

GRASSLEY] was added as a cosponsor of S. 249, a bill to amend title IV of the Social Security Act to require States to establish a 2-digit fingerprint matching identification system in order to prevent multiple enrollments by an individual for benefits under such Act, and for other purposes.

## SENATE JOINT RESOLUTION 3

At the request of Mr. KYL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall neither exceed revenues for such fiscal year nor 19 per centum of the Nation's gross national product for the last calendar year ending before the beginning of such fiscal year.

## SENATE JOINT RESOLUTION 16

At the request of Mr. BROWN, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Arizona [Mr. KYL], the Senator from Alabama [Mr. SHELBY], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Joint Resolution 16, a joint resolution proposing an amendment to the Constitution of the United States to grant the President line-item veto authority.

## SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the names of the Senator from Maine [Mr. COHEN] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 17, a joint resolution naming the CVN-76 aircraft carrier as the U.S.S. *Ronald Reagan*.

## SENATE JOINT RESOLUTION 19

At the request of Mr. BROWN, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Oregon [Mr. PACKWOOD], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of Senate Joint Resolution 19, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms.

## AMENDMENT NO. 178

At the request of Mr. DORGAN, the names of the Senator from Nevada [Mr. REID] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Amendment No. 178 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 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.

## AMENDMENTS SUBMITTED

## THE UNFUNDED MANDATE REFORM ACT OF 1995

## HATFIELD AMENDMENT NO. 181

Mr. HATFIELD proposed an amendment 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:

At the end of the bill add the following new title:

## TITLE V—

## LOCAL EMPOWERMENT AND FLEXIBILITY

## SECTION 501. SHORT TITLE.

This title may be cited as the "Local Empowerment and Flexibility Act of 1995".

## SEC. 502. FINDINGS.

The Congress finds that—

(1) historically, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) the Nation's communities are diverse, and different needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient local delivery of services to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

(6) many communities have innovative planning and community involvement strategies for providing services, but Federal, State, and local regulations often hamper full implementation of local plans.

## SEC. 503. PURPOSES.

The purposes of this title are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local policy goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal financial assistance to the particular needs of their communities, by—

(A) drawing upon appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal financial assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical service problems.

## SEC. 504. DEFINITIONS.

For purposes of this title—

(1) the term "approved local flexibility plan" means a local flexibility plan that combines funds from Federal, State, local government or private sources to address the service needs of a community (or any part of such a plan) that is approved by the Flexibility Council under section 505;

(2) the term "community advisory committee" means such a committee established by a local government under section 509;

(3) the term "Flexibility Council" means the council composed of the—

(A) Assistant to the President for Domestic Policy;

(B) Assistant to the President for Economic Policy;

(C) Secretary of the Treasury;

(D) Attorney General;

(E) Secretary of the Interior;

(F) Secretary of Agriculture;

(G) Secretary of Commerce;

(H) Secretary of Labor;

(I) Secretary of Health and Human Services;

(J) Secretary of Housing and Urban Development;

(K) Secretary of Transportation;

(L) Secretary of Education;

(M) Secretary of Energy;

(N) Secretary of Veterans Affairs;

(O) Secretary of Defense;

(P) Director of Federal Emergency Management Agency;

(Q) Administrator of the Environmental Protection Agency;

(R) Director of National Drug Control Policy;

(S) Administrator of the Small Business Administration;

(T) Director of the Office of Management and Budget; and

(U) Chair of the Council of Economic Advisers.

(4) the term "covered Federal financial assistance program" means an eligible Federal financial assistance program that is included in a local flexibility plan of a local government;

(5) the term "eligible Federal financial assistance program"—

(A) means a Federal program under which financial assistance is available, directly or indirectly, to a local government or a qualified organization to carry out the specified program; and

(B) does not include a Federal program under which financial assistance is provided by the Federal Government directly to a beneficiary of that financial assistance or to a State as a direct payment to an individual;

(6) the term "eligible local government" means a local government that is eligible to receive financial assistance under 1 or more covered Federal programs;

(7) the term "local flexibility plan" means a comprehensive plan for the integration and administration by a local government of financial assistance provided by the Federal Government under 2 or more eligible Federal financial assistance programs;

(8) the term "local government" means a subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(9) the term "priority funding" means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal financial assistance submitted by a local government having an approved local flexibility program, by—

(A) a person located in the jurisdiction of such a government; or

(B) a qualified organization eligible for assistance under a covered Federal financial assistance program included in such a plan;

(10) the term "qualified organization" means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(11) the term "State" means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

**SEC. 505. PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.**

(a) **PAYMENTS TO LOCAL GOVERNMENTS.**—Notwithstanding any other provision of law, amounts available to a local government or a qualified organization under a covered Federal financial assistance program included in an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(b) **ELIGIBILITY FOR BENEFITS.**—An individual or family that is eligible for benefits or services under a covered Federal financial assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

**SEC. 506. APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.**

(a) **IN GENERAL.**—A local government may submit to the Flexibility Council in accordance with this section an application for approval of a local flexibility plan.

(b) **CONTENTS OF APPLICATION.**—An application submitted under this section shall include—

(1) (A) a proposed local flexibility plan that complies with subsection (c); or

(B) a strategic plan submitted in application for designation as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986;

(2) certification by the chief executive of the local government, and such additional assurances as may be required by the Flexibility Council, that—

(A) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply; and

(B) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal financial assistance programs included in the proposed plan; and

(3) any comments on the proposed plan submitted under subsection (d) by the Governor of the State in which the local government is located;

(4) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under section 509; and

(5) other relevant information the Flexibility Council may require to approve the proposed plan.

(c) **CONTENTS OF PLAN.**—A local flexibility plan submitted by a local government under this section shall include—

(1) the geographic area to which the plan applies and the rationale for defining the area;

(2) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(3)(A) specific goals and measurable performance criteria, a description of how the plan is expected to attain those goals and criteria;

(B) a description of how performance shall be measured; and

(C) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs;

(4) the eligible Federal financial assistance programs to be included in the plan as covered Federal financial assistance programs and the specific benefits that shall be provided under the plan under such programs, including—

(A) criteria for determining eligibility for benefits under the plan;

(B) the services available;

(C) the amounts and form (such as cash, in-kind contributions, or financial instruments) of nonservice benefits; and

(D) any other descriptive information the Flexibility Council considers necessary to approve the plan;

(5) except for the requirements under section 508(b)(3), any Federal statutory or regulatory requirement applicable under a covered Federal financial assistance program included in the plan, the waiver of which is necessary to implement the plan;

(6) fiscal control and related accountability procedures applicable under the plan;

(7) a description of the sources of all non-Federal funds that are required to carry out covered Federal financial assistance programs included in the plan;

(8) written consent from each qualified organization for which consent is required under section 506(b)(2); and

(9) other relevant information the Flexibility Council may require to approve the plan.

(d) **PROCEDURE FOR APPLYING.**—(1) To apply for approval of a local flexibility plan, a local government shall submit an application in accordance with this section to the Governor of the State in which the local government is located.

(2) A Governor who receives an application from a local government under paragraph (1) may, by no later than 30 days after the date of that receipt—

(A) prepare comments on the proposed local flexibility plan included in the application;

(B) describe any State laws which are necessary to waive for successful implementation of a local plan; and

(C) submit the application and comments to the Flexibility Council.

(3) If a Governor fails to act within 30 days after receiving an application under paragraph (2), the applicable local government may submit the application to the Flexibility Council.

**SEC. 507. REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS.**

(a) **REVIEW OF APPLICATIONS.**—Upon receipt of an application for approval of a local flexibility plan under this title, the Flexibility Council shall—

(1) approve or disapprove all or part of the plan within 45 days after receipt of the application;

(2) notify the applicant in writing of that approval or disapproval by not later than 15 days after the date of that approval or disapproval; and

(3) in the case of any disapproval of a plan, include a written justification of the reasons for disapproval in the notice of disapproval sent to the applicant.

(b) **APPROVAL.**—(1) The Flexibility Council may approve a local flexibility plan for which an application is submitted under this

title, or any part of such a plan, if a majority of members of the Council determines that—

(A) the plan or part shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan by reducing administrative inflexibility, duplication, and unnecessary expenditures;

(B) the applicant local government has adequately considered, and the plan or part of the plan appropriately addresses, any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of the other covered Federal programs under that plan or part of the plan;

(C) the applicant local government has or is developing data bases, planning, and evaluation processes that are adequate for implementing the plan or part of the plan;

(D) the plan shall more effectively achieve Federal financial assistance goals at the local level and shall better meet the needs of local citizens;

(E) implementation of the plan or part of the plan shall adequately achieve the purposes of this title and of each covered Federal financial assistance program under the plan or part of the plan;

(F) the plan and the application for approval of the plan comply with the requirements of this title;

(G) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal financial assistance programs included in the plan or part shall continue to receive benefits that meet the needs intended to be met under the program; and

(H) the local government has—

(i) waived the corresponding local laws necessary for implementation of the plan; and

(ii) sought any necessary waivers from the State.

(2) The Flexibility Council may not approve any part of a local flexibility plan if—

(A) implementation of that part would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under covered Federal financial assistance programs included in that part, over the amounts of such obligations and outlays that would occur under those programs without implementation of the part; or

(B) in the case of a plan or part that applies to assistance to a qualified organization under an eligible Federal financial assistance program, the qualified organization does not consent in writing to the receipt of that assistance in accordance with the plan.

(3) The Flexibility Council shall disapprove a part of a local flexibility plan if a majority of the Council disapproves that part of the plan based on a failure of the part to comply with paragraph (1).

(4) In approving any part of a local flexibility plan, the Flexibility Council shall specify the period during which the part is effective. An approved local flexibility plan shall not be effective after the date of the termination of effectiveness of this title under section 513.

(5) Disapproval by the Flexibility Council of any part of a local flexibility plan submitted by a local government under this title shall not affect the eligibility of a local government, a qualified organization, or any individual for benefits under any Federal program.

(c) **MEMORANDA OF UNDERSTANDING.**—(1) The Flexibility Council may not approve a part of a local flexibility plan unless each

local government and each qualified organization that would receive financial assistance under the plan enters into a memorandum of understanding under this subsection with the Flexibility Council.

(2) A memorandum of understanding under this subsection shall specify all understandings that have been reached by the Flexibility Council, the local government, and each qualified organization that is subject to a local flexibility plan, regarding the approval and implementation of all parts of a local flexibility plan that are the subject of the memorandum, including understandings with respect to—

(A) all requirements under covered Federal financial assistance programs that are to be waived by the Flexibility Council under section 508(b);

(B)(i) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal financial assistance programs included in those parts; or

(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided or used under each covered Federal financial assistance program included in those parts;

(C) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts;

(D) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and

(E) the data to be collected to make that determination.

(d) **LIMITATION ON CONFIDENTIALITY REQUIREMENTS.**—The Flexibility Council may not, as a condition of approval of any part of a local flexibility plan or with respect to the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—

(1) impede the exchange of information needed for the design or provision of benefits under the parts; or

(2) conflict with law.

**SEC. 508. IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.**

(a) **PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.**—Notwithstanding any other law, any benefit that is provided under a covered Federal financial assistance program included in an approved local flexibility plan shall be paid and administered in the manner specified in the approved local flexibility plan.

(b) **WAIVER OF REQUIREMENTS.**—(1) Notwithstanding any other law and subject to paragraphs (2) and (3), the Flexibility Council may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved local flexibility plan, if that waiver is—

(A) reasonably necessary for the implementation of the plan; and

(B) approved by a majority of members of the Flexibility Council.

(2) The Flexibility Council may not waive a requirement under this subsection unless the Council finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal financial assistance program.

(3) The Flexibility Council may not waive any requirement under this subsection—

(A) that enforces any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(iii) title IX of the Education Amendments of 1972 (86 Stat. 373 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); or

(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(B) for payment of a non-Federal share of funding of an activity under a covered Federal financial assistance program; or

(C) for grants received on a maintenance of effort basis.

(c) **SPECIAL ASSISTANCE.**—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to a local government or qualified organization to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(d) **EVALUATION AND TERMINATION.**—(1) A local government, in accordance with regulations issued by the Flexibility Council, shall—

(A) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(B) periodically evaluate the effect implementation of the plan has had on—

(i) individuals who receive benefits under the plan;

(ii) communities in which those individuals live; and

(iii) costs of administering covered Federal financial assistance programs included in the plan.

(2) No later than 90 days after the end of the 1-year period beginning on the date of the approval by the Flexibility Council of an approved local flexibility plan of a local government, and annually thereafter, the local government shall submit to the Flexibility Council a report on the principal activities and achievements under the plan during the period covered by the report, comparing those achievements to the goals and performance criteria included in the plan under section 506(c)(3).

(3)(A) The Flexibility Council may terminate the effectiveness of an approved local flexibility plan, if the Flexibility Council, after consultation with the head of each Federal agency responsible for administering a covered Federal financial assistance program included in such, determines—

(i) that the goals and performance criteria included in the plan under section 506(c)(3) have not been met; and

(ii) after considering any experiences gained in implementation of the plan, that those goals and criteria are sound.

(B) In terminating the effectiveness of an approved local flexibility plan under this paragraph, the Flexibility Council shall allow a reasonable period of time for appropriate Federal, State, and local agencies and qualified organizations to resume administration of Federal programs that are covered Federal financial assistance programs included in the plan.

(e) **FINAL REPORT; EXTENSION OF PLANS.**—(1) No later than 45 days after the end of the effective period of an approved local flexibility plan of a local government, or at any time that the local government determines that the plan has demonstrated its worth, the local government shall submit to the Flexibility Council a final report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(2) The Flexibility Council may extend the effective period of an approved local flexi-

bility plan for such period as may be appropriate, based on the report of a local government under paragraph (1).

**SEC. 509. COMMUNITY ADVISORY COMMITTEES.**

(a) **ESTABLISHMENT.**—A local government that applies for approval of a local flexibility plan under this title shall establish a community advisory committee in accordance with this section.

(b) **FUNCTIONS.**—A community advisory committee shall advise a local government in the development and implementation of its local flexibility plan, including advice with respect to—

(1) conducting public hearings; and

(2) reviewing and commenting on all community policies, programs, and actions under the plan which affect low income individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(c) **MEMBERSHIP.**—The membership of a community advisory committee shall—

(1) consist of—

(A) persons with leadership experience in the private and voluntary sectors;

(B) local elected officials;

(C) representatives of participating qualified organizations; and

(D) the general public; and

(2) include individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a local flexibility plan.

(d) **OPPORTUNITY FOR REVIEW AND COMMENT BY COMMITTEE.**—Before submitting an application for approval of a final proposed local flexibility plan, a local government shall submit the final proposed plan for review and comment by a community advisory committee established by the local government.

(e) **COMMITTEE REVIEW OF REPORTS.**—Before submitting annual or final reports on an approved Federal assistance plan, a local government or private nonprofit organization shall submit the report for review and comment to the community advisory committee.

**SEC. 510. TECHNICAL AND OTHER ASSISTANCE.**

(a) **TECHNICAL ASSISTANCE.**—(1) The Flexibility Council may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(2) Assistance may be provided under this subsection if a local government makes a request that includes, in accordance with requirements established by the Flexibility Council—

(A) a description of the local flexibility plan the local government proposes to develop;

(B) a description of the groups of individuals to whom benefits shall be provided under covered Federal assistance programs included in the plan; and

(C) such assurances as the Flexibility Council may require that—

(i) in the development of the application to be submitted under this title for approval of the plan, the local government shall provide adequate opportunities to participate to—

(I) individuals and families that shall receive benefits under covered Federal financial assistance programs included in the plan; and

(II) governmental agencies that administer those programs; and

(ii) the plan shall be developed after considering fully—

(I) needs expressed by those individuals and families;

(II) community priorities; and

(III) available governmental resources in the geographic area to which the plan shall apply.

(b) DETAILS TO COUNCIL.—At the request of the Flexibility Council and with the approval of an agency head who is a member of the Council, agency staff may be detailed to the Flexibility Council on a nonreimbursable basis.

#### SEC. 511. FLEXIBILITY COUNCIL.

(a) FUNCTIONS.—The Flexibility Council shall—

(1) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this title;

(2) upon request from an applicant for such approval, direct the head of an agency that administers a covered Federal financial assistance program under which substantial Federal financial assistance would be provided under the plan to provide technical assistance to the applicant;

(3) monitor the progress of development and implementation of local flexibility plans;

(4) perform such other functions as are assigned to the Flexibility Council by this title; and

(5) issue regulations to implement this title within 180 days after the date of its enactment.

(b) REPORTS.—No less than 18 months after the date of the enactment of this Act, and annually thereafter, the Flexibility Council shall submit a report on the 5 Federal regulations that are most frequently waived by the Flexibility Council for local governments with approved local flexibility plans to the President and the Congress. The President shall review the report and determine whether to amend or terminate such Federal regulations.

#### SEC. 512. REPORT.

No later than 54 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(1) describes the extent to which local governments have established and implemented approved local flexibility plans;

(2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and

(3) includes recommendations with respect to local flexibility.

#### SEC. 513. CONDITIONAL TERMINATION.

This title is repealed on the date that is 5 years after the date of the enactment of this Act unless extended by the Congress through the enactment of the resolution described under section 514.

#### SEC. 515. JOINT RESOLUTION FOR THE CONTINUATION AND EXPANSION OF LOCAL FLEXIBILITY PROGRAMS.

(a) DESCRIPTION OF RESOLUTION.—A resolution referred to under section 513 is a joint resolution the matter after the resolving clause is as follows: "That Congress approves the application of local flexibility plans to all local governments in the United States in accordance with the Local Empowerment and Flexibility Act of 1995, and that—

"(1) if the provisions of such Act have not been repealed under section 513 of such Act, such provisions shall remain in effect; and

"(2) if the repeal under section 513 of such Act has taken effect, the provisions of such Act shall be effective as though such provisions had not been repealed."

(b) INTRODUCTION.—No later than 30 days after the transmittal by the Comptroller General of the United States to the Congress of the report required in section 512, a resolution as described under subsection (a) shall be introduced in the Senate by the chairman of the Committee on Governmental Affairs, or by a Member or Members of the Senate

designated by such chairman, and shall be introduced in the House of Representatives by the Chairman of the Committee on Government Operations, or by a Member or Members of the House of Representatives designated by such chairman.

(c) REFERRAL.—A resolution as described under subsection (a) shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The committee shall make its recommendations to the Senate or House of Representatives within 30 calendar days of the date of such resolution's introduction.

(d) DISCHARGE FROM COMMITTEE.—If the committee to which a resolution is referred has not reported such resolution at the end of 30 calendar days after its introduction, that committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(e) VOTE ON FINAL PASSAGE.—When the committee has reported or has been deemed to be discharged from further consideration of a resolution described under subsection (a), it is at any time thereafter in order for any Member of the respective House to move to proceed to the consideration of the resolution.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

#### HOLLINGS AMENDMENT NO. 182

Mr. HOLLINGS proposed an amendment to the bill, S. 1, supra; as follows:

At the appropriate place, insert the following:

#### SEC. . SENSE OF THE SENATE CONCERNING CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET

It is the sense of the Senate—

(A) that the Congress should move to eliminate the biggest unfunded mandate—interest on the national debt, which drives the increasing federal burden on state and local governments, and

(B) that prior to adopting in the first session of the 104th Congress a joint resolution proposing an amendment to the Constitution requiring a balanced budget—

(1) the Congress set forth specific outlay and revenue changes to achieve a balanced federal budget by the year 2002; and

(2) enforce through the Congressional budget process the requirement to achieve a balanced federal budget by the year 2002.

#### GRAHAM AMENDMENT NO. 183

Mr. GRAHAM proposed an amendment to the bill S. 1, supra; as follows:

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.

Mr. GRAHAM. Mr. President, I rise today to offer a technical, yet extremely important, amendment to S. 1. My amendment would require committees that choose to pay for their public sector legislative mandates to report as to "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."

If the Congress chooses to pay for its mandates, and I believe the strong presumption should be that it do so, certainly the intent of this bill would be to have the funding reach those State, local, and tribal governments that will be impacted by the mandate rather than allocate funding State, local, and tribal governments through a random or arbitrary process.

For example, if a mandate is imposed on local school districts, it would make more sense to ensure the money reaches local school districts rather than to State education agencies. If a mandate were to have an impact on State and local government in rural areas, it would make little sense to allocate the funding to our Nation's cities.

On the other hand, if a mandate were to specifically impact the cities of our country such as Philadelphia, Seattle, Louisville, Baltimore, Houston, and New York City, why would funding be allocated to the State capitals of Harrisburg, Olympia, Frankfort, Annapolis, Austin, or Albany? To do the latter would undermine the entire purpose of this bill. While Governors Ridge, Lowry, Jones, Glendening, Bush, and Pataki might love to receive such a windfall to their State budgets, the cities could very well receive the mandate but none or very little of the funding. In fact, to pay for the mandate, the committee may very well have eliminated a Federal aid program in which cities are largely the recipient. As a result, the cities could have Federal funding cut and also receive an unfunded mandate.

In such a case, Congress may have had great intentions in funding the mandate but fail miserably in actually achieving such a worthy goal. Mayors, Governors, or whomever receives the hard mandate but phantom funds will be far angrier at the Congress than they ever were before we passed this legislation. Certainly such circumstances would undermine both this bill and our Nation's system of inter-governmental relations.

Mr. President, I am a cosponsor of this legislation and fully intend to vote in favor of its passage. Some may argue that asking the committee to review and report how and whether its allocations are made in a reasonably consistent manner with the expected costs is unnecessary. They might argue that the various committees will do the right thing and accurately distribute funding.

Based on the Congress' track record of both unfunded mandates and outdated formula allocations, more attention needs to be placed on both areas by Congress. While we have heard over the last week about problems with unfunded mandates, no attention has occurred or been placed on how the Federal Government will go about compensating State, local, and tribal governments. However, as noted before, such attention is critical and fundamental to the success of this legislation.

To give you just one example, what if last year's crime bill had a requirement that all States must implement mandatory drug testing and treatment of all its imprisoned felons?

If the committee or the Congressional Budget Office were to anticipate increased numbers of imprisoned felons over a period of time and therefore increased costs over a period of years, would the funding allocation reflect the anticipated growth in the individual States? If not, what would be the impact on the budgets and policy implications for States that actively attempt to put and keep violent criminals behind bars and off the streets of this Nation? The law of unintended consequences would arise. In an attempt to get people off of drugs and squelch their propensity to commit crimes by mandating drug testing and treatment, the funding formula could effectively have the contrary effect for unfairly impacted States.

And finally and most importantly, what if the funding formulas are arbitrary or fail to allocate funding in a manner reasonably consistent with expected costs? I offer this specific example because, in last year's crime bill, the allocation formula for "Residential Substance Abuse Treatment for Prisoners" effectively allocated to some States substantially more dollars per inmate than to other States. Without compelling evidence that the former States prison inmates are more drug addicted or expensive to treat, such a formula makes no sense.

If this were to happen in a circumstance of funding a mandate rather than a block grant, the impact could be devastating. To have a partially funded mandate imposed on some States while others receive several times the funding in comparison to the cost of its mandate would undermine the intent of this legislation. While funding formulas for block grants are important and should always strive to be as fair as possible, it is imperative they be consistent with the intergovernmental location and scale when funding mandates, if we are at all concerned with achieving the stated intent of this legislation.

As a result, while my amendment would not require "fair" formulas to be established, it would require the committee to consider and explain the allocation formulas established to pay for the public sector unfunded mandates in their committee reports. Due to the importance of such allocations and

need for thorough consideration by both the committees and Congress, I urge this amendment's adoption.

#### GRAHAM AMENDMENT NO. 184

Mr. GRAHAM proposed an amendment to the bill S. 1, supra; as follows:

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

Mr. GRAHAM. Mr. President, I want to first reaffirm my support for the objectives to S. 1 and look forward to voting for it on final passage. Many of my colleagues have discussed at length the financial impact that mandates have on their individual States or localities. I would add that mandates tie the hands of or effectively displace the priorities of political leaders in State and local government. As Office of Management and Budget Director Alice Rivlin wrote in her book entitled "Reviving the American Dream,"

The Federal Government's own weakness has not made it any less eager to tell States and localities what to do. Indeed, when its ability to make grants declined, the Federal Government turned increasingly to mandates as a way of controlling state and local activity without having to pay the bill.

Furthermore, unfunded mandates create a situation whereby voters cannot accurately ascertain where responsibility lies for certain Government actions. As Rivlin adds,

Mandates add to citizen confusion about who is in charge. When the Federal Government makes rules for State and local officials to carry out, whether or not they have the resources to do so, it is not clear to voters who should be blamed, either when the regulations are laxly enforced or when the cost of compliance is high.

As a result, I strongly support this legislation and offer the following amendment with Senators MACK, BRYAN, and BOXER to close an important loophole in the bill with respect to immigration and its impact on State and local government.

My amendment would require Congress to recognize and address the cost shift to State and local governments for any action on the floor that would delete or preempt the authorization of any Federal reimbursement program for immigration costs, such as in the Criminal Aliens Federal Responsibility Act. The amendment does not address funding levels for such programs in appropriations bills or address past immigration-related costs absorbed by State and local governments.

However, the amendment would place immigration reimbursement programs

in the same circumstance as Medicaid, the social services block grant, the Vocational Rehabilitation State Grants Program, child nutrition, and three other Federal programs. In this bill, if any of these programs are financially capped or the Federal Government's responsibility to provide funding to State and local government is reduced and State and local government lack the authority to amend their financial or programmatic responsibilities, then such an action would trigger the definition of an unfunded mandate in the bill.

These are precisely the circumstances relating to immigration reimbursement programs such as the Criminal Aliens Federal Responsibility Act. As you will recall, the Criminal Aliens Federal Responsibility Act was successfully included in the crime bill last session by a bipartisan group of Senators in an effort to have the Federal Government address its responsibility for immigration and the costs imposed on States and localities of incarcerating criminal aliens.

According to a recent report by the Urban Institute, more than 21,000 criminal illegal immigrants are incarcerated in U.S. prisons at an annual cost of \$471 million. Educating undocumented immigrants is even more costly. More than 640,000 undocumented children are enrolled in primary and secondary schools in the United States at a cost of \$3.1 billion a year.

In a policy brief from the Governor's office this week on the impact of unfunded mandates to the State of Florida, it is estimated that State costs relating to illegal aliens including education, emergency health care, prosecution and incarceration of criminal aliens and public infrastructure. In fiscal year 1993 this unfunded mandate cost the State of Florida \$884 million.

An elimination of the authorization of such program would clearly reduce the Federal Government's responsibility to provide funding to State and local governments, while those entities have virtually no authority or ability to amend their financial or programmatic responsibilities.

In a letter to the Congress last year, the National Governors' Association wrote,

The Nation's governors have been in strong agreement that immigration policy must be based on Federal responsibility and fairness to State and local governments. As you well know, immigration policy is solely a Federal concern. Yet Federal law mandates the States to provide emergency health care and education to undocumented immigrants who reside in our States. State governments also are forced to pay for the costs of incarcerating undocumented alien criminals.

Immigration is clearly much more like mandatory or entitlement programs such as Medicaid than other discretionary programs such as transportation and housing. State and local governments do not have the discretion

to amend or restrict their financial obligations for mandatory or entitlement programs.

In fact, I would argue that the status of unreimbursed Federal immigration-related costs as an unfunded mandate is actually stronger than that of programs such as Medicaid because the Federal Government's plenary role and responsibility for immigration and border control is unchallenged. In *Traus versus Raich*, the Supreme Court ruled in 1915 that "[t]he authority to control immigration—to admit or exclude aliens—is vested solely in the Federal Government." States cannot make treaties, hire border patrol, establish naturalization policy or even set much in the way of policy with respect to providing services to illegal immigrants. Border protection and immigration are clearly Federal obligations.

The implications of my amendment would be to allow Members of Congress to raise a point or order against legislation that would reduce or eliminate the authorization of Federal immigration reimbursement programs.

For example, if legislation were introduced that imposes a Federal mandate that the Congressional Budget Office estimates to cost State and local governments \$350 million, the author of the bill could attempt to offset such costs by eliminating the authorization for the Criminal Aliens Federal Responsibility Act. Such an action would effectively pay for a federally imposed Federal mandate by shifting the full costs and responsibility for incarcerating criminal aliens to State and local governments. Such a circumstance would certainly run counter to the intent of S. 1. My amendment would clarify this loophole and allow a point of order to be raised for creating yet another unfunded mandate.

As a result, I urge the amendment's adoption.

Mr. MACK. Mr. President, it has consistently been my position that the Federal Government must assume greater responsibility for the costs associated with immigration, both legal and illegal. My colleague from Florida has offered an amendment which recognizes the problem of immigration costs as an unfunded mandate, and I believe this amendment is a positive addition to the bill. Absent this amendment, S. 1 categorizes only a select few immigration costs as unfunded mandates and ignores the myriad other expenses which accrue to the States, such as education and incarceration costs. These expenses and many others would not be borne by the States. Only because the Federal Government has failed to fulfill their duty to enforce our immigration laws is this amendment necessary. I urge the adoption of the Graham amendment as an essential step in recognizing the burdens which the Federal Government's policy of abdication and default has placed upon the backs of the States.

#### WELLSTONE AMENDMENT NO. 185

Mr. WELLSTONE proposed an amendment to the bill, S. 1, supra; as follows:

At the appropriate place, insert the following: ( ) it is the sense of the Congress that the Congress shall continue its progress at reducing the annual federal deficit and, when the Congress proposes to the States a balance-budget amendment, must accompany it with financial information on its impact on the budget of each of the States.

#### WELLSTONE AMENDMENT NO. 186

Mr. WELLSTONE proposed an amendment to amendment No. 186 proposed by him to the bill S. 1, supra; as follows:

Strike all after "( ) It" and insert the following: "the sense of the Congress that the Congress should continue its progress at reducing the annual federal deficit and, when the Congress proposes to the States a balance-budget amendment, should accompany it with financial information on its impact on the budget of each of the States."

#### MURRAY AMENDMENTS NOS. 187-188

Mrs. MURRAY proposed two amendments to the bill, S. 1, supra; as follows:

##### AMENDMENT NO. 187

At the appropriate place in the bill, insert the following: The provisions of this Act and the amendments made by this Act also shall not apply to any agreement between the Federal Government and a State, local, or tribal government, or the private sector for the purpose of carrying out environmental restoration or waste management activities of the Department of Defense or the Department of Energy.

##### AMENDMENT NO. 188

On page 21, insert between lines 13 and 14 the following new paragraph:

"(2) TIME LIMITATIONS FOR STATEMENTS.—(A) The Director of the Congressional Budget Office shall provide the statement as required by this section—

"(i) relating to a bill or resolution ordered reported by a committee, no later than one week after the date on which the bill or resolution is ordered reported by the committee; and

"(ii) relating to an amendment or conference report, no later than one day after the date on which the amendment is offered or the conference report is submitted.

"(B) Failure by the Director to meet the time limitations in subparagraph (A) of this paragraph shall vitiate the provisions of subsection (c)(1)(A) of this section.

#### GRAHAM AMENDMENT NO. 189

Mr. GRAHAM proposed an amendment to the bill, S. 1, supra; as follows:

On page 33, strike lines 10 through 12 and insert the following:

This title shall take effect on the date of enactment of this Act, and shall apply to legislation considered on and after such date.

#### HARKIN AMENDMENT NO. 190

Mr. HARKIN proposed an amendment to the bill, S. 1, supra; as follows:

On page 50, add after line 6 the following new title:

TITLE V—MISCELLANEOUS PROVISIONS  
SEC. 501. SENSE OF THE SENATE REGARDING BALANCED BUDGET AMENDMENT.

(a) FINDINGS.—The Senate finds that—

(1) social security is a contributory insurance program supported by deductions from workers' earnings and matching contributions from their employers that are deposited into an independent trust fund;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) without social security an additional 15,000,000 Americans, mostly senior citizens, would be thrown into poverty;

(6) 138,000,000 American workers participate in the social security system and are insured in case of retirement, disability, or death;

(7) social security is a contract between workers and the Government;

(8) social security is a self-financed program that is not contributing to the current Federal budget deficit; in fact, the social security trust funds currently have over \$400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional \$70,000,000,000;

(9) this surplus is necessary to pay monthly benefits for current and future beneficiaries;

(10) recognizing that social security is a self-financed program, Congress took social security completely "off-budget" in 1990; however, unless social security is explicitly excluded from a balanced budget amendment to the United States Constitution, such an amendment would, in effect, put the program back into the Federal budget by referring to all spending and receipts in calculating whether the budget is in balance;

(11) raiding the social security trust funds to reduce the Federal budget deficit would be devastating to both current and future beneficiaries and would further undermine confidence in the system among younger workers;

(12) the American people in poll after poll have overwhelmingly rejected cutting social security benefits to reduce the Federal deficit and balance the budget; and

(13) social security beneficiaries throughout the nation are gravely concerned that their financial security is in jeopardy because of possible social security cuts and deserve to be reassured that their benefits will not be subject to cuts that would likely be required should social security not be excluded from a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is a sense of the Senate that any joint resolution providing for a balanced budget amendment to the United States Constitution passed by the Senate shall specifically exclude social security from the calculations used to determine if the Federal budget is in balance.

#### BINGAMAN AMENDMENT NO. 191

Mr. BINGAMAN proposed an amendment to the bill S. 1, supra; as follows:

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

"(4) DETERMINATION BY REPORTING COMMITTEE OF APPLICABILITY TO PENDING LEGISLATION.—Notwithstanding any provision of paragraph (1)(B), it shall always be in order to consider a bill, resolution, or conference

report if such report includes a determination by the reporting committee that the pending measure is needed to serve a compelling national interest that furthers the public health, safety, or welfare.

#### BINGAMAN AMENDMENT NO. 192

Mr. BINGAMAN proposed an amendment to the bill S. 1, supra; as follows:

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

(4) APPLICATION TO REQUIREMENTS RELATING TO THE TREATMENT AND DISPOSAL OF RADIOACTIVE WASTE.—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 a requirement for the treatment or disposal of—

(A) high-level radioactive waste, low-level radioactive waste, or spent nuclear fuel (as such terms are defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)); or

(B) byproduct material or transuranic waste (as such terms are defined in section 11 of the Atomic Energy Act of 1954, (42 U.S.C. 2014)).

#### KOHL AMENDMENT NO. 193

Mr. KOHL proposed an amendment to the bill, S. 1, supra; 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 consideration 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.

#### BINGAMAN AMENDMENT NO. 194

Mr. BINGAMAN proposed an amendment to the bill S. 1, supra; 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.

#### GLENN AMENDMENT NO. 195

Mr. GLENN proposed an amendment to the bill S. 1, supra; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Mandate Accountability and Reform Act of 1995".

##### SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revis-

ing Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate before the Senate votes on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instances;

(5) to establish a point-of-order vote on the consideration in the Senate of legislation containing significant Federal mandates; and

(6) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process.

##### SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) FEDERAL INTERGOVERNMENTAL MANDATE.—The term "Federal intergovernmental mandate" means—

(A) any provision in a bill or joint resolution before Congress or in a proposed or final Federal regulation that—

(i) would impose a duty upon States, local governments, or tribal governments that is enforceable by administrative, civil, or criminal penalty or by injunction (other than a condition of Federal assistance or a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

(ii) would reduce or eliminate the amount of authorization of appropriations for 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; or

(B) any provision in a bill or joint resolution before Congress or in a proposed or final Federal regulation that relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority (as defined in section 3(9) of the Congressional Budget Act of 1974 (2 U.S.C. 622(9))), if—

(i) the bill or joint resolution or regulation would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

(ii) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

(i) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the bill or joint resolution or regulation.

(2) FEDERAL PRIVATE SECTOR MANDATE.—The term "Federal private sector mandate"

means any provision in a bill or joint resolution before Congress that—

(A) would impose a duty upon the private sector that is enforceable by administrative, civil, or criminal penalty or by injunction (other than a condition of Federal assistance or a duty arising from participation in a voluntary Federal program); or

(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of complying with any such duty.

(3) FEDERAL MANDATE.—The term "Federal mandate" means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (1) and (2).

##### (4) DIRECT COSTS.—

(A) FOR A FEDERAL INTERGOVERNMENTAL MANDATE.—In the case of a Federal intergovernmental mandate, the term "direct costs" means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend in order to comply with the Federal intergovernmental mandate, or, in the case of a bill or joint resolution referred to in paragraph (1)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

(B) FOR A FEDERAL PRIVATE SECTOR MANDATE.—In the case of a Federal private sector mandate, the term "direct costs" means the aggregate amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate.

(C) NOT INCLUDED.—The term "direct costs" does not include—

(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations adopted before the adoption of the Federal mandate; or

(II) to continue to carry out State, local governmental, and tribal governmental programs, or private-sector business or other activities established at the time of adoption of the Federal mandate; or

(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

(I) their compliance with the Federal mandate; or

(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

(D) ASSUMPTION.—Direct costs shall be determined on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations.

(5) AMOUNT OF AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL FINANCIAL ASSISTANCE.—The term "amount" with respect to an authorization of appropriations for Federal financial assistance means—

(A) the amount of budget authority (as defined in section 3(2)(A) of the Congressional Budget Act of 1974 (2 U.S.C. 622(2)(A))) of any Federal grant assistance; and

(B) the subsidy amount (as defined as "cost" in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(a))) of

any Federal program providing loan guarantees or direct loans.

(6) PRIVATE SECTOR.—The term “private sector” means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other non-profit institutions.

(7) OTHER DEFINITIONS.—

(A) AGENCY.—The term “agency” has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

(B) DIRECTOR.—The term “Director” means the Director of the Congressional Budget Office.

(C) LOCAL GOVERNMENT.—The term “local government” has the same meaning as in section 6501(6) of title 31, United States Code.

(D) REGULATION OR RULE.—The term “regulation” or “rule” has the meaning of “rule” as defined in section 601(2) of title 5, United States Code.

(E) SMALL GOVERNMENT.—The term “small government” means any small governmental jurisdiction as defined in section 601(5) of title 5, United States Code, and any tribal government.

(F) STATE.—The term “State” has the same meaning as in section 6501(9) of title 31, United States Code.

#### SEC. 4. EXCLUSIONS.

This Act shall not apply to any provision in a bill or joint resolution before Congress and any provision in a proposed or final Federal regulation that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the United States Government;

(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of any of them;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations; or

(6) the President designates as emergency legislation and that the Congress so designates in statute.

#### SEC. 5. AGENCY ASSISTANCE.

Each agency shall provide to the Director of the Congressional Budget Office such information and assistance as he may reasonably request to assist him in performing his responsibilities under this Act.

### TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

#### SEC. 101. DUTIES OF CONGRESSIONAL COMMITTEES.

(a) COMMITTEE REPORT.—

(1) REGARDING FEDERAL MANDATES.—

(A) IN GENERAL.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of public character that includes any Federal mandate, the committee shall issue a report to accompany the bill or joint resolution containing the information required by subparagraphs (B) and (C).

(B) REPORTS ON FEDERAL MANDATES.—Each report required by subparagraph (A) shall contain—

(i) an identification and description, prepared in consultation with the Director, of any Federal mandates in the bill or joint resolution, including the expected direct costs to States, local governments, and tribal governments, and to the private sector, required to comply with the Federal mandates; and

(ii) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the enhancement of health and safety and the protection of the natural environment).

(C) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required by subparagraph (A) shall also contain—

(i)(I) a statement of the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of States, local governments, or tribal governments subject to the Federal intergovernmental mandates; and

(II) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and if so, the reasons for that intention;

(ii) any existing sources of Federal assistance in addition to those identified in clause (i) that may assist States, local governments, and tribal governments in meeting the direct costs of the Federal intergovernmental mandates; and

(iii) an identification of one or more of the following: reductions in authorization of existing appropriations, a reduction in direct spending, or an increase in receipts (consistent with the amount identified clause (i)(I)).

(2) PREEMPTION CLARIFICATION AND INFORMATION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on the extent to which the bill or joint resolution preempts any State, local, or tribal law, and, if so, an explanation of the reasons for such preemption.

(b) SUBMISSION OF BILLS TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee shall promptly provide the bill or joint resolution to the Director and shall identify to the Director any Federal mandates contained in the bill or resolution.

(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 102(c), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available soon enough to be included in the printed report.

(2) IF NOT INCLUDED.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

#### SEC. 102. DUTIES OF THE DIRECTOR.

(a) STUDIES.—

(1) PROPOSED LEGISLATION.—As early as practicable in each new Congress, any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any

Federal program likely to have a significant budgetary impact on States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall request that the Director initiate a study of the proposed legislation in order to develop information that may be useful in analyzing the costs of any Federal mandates that may be included in the proposed legislation.

(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the Director shall—

(A) solicit and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

(B) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

(C) consult with the relevant committees of the House of Representatives and of the Senate.

(b) CONSULTATION.—The Director shall, at the request of any committee of the House of Representatives or of the Senate, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

(1) a significant budgetary impact on State, local, or tribal governments; or

(2) a significant financial impact on the private sector.

(c) STATEMENTS ON NONAPPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or of the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) DIRECT COSTS AT OR BELOW THRESHOLD.—If the Director estimates that the direct costs of all Federal intergovernmental mandates in the bill or joint resolution will not equal or exceed \$50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(B) DIRECT COSTS ABOVE THRESHOLD.—

(i) IN GENERAL.—If the Director estimates that the direct costs of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed \$50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(ii) ESTIMATES.—The estimate required by clause (i) shall include—

(I) estimates (and brief explanations of the basis of the estimates) of—

(aa) the total amount of direct costs of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

(bb) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates;

(II) estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

(aa) future direct costs of Federal intergovernmental mandates to the extent that they significantly differ from or extend beyond the 5-year time period referred to in clause (i); and

(bb) any disproportionate budgetary effects of Federal intergovernmental mandates and of any Federal financial assistance in the bill or joint resolution upon any particular regions of the country or particular States, local governments, tribal governments, or urban or rural or other types of communities; and

(III) any amounts appropriated in the prior fiscal year to fund the activities subject to the Federal intergovernmental mandate.

(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or of the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) DIRECT COSTS AT OR BELOW THRESHOLD.—If the Director estimates that the direct costs of all Federal private sector mandates in the bill or joint resolution will not equal or exceed \$200,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(B) DIRECT COSTS ABOVE THRESHOLD.—

(i) IN GENERAL.—If the Director estimates that the direct costs of all Federal private sector mandates in the bill or joint resolution will equal or exceed \$200,000,000 (adjusted annually for inflation by the Consumer Price Index) any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(ii) ESTIMATES.—Estimates required by this subparagraph shall include—

(I) estimates (and a brief explanation of the basis of the estimates) of—

(aa) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

(bb) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by the private sector for activities subject to the Federal private sector mandates;

(II) estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

(aa) future costs of Federal private sector mandates to the extent that they differ sig-

nificantly from or extend beyond the 5-year time period referred to in clause (i);

(bb) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

(cc) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services; and

(III) any amounts appropriated in the prior fiscal year to fund activities subject to the Federal private sector mandate.

(C) FAILURE TO MAKE ESTIMATE.—If the Director determines that it is not reasonably feasible for him to make a reasonable estimate that would be required by subparagraphs (A) and (B) with respect to Federal private sector mandates, the Director shall not make the estimate, but shall report in his statement that the reasonable estimate cannot be reasonably made and shall include the reasons for that determination in the statement.

(3) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared a statement that includes the determination described in paragraph (1)(B)(i) for a bill or joint resolution, and if that bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the language of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director prepare a supplemental statement for the bill or joint resolution. The requirements of section 103 shall not apply to the publication of any supplemental statement prepared under this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Congressional Budget Office to carry out the provisions of this Act \$6,000,000, for each of the fiscal years 1995, 1996, 1997, and 1998.

(e) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3) by striking “paragraphs (1) and (2)” and inserting “paragraph (1)”;

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking “(a)”;

(3) by striking subsections (b) and (c).

**SEC. 103. POINT OF ORDER IN THE SENATE.**

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill or joint resolution that is reported by any committee of authorization of the Senate unless, based upon a ruling of the presiding Officer—

(1) the committee has published a statement of the Director in accordance with section 101(c) prior to such consideration; and

(2) in the case of a bill or joint resolution containing Federal intergovernmental mandates, either—

(A) the direct costs of all Federal intergovernmental mandates in the bill or joint resolution are estimated not to equal or exceed \$50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, or

(B)(i) the amount of the increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates is at least equal to the estimated amount of direct costs of the Federal intergovernmental mandates; and

(ii) the committee of jurisdiction has identified in the bill or joint resolution one or more of the following: a reduction in authorization of existing appropriations, a reduction in direct spending, or an increase in receipts (consistent with the amount identified in clause (i)).

(b) WAIVER.—The point of order under subsection (a) may be waived in the Senate by a majority vote of the Members voting (provided that a quorum is present) or by the unanimous consent of the Senate.

(c) AMENDMENT TO RAISE AUTHORIZATION LEVEL.—Notwithstanding the terms of subsection (a), it shall not be out of order pursuant to this section to consider a bill or joint resolution to which an amendment is proposed and agreed to that would raise the amount of authorization of appropriations to a level sufficient to satisfy the requirements of subsection (a)(2)(B)(i) and that would amend an identification referred to in subsection (a)(2)(B)(ii) to satisfy the requirements of that subsection, nor shall it be out of order to consider such an amendment.

**SEC. 104. EXERCISE OF RULEMAKING POWERS.**

The provisions of sections 101, 102, 103, and 105 are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

**SEC. 105. EFFECTIVE DATE.**

This title shall apply to bills and joint resolutions reported by committee on or after October 1, 1996.

**TITLE II—REGULATORY ACCOUNTABILITY AND REFORM**

**SEC. 201. REGULATORY PROCESS.**

(a) IN GENERAL.—Each agency shall, to the extent permitted in law, assess the effects of Federal regulations on States, local governments, and tribal governments (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal intergovernmental mandates in those regulations, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOVERNMENT INPUT.—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officials (including their designated representatives) and other representatives of States, local governments, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. Such a process shall be consistent with all applicable laws.

(c) AGENCY PLAN.—

(1) IN GENERAL.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(A) provide notice of the contemplated requirements to potentially affected small governments, if any;

(B) enable officials of affected small governments to provide input pursuant to subsection (b); and

(C) inform, educate, and advise small governments on compliance with the requirements.

(2) AUTHORIZATION.—There are hereby authorized to be appropriated to each agency to carry out the provisions of this section, and for no other purpose, such sums as are necessary.

**SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.**

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal intergovernmental mandates that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, of \$100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, and tribal governments of complying with the Federal intergovernmental mandates, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future costs of Federal intergovernmental mandates; and

(B) any disproportionate budgetary effects of the Federal intergovernmental mandates upon any particular regions of the country or particular States, local governments, tribal governments, urban or rural or other types of communities;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal intergovernmental mandates (such as the enhancement of health and safety and the protection of the natural environment); and

(4)(A) a description of the extent of any input to the agency from elected representatives (including their designated representatives) of the affected States, local governments, and tribal governments and of other affected parties;

(B) a summary of the comments and concerns that were presented by States, local governments, or tribal governments either orally or in writing to the agency;

(C) a summary of the agency's evaluation of those comments and concerns; and

(D) the agency's position supporting the need to issue the regulation containing the Federal intergovernmental mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as a part of any

other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

**SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.**

The Director of the Office of Management and Budget shall collect from agencies the statements prepared under section 202 and periodically forward copies of them to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

**SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.**

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof.

**TITLE III—BASELINE STUDY**

**SEC. 301. BASELINE STUDY OF COSTS AND BENEFITS.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Bureau of the Census, in consultation with the Director, shall begin a study to examine the measurement and definition issues involved in calculating the total costs and benefits to States, local governments, and tribal governments of compliance with Federal law.

(b) CONSIDERATIONS.—The study required by this section shall consider—

(1) the feasibility of measuring indirect costs and benefits as well as direct costs and benefits of the Federal, State, local, and tribal relationship; and

(2) how to measure both the direct and indirect benefits of Federal financial assistance and tax benefits to States, local governments and tribal governments.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Bureau of the Census to carry out the purposes of this title, and for no other purpose, \$1,000,000 for each of the fiscal years 1995 and 1996.

**TITLE IV—JUDICIAL REVIEW; SUNSET**

**SEC. 401. JUDICIAL REVIEW.**

Any statement or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review. The provisions of this Act shall not create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. No ruling or determination under this Act shall be considered by any court in determining the intent of Congress or for any other purpose.

**SEC. 402. SUNSET.**

This Act shall expire December 31, 1998.

**KEMPTHORNE AMENDMENT NO. 196**

Mr. KEMPTHORNE proposed an amendment to the bill S. 1, supra; as follows:

Strike all after the word "That" and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled

workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over \$400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional \$70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

**GLENN AMENDMENT NO. 197**

Mr. GLENN proposed an amendment to the bill, S. 1, supra; as follows:

On page 21, strike beginning with line 16 through line 4 on page 22 and insert the following:

"(1) IN GENERAL.—

"(A) STATEMENT REQUIRED FOR REPORTED BILL.—It shall not be in order in the Senate, after third reading or at any other time when no further amendments are in order, to consider any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with subsection (a)(6) before such consideration.

"(B) LEGISLATION OR THRESHOLD.—(i) It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report—

"(I) after third reading or at any other time when no further amendments are in order, if the enactment of such bill or resolution as amended; or

"(II) if such bill or resolution in the form recommended by such conference report differs from the bill or resolution as passed by the Senate, and if the enactment of such bill or resolution in the form recommended in such conference report,

would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in subsection (b)(1)(A)(i) to be exceeded, unless the conditions specified in clause (ii) are satisfied.

“(ii) The conditions referred to in clause (i) shall be satisfied if—

Redesignate the clause following accordingly.

#### MCCAIN AMENDMENT NO. 198

Mr. MCCAIN proposed an amendment to the bill S. 1, supra; as follows:

On page 25, strike lines 7 through 10, and insert the following:

“(3) COMMITTEE ON APPROPRIATIONS.—Paragraph (1)—

“(A) shall not apply to any bill or resolution reported by the Committee on Appropriations of the Senate or the House of Representatives; but

(B) shall apply to—

(i) Any legislative provision increasing direct costs of a federal inter-governmental mandate contained in any bill or resolution reported by such Committee;

(ii) any legislative provision increasing direct costs of a federal inter-governmental mandate contained in any amendment offered to a bill or resolution reported by such Committee;

(iii) any legislative provision increasing direct costs of a federal inter-governmental mandate in a conference report accompanying a bill or resolution reported by such Committee; and

(iv) any legislative provision increasing direct costs of a federal inter-governmental mandate contained in any amendments in disagreement between the two Houses to any bill or resolution reported by such Committee.

(C) Upon a point of order being made by any Senator against any provision listed in Paragraph (3)(B), and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report and may not be offered as an amendment from the floor.

#### LAUTENBERG AMENDMENT NO. 199

Mr. LAUTENBERG proposed an amendment to the bill, S. 1, supra; as follows:

On page 13, line 5, strike out “or”.

On page 13, line 8, strike out the period and insert in lieu thereof a semicolon and “or”.

On page 13, insert between lines 8 and 9 the following new paragraph:

(7) limits exposure to known human (Group A) carcinogens, as defined in the Environmental Protection Agency’s Risk Assessment Guidelines of 1986.

#### NOTICES OF HEARINGS

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a markup session on the Commodity Futures Trading Commission reauthorization (S. 178). The markup will be held on Wednesday, February 1, 1995, at 9:30 in SR-332.

For further information, please contact Chuck Coner at 224-0005.

#### PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT ON THE STATE OF THE UNION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now proceed to House Concurrent Resolution 16, just received from the House, regarding the State of the Union Address; that the concurrent resolution be deemed agreed to, and the motion to reconsider be laid upon the table.

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

So the concurrent resolution (H. Con. Res. 16) was agreed to.

Mr. DOLE. Mr. President, I understand that all these requests have been approved by the Democratic leadership.

#### REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104-2

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance on Criminal Matters, treaty document No. 104-2, transmitted to the Senate by the President today; and ask the treaty be considered as having been read the first time, that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President’s message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 6, 1994, with a related exchange of notes signed the same date. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including members of drug cartels, “white-collar criminals,” and terrorists. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records,

and evidence; (3) the service of legal documents; (4) the location or identification of persons; (5) the execution of requests for searches and seizures; and (6) the provision of assistance in proceedings relating to the forfeiture of the proceeds of crime and the collection of fines imposed as a sentence in a criminal prosecution.

I recommend that the Senate give early and favorable consideration to the Treaty, and related exchange of notes, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, January 23, 1995.

#### AUTHORITY FOR JUDICIARY COMMITTEE TO FILE A REPORT

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee have until 8 p.m. on Tuesday, January 24, 1995, to file a report to accompany Senate Joint Resolution 1, the Constitutional balanced budget amendment.

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

#### APPOINTMENT OF A COMMITTEE TO ESCORT THE PRESIDENT

Mr. DOLE. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States to the House Chamber for the joint session to be held at 9 p.m. on January 24, 1995.

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

#### ORDERS FOR TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Tuesday, January 24, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that there then be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each, with the following Senators to speak for up to the designated times: Senator GRASSLEY, 5 minutes; Senator ROTH, 5 minutes; and Senator CAMPBELL, 10 minutes.

I further ask unanimous consent that at 10 a.m. the Senate resume consideration of S. 1, the unfunded mandates bill, and that the Senate stand in recess between the hours of 12:30 to 2:15 p.m. for the weekly party luncheons to meet.

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