

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 193.

Mr. KOHL. 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 title I, insert the following: Nothing in this Act shall preclude a State, local, or tribal government that already complies with all or part of the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report from considerations for Federal funding 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 mandate.

Mr. KOHL. Briefly, Mr. President, this amendment clarifies a possible problem in the bill that we are creating or will be creating a disincentive for States to take action. Some States may well decide to delay action on necessary and important measures in the hope that Congress passes a Federal law to do the same thing that they are considering doing and then provide some money to do it which otherwise would not be available. This amendment will ensure that States are not ineligible to receive funds if they are already meeting a Federal mandate under existing State law.

We are going to be discussing this tomorrow. I am not asking that the amendment be accepted at this time, of course, but I wanted to present it. I think it is important that we not provide clear disincentives to States to do things environmental or with regard to health care or welfare reform or in any way. Should we be giving the States a message that we want them to just sit around and not do anything if they anticipate that down the road a Federal mandate may be passed that would provide the money for them to do it? It seems to me that is not what we are trying to accomplish here with this bill.

My amendment simply indicates that States will not be ineligible to be considered for funding if, in fact, they are acting in a way that is progressive and that, if a mandate then is passed, they will be eligible to be considered for any money that they may have spent in complying with that mandate.

Mr. KEMPTHORNE addressed the Chair.

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

Mr. KEMPTHORNE. Mr. President, I had some discussion with the Senator from Wisconsin about this, and I understand the intent and I appreciate the intent of this.

It sounds to me like it may be an incentive for States to continue to be progressive and know that there may be ways of doing things in their particular State that do not apply to other States and they ought to proceed.

I would like to have the opportunity later to have a meeting with the Senator from Wisconsin and with the Senator from Ohio and see if we could not work out some language that we could all agree to.

Mr. KEMPTHORNE. Mr. President, again, I think the intent is very appropriate.

Mr. KOHL. Mr. President, I thank the Senator. As the Senator from Idaho and I both know, we have been working together and will continue, I am sure, to work together along with Senator GLENN and Senator ROTH, Senator EXON, to find language that clarifies the purpose and that satisfies all of our needs. I simply want to bring that to the floor. I appreciate your consideration and willingness to work with me on this.

Mr. KEMPTHORNE. I thank the Senator from Wisconsin. 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. CRAIG. Mr. President, I ask unanimous consent to proceed as if in morning business for a period 5 minutes.

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

#### CRISIS IN IDAHO

Mr. CRAIG. Mr. President, last Friday at about this hour I stood on the floor of this Senate to describe a crisis that my State of Idaho and its citizens were at the brink of, a crisis that had resulted from a Federal judge's order to immediately halt all economic activity on nearly 14 million acres of my State.

At the time I spoke, Idaho families and communities stood on the brink of financial ruin, through, frankly, no fault of their own, but because the Federal Government had failed to perform its responsibilities in a framework that was required by the law. Since I spoke on Friday many of my colleagues have asked me about the situation in my State.

I rise this afternoon to give Members a status report to the Senate and, frankly, to the Nation. I say to the Nation, because we will not find this story reported on the front page of any newspaper outside the State of Idaho, probably because nobody would believe the magnitude of the potential catastrophe that was at hand in my State.

This action was taken in the name of saving an important Idaho resource—the salmon, three species of salmon—on the Snake and Columbia River systems of the Pacific Northwest, an anadromous fish that spawns in the headwaters of my State of Idaho and listed as threatened or endangered under the Endangered Species Act.

But surely it was not necessary to shut down virtually all activities on six national forests with only 1 day's warning to save these species of fish. This action occurred because a Federal agency, National Marine Fisheries, had not finished its review of another Federal agency's work. The so-called consultation process was being mired down inside the bureaucracy, whether it was because of staff time or inadequate funding or simply they just had not gotten to it. The bottom line was that it had not been done and a Federal judge reacted.

I received from local officials worried about a situation of nearly 2,000 people being put out of work, a population frightened that on Monday morning, this day, they would not have the jobs to go to that they had demanded immediate action. That injunction was to go through on Friday.

Now our problem was to be, what would happen? So on Friday I got in touch with National Marine Fisheries, Rollie Schmitten at his agency and he assured me the work would be completed on January 31—that is a week from now—that it would satisfy National Marine Fisheries concerned about Forest Service activities and that it might well address the consultation process in its conclusion.

What is important to remember is that the court injunction issued over a week ago was not issued because salmon were being endangered by folks at that moment in time. They were not being placed in jeopardy at that moment in time. But a judge reacted with an injunction that could have stopped jobs in the area and would have threatened thousands of families at this moment in time. In other words, the bureaucratic gridlock could have put my State of Idaho out of business and put thousands of people's jobs on the line.

This brings to the forefront, I think, the most recent example of the balancing act we must pursue when saving a species of plant or animal. Unfortunately, I believe it is the Endangered Species Act that is out of balance, not the people of my State of Idaho, and not their actions, inside the law, inside the Federal rules and regulations of the Forest Service of course now being examined by the National Marine Fisheries.

In the coming days and weeks I will be working with Members of the Senate, and the Idaho delegation will be working to try to resolve this issue. Here is what the problem is in the short-term: National Marine Fisheries must expedite that consultation, accepting the decision of the Forest Service on some of these areas. I have asked the Clinton administration to enact emergency regulations to resolve the problems between the two departments, the National Marine Fisheries and the Forest Service. Rollie Schmitten is going to live up to his

deadline of January 31. I trust they will get that done.

Now, of course, in the long term, the legislation of reauthorization of the Endangered Species Act is what is critical and what has to be done.

Well, did anybody lose their job today? The answer is no. In the last hour, the Justice Department asked for us a stay through the Forest Service, and it was granted by the judge. We have 1 week's breathing room.

But the reason I bring this, of course, is just to give you an idea of the kind of crisis, the frustration, the anger, the depression that the citizens of my State went through. Men and women calling my office crying, frightened that their very jobs would be destroyed and taken away from them because of a bureaucratic boondoggle? Absolutely. It is going on in my State of Idaho right now, it has gone on in other States, and it will continue to go on as long as this Congress closes its eyes, turns its back, and walks away from the responsibility of reauthorizing the acts of Congress, the laws of the land, and in that process, reexamining whether they work or do not work, whether they comply or are out of compliance with the intent of Congress and whether, in fact, they truly address the needs of the American people and the wants, and that is to save plants and animals who are endangered. But we in the Senate know today that that is not the way the act is working.

While for the short term, the Idaho congressional delegation has solved an immediate crisis in Idaho, the clock ticks. What happens on Friday or Saturday of this week if these deadlines are not met, if there is no reality to the human compassion that ought to be expressed by these agencies in carrying out the mandate of their laws or their regulations within the law?

I will continue to report to the Senate as the Idaho congressional delegation and I continue to act to try to resolve this immediate crisis. Mr. President, we have a responsibility in the U.S. Senate now to address the Endangered Species Act so that we can say once and for all, "Yes, we're concerned about the protection of or the development of a mitigating plan to save a given species of plant or animal that may be endangered. But while we are doing it, let us not endanger the lives or well-being of thousands of citizens across this country who, through no fault of their own, have fallen on the tracks of a Federal law that is out of control and the train that rides on those tracks now bears down upon them with the risk of destroying them."

I yield back the remainder of my time.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

#### UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. BINGAMAN. Mr. President, under the unanimous consent agreement that we are operating under, I had reserved three amendments to be offered to this bill, and I now ask unanimous consent that we set aside the pending business so that I can offer the third of those three amendments.

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

#### AMENDMENT NO. 194

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 194.

Mr. BINGAMAN. 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:

On page 25, add after line 25, the following new section:

"(4) *Application to provisions relating to or administered by independent regulatory agencies.*—

Notwithstanding any provision of paragraph (c)(1)(B), it shall always be in order to consider a bill, joint resolution, amendment, or conference report if such provision relates to or will be administered by any independent regulatory agency.

Mr. BINGAMAN. Mr. President, I will reserve my discussion of this amendment until an appropriate time later in the debate, and I look forward to presenting it at that time.

Thank you, Mr. President. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, if I might be able to address the Senator from Idaho and the Senator from Ohio, it was my desire at this point on the amendment that had previously offered by myself, by Senator HARKIN, and others, on the Federal Reserve Board issue, my understanding is Senator HARKIN has submitted a statement for the RECORD. We are concluded on this side. I would like to get the yeas and nays ordered on that amendment, if that is acceptable.

The PRESIDING OFFICER. The Chair advises that it would take unanimous consent to request the yeas and nays at this time.

Mr. DORGAN. Mr. President, I make such request. I ask unanimous consent to order the yeas and nays.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I move to table the amendment, with the unanimous consent then that no further amendments be in order to that particular amendment and that the vote will occur tomorrow. The first vote will be at 4 p.m.

I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is in order to request them at this time.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion to table will occur under the previous order.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask the Senator from Idaho and the Senator from Ohio, I have one additional amendment which the Senator from Iowa has joined me in offering. It is amendment No. 179, which is at the desk. Inasmuch as the Senator from Iowa is here and ready to speak on the amendment, it may be that we could very quickly dispose of that amendment.

I intend also to ask for a recorded vote on that amendment. That amendment deals with the Consumer Price Index and the calculation of the Consumer Price Index and a mandate required, or at least seeming public mandate required, of the Bureau of Labor Statistics of at least one prominent Member of Congress.

We are willing to discuss that, offer it, and seek a recorded vote, and follow the first recorded vote that has already been ordered, if that would satisfy the desire and interests of the two Senators who are managing the bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I think that would be very advantageous for us to keep moving forward on the progress of this bill. So I welcome that sort of discussion.

Mr. DORGAN. Mr. President, is that satisfactory with the Senator from Ohio?

Mr. GLENN. That is satisfactory.

#### AMENDMENT NO. 179

(Purpose: To express the sense of the Senate regarding calculation of the Consumer Price Index)

Mr. DORGAN. Mr. President, I ask that amendment No. 179 that I sent to the desk be reported, and I ask unanimous consent to set aside any current amendment that is pending in order to do that.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 179.