraud and abuse program to coordinate the functions of the Attorney General, Department of Health and Human Services, and other organizations, to prevent, detect, and control fraud and abuse; to coordinate investigations; and to share data and resources with Federal, State, and local law enforcement and health plans.

2. Establish an all-payer fraud and abuse trust fund to finance enforcement efforts. Fines, penalties, assessments, and forfeitures collected from health care fraud offenders would be deposited in this fund, which would in turn be used to fund additional investigations, audits, and prosecutions.

3. Toughen federal criminal laws and enforcement tools for intentional health care fraud.

4. Improve the anti-kickback statute and extend prohibitions of Medicare and Medicaid to private payers.

5. Provide a greater range of enforcement remedies to private sector health plans, such as civil penalties.

6. Establish a national health care fraud data base which includes information on final adverse actions taken against health care providers. Such a data base should contain strong safeguards in order to ensure the confidentiality and accuracy of the information data contained in the data base.

7. Design a simplified, uniform claims form for reimbursement and an electronic billing system, with tough anti-fraud controls incorporated into these designs.

8. Take several steps to better protect Medicare from fraudulent and abusive provider billing practices and excessive payments by Medicare. Specifically:

Revise and strengthen national standards that suppliers and other providers must meet in order to obtain or renew a Medicare provider number;

Prohibit Medicare from issuing more than one provider billing number to an individual or entity (except in specified circumstances), in order to prevent providers from ''jumping'' from one billing number to another in order to double-bill or avoid detection by auditors;

Require Medicare to establish more uniform national coverage and utilization policies for what is reimbursed under Medicare, so that providers cannot ''forum shop'' in order to seek out the Medicare carrier who will pay a higher reimbursement rate;

Require the Health Care Financing Administration to review and revise its billing codes for supplies, equipment and services in order to guard against egregious overpayments for inferior quality items or services; and

As we revise the health care system, give guidance to health care providers on how to do business properly and how to avoid fraud.

Adoption of these recommendations will go far in shoring up our defenses against unscrupulous providers, patients, and suppliers who are bleeding billions of dollars from our health care system through fraud and abuse. Since Medicare and Medicaid lose as much as $31 billion annually to fraud and abuse, the savings from reducing fraud in these programs would go far toward paying for much needed reforms in our health care system, such as providing access to health care coverage for the uninsured, prescription drug benefits for the elderly, or long-term care for the elderly and individuals with disabilities.

We must not wait to fix these serious problems in the health care system until we see what form health care reform takes. We are losing as much as $275 million each day to health care fraud, and effective steps can be taken within the current system to curb this abuse. With billions of dollars and millions of lives at stake, we can no longer afford to wait.

SECTION-BY-SECTION ANALYSIS

The Cohen legislation establishes an improved coordinated federal effort to combat fraud and abuse in our health care system. It expands certain existing criminal and civil penalties for health care fraud to provide a stronger deterrent to the billing of fraudulent claims and to eliminate waste in our health care system resulting from such practices.

Section 101. a. All-Payer Fraud and Abuse Control Program: The Secretary of Health and Human Services and the Attorney General are required to jointly establish and coordinate an all-payer national health care fraud control program to restrict fraud and abuse in private and public health programs. The Secretary and Attorney General (through its Inspectors General and the Federal Bureau of Investigation) would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery and payment for health care and would be required to arrange for the sharing of data with representatives of health plans.

b. Health Care Fraud and Abuse Control Account: To supplement regularly appropriated funds, a special account would be established to fund the all-payer program, managed by the Secretary and Attorney General. All criminal fines, penalties, and civil monetary penalties imposed for violations of fraud and abuse provisions of this

legislation would be deposited into the account and used for carrying out the proposed requirements.

Section 102. Application of Certain Federal Health Anti-Fraud and Abuse Sanctions to All Fraud and Abuse Against Any Health Plan: The provisions under the Medicare and Medicaid program, which provide for criminal penalties for specified fraud and abuse violations, would apply and be extended in certain circumstances to similar violations for all payers in the health care system. The violations would include willful submission of false information or claims. Penalties would include fines and possible imprisonment. The Secretary could also consider community service opportunities.

Section 103. Health Care Fraud and Abuse Guidance: Provides mechanisms for further guidance to health care providers on the scope and applicability of the anti-fraud statutes in order to better comply with these statutes. The further guidance would be provided by the modifications of existing safe harbors and the promulgation of new safe harbors; interpretive rulings providing the HHS' Inspector General's interpretation of anti-fraud statutes; and special fraud alerts setting activities that the Inspector General considers suspect under the anti-fraud statutes.

Section 104. Reporting of Fraudulent Actions Under Medicare: The Secretary is required to establish a program through which Medicare beneficiaries may report instances of suspected fraudulent actions on a confidential basis.

Section 201. Mandatory Exclusion from Participation in Medicare and State Health Care Programs: The Secretary currently has authority to exclude individuals and entities from Medicare and Medicaid based on convictions or program-related crimes relating to patient abuse or neglect. This section would extend the Secretary's authority to felony convictions relating to fraud and felony convictions relating to controlled substances. Currently, the Secretary is permitted, but not required, to exclude those convicted of such an offense. Adoption of this proposal would better recognize the seriousness of such offenses and ensure that beneficiaries are well protected from dealing with such individuals.

Section 202. Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion from Medicare and State Health Care Programs: Mandatory exclusions contain a minimum period of exclusion for five years. This section establishes a minimum period of exclusion expressly determined in statute for certain permissive exclusions, such as three years for specific convictions.

Section 203. Permissive Exclusion of Individuals with Ownership or Control Interest in Sanctioned Entities: Some of the current permissive exclusions are ''derivative'' exclusions—that is they are based on an action previously taken by a court, licensure board, or other agency. Current law allows permissive exclusion authority for entities when a convicted individual has ownership, control or agency relationship with such entity. However, if an entity rather than an individual is convicted under Medicare fraud, the IG has no authority to exclude the individuals who own or control the entity and who may really have been behind the fraud.

This creates a loophole whereby an individual who is indicated for fraud along with a corporation owned by his can avoid being excluded from the programs by persuading the prosecutor to dismiss his indictment in exchange for agreeing to have the corporation plead guilty or pay fines. The bill would extend the current permissive exclusion authority for entities controlled by a sanctioned individual to individuals with control interest in sanctioned entities.

Section 205. Intermediate Sanctions for Medicare Health Maintenance Organizations: The Secretary would be able to impose civil monetary penalties on Medicare-qualified HMOs for violations of Medicare contracting requirements.

Section 301. Establishment of the Health Care Fraud and Abuse Data Collection Program: The Secretary would create a comprehensive national data collection program for the reporting of information about final adverse actions against health care providers, suppliers, or licensed practitioners including criminal convictions, exclusions from participation in Federal and State programs, civil monetary penalties and license revocations and suspensions.

Section 401. Civil Monetary Penalties: The provisions under Medicare and Medicaid which provide for civil monetary penalties for specified violations apply to similar violations in certain circumstances for all payers in the health care system. The violations would include billing for services not provided or submitting fraudulent claims for payment.

The provisions would also clarify that repeatedly claiming a higher code, or repeatedly billing for medically unnecessary services, for purposes of reimbursement is prohibited and subject to civil monetary penalties. The intent of this provision is to impose sanctions for patterns of prohibited conduct.

An intermediate civil monetary penalty would also be established for criminal anti-kickback violations.

One abusive technique now used by some Medicare providers is to waive the patient's copayment for services covered by Medicare. The concern is that routine waivers of copayments result in unnecessary procedures and overutilization (because the beneficiary has no financial stake in the decision to order a medical item or service). The provision would clarify that the routine waiver of Medicare Part B copayments and deductibles would be prohibited and subject to civil monetary penalties although exceptions are provided.

In addition, retention by an excluded individual of an ownership or control interest of an entity who is participating in Medicare or Medicaid would be prohibited and subject to civil monetary penalties.

Finally, the amount of civil monetary penalty that can be assessed is increased from $2,000 to $10,000.

Section 501. Health Care Fraud: Establishes a new health care fraud statute in the criminal code. Provides a penalty of up to 10 years in prison, or fines, or both for knowingly executing a scheme to defraud a health plan in connection with the delivery of health care benefits, as well as for obtaining money or property under false pretenses from a health plan. This section is patterned after existing mail and wire fraud statutes.

Section 502. Forfeitures for Federal Health Care Offenses: Requires the court, in imposing sentence on a person convicted of a Federal health care offense, to order the forfeiture to the United States of property used in commission of an offense if it results in a loss or gain of $50,000 or more and constitutes or is derived from proceeds traceable to the commission of the offense.

Section 503. Injunctive Relief Relating to Federal Health Care Offenses: This provision expands the scope of the current injunctive relief section by adding the commission of a health care offense. This provision allows the Attorney General to commence a civil action to enjoin such violation as well as to freeze assets.

Section 504. Grand Jury Disclosure: This provision allows the disclosure of grand jury information to federal prosecutors to use in a civil proceeding relating to health care fraud.

Section 505. False Statements: Provides penalties for making false statements relating to health care matters.

Section 506. Voluntary Disclosure Program: Creates a program of voluntary disclosure to the Attorney General and Secretary to provide an incentive for disclosure of violations and wrongdoing.

Section 507. Obstruction of Criminal Investigations: Provides a penalty for the obstruction of criminal investigations of federal health care offenses.

Section 508. Theft or Embezzlement: Establishes a statute that provides penalties for the willful embezzlement or theft from a health care benefit program.

Section 509. Laundering of Monetary Instruments: Provides that a federal health care offense is a predicate to current money laundering statutes.

Sections 601–604: Payments for State Health Care Fraud Control Units: Provides language to establish state health care provider fraud control units modeled on the current state Medicaid Fraud Control Units. The jurisdiction of these units would be expanded to include investigation and prosecution of provider fraud in other federally-funded or mandated programs. The proposal also allows the states to choose whether to conduct investigations and prosecutions for patient abuse related crimes occurring in board and care facilities and other alternative residential settings.

The HHS' Inspector General would continue oversight and the state units would detail its activities in its yearly grant applications. This section also contains a recitation of the units' original authorization language as currently contained in the Social Security Act, and also allows the units to participate in the all-payer fraud abuse control program.

Mr. DOLE. Mr. President, I want to take a few moments to express my support for the Health Care Fraud Prevention Act of 1995, which was introduced earlier today by my distinguished colleague from Maine, Senator COHEN.

As Senator COHEN has pointed out, health care fraud and abuse costs the American taxpayers literally billions and billions of hard-earned dollars each year. Unscrupulous doctors who overbill patients, medical suppliers who sell unnecessary or defective equipment to unsuspecting customers, clinic operators who submit false Medicaid reimbursement claims—all these scams have the effect of driving up the cost of health care for families and businesses alike.

To combat these activities, the act establishes a new health care fraud statute in title 18 of the United States Code. This statute provides for an array of penalties, including imprisonment and fines, for those who knowingly scheme to defraud a health care plan. This statute is patterned after the existing mail and wire fraud statutes.

The act also gives the Secretary of HHS greater authority to exclude health care scam artists from the Medicaid and Medicare programs, while establishing tough civil penalties for fraud so that a range of sanctions will be available.

In addition, the act directs the Attorney General and the Secretary of Health and Human Services to establish an all-payer national health care fraud control program. Under this program, both the Secretary and the Attorney General would be authorized to conduct investigations and audits of health care delivery systems. To pay for these investigations, the act establishes a ''Health care fraud and abuse control account.'' Criminal and civil fines imposed on violators would be deposited into the account and then used to finance future law enforcement efforts.

Of course, the vast majority of health care providers are good people committed to the well-being of their patients. Their hard work and commitment should not be tarnished in any way by those few bad apples who attempt to game the health care system for their own personal benefit. This legislation won't put an end to the health care fraud racket, but it will help to ensure that our law enforcement authorities have the tools to get the job done.

Not surprisingly, the Health Care Fraud Prevention Act was crafted with the help of law enforcement officials, including officials at both the FBI and the Department of Justice.

Finally, I want to commend my distinguished colleague from Maine for bringing this important issue to the attention of the Senate. Today's legislation is the product of a 2-year ongoing investigation conducted by the staff of the Special Committee on Aging. And last year, Senator COHEN successfully offered many of the provisions contained in this bill as an amendment to the 1994 Crime-Control Act. Unfortunately, the amendment was dropped in conference.

To his credit, Senator COHEN has continued to speak out on this issue, and I fully expect that his persistence will pay off later this year when the Senate has an opportunity to consider this important legislation.

Mr. DORGAN. Mr. President, let me say as I begin, to my friend from Maine, the work he has done on this issue in Medicare fraud is extraordinary work. During the period between the end of the last session and the beginning of this session, I saw some newspaper reports about Medicare fraud. I bothered to once again review the work he did in the last session, the bill he introduced in the last session on this issue. I hope we make progress on this issue that he is leading on, in this session of the Senate, because I think what he is doing is very important. There is too much fraud. The fact is, we are not detecting enough of it and not prosecuting enough of it vigorously, so I support his efforts and thank him for making those efforts.

Mr. PRYOR. Mr. President, I rise to support S. 245, the Health Care Fraud Prevention Act of 1995. Health care fraud and abuse in our health care system is draining billions of dollars a year from American families, businesses, and government. The Department of Justice and other experts have estimated that as much as 10 percent of our national health care bill is lost to fraud and abuse. Every dollar stolen from the health care system—be it from Medicare, Medicaid, or a private health care plan—means one less dollar for patient care or for lower insurance premiums. With health care costs still escalating, the last thing we need to be doing is allowing criminals to steal from the system.

Fraud also tarnishes the good names of honest health care professionals and companies. While the vast majority of providers are honest and hard working, the crooks cast a cloud over the entire health care system.

Mr. President, there are too many examples of fraud in our health care system. For example, seven New York physicians were recently excluded from the New York Medicaid program for their part in a scheme that stole over $8 million from the program. As part of this Medicaid fraud scheme, indigent individuals with no legitimate medical need for prescription drugs would enter the doctors' clinics and obtain prescriptions for expensive drugs. They, in turn, would resell the prescriptions to people on the street. In exchange for the prescriptions, the ''patients'' would subject themselves to unnecessary medical tests and procedures for which Medicaid could then be fraudulently billed.

In other cases, it is not so clear that there has been fraud, but rather that a health care plan has been taken advantage of. As an example, I received a letter from a constituent of mine, Jennie H., not too long ago. Jennie wrote that Medicare had paid a medical supplier $2,136 for 300 adult incontinence pads that were delivered to her mother. That works out to almost $7.12 for each pad, far more than what they would cost at the drug store.

Much studying has been on the health care fraud problem in recent years. In addition to the report issued last year by my friend from Maine, Senator COHEN, the incoming chairman of the Senate Special Committee on Aging, reports by the General Accounting Office, the HHS inspector general, and congressional committees have also documented the extent and range of the problem. They have detailed abuses ranging from the billing of services never provided to the illegal sale of controlled substances.

This is a subject about which I too have long been concerned. When I was chairman of the Senate Special Committee on Aging, I held several hearings on fraud and abuse in the health care system. In addition, the health care bill reported out of the Finance Committee last year included an anti-fraud provision that I helped develop.

Mr. President, now is the time to take action against health care fraud. While I would have preferred to see the health care fraud problem addressed as part of health care reform, it is clear that we cannot wait for that to happen. Each day we wait to give crime fighters the authority and tools they need to combat fraud in a coordinated and effective manner means millions of wasted health care dollars.

The bill which I have joined Senator COHEN in sponsoring today represents a balanced, bipartisan approach to combating health care fraud and takes the best provisions common to the bills debated last year, such as the President's proposal. It establishes an improved, coordinated effort to combat fraud and abuse. It expands certain existing criminal and civil penalties for health care fraud to provide a stronger deterrent to the billing of fraudulent claims and to eliminate waste in our health care system. I encourage my colleagues to support this legislation.

By Mr. LIEBERMAN:

S. 246. A bill to establish demonstration projects to expand innovations in State administration of the aid to families with dependent children under title IV of the Social Security Act, and for other purposes; to the Committee on Finance.

THE WELFARE REFORMS THAT WORK ACT

Mr. LIEBERMAN. Mr. President, today I am introducing the Welfare Reforms That Work Act of 1995. The welfare system is in crisis. The United States has one of the most expensive welfare systems in the world. But 20 percent of America's children are poor, a higher percentage than any other industrialized country. The welfare system is a disaster for those who are on it and those who pay for it.

This Congress has a historic opportunity to begin to fix this disaster. The primary welfare program—Aid to Families With Dependent Children [AFDC]—is viewed by those participating in it and those paying for it as a failure. It is failing at its primary task, moving people into the work force. Worse yet, it is contributing to the cycle of poverty. By rewarding single parents who don't work, don't marry, and have additional children out of wedlock, the current system demeans our most cherished values and deepens society's most serious problems. Democrats, Republicans, and the American public agree that the system must be changed.

But little consensus exists on how best to reform the system so that it promotes work and family. Last year both President Clinton and Republicans in Congress proposed legislation that would impose time limits and work requirements on welfare recipients and would begin to turn welfare incentives around. But in this Congress some have gone further. The Republican Contract With America proposes, among other things, ending benefits abruptly for teenage mothers who have children out of wedlock. More recently some Members have advocated giving the States total control of AFDC and other Federal welfare programs, ending

the entitlement status of these programs, and capping Federal outlays.

While I believe that each of these ideas should be tested to see if they will produce better results than the current failed welfare system, I cannot support mandating any of them nationally because no one knows whether they will work. If Congress imposes them nationally and they do not work, millions of children's lives will be put at risk.

While I am pleased to see that my colleagues are advocating State flexibility, I am concerned about their blank-check approach. I agree that States should be the testing ground for bold programmatic changes. But handing the AFDC Program over to the States with no strings attached does not guarantee reform and may produce national division and welfare shopping. And, placing caps on block grants works against State flexibility by limiting State experiments to those that save money in the short term but may do nothing to promote work and reconstruct families in the long term. The American people are asking us to reform, not eliminate, the way we are carrying out our responsibility to help poor children.

Mr. President, today I am proposing an alternative welfare reform approach that I hope will meet our welfare reform goals in a way that is acceptable to both sides of the aisle—the Welfare Reforms That Work Act. The bill would allow States to test—with appropriate Federal oversight—bold welfare reform initiatives that are promising but unproven, and that involve some human or financial risk. It would also establish a process for identifying successful reform approaches—welfare reforms that work—that can be applied nationally. The bill does not preclude our mandating immediately those reforms about which there is growing agreement—such as requiring unwed teenage mothers to live at home as a condition of receiving welfare payments—and which involve limited human risk or Federal expense.

States should be at the forefront of reform for three reasons. First, a State-based approach is financially prudent. Some reforms that merit testing—including imposing time limits and work requirements or expanding residential child care options, including orphanages—will cost money in the short term. In an article in the New Republic, Paul Offner of the Senate Finance Committee staff advises us to learn an important lesson from the 1988 Family Support Act: overly ambitious and underfunded reform efforts are doomed to failure. They do little to change the expectations of those working in the system or those using it. My bill would allow States to fund ambitious changes at the more affordable city, county, or State level.

Second, a State-driven approach allows us to test bold changes responsibly. We have few proposed reforms that we know will work, and those that have been tested, such as the model education and training programs launched in California and Florida, have delivered only marginal results to date. In a recent Wall Street Journal James Q. Wilson bluntly confessed that he simply does not know what reforms will work.

Absent better information, we would be wise to heed the advice of proverbs and avoid zealous acts without knowledge. Changes to welfare are consequential. They affect people's lives, children's lives. Under my bill States could test bold welfare rules changes—such as totally denying benefits to teenage mothers or establish orphanages—but only if the States can ensure that children are not unintended victims of these tests. As we try to change the behavior of parents, we must not cause more pain to the children.

Third, States are eager and able to lead our reform efforts. In testimony last year before the Senate Finance Committee's Subcommittee on Social Security and Family Policy, the American Public Welfare Association [APWA] and other State organizations indicated their strong desire to pursue innovative strategies. When I introduced S. 1932, a similar State-based welfare reform bill last year, all 11 States that commented on the bill praised the bill's general approach.

States are already leading the way. Over half the States have proposed reforms and received waivers from Federal rules under section 1115 of the Social Security Act to implement their proposed changes. My own State of Connecticut recently received a waiver to implement a comprehensive reform initiative.

But the waiver process does not go far enough. In testimony before the House Committee on Government Operations last September, the APWA, State welfare administrators, and other witnesses testified that the budget neutrality requirement of the current process creates a substantial barrier to reform. As States seek to promote work and family through changing eligibility rules, it give States an incentive to test sticks but not carrots. Witnesses at the hearing urged that the Federal Government share in the cost of demonstrations programs, make the results of demonstrations readily available, and tallow States to adopt, without a waiver, those demonstrations that prove effective. In other words, we must be honest and acknowledge that we may have to spend a little more money in the short run to save a lot more money and a lot more lives in the long run.

My bill addresses these and other concerns voiced by States about the current waiver process. To ensure that States will be able to test the broadest array of reforms, my bill authorizes $675 million over 5 years to support demonstration projects and independent program evaluations. Half of these funds would support innovative pilot programs specified in the bill, and the remaining half would fund other State-proposed demonstrations. Demonstration projects would last up to 5 years. States would report on progress annually. As results of interim and final reports on State tests become available, the Secretary of the Department of Health and Human Services [HHS] will submit legislation to Congress to provide for the national implementation of successful programs. As a result of this process, those innovations that proved successful could be rapidly adopted by other States or imposed nationwide.

The bill promotes State-initiated welfare reforms that meet what I believe should be our four main reform goals: moving welfare recipients into the work force; strengthening families, stopping illegitimate births and breaking the cycle of welfare dependency; increasing child support collection and paternal responsibility, and improving the delivery of welfare services.

TITLE I AUTHORIZES INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE

We must make returning to work the primary focus of the welfare system. The current system demands little of people on welfare. It often impedes, rather than empowers, those who seek to return to the work force. If an AFDC mother goes back to work, her income increases only minimally—often not enough to cover child care—and she loses her Medicaid benefits. She is likely to be economically worse off if she returns to the work force, so she stays on welfare.

Title I includes initiatives to move people on welfare into the work force. Two pilot programs focus on teenage parents—those at greatest risk for long-term welfare dependency. The first allows States to condition AFDC benefits for single parents under 20 years of age on: first, attending school, participating in job training or holding a job; and second, living at home. The second allows States to include young AFDC clients in the Job Corps—a successful, residential antipoverty program for youths 16 to 22 years of age.

Title I also allows States to require 30 days of State-assisted job search or, where appropriate, substance abuse treatment, during the usual lag time between application for and receipt of benefits. Welfare clients should be engaged in job search from the day they first seek a welfare grant. Other provisions in this title assist people on welfare in accumulating assets to invest in education or to start a small business.

TITLE II AUTHORIZES INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY

Current Federal welfare rules discourage family unification and encourage out-of-wedlock childbearing. This title seeks to turn these incentives around. It recognizes that while welfare is a privilege granted by Government, not a right for parents, the States and the Federal Government have a moral responsibility to ensure the well-being of American children.

The title seeks to address what is perhaps the most compelling and difficult challenge of welfare reform, to discourage out-of-wedlock births without harming children. An increasing percentage of those entering the welfare system are never-married mothers at greatest risk of long-term welfare dependency. Between 1983 and 1992, families headed by unwed mothers accounted for about four-fifths of the growth in people on welfare, and at least 40 percent of never-married mothers receiving AFDC remain in the system for 10 years or more.

Never-married teen parents are particularly likely to fall into long-term welfare dependency. More than one half of welfare spending goes to women who first gave birth as teens. As William Raspberry noted last winter in a Washington Post column aptly entitle ''Out of Wedlock, Out of Luck,'' children born to parents who had their first child out-of-wedlock before they finished high school and reached the age of 20 are ''almost guaranteed a life of poverty.'' In other words, they and their parents are almost guaranteed a life on welfare. Citing William A. Galston's analyses, Raspberry notes that a startling 79 percent of children in this category lived in poverty in 1992. In contrast, only 8 percent of children whose parents had achieved all three milestones—marriage, graduation, and the 20th birthday—before having their first child were living in poverty.

The potential effect of welfare on illegitimacy has taken center stage in the welfare reform debate but there is considerable disagreement about its effects. David Ellwood, economist and Department of Heath and Human Services official, has found little evidence that welfare contributes to the increase in illegitimacy. In his book, ''Poor Support,'' he points to several other concurrent social changes that are likely contributors to the increase—the growing percentage of women in the work force, the drop in earnings and rise in unemployment among young men, and changes in attitudes toward marriage.

Others interpret the data differently. Most notably, Charles Murray believes that welfare is the primary cause of the increase in illegitimate births. In a catalytic Wall Street Journal article published October 29, 1993, Murray argues that welfare has reduced the economic penalty associated with out-of-wedlock childbearing and, in turn, has reduced the social stigma associated with it. He concludes that the removal of both of these disincentives has led to more out-of-wedlock births. Based on this conclusion, Murray recommends the dramatic step of ending welfare altogether. Murray acknowledges that his approach may put this generation of children at risk and advocates, among other things, Government investment in new facilities to care for these children—thus the ensuing brouhaha about orphanages—just the kinds of facilities this act would enable states to create.

The stigma of illegitimacy was not just an accident of social history; it was a societal attempt to protect children. Today, the stigma is largely gone and so the children have suffered terribly. Raspberry's previously mentioned article cites polling results indicating that 70 percent of Americans aged 18 to 34 believe that people having children out of wedlock do not deserve any moral reproach. That is an outrageous result, one that we must turn around because the decision to bear a child has profound moral and human content. We must infuse our children with a clear understanding of the consequences of teenage childbearing. We must teach them that it is wrong to have children unless you are married, always morally wrong for the mother and father, and usually horrible for the child and the mother.

Few would argue that a national campaign to discourage unmarried teenagers from having children is not a good thing to do. Indeed, Senate Minority leader DASCHLE introduced a bill, S. 8, on the first day of this session to combat teen pregnancy. His bill, among other things, would require unwed mothers under age 18 to live at home or in an alternative adult-supervised living arrangement as a condition of receiving AFDC. This measure seems appropriate; it would eliminate the incentive teenagers now have to bear a child so they can move out of the house, and it imposes little risk to the children of teenagers who have a child anyway.

The more difficult question for those of us working on welfare reform is this: Should we pursue changes in welfare policy—such as cutting off benefits to teenage mothers—that may discourage out-of-wedlock births but would put children at risk? Some might say no, believing that there is little correlation between welfare and out-of-wedlock births. The empirical evidence is generally viewed as inconclusive. But some controlled studies have demonstrated a positive association between welfare payments and out-of-wedlock births, and my own conversations with teenage mothers bears this out.

If we choose to reduce or eliminate AFDC grants to deter childbearing, however, we should acknowledge that a portion of the current and potential welfare population—perhaps a small but significant portion—is unlikely to respond to stronger inducements and penalties and will continue to have children society must provide for. In a Los Angeles Times article published last January, Adela de la Torre, an economist at California State University at Long Beach, writes that the children of such parents ''become victims of trickle down welfare programs * * * if we deem the parent unfit for welfare support, the child, too, loses.'' De la Torre rejects the notion that building stronger parental inducements into the welfare system will change the behavior of all parents and calls instead for a more child-centered social service agenda that recognizes and serves the needs of children in a more direct, comprehensive, and integrated fashion. She makes an important point.

Similarly, Thomas Corbett of the University of Wisconsin asks in a spring, 1993 Focus article whether it is ''compassionate to throw a little bit of welfare into troubled families and do little else to aid the children?'' The answer is, of course, relative. AFDC reflects our best intentions toward these children, but it has more often failed them. Whether cash payments to unresponsive parents is the most compassionate approach, Corbett concludes, ''depends partly on how many children are involved and whether we can design and finance the technologies required to assist them.''

It is incumbent on us, as part of welfare reform, to explore the alternatives to a largely parent-based system, and find the answers to his question. Title II of the bill supports State efforts to do just that. Section 201 allows States to shift part or all of AFDC payments to block grants and combine the grants with other funds available under this bill to care for children, strengthen families, and implement other reforms. In contrast to the Republican block grant proposals, however, the provision requires the Secretary of HHS to ensure that States pursuing the Block Grant Program protect the well-being of affected children. Title II supports other demonstrations as well, including pilots that discourage welfare recipients from having additional children while on welfare by denying benefit increases for additional children and pilots to test innovative teen pregnancy prevention programs.

TITLE III OF THE BILL AUTHORIZES STATE INITIATIVES TO INCREASE CHILD SUPPORT COLLECTION AND PATERNAL RESPONSIBILITY

Too often absent parents, typically fathers, are not held accountable for their children's care. The Federal Government must also take the lead in improving child support enforcement. As a starting point, we should fully implement the recommendations of the U.S. Commission on Interstate Child Support. In the last Congress Senator BILL BRADLEY, a member of the Commission, introduced S. 689, the Interstate Child Support Enforcement Act, to implement the Commission's recommendations. My Connecticut colleague, Congresswoman KENNELLY, also a Commission member, introduced a similar bill, H.R. 1961, in the House. This year I will again support Senator BRADLEY's legislation which will, among other things: Mandate hospital-based paternity acknowledgement programs; require employers to submit W–4 forms for all new employees to State child support enforcement agencies; and provide States the authority they

need to assert jurisdiction over nonresident parents. The era of deadbeat dads should end.

While improving interstate coordination is critical to strengthening child support enforcement, State innovation should play a role as well. Title III of my bill authorizes State efforts to improve child support collection and paternity establishment. To strengthen welfare recipients incentives to work with authorities to collect child support, it would allow States to increase the child support disregard from $50 to a higher level decided by the State. States could also hold parents accountable for the child support obligations of their minor children. Additionally, States could propose their own demonstrations projects to increase paternity establishment and improve child support collection.

TITLE IV AUTHORIZES INITIATIVES TO DIVERSIFY AND IMPROVE THE PERFORMANCE OF WELFARE SERVICES

Changing the welfare system to move people back into the work force and to better serve the needs of children will require changing the way the welfare bureaucracy does business. Too many welfare workers focus on whether and how to get a welfare check to the recipient rather than how to get the recipient off of welfare and back to work. Many welfare offices don't know how many children they have in foster care. Many still operate out of cardboard files and lose people in the shuffle of paper. Offices often suffer from interagency rivalry and bureaucratic bickering. It is tragic when a child suffers needlessly because the system fails under the weight of its own inefficiency.

This need not happen. Some innovative States and municipalities have tried to make their welfare systems more efficient and service oriented. At a hearing I held in the last Congress, Carmen Nazario, the Secretary of Health and Human Services in Delaware, testified that her State has brought public and private social services together in a single location and is now developing a computer network to link programs.

David Truax from the Maryland Department of Human Resources described a second approach to improving services. Maryland now provides each participant with a debit card that has AFDC, food stamps, and general assistance benefits on it. Electronic benefit transfer [EBT] cards have several advantages: They preclude the trading of food stamps for drugs; they introduce people to the banking system; they make it easier for them to budget their money since they don't have to cash one single check, and they reduce recipients vulnerability to crime.

Further, offices should encourage and empower, not discourage and demean, those they serve. It can be done. America Works, a private organization that trains people on welfare for work and places them in jobs, provides proof. During my visit to their Hartford, CT, office I found that clients felt they were getting the help they needed to succeed, and were motivated and optimistic. I asked one young woman who had just completed her training if she expected to be placed successfully in a job. She responded with enthusiasm, ''absolutely.'' This spirit does not typically pervade traditional welfare offices.

Most important, welfare offices should be held accountable for results. They need to make the shift from writing checks to moving people on welfare into jobs. To promote this change, we should seek to establish competition among agencies and greater choice for people on welfare. We should encourage public agencies to contract with effective private sector companies and to better reward those public employees who successfully help people become self-sufficient.

Title IV supports initiatives to diversify and improve the performance of welfare services. It supports State pilots to provide incentives to private sector, for-profit and nonprofit groups to place people on welfare in private sector jobs. Companies would keep a portion of welfare savings as payment for successful job placements. Title IV also supports State pilots to improve the performance of welfare office employees through, for example, providing direct bonuses to employees and judging their performance based on their clients' progress toward self-sufficiency.

In addition, title IV incorporates legislation I introduced earlier this month with Senators DOMENICI, FEINSTEIN, PRESSLER, and HATFIELD to remove a Federal barrier to improving services. That bill, S. 131, the Electronic Benefits Regulatory Relief Act of 1995, exempts EBT cards from the Federal Reserve Board's regulation E. Regulation E limits cardholder liability to $50 for lost or stolen cards—a policy that promotes fraud and makes EBT Programs costly for States. Earlier this month the Vice President issued the first report from the EBT task force and called for nationwide implementation. Without passage of this provision, that goal will not be reached.

FINALLY, TITLE V AUTHORIZES OFFSETTING EXPENDITURE REDUCTIONS TO ENSURE THE BILL IS BUDGET NEUTRAL

In other words, the bills pay for itself. Specifically, it eliminates the three-entity rule. Currently, an individual farmer can qualify for up to $125,000 per year in certain Government subsidies. If he forms two other business entities with two other individuals (say, a friend and a sister), each of these entities can qualify for another $125,000 per year. So the individual farmer can receive up to $250,000 in subsidies per year—$125,000 for his first business entity, and half of $125,000 for each of his second and third entities. My bill says, ''enough is enough,'' and caps the amount of agricultural subsidies any one person gets from the Federal Government at $125,000. A preliminary Congressional Budget Office estimate indicates this change will save $675 million over 5 years, money that is better spent on the truly needy.

Americans continue to show concern for the poor, and particularly poor children. A 1994 poll commissioned by the Children's Defense Fund and others found that 64 percent of Americans believe we should spend more on poor children. But the same poll found that 55 percent think we spend too much on welfare, and 68 percent think we should not increase payments to parents for any additional children they have while on welfare.

Our current approach to helping the poor is clearly not working. The goal of welfare reform is to shake up the status quo which promotes dependency, illegitimacy, and social disfunctions like crime into a system that promotes work, family, and responsibility and protects children from a life of poverty. The Federal Government does not have a ready formula for how to achieve this goal. I concur with my colleagues who say that we should look to the States for answers. But we must proceed in a way that meets our obligation to ensure the well-being of all of America's children. Our aim should be to make sure that this generation of welfare children do not become the next generation of welfare parents. This bill offers an approach to do just that.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Welfare Reforms That Work Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.
Sec. 4. General provisions relating to demonstration projects.
Sec. 5. Authorization of appropriations.
TITLE I—INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE
Sec. 101. Demonstration projects which condition AFDC benefits for certain individuals on school attendance or job training, limit the time period for receipt of such benefits, and require teenage parents to live at home.
Sec. 102. Pilot Job Corps program for recipients of Aid to Families with Dependent Children.
Sec. 103. Demonstration projects requiring up-front 30-day assisted job search, or substance abuse treatment before receiving AFDC benefits.
Sec. 104. Disregard of education and employment training savings for AFDC eligibility.
Sec. 105. Incentives and assistance in starting a small business.

Sec. 106. Increased emphasis in JOBS program on moving people into the work force.
Sec. 107. Additional demonstration projects to move AFDC recipients into the work force.
TITLE II—INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY
Sec. 201. Demonstration projects to establish child centered programs through conversion of certain AFDC and JOBS payments into block grants.
Sec. 202. Demonstration projects providing no additional benefits with respect to children born while a family is receiving AFDC and allowing increases in the earned income disregard.
Sec. 203. Demonstration projects providing incentives to marry.
Sec. 204. Demonstration projects reducing AFDC benefits if school attendance is irregular or preventive health care for dependent children is not obtained.
Sec. 205. Demonstration projects to develop community-based programs for teenage pregnancy prevention and family planning
Sec. 206. Additional demonstration projects to strengthen families and break the cycle of welfare dependency.
TITLE III—CHANGES TO FEDERAL LAWS AND STATE INITIATIVES TO INCREASE CHILD SUPPORT AND PATERNAL RESPONSIBILITY
Sec. 301. Demonstration projects to increase paternity establishment.
Sec. 302. Demonstration projects to increase child support collection.
TITLE IV—INITIATIVES TO DIVERSIFY AND IMPROVE THE PERFORMANCE OF WELFARE SERVICES
Sec. 401. Demonstration projects for providing placement of AFDC recipients in private sector jobs.
Sec. 402. Demonstration projects providing performance-based incentives for State public welfare providers.
Sec. 403. Electronic benefit transfers.
TITLE V—OFFSETTING EXPENDITURE REDUCTIONS
Sec. 501. Offsetting expenditure reductions.

SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to promote bold State initiated welfare reforms that will—

(A) move welfare recipients into the work force,

(B) strengthen families,

(C) break the cycle of welfare dependence,

(D) increase child support collection and paternal responsibility, and

(E) improve the delivery of welfare services; and

(2) to make immediate State-by-State changes to the existing system while establishing a process for identifying successful reform approaches that can be applied nationally.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) AID TO FAMILIES WITH DEPENDENT CHILDREN.—The term ''aid to families with dependent children'' has the meaning given to such term by section 406(b) of the Social Security Act (42 U.S.C. 606(b)).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 4. GENERAL PROVISIONS RELATING TO DEMONSTRATION PROJECTS.

(a) APPLICATIONS.—

(1) IN GENERAL.—Each State desiring to conduct a demonstration project under this Act shall prepare and submit to the Secretary an application in such manner and containing such information as the Secretary may require. The Secretary shall actively encourage States to submit such applications.

(2) APPROVAL.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this Act and shall approve such applications in a number of States to be determined by the Secretary, taking into account the overall funding levels available under section 5.

(3) CONSIDERATION OF RESEARCH NEEDS AND PURPOSES.—The Secretary shall pursue a broad range of reforms consistent with the purposes of this Act and with research needs in approving demonstration projects under this Act.

(b) DURATION.—A demonstration project under this Act shall be conducted for not more than 5 years plus an additional time period of up to 12 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this Act.

(c) EVALUATION PLAN.—

(1) IN GENERAL.—Each State conducting a demonstration project under this Act shall submit an evaluation plan (meeting the standards developed by the Secretary under paragraph (2)) to the Secretary not later than 90 days after the State is notified of the Secretary's approval for such project. A State shall not receive any Federal funds for the operation of the demonstration project or be granted any waivers of the Social Security Act necessary for operation of the demonstration project until the Secretary approves such evaluation plan.

(2) STANDARDS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall develop standards for the evaluation plan required under paragraph (1) which shall include the requirement that an independent expert entity provide an evaluation of each demonstration project to be included in the State's annual and final reports to the Secretary under subsection (d)(1).

(d) REPORTS.—

(1) STATE.—A State that conducts a demonstration project under this Act shall prepare and submit to the Secretary annual and final reports in accordance with the State's evaluation plan under subsection (c)(1) for such demonstration project.

(2) SECRETARY.—The Secretary shall prepare and submit to the Congress annual reports concerning each demonstration project under this Act.

(e) LEGISLATIVE PROPOSAL.—

(1) EVALUATIONS.—

(A) IN GENERAL.—On each of the dates described in subparagraph (B), the Secretary shall evaluate the demonstration projects based on the reports received from each State under subsection (d)(1) and if the Secretary determines that any of the reforms in the demonstration projects will be effective in achieving the purposes of this Act, the Secretary shall submit proposed legislation to the Congress to—

(i) implement such successful reforms nationally if appropriate, or

(ii) give States the option of adopting a successful reform in a State plan approved under section 402 of the Social Security Act (42 U.S.C. 602) where the reform may be effective in some States but not in others.

The proposed legislation shall take into account factors important to implementing local demonstration projects on a national scale, including variation in population density and poverty.

(B) DATES FOR EVALUATION AND SUBMISSION.—A date is described in this subparagraph, if it is a date that is—

(i) 2 years after the date of the enactment of this Act,

(ii) 4 years after the date of the enactment of this Act, or

(iii) not later than 6 months after the date the Secretary receives the last final report due under subsection (d)(1) with respect to a demonstration project.

(2) OTHER LEGISLATIVE SUBMISSIONS.—At any time other than a date described in paragraph (1)(B), if the Secretary determines that a reform in a demonstration project is ready to be implemented on a national scale or to be made a State option, the Secretary may submit proposed legislation to the Congress to implement the reform.

(f) CLEARINGHOUSE.—The Secretary shall establish and maintain a clearinghouse to collect and disseminate to State officials and the public current information on approved demonstration projects, and on interim and final reports submitted under subsection (d)(1) with respect to demonstration projects. To the extent practicable, clearinghouse information shall be made available through electronic format.

(g) PROVISIONS SUBJECT TO WAIVER.—The Secretary may waive such requirements of title IV of the Social Security Act (42 U.S.C. 601 et seq.) as the Secretary determines to be necessary to carry out the purposes of the demonstration projects established under this Act.

(h) EXPENDITURES OTHERWISE INCLUDED UNDER THE STATE PLAN.—The costs of a demonstration project under this Act which would not otherwise be included as expenditures under the applicable State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the applicable State plan under such title, or for administration of such State plan or plans, as may be appropriate.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $150,000,000 for each of fiscal years 1996 and 1997, and $125,000,000 for each of fiscal years 1998, 1999, and 2000 to carry out the provisions of sections 4(c), 4(d), 101, 103, 105(b), 105(c), 105(d), 107, 201, 202, 203, 204, 205, 206, 207, 301, and 302.

(b) ALLOCATION OF FUNDS.—Of the amount appropriated pursuant to subsection (a), the Secretary shall obligate—

(1) 50 percent of such amount to—

(A) offset any increase in the amount of the Federal share resulting from any demonstration project established under a section described in subsection (a) (other than demonstration projects established under sections 107 and 207 of this Act); and

(B) to the extent such amount remains after any such offset—

(i) increase the otherwise applicable Federal share rate under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.) for such demonstration projects; and

(ii) increase the amount of a State's block grant under the demonstration project under section 201 of this Act; and

(2) 50 percent of such amount to—

(A) offset any increase in the amount of the Federal share resulting from any demonstration project established under sections 107 and 207 of this Act; and

(B) to the extent such amount remains after any such offset increase the otherwise applicable Federal share rate under a State plan under title IV of the Social Security

Act (42 U.S.C. 601 et seq.) for such demonstration projects.

(c) RESERVATION OF CERTAIN AMOUNTS UNTIL FINAL REPORT SUBMITTED.—The Secretary shall reserve 10 percent of any amounts obligated to a State for a demonstration project under subsection (b), and shall not pay such reserved amounts until such State has submitted a final report on such demonstration project.

TITLE I—INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE

SEC. 101. DEMONSTRATION PROJECTS WHICH CONDITION AFDC BENEFITS FOR CERTAIN INDIVIDUALS ON SCHOOL ATTENDANCE OR JOB TRAINING, LIMIT THE TIME PERIOD FOR RECEIPT OF SUCH BENEFITS, AND REQUIRE TEENAGE PARENTS TO LIVE AT HOME.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Except as provided in paragraph (2), each State conducting a demonstration project under this section shall provide that—

(A) a family described in paragraph (3) shall not receive aid to families with dependent children—

(i) unless the individual described in paragraph (3)(A) is, for a minimum of 35 hours a week—

(I) attending school,

(II) studying for a general equivalency diploma, or

(III) participating in a job, job training, or job placement program; and

(ii) except in the case of a situation described in clause (i) through (v) of section 402(a)(43)(B) of the Social Security Act (42 U.S.C. 602(a)(43)(B))—

(I) such individual is residing in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or residing in a foster home, maternity home, or other adult-supervised supportive living arrangement, and

(II) such aid (where possible) shall be provided to the individual's parent, legal guardian, or other adult relative on behalf of such individual and the individual's dependent child; and

(B) such family shall be entitled to receive such aid for a time period determined appropriate by the State which shall, at a minimum, permit such individual to complete the activities described in subparagraph (A)(i).

(2) LIMITATION.—A State conducting a demonstration project under this section shall not apply the provisions of paragraph (1) to a family unless—

(A) the State has made adequate child care available to such family;

(B) the State has paid all tuition and fees applicable to the activities described in paragraph (1)(A); and

(C) such application does not endanger the welfare and safety of a dependent child who is a member of such family.

(3) FAMILY DESCRIBED.—A family described in this paragraph is a family which—

(A) includes a parent under 20 years of age;

(B) includes at least 1 dependent child of such parent; and

(C) does not include a child under 6 months of age.

SEC. 102. PILOT JOB CORPS PROGRAM FOR RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 433 of the Job Training Partnership Act (29 U.S.C. 1703) is amended by adding at the end the following new subsection:

''(f)(1) The Secretary may enter into appropriate agreements with agencies as described in section 427(a)(1) for the development of pilot projects to provide services at Job Corps centers to eligible individuals—

''(A) who are eligible youth described in section 423;

''(B) whose families receive aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

''(C) who are mothers of children who have not reached the age of compulsory school attendance in the State in which the children reside.

''(2) A Job Corps center serving the eligible individuals shall—

''(A) provide child care at or near the Job Corps center for the individuals;

''(B) provide the activities described in section 428 for the individuals; and

''(C) provide for the individuals, and require that each such individual participate in, activities through a parents as teachers program that—

''(i) establishes and operates parent education programs, including programs of developmental screening of the children of the eligible individuals;

''(ii) provides group meetings and home visits for the family of each such individual by parent educators who have had supervised experience in the care and education of children and have had training; and

''(iii) provides periodic screening, by such parent educators, of the educational, hearing, and visual development of the children of such individuals.

''(3) The Secretary shall prescribe specific standards and procedures under section 424 for the screening and selection of applicants to participate in pilot projects carried out under this subsection. In addition to the agencies described in the second sentence of such section, such standards and procedures may be implemented through arrangements with welfare agencies.

''(4) As used in this subsection:

''(A) The term 'developmental screening' means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development.

''(B) The term 'parent education' includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the eligible individual and child, and other activities that enable the eligible individual to improve learning in the home.''.

SEC. 103. DEMONSTRATION PROJECTS REQUIRING UP-FRONT 30-DAY ASSISTED JOB SEARCH, OR SUBSTANCE ABUSE TREATMENT BEFORE RECEIVING AFDC BENEFITS.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Except as provided in paragraph (2), each State conducting a demonstration project under this section shall require a parent or other relative of a dependent child to undergo 30 days of assisted job search or substance abuse treatment (or both) before the family may receive aid to families with dependent children as part of the application process for the receipt of such aid.

(2) LIMITATION.—A State conducting a demonstration project under this section shall not apply the provisions of paragraph (1) to a family unless—

(A) all of the dependent children in the family are over 6 months of age;

(B) the State has made adequate child care available to such family;

(C) the State has paid all fees applicable to the activities described in paragraph (1); and

(D) such application does not endanger the welfare and safety of a dependent child who is a member of such family.

SEC. 104. DISREGARD OF EDUCATION AND EMPLOYMENT TRAINING SAVINGS FOR AFDC ELIGIBILITY.

(a) DISREGARD AS RESOURCE.—Subparagraph (B) of section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)) is amended—

(1) by striking ''or'' before ''(iv)'', and

(2) by inserting '', or (v) except in the case of the family's initial determination of eligibility for aid to families with dependent children, any amount up to $10,000 in a qualified education and employment account (as defined in section 406(i)(1))'' before ''; and''.

(b) DISREGARD AS INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 402(a)(8) of such Act (42 U.S.C. 602(a)(8)) is amended—

(A) by striking ''and'' at the end of clause (vii), and

(B) by inserting after clause (viii) the following new clause:

''(ix) shall disregard any qualified distributions (as defined in section 406(i)(2)) made from any qualified education and employment account (as defined in section 406(i)(1)) while the family is receiving aid to families with dependent children; and''.

(2) NONRECURRING LUMP SUM EXEMPT FROM LUMP SUM RULE.—Section 402(a)(17) (42 U.S.C. 602(a)(17)) is amended by adding at the end the following: ''; and that this paragraph shall not apply to earned and unearned income received in a month on a nonrecurring basis to the extent that such income is placed in a qualified education and employment account (as defined in section 406(i)(1)) the total amount which, after such placement, does not exceed $10,000.''.

(c) QUALIFIED EDUCATION AND EMPLOYMENT ACCOUNTS.—Section 406 of such Act (42 U.S.C. 606) is amended by adding at the end the following:

''(i)(1) The term 'qualified education and employment account' means a mechanism established by the State (such as escrow accounts or education savings bonds) that allows savings from the earned income of a dependent child or parent of such child in a family receiving aid to families with dependent children to be used for qualified distributions.

''(2) The term 'qualified distributions' means distributions from a qualified education and employment account for expenses directly related to the attendance at an eligible postsecondary or secondary institution or directly related to improving the employability (as determined by the State) of a member of a family receiving aid to families with dependent children.

''(3) The term 'eligible postsecondary or secondary institution' means a postsecondary or secondary institution determined to be eligible by the State under guidelines established by the Secretary.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) for calendar quarters beginning on or after January 1, 1995.

SEC. 105. INCENTIVES AND ASSISTANCE IN STARTING A SMALL BUSINESS.

(a) AUTHORITY FOR STATES TO PERMIT CERTAIN SELF-EMPLOYMENT PROGRAM PARTICIPANTS A ONE-TIME ELECTION TO PURCHASE CAPITAL EQUIPMENT FOR A SMALL BUSINESS IN

Lieu of Depreciation; Repayments by Such Persons of the Principal Portion of Small Business Loans Treated as Business Expenses for Purposes of AFDC.—

(1) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)) is amended—

(A) in subparagraph (B)(ii)(II), by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) provide that, in determining the earned income of a family any of the members of which owns a small business and is a participant in a self-employment program offered by a State in accordance with section 482(d)(1)(B)(ii), the State may—

''(i)(I) during the 1-year period beginning on the date the family makes an election under this clause, treat as an offset against the gross receipts of the business the sum of the capital expenditures for the business by any member of the family during such 1-year period; and

''(II) allow each such family eligible for aid under this part not more than 1 election under this clause; and

''(ii) treat as an offset against the gross receipts of the business—

''(I) the amounts paid by any member of the family as repayment of the principal portion of a loan made for the business; and

''(II) cash retained by the business for future use by the business; and''.

(2) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) CERTAIN PROPERTY OF AFDC RECIPIENTS NOT DEPRECIABLE.—No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) with respect to the portion of the adjusted basis of any property which is attributable to expenditures treated as an offset against gross receipts under section 402(a)(8)(C)(i) of the Social Security Act.''.

(3) EFFECTIVE DATE.—

(A) SOCIAL SECURITY ACT AMENDMENTS.—The amendments made by paragraph (1) shall apply to payments made under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) on or after January 1, 1996.

(B) INTERNAL REVENUE CODE AMENDMENT.—The amendments made by paragraph (2) shall apply to property placed in service on or after January 1, 1996.

(b) DEMONSTRATION PROJECTS ESTABLISHING PUBLIC-PRIVATE PARTNERSHIPS FOR TECHNICAL ASSISTANCE TO SELF-EMPLOYED AFDC RECIPIENTS.—

(1) IN GENERAL.—The Secretary shall provide for demonstration projects to be conducted in States with applications approved under this Act under which one or more partnerships are developed between State agencies and community businesses or educational institutions to provide assistance to eligible participants.

(2) ELIGIBLE PARTICIPANTS.—For purposes of this subsection, the term ''eligible participants'' means—

(A) individuals who are receiving aid to families with dependent children; and

(B) individuals who cease to be eligible to receive such aid who have been participating in a demonstration project conducted by a State under this subsection.

(3) PERMISSIBLE EXPENDITURES.—Funds from any demonstration project conducted under this subsection may be used to pay the costs associated with developing and implementing a process through which businesses or educational institutions would work with the State agency to provide assistance to eligible participants seeking to start or operate small businesses, including—

(A) mentoring;

(B) training for eligible participants in administering a business;

(C) technical assistance in preparing business plans; and

(D) technical assistance in the process of applying for business loans, marketing services, and other activities related to conducting such small businesses.

(c) DEMONSTRATION PROJECTS FOR TRAINING AFDC RECIPIENTS AS SELF-EMPLOYED PROVIDERS OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The Secretary shall provide for demonstration projects to be conducted in States with applications approved under this Act under which one or more partnerships are developed between State agencies and community businesses or educational institutions to provide assistance to eligible participants in the establishment and operation of child care centers in the home or in the community which would provide child care services.

(2) ELIGIBLE PARTICIPANTS.—For purposes of this subsection, the term ''eligible participants'' means—

(A) individuals who are receiving aid to families with dependent children; and

(B) individuals who cease to be eligible to receive such aid who have been participating in a demonstration project conducted by a State under this subsection.

(3) PERMISSIBLE EXPENDITURES.—Funds from any demonstration project conducted under this subsection may be used to pay the costs associated with developing and implementing a process through which businesses or educational institutions would work with the State agency to provide assistance to train eligible participants to provide licensed child care services, including—

(A) mentoring;

(B) training in the provision of child care services;

(C) training for eligible participants in administering a business;

(D) training in early childhood education;

(E) technical assistance in preparing business plans;

(F) technical assistance in the process of applying for loans, marketing services, qualifying for Federal and State programs, and other activities related to the provision of child care services; and

(G) technical assistance in obtaining a license and complying with Federal, State, and local regulations regarding the provision of child care.

(d) DEMONSTRATION PROJECT TO PROMOTE OWNERSHIP OF FAMILY-OWNED BUSINESSES BY AFDC RECIPIENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in paragraph (2) in States with applications approved under this Act.

(2) PROJECT DESCRIBED.—Each State conducting a demonstration project under this subsection shall develop a program under which the State shall—

(A) encourage incentives for families receiving aid to families with dependent children to work together as managers and employees in family-owned businesses;

(B) develop State and private partnerships for making or guaranteeing small business loans, including seed money, available to such families;

(C) provide such families with technical training in small business management, accounting, and bookkeeping;

(D) regularly evaluate the status of the recipients of assistance under the project; and

(E) continue a transitional period of benefits under title IV and title XIX of the Social Security Act for recipients of assistance under the project until such time as the State determines such family is self-sufficient.

For purposes of this paragraph, a family-owned business may include other relatives of the family receiving aid to families with dependent children regardless if such relatives are also receiving aid to families with dependent children.

SEC. 106. INCREASED EMPHASIS IN JOBS PROGRAM ON MOVING PEOPLE INTO THE WORK FORCE.

Section 481(a) of the Social Security Act (42 U.S.C. 681(a)) is amended by adding at the end the following new sentence: ''It is further the purpose of this part to encourage individuals receiving education and training to enter the permanent work force by developing programs through which such individuals enter the work force and then receive post-employment education and training.''.

SEC. 107. ADDITIONAL DEMONSTRATION PROJECTS TO MOVE AFDC RECIPIENTS INTO THE WORK FORCE.

(a) ESTABLISHMENT.—The Secretary shall provide for additional demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a program or programs to better move recipients of aid to families with dependent children into the work force.

TITLE II—INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY

SEC. 201. DEMONSTRATION PROJECTS TO ESTABLISH CHILD CENTERED PROGRAMS THROUGH CONVERSION OF CERTAIN AFDC AND JOBS PAYMENTS INTO BLOCK GRANTS.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Each State conducting a demonstration project under this section shall elect to receive payments under paragraph (2) in lieu of—

(A) all payments to which the State would otherwise be entitled to under section 403 of the Social Security Act (42 U.S.C. 603) for aid to families with dependent children under part A of title IV of such Act or the job opportunities and basic skills training program under part F of such title; or

(B) any portion of the payment described in subparagraph (A) to which the State would otherwise be entitled under such section for benefits (identified by the State) under part A or part F of such title for populations (identified by the State) who receive such benefits.

(2) PAYMENT.—The Secretary shall make payment under this paragraph for each year of the project in an amount equal to—

(A) during fiscal year 1996—

(i) 100 percent of the total amount to which the State was entitled under section 403 of the Social Security Act (42 U.S.C. 603) for aid to families with dependent children under part A of title IV of such Act or the job opportunities and basic skills training program under part F of such title; or

(ii) the amount to which the State was entitled to under such section for those benefits and populations identified by the State in paragraph (1)(B),

for fiscal year 1995 plus the product of such amount and the percentage increase in the consumer price index for all urban consumers (U.S. city average) during such fiscal year; and

(B) during each subsequent fiscal year, the amount determined under this paragraph in the previous fiscal year plus the product of such amount and the percentage increase in such consumer price index during such previous fiscal year.

(3) DESCRIPTION OF ACTIVITIES.—

(A) IN GENERAL.—Each State which is paid under paragraph (2) shall expend the amount received under such paragraph and the amount, if any, made available to such State under section 5(b)(1)(B)(ii) for one or more of the following purposes:

(i)(I) Establish residential programs for teenage mothers with dependent children where education, job training, community service, or other employment is provided.

(II) Support the pilot project described in section 433(f) of the Jobs Training Partnership Act, as added by section 102 of this Act, to provide such services to teenage mothers with dependent children.

(ii) Establish programs to promote, expedite, and ensure adoption of children, particularly neglected or abused children.

(iii) Expand child care assistance for the children of needy working parents (as determined by the State).

(iv) Establish residential schooling with appropriate support services for children from needy families (as determined by the State) enrolled at the request of the parents of such children.

(v) Establish other services which will be provided directly to children from needy families (as determined by the State).

(vi) Implement other reforms consistent with this Act.

(4) COMMUNITY-BASED ACTIVITIES.—The Secretary shall ensure that each State receiving a grant under this section—

(A) takes adequate steps to assure the well-being of the children affected by the State's receipt of the grant; and

(B) to the fullest extent possible, utilizes the grant under this section to support community-based services in communities affected by the State's receipt of the grant.

SEC. 202. DEMONSTRATION PROJECTS PROVIDING NO ADDITIONAL BENEFITS WITH RESPECT TO CHILDREN BORN WHILE A FAMILY IS RECEIVING AFDC AND ALLOWING INCREASES IN THE EARNED INCOME DISREGARD.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—If a child is born to a family after the date on which such family begins receiving aid to families with dependent children, a State conducting a demonstration project under this section—

(1) shall not take such child into account in determining the need of such family for such aid; and

(2) shall increase the amounts disregarded from earned income under section 402(a)(8)(A) of the Social Security Act (42 U.S.C. 602(a)(8)(A)).

SEC. 203. DEMONSTRATION PROJECTS PROVIDING INCENTIVES TO MARRY.

(a) AID TO TWO-PARENT FAMILIES.—

(1) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in paragraph (2) in States with applications approved under this Act.

(2) PROJECT DESCRIBED.—

(A) IN GENERAL.—Each State conducting a demonstration project under this subsection shall not apply the requirements described in subparagraph (B) to a parent of a dependent child who is married to the natural parent of such child.

(B) REQUIREMENTS WAIVED.—The requirements described in this subparagraph are:

(i) The work history requirement described in section 407(b)(1)(A)(iii) of the Social Security Act (42 U.S.C. 607(b)(1)(A)(iii)).

(ii) The 100-hour rule under section 233.100(a)(1)(i) of title 45, Code of Federal Regulations.

(b) INCREASE IN STEPPARENT EARNED INCOME DISREGARD.—

(1) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in paragraph (2) in States with applications approved under this Act.

(2) PROJECT DESCRIBED.—For purposes of making determinations for any month under section 402(a)(7) of the Social Security Act (42 U.S.C. 602(a)(7)), each State conducting a demonstration project under this subsection shall modify the income disregards provided in subparagraphs (A) through (D) of section 402(a)(31) of such Act (42 U.S.C. 602(a)(31)) in order to decrease the amount of income determined under such section with respect to a dependent child's stepparent.

SEC. 204. DEMONSTRATION PROJECTS REDUCING AFDC BENEFITS IF SCHOOL ATTENDANCE IS IRREGULAR OR PREVENTIVE HEALTH CARE FOR DEPENDENT CHILDREN IS NOT OBTAINED.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—

(1) IN GENERAL.—Each State conducting a demonstration project under this section shall reduce the amount of aid to families with dependent children received by a family if the State agency determines that one or both (at the State's option) of the following conditions exist:

(A) A member of such family is attending school or participating in a course of vocational or technical training and such family member is absent from such school or training with no excuse for more than a number of days per month determined appropriate by the State.

(B) A member of such family is a child under the age of 6 who has not received appropriate immunizations (as determined by the State).

(2) LIMITATION.—Each State conducting a demonstration project under this section shall establish procedures which ensure that no reduction in aid to families with dependent children under paragraph (1) will endanger the welfare and safety of any dependent child.

SEC. 205. DEMONSTRATION PROJECTS TO DEVELOP COMMUNITY-BASED PROGRAMS FOR TEENAGE PREGNANCY PREVENTION AND FAMILY PLANNING

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a community-based program for teenage pregnancy prevention and family planning.

SEC. 206. ADDITIONAL DEMONSTRATION PROJECTS TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY.

(a) ESTABLISHMENT.—The Secretary shall provide for additional demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a program or programs to strengthen families and break the cycle of welfare dependency.

TITLE III—CHANGES TO FEDERAL LAWS AND STATE INITIATIVES TO INCREASE CHILD SUPPORT AND PATERNAL RESPONSIBILITY

SEC. 301. DEMONSTRATION PROJECTS TO INCREASE PATERNITY ESTABLISHMENT.

(a) ESTABLISHMENT.— The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall develop a program to increase paternity establishment.

SEC. 302. DEMONSTRATION PROJECTS TO INCREASE CHILD SUPPORT COLLECTION.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall increase the State's child support collection efforts through one or more of the following methods:

(1) Enhanced child support enforcement and collection, including holding a parent accountable for supporting any children of the parent's minor children.

(2) Applying section 402(a)(8)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(vi)) by substituting an amount greater than $50 (to be determined by the State) for ''$50'' each place such dollar amount appears.

(3) Any other method that the State deems appropriate.

TITLE IV—INITIATIVES TO DIVERSIFY AND IMPROVE THE PERFORMANCE OF WELFARE SERVICES

SEC. 401. DEMONSTRATION PROJECTS FOR PROVIDING PLACEMENT OF AFDC RECIPIENTS IN PRIVATE SECTOR JOBS.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects described in subsection (b) in States with applications approved under this Act.

(b) PROJECT DESCRIBED.—Each State conducting a demonstration project under this section shall—

(1) contract with private for-profit and nonprofit groups to provide any individual receiving aid to families with dependent children with training, support services, and placement in a private sector job which permits such individual to cease receiving aid to families with dependent children; and

(2) upon employment of such individual, pay such groups a negotiated portion of the total amount that such individual's family would have received over the course of the year in which such individual began such employment in the form of aid to families with dependent children.

SEC. 402. DEMONSTRATION PROJECTS PROVIDING PERFORMANCE-BASED INCENTIVES FOR STATE PUBLIC WELFARE PROVIDERS.

(a) ESTABLISHMENT.—The Secretary shall provide for demonstration projects to establish performance-based incentives for State public welfare providers in States with applications described in subsection (b)(1) which are approved under this Act.

(b) APPLICATIONS.—

(1) APPLICATION DESCRIBED.—An application described under this paragraph is an application which—

(A) identifies the State offices or administrative units which will participate in the demonstration project;

(B) describes indicators of employee or program performance based on outcome measures for—

(i) training and education;

(ii) job search and placement assistance;

(iii) child support collection;

(iv) teen pregnancy prevention programs; and

(v) any other program objective that the State finds appropriate;

(C) describes budgetary incentives for program performance, including direct financial incentives for employees where appropriate;

(D) describes a process for developing, in cooperation with employees of participating offices or units, a job evaluation system based on performance measures; and

(E) describes the way in which State public welfare providers, private providers, welfare clients, and members of the community have been or shall be involved in the planning and implementation of a performance based welfare delivery system.

(2) TECHNICAL ASSISTANCE.—The Secretary shall provide a State desiring to submit an application for a demonstration project under this section with technical assistance in preparing an application described under paragraph (1).

SEC. 403. ELECTRONIC BENEFIT TRANSFERS.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following new paragraph:

''(2)(A) The disclosures, protections, responsibilities, and remedies created by this title or any rules, regulations, or orders issued by the Board in accordance with this title, do not apply to an electronic benefit transfer program established under State or local law, or administered by a State or local government, unless the payment under such program is made directly into a consumer's account held by the recipient.

''(B) Subparagraph (A) does not apply to employment related payments, including salaries, pension, retirement, or unemployment benefits established by Federal, State, or local governments.

''(C) Nothing in subparagraph (A) alters the protections of benefits established by any Federal, State, or local law, or preempts the application of any State or local law.

''(D) For purposes of subparagraph (A), an electronic benefit transfer program is a program under which a Federal, State, or local government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals. A program established for the purpose of enforcing the support obligations owed by absent parents to their children and the custodial parents with whom the children are living is not an electronic benefit transfer program.''.

TITLE V—OFFSETTING EXPENDITURE REDUCTIONS

SEC. 501. OFFSETTING EXPENDITURE REDUCTIONS.

(a) IN GENERAL.—Subparagraph (C) of section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(C)) is amended to read as follows:

''(C) In the case of corporations and other entities included in subparagraph (B) and partnerships, the Secretary shall attribute payments to natural persons in proportion to their ownership interests in an entity and in any other entity, or partnership, that owns or controls the entity, or partnership, receiving the payments.''.

(b) REMOVAL OF 3-ENTITY RULE.—Section 1001A(a)(1) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(1)) is amended—

(1) in the first sentence—

(A) by striking ''substantial beneficial interests in more than two entities'' and inserting ''a substantial beneficial interest in any other entity''; and

(B) by striking ''receive such payments as separate persons'' and inserting ''receives the payments as a separate person''; and

(2) by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995.

THE WELFARE REFORMS THAT WORK ACT—SUMMARY

Sections 1–4.—Purpose of bill and general provisions relating to state pilot projects:

Sec. 2. States that the purpose of the bill is to promote bold State-initiated welfare reforms to move welfare recipients into the work force; strengthen families; break the cycle of welfare dependency; increase child support collection and paternal responsibility; and improve the delivery of welfare services. The bill is designed to make immediate State-by-State changes to the existing system while establishing a process for identifying successful reform approaches that can be applied nationally. The bill reflects the findings that: the current welfare system is failing children and contributing to the cycle of poverty and other societal ills; mandatory job training and many other incremental reforms tested to date have had minimal effects on welfare dependency; and the States are best positioned to test far-reaching reform proposals that involve some human or financial risk. While this bill in no way precludes national reforms such as time-limits, work requirements or requiring teenage parents to live at home, it gives States the central reform role and provides the authority and resources they need to pursue bold and untested reforms.

Sec. 4. Sets forth general provisions relating to demonstration projects. Authorizes $150 million/yr for the first two years and $125 million/yr in the following three year to support pilots and evaluations of pilots, and requires States to have evaluation plans approved by the Department of Health and Human Services (HHS) before receiving funds. A portion of these funds would support innovative pilot programs not specified in the bill but proposed by States. Demonstration projects could last up to 5 years. States would report on progress annually. As results of interim and final reports become available, the Secretary of HHS will submit legislation to Congress to implement promising reforms nationally.

TITLE I.—INITIATIVES TO MOVE WELFARE RECIPIENTS INTO THE WORK FORCE

From the first day that an individual applies for welfare, the primary focus of welfare offices should be to help that person move into the work force. A welfare grant should be conditioned on responsible behavior. This Title supports state reforms to move welfare recipients into the work force.

Sec. 101. Supports State pilots to condition AFDC benefits for single parents under 20 years of age with at least one dependent child and no children under 6 months of age on attending school or participating in a job or job training program for a minimum of 35 hours per week and on living at home. States would also impose a time limit (not specified) on benefits, and make child care available during training and work activities. Since the program would be expensive, it targets those at greatest risk of long-term welfare dependency—teenage mothers.

Sec. 102. Authorizes the Secretary of HHS to establish a pilot program with the Jobs Corps (a successful, residential anti-poverty program for youths 16–22 years of age) targeting teenage mothers on AFDC with below school-age children. The pilot would include a Parents-as-Teachers type program designed to teach parents how to help prepare their children for school and learning.

Sec. 103. Supports State pilots to require 30 days of assisted job search or, where appropriate, substance abuse treatment immediately following application for AFDC, coinciding with the usual lag time between application for and receipt of benefits. Applicants would have to complete the assigned activities before receiving AFDC payments.

Sec. 104. A national change to permit States to allow AFDC families to save money (up to $10,000) for education and training or starting a small business.

Sec. 105. Expands on legislation introduced in 1993 with Senator Dodd.

A national change to permit States to help recipients start a small business by allowing participants a one-time election to fully deduct capital equipment purchases in one year;

Supports State pilots to establish public-private partnerships to provide technical assistance to self-employed AFDC recipients;

Supports State pilots to train AFDC recipients as self-employed providers of child care services; and

Supports State pilot projects to promote ownership of extended family-owned businesses by AFDC recipients. Would provide incentives and assistance for families receiving aid to families with dependent children to work together as managers and employees in extended family-owned businesses.

Sec. 106. Amends JOBS provisions to emphasize efforts to move people into the work force over training and education.

Sec. 107. Supports additional demonstration projects proposed by States to move AFDC recipients into the work force.

TITLE II.—INITIATIVES TO STRENGTHEN FAMILIES AND BREAK THE CYCLE OF WELFARE DEPENDENCY

The current Federal welfare rules discourage family unification and encourage out-of-wedlock childbearing. The most serious victims of these policies are children born into poor, unstable families. This Title supports State reforms that promote parental responsibility and family unity. It recognizes that while welfare is a privilege for parents, States and the Federal government have a moral responsibility to ensure the well-being of all American children.

Sec. 201. Supports State pilots to establish child centered programs through conversion of AFDC and JOBS payments into block grants, plus funds available under other sections of this bill. States could apply portions of funds to: (1) establish residential homes for teenage mothers with children, including supporting the pilot project described in section 102; (2) expand programs to expedite and improve adoption of children; (3) expand child care assistance for needy children of working families; (4) establish supportive residential schools for children enrolled at the request of their parents; (5) provide other services directly to needy children; and (6) fund other programs that are consistent with the purposes of the Act. The Secretary of HHS, in reviewing the application, must ensure that the State's program will protect the well-being of affected children.

Sec. 202. Supports State pilots to discourage welfare recipients from having additional children while on welfare and increase the financial reward for work. Recipients who had a second child would not get additional benefits but would be allowed to keep a higher portion of job earnings.

Sec. 203. Supports State pilots to improve incentives to get married. States would disregard to a greater extent the second parent's earnings and work patterns in determining benefits.

Sec. 204. Supports State pilots to reduce AFDC benefits if school attendance of mother or child is irregular or preventive health

care for the dependent children is not attained.

Sec. 205. Supports State demonstrations of innovative teenage pregnancy prevention programs.

Sec. 206. Supports additional demonstration projects proposed by States to strengthen families and break the cycle of welfare dependency.

TITLE III.—CHANGES TO FEDERAL LAWS AND STATE INITIATIVES TO INCREASE CHILD SUPPORT COLLECTION AND PATERNAL RESPONSIBILITY

Increased child support enforcement and paternity establishment must be part of the welfare reform. Too often absent parents, typically fathers, are not held accountable for their children's care. In the last Congress Senator Bradley introduced and I cosponsored the comprehensive Interstate Child Support Enforcement Act, which I will support again this year. My bill authorizes additional State efforts to improve child support collection and paternity establishment.

Sec. 301. Supports demonstration projects to increase paternity establishment.

Sec. 302. Supports demonstration projects to increase child support collection, including: increasing the child support disregard, from $50 to a higher level decided by the state; and, holding parents accountable for child support obligations of their minor children.

TITLE IV.—INITIATIVES TO DIVERSIFY AND IMPROVE PERFORMANCE OF WELFARE SERVICES

Welfare offices are notoriously bureaucratic and unresponsive. Under current Federal laws, they have few incentives and some disincentives to improve performance. This Title supports state efforts to promote competition among welfare service providers and to implement performance-based management programs in welfare offices. It also removes a current Federal impediment to the use of electronic benefit transfer ''smart cards.''

Sec. 401. Supports State pilots to provide incentives to private sector, for profit and non-profit groups to place welfare recipients in private sector jobs. Companies would keep a portion of welfare savings as payment for successful job placements.

Sec. 402. Supports State pilots to implement performance-based management systems for public welfare providers.

Sec. 403. To promote the use of electronic benefit transfer (EBT) ''smart cards'' that reduce fraud and improve services, this section exempts state EBT programs from the Federal Reserve Board's ''Regulation E.'' Reg. E currently limits cardholder liability to $50 for lost or stolen cards—a policy that promotes fraud and makes EBT programs costly for States.

TITLE V.—OFFSETTING EXPENDITURE REDUCTIONS

Sec. 501. Eliminates the ''three-entity'' rule, reducing the amount of certain Federal subsidies individual farmers can receive from $250,000 to $125,000 per year.

By Mr. GREGG (for himself and Mr. COCHRAN):

S. 247. A bill to improve senior citizen housing safety; to the Committee on Banking, Housing, and Urban Affairs.

THE SENIOR CITIZENS HOUSING SAFETY ACT

● Mr. GREGG. Mr. President, last year, I introduced the Senior Citizens Housing Safety Act, a bill that will end the terror that unfortunately runs rampant throughout many housing projects specifically designated for elderly and disabled residents. I reintroduce this important legislation.

In my home State of New Hampshire, most people are still afforded the luxury of not having to lock their front door before turning in for the evening. However, many elderly residents of public housing facilities in my State and across America have been forced to not only lock their front doors, but are literally being held prisoner in their own homes. I believe this is outrageous. I have received numerous complaints from residents of elderly housing facilities throughout New Hampshire who are worried about their personal safety in housing specifically reserved for them.

Under current housing laws nonelderly persons considered disabled, because of past drug and alcohol abuse problems, are eligible to live in section 8 housing designated for the elderly. This mixing of populations may have filled up the housing projects across the country, but it has opened a Pandora's box of trouble. Simply put, young, recovering alcoholics and drug addicts are not compatible with elderly persons. Many of these young people hold all-night, loud parties, shake down many of the elderly residents for money, sell drugs within the housing facility, and generally disturb the right to the peaceful enjoyment of the premises by other tenants.

This problem has occurred because the definition of handicapped under the Fair Housing Act was amended in 1988 to include recovering alcoholics and drug addicts. Under the mixed population rules of 1992, Congress determined that the elderly and disabled should be housed together. Historically, disabled individuals have lived in complexes for the elderly because the apartments there—one-bedroom units equipped with such features as hand rails—best fit their needs. However, drug addicts and alcoholics who are considered disabled do not have the same needs. Many elderly persons hope to retire in a community surrounded by persons their own age, elderly people who choose to live a peaceful existence in the company of their peers. I want to restore that hope and this legislation will attack this problem with a two-tier approach.

First, my legislation will institute a front-end screening process. This will prevent nonelderly individuals, classified as disabled because they are recovering from alcoholism and drug addiction, from becoming eligible for housing that is designated for the elderly. It simply says they cannot live in housing designated for the elderly additionally, it will prevent the further mixing of two groups that are obviously incompatible. This will not, however, exclude these nonelderly, disabled individuals from the housing I believe they need and deserve.

Second, my legislation will force local public housing agencies to evict nonelderly individuals occupying the facility who engage on three separate documented occasions in activities that threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of drugs or alcohol.

This process, by no means, circumvents the current housing eviction procedure. Under current law the public housing agency could evict these persons after one infraction if deemed necessary. It simply mandates that these nonelderly individuals be evicted after three incidents which threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants.

This is a simple bill that prevents the mixing of two populations who have proved incompatible.

This bill will restore order in housing projects designated for elderly and disabled tenants by screening out nonelderly alcoholics and drug addicts, as well as evicting those nonelderly persons who continuously raise havoc within the housing project. I urge my colleagues to support this important bill. I ask unanimous consent that the text 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. 247

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 ''Senior Citizen Housing Safety Act''.

SEC. 2. SENIOR CITIZEN HOUSING SAFETY.

(a) LIMITATION ON OCCUPANCY IN PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.—

(1) IN GENERAL.—Section 7(a) of the United States Housing Act of 1937 (42 U.S.C. 1437e(a)) is amended—

(A) in paragraph (1), by striking ''Notwithstanding any other provision of law'' and inserting ''Subject only to the provisions of this subsection'';

(B) in paragraph (4), by inserting '', except as provided in paragraph (5)'' before the period at the end; and

(C) by adding at the end the following new paragraph:

''(5) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

''(A) OCCUPANCY LIMITATION.—Notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by—

''(i) any person with disabilities who is not an elderly person and whose history of use of alcohol or drugs constitutes a disability; or

''(ii) any person who is not an elderly person and whose history of use of alcohol or drugs provides reasonable cause for the public housing agency to believe that the occupancy by such person may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

''(B) REQUIRED STATEMENT.—A public housing agency may not make a dwelling unit in such a project available for occupancy to any person or family who is not an elderly family, unless the agency acquires from the person or family a signed statement that no person who will be occupying the unit—

''(i) uses (or has a history of use of) alcohol; or

''(ii) uses (or has a history of use of) drugs; that would interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.''.

(2) LEASE PROVISIONS.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(A) in paragraph (5), by striking ''and'' at the end;

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) following new paragraph:

''(6) provide that any occupancy in violation of the provisions of section 7(a)(5)(A) or the furnishing of any false or misleading information pursuant to section 7(a)(5)(B) shall be cause for termination of tenancy; and''.

(b) EVICTION OF NONELDERLY TENANTS HAVING DRUG OR ALCOHOL USE PROBLEMS FROM PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.—Section 7(c) of the United States Housing Act of 1937 (42 U.S.C. 1437e(c)) is amended to read as follows:

''(c) STANDARDS REGARDING EVICTIONS.—

''(1) LIMITATION.—Any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or a portion of the project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

''(2) REQUIREMENT TO EVICT NONELDERLY TENANTS FOR 3 INSTANCES OF PROHIBITED ACTIVITY INVOLVING DRUGS OR ALCOHOL.—With respect to a project (or portion of a project) described in subsection (a)(5)(A), the public housing agency administering the project shall evict any person who is not an elderly person and who, during occupancy in the project (or portion thereof), engages on 3 separate occasions (occurring after the date of the enactment of this Act) in any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of alcohol or drugs.

''(3) RULE OF CONSTRUCTION.—The provisions of paragraph (2) requiring eviction of a person may not be construed to require a public housing agency to evict any other persons who occupy the same dwelling unit as the person required to be evicted.''.●

By Mr. GREGG (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. GRAMM, Mr. NICKLES, and Mr. WARNER):

S. 248. A bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes; to the Committee on Environment and Public Works.

THE AUTO INSPECTION REFORM ACT OF 1995

● Mr. GREGG. Mr. President, I introduce the Auto Inspection Reform [AIR] Act of 1995. I am pleased that Senators HUTCHISON, LOTT, GRAMM, NICKLES, and WARNER have joined as cosponsors. This legislation will postpone the implementation of the enhanced vehicle inspection and maintenance programs under the Clean Air Act until March 1, 1996. The bill requires EPA to reissue the regulations relating to these programs, and to reassess its initial position that effectively mandated centralized tests.

Under the 1990 Clean Air Act, Congress imposed enhanced auto emission inspection and maintenance requirements on States in nonattainment areas and on States in the statutory-mandated Northeast ozone transport region. Under the act, Congress provided a clear option to centralized systems for States that proved that decentralized testing could be as effective.

Despite the clear statutory language that indicates Congress wanted decentralized testing to be a viable option, EPA has acted to fundamentally undermine this congressional intent. Through two decisions, EPA has effectively forced States to adopt centralized systems. First, EPA determined that an extremely high cost test known as the IM–240 was mandated under the act. Second, EPA determined that the pollution reduction that States say can be achieved by a decentralized system must be discounted by roughly 50 percent.

As a result, States have either yielded to EPA's mandate, or are trying to get EPA to change its views. States that chose the first course are facing a citizen rebellion and States choosing the second are facing a brick wall. If a State does not meet the enhanced emissions testing requirements to EPA's satisfaction, the Agency can have the State's Federal highway funding cut off.

EPA has just recently indicated a willingness to reconsider and negotiate increased flexibility with some of the affected States' Governors and not implement fines for States moving forward in ''good faith.'' This is a good first step. However, it has only been implemented on a State-by-State basis and EPA has yet to issue any codified guidance to define this apparent change in policy. States remain at the mercy of EPA's discretion. I believe that any new policy should be formalized to provide States certainty and predictability. This bill will help ensure that the Clean Air Act will be complied with by giving States the necessary flexibility to implement the most suitable inspection program for their States. I urge my colleagues to give this bill careful consideration.

I ask unanimous consent that the text 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. 248

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 ''Auto Inspection Reform (AIR) Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that, in carrying out title I of the Clean Air Act (42 U.S.C. 7401 et seq.), the Administrator of the Environmental Protection Agency (referred to in this Act as the ''Administrator'') has failed to—

(1) adequately consider alternative programs to centralized vehicle emission testing programs, as required by section 182(c)(3)(C)(vi) of the Clean Air Act (42 U.S.C. 7511a(c)(3)(C)(vi)); and

(2) provide adequate credit to States for the alternative programs.

(b) PURPOSE.—The purpose of this Act is to require the Administrator to—

(1) reassess the determinations of the Administrator with respect to the equivalency of centralized and decentralized programs under section 182(c)(3)(C)(vi) of the Clean Air Act (42 U.S.C. 7511a(c)(3)(C)(vi)); and

(2) issue new regulations governing the programs that—

(A) result in minimum disruption to the ability of States to comply with other requirements of the Act (42 U.S.C. 7401 et seq.); and

(B) provide States a reasonable opportunity to comply with the new regulations and implement any decentralized testing programs that the States demonstrate are equally effective as centralized programs.

SEC. 3. IMPLEMENTATION OF ENHANCED VEHICLE INSPECTION PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a State shall not be required to implement an enhanced vehicle inspection and maintenance program under section 182(c)(3) of the Clean Air Act (42 U.S.C. 7511a(c)(3)) prior to March 1, 1996.

(b) REASSESSMENT OF REGULATIONS.—

(1) IN GENERAL.—The Administrator shall—

(A) immediately rescind the regulations issued on November 5, 1992 (57 Fed. Reg. 52950), relating to operation of the program described in subsection (a) on a centralized basis; and

(B) during the period beginning on the date of enactment of this Act and ending on March 1, 1996—

(i) reassess the determinations made by the Administrator with respect to operation of the program described in subsection (a) on a centralized basis, taking into consideration comments submitted by States; and

(ii) issue new regulations relating to operation of the program described in subsection (a) on a centralized basis, or, at the option of each State, on any decentralized basis if the State demonstrates that such a decentralized program is equally effective as a centralized program.

(2) REQUIREMENTS.—The regulations issued under paragraph (1)(B)(ii) shall—

(A) in accordance with the intent of section 182(c)(3)(C)(vi) of the Clean Air Act (42 U.S.C. 7511a(c)(3)(C)(vi))—

(i) make reasonably available to States the option of operation of the program described in subsection (a) on any decentralized basis if the State demonstrates that such a decentralized program is equally effective as a centralized program; and

(ii) establish criteria that a State must meet in order to demonstrate that a decentralized program of the State is equally effective as a centralized program; and

(B)(i) provide each State a reasonable opportunity to submit (at the option of the State) a new revision to a plan under section 182(c)(3) of the Act (42 U.S.C. 7511a(c)(3)) based on the new regulations, which revision shall replace any revision to a plan previously submitted by the State under section 182(c)(3) of the Act; and

(ii) include a schedule that provides States a reasonable opportunity to implement any new revisions to plans that the States submit.

(3) JUDICIAL REVIEW.—Notwithstanding section 706 of title 5, United States Code, or any

other provision of law, if the regulations issued pursuant to paragraph (1)(B)(ii) are reviewed by a court, the court shall hold unlawful and set aside the regulations if the regulations are found to be unsupported by a preponderance of the evidence.

(c) PROHIBITION ON IMPOSITION OF SANCTIONS.—Until such time as the Administrator has carried out subsection (b)(1)—

(1) the Administrator may not issue a finding, disapproval, or determination under section 179(a) of the Clean Air Act (42 U.S.C. 7509(a)), or apply a sanction specified in section 179(b) of the Act, to a State with respect to a failure to implement a program described in subsection (a), or any portion of such a program; and

(2) the Administrator and the Administrator of the Federal Highway Administration of the Department of Transportation may not take any adverse action, against a State with respect to a failure described in paragraph (1), under—

(A) section 176 of the Clean Air Act (42 U.S.C. 7506);

(B) chapter 53 of title 49, United States Code;

(C) subpart T of part 51, or subpart A of part 93, of title 40, Code of Federal Regulations (commonly known as the ''transportation conformity rule''); or

(D) part 6, 51, or 93 of title 40, Code of Federal Regulations (commonly known as the ''general conformity rule'').

(d) FULL CREDIT FOR DECENTRALIZED PROGRAMS.—Until such time as the Administrator has carried out subsection (b)(1), for the purpose of the attainment demonstration and the reasonable further progress demonstration required under section 182(c)(2) of the Clean Air Act (42 U.S.C. 7511a(c)(2)), the Administrator shall—

(1) deem that the emission reductions calculated by States for inspection and maintenance under their State implementation plans would be achieved as if the planned program had been implemented; or

(2) if appropriate, consider the operation of the program described in subsection (a) on a decentralized basis as equivalent to the operation of the program on a centralized basis in any case in which a State demonstrates that a determination of such an equivalency is reasonable.●

By Mr. MCCONNELL:

S. 250. A bill to amend chapter 41 of title 28, United States Code, to provide for an analysis of certain bills and resolutions pending before the Congress by the Director of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

THE LITIGATION IMPACT STATEMENTS ACT OF 1995

● Mr. MCCONNELL. Mr. President, today, I am introducing a bill that joins the effort to improve our legal system with the goal of eliminating unfunded Federal mandates.

Too often, Mr. President, Congress passes a bill without regard as to its impact on the court system. How many new cases will the law generate? Will they be Federal court cases or State court cases? How much will it cost government to enforce the new law through the legal system? How much liability will government, as well as the private sector, incur as a result of the new law?

These questions are rarely asked by Congress before a bill becomes law. The bill I am introducing will change all of that. It requires the Administrative Office of the U.S. Courts to provide a litigation impact statement for all bills reported from committees—except private relief bills and appropriation bills.

The A.O. is equipped to perform this task; in fact, the staff already does provide a judicial impact statement for certain bills. They did it for the Violence Against Women's Act, and they did for a bill I introduced in the 102d Congress, the Pornography Victims' Compensation Act.

In 1994, more than 281,000 new cases were filed in the Federal courts, with an increase in the civil filings of 3 percent over last year—Interestingly, the criminal filings have gone down.

In 4 of the last 5 years, filings in the Federal courts have increased. This increase in court filings occurs at the State level, where hundreds of thousands of cases are also filed. Too many of these cases are a direct result of Federal legislation enacted without a thought as to the effect on the courts. My bill will give Congress the opportunity to consider, for every bill, what burdens it will create for the courts, as well as the financial impact for potential liability the new law will have on governmental and private entities. Cities and towns are spending more and more of their budgets on liability insurance, and part of the blame for that rests with Congress for the new laws creating runaway liability.

Will a litigation impact statement slow Congress down? I certainly hope so. It would be just fine with the American people, if Congress imposed fewer burdens on them. After all, they delivered a loud message last November. They said our government does not work properly; it's too big, too expensive and inefficient. So, before Congress goes off passing laws which will create more lawsuits, let's get Congress educated about the impact any new laws will have on our court system.

Congress already gets an assessment of the budget impact for any new legislation. Let's also have a litigation impact statement. It is a very good beginning on the road to reforming the legal system.

And on reforming the legal system, I will have more to say in the coming days. The time is right to undertake comprehensive reform of our legal system. I know it will be a top priority of the Senate Judiciary Committee, and I look forward to working with that committee on this issue.●

By Mr. MCCAIN:

S. 251. A bill to make provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Finance.

MOST-FAVORED-NATION STATUS FOR CAMBODIA LEGISLATION

● Mr. MCCAIN. Mr. President, last year, I introduced legislation to clear up an anomaly in United States law that prohibits the President from granting Cambodia most-favored-nation status [MFN]. Despite my efforts, Cambodia is without MFN and the President is still without the statutory power to grant it. There were many more important issues for Congress to address in 1994. But MFN is very important to Cambodia. And it should be important to all of us interested in a stable and prosperous Southeast Asia. Accordingly, today, I am reintroducing legislation to grant MFN to Cambodia.

Areas of Indochina under Communist control, including significant portions of Cambodia, were denied MFN under the Trade Agreements Extension Act of 1951 and the 1974 Trade Act. Cambodia as a whole was denied MFN in 1975 by Executive action and its new trading status was confirmed by Congress in the 1988 Trade Act.

The 1974 Trade Act provided a process for restoring MFN to those nations then denied it. However, only a portion of Cambodia was denied MFN at the time the 1974 act was signed into law. There is no clear legal authority for restoring MFN to the entire nation under the processes established by the 1974 Trade Act. It cannot be restored by reversing the action taken in 1975 through an Executive order because Cambodia's non-MFN trading status was made law in the 1988 Trade Act. In short, the President wants to grant MFN to Cambodia, but lacks the authority to do so.

The legislation I am introducing would give the President the authority to grant Cambodia MFN status by bringing the entire country under the restoration procedure of the 1974 Trade Act. Under these procedures, Cambodia will have to demonstrate compliance with the requirements of the Jackson-Vanik amendment, reach a bilateral agreement with the United States, and have its status approved by the Congress. The President may also waive the requirements of Jackson-Vanik, which has for political reasons come to mean a policy decision far beyond the original concern for emigration, and immediately upon this legislation becoming law, extend MFN to Cambodia. Cambodia would be eligible to receive MFN by virtually the same process that all other non-MFN countries, except the Baltics, have received it since the signing of the 1974 Trade Act.

I want to emphasize that if this bill becomes law, the President will retain his prerogatives to respond to developments in Cambodia.

Despite some disturbing developments in Cambodia since I introduced this legislation for the first time last May, I remain hopeful for the future of Cambodia. Cambodia's democracy is a very fragile and incomplete one, but it is a democracy. It needs careful attention to fully develop and sustain the rights of the Cambodian people. Promoting economic development through open markets would offer considerable support for Cambodian democracy and demonstrate American concern for its future. I encourage my colleagues to

act on legislation to grant MFN to Cambodia at the earliest possible opportunity.●

By Mr. THOMPSON (for himself, Mr. ASHCROFT, Mr. ABRAHAM, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. FRIST, Mrs. HUTCHISON, Mr. INHOFE, Mr. MACK, Mr. PACKWOOD, Mr. SMITH, and Mr. THOMAS):

S.J. Res. 21. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT

Mr. THOMPSON. Mr. President, today, I, along with Senator ASHCROFT, will introduce a joint resolution to impose term limits on Members of Congress. This legislation will limit Members of the Senate to two terms and it will limit Members of the House to three terms. The time has come to pass this legislation. It is needed and it has the overwhelming support of the American people. In fact, never has there been an idea so popular that has received so little attention by the U.S. Congress. It is because term limits does not have to do with spending other people's tax money or regulating other people's lives as is the case with most legislation coming out of Congress. This provision, term limits, hits much closer to home. It calls for sacrifice or at least adjustment in the lives of ourselves. At least, with regard to those in Congress who see the Congress as a permanent career. It is time that the Congress put aside the personal interest that individual Members might have and respond to the will of the people, the good of the country, as well as the good of Congress as an institution.

Because term limits is not about punishing Congress or denigrating the institution of Congress, although it has come to the point where many in our society would love to do so. On the contrary. Term limits would strengthen and elevate Congress in the eyes of the American people at a time when it is most needed. Today people feel alienated from their Government and have concluded that Congress does not have the will to deal with the tough challenges that face this country in the future. And who can disagree with that notion. Yesterday we passed out of the Judiciary Committee a balanced budget amendment to the Constitution. I have concluded, as I think most others have, that passage of a balanced budget amendment is absolutely necessary if we are going to avoid bankrupting the next generation. The reason is that Congress doesn't have the political will to do what we all know is necessary. Therefore, we must resort to the straitjacket of a balanced budget amendment. It is a reflection upon us and upon our current system that such a straitjacket is needed. But constitutional amendments with regard to specific matters cannot indefinitely save us from ourselves. We must start developing the will that is necessary to face tough issues. To me that means that we must have more people coming into the system who view service in the U.S. Congress not as a permanent career but as an interruption to a career. I believe that term limits would more likely produce individuals who would take on the tough challenges, since their careers would not be at stake every time they did so. It would also draw them into the system and encourage more citizens to run for office since they would not automatically face the difficult uphill struggle of running against a well-entrenched, well-financed incumbent.

There have been many Members who have served much longer than the limitations of this legislation would allow. A case can be made for the proposition that up until recently our current system has served us pretty well. There is no need to argue that point. However, different times and different circumstances require different measures. As the Federal Government has grown there has been a proliferation of special interest groups each with their demand on the Treasury and each holding a carrot and a stick for every Member of Congress. The carrot is political and financial support. And the stick is mobilizing of their forces in order to try to end a Member's career. So every time a Member takes a tough stand for the benefit of those yet unborn, who do not have votes, his career is on the line. For a Member whose entire future is based upon indefinite continued service, these forces are too often overwhelming. So we now have a $5 trillion debt and a deficit that will start to skyrocket again in 1998. Apparently, we have decided to let our children and grandchildren make the tough choices. That's not being responsible. Surely, we are better than that. We owe it to them to take the measures necessary to give us the best chance of putting ourselves in the position to deal with such problems. That is why we need term limits and I urge my colleagues support.

Mr. ASHCROFT. Mr. President, 1994 was a watershed year in America. Our people spoke with a clarity and intensity seldom heard in the halls of politics. Their voices reverberated across the continent like the revolutionary shot heard round the world at Lexington and Concord two centuries ago.

The voters' voice was a clarion cry for revolution in Washington, DC—a revolution that returns the right of self-governance to the people.

We, the American people, are self governing. We are free people. We have the right to govern ourselves. We have spilt American blood not only across this continent, but around the globe, to preserve our right to self-government.

Fifty years ago, to win the Battle of the Bulge, commanders compelled the cooks, the clerks, and the corpsmen to join the front lines and to defend our freedom of self-governance. For victory, all had to fight, all were necessary, none were excluded. Well, we again must invite everyone to join the battle and participate in victory for self-governance.

Those of us who were in the trenches of politics this year heard the battle cry for reentry by the public into the public policy arena. The citizens of this Nation are determined to regain the right to participate in their government. They want to reopen the door to self-governance—a door that too often has been slammed in their face. We must not slam it in their face again.

The people want the right to self-governance. They want the opportunity to decide on term limits.

Some say that the States can decide on term limits, but the courts have struck those statutes down almost uniformly. In one remaining case, the Arkansas case, the Attorney General, the executive branch, has slammed the door in the face of the people, saying they have no right to make such a determination; States and the people have no right to establish term limits, the executive branch says.

The judicial branch considering the case is likely to slam the door, as well, saying the people have no right to chart the course of their own future, to establish limits on the terms of those of us who have the privilege of representing the people in making public policy decisions here in Washington.

Congress, then, the last remaining branch of Government, holds the key to opening the door of self-governance to the people.

Back in 1951, the Congress sent to the American people the opportunity to enact term limits for the President. Congress could not enact them, but it called upon the people to make a judgment to participate in the process of public policy development.

Presidential term limits were not imposed by the Congress. The door of decisionmaking was swung wide for the people of this great country to decide whether or not they wanted term limits for the President. Indeed, they did decide; they participated. It was good public policy. They ratified the 22nd amendment.

The question is not whether we will provide term limits to America. The question is whether or not we will allow the American people the privilege of participating in public policy determinations, whether we will let the American people decide for themselves whether or not they want term limits for Members of the U.S. Congress.

I have a hint about what the American people believe and how they think. Twenty-two States have already overwhelmingly endorsed this concept. And of the States given the opportunity to make such a decision, the people voting in those States almost uniformly and without exception have endorsed the understanding that people should not go to Washington for an entire lifetime, but should go expecting to return from public service.

The question then is, will we let the people decide or will we slam the door of self-governance in the face of the American people again? We must let the people decide.

It is time for us to acknowledge again the principle of self-governance. Let the people decide.

It is time that we trust our people, the people of America, as our forefathers did. Let the people decide.

Let us demolish the misleading myth that Congress exists to protect people from themselves. We must instead respect the reality that there is wisdom in the people. We must acknowledge the reality that self-governance is not simply a politically expedient idea, it is, in fact, governmentally beneficial.

The people are eager to participate in shaping the tomorrows in which they live and in which all of us work. They are demanding the opportunity to decide whether or not to limit the terms of Members of this body and of the U.S. House of Representatives.

As servants of the people, we must pass a resolution on term limits that recognizes that term limits cannot be in the exclusive province of the House or Senate, but this is a decision to be reached by the American people. This is an opportunity for self-governance.

They have spoken with clarity and intensity this year, saying they want us to reopen the door of opportunity to decisionmaking and let them decide. I submit that we must respond to their call; that we must pass a resolution on term limits and thereby let the people decide to enact or reject term limits as they would apply to the U.S. House of Representatives and the U.S. Senate.

Mr. BOND. Mr. President, my colleague from Missouri comes to the floor for his first floor statement on an issue that will not surprise any of his fellow Missourians, and that is a message of change.

Change is what JOHN ASHCROFT talked about so clearly during his campaign, and now he is doing exactly what he told the people of Missouri he would do if they sent him here—to be a leader for change.

I take great pleasure in cosponsoring this legislation for term limits, because I think this is a very important first step toward doing actually what the people so clearly indicated they wanted done last November 8. It is no surprise to me that JOHN ASHCROFT is leading the way.

JOHN is an old and very dear friend. I have come to know him as an American patriot. He believes in this country and its people. He is able to cut through the fog of confusion that so often surrounds public policy issues. Missourians know him as a plain speaker in the finest Missouri tradition. He knows what he believes and how to say it so everyone knows just exactly what he believes. We once had a President with the same reputation from Missouri. What JOHN ASHCROFT believes is shaped by an upbringing that reflects the essence of middle-American values, its traditions and beliefs.

JOHN is one of three boys raised in Springfield, MO. His family was modest of means, but rich in respect for their community, for each other, and for their God.

Earlier this month, JOHN's father, Dr. J. Robert Ashcroft a highly respected educational and religious leader, passed away after returning home to Missouri from witnessing JOHN's swearing-in as a U.S. Senator in this Chamber. Dr. Ashcroft's passing was a great loss to Missouri, but his contribution, his memory, and his commitment will live on. We have suffered the loss along with JOHN and his family, but we know that he knew his son would continue his efforts to serve, and to serve his fellow man. We all give thanks for Dr. Ashcroft's life and the many lives which he touched while he was with us.

JOHN ASHCROFT has served as Missouri's State auditor—he followed me in that job—and then he served as attorney general, following John Danforth. He followed me as Governor. He understands State government and its relationship with the Federal Government. He also knows something about cleaning up the problems that have been left behind.

At a time when Congress will reexamine the relationship and hopefully return much of the decisionmaking back to the States, Americans will have no better leader than JOHN ASHCROFT.

So we hear today from a plain-spoken Missourian what will undoubtedly be the first of many clearly reasoned, morally grounded floor speeches from our good friend, JOHN ASHCROFT.

I would say that our fellow Senators will understand very well his contributions. We value JOHN ASHCROFT's friendship. We welcome him and his wife, Janet, to Washington. I am confident that all my colleagues will come to know and respect him as I have. It will be a great and very meaningful friendship for all Members.

By Mr. GRAMS (for himself, Mr. LOTT, Mr. INHOFE, Mr. THOMAS, Mr. GRAMS, and Mr. MACK): Senate Joint Resolution 22. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

THE TAXPAYER PROTECTION BALANCED BUDGET AMENDMENT

● Mr. GRAMS. Mr. President, I am today introducing legislation calling for a balanced budget amendment to the Constitution. I am pleased to be joined by the distingshed majority whip, Senator LOTT, and my colleagues, Senate INHOFE, and THOMAS.

This legislation is what the American people are calling for. It balances the budget, but ensures that it is not balanced on the backs of the American taxpayers.

There is no question that Congress must pass a balanced budget amendment and send it to the States for ratification. For years, Washington has been racking up deficits. In the process, we've racked up $4½ trillion national debt. And sadly, we've got very little to show for it.

Without the balanced budget amendment, Congress will continue it deficit-digging, debt-building ways. That's bad news for the taxpayers and worse news for our children.

If you look at every so-called deficit reduction package Congress has passed in the last decade, you'll find that each one follows a consistent formula. Raise taxes now. Cut spending later.

Tragically, however, once Congress raised in taxes, it always forgot about the spending cuts. So, year after year, taxes would go up, spending would go up, and the deficit would go up, too. It's time to put an end to this madness.

That's why I am today introducing a taxpayer protection balanced budget amendment in the Senate. My amendment would require a three-fifths super majority vote in both houses of Congress to raise taxes.

A supermajority requirement is the best way to show the American taxpayers that Congress is serious about balancing the budget through spending cuts, and not through higher taxes.

That's what I promised the taxpayers of Minnesota during my campaign for the U.S. Senate. That's what they elected me to do. That's what my bill delivers.

Is there enough support in Congress to pass it? If we listen to the folks back home there sure ought to be.

A poll released today by the American Conservative Union that shows that the American people overwhelmingly support the supermajority requirement.

In fact, two thirds of those who already support a balanced budget amendment say that without a supermajority provision, the bill would be a sham.

The people have spoken. A balanced budget must be achieved through cuts in Government spending. Americans are willing to do that, but they aren't willing to be patsies for a big-spending government that just hasn't learned when to say "no."

The supermajority requirement is simply good government, and Americans support it just as they support the $500 per-child tax credit. They're tired of watching their paychecks grow smaller while Washington grows bigger.

They voted for change last November, and it's our job to see that they get it.

That's what's best for the taxpayers, that's what's best for our children, that's what's best for Minnesota, that's what's best for America.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 11

At the request of Mr. KYL, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 11, a bill to award grants to States to promote the development of alternative dispute resolution systems for medical malpractice claims, to generate knowledge about such systems through expert data gathering and assessment activities, to promote uniformity and to curb excesses in State liability systems through federally-mandated liability reforms, and for other purposes.

S. 22

At the request of Mr. DOLE, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 22, a bill to require Federal agencies to prepare private property taking impact analyses.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 194

At the request of Mr. MCCAIN, the names of the Senator from Arizona [Mr. KYL] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 194, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 218

At the request of Mr. MCCONNELL, the names of the Senator from Kansas [Mr. DOLE] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 218, a bill to repeal the National Voter Registration Act of 1993, and for other purposes.

S. 228

At the request of Mr. BRYAN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and Congressional employees for retirement purposes.

S. 230

At the request of Mr. DOLE, the names of the Senator from California [Mrs. BOXER] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 230, a bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

AMENDMENT NO. 144

At the request of Mr. BUMPERS, the names of the Senator from Florida [Mr. GRAHAM], the Senator from North Dakota [Mr. DORGAN], the Senator from North Dakota [Mr. CONRAD], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Amendment No. 144 proposed to S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential government priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

SENATE CONCURRENT RESOLUTION 2—RELATIVE TO THE REPUBLIC OF CHINA

Mr. DORGAN submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 2

Whereas the trade surplus of the People's Republic of China with the United States has exploded in recent years, increasing from $3,500,000,000 in 1988 to about $30,000,000,000 in 1994;

Whereas the United States share of the People's Republic of China's wheat imports has decreased from 52 percent in 1988 to between 30 and 40 percent in the past 5 years;

Whereas the Government of the People's Republic of China has chosen to increase its purchases of wheat from other exporting nations despite the incentives the United States offers to the People's Republic of China to make United States wheat competitive in the world market; and

Whereas the People's Republic of China's reduction in purchases of United States wheat during a period of rapid growth in the People's Republic of China's trade surplus with the United States aggravates the serious trade imbalance between the 2 nations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President, acting under his authority in trade matters, should insist that the Government of the People's Republic of China purchase a majority of the wheat it imports from the United States as an indication that the People's Republic of China is concerned about the trade imbalance between the 2 nations and wants to restore a healthy, reciprocal trading partnership.

SENATE CONCURRENT RESOLUTION 3—RELATIVE TO TAIWAN AND THE UNITED NATIONS

Mr. SIMON (for himself and Mr. BROWN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 3

Whereas, China has been a divided nation since 1949, and the governments of the Republic of China on Taiwan (hereinafter cited as ''Taiwan'') and the People's Republic of China on Mainland China (hereinafter cited as ''Mainland China'') have exercised exclusive jurisdiction over separate parts of China;

Whereas, Taiwan has the 19th largest gross national product in the world, a strong and vibrant economy, and one of the largest foreign exchange reserves of any nation;

Whereas, Taiwan has dramatically improved its record on human rights and routinely holds free and fair elections in a multiparty system, as evidenced most recently by the December 3, 1994 balloting for local and provincial officials;

Whereas, the 21 million people on Taiwan are not represented in the United Nations and their human rights as citizens of the world are therefore severely abridged;

Whereas, Taiwan has in recent years repeatedly expressed its strong desire to participate in the United Nations;

Whereas, Taiwan has much to contribute to the work and funding of the United Nations;

Whereas, Taiwan has demonstrated its commitment to the world community by responding to international disasters and crises such as environmental destruction in the Persian Gulf and famine in Rwanda by providing financial donations, medical assistance, and other forms of aid;

Whereas, the world community has reacted positively to Taiwan's desire for international participation, as shown by Taiwan's continued membership in the Asian Development Bank, the admission of Taiwan into the Asia-Pacific Economic Cooperation group as a full member, and the accession of Taiwan as an observer at the General Agreement on Tariffs and Trade as the first step toward becoming a contracting party to that organization;

Whereas, The United States has supported Taiwan's participation in these bodies and indicated, in its policy review of September 1994, a stronger and more active policy of support for Taiwan's participation in other international organizations;

Whereas, Taiwan has repeatedly stated that its participation in international organizations is that of a divided nation, with no intention to challenge the current international status of Mainland China;

Whereas, the United Nations and other international organizations have established precedents concerning the admission of separate parts of divided nations, such as Korea and Germany; and

Whereas, Taiwan's participation in international organizations would not prevent or imperil a future voluntary union between Taiwan and Mainland China any more than the recognition of separate governments in the former West Germany and the former East Germany prevented the voluntary reunification of Germany;

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Taiwan deserves full participation, including a seat, in the United Nations; and

(2) the government of the United States should immediately encourage the United Nations to establish an ad hoc committee for the purpose of studying membership for Taiwan in that organization and its related agencies.

Mr. SIMON. Mr. President, there are more than 180 countries in the United Nations. They range from the world's largest countries in area, in population, in economic output, down to some very small countries indeed, countries that are smaller than some counties in my own State of Illinois. I have nothing against those small countries being members of the United Nations. On the contrary, I feel that any country capable of making a real contribution to the activities of the United Nations should have the opportunity to do so as a full member of that organization.

For that reason, it is all the more unfortunate that a country of 21 million people, a country that has made great strides in consolidating democratic institutions and practices, a country that has become a significant economic power and a major contributor to international assistance efforts—that such a country should find itself closed out of the United Nations.

I am speaking, of course, of Taiwan.

Together with my cosponsor, Senator BROWN, I am pleased to submit today a Senate Concurrent Resolution that reaffirms, as the sense of the Senate, what many of us in this Chamber have already concluded: That Taiwan deserves to participate fully in the United Nations as a full member, and that the U.S. Government should encourage the United Nations to begin studying means to bring this about. Congressman SOLOMON introduced an identical resolution, House Concurrent Resolution 8, earlier this month.

I would especially like to call my colleagues' attention to a particular element of this resolution: namely, that in seeking membership in the United Nations and other international institutions, Taipei does not intend to challenge the current international status of Beijing. Rather, Taiwan would seek admission as part of a divided nation. There are precedents for this; this has worked before. East and West Germany were admitted to the United Nations as separate parts of a divided nation; North and South Korea were admitted to the United Nations as separate parts of a divided nation.

I am pleased that, last June, the Senate agreed to by voice vote a similar resolution expressing the sense that Taiwan should be brought into the United Nations. There have been some changes in the political makeup of the Congress since then. I think that is all the more reason, then, that the Senate should go on record and affirm something that has not changed: Our support for Taiwan's integration into international institutions. I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED

UNFUNDED MANDATES ACT

GRAMM AMENDMENTS NOS. 149–150

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments, intended to be proposed by him, to the bill S. 1 to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities and to ensure that the Federal Government pays the costs incurred by those Governments in complying with certain requirements under Federal statutes and regulations; and for other purposes; as follows:

AMENDMENT NO. 149

At the end of the amendment, insert the following:

''( ) AMENDED BILLS AND JOINT RESOLUTIONS: CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amendment form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in paragraph (1) or a supplemental statement for the bill or joint resolution in that amended form.''

AMENDMENT NO. 150

At the end of the amendment, insert the following:

WAIVER.—Subsections (c) and (d) of section 904 of the Congressional Budget and Impoundment Control Act of 1974 are amended by inserting ''408(c),'' after ''313,''.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 151

Mr. LIEBERMAN (for himself, Mr. KERRY, Mr. LEVIN, Mr. LAUTENBERG, Mr. BUMPERS, Mr. DORGAN, Mr. GLENNS, Mr. KERREY, Mr. WELLSTONE, and Ms. MOSELEY-BRAUN) proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill S. supra; as follows:

At the end of the amendment, add the following:

''(6) EXCLUSION.—For purposes of paragraph (1)(B), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

LIEBERMAN (AND OTHERS) AMENDMENT NOS. 151–154

(Ordered to lie on the table.)

Mr. LIEBERMAN (for himself, Mr. KERRY, Mr. LEVIN, Mr. LAUTENBERG, Mr. BUMPERS, and Mr. DORGAN) submitted four amendments intended to be proposed by them to the bill, S. 1, supra; as follows:

AMENDMENT NO. 151

At the end of the amendment, add the following:

''(6) EXCLUSION.—For purposes of paragraph (1)(B), the term ''Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

AMENDMENT NO. 152

At the appropriate place, add the following:

''(6) EXCLUSION.—For purposes of paragraph (1)(B), section 408(c), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

AMENDMENT NO. 153

At the appropriate place, add the following:

''(6) EXCLUSION.—For purposes of paragraph (1)(B), section 408(c), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

AMENDMENT NO. 154

At the appropriate place, add the following:

''(6) EXCLUSION.—For purposes of paragraph (1)(B), section 408(c), the term ''Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

KOHL AMENDMENTS NOS. 155–157

(Ordered to lie on the table.)

Mr. KOHL submitted three amendments intended to be proposed by him to the bill, S. 1, supra; as follows:

AMENDMENT NO. 155

In lieu of the language proposed to be inserted on page 24, line 21, insert the following: ''; and

''(v) the bill, joint resolution, amendment, motion, or conference report provides that any State, local, or tribal government that already complies with the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report shall not be ineligible to receive funds for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the new mandate.

AMENDMENT NO. 156

In lieu of the language proposed to be inserted on page 24, line 21, insert the following: ''; and

''(v) the bill, joint resolution, amendment, motion, or conference report provides that any State, local, or tribal government that

already complies with the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report can be eligible to receive funds for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the new mandate.

AMENDMENT NO. 157

In lieu of the language proposed to be inserted on page 24, line 21, insert the following: ''; and

''(v) the bill, joint resolution, amendment, motion, or conference report provides that any State, local, or tribal government that already complies with the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report shall be eligible, subject to any conditions to receive funds for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the new mandate.

GLENN AMENDMENTS NOS. 158–159

(Ordered to lie on the table.)

Mr. GLENN submitted two amendments intended to be proposed by him to the bill, S. 1, supra; as follows:

AMENDMENT NO. 158

On page 2, line 4, after ''Senate'', insert '', after third reading or at any other time when no further amendments are in order.''.

AMENDMENT NO. 159

At line 2, after ''prohibit'', insert ''or prevent''.

BOXER AMENDMENT NO. 160

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill, S. 1, supra; as follows:

At the end of amendment No. 42 add the following:

SEC. . SENSE OF THE CONGRESS REGARDING ILLEGAL IMMIGRATION.

It is the sense of the Congress that—

(1) the requirements of this Act relating to Federal intergovernmental mandates should apply to—

(A) any provision in legislation, statute, or regulation, that would impose costs upon State, local, or tribal governments to provide services to illegal immigrants; and

(B) any failure of the Federal government to meet a Federal responsibility that results in costs to State, local, or tribal governments with respect to illegal immigrants on or after the date of enactment of this Act of 1995; and

(2) not later than 3 months after the date of enactment of this Act, the Advisory Commission on Intergovernmental Relations should develop a plan for reimbursing State, local, and tribal governments for costs associated with providing services to illegal immigrants based on the best available cost and revenue estimates, including—

(A) education;

(B) incarceration; and

(C) health care.

BINGAMAN AMENDMENTS NOS. 161–163

(Ordered to lie on the table.)

Mr. BINGAMAN submitted three amendments intended to be proposed by him to the bill, S. 1, supra; as follows:

AMENDMENT NO. 161

Insert on p. 13, line 9:

''(7) is a condition of receipt of a Federal license.''

AMENDMENT NO. 162

Insert on p. 13, line 9:

''(7) constitutes a law enforcement provision relating to organized crime.''

AMENDMENT NO. 163

Insert on p. 13, line 9:

''(7) is a requirement for the treatment or disposal of nuclear and hazardous waste.

GRAHAM AMENDMENTS NOS. 164–166

(Ordered to lie on the table.)

Mr. GRAHAM submitted three amendments intended to be proposed by him to the bill, S. 1, supra; as follows:

AMENDMENT NO. 164

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE.

Title III shall take effect on July 1, 1995.

AMENDMENT NO. 165

On page 6, strike line 3 and all that follows through line 10, and insert the following:

''(ii) would reduce or eliminate the amount of authorization of appropriations for—

''(I) Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

''(II) the exercise of powers relating to immigration that are the responsibility or under the authority of the Federal Government and whose reduction or elimination would result in a shifting of the costs of addressing immigration expenses to the States, local governments, and tribal governments; or

AMENDMENT NO. 166

On page 16, between lines 12 and 13, insert the following:

''(iii) if funded in whole or in part, a statement of whether and how the committee has created a mechanism to allocate the funding in a manner that is reasonably consistent with the expected direct costs to each State, local, and tribal government.

BOXER (AND OTHERS) AMENDMENTS NOS. 167–168

(Ordered to lie on the table.)

Mrs. BOXER (for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. REID, and Mr. WELLSTONE) submitted two amendments intended to be proposed by them to the bill, S. 1, supra, as follows:

AMENDMENT NO. 167

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

(a) FINDINGS.—Congress finds that—

(1) there are approximately 900 clinics in the United States providing reproductive health services;

(2) violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

(3) organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

(4) there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

(5) the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services;

(6) violence is not a mode of free speech and should not be condoned as a method of expressing an opinion;

(7) persons exercising their constitutional rights and acting completely within the law are entitled to full protection from the Federal Government;

(8) the Freedom of Access to Clinic Entrances Act of 1994 imposes a mandate on the Federal Government to protect individuals seeking to obtain or provide reproductive health services; and

(9) the President has instructed the Attorney General to order—

(A) the United States Attorneys to create task forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

(B) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Attorney General should fully enforce the law and take any further necessary measures to protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack.

AMENDMENT NO. 168

At the appropriate place insert the following new section:

SEC. . SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

(a) FINDINGS.—Congress finds that—

(1) there are approximately 900 clinics in the United States providing reproductive health services;

(2) violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

(3) organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

(4) there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

(5) the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for

certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with person seeking to obtain or provide reproductive health services;

(6) violence is not a mode of free speech and should not be condoned as a method of expressing an opinion; and

(7) the President has instructed the Attorney General to order—

(A) the United States Attorneys to create task forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

(B) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack.

(c) nothing in this resolution shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution.

NICKLES (AND OTHERS) AMENDMENT NO. 169

Mr. NICKLES (for himself, Mr. DOMENICI, and Mr. SHELBY) proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill S. 1, supra; as follows:

At the end of the pending amendment, add the following:

(6) Notwithstanding any other provision of this Act, an agency statement prepared pursuant to Section 202(a) shall also be prepared for a Federal Private Sector Mandate that may result in the expenditure by State, local, tribal governments, or the private sector, in the aggregate, of $100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year.

LEVIN (AND MCCONNELL) AMENDMENT NO 170

Mr. LEVIN (for himself and Mr. MCCONNELL) proposed an amendment to the bill S. 1, supra; as follows:

On page 12, line 18, insert ''age'' after ''gender,''.

WELLSTONE (AND DODD) AMENDMENT NO. 171

Mr. WELLSTONE (for himself and Mr. DODD) proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill S. 1, supra; as follows:

At the end of the language proposed to be inserted, add the following:

SEC. . CHILDREN'S IMPACT STATEMENT.

Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.

LEVIN AMENDMENTS NOS. 172–177

(Ordered to lie on the table.)

Mr. LEVIN submitted six amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 172

On page 38, after line 25 insert the following:

''SEC. 205. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect with respect to regulations proposed on or after January 1, 1996.''

AMENDMENT NO. 173

On page 26, between lines 5 and 6 insert the following:

(e) REQUESTS FROM SENATORS.—At the written request of a Senator, the Director shall, to the extent practicable, prepare an estimate of the direct cost of a Federal intergovernmental mandate contained in a bill, joint resolution, amendment or motion of such Member.

AMENDMENT NO. 174

On page 17, insert between lines 17 and 18 the following new paragraph:

''(7) COMMITTEE DETERMINATIONS OF MANDATE DISADVANTAGEOUS TO PRIVATE SECTOR; WAIVER OF POINT OF ORDER.—If a committee of authorization of the Senate or the House of Representatives determines based on the statement required under determines based on the statement required under paragraph (3)(C) that there would be a significant competitive disadvantage to the private sector if a Federal mandate contained in the legislation to which the statement applies were waived for State, local and tribal governments or the costs of such mandate to the State, local, and tribal governments were paid by the Federal Government, then no point of order under subsection (c)(1)(B) will lie.

AMENDMENT NO. 175

On page 33, strike out lines 9 through 12 and insert in lieu thereof the following:

SEC. 107. SENATE JOINT HEARINGS ON UNFUNDED FEDERAL MANDATES

No later than December 31, 1998, the Senate Governmental Affairs Committee and the Senate Budget Committee shall hold joint hearings on the operations of the amendments made by this title and report to the full Senate on their findings and recommendations.

SEC. 108. EFFECTIVE DATE.

This title and the amendments made by this title shall—

(1) take effect on January 1, 1996;

(2) apply only to legislation considered on or after January 1, 1996; and

(3) have no force or effect on and after January 1, 2002.

AMENDMENT NO. 176

On page 24, line 18, strike out ''mandate to be ineffective'' and insert in lieu thereof ''mandate to be ineffective as applied to State, local, and tribal governments''.

AMENDMENT NO. 177

On page 14, line 19 strike ''expected''.

On page 22, line 12 strike ''estimated''.

On page 22, line 22 strike ''estimated''.

On page 23, line 2 strike ''estimated''.

On page 23, line 4 and 5 strike ''a specific dollar amount estimate of the full'' and insert in lieu thereof ''the''.

On page 24, line 8 strike ''estimated''.

On page 24, line 15 strike ''estimated''.

DORGAN (AND HARKIN) AMENDMENT NO. 178

(Ordered to lie on the table.)

Mr. DORGAN (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 1, supra; as follows:

At the end of the bill, add the following:

TITLE V—INTEREST RATE REPORTING REQUIREMENT

SEC. 501. REPORT BY BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) REPORT REQUIRED.—Not later than 30 days after the Board or the Committee takes any action to change the discount rate or the Federal funds rate, the Board shall submit a report to the Congress and to the President which shall include a detailed analysis of the projected costs of that action, and the projected costs of any associated changes in market interest rates, during the 5-year period following that action.

(b) CONTENTS.—The report required by subsection (a) shall include an analysis of the costs imposed by such action on—

(1) Federal, State, and local government borrowing, including costs associated with debt service payments; and

(2) private sector borrowing, including costs imposed on—

(A) consumers;

(B) small businesses;

(C) homeowners; and

(D) commercial lenders.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''Board'' means the Board of Governors of the Federal Reserve System; and

(2) the term ''Committee'' means the Federal Open Market Committee established under section 12A of the Federal Reserve Act.

DORGAN AMENDMENT NO. 179

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill, S. 1, supra; as follows:

At the appropriate place, insert the following:

SEC. . CALCULATION OF THE CONSUMER PRICE INDEX.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Chairman of the Board of Governors of the Federal Reserve System has maintained that the current Consumer Price Index overstates inflation by as much as 50 percent.

(2) Other expert opinions on the Consumer Price Index range from estimates of a modest overstatement to the possibility of an understatement of the rate of inflation.

(3) Some leaders in the Congress have called for an immediate change in the way in which the Consumer Price Index is calculated.

(4) Changing the Consumer Price Index in the manner recommended by the Board of Governors of the Federal Reserve System would result in both reductions in Social Security benefits and increases in income taxes.

(5) The Bureau of Labor Statistics, which has responsibility for the Consumer Price Index, has been working to identify and correct problems with the way in which the Consumer Price Index is now calculated.

(6) Calculation of the Consumer Price Index should be based on sound economic principles and not on political pressure.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) a precipitous change in the calculation of the Consumer Price Index that would result in an increase in income taxes and a decrease in Social Security benefits is not the appropriate way to resolve this issue; and

(2) any change in the calculation of the Consumer Price Index should result from thoughtful study and analysis and should be a result of a consensus reached by the experts, not pressure exerted by politicians.

DORGAN (AND OTHERS) AMENDMENT NO. 180

(Ordered to lie on the table.)

Mr. DORGAN (for himself, Mrs. KASSEBAUM, AND MR. REID) submitted an amendment intended to be proposed by them to the bill, S. 1, supra; as follows:

On page 38 after line 25, insert the following:

SEC. 205. TERMINATION OF REQUIREMENTS FOR METRIC SYSTEM OF MEASUREMENT.

(a) IN GENERAL.—Subject to subsection (b) and (c) and notwithstanding any other provision of law, no department, agency, or other entity of the Federal Government may require that any State, local, or tribal government utilize a metric system of measurement.

(b) EXCEPTION.—A department, agency, or other entity of the Federal Government may require the utilization of a metric system of measurement by a State, local, or tribal government in a particular activity, project, or transaction that is pending on the date of the enactment of this Act if the head of such department, agency, or other entity determines that the termination of such requirement with respect to such activity, project, or transaction will result in a substantial additional cost to the Federal Government in such activity, project, or transaction.

(c) SUNSET.—Subsection (a) shall cease to be effective on October 1, 1997.

On page 41, between lines 2 and 3, insert the following:

(4) TREATMENT OF REQUIREMENT FOR METRIC SYSTEMS OF MEASUREMENT.—

(A) TREATMENT.—For purposes of paragraphs (1) and (2), the Commission shall consider requirements for metric systems of measurement to be unfunded mandates.

(B) DEFINITION.—In this paragraph, the term ''requirements for metric systems of measurement'' means requirements of the departments, agencies, and other entities of the Federal Government that State, local, and tribal governments utilize metric systems of measurement.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, February 7, 1995, at 9:30 a.m., in room 332 of the Russell Senate Office Building. The topic for the hearing is ''What Tax Policy Reforms Will Help Strengthen American Agriculture and Agribusiness?'' For further information, please contact Katherine Brunett of the Agriculture Committee staff at 244–9778.

Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, February 14, 1995, at 9:30 a.m., in room 332 of the Russell Senate Office Building. The topic for the hearing is ''What Regulatory Reforms Will Help Strengthen Agriculture and Agribusiness?'' For further information, please contact Terri Nintemann of the Agriculture Committee staff at 244–3921.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, January 19, 1995, in open session, to receive testimony on the condition of the Armed Forces and future trends.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, January 19, 1995, session of the Senate for the purpose of conducting a hearing on the issue of the nomination of Robert Pitofsky, of Maryland, to be Federal Trade Commissioner.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meeting during the session of the Senate on Thursday, January 19, 1995, for purposes of conducting a full committee oversight hearing which is scheduled to begin at 2 p.m. The purpose of the hearing is to review the implications of the North Korean nuclear framework.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on oversight of Jobs Corps, during the session of the Senate on Thursday, January 19, 1995, at 10 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, January 19, 1995, at 9:15 a.m., to hold hearings on Senate committee funding resolutions. The committee will receive testimony from the chairmen and ranking members of the following committees: Intelligence, Appropriations, Labor, Indian Affairs, Commerce, Banking, Governmental Affairs, Veterans' Affairs, Armed Services, Environment.

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

ADDITIONAL STATEMENTS

CHECHNYA AND THE FUTURE OF RUSSIAN CIVIL SOCIETY

● Mr. SIMON. Mr. President, I am sure that, like me, my colleagues in this Chamber have been appalled by the pictures coming out of Chechnya. There is a grim familiarity to the events taking place there. Massive military force sent by Moscow to take on lightly armed, or unarmed, civilians: this is something we saw in Hungary in 1956, in Czechoslovakia in 1968, in Afghanistan in 1979. We hoped we wouldn't see it again.

With Chechnya, though, we are also seeing something new, and very significant. With the exception of the ultranationalists on the one hand, and the diehard pro-Yeltsin camp on the other, Russian public opinion has risen up in outspoken opposition to a war they feel is not worth the cost. Not worth the cost in lives; not worth the cost in money; not worth the cost to Russia's name in the world community.

Freedom of speech is one of the foundations of a democratic system, and there's no guarantees that that freedom, or that democracy itself, have taken permanent root in Russia. But the reaction of the Russian public to the war in Chechnya is a heartening indication that the first shoots of a civil society are beginning to appear in Russia.

In a recent column William Safire makes this point very well, contrasting the tumultuous energy of Russia's political environment with the deceptive stability of one-party rule in China. I ask that Mr. Safire's column ''Yeltsin's Tiananmen,'' be printed in the RECORD in full.

The column follows:

YELTSIN'S TIANANMEN

WASHINGTON.—Which great power is more unstable today—China or Russia?

The quick answer, of course, is Russia. The elected leader, Boris Yeltsin, is besieged in Moscow after his bloody siege of Grozny, capital of the Connecticut-sized breakaway republic of Chechnya.

Russian television showed vivid pictures of the bombing of that city even as it showed Yeltsin saying it wasn't so; then the cameras showed Yeltsin upbraiding his Defense Minister for making him look like a liar.

As Helmut Kohl telephoned to tell him that world opinion frowns on the savage method his Russia Federation is using to preserve its borders, Bill Clinton wrote a ''Dear Boris'' letter reaffirming support of Federation unity but stressing how ''distressed'' he is at civilian deaths and suggesting mediation by an organization of 53 nations.

What's Yeltsin to do? The Chechens are dead serious about secession. If Russia lets Chechnya go, other Causasian dominoes will fall and Moscow will be denied the Caspian oil it needs to rule a hundred nationalities across 11 time zones.

He tried negotiation, which was met by a declaration of independence; he tried an internal coup, which flopped; now he's trying force, which is bringing world obloquy on his head because the Chechens are fiercely fighting for their homeland and the Russian Army has no heart for a lengthy guerrilla battle, especially after its loss in Afghanistan.

All that—added to Yeltsin's personal punchiness and isolation—is why Russia appears unstable. We tend to equate the future of democracy with the future of Yeltsin, who is on his last leg.

But consider the political miracle taking place in Moscow today. An unpopular and unjust war is being denounced in the Parliament, with reformer Grigory Yavlinsky, openly calling for Yeltsin's resignation. The military is publicly divided between conscience-stricken warriors and hard-line incompetents. Free speech is spilling out all over.

The newspapers, after centuries of czarist and Communist docility, are crusading: a picture of Defense Minister Pavel Grachev is captioned ''the most talentless commander in Russia.'' And the television crews are bringing home the horror of the war just as American cameramen did in Vietnam, with similar impact on Russian public opinion.

This is wonderful. The world should be proud of the Russian people, who should be prouder of themselves for exercising their new-found freedom to debate a great issue.

Contrast that democratic turmoil to the facade of ''stability'' in China. With the death of Deng Xiaoping imminent, the leadership is cracking down on dissidents.

By jailing its leading independent thinkers, the regime in Bejing reveals its inherent weakness. The new imprisonment of the courageous Wei Jingsheng, China's Sakharov, was the tip-off that the leadership fears a popular uprising, this time led by angry workers rather than idealistic students. As Deng sinks, the number of panicky arrests rises.

This demonstrates again that succession in a Communist state is a ruthless wrestle for power within an impenetrable clique. It mocks the assurances of China's Western apologists that a market economy leads to political freedom.

In a litchi nutshell, here's the play:

Yang Shangkun, an old army leader whose powerful family was neutralized by Deng, is close to Adm. Liu Huaqing, the nation's top military leader. They may challenge Deng's protégés, party boss Jiang Zemin and Prime Minister Li Peng, by backing economic chief, Zhu Rongji, or promoting a next-generation politician, Hu Jintao, or by backing Qiao Shi, the former national security adviser and now chairman of the rubber-stamp People's Congress, hereinafter known as ''China's Newt Gingrich.''

What do 1.2 billion Chinese have to say about all this? Zilch. (Analysts in Bejing, aware of the exclusive accuracy of my prediction of Mao's successor in the 70's, will have to puzzle out ''zilch.'') And therein lies real instability.

A monolithic, totalitarian state, repressing the spirit of freedom, only seems secure; we have seen how it can suddenly collapse. A noisy, unruly democratic state, drawing on the legitimacy of free elections, is more secure—no matter how shaky the leadership. That's why Russia is in better political shape than China.●

LEGISLATION RELATING TO THE CLEAN AIR ACT AMENDMENTS OF 1990

● Mr. WARNER. Mr. President, I am pleased today to join as a cosponsor of legislation to require that the Environmental Protection Agency allow States to meet the requirements of the Clean Air Act as intended by Congress by pursuing options that best meet their own circumstances.

As a member of the Committee on Environment and Public Works during the development of the Clean Air Act in 1990, I can confirm that it was recognized that the requirements for an enhanced inspection and maintenance program would require some States to modify their current emission test and repair programs. It was our full intention, however, to allow States to operate a decentralized automobile emissions inspection and maintenance program to meet the requirements of the act.

In developing regulations to implement the enhanced I&M program, EPA did not follow the direction of the Congress and provisions of the statute. Instead, EPA mandated that States operate a centralized testing program by giving States only 50 percent credit toward achieving the 15-percent reduction in emissions if they elected to sponsor a decentralized program.

As States have attempted to work with EPA to develop emission reduction plans that would comply with the act, it has become clear that the Agency is mandating that States implement only one approach. This inflexible approach limits the ability of our States to pursue programs unique to their circumstances. Mr. President, I believe that encouraging States to devise their own programs with assistance from the Federal Government is the crucial element in whether any Federal program is successful or not. As EPA has consistently demanded a centralized testing program which uses the very costly IM–240 equipment, the program is on the brink of failure. States are overwhelmingly rejecting EPA's version of an enhanced I&M program, consumers are losing confidence in the benefits of an automobile emissions program and valuable resources are being wasted.

Mr. President, there is more than one way to ensure that we achieve the maximum amount of automobile emissions reductions in our fight to improve air quality, but EPA is threatening States with the loss of critical highway funds unless States do it only their way.

Mr. President, that is not what the law says and that is not what our States should be required to do.

The Clean Air Act specifically allows for States to demonstrate to the satisfaction of the Administrator that a decentralized program will be equally effective to a centralized testing program. In the case of my State, Virginia has been repeatedly denied the opportunity by EPA to show that their revised decentralized test and repair program would be as effective as a centralized program in meeting air quality standards.

Since early last year, Virginia has attempted to work with EPA to develop a program that would bring the northern Virginia area into compliance with air quality standards. Unfortunately, EPA has been less concerned with the results of my State's emissions reduction plan, than with the process Virginia chooses to achieve these results.

In an effort to comply with the Clean Air Act, Virginia has presented two plans. The first plan was rejected by EPA because it included a decentralized test and repair program with operator certification and more enforcement, as opposed to a fully centralized program operated by State employees or State-hired contractors. The second plan which Virginia has offered has been the subject of extensive discussions, but no final resolution. The last meeting occurred on October 20, 1994, between EPA and Virginia with EPA pledging to respond to the State's proposal. To date, EPA has not responded.

During this time, Virginia has operated under a regulatory determination known as a protective finding for transportation conformity. This designation allows transportation projects to go forward on the assumption that Virginia will soon have an approved emissions reduction plan.

Time is short, Mr. President, and our protective finding expires this month. The EPA has repeatedly stated that, without an approved plan, Virginia would be subject to the loss of over $378 million in annual highway funds which Virginia drivers have paid into the highway trust fund. Also, any new transportation projects proposed for addition to our Transportation Improvement Program until Virginia's 15 percent emissions reduction plan is approved.

These are significant penalties because it means that new major highway plans or modifications to existing plans cannot go forward. Not only would approval for Federal projects be denied, State and local approvals for projects on larger roads would be prohibited.

Mr. President, northern Virginia, an area already choking on traffic gridlock that paralyzes our lives daily and results in a tremendous loss of economic productivity, must not suffer from EPA's bureaucratic inflexibility. Should EPA repeal Virginia's protective finding, 138 million dollar's worth of northern Virginia projects in 1995 alone would be impacted.

Mr. President, these are extremely harsh penalties that bear no relationship to the issues at hand. Virginia has committed to improving air quality to meet the Federal standards. We only ask that we be permitted as provided in the law to select the most cost effective options that will achieve these important goals.

As a member of the Committee on Environment and Public Works, I look forward to working with my colleagues so that we can take prompt action on this important legislation.●

COL. SETH WARNER

● Mr. LIEBERMAN. Mr. President, I rise today to honor one of Connecticut's great Revolutionary War heroes, Col. Seth Warner. Tragically, the accomplishments of this extraordinary American have not been properly heralded by history, and I believe the time is past due for us to honor him. I salute the dedication of Edward S. Caco, Jr., of Roxbury, CT, in researching and recognizing the Colonel's great work and life. I have set forth below a discussion of Colonel Warner's life prepared by Mr. Caco. I can only hope this entry, by Mr. Caco, describing the importance of the Colonel's contribution to American independence, helps to bring the recognition he deserves. I sincerely thank Mr. Caco for his fine work on Colonel Warner's life.

* * * Colonel Seth Warner was born in Roxbury on the 17th day of May, 1743. As a man, he was over six feet tall, and was courageous and commanding. Engaged in the controversy with New York, he was fully prepared to engage in our Revolutionary struggle. He was personally present in many engagements in the northern colonies. It has been reported that General Washington relied especially upon Colonel Ethan Allen and Colonel Seth Warner [who were cousins], considering them as among the most active, daring, and trustworthy of this officers.

Not long after the victories of Ticonderoga and Crown Point, Seth Warner was appointed as a Delegate to the Continental Congress. Shortly thereafter, he was enrolled as part of the regular Continental Army. Seth Warner was appointed the Commander of the regiment by the officers and men, who felt that his calm and wise judgment would serve them best in the serious business of war that lie ahead.

It was at Longueil Canada in 1775 that Colonel Warner fought a rear guard action against the advancing enemy, covering the retreat of General Sullivan. The retreat became a route and it was Colonel Warner that protected the rear and brought up the sick and wounded. The stricken and defeated army made its way to the safety of Crown Point, and later on to Ticonderoga. Though the Colonel was successful in carrying out his orders, it was this flight from the enemy forces which broke his iron constitution and began the malady that would eventually take this life.

Several months later in July of 1776, Seth was again called upon to fight a rear guard action to cover the retreat of General St. Clair's forces from Ticonderoga. At Hubbardton, along with units from New Hampshire and Massachusetts, the Colonel made a stand against a combined unit of British and Hessian forces. During this engagement the Massachusetts unit scattered, and the New Hampshire unit surrendered, leaving Colonel Warner and his men to stand alone. Though his unit was forced off the field, Colonel Warner was entirely successful in the duties to which he was assigned. * * * In spite of his failing health, the Colonel carried out his orders, led his men into battle, and was to have no rest as Burhoyne was on the march.

In August of 1777, General Stark was engaging the Hessians of Burgoyne's command at Bennington. The first action had been fought and the Hessians were already winning the day. A powerful enemy reinforcement was taking to the field when Seth arrived with his regiment. General Stark ordered Seth to ride on the line and order a retreat into the middle of Bennington. Seth refused that order, much to General Stark's surprise, stating instead that he was certain that he could get his men into action on the ground. General Stark agreed and the day was won. Once again it was Colonel Seth Warner's fiery courage and steady judgment that had turned the tide of the battle. General Stark stated in his report to General Washington, ''Colonel Warner's strategy and judgment was of extraordinary service to me.'' In recognition of his valor and service, Seth was promoted to the full rank of Colonel.

It has been said that if Seth had retired from the service at this time, he may have to a certain extent retained his health. However, with Seth the needs of his burgeoning country always took precedence over his own welfare, as well as the needs of his own family. With failing health, Seth continued to fight the ravages of the Indians and the ever present Tories. Not one to remain idle for any length of time, Seth led a scouting party in 1780. It was on this mission that Seth was ambushed by the Indians. In the melee of battle the two officers by his side were killed and Seth received two bullets through his arm. This was the end of Colonel Seth Warner's active military career.

He retired to his Vermont residence for two years to recuperate. In 1783 Seth returned to his native Roxbury and established a homestead. Still in a great deal of pain from his wounds and malady, Seth spent time by the seashore hoping that this would give him some respite. This was to prove fruitless, and he returned to his home where he lingered in suffering and delirium for several months. At times neighbors were needed to assist in his care. Finally, on December 26, 1784, Colonel Seth Warner was relieved of his pain and suffering through his merciful death. * * *

The entry on Colonel Warner's tombstone well summarizes his life.

IN MEMORY OF COLONEL SETH WARNER, ESQ., WHO DEPARTED THIS LIFE DECEMBER 26TH, A.D. 1784. IN THE FORTY-SECOND YEAR OF HIS AGE

Triumphant leader at our armies' head,
Whose martial glory struck a panic dread,
Thy warlike deeds engraven on this stone,
Tell future ages what a hero's done,
Full sixteen battles he did fight,
for to procure his country's right.
Oh! this brave hero, he did fall,
By death, who ever conquers all.

When this you see, remember me.●

ORDINARY HEROES

● Mr. SIMON. Mr. President, all of us watched with agony while a 19-year-old, Nahshon Wachsman, was captured, made a public plea for his life, and then was slain.

People on the Palestinian side, the Israeli side and people of every religious persuasion were hoping and praying that his life would be spared. But it was not.

How do parents face such a tragedy?

The Jerusalem Report has a story about Nahshon's parents. Because it has both the international dimension, and lessons about how to face grief and pain, I ask to insert it into the RECORD at this point.

The article follows:

[From The Jerusalem Report, Dec. 1, 1994]

ORDINARY HEROES

(A month after his son was executed by Hamas kidnappers, only the unshakeable faith of Nahshon Wachsman's parents is enabling them to cope with their grief)

(By Yossi Klein Halevi)

Yehudah and Esther Wachsman's phone doesn't stop ringing. The Jewish National Fund wants to plant a forest in memory of their 19-year-old son, Nahshon, kidnapped and killed by Hamas terrorists in October. A Jerusalem religious school wants Esther and Yehudah to address its students about the dangers of religious extremism. The Kfar Saba municipality wants them as guests of honor at a rally for national unity.

Families afflicted by terror attacks are usually considered victims, not heroes. Yet the Wachsmans, whose quiet dignity during the kidnapping ordeal riveted the country, have become symbols of strength—at a time when Israelis fear that their ethos of courage is slowly being sapped by exhaustion and prosperity. Rabbis who came to the Wachsmans to impart religious inspiration were instead inspired by their faith; Knesset Speaker Shevah Weiss and the commander of the Golani infantry brigade in which Nahshon served emerged from the Wachsman home repeating virtually the same words: We came to strengthen the Wachsmans, but were instead strengthened by them.

Yehudah, in a knitted yarmulke and sandals, and Esther, in a beret and denim skirt, shattered the stereotype of the Israeli Orthodox Jew as extremist and intolerant. Esther appealed to her son's kidnappers to remember that they all worshiped the same God; and the army's failed attempt to rescue Nahshon, Yehudah thanked the Muslims and Christians who had prayed for his son, and offered to meet with the parents of Nahshon's killers. And despite anonymous right-wing callers demanding that he stay away, Yehudah accepted an Israeli government invitation and attended the signing ceremony for the Israeli-Jordanian peace treaty, just days after he completed the shivah mourning period for Nahshon.

The Wachsmans managed to emotionally unite the country, however briefly, in a way it hadn't know in years. Tens of thousands of Israelis, from secularists to ultra-Orthodox, joined prayer services for Nahshon's safety and lit an extra Sabbath candle on the Friday night that he died. Weeks after Nahshon's death, thousands of letters are still coming to the Wachsman home in Jerusalem's Ramot neighborhood—not only from Israelis but from people around the world, many sending poems and taped messages of support.

The Wachsmans insist they are ordinary people; and indeed, the middle-aged, modern Orthodox couple are unlikely heroes. Yehudah and Esther, both 47, are short, sturdy, wide-faced. Yehudah, with a long graying beard, paunch and piercing eyes, speaks with an intensity softened by ironic humor. Esther's little-girl voice—callers for Yehudah often ask her if her father is home—is deliberately calm: The mother of seven sons, she learned to keep steady through the chaos of daily life.

Yehudah and Esther are both children of Holocaust survivors; and that experience affected them in very different ways. Yehudah grew up in Romania and moved to Israel at age 11. The war destroyed his father, who became closed and bitter. ''I saw what anger could do to a person,'' says Yehudah. ''And I

decided that if I ever experienced tragedy, I would react in the opposite way from my father.''

Life provided him with opportunities to fulfill that challenge. One of their sons, 8-year-old Rafael, has Down's syndrome. Yehudah himself lived for years on dialysis, finally undergoing a kidney transplant four years ago which forced him to quit his job as a math teacher and work from his home, selling real estate. Yehudah thought of his father, a broken, silent man shuffling between work and home; and refused to be bitter.

Esther grew up in Flatbush, cherished daughter of Polish survivors. ''I was the national treasure, the consolation,'' she says, with a wry smile. ''I was never allowed to be unhappy. The rule of the house was: Never tell me upsetting news. And of course I wouldn't say anything that would upset my parents.''

Indeed, just after Nahshon's death, Esther had one overriding thought: that her 83-year-old father, silenced by a stroke and living in Queens, mustn't be told. ''The same business: Don't upset them.''

Esther says that, as a teenager, she was a ''typical JAP. If I wore the pink dress on Tuesday that meant I couldn't wear it for another week.'' But then her life changed when she visited Israel in 1967, and fell in love with the country. Back in New York, where she was studying to be a teacher, she felt like a hypocrite, praying for a return to Zion when Zion was so easily accessible. In 1970, she returned to Jerusalem, and got a job helping run a Jewish Agency summer camp for American teenagers. One of the camp counselors was Yehudah Wachsman. Four months later, they married.

Becoming the mother of soldiers—Nachshon and his two older brothers all served in Lebanon—forced Esther to confront mortality, and reconsider the values on which she was raised. ''I spent years glued to the radio, waiting for news,'' she says. ''Living in Israel made it impossible for me to remain what I was.''

Less than a month after the tragedy, the atmosphere in the Wachsman home is deliberately normal. Friends drop by, everyone speaks in conversational tones, the Wachsman boys exchange small jokes. Immediately after the shivah, each of the boys individually approached Esther and Yehudah and said: Let's not allow this home to turn gloomy. ''I realized I had no choice but to go on,'' says Esther. The boys were sent back to school, and Esther resumed her job teaching English at the elite Hebrew University High School. Most of all, the family has tried to maintain the home's relaxed atmosphere—a place where friends of the Wachsman boys feel so comfortable that over the years some have virtually moved in.

Even now, grief doesn't suppress the good-natured teasing that marks Esther and Yehudah's relationship. When they discuss their political positions with me—he supports the peace process with reservations, she opposes it with reservations—they pretend to be exasperated with each other. Esther: ''My husband is unique, there is no one else with quite his point of view.'' Yehudah: ''If she says so, it must be true.'' Then they smile: They are amused, not annoyed, by their differences.

Inevitably, though, the home bears traces of the ordeal. A table in a corner is piled with prayer books and yarmulkes: During the week of the kidnapping, there was non-stop communal praying here. On a makeshift charity box are written words urging those who place money into it to say a prayer for Nahshon's safe return. And mounted on the breakfront is a picture of Nahshon, smiling and wearing a T-shirt with the words: ''I've been drafted.''

Esther manages a smile when speaking of Nahshon. ''He was in an elite unit, the shortest, thinnest kid among big, brawny fellows. They called him the baby of the unit. But he was the one who encouraged them in Lebanon. They used to say to him, 'Nahshon, this is hell, wipe that smile off your face.' And he'd say, 'Everything will be okay, let's just do our job.'

''Nahshon epitomized non-conflict. He couldn't stand it when his brothers fought. If his parents argued about something, he'd say, 'Is it really so important?'''

Esther and Yehudah see that quality of peacemaking as a hint of Nahshon's destiny. Everyone has a mission in life, they believe; and since the kidnapping created such a powerful sense of unity among Israelis, perhaps that was related to Nahshon's mission.

Esther says that, during the entire week of the kidnapping, she was certain that Nahshon would return alive, that the outpouring of prayer around the country would somehow protect him. She doesn't believe those prayers were wasted. ''Prayers don't get lost. Jews prayed for 2,000 years to return to Israel. Our generation made it back. Eventually the time comes for the fulfillment of prayers. The soldiers who tried to save Nahshon could have all been killed—maybe the prayers protected them.''

She rejects self-pity as firmly as religious doubt. ''I don't ask: 'Why me? Why anyone?' Look how many people lost entire families in the Holocaust. You pick yourself up and go on. That's part of Jewish history.''

In fact, both Esther's and Yehudah's fathers lost their first wives and some of their children in the Holocaust. And though neither says so, it is clear that their parents' ability to create new families after the war has strengthened their own life-force.

But for all their optimism and faith, the Wachsmans have an account to settle with God. Esther: ''When Yehuah was on dialysis, I said to God, 'This is as bad as it can get.' Then my son Rafael was born with Down's syndrome and I said, 'OK, God, You can't do anything worse to me than this.' When Nahshon died, I thought, 'You really did do something worse.'

''I work with non-believing people. They think I'm protected from pain by my faith. But the grief is just as severe; the only thing faith does is keep me sane. I'd break down if I didn't believe there was some master plan, that every person was put on Earth for a purpose. But''—her voice turns to an emphatic, almost angry whisper—''it does not lessen the pain.''●

TRIBUTE TO JUDGE GILBERT CALVIN STEINDORFF, JR., RETIRED PROBATE JUDGE IN BUTLER COUNTY, AL

● Mr. SHELBY. Mr. President, I rise today to honor Judge Gilbert Calvin Steindorff, Jr., retired probate judge in Butler County, AL. Judge Steindorff dedicated his life to the service of the citizens of Butler County and for that we are eternally grateful.

Judge Steindorff's first service to his country was a tour of duty in the Army during World War II. In February 1946, he returned to Butler County to help his father run the family business. Not long after his return from France he married Maxine Darby, his wife of nearly 50 years. The couple has one son, Gilbert Calvin Steindorff III, who lives in Montgomery with his wife Debbie and Calvin's grandson, Gilbert Calvin Steindorff IV.

In February 1947, after selling the family business, his service to the citizens of Butler County began. With the support of many influential people in the county, he was chosen from a field of eight applicant to replace Butler County Tax Assessor Frank Herlong at the young age of 21. He served at this post for the next 28 years.

In 1975, then Probate Judge James T. Beeland became ill and would not resign until he was sure Calvin Steindorff would take his place. Calvin has been there ever since. He was well known throughout Greenville and Butler County as one who is ready to listen and eager to help with everything including road work and garbage pickup. His desk was always neat and his demeanor cheerful. The people of the county warmly refer to him as ''Judge.''

Judge Steindorff called his office his second home and is not sure how he will spend his time now that he does not head for the Butler County Courthouse at the crack of dawn every morning. He may spend more time fishing, woodworking, and working on his antique clock collection, but it is certain that many will miss seeing the ''Judge'' regularly on the streets on downtown Greenville.

Judge Gilbert Calvin Steindorff, Jr. has spent his life serving the people of Butler County with devotion, commitment, and selflessness. He is an example to us all.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Bennett Johnston:									
United Kingdom	Dollar		682.00						682.00
France	Franc	7,387.08	1,356.00					7,387.08	1,356.00
United States	Dollar				3,245.15				3,245.15
W. Proctor Jones:									
United Kingdom	Dollar		682.00						682.00
France	Franc	7,387.08	1,356.00					7,387.08	1,356.00
United States	Dollar				3,245.15				3,245.15
Total			4,076.00		6,490.30				10,566.30

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Oct. 7, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Carl Levin:									
China	Dollar		298.68						298.68
Richard Fieldhouse:									
China	Dollar		365.39						365.39
Total			664.07						664.07

SAM NUNN,
Chairman, Committee on Armed Services, Oct. 1, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry Pressler:									
United States	Dollar				3,864,05				3,864,05
United Kingdom	Pound	552.67	849.00					552.67	849.00
France	Franc	6,202.08	1,168.00					6,202.08	1,168.00
Jacqueline Arends,:									
United States	Dollar				2,947.05				2,947.05
United Kingdom	Pound	736.89	1,132.00					736.89	1,132.00
France	Franc	6,202.08	1,168.00					6,202.08	1,168.00
Samuel Whitehorn:									
United States	Dollar				422.13				422.13
Canada	Dollar	554.09	412.27					554.09	412.27
Alan D. Maness:									
United States	Dollar				422.13				422.13
Canada	Dollar	227.49	169.26					227.49	169.26
Total			4,898.53		7,655.36				12,553.89

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, Oct. 14, 1994.

AMENDED—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Earl W. Comstock:									
United States	Dollar		243.62						243.62
Total			243.62						243.62

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, Sept. 14, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Bradley:									
Mexico	Dollar		148.52						148.52
United States	Dollar				906.95				906.95

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mark Foulon:									
Mexico	Dollar		190.36						190.36
United States	Dollar				906.95				906.95
Total			338.88		1,813.90				2,152.78

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Sept. 30, 1994.

ADDENDUM—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Rockefeller:									
Japan	Dollar						1,981.83		1,981.83
Total							1,981.83		1,981.83

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Sept. 30, 1994.

ADDENDUM—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Daniel Patrick Moynihan:									
France	Franc						131.94		131.94
Total							131.94		131.94

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Sept. 30, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Lisa Alfred:									
Burundi	Dollar		142.00						142.00
Egypt	Dollar		600.00						600.00
Ethiopia	Dollar		450.00						450.00
United States	Dollar				2,612.90				2,612.90
T. Scott Bunton:									
Egypt	Pound	2,349.27	693.00					2,349.27	693.00
United Kingdom	Pound	151.06	233.00					151.06	233.00
United States	Dollar				4,138.95				4,138.95
Geryld B. Christianson:									
Austria	Schilling	10,661.78	960.00					10,661.78	960.00
United States	Dollar				972.35				972.35
Christopher J. Walker:									
South Africa	Rand	5,656	1,580.00					5,656	1,580.00
Botswana	Pula	246	460.00					246	460.00
United States	Dollar				3,690.45				3,690.45
Total			5,118.00		11,414.65				16,532.65

Claiborne Pell,
Chairman, Committee on Foreign Relations, Oct. 25, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard Walgren			1,187.00		2,482.85				3,669.85
Gary Reese			1,085.00		2,482.85				3,567.85
Donald Mitchell			884.82		2,482.85				3,367.67
Christopher Straub			816.00		3,239.65				4,055.65
Total			3,972.82		10,688.20				14,661.02

DENNIS DeCONCINI,
Chairman, Select Committee on Intelligence, Oct. 18, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JULY 1 TO SEPT. 30 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Marlene Kaufmann:									
United States	Dollar				2,371.55				2,371.55
Estonia	Dollar		468.00						468.00
Germany	Dollar		232.						232.00
Michael Ochs:									
United States	Dollar				3,945.35				3,945.35
Uzbekistan	Dollar		750.00						750.00
Erika Schlager:									
United States	Dollar				871.15				871.15
Slovakia	Dollar		713.30						713.30
Czech Republic	Dollar		560.00				87.17		647.17
United States	Dollar				1,480.95				1,480.95
Poland	Dollar		925.00						925.00
Samuel Wise:									
United States	Dollar				1,796.35				1,796.35
Czech Republic	Dollar		825.00						825.00
Austria	Dollar		720.00						720.00
Poland	Dollar		555.00						555.00
Total			5,748.30		10,465.35		87.17		16,300.82

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe, Sept. 25, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE REPUBLICAN LEADER OCT 1, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher Dodd:									
Haiti									
Senator John Warner:									
Haiti									
Senator Claiborne Pell:									
Haiti									
Senator Carl Levin:									
Haiti									
Senator Judd Gregg:									
Haiti									
Senator Paul Coverdell:									
Haiti									
Janice O'Connell:									
Haiti									
Christopher Walker:									
Haiti									
Romie L. Brownlee:									
Haiti									
David Lewis:									
Haiti									
Kristen Brady:									
Haiti									
Sally Walsh:									
Haiti									
Delegation expenses: [1]									
Haiti							3,228.68		3,228,68
Total							3,228.68		3,228,68

[1] Delegation expenses include direct payments and reimbursements to the Department of State under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384.

GEORGE J. MITCHELL,
Majority Leader
and
ROBERT J. DOLE,
Republican Leader, Oct. 27, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE FROM JULY 1, TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sharon Waxman:									
Jordan	Dinar	415.80	600.00					415.80	600.00
United States	Dollar				2,568.17				2,568.17
Total			600.00		2,568.17				3,168.17

ROBERT C. BYRD,
President pro tempore, Oct. 7, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JULY 1, TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Kerry:									
Egypt	Pound	2,349.27	693.00					2,349.27	693.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JULY 1, TO SEPT. 30, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United Kingdom	Pound	151.06	233.00					151.06	233.00
United States	Dollar				4,129.95				4,129.95
Kate English:									
Egypt	Pound	2,349.27	693.00	568	168.00			2,917.27	861.00
United Kingdom	Pound	151.06	233.00					151.06	233.00
United States	Dollar				3,272.95				3,272.95
Total			1,852.00		7,570.90				9,422.90

GEORGE J. MITCHELL,
Majority Leader, Oct. 27, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b). FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM JULY 1, TO SEPT. 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Alan K. Simpson:									
Egypt	Pound	2,349.27	693.00					2,349.27	693.00
United States	Dollar				3,648.15				3,648.15
Elise Gemeinhardt:									
Egypt	Pound	2,349.27	693.00	568	168.00			2,917.27	861.00
United States	Dollar				2,121.15				2,121.15
Total			1,386,00		5,937.00				7,323.30

ROBERT J. DOLE,
Republican Leader, Nov. 1, 1994.

A WORD FROM THE ORIGINAL MCGOVERNIK

● Mr. SIMON. Mr. President, two of the people who have lead our Nation, who have been described as extremists wrongfully are our former colleagues, Senator Barry Goldwater and Senator George McGovern.

I had the privilege of chairing the McGovern campaign in Illinois in 1972, and I have never regretted that, and I've always had great pride in what he stood for.

Recently, he had a response to comments of the Speaker of the House that I think merit reproduction in the CONGRESSIONAL RECORD.

At this point, I ask to insert the article into the RECORD.

The article follows:

[From the Washington Post Dec. 1994]

A WORD FROM THE ORIGINAL MCGOVERNIK—MY LIBERALISM HASN'T FAILED; IT JUST HASN'T BEEN DEFENDED

(By George McGovern)

Dramatic Democratic losses in the recent elections have prompted many commentators to assume that the Democratic leadership is too liberal for the majority of Americans. President Clinton, who only two years ago ran as ''a new Democrat'' with a centrist appeal to the middle class, is now said to be an unacceptable ''liberal,'' or a ''leftist,'' or—horror of horrors, according to Newt Gingrich—a ''counterculture McGovernik.''

My problem with this new adjectival status is that in truth I haven't really earned it. Having grown up on the plains of South Dakota in the Great Depression as the son of a politically conservative, fundamentalist Methodist minister; having worked my way through school and college; having served my country as a bomber pilot in World War II; having been elected to high office for nearly a quarter of a century by South Dakota voters (hardly a radical bunch) and having been married to Eleanor McGovern, my college sweetheart, for 50 years, I don't feel very ''countercultural.''

If Rep. Gingrich, as a one-time professor of history, ever looked at my history he would quickly discover that I am as American as apple pie. He would also discover that I have loved this troubled nation more than life itself. Its inaccuracy aside, Gingrich's epithet expresses the prevailing view of the moment: that the liberal tradition with which I am associated is out of favor.

The conventional wisdom holds that the voters threw out the Democrats in November because both the White House and the Congress were still clinging to the ways of liberalism. It is further argued that if the president is to recover in time to be re-elected in 1996, he must quickly move further to the right, or at least cling more vigorously to the middle of the road.

My conviction is that the Democratic Party has lost the confidence of the American people, not because it is too liberal, but because it has neither kept faith with the historic values of liberalism nor defended those values to the public. I also believe that the Republicans are on shaky grounds in that they have not kept faith with the historic values of conservatism. Rightist demagoguery is not conservatism and is not an acceptable formula for ruling the country. Republicans, however, with the considerable help of the loudest radio talk show hosts, at least give lip service to the virtues of conservatism while mercilessly denigrating liberalism, even as Democrats are increasingly embarrassed by any mention of their liberal heritage.

Although I have had personal affection for Bill Clinton ever since he toiled in my unsuccessful 1972 campaign for the presidency, I am aware that he and his current team have been wary of any public association with ''McGovernism.'' Nonetheless, I believe the president has already achieved much that is meritorious—a practical deficit reduction and job-creating agenda, freer international trade, the Family Leave Act, a domestic service corps and a strong crime bill, to name a few accomplishments. But one wonders, notwithstanding their caution about the likes of me, if either the White House (or the newly elected Republican Congress) will escape the continuing voter discontent two years from now.

For all the talk of the Republican resurgence, the public does not have much faith in either major party. Nor does the public believe that it makes much difference in their lives which party is in power. Half of America's eligible voters no longer vote at all; only 39 percent of the potential voters went to the polls this November. The bulk of those who do vote tell the pollsters that they don't expect their lives to improve, even if their party wins.

Both liberalism and the Democratic Party have lost their way because, too often, Democratic politicians neither practice nor defend liberalism. Instead Democrats, like the Republicans, have yielded to entrenched special interests that determine the priorities of government, the nature of government spending, the tax laws, the federal regulatory structure and, of crucial importance, campaign contributions and political influence. The two major parties have converged—and lost public respect—as each has become more and more beholden to the same well-funded and well-organized masters.

For example, neither party is willing to challenge the ''military-industrial complex,'' which President Eisenhower so powerfully warned against in 1960. As a veteran of combat in of World War II, I have always favored a strong national defense. The United States has maintained the strongest defense of any nation in the world for half a century, doubtless considerably beyond what was necessary. Certainly the time is long overdue for us to convert a portion of our skilled and admirable defense forces to urgently needed civilian purposes.

Our defeated World War II enemies, Japan and Germany, rebounded to become major world powers and our toughest competitors by concentrating their best scientists, engineers and managers on modernizing their industries while we and the Soviet concentrated on the cold War. The excesses of our obsolete Pentagon budget are now eating up tax dollars, talent and manpower—all of which we need to rebuild our deteriorating and inadequate bridges and streets, roads

and tunnels, transit and rail systems, water and sewage facilities, parks and forests, environmental and alternative energy systems, moderate-priced homes and wholesome day-care and recreational facilities. If such constructive, job-creating public investments represent ''pork,'' as some alleged conservatives claim, is it not wiser to have more pork for national enhancement and less for Pentagon waste?

Until the Democratic Party honestly confronts and converts a portion of the money and resources still being devoured by our outsized military establishment, it will be neither a liberal party nor a party worthy of public enthusiasm. This is the most glaring weakness of the Clinton-Gore team; it is still living with the budget of a now-dead Cold War era.

Voters are not so discontent with liberalism as with the fact that the whole structure of our government is heavily weighted on the side of those who contribute the most campaign money to the politicians of both parties. These contributions secure the surest access to those politicians once elected and re-elected. The lawyers and lobbyists who serve as the middle-men in these transactions prosper in the nation's capital no matter which party is in power.

There are also excessive federal regulations and red tape that complicate and weaken our private economy—especially small business. I learned this when, after my career in the U.S. Senate, I owned and ran a motel in New England. Excessive regulatory reporting and needlessly complicated paperwork combined with excessive legal litigation and lawsuits of all kinds are adding billions of dollars in waste to our economy.

It is said that the nation's problems stem from liberal rule, that the Democrats, and therefore the liberals, have been running the Congress and the federal government over the last half century. The truth is that for most of the last 50 years, a coalition of Republicans and equally conservative Southern Democrats has dominated the congressional agenda. Furthermore, the White House, since the Truman administration, has been in Republican hands for 28 years and in Democratic hands for 14, including six years by two moderate Southern governors, Jimmy Carter and Clinton, who have avoided even mentioning liberalism.

The results of the eclipse of liberalism have been predictable as they are discouraging. As matter now stand, the government deck is stacked in favor of the well-connected against the ordinary American—on taxes, on government largess and on the impact of the federal budget. Again we are hearing that by favoring those at the top, government actually helps everyone—by encouraging greater investment in job-creating enterprises. There may be some partial truth in this claim of the so-called ''supply-side economics.'' The painful fact of life remains, however, that for the past 30 years, the top 20 percent of the American public has been doing better, while the remaining 80 percent have seen their real income go down.

So when Clinton administration spokesmen talk proudly of economic growth, their words ring hollow to most Americans. Growth continues to be concentrated at the top—not among those in the middle or below. When Republican leaders talk fondly of the tax cuts of the 1980s and promise more of the same, the average American knows that his or her taxes did not go down in the 1980s, nor will they go down in the 1990s.

Permit me to suggest one valuable step that the American people could readily understand and appreciate: extend the existing Medicare system, which now finances health care for Americans 65 and older, to those 6 years of age and under. This is a one-sentence health care bill that requires no new federal bureaucracy. It simply calls on the existing Medicare structure to extend the same benefits to little children that we now provide to older Americans. We could then evaluate its effectiveness for a couple of years and decide whether to extend the same system in stages to others.

It is all well and good to listen to the prescriptions of the ''New Democrats'' or ''neoliberals'' or ''neoconservatives'' to get out of this mess. But I think we can also learn from the wisdom of old-fashioned Democrats and Republicans, from old-fashioned liberals and conservatives. With the harsh and negative language of the recent election still ringing in our ears, it might be well to recall George Washington's warning about ''men who are governed more by passion and party than by the dictates of justice, temperance and sound policies.''

My parents honored the Constitution, advocated fiscal integrity and opposed excessive government intervention. In their personal and public lives, there was no tolerance for lying, dishonesty, hypocrisy or deception. They would have been horrified by the enormous deficit of the 1980s run up during their party's control of the government.

While honoring conservatism and borrowing from it, I am proud to be a liberal because I believe that liberalism is responsible for most of the innovative public initiatives that have enriched the lives of people during my lifetime. Those initiatives—Social Security, Medicare, home mortgage tax deductions, the Tennessee Valley Authority, rural electrification, public assistance for the poor, the national parks and forests, the GI Bill of Rights, farm price supports, school lunches and student loans, civil rights, collective bargaining and environmental legislation—have been a blessing to all Americans. Of course, such liberal initiatives should be, and have been, challenged by a conservative critique to avoid excesses and maladministration.

It is, in fact, the creative tension between conservatism and liberalism that is the genius of American democracy. The nation suffers when either of those traditions is denigrated or undefended, as is now the fate of liberalism.●

DEPARTMENT OF TRANSPORTATION'S PROPOSED REGULATION ON AIRCRAFT DISINSECTION

● Mr. LEAHY. Mr. President, yesterday the Department of Transportation proposed regulations that will inform American air travelers about the chemicals they are exposed to on some international flights. Ten million American air travelers are sprayed without their knowledge or consent with a pesticide that says right on the can ''avoid breathing; avoid contact with skin and eyes.'' Aircraft disinsection is uncomfortable for all passengers. But for the millions of Americans with chronic breathing problems or chemical sensitivities, the effect can be much more serious.

In July, the Department of Transportation, at my urging, published a list of 28 countries that require incoming flights to be disinsected. Since that list was made public, seven of those countries have ended the spraying requirement. That translates into over 5 million Americans a year who will no longer spend 30 minutes of their flight breathing an insecticidal spray that the Centers for Disease Control and Prevention has described as unsafe and ineffective. Those seven countries determined that the health concerns raised by spraying, and their affect on the travel decisions of American passengers, outweighed the questionable benefits of on-board aircraft disinsection.

Imagine the response these regulations will bring. Every American passenger will be informed when purchasing their tickets if the flight they are on will be sprayed with an insecticide. I have been working to bring this information to American travelers for over a year, and I applaud Secretary Peña for taking the necessary steps to accomplish that goal.

Having a list of countries that require spraying does little good if consumers do not have access to that information. Passengers have the right to know before purchasing their tickets whether they will be sprayed with an insecticide during their flight.

While this is a giant step in the right direction, these regulations could be made even more effective. I am concerned that the regulations cover only the on-board spraying of insecticides and not an alternative, residual method. While passengers are not present when the pesticide is applied using the residual method, the chemical remains active in the plane's cabin for much longer—typically 6 to 8 weeks. In addition, the product used for the residual treatment is a possible carcinogen that is not registered for this use in the United States. Any passenger notification should certainly include this process which may pose as much of a threat to the health of passengers and crew as the aerosol spray.

Also, under the Department's regulations, passengers are only informed if the first leg of their flight will be sprayed. Obviously, most passengers have no intention of stopping at that point and might be misled into believing that their flight will not be sprayed. Passengers should be informed at the time of booking if their flight will be sprayed before reaching its final destination.

Of course we cannot completely protect air travelers from this unwelcome dose of insecticide until all countries agree to end this ineffective practice. I introduced a concurrent resolution that was passed in the last Congress urging the United States to take a strong stance against the spraying of pesticides on airlines at the meeting of the International Civil Aviation Organization in the spring.

I am encouraged by the progress that Secretary Peña has made on this issue, and I hope that he will continue to work with myself and other Members of Congress to ensure the safety of all airline travelers.●

NEED FOR MORE DRUG TREATMENT FACILITIES

● Mr. SIMON. Mr. President, we need to make a commitment to expand drug treatment facilities. Recently, there was an article in the Chicago Sun-Times estimating that there are only about 1,000 patient beds available in the Chicago area for people who want treatment. The Chicago Police Department projected that they would have 45,000 narcotic arrests by the end of the year. There is virtually no place for offenders to turn for help.

This problem is not unique to Chicago. Across the country in both urban and rural areas the demand for treatment greatly outweighs the available slots.

Mr. President, I ask that the full text of the article be printed in the RECORD. I hope that my colleagues will read this article and work with me to expand treatment slots.

The article follows:

[From the Chicago Sun-Times, Nov. 14, 1994]

DRUG 'STORES' NEVER CLOSE

(By Mary A. Johnson)

It's early in the day and most Chicagoans are headed for work at their legitimate jobs.

In Lawndale and Garfield Park, hundreds of young black men and women are headed for work, too: to street corners where they'll sell drugs.

Here drugs are sold like candy, Ald. Ed H. Smith said at a recent City Council hearing, pleading with Police Supt. Matt Rodriguez to help in his 28th Ward.

And indeed, drug sales flourish at more than 25 locations this day as Smith drives around the West Side neighborhoods.

It's a ''24/7 operation'' (24 hours a day, seven days a week) that puts money in the pockets of hundreds of people in an area otherwise dry of economic opportunity. This activity is part of an area drug industry estimated to generate as much as $7 billion in annual revenue.

For Mayor Daley, it's one reason to lead a caravan of buses to Springfield Tuesday to fight for passage of a Safe Neighborhoods Bill during the legislative veto session.

The bill would impose stiffer penalties on youngsters who commit drug offenses using firearms.

It also would amend Illinois sentencing laws by extending prison terms for ringleaders of drug-related groups of at least five people. And it requires community service and periodic drug testing for anyone convicted of possession of controlled substances.

Daley and Smith believe the new law would help control what Smith saw coming a decade ago.

For 12 years, he has been alderman for the area bounded by Laramie on the west, Western on the east, Chicago on the north and 16th on the south. Unemployment is about 56 percent.

Nearly 10 years ago, he led a march to complain that police were denying that crack cocaine had hit city streets. These neighborhoods were about to become a ''killing field,'' Smith warned.

His cry today is similar.

''Our local police have come here when we call them, but still, there are too many drugs on the corner,'' Smith said. ''Too many guns loose on the street. The drugs are not leaving the streets fast enough, and it's too easy for drugs to come in. That is a police problem.''

As Smith drives through the neighborhoods, pointing out hot spots for drug activity, dealers flash money and pass bags at St. Louis and Carroll, within a block of Flower Vocational High School. It's a location identified as a drug hot spot two years ago by a Sun-Times investigation.

About 100 young men dispatched to 25 different locations are at work on neighborhood street corners, hustling dime bags of crack cocaine and heroin like newspaper vendors hawk morning papers at major thoroughfares.

In the 4400 block of West Washington Boulevard, three young men, hands buried deep in their pockets, walk briskly to their jobs selling narcotics. Another youngster is already there looking out for police.

In the 4500 block, a group of kids is gathered on the corner, soliciting customers by shouting ''Blow,'' ''Rocks,'' street names for crack and heroin.

On the steps of an abandoned building in the middle of the block, another group waits for roadside customers.

One block to the south, a man with a cane sits in the open doorway of a graffiti-scarred multi-unit apartment building, watching. According to residents, drug dealers kicked in the outer door of the building and drugs are sold in the entranceway.

Police are about to unveil a pilot program in the area that will target public drug dealing by interfering with the marketplace, Rodriguez said.

And he's hopeful that funds available under President Clinton's crime bill will go toward drug treatment and prevention.

''We have no treatment facilities whatsoever to speak of,'' Rodriguez said. ''I believe we are going to have 45,000 narcotics arrests in the city of Chicago this year—and no place for offenders. That's an astronomical number.''

Police officials, residents and elected officials agree that unless drug prevention and job opportunities are increased in the area, nothing is likely to change. ''There are only about 1,000 inpatient beds avaiable in the city of Chicago for somebody who chose to get out,'' said Harrison District police Cmdr. Douglas Bolling. ''In a city of almost 3 million people, it's a joke.

''It's an incredible business. We have to provide job opportunities, perhaps then some of the people won't stand on the corner and warn drug dealers that police are coming.''

In April, the Harrison District began reverse sting operations, arresting drug buyers instead of sellers. Since then, 1,075 narcotics customers have been arrested. Seventy-five percent of the narcotics customers live outside the area.

Police say that every day they arrest as many suspected dealers as they are able to process, but the market is so lucrative, demand so great and workers so plentiful, the arrests haven't dented business.

It has been estimated that the local drug industry employs 10,000 to 20,000 workers, with a customer base of roughly 400,000.

''From about 11 a.m. to 1 a.m. at night, they are like flies on honey,'' Smith said. ''They get up early to go to work just like they are going to a legitimate job.''

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. DOLE. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. There being no objection, the Senate, at 11:55 p.m., recessed until Friday, January 20, 1995 at 10 a.m.