United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, FRIDAY, JANUARY 13, 1995 *No. 8*

Senate

(Legislative day of Tuesday, January 10, 1995)

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

The PRESIDENT pro tempore. The prayer this morning will be offered by our guest chaplain, the Reverend Mark E. Dever, pastor of Capitol Hill Baptist Church, Washington, DC.

PRAYER

The guest chaplain, the Reverend Mark Edward Dever, Ph.D., offered the following prayer:

Let us pray:

O God Most Holy, we come to You this morning acknowledging You as the holy ruler of people and nations. We give You thanks for all the ways in which our Nation, and this Chamber reflect Your character. Thank you for all the trials endured, time spent, and effort expended for our benefit in this place. We thank you because we know that none of us can do anything apart from Your sustaining power.

Our request this morning is that You would save this Nation from lawlessness. We read that righteousness exalts a nation, but that sin is a reproach to any people. We confess that we as a people seem to be more concerned about riches than righteousness, more worried about poverty than sin, more willing to deny You than to deny self.

O Lord, change us for Your glory. In Your mercy entrust this country with material prosperity; but also in Your mercy, we pray that You would not allow us to go on in such prosperity and sin. Give us true prosperity of heart and soul.

In Your grace make this place an exception to the corrupting pull of power. Make this Chamber a shining light, a city set on a hill, filled with men and women who individually, in their dealings with one another, and together in their execution of the public business are examples to us all. Help them so that we may live peaceful and quiet lives in all godliness and holiness.

We dare to ask for special blessings, and for special help to use those blessings You have already given to us. Bless Your people with power entrusted to those who know their own weakness, with rulers who are servants, with freedom under God, in the name of Jesus Christ, the servant-king, we ask it. Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Wyoming, [Mr. THOMAS], is recognized unless the acting majority leader wishes to speak at this time?

SCHEDULE

Mr. LOTT. Mr. President, further commenting on the schedule for the morning, I believe that under the previous agreement Senators LIEBERMAN and DODD will be recognized for up to 15 minutes equally divided, Senator BOXER for up to 15 minutes. At the hour of 10 a.m., the Senate will stand in recess until 11 a.m. in order to allow Members to attend a briefing. When the Senate reconvenes at 11 a.m., we will resume consideration of S. 1, the unfunded mandates bill.

For the information of all colleagues, rollcall votes are anticipated throughout the day.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming [Mr. THOMAS] is recognized to speak for up to 10 minutes.

UNFUNDED FEDERAL MANDATES

Mr. THOMAS. Mr. President, it is my pleasure, as I rise this morning, to join my colleagues in support of S. 1, the unfunded mandates bill that Senator KEMPTHORNE and many others have done such great work on. In the recent election, of course, this country and the voters of this country voted for change, a change in the way that Washington operates, a change in the way that the Government operates. This bill provides us with one of the first opportunities to deliver that change.

It seems to me that, although we will take up a great many specific issues throughout this session of Congress, and we should, that probably most important are some of the structural changes that we are talking about—this being included as one of them. Some of the changes in procedure will result in the individual issues being changed and being about the change that voters asked for.

Sometimes, I suppose, people at home get a little impatient with the idea that we work for procedural changes. But let me suggest that in order to bring about continuing change, fundamental change, these procedural changes are the most important thing that we can do—procedural changes like the balanced-budget amendment, which will change our outlook on fiscal responsibility; changes like unfunded mandates, which will change the relationship between the Federal Government and the States; changes like accountability, which we passed yesterday, of course, which properly makes the Congress live under

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

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the same rules that it applies to everyone else. Term limits, I believe, are also a procedural change that needs to take place.

Unfunded mandates affect State and local communities. They are hidden taxes that local communities, businesses, and citizens have to pay. These mandates force the States and localities to increase their taxes or shift their priorities of spending and shift their services in order to make those ends meet. National programs should not be financed by local property taxes, but that is exactly what happens when the Congress passes an unfunded mandate. Unfunded mandates infringe upon States' rights. Federal mandates take away State and local community opportunities to set their own priorities and make it difficult for State and local governments to plan for the future.

I served in the Wyoming Legislature, and a good deal of our budget was committed, before we ever arrived in Cheyenne, to unfunded mandates.

This bill will help restore States' rights and the Founding Fathers' concept of federalism and the relationship that should exist between the Federal Government and the States. We will give some recognition to the 10th amendment, that those things that are not expressly given to the Federal Government should rest with the people and with the States and communities. In the words of Thomas Jefferson, ''Were we directed by Washington when to sow and when to reap, we should soon want for bread.''

A simple rule should apply to Congress: If legislation is good enough to pass, it ought to be good enough to pay for. The cost of unfunded Federal mandates is well documented. Over the past two decades the Federal Government has enacted over 200 new laws containing thousands of regulations and assigned the costs to State and local government. For example, unfunded mandates eat up about 12 percent of locally raised revenue and will cost localities about $54 billion over the next 5 years.

Unfunded mandates, of course, exist everywhere. There are examples in Wyoming. Wyoming's towns are generally small towns. Greybull, WY, for example, was mandated $1.3 million by EPA for a water treatment plant. That is nearly $3,000 per resident who lives there.

Pinedale, WY, draws their water from the cleanest source anyone can imagine and the test results of that water are perfectly acceptable in quality. Nevertheless, they had to build a water treatment plant, not for the results but because of the unfunded mandates.

The city of Cheyenne, $3 million in the last year alone, in the last fiscal year.

I guess the thing I remember the most was going to the community college in Torrington, WY, where they had made arrangements to make their auditorium accessible to disabled people under the Americans With Disabilities Act—as they should. However, they had a way to make it accessible at very much less cost than what they finally had to do because of the regulations that were imposed under the mandate. To achieve the same goal they had to pay a great deal more.

The Clinton administration has a poor record on unfunded mandates. President Clinton's health proposal, the Brady law, and last year's crime bill are just some examples of this administration's unfunded mandate agenda. We need this bill enacted quickly to put the brakes on that regulatory machine.

The balanced-budget amendment, of course, will be before us soon. I support the balanced-budget amendment. I think it is morally and fiscally right to not be able to spend more than we take in. That should apply to the Federal Government as well. Local officials, of course, are concerned about a balanced-budget amendment unless they have the protection against unfunded mandates so that the result of a balanced-budget amendment will not simply be the shifting of costs to local governments.

By requiring activities without paying for them, official Washington can go on a spending spree on somebody else's credit card. It is easy and dishonest, but it is a way around the Federal deficit. Congress takes the credit for legislation but sidesteps the costs. The combination of these two proposals, unfunded mandates and a balanced budget amendment, will be the answer.

We need to pass unfunded mandates legislation before we tackle the balanced budget amendment to the Constitution. Last year, unfunded mandates legislation made it out of committee both in the House and in the Senate. I was a member of the Governmental Operations Committee in the House, and in the last days of the session we passed it. Unfortunately, it did not receive consideration on the floor.

In this new Congress, we have a tremendous opportunity to change the way government operates. While this bill is not as strong as some would like it, it is a solid first step in restoring some accountability in Washington.

The bottom line is that Washington must stop passing the buck and start taking the responsibility for the legislation it passes. It is vital that we take advantage of this opportunity to change the way Government functions.

Mr. President, thank you for the time. I yield the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

UNFUNDED MANDATES

Mr. LOTT. Mr. President, not seeing any Senator seeking recognition at this time, I would like to take a few minutes to comment on the bill we will be taking up again today, the unfunded mandates bill.

I want to emphasize again that there will be votes today. I think that the distinguished majority leader intends that we go forward on this important legislation and that there will be votes on amendments or otherwise. It is not clear at this time exactly how long that will go. But I just wanted to make sure the Members understood, to be fair, that we will have some votes later on this morning, or perhaps in at least early afternoon.

I want to commend our distinguished majority leader and the minority leader for the patience they have already exhibited this year. We, I think, have made good progress. We have already passed S. 2, a major piece of legislation on congressional accountability. We are already now working on the next piece of major legislation, unfunded mandates. Members have been offering amendments freely, and that is the way it should be in the Senate. I am sure there will be a number of amendments on this unfunded mandates legislation. Perhaps there will be some good amendments that will be offered and actively debated, and perhaps even some amendments adopted as we go forward. That is what the legislative process is all about.

I think the majority leader intends to make sure Members have that opportunity to offer amendments and have a good debate, and move this good legislation and improve it, if it is possible.

There have been objections that reports were not available earlier. But the reports are available now. Any Senator can avail himself or herself of those reports. I hope they will read them and that we can go forward with the debate on the substance of this legislation. This is a good bill, well prepared over a long period of time. Yeomen's work has been done by the Senator from Idaho, Senator KEMPTHORNE, and Senator GLENN has worked on this legislation, probably for years, and certainly at least for months. Senator ROTH has done good work.

So there has been a tremendous amount of thought given this legislation. It has been changed and improved, and perhaps in some respects weakened because some points go beyond what I would like there to be in order to get something with which we can move forward.

This is a major step forward. This is setting up a process. This is not ending things that have been happening. This is giving us an opportunity to find out what is in a bill, to find out what it is going to cost and who is going to pay for it. What does it really do? That fact is I think most Americans would be incredulous to realize that we do not do that anyway.

So there is no need to delay this. Yes, we should have amendments. We should think about it. But we all know this legislation is going to pass overwhelmingly. I am sure probably almost every Republican and a majority of the

Democrats will vote for this legislation. So I hope we will keep that in mind. Let us not delay just for the sake of delay. Let us look at the substance, let us work on it in a responsible way, and then let us move forward because we know it needs to be done and because we know in the end it is going to pass.

Let me just make a couple of points. This legislation will increase accountability. It places added responsibilities where it needs to be, on those who want to either create a new mandate or increase costs of an existing one. In order to do that, they are going to have to get an estimate of the cost of the new requirement to both State and local governments and the private sector. I want to emphasize this also includes a way, hopefully, to help control the unfunded mandates on the private sector.

There has been some suggestion that maybe small business might not be benefit by this or might not be all for it. The National Federation of Independent Businesses put out a letter on January 3 on behalf of 600,000 members of the NFIB, which really represents the small businessmen and women in my State, and said they support this legislation unreservedly, and it is going to be one of their top-rated votes. So the private-sector small businesses want this. I think they want it not only as businessmen and women, but just as individuals and Americans. They know this needs to be done.

So there will be the cost estimates, and then there will be an opportunity to waive the requirements by a simple majority. We can debate that point, and I feel we probably will, on whether or not these requirements can go into effect or not.

I believe this will lead to more informed decisions. Some allegation has been made—intended, I think, as criticism—that this might once again slow down moving some legislation. I have never seen the Senate worry about slowing things down. We are the saucer under the hot cup to cool it down. A little more information, a little more deliberation before we put another mandate on the American people, public or private, seems to me something we should be doing.

The American people want it, and every State in every region, regardless of philosophy, even. A lot of the biggest supporters of this legislation are Democrats, liberal Democrats. Elected mayors and county commissioners have to wrestle with this. They have to find a way to pay for it. So, therefore, this is something that is long overdue. I hope the Senate, in its great deliberative fashion, will make sure that all of the details are analyzed, but in good time will move it forward. I believe it will provide relief for State and local taxpayers.

More and more and more, the Federal Government has dumped requirements on States that Governors, like the distinguished Senator in the chair, the former Governor of Missouri, has had to deal with. He knows the extra costs that were put on the taxpayers of Missouri, not by the Missouri Legislature, but by the Federal Government, telling that State: You have to do this and, by the way, good luck finding the way to pay for it as best you can—not a few thousand dollars, but millions of dollars on every State, big and small, rich and poor.

My poor State of Mississippi struggles to deal with these federally unfunded mandates. The Governor of our State, Gov. Kirk Fordice, has pleaded for relief and for flexibility to allow innovation to occur at the State level. They can do it better. They can save money, and they can give relief to the taxpayers. Also, that is true at the local level. I have had to wrestle in the past as a Congressman and Senator with these Federal mandates that have been dumped on poor, small cities, requirements that say: You must do this; you must clean up that; you must provide this service. And in communities sometimes where you have 70 to 80 percent minorities, they just cannot pay for it. So they have said: We want to do it for safety purposes or environmental purposes, but we do not have the money. Help us.

So I think, at the Federal level, a cost analysis will allow us to see what the cost is going to be and require us, if it is in the national interest, if it is in the interest of safety or environmental considerations nationwide, to step up to the lick log and pay for it. Give them safe drinking water, but help them pay for it. Or, if we are not going to pay for it, do not dump it on them. We make criminals out of the elected officials, literally criminals. Good men and women are saying: I cannot do this. We worry about how we attract good people in office. It is things like unfunded mandates that drive them out. You get a local insurance agent or local homebuilder. Do you think he or she will want to continue to deal with these Federal mandates and the tax increases that are required by them?

If we really want to give taxpayers some tax relief in a painless way, this is the way to do it, by giving them the opportunity to make more decisions on their own without Federal mandates and without increased local and State taxes.

So, Mr. President, I am very pleased that S. 1, the first bill of the year that was introduced, is the Unfunded Mandate Reform Act of 1995.

I commend all that have been involved with it. I think we are going to have good legislation. The risks are small, and the benefits could be great. I hope that early next week, we will move to conclusion.

Mr. President, seeing the distinguished Senator from California on the floor, I yield at this time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I have time reserved at approximately 9:30. So if the majority whip would like to continue, I am perfectly pleased.

Mr. LOTT. In the spirit of what I just said, I do not want to overtalk an issue, I think this legislation speaks so loudly for itself, so I think I will stop at this point.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I want to make sure about the time situation. My understanding is that I control the time until 9:45, is that correct?

The PRESIDING OFFICER. The Senator has 15 minutes.

THE CALIFORNIA FLOOD

Mrs. BOXER. Mr. President, I have not spoken yet on the floor regarding the disaster that has hit my State of California. Senator FEINSTEIN was on this floor and brought the Senate up-to-date a couple of days ago. I would like to do the same, and then I would like to speak about another very urgent issue regarding safety at reproductive health care clinics. I see that Senator FEINGOLD has joined me, and he will be participating in that particular discussion.

Mr. President, 34 counties have been declared State disaster areas and 24 counties have been declared Federal disaster areas, and we expect others to be added shortly. I do not think I have to tell my colleagues that the people in California have, once again, been struck by Mother Nature in a very difficult way.

We live in a very magnificent State. We treasure it and we prize its beauty—its rivers, ocean, mountains, streams, creeks, forests, and deserts. And because we are such a magnificent State, we just have to put up with our share of natural disasters. I want to say, once again, to my colleagues how appreciative Californians are for the swift relief we got from the Clinton administration, backed in a very bipartisan way by this Congress, and we are rebuilding. Now we have people thrown out of their homes because of ravaging floods. The power of that water—someone described it as a 500-year occasion in some parts of the State—is just overwhelming.

What we know is that we have a little break in the weather right now. I am very anxious to get on a plane and go back and see for myself exactly what damage will last after this flood and what we need to do. But today I merely want to bring you up-to-date. Santa Barbara has reported $20 million in damage, and Sacramento reports at least $50 million in damage. The FEMA

emergency phone number is 1–800–462–9029. I say that in case we have any Californians who need to hear that number. The reason that number is important is, if you have damage, you call there and you are eligible for short-term emergency assistance, such as transportation and housing, and longer term registration if you need a loan up to $200,000, if your home has been lost and its value is that high.

The loans are made to people who cannot qualify at banks, and the interest rate will be about 4 percent. If you can qualify at a bank, the interest rate will be about 8 percent. I want to thank the Clinton administration for acting so swiftly. James Lee Witt, the Director of FEMA, unfortunately, has become a familiar figure in our State. He is an extraordinary man. He happened to be there during this disaster and has remained there. We are getting ready for what is to come. I urge my colleagues to please help us as we would help you in a similar situation, indeed as we have helped you in a similar situation.

UNFUNDED MANDATES

Mrs. BOXER. Mr. President, we are debating the unfunded mandates bill. I voted it out of the Budget Committee. I am very much in agreement with the thrust of the bill. I served in local government and we had some mandates I never could understand.

So I am very hopeful that the bill, in its final form, will be good for my State of California. And I want to make it clear, if I think it is good for the people of my State, I will be very proud to vote for the bill. But if I see that the bill takes some twists and turns and ignores, for example, the biggest unfunded mandate we face, which is services to illegal immigrants, then I am going to have a lot of trouble voting for the bill. Therefore, I look forward to the debate.

We know that this bill on the issue of unfunded mandates will make a big difference in the way we fund State and local government. But no matter how fast or slowly we move this bill—and there is a push to move this bill fast because it is in the Contract With America and therefore there is a push to move it fast—there is something that is happening right now that we have to address.

REPRODUCTIVE HEALTH CARE CLINIC VIOLENCE

Mrs. BOXER. The unfunded mandates bill will have an impact way down the road, maybe a year or more out. But I want to talk about a problem that is happening now. We have reproductive health care clinics all across this great land and right now we have some very brave people working in those reproductive health care clinics.

Why do I say ''brave?'' I do not think any of us could know the feeling that some of these folks have when they leave their house: Will there be a stalker standing outside their house as they go to work to do a legal, legitimate job that helps many people? Do they have to wear a bulletproof vest— many doctors do—and will that vest be enough to save their lives?

Mr. President, this is a very, very, serious issue. And it has nothing to do with how one views the issue of reproductive rights. I happen to be someone who believes in the right to choose, a constitutionally guaranteed right, and until it is outlawed or changed it will remain so.

I introduced a resolution. My two prime sponsors are here, Senator FEINGOLD and Senator MURRAY; and another very important sponsor, OLYMPIA SNOWE, Senator SNOWE, is from the other side of the aisle. We have been pushing to get a vote on this resolution because, while we debate unfunded mandates that will take effect years into the future, right now, this minute, people feel like sitting ducks in clinics in rural and urban communities across this country. That is wrong.

We passed the Freedom of Access to Clinic Entrances Act. That bill says that it is a crime to injure or to harm anyone because they happen to work or volunteer at a clinic. There are approximately 900 clinics in the United States providing reproductive health services. But the violence continues every day. We have seen the brutal shootings of innocent people in Massachusetts and the shooting at a health care clinic in Virginia. Organizations monitoring this violence have recorded over 130 incidents of violence or harassment last year.

I have a bill. We are trying to get that bill brought up as a freestanding bill. It is a sense-of-the-Senate resolution and it calls on the Attorney General to fully enforce the law and take any further necessary measures to protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack. There should be no argument about this.

I hope that the majority will clear this bill. We have been working to get it cleared on a bipartisan basis for the last 3 days. One day, ''Oh, yes, it is going to be cleared''; the next day, ''Oh, it is going to be cleared.''

Everyone on our side has no objection. We need to send a signal to the people who work in these clinics that we care. President Clinton sent a directive to the Attorney General. She is working on this problem. We need to add our voice. This is not a criticism of the Attorney General. It is a push to make sure that President Clinton's directive is carried out.

I hope, by the end of this day, we will have this bill before the U.S. Senate for a vote and we will add our voice.

I yield at this time to my colleague and friend, Senator FEINGOLD.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise very briefly to praise and thank the Senator from California for her leadership on this issue. I am very, very pleased to be a cosponsor of the resolution and the amendment which is very straightforward.

I appreciate the language. It expresses the sense of the Senate that the Attorney General should take strong action to protect reproductive health care clinics.

There is really nothing else to be said, other than that the Senate should pass the resolution authored by the Senator from California. This must be done immediately, and if this Federal Government does not express that view, it is a sign of a Government that no longer can really protect the people of this country.

I think that this demands swift action in this body. There are many issues that can be disputed; some obviously should be ones we ought to take a lot of time on. I think we have a couple of them right now. The unfunded mandates bill is very complicated; the balanced budget amendment, amending the Constitution. These require the deliberative skills of the U.S. Senate, but this does not.

I cannot believe there is any Member of this body on either side of the aisles who believes the Federal Government should do anything but be very aggressive in stopping this violence. Just this past August, during debate over the VA-HUD appropriations bill, Senator LAUTENBERG offered, and I cosponsored, a similar amendment in the wake of the shooting of a clinic doctor and his escort in Pensacola, FL. However, at that time as now, I believe that the resolve of the Senate in the matter of clinic violence is clear. Ninety-eight Members of the Senate voted to condemn the shootings in Pensacola last August, and indeed, to condemn the use of deadly force as a means of protest. That is why I ask all of my colleagues to show their strong and united support today and lift any objections to the unanimous consent that this item come up at this time.

There are two reasons that I would like to add. The first is that the type of violence that is involved in these incidents is not truly random violence. It is random, perhaps, as to where it occurs and at what time, but it is not just one troubled individual for whatever personal reason who decides they want to kill somebody. This is the type of violence that is driven by an organized effort to deprive people of their reproductive rights and to intimidate them from exercising those rights. That is very different. The tactics of some individuals who oppose abortion access have escalated. As Ellen Goodman, a syndicated columnist who lives in Boston said in her column, the literal ''line of fire'' is coming closer to home. She writes, ''First doctors, then escorts, now receptionists. First Wichita, then Pensacola, now Brookline.''

That is a direct threat to the rights of every person in this country and in particular every women in this country. And it is a situation where the Federal Government, not just local governments, has to take the lead.

The other reason I wanted to add very briefly is that I have heard a great deal of very appropriate talk in this body in the last 2 years about the victims of crime. They are people that have been forgotten in this society. But when it comes to clinic violence, there is quite a range of victims.

First of all, of course, the tragic deaths and injuries that have occurred directly to the people who have been shot or injured, but also, I think, the health care professionals that are involved and the people involved in the clinics, the receptionists, the nurses and the doctors, some of whom, in my home State of Wisconsin, have taken to wearing bulletproof vests to go to their clinics and do their work. Three very poignant examples of threats to health care professionals were reported by the Milwaukee Journal and the Wisconsin State Journal. Bullets were fired into one clinic on four separate occasions. One Wisconsin doctor is continually stalked. She reported that her car is always covered with anti- choice and threatening propaganda when she parks it—even at the supermarket. The remarks are frighteningly direct and personal. On her last trip she received a note on her windshield upon her return asking ''How was your trip to Washington?'' Another Wisconsin doctor received a letter saying that the anonymous writer would ''hunt you down like any other wild beast and kill you.''

They did not sign up for that kind of detail when they went to medical school or trained to be nurses. They wanted to help people make a difficult decision and they wanted to be medical professionals who were caring and compassionate. This is a terrible thing to do to these people.

But, most of all, the victims are all the young women in this country who already, in situations like this, are confronted with a very, very difficult personal decision. They want counseling and, if they make a particular decision, they want good medical attention. I want to remind all in this body, Mr. President, that when Mr. Salvi walked into the first clinic on Beacon Street on Friday, December 30 and started shooting, he was standing in a facility that not only performs abortions but also conducts Pap smears and routine gynecological examinations. Each time an abortion clinic is threatened with violence not only are those who seek abortion services in peril, but those who use a wide range of reproductive health service are as well.

These people are the true victims, the ultimate victims, who are intimidated from exercising their rights as Americans to make those decisions for themselves.

And so, Mr. President, I rarely ask this body to move immediately. It is not a body that is set up for that purpose. But there are exceptions and I think Senator BOXER has identified such an exception. The Senate should pass this resolution without delay. Condemning clinic violence should not be a partisan issue.

I yield the floor.

Mrs. BOXER. I yield as much time as is required to the Senator from Washington, Senator MURRAY.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank the President. I thank my colleague from California for yielding and for bringing this extremely important issue out to the floor of the Senate this morning.

The Senator has been diligent in pursuing this and in asking our colleagues to bring this issue forward so that we can get a vote and move quickly forward to let the people of this Nation know that the highest elected officials in this country do not condone violence. We will do everything we can to protect all of our citizens in this country.

Before us we have the unfunded mandate issue. It is an extremely important and extremely complex issue that we deal with today. However, it does raise a number of questions. It will take Members some time to move through that issue. Certainly we have to ask what is the outcome of this issue and make sure that, as we pass unfunded mandates, we do it in a way that will not bring about consequences that we have not asked for.

The Senator from California is bringing forward an issue that the consequences are clear. The consequences are the safety of individuals in this country, one of the highest priorities that we have. The issue of unfunded mandates is critical. But the issue of violence is just as important, if not more important. The issue of violence is one that every child in this country, unfortunately, understands and talks about. The issue of violence is one that we have to deal with at all levels.

I think it is extremely important that this body go on record in this Nation, now, to say to our kids that we will not condone violence in any way, shape, or form. No matter how we feel about the issue of choice, whether we are pro-choice or pro-life, we have to let people know in this country that we will not accept violence as a means of showing how we feel about an issue. We have to protect our citizens.

I commend the Senator from California for bringing this issue before the Senate. I sincerely ask all of our colleagues to list their objections so that we can move quickly to send a strong message to this country that we will back the rights of every citizen and we will not condone violence in this country.

Mr. President, I thank my colleague from California. I yield back to her at this time.

Mrs. BOXER. Mr. President, I ask unanimous consent that I may have up to 10 additional minutes as long as there is no one on the floor. If a Senator appears on the floor, I will end my statement.

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

Mrs. BOXER. I thank you, Mr. President. I wanted to thank my two colleagues who were right there, immediately, when I called them and said we need action on this bill.

I also want to say that the majority leader, Senator DOLE, in public comments on this matter, has been very clear that it is a function of this Federal Government to protect the clinics. Now, I ask him to move this bill to the floor. We do not want to wait for another incident.

As I said, passage of this bill by the U.S. Senate, a sense of the Senate resolution, is essential to make it very clear as to where we stand on this issue. By the way, not only do medical professionals work at these clinics—and I know my friend from Wisconsin volunteered at these clinics—as we know, we have had volunteer escorts hurt. We had one case of a retired military person who was shot dead—shot dead. The man fought for his country, and he was shot dead in his own country escorting a doctor into a clinic.

It is a tragedy and a travesty of justice if this continues. So we need to send a message to the people who are exercising their constitutional rights, innocent neighbors of ours. Nurses are our neighbors. Receptionists are our neighbors. Doctors are our neighbors. Escorts are our neighbors, hard-working men and women who, on the weekends when they have time or after work, volunteer their time.

We are not only sending a message to them when we pass this resolution that we stand for law and order in this society, but we also send a message to those who would even think of picking up a gun or a grenade or the chemicals that they spray underneath clinic doors that we are not going to stand by—that this Attorney General, by the way, is not standing by. She has at her disposal some 2,000 members of the U.S. Marshals Service and 10,000 FBI agents. She has contacted the U.S. attorneys. I know the U.S. attorney for northern California, in San Francisco, was contacted. I spoke with him at length. U.S. attorney Michael Yamaguchi is, in fact, formulating a plan using all resources at his disposal.

Let me tell the Senate an additional reason why this is so important. Not only do we need to send a message to the decent people who work or volunteer at these clinics and to the women across this land that we protect them, but we also need to send a message to those who would consider violence or the groups who may not think they are inciting violence. But, when they call

doctors murderers, they ought to rethink it. They ought to rethink their language. Anyone can oppose a law. Anyone can work for Senators who support their view to outlaw a woman's right to choose. I would absolutely applaud a person for taking their feelings and working to change the system. That is what America is about.

But we do not take a gun out, or a knife out, and slash each other up when we disagree. Not in this country, or at least we never did. And we are not talking about one incident; 130 incidents of violence nationwide in 1994 alone; 50 reports of death threats to doctors and other clinic workers; 40 incidents of vandalism; 16 incidents of stalking; 4 acts of arson; and 3 attempted bombings.

We better say something here in the U.S. Senate. We better say it clearly because the message has to get out. If the Attorney General feels that she needs more help, I hope she will let Members know. Senator FEINGOLD is on the Judiciary Committee and he stands ready to hear. But it is my belief, after talking to the U.S. attorney for northern California, that they are beginning to put together the type of operation they need to make these clinics safe.

We have to go on record—Republicans and Democrats alike—that we will not stand by and allow innocent people to be harmed. That is the least that we can do in this circumstance. I look forward to hearing, once more, from the majority leader, whom I have discussed this with and from the new chairman of the Judiciary Committee whom I have also discussed this with, and I want to compliment Senator OLYMPIA SNOWE for working with me in the most bipartisan fashion. As a matter of fact, we spoke very late last night. We spoke at about 11 last night, and she intends to do her part on her side of the aisle to get this bill cleared.

I hope we will do that today. Frankly, Mr. President, I think it will make us proud to pass this bipartisan bill. I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative proceeded to call the roll.

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

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

A TRIBUTE TO UCONN BASKETBALL

Mr. LIEBERMAN. I thank the Chair.

Mr. President, in my home State of Connecticut we face many challenges this winter: An economy that is beginning to recover, hopes are rising, and still a lot of work to do. But there is one element of life in the State that really has brought us all closer together, and that is the University of Connecticut Huskies basketball teams.

Over the last few years, the success of the UConn men's and women's basketball teams have inspired a feverish following that has actually earned its own name, which is ''Huskymania.'' Each season, these teams bring the State a little closer and make those cold Connecticut winters all the more bearable.

I know the occupant of the chair has some relatives from Connecticut, and he can testify at least to the coldness of the winters.

These days, we all feel with great pride that our Connecticut Huskies are top dogs. The latest basketball polls nationally show that both the men's and women's teams are ranked second in the country, which is the highest combined ranking of any school in the Nation. I think even the most passionate partisan of some other college team would recognize what a tremendous accomplishment this is for a school from a State the size of Connecticut.

I think it is really a remarkable tribute to the young men and women who have worked so hard in pursuit of excellence and a dream—the school's first national championship in basketball—and to the great coaches who lead them, Jim Calhoun and Geno Auriemma.

These Huskies, if I may continue this metaphor, clearly have a bite to match their bark. The 11–0 men's team is the only team among the Nation's 302 Division I schools that has yet to be beaten, and we are very proud of that.

It is also worth noting that the Huskies are achieving this extraordinary start this year even after losing their All-American big man, Donyell Marshall, to the NBA. If I can extend my pride regionally, it would be important to note that the UConn men this week are second to the University of Massachusetts, which marks the first time that two teams from New England have ever been ranked 1 and 2.

The UConn women's team, which is also 11–0, has been equally impressive. These Huskies have been ranked second for much of the season, actually beating their opponents by an average of more than 40 points per game. This is a very dominant team. They are led by All-American center Rebecca Lobo, who is an exceptional student athlete—remarkable athlete—but an extraordinary student as well.

So I want to take this opportunity on this particular Friday to salute both teams who, in my opinion, are a classic example of what can happen when you aim high and work hard. I want to congratulate them on their success. I know that they have a tough road ahead of them from now on, but what they have achieved up until now should not go uncomplimented and they should know how much we appreciate them.

This Monday, the UConn women will face the No. 1 Tennessee Volunteers, and on that same day, the UConn men will get a big test when they play the 10th-ranked Georgetown team.

Regardless of what happens, to say the obvious, the State of Connecticut feels that these Huskies are winners. We wish them the best of luck as they try to not only fulfill their dreams but ours.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. GRASSLEY. Mr. President, I ask, as under the previous order, that the Senate stand in recess until 11 a.m.

Thereupon, the Senate, at 9:58 a.m., recessed until 11:01:39 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KEMPTHORNE].

RECESS

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Idaho, seeks unanimous consent that the Senate stand in recess until 11:30 a.m.

Without objection it is so ordered.

There being no objection, the Senate, at 11:01:48, recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. THOMAS].

CONGRESS-BUNDESTAG EXCHANGE

Mr. LIEBERMAN. Mr. President, since 1983, the United States Congress and the German Parliament, the Bundestag, have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about the workings of each other's political institutions and convey Members' views on issues of mutual concern.

This year marks the fifth exchange with a reunified Germany and a parliament consisting of members from all 16 German states. A delegation of staff members from the United States Congress will be chosen to visit Germany from May 7 to May 20. During the 2-week exchange, most of it will be spent at meetings conducted by Bundestag Members, Bundestag party staff members, and representatives of political, business, academic, and the media. Cultural activities and a weekend visit in a Bundestag Member's district round out the exchange.

A comparable delegation of German staff members will visit the United States in July for a 3-week period. They will attend similar meetings here

in Washington and visit the districts of congressional Members over the Fourth of July recess.

The Congress-Bundestag Exchange is highly regarded in Germany, and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries.

The U.S. delegation should consist of experienced and accomplished Hill staff members who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staff professionals to the United States. The United States endeavors to reciprocate.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite United States delegation should exhibit a range of expertise in issues of mutual concern in Germany and the United States such as, but not limited to, trade, security, the environment, immigrations, economic development, health care, and other social policy issues.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two staff people in their Member's district over the Fourth of July, or to arrange for such a visit to another Member's district.

Participants will be selected by a committee composed of U.S. Information Agency personnel and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a résumé and cover letter in which they state why they believe they are qualified, and some assurances of their ability to participate during the time stated. Applications may be sent to Kathie Scarrah, in my office at 316 Hart Senate Building, by Wednesday, February 15.

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

Mr. HELMS. Mr. President, as of the close of business on Thursday, January 12, the Federal debt stood at $4,809,182,675,997.48 meaning that on a per capita basis, every man, woman, and child in America owes $18,255.74 as his or her share of that debt.

REGARDING BOSNIA

Mr. D'AMATO. Mr. President, I rise today to comment on the situation in Bosnia.

While the situation in Bosnia is admittedly better than what it was several months ago, we have nevertheless failed at this time to reach a just and equitable peace. I am pained to see that the administration has arrived at the stance that the Karadzic Serbs cannot be stopped and have thus conceded to nearly all of their demands. Owing to the fact that yesterday was the 44th anniversary of the Genocide Convention, it is an outrage that the administration has allowed the slaughter in Bosnia to continue to go on.

This one-sided approach to the issue is embarrassing and an affront to a people who wish only to be free of Serbian attack. The Bosnian Government asks only one thing of us, a lifting of the arms embargo. While the Senate has repeatedly tried to do so, the administration continues to refuse to do this, only worsening the situation. This is outrageous.

Mr. President, following the Holocaust, the slogan ''Never Again,'' became a watchword. It was supposed to mean that we would remain vigilant to ensure that never again, would an entire population be subjected to extermination. Today, however, this is not the case. Today, the watchword seems to be, ''Yes, Again.'' This is very disheartening and it cannot continue.

ON THE RETIREMENT OF WILLIAM J. MCCORD

Mr. HOLLINGS. Mr. President, I rise to commemorate the service of William J. McCord, the Nation's longest-serving director of a State alcohol and drug abuse prevention and treatment agency. Mr. Jerry McCord is resigning on February 16 after fulfilling a thirty-five year mission to build a system in South Carolina that helps citizens avoid and defeat the curse of addiction. When he became the first full-time employee of the fledgling State Alcoholism Education Program instituted at the start of my Governorship in 1959, none of us knew he would eventually guide an agency that treats more than 30,000 South Carolinians yearly and leads the Nation in its focus on preventing alcohol abuse among teens.

Jerry McCord has pursued his vision of an addiction-free population, not just within the community of treatment professionals, but on every front. He has taught at both of South Carolina's medical colleges, helped found a nonprofit foundation for drug abuse prevention, and received the Distinguished Service award from the South Carolina Correctional Association for his work with law enforcement. He has fostered a system of county commissions that lets each commission meet the needs of its community, while continually championing a longterm, system-wide goal of prevention, particularly among the young. In short, Jerry has dedicated his long and vigorous career to building a flexible, longterm system to benefit future generations.

In addition to his wide-ranging service in South Carolina, Jerry has always made time to help the Nation find better prevention and treatment policies. His myriad national contributions include testifying before Congress in 1969 to advocate the formation of a Federal agency to fight alcohol abuse, serving three terms as president of the Alcohol and Drug Problems Association of North America; chairing the Alcohol Policies Project Advisory Board for the Center for Science in the Public Interest; serving as president, chairman, and member of the board of directors of the Council of State and Territorial Alcoholism Authorities; serving on the Robert Wood Johnson Foundation Head Start Partnership to Promote Substance Free Communities; and currently chairing the Expert Panel of the National Center for the Advancement of Prevention.

This service has brought Jerry McCord repeated recognition at the national level, including a Lifetime Career Achievement Award from the National Association of State Alcohol and Drug Abuse Directors, the Outstanding Leadership and Dedication to the Alcohol Field award from the same organization, the First Annual Leadership in Prevention Award from the National Association of Prevention Professionals and Advocates, and the Outstanding Individual Offering National Leadership in the Alcohol and Drug Problems Field Award from the Alcohol and Drug Problems Association of North America. And, of course, Jerry has been my tutor on the best direction for Federal policy.

Thus, it is with personal pride, but also speaking for those who know of his influence in South Carolina and across the country, that I commend Mr. William J. McCord for his generous career and wish him the best in what I am sure will be an active retirement.

S. 2, THE CONGRESSIONAL ACCOUNTABILITY ACT

Mr. LIEBERMAN. Mr. President, I would like to take this opportunity to explain to the Senate and my constituents my reason for missing two votes on Friday, January 9. These votes were on two separate amendments offered to S. 2, the Congressional Accountability Act.

The first amendment, offered by Senator EXON, would have created a point of order against any budget resolution brought before the Congress that fails to set forth a glide path to a balanced budget by the year 2002. The amendment would also make out of order any budget resolution or amendment to the Budget Act that sets forth a level of outlays for fiscal year 2002 that exceeds the level of revenues for that fiscal year. This amendment is printed on page S540 of the CONGRESSIONAL RECORD of January 6, 1995.

The second amendment in question was offered by Senator SIMON. This sense-of-the-Senate resolution called on the Bridgestone/Firestone Corp. to reconsider its decision to hire permanent replacement workers and return to the bargaining table and bargain in

good faith with the United Rubber Workers of America, the representative of their employees. This amendment is printed on page S557 of the CONGRESSIONAL RECORD of January 6, 1995.

Mr. President, I was unavoidably absent from the Senate when rollcall votes were held on these two measures on the afternoon of the 9th. Earlier that day I felt compelled to leave Washington, DC in order to tend to an important family matter. I regret my necessary absence, and I would like to explain how I would have voted on these amendments and my thoughts on the substance of the amendments.

Before any amendments were offered to S. 2, I decided to vote against the addition of all nongermane amendments that my colleagues might offer. As a sponsor of S. 2, I saw the need to move the bill though the Senate without the addition of nongermane amendments which would have slowed passage of the bill and possibly forced a lengthy and contentious conference between the Senate and the House. I felt it was in the interest of the entire Congress that we take quick and decisive action on S. 2. I am convinced that the best way for Democrats and Republicans to begin the 104th Congress is by promptly enacting this legislation, which helps restore the American public's confidence in our system of governance. I believe that quick enactment of the Congressional Accountability Act, which will require Congress to live by the same laws it imposes on the rest of the country, will go a long way toward achieving that goal. I was concerned that amendment to S. 2 would force a lengthy conference and delay the bill.

Had I not felt the need to vote against all amendments to S. 2 in order to expedite swift passage, I would have voted in favor of the Exon amendment to require a roadmap to a balanced budget by the year 2002. While I wholeheartedly endorse the goal of a balanced budget, I have long been troubled by the fact that we have not come up with a coherent plan that will get us to that goal. As we all know, the devil is in the details, and the Exon amendment sought to get at those details. For this reason, I support the thrust of the Exon amendment, and I anticipate Senator EXON will offer it again when the Senate considers the balanced budget amendment to the Constitution.

Mr. President, I would also like to note my support for the thrust of the Simon sense-of-the-Senate resolution. This resolution simply sought to express the collective view of the Senate that Bridgestone/Firestone should not replace thousands of its striking workers with permanent replacements. The resolution would have had no binding legal effect on the parties in dispute, but its intent was entirely consistent with the National Labor Relations Act, which requires parties in a collective bargaining dispute to negotiate in good faith. The Simon resolution asks Bridgestone/Firestone to resume good faith negotiations with its striking employees, and that is a goal I support.

Mr. President, I would also like to note that I voted against the adoption of many amendments during consideration of S. 2 which I would ordinarily support. Among these are many of the amendments regarding campaign finance reform and the Levin-Wellstone-Feingold-Lautenberg amendment regarding a prohibition on gifts to members of Congress and their staff and full disclosure of lobbyists and their contacts. These were worthy measures which I have supported in the past, and I note that the majority leader has indicated he would bring to the Senate floor legislation prohibiting gifts and requiring full disclosure of lobbying, as well as comprehensive campaign finance reform in the early months of this 104th Congress.

Mr. President, I would also like to take this opportunity to thank my colleagues who were instrumental in passage of the Congressional Accountability Act. Senator GRASSLEY deserves enormous credit for his tireless efforts to build support for this legislation and his skilled stewardship of this bill on the Senate floor over the past week. Since the later years of the last decade my friend from Iowa has reminded this body on a continual basis that it cannot continue to maintain a double standard which is offensive to the public and injurious to our system of governance. Our success is due in large part to his longstanding commitment to this legislation. It was a privilege to work on this bill with him, both last year on our bill S. 2071, and on this year's version, S. 2.

I would also like to thank Senator JOHN GLENN, who moved this bill through the Governmental Affairs Committee in the 103d Congress and continued his work on this bill in the 104th Congress as the Democratic floor manager of S. 2. Like Senator GRASSLEY, Senator GLENN's successful effort in the past week to move this bill through the Senate was the culmination of many years of work. Beginning in 1978 my friend from Ohio introduced legislation seeking to bring Congress under the same employment laws it imposes on the private sector, and so I see passage of this bill as the happy culmination of many years of work on the part of Senator GLENN. I would also like to note that immediately following Senate passage of S. 2, Senator GLENN proceeded to serve as the floor manager for the unfunded mandates bill. Acting as floor manager for one bill is difficult enough. Acting as floor manager for two complex pieces of legislation in immediate succession is a challenge that most Senators never face, and so I would like to commend Senator GLENN for his stamina, good humor, and willingness to tackle two intricate pieces of legislation at once.

Mr. President, I should also mention my colleagues, in the House who originated this legislation. Congressman CHRISTOPHER SHAYS, my friend and colleague from Connecticut, was the original author of the Congressional Accountability Act. He has been tireless in his advocacy of this legislation, and I would like to praise him for moving his bill through the House of Representatives not only last year, but also again on the first day of the 104th Congress. I offer him my congratulations on his great success.

Last among my colleagues I would like to thank the majority leader, Senator DOLE, for giving this bill privileged consideration as the first bill brought to the Senate floor in the 104th Congress. I believe the majority leader wisely saw that quick passage of this bill could help restore the public's faith in Congress and the ability of our two political parties to work together again, and I offer him my sincere thanks for choosing to designate the Congressional Accountability Act as S. 2.

Finally, I would like to thank all the staff who worked tirelessly on this legislation. I would like to thank Melissa Patack, formerly of Senator GRASSLEY's staff, who worked with my staff to formulate the first bill, S. 2071, which Senator GRASSLEY and I authored in the 103d Congress. I would also like to thank Frederick S. Ansell of Senator GRASSLEY's staff, who worked many long hours over the holidays to finish preparation of the bill for floor action in early January. This was an extremely demanding task, and I thank Fred for his sacrifice, patience, and good humor.

I would also like to thank Lawrence B. Novey of the Governmental Affairs Committee. Larry worked many weekends and late nights in the 103d Congress to coordinate the committee's hearings on this legislation, organize a markup, draft the committee report, and ready the bill for floor consideration in October. The bill the Senate passed on Wednesday is based largely on the committee-passed bill, so it is fitting that we recognize Larry's enormous contributions to the bill. Larry also spent many long hours over the holidays preparing the bill for floor action, and we are clearly the benefactors of his commitment, wide knowledge, and legal skill.

My thanks also go to Michael Fox and Peter Carson of Congressman SHAYS' staff, who first began work on the Congressional Accountability Act and produced H.R. 349, the very first version of the bill. By aggressively seeking a wide, bipartisan group of cosponsors and the consent of the House leadership in the 103d Congress, Peter and Michael assisted Congressman SHAYS in laying the political foundation of this bill, and made it that much easier for my staff to do the same in the Senate.

Before concluding, I would like to offer many thanks to our Senate Legal Counsel, Michael Davidson, and his assistant counsel, Claire M. Sylvia. Mike and Claire provided invaluable counsel

on a variety of matters, ranging from technical drafting points to constitutional issues surrounding this legislation. As always, their counsel was sound, impartial, and imbued with the wisdom and insight of a first-rate legal team. In addition to the gratitude that Senator GRASSLEY and I owe Michael and Claire, I believe the Senate and indeed, the entire Congress, is indebted to them, because their counsel has improved the substance of this legislation so greatly. Michael Davidson and his staff are a great credit to the U.S. Senate.

Finally, I would like to thank Fred Richardson and John Nakahata of my staff for their dedication to enactment of this bill. I know that the Senate's approval of this legislation on January 11 was particularly meaningful to both of them, but for very different reasons. For Fred I know it was a very happy coincidence that final passage of the Congressional Accountability Act came on his birthday, after nearly 2 years of work and countless drafts of the legislation. For John, it is with a mixture of deep personal regret and real happiness for John that I note that the day of final passage for S. 2 was also John's last day of service in the Senate.

While I am very happy to see John advance his career and new challenges at the Federal Communications Commission, it is with deep sadness that I see John leave my staff. John's energy, intellect, and reputation for unfailing professionalism is well known in the Senate, and his departure is a great loss to me and my staff. He will be deeply missed. But I am very pleased that John's final day happened to coincide with passage of this legislation to which he devoted so much time and energy. John's imprint can be found throughout the text of the bill and in the history of its movement through the Senate, and so I hope he leaves the Senate with S. 2 as a memento to his talents, energy, and understanding of the institution, and also with a sense of closure and success on a very complex and important piece of legislation. Thank you, John, for your years of service and your invaluable work on the Congressional Accountability Act.

RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I submit for publication in the RECORD a copy of the rules adopted by the Committee on Agriculture, Nutrition, and Forestry on January 12, 1995.

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

RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

RULE 1—MEETINGS

1.1 Regular Meetings. Regular meetings shall be held on the first and third Wednesday's of each month when Congress is in session.

1.2 Additional Meetings. The Chairman, in consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

1.3 Notification. In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C. and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.4 Called Meeting. If three members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, a majority of the members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the Committee in writing of the date and time of the meeting.

1.5 Adjournment of Meetings. The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

RULE 2—MEETINGS AND HEARINGS IN GENERAL

2.1 Open Sessions. Business meetings and hearings held by the Committee or any subcommittee shall be open to the public except as otherwise provided for in Senate Rule XXVI, paragraph 5.

2.2 Transcripts. A transcript shall be kept of each business meeting and hearing of the Committee or any subcommittee unless a majority of the Committee or the subcommittee agrees that some other form of permanent record is preferable.

2.3 Reports. An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

2.4 Attendance. (a) Meetings. Official attendance of all markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance of all subcommittee markups and executive sessions shall be kept by the subcommittee Clerk.

(b) Hearings. Official attendance of all hearings shall be kept, provided that, Senators are notified by the Committee Chairman and Ranking Minority Member, in the case of Committee hearings, and by the subcommittee Chairman and Ranking Minority Member, in the case of subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken. Otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

RULE 3—HEARING PROCEDURES

3.1 Notice. Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the subcommittee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the subcommittee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

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

3.3 Minority Witnesses. In any hearing conducted by the Committee, or any subcommittee thereof, the minority members of the Committee or subcommittee shall be entitled, upon request to the Chairman by the Ranking Minority Member of the Committee or subcommittee to call witnesses of their selection during at least one day of such hearing pertaining to the matter or matters heard by the Committee or subcommittee.

3.4 Swearing in of Witnesses. Witnesses in Committee or subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or subcommittee deems such to be necessary.

3.5 limitation. Each member shall be limited to five minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question a witness. Questions from members shall rotate from majority to minority members in order of seniority or in order of arrival at the hearing.

RULE 4—NOMINATIONS

4.1 Assignment. All nominations shall be considered by the full Committee.

4.2 Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated.

4.3 Information. Each nominee shall submit in response to questions prepared by the Committee the following information:

(1) A detailed biographical resume which contains information relating to education, employment, and achievements;

(2) Financial information, including a financial statement which lists assets and liabilities of the nominee; and

(3) Copies of other relevant documents requested by the Committee.

Information received pursuant to this subsection shall be available for public inspection except as specifically designated confidential by the Committee.

4.4 Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office. No hearing shall be held until at least 48 hours after the nominee has responded to a pre-hearing questionnaire submitted by the Committee.

4.5 Action on confirmation. A business meeting to consider a nomination shall not occur on the same day that the hearing on the nominee is held. The Chairman, with the agreement of the Ranking Minority Member, may waive this requirement.

RULE 5—QUORUMS

5.1 Testimony. For the purpose of receiving evidence, the swearing of witnesses, and the taking of sworn or unsworn testimony at any duly scheduled-hearing, a quorum of the Committee and each subcommittee thereof shall consist of one member.

5.2 Business. A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee or subcommittee, including at least one member from each party.

5.3 Reporting. A majority of the membership of the Committee shall constitute a quorum for reporting bills, nominations, matters, or recommendations to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a

majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 6—VOTING

6.1 Roll calls. A roll call vote of the members shall be taken upon the request of any member.

6.2 Proxies. Voting by proxy as authorized by the Senate Rules for specific bills or subjects shall be allowed whenever a quorum of the Committee is actually present.

6.3 Polling. The Committee may poll any matters of Committee business, other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public, provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the committee shall keep a record of all polls.

RULE 7—SUBCOMMITTEES

7.1 Assignments. To assure the equitable assignment of members to subcommittees, no member of the Committee will receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignment to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

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

7.3 Ex Officio Members. The Chairman and Ranking Minority Member shall serve as nonvoting ex officio members of the subcommittees on which they do not serve as voting members. The Chairman and Ranking Minority Member may not be counted toward a quorum.

7.4 Scheduling. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee business meeting may be held at the same time.

7.5 Discharge. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition. The full Committee may at any time, by majority vote of those members present, discharge a subcommittee from further consideration of a specific piece of legislation.

7.6 Application of Committee Rules to Subcommittees. The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 8—INVESTIGATIONS, SUBPOENAS AND DEPOSITIONS

8.1 Investigations. Any investigation undertaken by the Committee or a subcommittee in which depositions are taken or subpoenas issued, must be authorized by a majority of the members of the Committee voting for approval to conduct such investigation at a business meeting of the Committee convened in accordance with Rule 1.

8.2 Subpoenas. The Chairman, with the approval of the Ranking Minority Member of the Committee, is delegated the authority to subpoena the attendance of witnesses or the production of memorandum, documents, records, or any other materials at a hearing of the Committee or a subcommittee or in connection with the conduct of an investigation authorized in accordance with paragraph 8.1. The Chairman may subpoena attendance or production without the approval of the Ranking Minority Member when the Chairman has not received notification from the Ranking Minority Member of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided in this paragraph the subpoena may be authorized by vote of the members of the Committee. When the Committee or Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other member of the Committee designated by the Chairman.

8.3 Notice for taking depositions. Notices for the taking of depositions, in an investigation authorized by the Committee, shall be authorized and be issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the Senator, staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

8.4 Procedure for taking depositors. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. The Chairman will rule, by telephone or otherwise, on any objection by a witness. The transcript of a deposition shall be filed with the Committee Clerk.

RULE 9—AMENDING THE RULES

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the Committee as long as any witnesses who may be affected by the change in rules are provided with them.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

UNFUNDED MANDATE REFORM ACT

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

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the bill.

Pending:

Committee amendment on page 15, line 6.

The PRESIDING OFFICER. The pending question is the committee amendment on page 15, line 6.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Thank you very much, Mr. President.

Mr. President, we have begun a good discussion on S. 1, a bill that is designed to realign federalism so that our State and local partners realize that they are indeed partners and not special interest groups that are out there. It also pays attention to the private sector so that we will know as a decisionmaking body the cost and the impact of these mandates before we vote to impose them. Of course, it provides for a waiver so that if we choose to take some altered course we may do so.

It enhances our decisionmaking ability. As a result of many hours of discussion yesterday where we talked about this, a number of Senators were able to address some of their points and the support that they have for this bill. Some raised concerns of specific aspects of that bill. But as a result of that, we realize that reporters all across America are beginning to truly focus on this issue by calling the city halls and county courthouses and the school districts in their regions. And they are asking the mayors and the county commissioners, ''What about these unfunded mandates? Is this truly a problem and can you give us some examples?'' So the stories are starting to come forward of what these unfunded Federal mandates are, which are hidden Federal taxes.

In today's USA Today, for example, is a good story talking about Columbus, OH, and the unfunded Federal mandates. Really Columbus, OH, is one of those cities—Mayor Gregory Lashutka is not only an effective mayor but a good friend of mine—one of the first cities to document these unfunded Federal mandates. It has become a good source of information for many of us.

I received in the mail, also, Mr. President, a letter. Because we talked about the cities, the counties, and the States, we referenced the schools. But I think this helps make the point about the impact on the schools.

This is a letter from James B. Appleberry, president of the American Association of State Colleges and Universities, and C. Peter Magrath, president, National Association of State

Universities and Land-Grant Colleges. I would like to just read a couple of statements that they make in their letter dated January 6.

We write on behalf of the institutions——

—Which I just referenced.

in support of S. 1, the Unfunded Mandate Reform Act of 1995. Together AASCU and NASULGC represent virtually all of the nation's public four year colleges and universities, enrolling more than 5.5 million students.

They go on to cite that:

Our associations have a long-standing public policy position of discouraging congressional efforts to pass legislation that imposes unfunded Federal mandates on the states. We know that Federal mandates are generally for worthy purposes, but our concern rests on the fact that Federal mandates diminish a State's ability to address its own priorities.

They go on to point out the reduction that they have experienced in funding at the State level. They say:

In recent years, states have been forced to divert scarce discretionary dollars from vital state programs in order to comply with new Federal directives. Public higher education, funded primarily from state discretionary funds, is one of those areas where State appropriations have been severely diminished as a result of newly mandated federal initiatives. Since 1982, financial support of higher education from State and local funds has dwindled from 7.6 percent of all revenues to 6.2 percent in 1993. When inflation and decreased State funding are taken into account, higher education's purchasing power has dropped by $7.7 billion since 1990.

This reduction in funding is not happening because the states have stopped valuing higher education, but rather because unfunded Federal mandates have dried up all sources of a State's discretionary revenue. The main response to depleting state of discretionary funds available to public colleges and universities has been to cut services and raise tuition. The subsequent tuition increases force students is to either borrow greater amounts or to forgo a postsecondary education.

This is at the heart of the education of this Nation, but because of these unfunded Federal mandates, the end result may be that students are forgoing postsecondary education, students who would like to continue in their educational opportunities.

What about the children at the elementary and secondary grade level? This is the letter dated January 11, 1995, from Boyd Boehlje, who is the president of the National School Boards Association. They state that:

The National School Boards Association, on behalf of the more than 95,000 locally elected school board members nationwide, strongly supports S. 1, ''The Unfunded Mandate Reform Act of 1995'' and urges you to reject all weakening amendments.

They go on to say that:

S. 1 will bring an open, accountable, and informed decisionmaking process to future proposals and regulations that impact school districts and other local and State governments. School districts in your state need the protection.

He says:

The bill is reasonable, workable, and long overdue. It has our strongest support, and needs to move through the process without weakening amendments.

Today, school children throughout the country are facing the prospect of reduced classroom construction because the Federal Government requires, but does not fund, services or programs that local school boards are directed to implement. School boards are not opposed to the goals of many of these mandates, but we believe that Congress should be responsible for funding the programs it imposes on school districts. Our Nation's public school children must not be made to pay the price for unfunded federal mandates.

Strong statements, Mr. President, from leaders of elementary, secondary, as well as the universities of this Nation pointing out the impact of unfunded Federal mandates on our children and on our students of this country.

Mr. President, we have received the committee reports, one from the Governmental Affairs Committee, the other from the Budget Committee. They have now been presented to Members of the Senate. They have been published. I know this was a concern of the Senator from West Virginia. So again, that has been taken care of so that all Senators have the opportunity to examine them.

UNANIMOUS CONSENT REQUEST

Mr. KEMPTHORNE. Mr. President, because the reports are now in Senators' hands, I ask unanimous consent that the Republican planing committee amendments be considered, en bloc, agreed en bloc, and the motion to reconsider be laid upon the table with the following exceptions: the amendment on page 25, the amendment on page 27, and the amendment on page 33; I further ask unanimous consent that all adopted committee amendments be considered as original text for the purpose of further amendments.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object, if I might, I want to compliment our distinguished friend from Idaho for his long-time commitment to the goals and to the premises that this piece of legislation represents. But I think, Mr. President, it needs to be said that this is a far-reaching, a very, very far-reaching piece of legislation.

It is the most far-reaching piece of legislation that this body, the 104th Congress of the U.S. Senate, has yet considered.

Mr. President, I sat through, the other morning, a very extensive debate in the Committee on Governmental Affairs relative to this particular piece of legislation. And in that committee, there were two issues that very much concerned me, two issues that I am afraid, at least for the moment, at that time were disposed of. One of those issues was a vote taken by the committee relative to a committee report. That committee report, by the way, as the Senator from Idaho has now demonstrated, has been filed. We have that particular report from the Committee on Governmental Affairs. However, the committee at first voted not to accompany this bill with a committee report.

I want to compliment my friend from West Virginia, Senator BYRD, who has in the last 2 days—in my opinion, justifiably so—requested, before this measure be considered, a committee report from the other committee of jurisdiction, which is the Committee on the Budget. In my opinion, even though I am a member of the Governmental Affairs Committee, the Budget Committee report is more meaningful to this particular bill than the Governmental Affairs Committee report.

The Budget Committee has now made its report. It has been given to the Senate, but only in the past few hours. This morning, we received this particular report on the Unfunded Mandates Reform Act of 1995. We now have the report. I must say, and tell my colleagues that it is no news that since 10 o'clock, we have been in a meeting with Mr. Greenspan, Alan Greenspan, relative to the financial and economic crisis in Mexico. That has consumed most of our morning. We have been in recess most of this Friday morning, I might add. I do not know how many people have had the opportunity, I respectfully submit, to look at this particular committee report.

Finally, I think the issue of a sunset of 3 years, which was left unresolved by the Committee on Governmental Affairs, is an issue that I think needs to be addressed as we proceed with this bill. A measure of this far-reaching impact and consequence is a measure which, in my opinion, at this time needs a careful consideration of a sunset provision, where all of this measure would sunset at the end of 3 years, in order to afford the Congress —the House and Senate—the mayors, Governors, and all of us who are involved in this vast restructuring process, the opportunity to see if we have made the right or the wrong decision, and to see if we need to make changes in this particular concept that we have brought to this great country of ours.

So with that being said, Mr. President, I have reserved the right to object, and I have not entered an objection. I see the distinguished Senator from West Virginia; and I see the distinguished Senator from Michigan, who has been very much involved in the formation of this particular legislation.

I yield the floor at this time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from West Virginia.

Mr. BYRD. Mr. President, I must begin by saying that Senator KEMPTHORNE came to my office earlier and showed me this request. I am much impressed with this Senator. He is a decent, fine Senator who wants to move on with this bill. He is certainly extending every courtesy and every cooperation that one could expect. I applaud him for that.

As to the request itself, I was supplied this morning with a copy of the report by the Committee on the Budget. I had said yesterday a number of things; perhaps I should repeat some of them. I said, first of all, that I am not taking on the role of traffic cop. That is somebody else's job. It is not my job to be a traffic cop. Then they say: Why, Senator BYRD, are you up here? Why are you here being a traffic cop yesterday and today?

If that is the role I am being perceived as playing, I should say that this is a massive bill. I am not for it; I am not against it. I do not know where I am on this bill. I have not had an opportunity to study a committee report, although the committee report that was accompanying the bill which came from the Committee on Governmental Affairs was available yesterday.

I was on the floor all day and into the evening. I personally have not had any opportunity to read that. I never had any opportunity to read the bill. That is nobody's fault that I had no opportunity to read the bill. But I was not aware that the bill the Senate was going to act on would be the bill reported out of the Committee on Governmental Affairs. I had read about a Budget Committee bill, and I also had read that the minority—meaning the Democrats on that committee—had not been permitted to have a committee report in which they had hoped to express individual views or minority views, or whatever.

I have always stood for the rights of the minority. When I was in the majority, I stood for the rights of the minority. I stood for the rights of the minority just recently, when there was the effort to modify the filibuster rule. I have been in the minority; I have been in the majority. So I have had some experience in both situations.

I have also been a Member of the House, a long time ago, and there was a reason for the constitutional Framers' decision to have two Houses, each with a particular role to play in its sphere of action. I have never been very convivial with respect to making the U.S. Senate a second House of Representatives. I want the Senate to remain what it is; namely, the premier upper body in the world today. Two reasons being—among others—that we have the right to offer amendments here, as long as we want to offer amendments and feel the need to offer amendments; also, that we have unlimited debate, which can only be proscribed by cloture motion agreed to or by unanimous-consent agreements.

So I felt that the minority—in this case, on the Budget Committee—had a right to ask for a report, as I stated yesterday, so that the whole record would be clear. As I stated earlier, every bill or resolution that comes to the floor does not necessarily have to have a committee report. There are a lot of minor bills that come to the floor and there are often no committee reports accompanying those bills. Nobody raises any fuss about that. But this is not a minor bill. I do not know what is in the bill, but I know enough about this bill to know it is no minor bill.

I have read that it is part of the Contract With America. I do not know what the Contract With America states. I have read that there is one, but I have not read it. Well, some would say: Why have you not read it? Well, I have never read the Democratic platform. I have been in politics now going on 49 years, and I have never yet read a Democratic platform. Why? Because I did not have any part in writing that platform. I am going to be guided by my own conscience and by the facts in a given situation, not by some party platform.

I do not read party platforms; do not expect ever to read a party platform. Why waste my time on a party platform? I have my own platform to deal with my conscience and try to do what is right and best as I see it for the Nation, for my State, for the U.S. Senate, this institution, and for my fellow man.

There are a couple of things that even supersede those. My dedication to my family and my Maker—and I am not of the religious right or the religious left. I do not claim to be a religious man, but I have some very definite ideas concerning religion and concerning the fact that I am going to have to meet my Maker one day and live in eternity. I believe that.

Eternity is a long time. Would Senators like to know how long eternity is?

I take this handkerchief in my hand. Let us suppose that a bird flew over Mount Everest carrying this handkerchief—once a minute—drawing this handkerchief across Mount Everest, just as I am drawing it across this microphone—and that that bird could live forever. When Mount Everest had been worn down to a level with the sands of the sea, by a bird dragging that handkerchief across the top of Mount Everest, eternity would have just begun.

I have some pretty strong opinions, but I am no religious rightist and I am no religious leftist. And I resented it when Joycelyn Elders—whose nomination I opposed—was reported to have made some snide comments about Christians.

No man is good. We all sin.

But I have some strong beliefs. I will not have anything other than the King James version of the Bible in my House. Why? Because that is the book that my foster mother and father read. I grew up with the King James version and I will stay with that version until I am laid beneath the sod.

I say all of that to say this. I have not signed any Contract With America, and I have not read it. But there is a great rush around here, there is a great stampede to enact the contract within the first 100 days.

I did not sign any Contract With America. I may like some parts of it. I may not. I am not a signatory.

I know that our distinguished leader, Mr. DOLE, with whom I have worked many years here in various capacities, is under pressure. I am not saying that he does not believe in the so-called Contract With America. I have not discussed it with him. But he is under great pressure. He is under pressure from the other body. That steamroller over there across the Capitol is coming our way.

And that Speaker, in my judgment, has more power than any Speaker since Sam Rayburn, under whom I served when I was in the House. I was also in the House when Joe Martin was Speaker.

But I am sure that Senator DOLE is also under pressure from people within his own ranks. So I try to understand—because I have been down that road—I try to understand his problems. And I can understand why he wants to move on to get this work done. I congratulate him for bringing in the Senate here during days when ordinarily we might have expected to be out following the swearing in of Senators. I applaud that.

I am glad he has kept us in. We ought to be here. We ought to be here debating this bill. We ought to know what is in this bill.

I am an old-time Senator, and I am also a brand-new model.

I say that I want to know how badly my State is going to be hurt by this so-called contract, if it is passed.

We have all this push to get these bills through, ram them through the Senate and House. What happened in the Budget Committee, I would assume, was an effort to get the bill to the floor in a hurry. The majority leader had asked to get those bills out of committee as soon as possible, which is a reasonable request. I understand that the chairman said, ''Well, we are going to get this out and we are not going to have a committee report.''

Well, it came out without a committee report. And then we were told, ''Well, the statement is in the RECORD. The committee report is no different from the statement, so read the statement. Why wait on the committee report? All you are going to get in that committee report is that statement, plus this page,'' which says, ''Unfunded Mandate Reform Act of 1995, Report of the Committee on the Budget.''

Well, that is not quite the case. The statement is not exactly like the committee report. I understand that Mr. EXON's views had not been included in the statement, at least that is what I understood Mr. DOLE to say last night.

But, be that as it may, there are many other reasons why we need a committee report. And I can explain a few of those reasons later.

But, for now, I said I want to be a reasonable man. And I feel that I am on legitimate, solid ground when I ask for a committee report.

Why should I be up here asking for a committee report? I have a responsibility as a Senator. I want to protect my State.

I voted against the so-called Coverage Act, the only Senator to vote against it. I had good reasons. If Senators are still around here long enough, they will all understand some of those reasons. If Senators stay around here long enough, they will understand the kind of straitjacket the legislation will put the Senate into. I alone, voted against that bill and have no apologies.

But I am saying to my friends on both sides of the aisle, just because the House has rules that will allow it to ram bills through, does not mean that the Senate has to roll over and play dead. Let Members slow down a little bit here. This is only the 13th day of January, Friday the 13th. This is early in the session. We are not up against the fiscal year deadline. We are not up against a deadline to raise the debt limit. We are not up against any emergencies this morning. We will have, possibly, an emergency supplemental come along one day, but this bill is not an emergency bill. We have some time. Let Members slow down and look at what is in this bill. That is, as I see it, my duty as a Senator.

It sparked my notice when I heard that the minority on the Senate committee had been denied the right to file minority views in a committee report. It kind of got the adrenalin flowing; stimulated my blood pressure just a bit. So I came to the floor yesterday and suggested we have a committee report and an opportunity to study it a little bit so we could better understand what we are being asked to vote on. I have not yet had an opportunity to study that committee report. I know that the distinguished majority leader, when he comes to the floor, has the first right of recognition, which he should have. His party also has the chair, which I insist on.

The new Senators who are presiding are doing an excellent job. They are paying attention. They are not up there reading or signing mail. There used to be a telephone behind the Presiding Officer's chair. Senators would be in the chair and they would talk on the telephone. When I became majority leader, I took that telephone out.

Mr. President, is there something the Chair wishes to say?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. BYRD. Mr. President, I object.

Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

The minority does not have a right to that chair. If Republicans are in the majority, they should have that chair, and vice versa. So, when friends have asked, ''Do you not think it would be a good thing to share the chair,'' I said, ''No.''

The majority leader, when he comes to the floor, will have that arrow in his quiver—the arrow—of first recognition. I may not have another chance today to say a few words on this.

Mr. President, the first item of legislation passed by this Congress was S. 2, the Congressional Accountability Act. The Senate now has under its consideration S. 1, the so-called unfunded mandates bill. When I think about the paradoxical effects of those two bills, I sincerely hope I am not the only one to marvel at the utter inconsistency of what we see going on.

On the one hand, when the Senate passed S. 2, it agreed to apply to the Congress and its employees many of the same worker protection and environmental safety laws currently enjoyed by the rest of the Nation. Yet here we are today debating the unfunded mandates bill, which, if enacted, could turn right around and endanger many of those same protections.

In principle, I am not opposed to the idea of requiring congressional funding for programs that we enact. I agree that in some cases we have passed along to the States the cost of increased benefits that we knew we could not fund. But dealing with the problem on a case-by-case basis, which I believe is a prudent course, is a completely different approach from that which we have in this bill. The plain truth is, Mr. President, the approach taken by S. 1 seems to me, at this point and until I have a better understanding of it, a little bit like using an elephant gun on a squirrel hunt.

As currently drafted, if I listen to my colleagues and some of the staff around here, and as I understand it—and I want to verify this—I fear that the bill may be too broad a solution to the problem. The answer to unfunded mandates is not going to be found through enactment of legislation that may irreparably quash important health, environmental, and quality-of-life measures already on the statute books.

I know that a good many Senators have problems with the Clean Air Act. When I was majority leader I would not bring it up. I had a lot of Senators on my side of the aisle, including the former majority leader, Mr. Mitchell, very much a supporter of that act. When I was majority leader I would not bring it up. As majority leader, I did not feel that I necessarily had to bring up every bill that some colleague on this side of the aisle wanted. I did not bring it up.

I ended up voting against the Clean Air Act. It had some good things in it and some things I did not like. Of course, the Senate took the hill country boy from West Virginia and ran over him.

I had an amendment which was called the ''coal miner's amendment.'' I had the then majority leader, Mr. Mitchell, against me, and I had the then minority leader, Mr. DOLE, against me, and I had the President against me. I had to go up against that vast array of formidable persons who were opposed to my poor little old coal miner's amendment.

But I worked hard, and I managed almost to win the fight. My problem was that three Senators who had committed to vote with me did not vote with me but voted against me. So I lost my amendment by 1 vote.

You might call that Clean Air Act an unfunded mandate. I voted against it. Many Senators here today who want this unfunded mandates legislation voted for that bill. They voted for that bill, and they have voted for most of the legislation—most of the legislation—that they now refer to as unfunded mandates legislation. Various Senators who are now pushing hard for this bill, voted for what is now attacked as unfunded mandates laws.

So I say, again, the answer to unfunded mandates is probably not going to be found through enactment of legislation that may irreparably quash important health, environmental, and quality-of-life measures already on the statute books.

Incidentally, I should alert my colleagues that there will be votes today. I hope that they do not leave under any impression or false hope that, now that I have the floor, I will be talking the rest of the day and the night. I do not intend to do that. I am not filibustering this bill. I am sure the majority leader will have a vote or two at some time.

I want my colleagues to be fully aware of that. This is not one of these Fridays we have become accustomed to around here in which we show up for an hour, and go out early. The custom that has grown up around here is, we get an agreement to finish up everything next Tuesday and we will not be in session on Friday. We need more debate around here, not less. But this is not one of those Fridays in which we will vote by 10:30 and then hie away to the four winds.

To my colleagues, I say we better learn how to be a minority again. The Senators over here on this other side of the aisle know how to act as a minority. I am going to tell you another bit of news: They also know how to operate as a majority. You watch that leader over there. He will not hesitate to use the rules. He will not hesitate to rock the boat.

I have to kind of get used to being in the minority again.

We do not need to put the Family and Medical Leave Act or the National Voter Registration Act or the OSHA Reform Act or the Clean Water Act, among others, on the chopping block in an effort to solve the problem of unfunded mandates.

In saying that, may I say that I have some sympathy with efforts to deal with these unfunded mandates. But this legislation would do that precisely, put them on the chopping block in an effort to solve the problem of unfunded mandates.

Any time one of those programs or any one of almost 200 other such mandates currently tracked by the National Conference of State Legislatures is reauthorized or amended, they could be put in jeopardy.

Mr. President, I am well aware that there are those in the Senate who would like to accomplish that goal, the goal of rolling back what has previously been accomplished. Some of what has previously been accomplished, I would like to roll back, but I am not sure that this bill, until I understand it better, is the way to do it.

For some—not all, of course, but some—this bill appears to me, from listening to others and some of those who have even ''whispered in my ear,'' I get the impression that the bill is simply a back-door way of gutting progressive legislation enacted over the past several years. I am not saying all the legislation that has been passed in the last several years has been progressive. I voted against some. Some may say the bill we passed earlier this week is progressive legislation, S. 2. I did not think so. I voted against it.

If that is what they want to do, then come forward and say so. Bring a bill to the floor that would repeal the minimum wage law. Bring a bill to the floor that would repeal the regulations relating to toxic waste disposal. If that is the agenda, bring a bill to the floor that repeals it. Lay it out on the desk in open view. Let us debate the merits of one of those bills if that is the intention of some. But we should not continue on this headlong rush to pass legislation whose impact is not completely known.

I am also concerned, as I listen to members of my staff, that S. 1 is simply impractical in its method of addressing the problem. The requirements placed on congressional committees and the Congressional Budget Office are totally unworkable. Now that is what I understand in talking to Jim English, who is the former director of the Appropriations Committee staff in the Senate, and others. I consider them the experts. I understand from them that the requirements placed on congressional committees and the Congressional Budget Office are totally unworkable. As an example, they point to the need of every piece of legislation reported out of an authorizing committee to include a report on the aggregate cost of that legislation to State, local, and tribal governments. Well, at least if we ever pass this legislation as it is we will get committee reports. We will not have that problem again. We will get committee reports that have minority views in it.

Mr. President, there are more than 80,000 governmental units in this country—80,000. How in the world is CBO going to survey each and every one of those organizations in their effort to determine a program's cost?

The fact is that it cannot be done. Dr. Reischauer, the Director of the Congressional Budget Office, even stated as much in a letter last month to our colleague who is in the Chamber, Senator LEVIN. Dr. Reischauer said it would be ''very difficult, if not impossible, to determine with precision'' the required cost estimates.

Mr. President, I have an impulse to suggest the absence of a quorum and make it a live quorum. I am not doing that yet, but why should I not do it? Here we are, debating this very important bill. We have only five Senators in the Chamber, including the Senator in the chair.

Why are Senators not here talking about this bill, explaining it? I will sit down and listen to anyone who wants to explain the bill or the amendments. I will be happy to have anyone explain the amendments. I desire that somebody come and explain this bill and answer questions about it.

I know I am not the only Senator, other than the four who are in the Chamber besides me, who does not understand this bill.

Estimating the costs of various proposals on a State-by-State basis requires very detailed and comprehensive information on the issue under study. Such data are needed for each State, local, or tribal government. But the necessary data bases are not always available, and so developing a single methodology that can be used in the estimating process is not a viable option. Consequently, Mr. President, the staff of the CBO, I am told, would have to address each bill and each amendment that contained a mandate separately in order to identify and find the needed data. And obviously that is an extremely time consuming and costly endeavor.

Now, Senators and staff advise me that S. 1 mandates that the estimates be made for a full 5-year period. How ironic that is, Mr. President, since we have some in this body who have complained that they cannot provide the American people details of how they would comply with a balanced budget constitutional amendment because the data cannot be reliably projected that far into the future.

Now, that opens up an interesting subject. We have some in this body who have complained that they cannot provide the American people details of how they would comply with a balanced budget constitutional amendment because the data cannot be reliably projected that far into the future. What is going on here? This bill mandates that the estimates be made for a full 5-year period. There are some in this body who are proposing that we, that those who support the balanced budget amendment, provide the details, provide the roadmap that will point the way and tell us what the costs are, what the sacrifices are, what the burdens are, what is going to be cut. And the American people have the right to know. Other Senators have the right to know.

The American people do not know. I do not have the newspaper in front of me, but I saw something in a newspaper recently to the extent that 80 percent of the American people favor a balanced budget amendment—80 percent favor it. But in reading the fine print as to what does this mean; what does this entail; does it mean cutting Social Security or does it mean cutting veterans pensions or veterans compensation or law enforcement, health care, Medicare; what does it mean—suppose that is the question: How do you feel about it?—well, no longer did 80 percent favor a balanced budget amendment. When they saw, ''Oh, it means that they might cut my veterans pension; they might cut my Medicare; I am not in favor of it,'' I began to see that the 80 percent came down to 59 percent in one case or some such, 53 percent, and 34 percent or 33.

Now, that was not 33 percent of the 100. That was 33 percent of the 80 percent. In other words, as I read it, all those who favor a balanced budget amendment—well, if 80 percent favored it, obviously 20 percent did not. That is what I assume. But of the 80 percent who favored it, who favored this if such was cut, and then when it said that 59 percent, only 59 percent favored it if a certain item was cut, they did not mean that 59 percent of the total pie, 59 percent of the 100 percent of those who were opposed to it. It meant 59 percent of the 80 percent who said they were for it.

So when people come to understand what the punishment is, affecting their particular circumstances, their particular lifestyle, or whatever it may be, then the 80 percent falls away.

That is why I voted for Mr. EXON's amendment the other day. He suggested that we know what the details are in connection with the balanced budget amendment. And our leader, Mr. DASCHLE, and the House Minority Leader, Mr. GEPHARDT, and others are seeking to know what is in this poke along with this pig that we are being asked to buy. I think that is a legitimate objective.

There are those who say, ''Well, we can't provide the American people details on how they could comply with a balanced budget constitutional amendment because the data cannot be reliably projected that far in the future.'' Others say, ''Oh, if we do that, we won't be able to pass it, we won't be able to ram a constitutional amendment on the balanced budget through the Congress. No, we can't begin to pass it if we do that. Why, then the American people wouldn't be for it.''

Somebody has said, in essence: ''We can't afford to let the American people know what's good for them; or what's bad for them. If we do, they won't buy it.''

So here, with S. 1, those who say that they cannot provide the American people with the details of how they would comply with such an amendment because the data cannot be reliably projected that far in the future, here they turn right around and say that CBO

will be required to do just that—provide 5-year estimates which, as I noted, the Director has said will be nearly impossible to determine.

Illogical, too, is that the cost estimates are required before the legislation is enacted, even though the regulations to implement the law are proposed by executive branch agencies, and then only after enactment of the law. How on Earth can we expect CBO—or anyone else, for that matter—to come up with reasonable cost estimates before the precise regulations for implementing the law are available? The answer is, we cannot. The answer is that we cannot.

As I said, the only way that CBO can determine the cost of legislation is to rely on information from the various State, local and tribal governments. But those officials may not be familiar with all the details of a particular piece of legislation. The full ramifications may not be obvious to a county commissioner or a county manager or township clerk, notwithstanding the fact that they may otherwise be quite competent. Likewise, I question the wisdom of relying on those entities for input. If officials—particularly at the State level—know that the cost will be fully funded by the Federal Government, they clearly have an interest in inflating the potential cost. They have an interest in it, as I say, a basic self-interest. That is what I am talking about, basic self-interest. And basic self-interest will undoubtedly skew many of these estimates.

I also fear that one of the unintended consequences of this bill will be to set up a disparate system between the Government and the private sector—a disparate system between the Government and the private sector. For example, my staff tells me that a point of order can lie against any mandate directed at a governmental unit if we do not fully fund that mandate. I have heard some discussion of that here on the floor, I believe, on yesterday. But the same point of order would not be appropriate if the mandate is aimed solely at the private sector. That difference is especially troubling in those areas where the private sector competes with the Government.

What happens? What happens if, for instance, a publicly owned utility is exempt from additional clean-air regulations because the cost of those regulations have not been fully funded and a point of order could not be overcome, while a similar utility, wholly owned by a public company, must comply? Such a scenario could easily crop up, it seems to me. What happens then, Mr. President? In effect, we will have imposed an additional and costly burden on a private business.

My point is simply to suggest that while the intent behind S.1 may be laudable, the fact remains that this is a substantially different bill than what we considered last year. I heard that last night. My friend, the distinguished Senator from Michigan, I believe—I either heard him say that on the floor or he said it somewhere within the reach of my hearing. I still have pretty good hearing. I do not have a hearing aid yet. I am doing very well without one. But I thought I heard him say that this is a substantially different bill than what we considered last year. I thought I heard that Senator say that. I see he is nodding his head in the affirmative. He is on the record with me that he did, he did say so.

It is a substantially different bill. And, as such, I do not believe we know enough about all its possible ramifications. Therefore, and until we have a fuller discussion, we cannot turn a bind eye to any potential problems in the apparent rush to pass as much legislation as soon as possible. There is no reason to expedite this bill to the extent the effort is being made to expedite it through the Senate. We are not in a race, here. I understand that no committees are meeting today, so some parts of the Senate, apparently, feel that we are not in a big rush on things. We certainly have no obligation to bow to the whims of those who have set false timetables.

I do not blame them for setting timetables. That is all right. Those who subscribe to the Contract With America, they have laid out a 100-day timetable. I am not part of that timetable. I did not subscribe to that. We have plenty of time. Let us see what is in these bills. Let us take a moment and dissect them. And the members of the committees, if they have an opportunity to fully debate these bills and explain them and offer amendments, then the rest of us will understand what is in them.

I do not have any obligation to say: Oh, yes, I will just roll over and play dead. I hear that a steamroller is coming, a steamroller is coming down the track. I want to know what is in that steamroller. We do not have the rules of the House. As long as this Senator is here we are not likely to have the rules of the House, if I can have anything to do with stopping any impulse to stampede in that direction.

If unfunded mandates are a genuine and unreasonable burden on State and local governments or private organizations—and I believe in some cases they may be; I don't have any doubt that they are—then we should deal with them directly. There is absolutely no need, it seems to me, to establish some elaborate new procedural scheme within the Congress in order to do that.

But if it comes to that, if we do establish such a scheme, let us know what it is about. I only represent one vote here and I have always said that, with respect to the filibuster, the filibuster will not eternally kill something, kill legislation that the American people really want. It may slow it down for a while. It may stop it for a while. But in the process of education of the American people through unlimited debate, the American people often become more aware of what they are being asked to buy.

That is the case with the balanced budget amendment. As I have read in the newspapers, there are some groups, now, that are raising some questions about that balanced budget amendment. I even see that some Governors are beginning to have second thoughts, who are beginning to wonder if this thing is all it is cracked up to be. So that is the way these things happen. But I have maintained that if the American people really understand a question, if they really understand it and they really want it, they will get it regardless of the filibuster.

Sadly, though, erecting these ''process'' fixes is symptomatic of an extremely bad habit into which the Congress has fallen over the past several years. When confronted with a difficult problem for which there is no easy or painless solution, the tendency is to resort to some sort of procedural fix rather than dealing with the problem head-on.

So here we have a procedural fix. The balanced budget constitutional amendment is a procedural fix. The balanced budget constitutional amendment is the greatest unfunded mandate that was ever imposed since Adam and Eve were driven from the Garden of Eden, the greatest unfunded mandate ever imposed.

So here we are going in two different directions meeting ourselves head on. Here we have this bill dealing with unfunded mandates. But behind it is the so-called ''balanced budget constitutional amendment.'' You talk about an unfunded mandate. Wait until that thing settles its claws into legislative bodies throughout the land. Wait until that thing settles its roost on the Government's doorstep. It will peck on the windows; and unfunded mandates. If they think that this bill is going to relieve their concerns about the balanced budget amendment, they had better think twice, three times and more, as we will have an opportunity to discuss in due time. Just mark that down. The balanced budget constitutional amendment, contrary to what it is being purported to do, is not only the biggest hoax that is perhaps about to be perpetrated on the American people but it is the largest unfunded mandate. I will not take the time of the Senate today to explain what I mean by that.

I want to repeat this word ''caution'' for those who think that S. 1 is some kind of cure for mandates. They need to think about it. S. 1 does nothing to protect any State or local government as I understand it—I may understand it better later—but as I understand, it will do nothing to protect any State or local government from the costs of Federal budget cutting of any program that is not presently mandated. How about that? They just say it applies prospectively. It does not protect any program that is not presently mandated. Therein lies the tale. For example, S. 1 would not apply to Federal

programs whereby the Congress provides grants for use in housing programs, programs that provide social services for the homeless, child immunization, Federal aid to States and localities for education, or even transportation grants.

Mr. President, I ask unanimous consent that I may be permitted, although I have the floor, to ask a question of the distinguished Senator from Michigan [Mr. LEVIN].

Is Federal aid to education a Federal mandate or is that simply a grant to the States? Is that a mandate?

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

Mr. LEVIN. I thank the Chair.

To the best of my knowledge, that is not a mandate. That is just a grant to the States.

Mr. BYRD. Very well. Then, if in this budget-cutting fever that is so infectious, Federal aid to education is cut—and I might be one who would support such a cut. Here we are pouring billions of dollars into Federal aid to education for our poorer students on the whole, more than the other industrialized countries. So I have some second thoughts about the way we handle Federal aid to education.

But that is, according to Mr. LEVIN, not a mandate. So the cost of replacing Federal dollars which may be cut by the Congress in the future will be dumped directly on the States by cuts in grants to the States. This bill does not cure that. If any of the dollars that go to the States to help those areas are reduced, the States will still be stuck with the problem and, most importantly, the expense of the homelessness or poor transportation system. This legislation does nothing to protect the States from increased costs which are caused by future actions of the Federal Government; in other words, cuts in grants and other Federal programs.

Think about that possible scenario, Mr. President. I hope that the proponents of the bill will stop the mad rush to pass this legislation now and go back to the drawing board and come up with a workable and practicable piece of legislation.

Mr. President, I hope the Chair will momentarily indulge me as I have the right to the floor.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. President, as I stated earlier, it is not my desire to hold the floor inordinately today. I have accomplished most of what I had hoped to do; namely, have a report by the Committee on the Budget and an opportunity to understand what is in the report. The report is available. I have not had an opportunity to study it, but it is not my desire to hold the floor. Senators know if I wanted to filibuster the bill—and the Senator from Arizona knows full well—I could talk for the rest of the day. That is not my intention. So I intend to yield the floor shortly.

Let me say, again, that the distinguished Senator from Idaho has extended every act of cooperation and courtesy to me, and I appreciate his decency and his spirit of good will. I did not want to give up the floor until he returned.

Mr. President, I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. KEMPTHORNE] is recognized.

Mr. KEMPTHORNE. Mr. President, I appreciate the comments that the Senator from West Virginia has made and, of course, I have great respect for him and for his understanding of legislation. I know that he will be an integral part of the overall discussion of this Senate bill No. 1. I know, also, Mr. President, that it will be my intention that on final passage—I have full intentions of having the Senator from West Virginia vote for this bill because—I think he used the terms he was ''not sure how it could hurt his State.'' I think he will learn that it will not hurt the States. This is what States are asking us to do in reestablishing and reaffirming the federalism that is intended.

Also, Mr. President, this issue is tied with the Contract With America that the Senator from West Virginia pointed out. I would like to just comment about that. When I took the oath of office here 2 years ago, the day that I took the oath of office as a Senator was the day that I resigned as mayor in Boise, ID. One of the items that I was very intent on doing was to somehow deal with these unfunded Federal mandates. So the first bill that I ever introduced in my Senate career was a bill dealing with these unfunded Federal mandates. Ultimately, that bill, Senate bill No. 993, which gained bipartisan support and which went through the Governmental Affairs Committee last session on a vote of 16 to 0—much of what is in today's bill, S. 1, was derived from Senate bill No. 993. The definitions are the same and, again, much of it is the same, but there are changes to it. I say that so that you see a bit of a history here.

The Contract With America, which happened a few months ago, took place after we had been moving this legislation. And so while the issue of unfunded mandates—dealing with that is part of the Contract With America in the House of Representatives, and while I am delighted and proud that they have included that issue to be part of the things discussed and dealt with in the Contract With America, really this issue in the Senate, this legislation, precedes that.

Also, the Speaker of the House agreed to take that element of the Contract With America dealing with unfunded mandates and to pull it out of the Contract With America so that it could be freestanding and so that we could deal with this issue and have this sort of discussion.

So I assure the Senator from West Virginia that this is not part of just some large package that we have to hurriedly get through. It is a critically important issue, the impact of which has been taking years, and our cities and States and the private sector has heard about it.

The Senator also referenced the Congressional Budget Office. I wish to assure the Senator from West Virginia that through the Budget Committee we have stayed in close contact with the Congressional Budget Office, so that as modifications from S. 993 were made to S. 1 they were able to tell us every step of the way what their needs would be in order to accomplish the responsibilities that this legislation would assign to them, including the funds to carry that out. So we have dealt with that issue.

I believe that, at some point later, we are going to be coming up with possible amendments dealing in this area, and so I will withhold further comment on that. By the fact that there has been objection to that unanimous-consent request, it would be my understanding that we have before us the next committee amendment; is that correct?

The PRESIDING OFFICER. The pending question is the ninth reported committee amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COVERDELL). Is there objection?

Mr. FORD. There is an objection. I apologize to the Senator, but I have been asked to protect the rollcall and, if the Senator will allow me, I will see if I can give him the time.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, if I might amplify.

The PRESIDING OFFICER. The clerk will continue the call of the roll.

The bill clerk continued to call the roll.

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

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

Mr. SPECTER. I ask unanimous consent that I may proceed as in morning business for 5 minutes.

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

VIOLENCE AT HEALTH CLINICS

Mr. SPECTER. Mr. President, in the absence of any other pending business in the Senate, I have sought recognition to comment briefly about violence at clinics, with respect to two principle issues.

One is a contention which is advanced by some, and has been used as a possible legal defense, that violence and murder is justifiable homicide. There is absolutely, positively no basis whatsoever in criminal law for such an assertion that anybody who murders or assaults or maims at a clinic where the clinic may be performing abortions has any conceivable legal justification under the doctrine of justifiable homicide.

That is a legal principle that I worked with to a considerable extent during my 12 years in the Philadelphia district attorney's office, and the doctrine of justifiable homicide has been worked out in a very careful way; for example, when a police officer may seek to defend an innocent victim, citizen, during the course of a robbery and may shoot a robber in order to stop the murder of an innocent citizen in the course of a felony. And for someone to seize upon the term of ''justifiable homicide,'' picking it out of the thin air to say that that is any reason for committing violence at a clinic where abortions may be performed is just absolutely preposterous.

One of the problems which has arisen, Mr. President, has been really insufficient condemnation of violence at these clinics.

I was very pleased to see the statement made by Cardinal Law of Boston asking for a cessation of any picketing, where the situation may be permitted to cool. But it seems to me that we need to speak out on levels to condemn that kind of conduct and to state as unequivocally as possible that there is no conceivable justification as ''justifiable homicide.''

The other point that I want to comment on briefly, Mr. President, is that at these clinics where women secure medical care, abortion is a relatively small percentage of what is done; that most of the women who go there—I heard the percentage is as high as 90 percent—are there for medical purposes. They are there for mammograms to guard against breast cancer. They are there for Pap smears to guard against cervical cancer. They are there for a whole range of medical procedures.

When there has been an epidemic of violence at these clinics, the women stay away in droves because there is terror that in being there, they may be in the midst of violence.

So I wanted to take a few moments in the interlude of the proceedings, Mr. President, to make those two points and to speak out as forcefully as I can, and with the background I have had as a district attorney dealing with the concept of justifiable homicide, to make it as unequivocal and forceful as I can that there is no conceivable justification for that violence and to say, at the same time, that it is driving many women urgently in need of medical care away from those facilities.

I thank the Chair, and I thank my colleague from Kentucky for securing the time. I suggest the absence of a quorum.

Mr. EXON. Will the Senator withhold?

The PRESIDING OFFICER. Does the Senator from Pennsylvania withhold the quorum call?

Mr. SPECTER. I do.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, I rise in support of S. 1, which the Budget Committee unanimously ordered reported on Monday, and since that time, we have come forth with a report that has been suggested and I believe that is being reviewed at the present time.

I am an original cosponsor of S. 1. I want to take this opportunity to commend my distinguished colleagues and friends, Senator GLENN, Senator DOMENICI, and Senator KEMPTHORNE, for the yeomans' work that they have put into this bill. We would not be where we are today if it were not for their dedication.

Mr. President, unfunded mandates are not merely a thorn in the side of the Nation's Governors and State and local officials. They have burrowed deep into the Nation's landscape and present a problem of the utmost gravity.

Washington passes mandates and regulations and then drops them like an orphan on the doorstep of the States, forcing officials to dig deep into their own pockets to pay for compliance, to pay for mandates, at a time when they are confronting their own fiscal shortfalls and the public's demand for greater services.

Speak to any State or local official from Nebraska to Nevada, from a mayor to a town manager or a Governor, and they will tell you that this cost shifting from the Federal level to the State level is wreaking havoc with their budgets. As my good friend and colleague, Senator GLENN, rightly observed, we are passing the buck without the bucks.

In spite of the cry of ''enough'' from the States, Washington keeps heaping unfunded mandates upon unfunded mandates and regulations upon regulations, and there is no end point to the mandates effect. Like an entitlement, they go on and on and on, to an endless life of their own. Unfunded mandates are relentless in their demands upon State and local treasuries and, unfortunately, the sky seems to be the limit.

According to the Congressional Budget Office, compliance with Federal legislative and regulatory mandates rose from $225 million in 1986 to $2.8 billion in 1991. CBO readily admits that its estimates are highly conservative.

We really do not know the full extent and magnitude of the situation. Mr. President, it is time we brought these unfunded mandates back to Earth and back to the realm of reason and responsible budgeting. It is high time that we not only rethink the relationship between the Federal and State Governments, it is time that we did something about it. And that is what this bill does.

The legislation before us today would create a point of order against unfunded mandates. Under the bill, the Federal Government must provide direct spending for these mandates. If it cannot, the mandate requirements must be scaled back to the amount of money appropriated.

That is fair, and that is reasonable. And above everything else, Mr. President, that is right.

Mr. President, this is a bill that takes in the very broad picture. It already enjoys great bipartisan support. My last count indicates that it has 57 cosponsors and probably a few more today that I do not know about. I predict that it will pass overwhelmingly and in a very reasonable period of time. But I wish to be clear that there are no half measures in the legislation. It meets the problem head on.

Of course, there are those who advocate a radical approach to the issue, what they call a no money, no mandates backstop.

While I commend my colleagues' enthusiasm and dogged persistence in righting the unfunded mandates inequities, this is a classic case of correctly diagnosing the problem but applying the wrong treatment, a treatment which I suggest could have disastrous side effects.

The alternative backstop strategy that some are referencing would take us down a road which could not only swell the size of an already bloated Federal bureaucracy, but it could further fan the flames of the litigation inferno that is raging throughout the Nation.

This draconian approach would require that the CBO reestimate each year—and I stress ''each year''—the cost of mandates. I do not believe that we can fathom how much we would have to expand the CBO staff to meet this formidable and I think unnecessarily forbidding task.

Mr. President, over the past 2 years, we have made excellent headway in meeting the American people's rightful demands to reduce the size of Government. We have much further to go. We will have the smallest government, though, I would point out, since President KENNEDY sat in the Oval Office. This is not the time to undue the good and the hard work that has been done in many areas. We must be cautious but we must be effective.

Second, we would be doing, I suggest, a terrible disservice to our fellow citizens if we inadvertently fueled further litigation. That is exactly what would

happen if we chose the simplistic measure. The lawyers would be lining up a hundred deep in the court, challenging at every turn the CBO reestimates. And I hope that this concern will be understood by all Members of the body.

The columnist David Broder wrote a very effective piece touching on this subject that appeared in the newspaper a few days ago. Mr. Broder endorsed the bill before us today as ''a worthy effort.'' Mr. Broder further notes that the no-money, no-mandate alternative would ''split the bipartisan coalition.'' We must not split the bipartisan coalition that is moving aggressively forward and if followed will pass S. 1 in a very short period of time. If we proceed through any other course, we endanger the longstanding civil rights and environmental policy and perhaps draw a Presidential veto.

Mr. President, I ask unanimous consent that the full text of this perceptive column be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EXON. In a similar vein, Mr. President, the proposal of some to raise the requirement for waiving the new point of order from a majority vote to 60 votes would also split the bipartisan coalition. Another 60-vote point of order in this context would tie the Senate in knots. If we have seen gridlock over the last decade, this kind of a 60-vote point of order would lead to a glacial gridlock.

Mr. President, I was involved in the negotiations that led to the unfunded mandates bill currently before the Senate. There were a few items of the bill that merit further clarification.

RETROACTIVITY

There has been a great deal of confusion surrounding the question of retroactivity in S. 1. Namely, to what mandates does S. 1 apply? And, will mandates already enacted into law be affected by S. 1?

The drafters of S. 1 intended that reauthorization of existing laws not be subject to the requirements of S. 1 where the net costs of the legislation do not exceed existing costs of the mandate plus the thresholds established in the legislation.

The no-retroactivity clause would apply to laws for which authorizations of appropriations may have expired, such as the 1987 Water Quality Act.

I would add that this same principle would apply equally to regulations that are issued pursuant to existing laws, but which have not yet been proposed or finalized. However, let me stress that the existing law must be in effect at the time S. 1 became effective regardless of whether an authorization of appropriations has expired.

EXCLUSIONS

The bill contains a broad exclusion for legislation that establishes or enforces any statutory rights that prohibit discrimination.

The drafters of S. 1 believe this language to mean provisions in bills and joint resolutions that prohibit or are designed to prevent discrimination from occurring through civil or criminal sanctions or prohibitions.

POINTS OF ORDER

The legislation ensures that a simple majority in the House or Senate will be required to waive a point of order, if raised, for an unfunded intergovernmental mandate, or where a CBO statement does not accompany a bill or joint resolution.

PROCEDURES

The situation may arise where a mandate—already in effect for a year—is declared ineffective and enforcement or judicial action has already commenced. In such a case, the drafters of S. 1 intend that where enforcement actions have begun, the mandate in question would continue to consider applicable law preceding the declaration of ineffectiveness.

For example, in a case where a mandate is fully funded in the first 2 years, but not in the third, the mandate is effective for the first 2 years, but not in the third.

ADMINISTRATIVE PROCESSES AND PROCEDURES

When an intergovernmental mandate is either declared ineffective or scaled back because of lack of funding, these changes in the mandate will be effectuated consistent with the requirements of the Administrative Procedures Act.

This will ensure that all affected parties including, the private sector, State, local and tribal governments and the intended beneficiaries of the mandate will have adequate opportunity to address their concerns.

In closing, Mr. President, I would like to say that after much though and analysis we have found in the legislation before us today the solution to the problem of unfunded mandates. It might not be a perfect one. Certainly we all can say that we have passed few perfect pieces of legislation. It does not mean that we may not have to revisit this from time to time. But I think it is time we move aggressively ahead to solve the problem of unfunded mandates.

On January 5, the Budget Committee, of which I am the ranking minority member, and the Governmental Affairs Committee held a joint hearing on S. 1. Both of our respective committees favorably reported out the measure earlier this week. We have heard loud and clear the call from the States. It is now time that we acted and passed this critical legislation.

[EXIBIT 1]

MONEY AND MANDATES

(By David S. Broder)

Before George Voinovich became governor of Ohio four years ago, he was a member of the Ohio legislature, a Cuyahoga County commissioner and the mayor of Cleveland. That may condemn him as a career politician in some people's eyes, but it also placed him in a unique position to help move what may become the first law passed by this new Congress—the unfunded mandates bill.

Voinovich, a Republican, last year used his friendships in both parties to construct an unusually broad and solid coalition of state and local government groups to press for enactment of a long-overdue measure that will require Congress to look twice before saddling states, counties and cities with the costs of carrying out policies the federal government finds desirable.

The measure was stymied in the last Congress by Rep. Henry Waxman (D–Cailf.) and some of the other veteran mandate-writers, but this year it has high priority in the Senate and House, with their new Republican majorities. For reasons I will explain in a moment, this measure may not provide all the relief the states and localities expect. But it is an effort to address a real problem: the increasing tendency of a federal government which has spent itself into $4 trillion of debt to make its partners in state and local government pay for Washington's good deeds.

The governors, legislators, mayors, and county officials have griped about this for a long time. But it was not until they put aside their internal differences and came together last year as the State and Local Coalition that Congress began to take notice. As Voinovich commented over coffee last week in Washington, ''It is rare that an idea that was on no one's screen in Washington one year becomes the top priority in Congress the next year.'' Members of Congress ''can ignore any one of our groups, but they can't ignore all of us.''

Voinovich's political acumen also was important in keeping the legislation within bounds of reason. Some conservatives want to enact a ''no money, no mandate'' law that would stop the federal government from requiring any cost-sharing by state and local governments on programs of national importance.

Voinovich recognizes that would split his bipartisan coalition, which includes many liberal Democrats, endanger long-standing national civil rights and environmental policies, and perhaps draw a presidential veto. So he has worked diligently to persuade conservatives, including Speaker Newt Gingrich, to back bills by Sen. Dirk Kempthorne (R-Idaho) and Reps. William Clinger (Pa.) and Rob Portman (R-Ohio) that take a more measured approach.

The bills do not repeal existing mandates, leaving an examination of their financing to a bipartisan commission. They exempt measures necessary to enforce constitutional or statutory rights prohibiting discrimination of any kind—including disability.

They allow future Congresses to pass unfunded mandates—but only if, on a separate roll-call vote, before final passage, a majority of the House and Senate say, deliberately and explicitly, that the purpose is so compelling they believe they should waive the rule against unfunded mandates. In other words, senators and representatives would have to tell their constituents, in effect, ''We're voting to raise your state or local taxes.''

The difficulty I mentioned earlier arises from the enforcement mechanism. Somebody has to decide how much an unfunded mandate would cost and whether it exceeds the threshold set in the proposed law—$50 million in costs for state and local governments, $200 million for private business. That agency is the Congressional Budget Office (CBO), a nonpartisan arm of Congress.

That is a huge power to give to a group of unelected bureaucrats, even if they are required by law to consult with local and state officials and are supervised by the House and Senate Budget committees. Robert D. Reischauer, the director of CBO, has written

members of Congress a letter warning that ''in some of the situations that will matter most . . . [it] will be very difficult if not impossible to determine'' the costs the proposed mandate will impose.

Local officials, as Reischauer delicately put it, ''are likely to have a strong interest in having the costs of a proposed mandate appear as high as possible''; congressional sponsors, the opposite motivation. In truth, the added costs will vary enormously, depending on the severity of the problems in the locality and the degree of effort already being made.

Voinovich is right in arguing that the bill will force Congress to consider future mandates with care. It will provide a forum where the states and cites can argue their case. But this law is altogether too likely to have unintended consequences. I can see the same local officials who are enraged now by Congress's caprice in passing unfunded mandates being equally enraged—and frustrated—by future CBO cost estimates.

The unfunded mandate bill is a worthy effort. But in the end, the real solution lies in sorting out more clearly what responsibilities should be financed and run by each level of government. Voinovich and other governors are ready for that kind of dialogue to begin. President Clinton should take the lead in seeing that it happens.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the remaining committee amendments be temporarily laid aside in order to consider the Dorgan amendment; that no second-degree amendments be in order, and that at 2:30 a vote will occur on the amendment.

Mr. BYRD. Mr. President, reserving the right to object. Will the Senator kindly restate the request?

Mr. KEMPTHORNE. Yes. The unanimous-consent request is that the remaining committee amendments be temporarily laid aside in order to consider the Dorgan amendment; that no second-degree amendments be in order, and that at 2:30 a vote will occur on the Dorgan amendment.

Mr. LEVIN. I wonder if the Senator who reserved the right to object will yield for a question to the manager.

Mr. BYRD. Yes.

Mr. LEVIN. The Dorgan amendment that the Senator is referring to, as I understand it, is an amendment which would substitute the ACIR, in lieu of the new commission which the bill would create, the ACIR being an existing commission on intergovernmental relations. As I understand Senator Dorgan's amendment, it would utilize the ACIR in lieu of creating a new commission, as the bill currently provides; is that just the nature of the amendment, so the folks know what it is the unanimous consent refers to?

Mr. KEMPTHORNE. In response to the Senator from Michigan, that is correct.

Mr. BYRD. Reserving the right to object, Mr. President, this seems to me to be a positive amendment, one that has considerable merit, as I understand it. I do not plan to object to setting the amendments aside to take up this amendment. But before I complete my reservation, I started out saying I wanted a committee report, so that our minority people on both committees—not just the Budget Committee, but on the Governmental Affairs Committee—who had been denied the committee report with individual views or minority views, knowing full well nothing about the content of the bill, but knowing that there is a steamroller coming down the road, to put all these wonderful things. I have seen the number 10 used, 10 plans in the Contract With America—maybe 12. All these wonderful things are in the Contract With America. And realizing that this bill, being No. 1, must be a very important bill, not just a simple sense-of-the-Senate resolution, but a very important bill. No. 2, S. 2 was passed earlier, and I voted against S. 2. But in this case, I said I want, on behalf of the Senate, on behalf of the minority, and on behalf of myself, and on behalf of all other Senators who do not know any more about this bill than I do, I want to see a committee report. I want to see the minority view. I want to see the votes that were taken inside the committee. I want all those things in the committee report that we are instructed to have in the committee reports by the Senate rules. Senators and listeners who do not know what I am talking about, read the Senate rules and find out. I wanted those, and I wanted an opportunity not just to have it given to me in my hand but an opportunity to study it. I have the reports now, but I want this weekend to study this bill.

In the meantime, I do not want to appear to be filibustering, although I do not mind being a filibusterer when the right time comes. Senators will know when I am filibustering. I have been called worse names than a filibusterer. But I have no interest in killing the bill. I may be for it. I probably will be, but I am not sure. I probably will be for the bill. But I resist the temptation to roll over and play dead. I resist that temptation. I am not going to be cowed like a whipped dog because of threats or charges that I may be obstructing or filibustering. I am not doing that. I want to know what is in these bills. We have plenty of time. We do not have to ram them through. Let us take the time. This is an important bill. I hear a lot of whispering and murmuring about problems with this bill from my colleagues. I want to know what is in it. So I want to study that bill this weekend, after I do the mopping of the kitchen. I always mop the kitchen. Every Saturday that is my job and I mop the washroom where she does the washing, where the washer and dryer are. I mop, yes. I clean all the commodes. I clean all the bathroom structures. I clean out the bathtubs.

Mr. BIDEN. Will the Senator yield?

Mr. BYRD. Not yet. I will shortly. I do all the vacuuming. I do the dusting. I dust the furniture in the family room and dust the furniture in the living room, and so on. My wife does the buying and the cooking and the washing and the ironing and the pressing of suits and taking care of my little dog, Billy. But over this weekend, whenever I get through with doing my chores, which I have sworn on to for a number of years, then I want to study this bill. That is a legitimate reason not to rush pell-mell at this point.

I want to be a reasonable man. Here is an opportunity to vote on something that is positive. I will listen to the Senator's explanation of the amendment. It is my understanding, in talking with the distinguished Senator from North Dakota and the distinguished Senator from Michigan, that this is a good amendment. So I am not going to interpose an objection to setting these committee amendments aside. I have no objection to setting those amendments aside and letting the Senate go forward and dispose of the amendment by Mr. DORGAN. There may be another amendment that would fit into that. All I am asking is that I want this weekend, after I get through with mopping the kitchen and mopping the washroom, and all those things, I want the opportunity to study this bill. That is a reasonable request. I am saving my strength for a filibuster on another day, on another bill. I am not filibustering this bill. Give me a break here.

So I have no objection to that if the leader wants to do that.

Mr. DOLE. Will the Senator yield?

Mr. BYRD. I am merely reserving the right to object.

Mr. DOLE. Last night we talked about your dog, Billy, and my dog, Leader. So I have had Leader inscribe a picture for Billy, and here is the picture.

Mr. BYRD. Will wonders never cease? Sweet smoke of rhetoric, my, what a handsome dog that is. I wish someone would call my office downstairs and have a picture of Billy brought up here. That is a pedigree. That is a blue ribbon dog.

I will read the inscription: ''To Billy:''

There is only one Billy, and that is Billy Byrd.

''To Billy, with best wishes.'' The signature, ''Leader.'' Leader; that is a beautiful dog. It really is.

I thank the distinguished leader.

But I do want to bring a picture of Billy up.

So I have no objection to setting the amendments aside for that purpose.

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

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 18

(Purpose: To provide for certain studies and reports to be performed by the Advisory Commission on Intergovernmental Relations, and for other purposes)

Mr. DORGAN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. GRAHAM, Mr. LEVIN, and Mr. KEMPTHORNE, proposes an amendment numbered 18.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 39, strike out lines 4 through 11 and insert in lieu thereof the following:

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 Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the ''Advisory Commission''), 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 State, local, 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 State, local, and tribal government.

SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) IN GENERAL.—The Advisory Commission on Intergovernmental Relations shall in accordance with this section—

On page 43, beginning with line 1, strike out all through line 17 on page 49 and insert in lieu thereof the following:

SEC. 303. MONITORING IMPLEMENTATION.

(a) IN GENERAL.—The advisory Commission shall monitor and evaluate the implementation of this Act, including by conducting such hearings, and consulting with such Federal, State, local, and tribal governments, as the Advisory Commission considers appropriate for obtaining information and views about the purpose, implementation, and results of this Act.

(b) BIENNIAL REPORT.—The Advisory Commission shall submit a report to the President and the Congress every 2 years which—

(1) presents the findings of the Advisory Commission under subsection (a); and

(2) presents recommendations for improving the implementation of this Act, including regarding any need for amending this Act.

SEC. 304. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) EXPERTS AND CONSULTANTS.—For purposes of carrying out this title, the Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) DETAIL OF STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out this title.

(c) CONTRACT AUTHORITY.—The advisory Commission may, subject to appropriations, contract with and compensate government and private persons (including agencies) for property and services used to carry out its duties under this title.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Advisory Commission—

(1) to carry out section 301, $1,000,000 for each of fiscal years 1995 and 1996;

(2) to carry out section 302, $500,000; and

(3) to carry out section 303, $200,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

Mr. DORGAN. Mr. President, I am offering this amendment along with the Senator from Florida [Mr. GRAHAM]; the Senator from Michigan [Mr. LEVIN]; and the Senator from Idaho [Mr. KEMPTHORNE].

Mr. President, it says on page 39 of S. 1, which the Senate is now considering, at the top of the page, under:

Title III—Review of Unfunded Federal Mandates

SEC. 301. ESTABLISHMENT.

There is established a commission which shall be known as the ''Commission on Unfunded Federal Mandates'' (in this title referred to as the ''Commission'').

And then it goes on in subsequent pages to describe the duties and responsibilities of this commission.

My amendment would substitute the Advisory Commission on Intergovernmental Relations for this new commission.

I offer this amendment because, prior to a week or so ago, all of the drafts of this legislation, going back to last year, written by the Governmental Affairs Committee under the chairmanship of Senator GLENN, and more recently negotiated in biparitisan discussions, all of those drafts included in this section a commission to study unfunded mandates and that commission was going to be the Advisory Commission on Intergovernmental Relations. It is called ACIR. ACIR is an organization that has been in existence a long, long time, one with which I have a great deal of familiarity from the time when I was a statewide elected official.

ACIR has done a substantial amount of research in many, many areas dealing with intergovernmental relations. Its membership includes members from virtually all levels of government, members appointed by the President, members appointed by the Presiding Officer of the Senate, the House; we have mayors and Governors and we have private citizens.

The fact is, it is an outstanding commission that has done outstanding work for a long, long while. And it has especially done an enormous amount of work on the subject of unfunded mandates. It has for over 10 years done credible and thoughtful studies on this subject of unfunded mandates.

If this organization, the ACIR, one with such a distinguished reputation, one which I have worked with personally for over 20 years on many intergovernmental issues, if this organization has been the one that has done over a decade's worth of research and work on unfunded mandates, the question for me was: Why would we pass legislation that creates a new commission to give us some studies and some answers on unfunded mandates? That does not make any sense. In fact, it did not make any sense over recent months to all of those Republicans and Democrats who were constructing this. Only in the last week or so was a new commission put in here in substitute for ACIR.

My amendment says, let us replace it with the Advisory Commission on Intergovernmental Relations. It makes little sense to create a new commission. We are in Government these days talking about reinventing, about downsizing, about trying to be more efficient, trying to avoid duplication and overlapping of duties.

And this amendment simply moves us in that direction, to say a commission already exists, a commission that has expertise in this very matter, and that is the commission that ought to appear on page 39.

So my amendment is relatively simple. It simply substitutes the ACIR for the new commission that otherwise would be created.

The advantages to this are obvious. First of all, the Advisory Commission on Intergovernmental Relations is ready to do this work. No new commission has to be created. No new members have to be appointed. No new staff has to be hired. No new space to house a staff need be created. No new rules. No new relationships. It already exists. It can, because of that, realistically, in my judgment, meet all of the timetables. So it is a perfect fit.

I indicated that the ACIR has done studies going back 10 years on this very issue. In fact, they have done five major studies and have been the major resource used by most of us in the Congress who have been concerned about unfunded mandates. The mission of the Advisory Commission on Intergovernmental Relations is to strengthen the Federal system, strengthen the cooperation between levels of government. And so, again, it is uniquely situated, in my judgment, to perform this task.

I have watched with interest the discussion on the floor of the Senate recently about unfunded mandates. As I conclude and prepare to allow my distinguished friend from Florida and others, hopefully, to support this amendment, I just want to say that it is not without merit, in my judgment, for us to proceed with deliberation and proceed in a manner that allows all Members of this body to have some comfort that they understand exactly what is

in this legislation. This will be a better bill if we proceed in a manner that allows everyone to understand it, ask all of the questions, improve it, modify it, change it, accept it and then finally vote on it and move this along so that it becomes law.

I expect, in the end, to cast a ''yes'' vote on a piece of legislation that I think has great merit. But there are questions that will be asked. I have two additional amendments I will offer next week. But I believe that this bill moves us in the right direction of being more responsible on a subject where we have acted in the past without, in my judgment, full information.

And so I appreciate very much the discussion that has gone on among the principal sponsors of the legislation and Senator BYRD and many others on this floor in recent hours and recent days. I thank him for his willingness to allow this amendment to be offered and allow the other amendments to be set aside. It demonstrates, I think, that we want to make some progress on this legislation. And this amendment itself is one with merit and one that I think will demonstrate progress.

I know Senator GRAHAM and Senator KEMPTHORNE and others wish to speak in support of it. With that, Mr. President, I yield the floor.

Mr. BYRD. Would the Senator allow me to compliment him, and also I would ask that he add my name as a cosponsor of this amendment.

As I understand, the pending bill authorizes more Federal staff at CBO and more Federal spending, $4.5 million per year, to hire additional CBO personnel to carry out their new, largely unachievable, responsibilities under the bill. In addition, the bill would set up yet another Federal commission.

And we have in the bill that was passed earlier this week—which I was against, the so-called coverage bill—we have in that bill a new bureaucracy under the auspices of a so-called bicameral commission that will spend almost unlimited funds. That was one of the reasons why I voted against the bill. Is this what the Senators mean by Government reform, continuing to establish commissions?

A bill which passed earlier this week, as I say, S. 2, created a whole new board and authorized that board to employ such staff and consultants as were considered appropriate. I voted against that bill for a number of reasons, one of which, I opposed the creation of that new board.

Mr. President, I want to commend the Senator from North Dakota on his amendment, and I hope he will allow me to be a cosponsor.

Mr. DORGAN. Mr. President, I thank the Senator very much for his generous remarks. I ask unanimous consent that the Senator from West Virginia [Mr. BYRD] be added as a cosponsor.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, thank you.

First of all, let me congratulate Senator DORGAN on this amendment. I think he has experience in intergovernmental relationships. I believe he has actually served on that commission, although I may be mistaken. I know I have served on that commission.

There is no reason for Members to be creating another commission. It is the last thing we ought to be doing when we are reinventing Government.

This bill, I believe, was deficient in that regard by creating another commission. Unlike last year's bill 993, which used the Advisory Commission on Intergovernmental Relations, an existing commission, this bill before Members created a new commission. It was unneeded. It will lead to delay and expense.

I congratulate Senator DORGAN on going back to what was in last year's Senate bill 993, which was utilizing the ACIR for this purpose. I am pleased to cosponsor his amendment.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

I want to first express my support for the objectives of S. 1, and I look forward to voting for it on final passage. I believe that there has been a tendency, particularly during a time of restrained Federal resources, to look to the imposition of obligations on State and local government as a means of accomplishing national objectives which we at the National Government are either unable or unwilling to pay for. This will not preclude such behavior in the future, but it will require the Congress to understand what it is doing and make a discreet judgment that that is the course of action that it is willing to undertake.

Having said that, I think there is going to be a surprise and disappointment, however, upon the final passage of the bill if it is in basically the form that is currently before Members. That is that many feel it is going to undo existing mandates.

I have seen news accounts of Governors and other executives at the local level who have talked about the amount of savings that will be derived as a result of passage of this bill. As I read the bill and understand its processes, it is all prospective in operation. That is, it will make it more difficult to impose new unfunded mandates, but it in no way deals directly with those mandates that are already in place. That is what makes this amendment so important.

What title III does is it sets up a parallel process that gives us a greater capacity to look at current unfunded mandates and, on a case-by-case basis, particularly through the reauthorization process, to begin to deal with those unfunded mandates.

I recognize that the bill provides that in a reauthorization, whatever the current status of unfunded mandates is does not trigger the mechanisms of this bill. It is only if we elevate further an additional $50 million of imposition on State and local governments, will the mechanisms of this specific bill relate to existing, enhanced, enlarged, engorged, unfunded mandates.

But what title III—which is what we are amending—provides is there will be a systematic look back at all of the unfunded mandates. That will provide Members the opportunity to receive a thoughtful, quantitative analysis of the unfunded mandates which are in the current law, present those to the appropriate authorization committees so that when bills are being considered at the committee level in hearings and then later considered on the floor to final adoption, we will be in a position to offer amendments that relate to those current levels of unfunded mandates. And if successful, if we believe it is appropriate and wise, to eliminate, reduce, or redirect the nature of the current unfunded mandates.

The reason it is so important we pass this amendment and place that responsibility for doing that analysis of existing unfunded mandates in the Advisory Commission on Intergovernmental Relations is because it is competent to do that job; it has a high level of confidence by persons at the local, State, and Federal level. It has been in business since 1959.

It is not an entity which is going to be new to this issue, as Senator DORGAN said. In fact, the ACIR has conducted some five major studies of unfunded mandates within the last 10 years. So it will bring a tremendous amount of expertise to this issue, and the ability to apply that expertise on an expedited basis.

There are some very important reauthorizations which contain some of the most egregious examples of unfunded mandates that are going to be coming before this 104th Congress. It is very much in our interest that we have an entity which can quickly move to do that analysis and make that information available to Members so that during the course of the next 2 years, we will be in a position to make some thoughtful judgments in existing legislation as to whether we wish to continue existing unfunded mandates.

Mr. President, for those reasons, I want to commend Senator DORGAN for having offered this amendment and I am very pleased to join with Senator DORGAN and his colleagues in its support.

I urge to my colleagues its adoption.

Mr. KEMPTHORNE. Mr. President, I, too, appreciate what the Senator from North Dakota has carried out. It just makes a great deal of sense to use an existing commission where we already have different representatives from the impacted organizations serving as opposed to creating a new commission. I think that makes very good sense.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I send a modification to the desk.

Mr. LEAHY. Mr. President, parliamentary inquiry. What is the regular order?

The PRESIDING OFFICER. Does the Senator yield for inquiry?

Mr. DORGAN. I would be happy to yield.

Mr. LEAHY. What is the regular order?

The PRESIDING OFFICER. The regular order will be to vote on the Dorgan amendment.

Mr. LEAHY. A further parliamentary inquiry. And I appreciate my friend from North Dakota yielding for this purpose. Further parliamentary inquiry. Does that mean absent unanimous consent we would have the vote that originally had been scheduled at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Unmodified.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Further reserving the right to object—I probably will not, but further reserving the right to object, if it would be in order for me to ask the distinguished majority leader, might he tell me, if this modification occurred, how many more votes we would have and when we would finish voting?

Mr. DOLE. I would like to accommodate the Senator from Vermont and others by having back-to-back votes and have the Senator out of here by 5 after 3 or 6 or 7 after 3. I do not know whether that accommodates the Senator or not. So if we work it out, if we have back-to-back votes, that will be it for today.

Mr. LEAHY. I will not object. I would only note, not that it affects it, if we had had the vote at 2:30, I would have been able to make my 3 o'clock flight to Vermont to be with my family today. This way I will not.

On things that we know we can work out, I would hope, for those of us who do have families and do have homes in our home States and do prefer to be there on weekends, that we might be able to have some more exactness when some of these votes will occur. I know the leaders on both sides were working hard on it, but it is unfortunate something is happening now that could easily have happened 1½ hours ago.

I will not object.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

AMENDMENT NO. 18, AS MODIFIED

Mr. DORGAN. I ask unanimous consent to modify my amendment. I have sent the modification to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 39, strike out lines 4 through 11 and insert in lieu thereof the following:

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 Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the ''Advisory Commission''), 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 State, local, 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 State, local, and tribal governments.

SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) IN GENERAL.—The Advisory Commission on Intergovernmental Relations shall in accordance with this section—

On page 43, beginning with line 1, strike out all through line 17 on page 49 and insert in lieu thereof the following:

SEC. 303. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) EXPERTS AND CONSULTANTS.—For purposes of carrying out this title, the Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) DETAIL OF STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out this title.

(c) CONTRACT AUTHORITY.—The Advisory Commission may, subject to appropriations, contract with and compensate government and private persons (including agencies) for property and services used to carry out its duties under this title.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Advisory Commission—

(1) to carry out section 301, and section 302 $1,250,000 for each of fiscal years 1995 and 1996.

Mr. DORGAN. Mr. President, if I might just in brief seconds explain the modification. The modification is one that we have discussed with the sponsors of the amendment, and it would make a change with respect to the number of years and the number of dollars and the duties of this commission. It would eliminate something called section 303, and it would provide funding for the exercise of duties under section 301 and 302 for $1.25 million each of the years 1995 and 1996. This new version still comports with this bill's original thinking of what the commission would do. It accomplishes the result of the amendment. And I appreciate the indulgence of my colleagues to explain the modification.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. KEMPTHORNE. Does the Senator request the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KEMPTHORNE. Mr. President, also we have another amendment. I am going to ask unanimous consent that it follow immediately after the vote that is going to occur on the amendment of Senator DORGAN. This simply deals with that issue, to further clarify that S. 1 will be able to, in a report, define if there is any area of competitive disadvantage to the private sector.

So I ask unanimous consent a rollcall vote on the Kempthorne-Cochran-Levin amendment regarding committee reports on competitive balance immediately follow the vote on the Dorgan amendment.

Mr. BYRD. Mr. President, reserving the right to object, we cannot order rollcall votes by unanimous consent.

I have no objection to setting the amendment aside for this amendment. I think it improves the bill and that is what I have been advised by Senator LEVIN and others. But we cannot get that consent.

Mr. DOLE. Set it aside, offer it, and then have a rollcall vote.

Mr. BYRD. I have no objection, if the Senator makes the request to set the amendment aside and that a vote occur immediately on the second. I have no problem with that but we have to order the yeas and nays by a show of hands.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Then my unanimous consent would embody what the Senator from West Virginia has so stated, and following that, so we would have a recorded vote, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there an objection that it be in order to order the yeas and nays at this time? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Will the Senator from Idaho please send the second amendment to the desk.

AMENDMENT NO. 19

Mr. KEMPTHORNE. Mr. President, I now send the second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for himself, Mr. COCHRAN and Mr. LEVIN, proposes an amendment numbered 19.

The amendment is as follows:

On page 15, line 12, after ''nesses'' insert the following: ''including a description of the actions, if any, taken by the Committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.''

VOTE ON AMENDMENT NO. 18

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 18, offered by the Senator from North Dakota.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from California [Mrs. BOXER], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], the Senator from Utah [Mr. JEFFORDS], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

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

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—88

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

NOT VOTING—12

Baucus	Helms	Pryor
Boxer	Inouye	Reid
Gramm	Jeffords	Rockefeller
Hatch	Johnston	Warner

So, the amendment (No. 18), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 19

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 19, offered by the Senator from Idaho [Mr. KEMPTHORNE]. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Virginia [Mr. WARNER] are necessarily absent.

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

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from California [Mrs. BOXER], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—88

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

NOT VOTING—12

Baucus	Helms	Pryor
Boxer	Inouye	Reid
Gramm	Jeffords	Rockefeller
Hatch	Johnston	Warner

So the amendment (No. 19) was agreed to.

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

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

The motion to lay on the table was agreed to.

CRISIS OF CURRENCY AND FOREIGN EXCHANGE

Mr. MOYNIHAN. Mr. President, I rise at the end of our day to speak to the subject with which the House and Senate began the day, which is the crisis of currency and foreign exchange in Mexico and the prospect that, unless there is a quite extraordinary and urgent action in the United States, the Government of Mexico might default on its foreign obligations, a matter which would have repercussions not just throughout the Western Hemisphere, not just in our own economy and that of Canada and the rest of Latin America as already has been the case in Argentina and Brazil, but, indeed, repercussions throughout the world. A world of previously rigidly controlled, usually government-controlled economies that have been moving toward free markets in the general shift of attitudes that have come with the end of the cold war, and with the appearance of wholly new and quite revolutionary currency market systems.

Mr. President, we have to act. We have to act now, immediately. And every day that goes by is a day in which the difficulty of acting effectively becomes more problematic.

ORDER OF PROCEDURE

Mr. KEMPTHORNE. Mr. President, it would be our intent that next Tuesday, at 9:30 a.m. we would again take up S. 1. At that time I would be asking for a unanimous-consent agreement that we would lay aside the next two committee amendments and that we would then have before the Senate the pending business of the amendment found on page 25.

I would not make that unanimous consent request until Tuesday morning. And on behalf of the leader I announce that it is possible that there could be votes prior to the 12:30 recess on Tuesday.

Mr. MOYNIHAN. I was saying that we are in the midst of a regional crisis which could become a global crisis in very short order. Such are the speeds with which currency markets move at this time, such is the enormous amount of capital not controlled by governments. Such is the capacity already in evidence in our region to reconsider the whole degree of risk involved in these new economies. This week's ''The Economist'' speaks of this matter in no fewer than three separate pieces.

I speak, sir, in support of the general outlines as they are understood presently of the agreements reached on a bipartisan basis between the Members of the Senate, the leadership in the House, the administration, and, of course, the Federal Reserve Board in the person of our distinguished chairman, Alan Greenspan.

This morning, we met with Mr. Rubin, our Secretary of the Treasury, Mr. Greenspan, and Dr. Summers, who is the Treasury Undersecretary and is deeply involved in these matters.

A number of persons mentioned the degree to which there was already a reaction in this country—on radio call-in shows and such like—speaking in various degrees of censure and animosity about those in this Chamber and the other body who had supported the North American Free-Trade Agreement and now find themselves having to associate with this emergency action in a crisis atmosphere.

I would like to speak as one who did not support that agreement, who was opposed from the first, and yet who very much supports the measures we are working on even as I speak, and to make the point that this was always a close question in the Senate.

On May 24, 1991, on the issue of giving the administration—then the administration of President Bush—fast-track authority to negotiate a North American Free-Trade Agreement, 36 of us in this body—a large number—voted not to do so. A position which I believe, in retrospect, might have given a little more sense of treading carefully to our negotiators. But there you are.

The agreement was negotiated beginning after that vote, and eventually it came to the Committee on Finance, as such trade agreements do. By then I was chairman of the committee and was one of four members of the committee who voted not to report the bill favorably, although fully intent that the bill be reported, as clearly 16 members of the committee wished to be done, and as the President, President Clinton, had assumed the same position of his predecessor in this regard, as was also the case of the Uruguay round.

The bill came to the floor in November 1993 and, again, the approval was not overwhelming. It was 61 to 38. Of course, there was a great deal of opposition from a very wide range, wide spectrum of opponents, and they might at this point be tempted to assert they had been right all along.

I would like to take a different view. I would like to make the case that the arguments, such as they were, against this agreement had to do with the nature of the Mexican polity. I was one who absolutely supported a free-trade agreement with Canada, a country that has a regime of law similar to our own, a tradition of an impartial and independent judiciary, of free elections, of basically a market system in their economy in which differences, when they arise, are settled according to procedures that are well understood and agreed to by both parties.

It is simply the case, Mr. President, that these conditions still do not exist in Mexico. They are not wholly absent and in no sense can we suggest—can we or ought we suggest—that they will not evolve. But they have not yet done so. The Mexican Government remains fundamentally a one-party state. Other parties are tolerated, and there have been occasions recently in which the PRI, the Party of the Institutionalized Revolution, has, in fact, accepted defeat in a local election.

But, in the main, since the 1920's, there has been one party, and it has dominated all aspects of the national life.

At the time, and particularly under President Cardenas in the 1930's, it was a great achievement. We tend, because of our own tradition, I suppose, to pay a great deal of attention to the onset of revolution and instability, if you will. That, in fact, Mr. President, is a very ordinary event. It happens with the frequency of hurricanes in the Caribbean. A much more rare event in world history is the onset of stability.

Mexico had been a hugely unstable society, largely because—if I can offer a thought, and I see my friend from New Mexico is on the floor and he would have a better, closer sense than I—but the Mexican polity had never developed a device for yielding office.

It has frequently been remarked by American Presidents that the American democracy really began—oh, Philadelphia was fine, the inauguration of George Washington was fine—but democracy really began when John Adams learned he had lost the election to Thomas Jefferson, turned over a mostly empty Treasury, the Great Seal, what there was of the Army, and left for Massachusetts, thinking that he had been a failure when, in fact, he had proven in a democracy that free election can bring a transfer of party and power.

That has never happened in Mexico. What has happened is that the invention was that a President would leave office but he would choose his successor and would find himself frequently in an advantaged and attractive position in the aftermath of a single term.

But it also meant that there were no free elections; and in addition, that there were frequent, dramatic violations of human rights. Freedom House and Americas Watch have recorded this with great care and concern—not hostility, but concern. Americas Watch reported not 2 years ago that torture was endemic in Mexico. Not that it happened here and there, but it was endemic; it was a device of social control, torture—not long prison sentences or the like, but torture as a wholly illegal, extralegal, but normal practice.

The judiciary had no independence. And the outcome of the election was a given, excepting on occasion, very rarely, very infrequently, when another party was allowed to prevail.

In that circumstance, Mr. President, I believed that we would be associating ourselves—we would, as we have done—in intricate economic-social relations with a polity very different from our own and very problematic as regards those aspects of our civilization, our polity, if you like, and of Canada's, surely, which we find of central importance.

And the agreement we reached itself was problematic in certain respects. For example, the Mexican investors had instant access to American markets—open, free, unfettered with that always indispensable feature that you could buy anything you could pay for.

For example, a Mexican firm recently purchased a seat on the New York Stock Exchange. Fine. But the reciprocity you would expect has not taken place. For example, American financial institutions and many other American investors have had very restricted access to the Mexican market. The agreement provided for only limited access, over a very long transition period. Now, at this moment of a financial crisis, the Mexican Government could very much wish it had done otherwise and provided as much access as anybody wished. And, indeed, they now have begun to do just that, even as the agreement provides otherwise. They would be in a stronger position today if they had done so earlier.

They would be in a stronger position today if they had done so in the agreement. But the fact they did not was very characteristic of a regime not to want any other influences that would challenge its own power. This was not an accident. It was a normal response of such a regime, not to let any other influences take hold that they could not control.

Well, sir, they have not been able to do so, and once again we see a crisis of large consequence with international implications. The peso has dropped 40 percent in three weeks or thereabouts. Inflation may reach 40 to 50 percent this year. There is a renewed concern, as a result, along that border that reaches from the Caribbean to the Pacific, with all the consequences for illegal immigration, a matter of very deep concern to States on the border, especially to California.

What are we to do? It seems to me we have no alternative and that we do have a real opportunity. If we act, if we provide $40 billion in loan guarantees, the plan would be for the Mexican Government to pay a fee to compensate us for assuming that risk. That promises technically the guarantor will make money out of such an event in normal circumstances. I do not say this will happen. It could. We issued a very large loan guarantee to the Israelis a few years ago in a matter of providing housing for the sudden, huge immigration that was coming from the Soviet Union, and they were to pay a fee for any bonds backed by our dollar guarantee. They have not used that. They have not exercised that option at all. But were they to do so, we would be in a position of a lender receiving compensation for a guarantee.

But if we do not do this, we face the prospect of not only instability in the currencies of the Western Hemisphere or the developing nations around the

world, we face the prospect of mass instability in Mexico itself. We have seen this in the Chiapas insurgency which is not yet resolved by any means. We have seen it in instances of political killings. I do not want to get in any way abrasive, but I commented on this floor at one point that Mexico is a country where you can murder archbishops and say they inadvertently wandered into the line of fire in a police action involving drug dealers, which was the equivalent of being shot while in church.

Mr. President, Mr. Paul Gigot, in this morning's Wall Street Journal, writes that if we fail to stem the crisis, we ''can expect more Mexican sons and daughters to arrive in San Diego soon''. Unwilling to stay in Mexico, seeking a promise of better opportunities, overwhelming the opportunities of our own people in our own country.

We cannot do that. We cannot risk undermining a reviving Argentina economy, a promising Brazilian economy. We cannot put at risk the efforts around the world of countries that moved away from centrally controlled, to use a French term, ''dirigiste'' regimes in which American investment is kept out, American goods kept out, autarky I think as the economists would call it, and with the result of economic stagnation.

The courage—and it takes courage—to open up, to be part of the world economy is more and more in evidence everywhere. That courage could turn into fear and retreat in a very short order if we do not act.

I would like to congratulate the majority leader of the Senate, ROBERT DOLE, and the minority leader, TOM DASCHLE, for their willingness to meet with the President, in the company of their counterparts from the House, to bring forth a bipartisan American initiative which is very much directed to the protection of American interests, and I hope it succeeds. I hope it finds support on the Senate floor with Senators generally as it has done with the leadership.

I thank my friends for their patience. Mr. President, I thank the Chair, and I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

MORNING BUSINESS

Mr. COHEN. Mr. President, I now ask unanimous consent that there now be a period for morning business with Senators permitted to speak up to no more than 10 minutes each.

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

UNPROFOR: END ITS IMPOTENCE OR END ITS MISSION

Mr. COHEN. Mr. President, I had the opportunity last evening to join Senator DOLE in meeting with British Gen. Rupert Smith, who will take command of the United Nations force, known as UNPROFOR, in Bosnia later this month. A few other Senators also had a chance to meet with General Smith yesterday.

Senator DOLE and I expressed admiration for General Smith's willingness to take on this unenviable task. But we also expressed skepticism that UNPROFOR can improve its credibility in order to more effectively carry out its limited mission of facilitating humanitarian relief and lessening the violence in Bosnia. But the change in command in UNPROFOR does at least offer the opportunity to try to adopt measures to make UNPROFOR more effective.

I recall that a year ago, when UNPROFOR's leadership was rotating, American military officials responsible for the humanitarian airlift and airdrops in Bosnia proposed to take advantage of the situation to reestablish UNPROFOR's credibility and its ability to fulfill its mandate in Bosnia.

They proposed that UNPROFOR end its ''mother may I?' construct of operations,'' and they outlined a plan by which UNPROFOR, even with its restrictive rules of engagement and limited troops and equipment, could use force to more effectively carry out its humanitarian mission and curb Serb and other harassment of UNPROFOR. These American military officers warned that if such action were not taken, an already bad situation would quickly get much worse.

When he first took command of UNPROFOR in January, Lt. Gen. Michael Rose took actions that suggested he might follow this advice. But this initial promise faded as General Rose became even more pliable to Serb demands than previous UNPROFOR commanders had been. The results have been disastrous:

UNPROFOR has all along had difficulty supplying food, fuel, and medical supplies to Bosnian civilians suffering the privations of war. Now, UNPROFOR cannot be sure it can supply its own emaciated troops.

The United Nations declared a weapons exclusion zone around Sarajevo but refused to enforce it despite routine Serb violations. Now, it has effectively become a Serb-declared exclusion zone from which humanitarian air flights are blocked at the whim of Serb forces.

In the past, UNPROFOR had been humiliated by being compelled to assist Serbs in the deportation of detained Muslims. Now, UNPROFOR has been rendered impotent by having its own forces detained and used as human shields against NATO air attacks. Some UNPROFOR troops seem to have become willing hostages who engage their Serb captors in sports and feasts.

In short, continued UNPROFOR's submission to Serb demands and threats may make it impossible for it to fulfill its mandate. While things appear to have improved in recent weeks, with relief flights resumed and U.N. forces not held hostage, this has only been at the discretion of the Serbs, who can reverse course at any time. All sides in the conflict have sought to manipulate UNPROFOR to their own ends, but Serb forces have largely succeeded in making UNPROFOR a tool of Serb strategy, and the recent improvement should be seen in that light.

This situation will only get worse over time unless UNPROFOR can gain credibility it has never enjoyed.

Either prompt, dramatic action should be taken to establish UNPROFOR's credibility and its ability to do its humanitarian job or UNPROFOR should be withdrawn from Bosnia and Herzegovina.

The plan proposed last winter by American military officers may have worked if implemented then, but it is probably too late toady. Certain elements of that plan, however, are still relevant and even more critical in light of Croatia's recent announcement not to extend UNPROFOR's mandate in that country beyond March 31:

Discredited UNPROFOR leaders cannot change the situation. Any effort to revitalize UNPROFOR must be accompanied by new leaders. General Rose, the UNPROFOR commander in Bosnia, will be replaced on January 24 by General Smith. Yasushi Akashi, the U.N. Secretary General's representative for the former Yugoslavia, must be replaced, as well.

The U.N.-declared no-fly zones and weapons-exclusion zones in Bosnia, now widely flouted, primarily by the Serbs, should be enforced. This includes the withdrawal of SAM's from the zone and deactivation of SAM's in the surrounding area that threaten NATO aircraft policing the zones.

UNPROFOR should no longer tolerate checkpoints operated by belligerents nor should it pay tolls, extortion by belligerents of fuel and other humanitarian supplies. If belligerents question whether a convoy is going to its declared civilian destination, they should be permitted to ride the convoy.

UNPROFOR should organize is convoys along military lines and reject Serb demands that include armored vehicles and similar demands.

Any use of force or threat of force against UNPROFOR should be met with force. While such retaliation must be measured according to its objective, it need not be limited to retaliation against the specific offending forces, given the targeting difficulties often involved and the need for UNPROFOR to acquire the upper hand.

As for the concern that adopting such an approach would endanger UNPROFOR troops now detained by Serbs, the reality is that unless such an approach is adopted immediately, all UNPROFOR troops will be endangered—whether formally detained or not. Action can either be taken to reverse the current situation, or it will only get worse.

If UNPROFOR refuses to adopt such an approach, it should be withdrawn in

as swift and orderly a manner as possible. The United States should, of course, provide the necessary assistance to help our allies and friends in UNPROFOR withdraw. This may include the temporary deployment of ground forces in Bosnia. End the impotence or end the mission.

Any action by any of the belligerents to interfere with the withdrawal of UNPROFOR should be met by overwhelming force. Such force should not be limited to targeting those belligerent forces directly involved in interfering with the withdrawal. Instead, given the difficulties often involved in targeting the offending forces and the need to dominate the battlefield during a withdrawal, targets could include anything of military, political or economic value to the belligerents. Nor should we exclude targets outside Bosnia-Herzegovina, given that much of the impetus and sustenance for the conflict has come from outside its border.

Once UNPROFOR has withdrawn, NATO should continue to enforce the exclusion zone around Sarajevo to the extent possible without excessively endangering allied forces.

THE BROADER BALKEN CONTEXT

Given the Clinton administration's support for keeping UNPROFOR in Bosnia, and presumably trying to make it more effective there, the administration should work with our allies to reverse Croatia's decision to end UNPROFOR's mandate in that country. This might be possible if, parallel to adopting the measures I have proposed for UNPROFOR in Bosnia, a serious effort were made to revitalize UNPROFOR in Croatia, where it has been as much a tool of Serb strategy as in Bosnia.

The Clinton administration has nominally recognized the former Yugoslav Republic of Macedonia [FYROM], but in response to pressure from domestic groups has refused to fulfill this decision by sending an ambassador. This is an important foreign policy issue, not a election spoil. A professional diplomat should be dispatched forthwith as ambassador with a mandate to assist in the reconciliation among ethnic groups in that country and between Skopje and Athens.

Both Presidents Bush and Clinton threatened to use military force against Serbia if it should employ blatant force in Kosovo, Serbia's Albania-populated province along its southern border with Albania and Macedonia. While Serbia has been slowly tightening its grip over the once autonomous Kosovo, this American threat remains useful to discourage overt and widespread violence. Congress should explicitly endorse this threat to make it more credible.

Mr. President, during our meeting yesterday, General Rose emphasized that he was going to have to play the hand he has been dealt, and do so with the players who are already at the table, including the Bosnian Serb leadership.

It is true that we have to shape our policy based on the situation as it exists today. No one can go back and undue what has happened over the last 3 years. But we can learn from the mistakes of the last 3 years.

The measures I have proposed would seek to do so. But from what I heard from General Smith, I am afraid that UNPROFOR will continue down the path it is on. If so, the quagmire that is now up to its waist will soon be up to its neck. And at that point, the task of pulling it out and bringing it home will be much more difficult and costly.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 230 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–82. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''Observed Weaknesses in the District's Procurement System and Possible Remedies''; to the Committee on Governmental Affairs.

EC–83. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''Review of the Implementation of Audit Recommendations for the Public Access Corporation of the District of Columbia''; to the Committee on Governmental Affairs.

EC–84. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law the report entitled ''Analysis of the June 20, 1994 Transactional Framework for the D.C. Arena Project''; to the Committee on Governmental Affairs.

EC–85. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–340 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–86. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–341 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–87. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–342 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–88. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–343 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–89. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–344 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–90. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–345 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–91. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–346 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry (Rept. No. 104–3).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 226. A bill to designate additional land as within the Chaco Culture Archeological Protection Sites, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mrs. FEINSTEIN):

S. 227. A bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes; to the Committee on the Judiciary.

By Mr. BRYAN (for himself, Mr. THOMPSON, Mr. SANTORUM, and Mr. INHOFE):

S. 228. A bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and Congressional employees for retirement purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for Mr. BAUCUS):

S. 229. A bill to require the Administrator of the Environmental Protection Agency to conduct risk assessments and cost-benefit analyses in promulgating regulations relating to human health and the environment, and for other purposes; to the Committee on Environment and Public Works..

By Mr. DOLE (for himself, Mr. SIMON, Mr. HELMS, Mr. ROBB, Mr. MCCAIN, Mr. D'AMATO, Mr. KENNEDY, Mr. GRAMM, and Mr. HATFIELD):

S. 230. A bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance; to the Committee on Foreign Relations.

By Mr. KEMPTHORNE (for himself, Mr. WARNER, Mr. DOLE, Mr. CRAIG,

Mr. MCCAIN, Mr. MACK, Mr. SMITH, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. THURMOND, Mr. INHOFE, Mr. SANTORUM, Mr. HEFLIN, Mr. SIMPSON, Mr. COATS, Mr. KYL, Mrs. FEINSTEIN, Mr. COCHRAN, and Mr. ROBB):

S.J. Res. 17. A joint resolution naming the CVN–76 aircraft carrier as the U.S.S. Ronald Reagan; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 226. A bill to designate additional land as within the Chaco Culture Archaeological Protection Sites, and for other purposes; to the Committee on Energy and Natural Resources.

THE CHACOAN OUTLIERS PROTECTION ACT

● Mr. DOMENICI. Mr. President, I rise today to introduce the Chacoan Outliers Protection Act of 1995. This legislation will expand the Chaco culture archaeological protection sites to include an additional 5,516 acres containing structures and artifacts associated with the Chacoan Anasazi Indian culture of the San Juan Basin of New Mexico.

Chaco Canyon lies within the San Juan Basin in northwestern New Mexico, an area of major significance to the cultural history of North America. It is estimated that the first human occupation of the area dates as far back as 10,000 years ago, when Paleo-Indian hunters entered the area.

The culture of these hunter-gatherers evolved quickly. Within the period spanning from 500 to 900 A.D., the culture of the people of the San Juan Basin, part of a larger culture known as the Anasazi, a Navajo term meaning ''the ancient ones,'' had developed more quickly than nearby Anasazi communities and cultures.

While modern-day Chaco Canyon is a remote and barren site, ancient Chaco Canyon was the center of the Anasazi civilization. The Anasazi flourished, building more pueblos and structures around Chaco Canyon and establishing a large network of outlying communities, which are what we now refer to as the Chacoan outliers. These outliers were spread over an area of more than 30,000 square miles and linked by an extensive system of roads.

As suddenly as the Anasazi evolved and thrived in the San Juan area, by 1300 A.D. the culture just as quickly disappeared, lasting only a brief 400 years. The sudden evolution and disappearance of the Anasazi, as well as the purpose of Chaco Canyon and its outliers, are two of archaeology's more intriguing mysteries.

It is traditionally believed that Chaco was a trade center for as many as 75 outlying communities in the area. Other maintain that Chaco was a religious and ceremonial site. While no one is certain exactly what function Chaco served in its time, all agree that its remaining sites must be preserved and protected.

Chaco Canyon has long been recognized as a nationally and internationally significant site. In March 1907, a Presidential proclamation established Chaco Canyon as a national monument. The monument was further enlarged in 1928 by another Presidential proclamation.

I have long been a supporter of preserving these precious areas. In 1980, I introduced and the Congress passed the Chaco Culture National Historical Park Establishment Act, which became Public Law 96–550. This act enlarged the park and reestablished it as the Chaco Culture National Historical Park, consisting of the main body of the park and three noncontiguous units. The act also mandated procedures for the protection, preservation, and administration of archaeological remnants of the Chacoan culture.

When Chaco Canyon was first afforded Federal protection in 1907, numerous aracheological sites were known to exist outside the boundaries of the national monument. Their relationship to Chaco Canyon, however, was unclear. Archaeologists subsequently determined that many of these sites—some as far as 100 miles from Chaco Canyon—were part of the Chacoan culture.

To the untrained eye, the physical remains of the Chacoan outliers are difficult to discern. At some of the sites, walls still stand. At most sites, however, the magnificent structures of the Anasazi people have collapsed into a mound of rubble, which over the years have been buried by the desert sands and eroded by sand and wind. Unfortunately, many of these sites were further vandalized by unscrupulous pot hunters or degraded by development activities.

In order to protect these outliers, the Chaco Culture National Historical Park Establishment Act designated 33 sites as Chaco culture archaeological protection sites. The Secretary of the Interior is charged with managing these sites in order to preserve them and provide for their interpretation and study. Activities that would endanger the cultural values of the sites are prohibited.

Ownership of the lands containing the archaeological protection sites is a checkerboard of private, State, Federal, and Indian interests. The Indian interests include trust, allotted, and fee parcels. In addition, some surface and subsurface ownerships are divided between two or more entities. Therefore, the act mandated that these lands be protected by cooperative agreements, rather than Federal acquisition, where possible.

The Chacoan outliers are not included in the National Park System. Rather, they are managed primarily by the Bureau of Indian Affairs, the Navajo Nation, and the Bureau of Land Management. These entities are responsible for resource protection and preservation at the sites.

This legislation will expand the existing Chaco culture archaeological protection sites system to add a total of eight new sites, and deleting two others. Of the two sites deleted, one has been incorporated into El Malpais National Monument, and the other is owned and protected by the Ute mountain tribe which prefers to manage this site. The additions are all publicly owned. This legislation also modifies the boundaries of certain already designated protection sites.

Included in these new archaeological protection sites is the first Forest Service site, Chimney Rock in southern Colorado. The Manuelito sites have been designated as ''Priority 1 National Historic Landmarks'' because severe erosion has damaged the sites. The Morris 41 site was added to the list as a result of hearings in the Senate Committee on Energy and Natural Resources last year.

The net results of the changes to be made by the Chacoan Outliers Protection Act would be to increase the number of Chaco culture archaeological protection sites from 33 to 39 and to increase the acreage of the system by 5,516 acres to 14,372 acres.

This legislation also authorizes the Secretary of the Interior to use a combination of land acquisition authority and cooperative agreements to provide archaeological resources protection at those sites remaining in private ownership. Testimony received during hearings in the House of Representatives last year indicated that the Department of the Interior did not have authority to purchase sites without clear evidence of damage or destruction of the Chacoan resources located in such areas. The bill was modified by the House to authorize the acquisition of such sites before they are destroyed.

Twenty-five of the thirty-nine sites designated under this bill are under Navajo jurisdiction. The Navajo people have preserved these resources in the past, but no single agency has previously taken the lead role in assisting the Navajo Nation in these efforts to ensure that the Navajo Nation will have a meaningful and equitable role in managing the Chaco sites. Therefore, this bill directs the Secretary to assist the Navjo Nation in the protection and management of the sites located on lands under the Navajo Nation's jurisdiction.

These changes are the result of dedicated years of research, recommendations, and assistance from Federal,

State, and Indian officials and organizations, archaeologists, the Interagency Management Group and the Chaco Culture Archaeological Protection Sites, the National Park Service, the Bureau of Indian Affairs, the Bureau of Land Management, the Forest Service, the Navajo Nation, and the State of New Mexico. These changes are also in accordance with the 1983 Joint Management Plan for the Chaco culture archaeological protection sites.

This bill is similar to the modified version of S. 310 from the 103d Congress. This bill was approved in the Senate, modified slightly by the House, and was one of many public lands bills cleared for floor action by the Senate Committee on Energy and Natural Resources, but never brought to the floor for final passage. I am hopeful we will be able to overcome the final hurdle and will pass legislation during the 104th Congress. These sites are part of the cultural heritage of all Americans and we must act quickly to preserve them. Cultural resources, once lost, can never be restored or regained.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Chacoan Outliers Protection Act of 1995''.

SEC. 2. PURPOSES.

Section 501(b) of Public Law 96–550 (16 U.S.C. 410ii(b)) is amended by striking ''San Juan Basin;'' and inserting ''San Juan Basin and surrounding areas;''.

SEC. 3. ADDITIONS TO CHACO CULTURE ARCHEOLOGICAL PROTECTION SITES.

Subsection 502(b) of Public Law 96–550 (16 U.S.C. 410ii–1(b)) is amended to read as follows:

''(b)(1) Thirty-nine outlying sites as generally depicted on a map entitled 'Chaco Culture Archeological Protection Sites', numbered 310/80,033–B and dated September 1991, are designated as 'Chaco Culture Archeological Protection Sites'. The 39 archeological protection sites totaling approximately 14,372 acres are identified as follows:

''Name:	Acres:
Allentown	380
Andrews Ranch	950
Bee Burrow	480
Bisa'ani	131
Casa del Rio	40
Casamero	160
Chimney Rock	3,160
Coolidge	450
Dalton Pass	135
Dittert	480
Great Bend	26
Greenlee Ruin	60
Grey Hill Spring	23
Guadalupe	115
Halfway House	40
Haystack	565
Hogback	453
Indian Creek	100
Jaquez	66
Kin Nizhoni	726
Lake Valley	30
Manuelito-Atsee Nitsaa	60
Manuelito-Kin Hochoi	116
Morris 41	85
Muddy Water	1,090
Navajo Springs	260
Newcomb	50
Peach Springs	1,046
Pierre's Site	440
Raton Well	23
Salmon Ruin	5
San Mateo	61
Sanostee	1,565
Section 8	10
Skunk Springs/Crumbled House	533
Standing Rock	348
Toh-la-kai	10
Twin Angeles	40
Upper Kin Klizhin	60.

''(2) The map referred to in paragraph (1) shall be—

''(A) kept on file and available for public inspection in—

''(i) appropriate offices of the National Park Service;

''(ii) the office of the State Director of the Bureau of Land Management in Santa Fe, New Mexico; and

''(iii) the office of the Area Director of the Bureau of Indian Affairs in Window Rock, Arizona; and

''(B) made available for the purposes described in subparagraph (A) to the offices of the Arizona and New Mexico State Historic Preservation Officers.''.

SEC. 4. DEFINITION.

Section 503 of Public Law 96–550 (16 U.S.C. 410ii–2) is amended by inserting ''(referred to in this title as the 'Secretary')'' after ''Secretary of the Interior''.

SEC. 5. LAND ACQUISITIONS.

Section 504(c)(2) of Public Law 96–550 (16 U.S.C. 410ii–3(c)(2)) is amended to read as follows:

''(2) The Secretary shall seek to use a combination of land acquisition authority under this section and cooperative agreements under section 505 to protect archeological resources at such sites described in section 502(b) as remain in private ownership.''.

SEC. 6. ASSISTANCE TO THE NAVAJO NATION.

Section 506 of Public Law 96–550 (16 U.S.C. 410ii–5) is amended by adding at the end the following new subsection:

''(f)(1) The Secretary, acting through the Director of the National Park Service, shall assist the Navajo Nation in the protection and management of such Chaco Culture Archeological Protection Sites as are located on lands under the jurisdiction of the Navajo Nation through a grant, contract, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(2) The assistance provided under paragraph (1) shall—

''(A) consist of assistance in site planning, resource protection, interpretation, resource management actions, and such other activities as may be identified in the grant, contract, or cooperative agreement; and

''(B) include assistance with the development of a Navajo facility to serve persons who seek to appreciate the Chacoan Outlier Sites.''.●

By Mr. DASCHLE (for Mr. BAUCUS):

S. 229. A bill to require the Administrator of the Environmental Protection Agency to conduct risk assessments and cost-benefit analyses in promulgating regulations relating to human health and the environment, and for other purposes; to the Committee on Environment and Public Works.

THE EPA RISK ASSESSMENT AND COST-BENEFIT ANALYSIS ACT OF 1995

● Mr. BAUCUS. Mr. President, today I am introducing a bill that would improve the Environmental Protection Agency's implementation of the Clean Air Act, the Clean Water Act, and other environmental laws by requiring that, before issuing certain major regulations, the EPA Administrator must conduct a risk assessment and cost-benefit analysis.

The bill is identical to the Johnston-Baucus-Moynihan amendment, which was approved by a vote of 90 to 8 and incorporated into section 18 of the Safe Drinking Water Act that the Senate passed last year. That amendment is described, in detail, on pages S5875–5881 of the May 18, 1994, RECORD.

By way of brief background, we in Congress sometimes react to the problems of the day. We passed the Superfund law in 1980 as a reaction to the disaster at Love Canal. The Oil Pollution Control Act was passed after several tankers went aground fouling our coastal waters. And so on.

For the most part these are sound laws that protect our health and our environment. But, Mr. President, it is the rare case when Congress has all the information when these laws are enacted. Most often we are reacting to the most recent examples of the problem, which unfortunately are just the tip of the iceberg.

But it is regulatory agencies like EPA who have the responsibility to address the rest of the problem. And, when they do, they are almost always faced with difficult task of deciding how much protection is sufficient.

We may never have enough information to legislate the right level of protection in every case. But what we can do is make sure that these judgments are fair, unbiased, and based on the best information and analyses available.

That is the purpose of this bill. It requires EPA to conduct a thorough assessment of the risks before it issues a major regulation. It also requires the Administrator to certify that the benefits outweigh the costs, that the best available information was used, and that there are no other alternatives that are more cost-effective.

This will ensure that the public and everyone affected by the regulation will have full disclosure. They will know what is behind the regulation and why it is needed. They will also know how the risk addressed by the regulation compare with other risks encouraged in everyday life.

Mr. President, I firmly believe in the principles of risk assessment. But it must be applied fairly, and must not be used to masquerade efforts to undermine environmental protection.

Unlike some other risk assessment proposals, this bill will not roll back the environmental gains we have already made, or tie the Environmental Protection Agency in knots. It is limited to key rules that have a major

economic impact. It requires a careful assessment or regulatory benefits, including environmental benefits that may be difficult to calculate. It will not trigger a flurry of lawsuits that clog the courts. Instead, it applies risk assessment judiciously, so that we can improve our efforts to protect human health and the environment.

In closing, I wish to complement Senator JOHNSTON, who has worked hard on this issue for several years and negotiated a solid compromise during the last Congress.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

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

S. 229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.

(a) REQUIREMENT.—Except as provided in subsection (b), in promulgating any proposed or final major regulation relating to human health or the environment, the Administrator of the Environmental Protection Agency shall publish in the Federal Register along with the regulation a clear and concise statement that—

(1) describes and, to the extent practicable, quantifies the risks to human health or the environment to be addressed by the regulation (including, where applicable and practicable, the human health risks to significant subpopulations who are disproportionately exposed or particularly sensitive);

(2) compares the human health or environmental risks to be addressed by the regulation to other risks chosen by the Administrator, including—

(A) at least three other risks regulated by the Environmental Protection Agency or another Federal agency; and

(B) at least three other risks that are not directly regulated by the Federal Government;

(3) estimates—

(A) the costs to the United States Government, State and local governments, and the private sector of implementing and complying with the regulation; and

(B) the benefits of the regulation;

including both quantifiable measures of costs and benefits, to the fullest extent that they can be estimated, and qualitative measures that are difficult to quantify; and

(4) contains a certification by the Administrator that—

(A) the analyses performed under paragraphs (1) through (3) are based on the best reasonably obtainable scientific information;

(B) the regulation is likely to significantly reduce the human health or environmental risks to be addressed;

(C) there is no regulatory alternative that is allowed by the statute under which the regulation is promulgated and that would achieve an equivalent reduction in risk in a more cost-effective manner, along with a brief explanation of why other such regulatory alternatives that were considered by the Administrator were found to be less cost-effective; and

(D) the regulation is likely to produce benefits to human health or the environment that will justify the costs to the United States Government, State and local governments, and the private sector of implementing and complying with the regulation.

(b) SUBSTANTIALLY SIMILAR FINAL REGULATIONS.—If the Administrator determines that a final major regulation is substantially similar to the proposed version of the regulation with respect to each of the matters referred to in subsection (a), the Administrator may publish in the Federal Register a reference to the statement published under subsection (a) for the proposed regulation in lieu of publishing a new statement for the final regulation.

(c) REPORTING.—If the Administrator cannot certify with respect to one or more of the matters addressed in subsection (a)(4), the Administrator shall identify those matters for which certification cannot be made, and shall include a statement of the reasons therefor in the Federal Register along with the regulation. Not later than March 1 of each year, the Administrator shall submit a report to Congress identifying those major regulations promulgated during the previous calendar year for which complete certification was not made, and summarizing the reasons therefor.

(d) OTHER REQUIREMENTS.—Nothing in this section affects any other provision of Federal law, or changes the factors that the Administrator is authorized to consider in promulgating a regulation pursuant to any statute, or shall delay any action required to meet a deadline imposed by statute or a court.

(e) JUDICIAL REVIEW.—Nothing in this section creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. If a major regulation is subject to judicial or administrative review under any other provision of law, the adequacy of the certification prepared pursuant to this section, and any alleged failure to comply with this section, may not be used as grounds for affecting or invalidating such major regulation, although the statements and information prepared pursuant to this section, including statements contained in the certification, may be considered as part of the record for judicial or administrative review conducted under such other provision of law.

(f) DEFINITION OF MAJOR REGULATION.—For purposes of this section, ''major regulation'' means a regulation that the Administrator determines may have an effect on the economy of $100,000,000 or more in any one year.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this Act.●

By Mr. HATCH (for himself and Mrs. FEINSTEIN):

S. 227. A bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes; to the Committee on the Judiciary.

THE PERFORMANCE RIGHTS IN SOUND RECORDINGS ACT OF 1995

● Mr. HATCH.

Mr. President, today, together with my distinguished colleague from California, Senator FEINSTEIN, I am introducing the Performance Rights in Sound Recordings Act of 1995.

Despite that complicated title this legislation is in fact a simple bill that amends the Copyright Act by giving those who create sound recordings the basic copyright protections that current law gives to all other creators. Specifically, the bill provides that the copyright owners of sound recordings have the right to benefit from the digital transmissions that may be made of their music.

Thus, like other copyright owners, such as film and video producers, those who create sound recordings will, on passage of this bill, be able to license many of the digital transmissions made of their works.

One common illustration of how this disparity in treatment operates in practice will demonstrate the irrationality of our current law: Many new recordings are released in video formats as well as in traditional audio only form. When the video is broadcast on television or cable, the composer of the music, the publisher of the music, the producer of the video, and the performer of the work are all entitled to a performance right royalty. However, when only the audio recording is played on the radio or delivered by means of a satellite or other subscription service, only the composer and publisher have performance rights that must be respected—even though the audio recording may be identical to the video soundtrack. The producer's and performer's interests are ignored.

It should be initially noted, Mr. President, that this bill does not impose new financial burdens on broadcasters or on any other broad class of users who traditionally perform sound recordings. Those users will instead continue to be subject only to those financial burdens that they voluntarily undertake. The aim of this bill is simply to level the playing field by according to sound recordings most of the same performance rights that all other works capable of performance have long enjoyed.

As I noted last Congress, sound recordings are not the only source of music available to broadcasters, nor is music programming the only format. Should those who may be granted new performance rights in the digital transmission of sound recordings be so unwise as to unfairly and unrealistically charge for licensing their works or to actually withhold their works from the public, then the detriment will fall principally on the very copyright owners that the law is designed to protect. But, in any event, the bill ensures that most digital transmissions of sound recordings will have the right to a license, on terms to be negotiated, or if necessary, arbitrated.

The basic issue raised by the Performance Rights Act is not new, Mr. President. The importance of the performance right issue was recognized when the Copyright Act of 1976 was debated by us, though it was not ultimately addressed by that act. Congress did, however, request a study of the issue to be made by the Copyright Office, and that study, released in 1978, did conclude that a performance right in sound recordings was warranted. This was at a time, it should be noted, when few could have anticipated the

widespread availability of digital technology and the possibility for flawless copying that is now a reality.

A subsequent study of this issue was provided to the Subcommittee on Patents, Copyrights and Trademarks in October 1991, in response to a joint request by Chairman DeConcini and Representative Hughes, chairman of the House Subcommittee on Intellectual Property. Their request was for an assessment of the effect of digital audio technology on copyright holders and their works. Again, the Copyright Office concluded that sound recordings should, for copyright purposes, be equated with other works protected by copyright. From this premise flows the inevitable conclusion that the producers and performers of sound recordings are entitled to a public performance right, just as are all other authors of works capable of performance. Thus, it should not be surprising that the Copyright Office recommended in 1991 that Congress enact legislation recognizing the performance right. Senator FEINSTEIN and I responded to that recommendation when, in the 103d Congress, we filed S. 1421, the Performance Rights in Sound Recordings Act of 1993.

In the months following introduction of S. 1421, a number of highly productive roundtable discussions were held, along with full hearings by the House Subcommittee on Intellectual Property and the Administration of Justice. In these forums, and in private discussions and negotiations, a remarkable variety of viewpoints were aired. As a result of this exchange numerous additions to the original text of S. 1421 have been incorporated in this year's bill, in response to the legitimate concerns of interested parties, including, but not limited to, music publishers, composers and songwriters, musicians, broadcasters, cable operators, background music suppliers, and performing rights societies.

Principal among these changes is the decision to give the bill a more limited scope. Unlike S. 1421, today's bill does not affect the interests of broadcasters, as that industry has traditionally been understood. While strong arguments can be made in favor of attaching a performance right to every performance of a sound recording, including analog and digital broadcasts, it is also true that long-established business practices within the music and broadcasting industries represent a highly complex system of interlocking relationships which function effectively for the most part and should not be lightly upset.

Of equal importance is the fact that traditional broadcasting does not present a threat to displace sales of sound recordings to the same extent that pay-per-listen, direct satellite, and subscription services do.

Currently, sales of recordings in record stores and other retail outlets represent virtually the only avenue for the recovery of the very substantial investment required to bring to life a sound recording. There are no royalties payable to the creators of the sound recording for the broadcast or other public performance of the work.

If the technological status quo could be maintained, it might well be that the current laws could be tolerated. But, we know that technological developments such as satellite and digital transmission of recordings make sound recordings vulnerable to exposure to a vast audience through the initial sale of only a potential handful of records. Since digital technology permits the making of virtually flawless copies of the original work transmitted, a potential depression of sales is clearly threatened, particularly when the copyright owner cannot control public performance of the work. And new technologies such as audio on demand and pay-per-listen will permit instant access to music, thus negating even the need to make a copy.

But, Mr. President, even if this economic argument were not persuasive, fairness and responsible copyright policy nonetheless dictate the recognition of the rights embodied in today's bill. As the Copyright Office has noted:

> Even if the widespread dissemination by satellite and digital means does not depress sales of records, the authors and copyright owners of sound recordings are unfairly deprived by existing law of their fair share of the market for performance of their works.

(Report on Copyright Implications of Digital Audio Transmission Services, Oct. 1991, pp. 156–157).

Mr. President, the bill that Senator FEINSTEIN and I are introducing today is about fairness, plain and simple. Unless Congress is prepared to create a hierarchy of artists based on a theory of rewarding some forms of creativity but not others, it must adopt a policy of nondiscrimination among artists. This should be true whether we are tempted to discriminate among artists based on the content of their creations, based on the nature of the works created, or based on the medium in which the works are made available to the public.

For too long, American law has tolerated an irrational discrimination against the creators of sound recordings. Every other copyrighted work that is capable of performance—including plays, operas, ballets, films, and pantomimes—is entitled to the performance right. It is denied only for sound recordings.

It is frankly difficult, Mr. President, to understand the historical failure to accord to the creators of sound recordings the rights seen as fundamental to other creators. I acknowledge that in other nations some have advanced the theory that copyright protection should not extend to sound recordings. This theory is based on the view that the act of embodying a musical work on a disc or tape is more an act of technical recordation than a creative enterprise. But, this has not been the American view, nor the view of most nations with advanced copyright systems. Since 1971, Congress has clearly recognized sound recordings as works entitled to copyright on an equal basis with all other works.

Thus, the joint authors of sound recordings—those who produce them and those who perform on them—must be seen as creators fully entitled to those rights of reproduction, distribution, adaptation, and public performance that all other authors enjoy. It is, I believe, no longer possible to deny the true creative work of the producers of sound recordings. While few are so well known as their stage and film counterparts, there are significant exceptions. In the field of operatic recording alone, one could cite legendary figures such as Walter Legge, Richard Mohr, or John Culshaw. As the ''New Grove Dictionary of Opera'' states with reference to the latter's landmark Wagner recordings of the 1950's, ''Mr. Culshaw's great achievement was to develop the concept of opera recording as an art form distinct from live performance.'' (Vol. I, p. 1026; Macmillan Press, 1992). The events referred to occurred over 30 years ago, yet American law still fails fully to recognize the sound recording as an art form entitled to the full range of copyright protections enjoyed by live performances.

Similarly, the unique creative input of the performing artist as a joint author cannot be casually discounted as a proper subject of copyright protection. It has been said that the recording industry was almost single-handedly launched by the public demand for one performer's renditions of works largely in the public domain. Indeed, Enrico Caruso's recordings from the early years of this century are almost all still in print today. To take a more contemporary example, it could be noted that Willie Nelson authored a country music standard when he composed ''Crazy,'' a song he has also recorded. But, Patsy Cline made the song a classic, by her inimitable performance of it.

It should be carefully noted, Mr. President, that today's bill is, frankly, compromise legislation. It does not seek to create a full performance right in sound recordings, a right that would extend to the more common analog mode of recording. Also, the digital right that the bill does create is limited to subscription transmissions. Other public performances of digital recordings are still exempted from the public performance right that the bill would create.

I believe that these major limitations on the rights that we seek to create today will limit as much as possible the dislocations and alterations of prevailing contractual arrangements in the music and broadcasting industries. I am sure I speak for Senator FEINSTEIN as well when I say that we are open to the consideration of additional means of ensuring that this bill does not have unintended consequences for other copyright owners, be they songwriters, music publishers, broadcasters, or others.

Mr. President, while today's bill is landmark legislation, it should also be noted that the bill only proposes to give the creators of sound recordings something approaching the minimum rights that more than 60 countries already give their creators. In so doing, the legislation should also have extremely beneficial consequences in the international sphere by strengthening America's bargaining position as it continues to campaign for strong levels of protection for all forms of intellectual property and by allowing American copyright owners to access foreign royalty pools that currently deny distributions of performance royalties to American creators due to the lack of a reciprocal right in the United States.

The absence of a performance right undoubtedly, hindered the efforts of United States trade negotiators in addressing matters such as the Uruguay round of the General Agreement on Tariffs and Trade [GATT] and will continue to hinder the current efforts of the World Intellectual Property Organization to develop a new instrument to settle the rights of producers and performers of sound recordings. In each instance, U.S. negotiators have been faced with the argument from our trading partners that the United States cannot expect other countries to provide increased protection when U.S. law is itself inadequate.

Furthermore, in many countries that do provide performance rights for sound recordings, there is often a refusal to share any collected royalties with American artists and record companies for the public performance of their recordings in those foreign countries. This is based on the argument that these rights should be recognized only on a reciprocal basis. For as long as foreign artists receive no royalties for the public performance of their works in the United States, American artists will continue to receive no royalties for the performance of American works in those foreign countries that insist on reciprocity.

The royalty pools we are talking about here, Mr. President, are, in fact, considerable. The Recording Industry Association of America has estimated that in 1992 American recording artists and musicians were excluded from royalty pools that distributed performance royalties in excess of $120 million. It is likely that this figure has increased in recent years and will continue to grow.

The insistance of certain foreign nations on reciprocity of rights as a condition to the receipt of performance royalties is inconsistent with the fundamental obligation of those nations to provide national treatment under the Berne Convention on the Protection of Literacy and Artistic Property or under the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations. It is nonetheless an economic fact of life that seriously disadvantages American producers and performers and therefore must be dealt with. If passed, the Performance Rights in Sound Recordings Act should make it more likely that Americans who are entitled to royalties from foreign performances will be able to recover those funds. Thus, the direct economic benefits to be derived from the legislation are considerable.

Before concluding, Mr. President, I would like to thank my colleague from California, Senator FEINSTEIN, for joining me again this year in introducing this important legislation and for drawing our attention to the significant economic consequences involved.●

● Mrs. FEINSTEIN. Mr. President, I am joining my distinguished colleague, the chairman of the Senate Judiciary Committee, Senator HATCH of Utah, to introduce once again the Digital Performance Rights in Sound Recordings Act. Just as the version on which we collaborated last year did, this bill will—for the first time—provide recording companies and musical artists with the same protection under copyright law already enjoyed by songwriters and composers with respect to the performance of digital sound recordings.

Senator HATCH and I introduced similar language in the last Congress for the express purpose of beginning in earnest the debate over how to redress the current imbalance in copyright law. I'm very pleased that, although time did not permit final congressional action on the bill last year, virtually all of the affected industries accepted our invitation—and that extended by former Congressman Hughes—to fully explore the complicated legal and commercial issues presented by technology's inevitable advance.

Mr. Hughes, then chair of the House's Subcommittee on Intellectual Property and Judicial Administration, organized two highly effective roundtables that brought cable, broadcast, satellite, restaurant, and music industry leaders together with other copyright holder and labor organizations. I also met at great length with many of those principals last February, as did Chairman HATCH and his staff on many, many occasions. These efforts, I am pleased to say, produced a sweeping agreement on most major aspects of this issue last May.

That agreement provided the framework for the bill we have introduced today. This legislation creates a digital public performance right in sound recordings that is applicable to transmissions for which subscribers are charged a fee. Most of these transmissions are subject to statutory licensing, at rates to be negotiated, or if necessary, arbitrated. However, interactive services remain subject to an exclusive right, in keeping with the bill as originally introduced last Congress. The bill contains protections for licensing of copyrighted works in vertically integrated companies and contains language to make clear that the new performance right does not impair any of the other copyright rights under existing law.

Ditigal technology, and the industries built around its use to distribute sound recordings, have evolved and advanced dramatically in the 17 months since this legislation was first introduced, Mr. President. The need to keep America's copyright law current, therefore, has only become more acute.

Accordingly, I believe that this Congress has not merely an opportunity, but a responsibility, to build on the tremendous bipartisan strides made last year by expeditiously considering, amending if need be, and passing the bill that Senator HATCH and I have introduced today.

For those who have not reviewed this issue since the last Congress or are new to it, let me briefly review the principal reasons to adopt this legislation:

First, it is the fair thing to do. Owners of almost every type of copyrighted work—movies, books, plays, magazines, advertising, and artwork, for example—have the exclusive right to authorize the public performance of their copyrighted work. Sound recordings, and the artists and companies that make them, however, have no such performance right.

Accordingly, when a song is played over the radio, or, as is increasingly the case, over a new digital audio cable service, the artist who sings the song, the musicians and backup singers, and the record company whose investment made the recording possible have no legal right to control or to receive compensation for this public performance of their work.

The artists who made the music, and the companies that underwrote its production and promotion, don't see a dime of the revenue realized by the ditigal transmitter. And, without a right of public performance for sound recordings by means of digital transmissions, they will not. That is just not fair, and this inequity will not be corrected unless and until this legislation is passed.

Second, the advent of digital technology and the emergence of a whole new industry to distribute them directly to the home make prompt protection of artists and record companies critical.

Let me explain why. Ordinary, or analog, radio signals are waves and, as such, they vary in strength and break down over distance. That breakdown greatly diminishes sound quality.

In the past, therefore, the sale of comparatively high-quality recordings on cassette tapes and record albums was not jeopardized by the casual home recording of music played over the radio. The quality of home recording over-the-air simply did not compare with what a record or tape sounded like over a home stereo system.

Today, however, the same technology that has given us compact discs now allows perfect reproductions of music to be digitized—turned into computer ones and zeros—that can be sent by

satellite or over cable TV wires around the globe, and reassembled into concert hall quality music in our homes. Predictably, and quite legally, this quantum leap in sound technology has had a revolutionary impact on the way that music is marketed.

New subscription digital audio services have sprung up in cities, towns, and rural communities across the country. For a modest monthly fee, they deliver multiple channels of CD-quality music to customers in their homes—primarily through subscribers' cable TV wiring.

Other companies are experimenting with similar services to be provided through home computers, or more sophisticated systems that will permit the customer at home to custom-order whatever music he or she would like to hear and record. Although it is extremely time-consuming to download a CD today, soon compression technology and high-speed transmission will permit virtual instantaneous access. All one will need is a modem.

As the market is now configured, however, these companies need merely go to a local record store, buy a single copy of a compact disc which they can then transmit for a fee to tens of thousands, potentially millions, of subscribers. Because our copyright law is behind the technological times, record companies and recording artists do not see a penny of compensation from even one of those thousands of performances.

It is thus no exaggeration to say, that, without the change in copyright law proposed today, these wonderful new services have the potential to put the current recording industry out of business. Why travel to a store to buy a record, tape, or compact disc when you can get the same, or custom-tailored musical packages, in your living room at the touch of a button?

Frankly, that would be a tolerable evolution of the marketplace if artists and record companies were compensated for the use of their sound recordings by the new digital transmission services and on-line and interactive services. Right now, however, because of skewed copyright law, that is not the way the market works.

Neither Senator HATCH nor I suggest that digital audio services should not be able to operate just as they do now to bring top-quality digital signals to American homes. Our bill does insist, however, that such services not be able to take advantage of a redressable gap in our copyright laws to avoid compensating record companies and artists fairly.

Third, copyright experts have consistently urged Congress to create a right of public performance in sound recordings.

The U.S. Copyright Office has recommended since 1978 that a performance right in sound recordings be granted in all public performances, not just digital transmissions, and recently reiterated the urgency of the need for such reform created by the advent of digital audio technology. Indeed, the Copyright Office testified before the House Judiciary Subcommittee on Intellectual Property and Judicial Administration in the last Congress, urgently calling for enactment of such legislation.

In addition, the administration's working group on intellectual property rights of the information infrastructure task force, in its preliminary draft report, recently wrote:

> * * * the lack of a public performance right in sound recordings under U.S. law is an historical anomaly that does not have a strong policy justification—and certainly not a legal one.

The report also reiterated the administration's support for the bill that Senator HATCH and I introduced in the 103d Congress and for H.R. 2575, its House counterpart introduced by Representatives William Hughes and HOWARD BERMAN.

It is time to heed these expert calls.

Fourth, taking the experts' advice also will help U.S. trade negotiators obtain greater protection for American copyright holders overseas than they are now able to demand.

More than 60 countries around the world extend similar rights to producers and their artists, and have for many years. American negotiators' efforts to obtain protection for our own companies and artists have been hampered, as they have said repeatedly,by our inability to reciprocate. It is long past time to provide our trade representatives with this valuable bargaining chip.

Finally, Mr. President, I want to reiterate that the legislation we are introducing today is no different in intent than S. 1421, although the content is somewhat different. We have attempted to continue the work of the last Congress. Furthermore, we are introducing this legislation in the same spirit with which last year's bill was submitted. Chairman HATCH and I want to continue to work closely with all the affected industries to make this as strong and properly tailored a piece of legislation as possible.

We are standing at the cusp of an exciting digital age. Technological advances, however, must not come at the expense of American creators of intellectual property. This country's artists, musicians, and businesses that bring them to us are truly among our greatest cultural assets. This bill recognizes the important contribution that they make and provides protection for their creative works, both at home and abroad.

I am once again very pleased to be working with Senator HATCH to correct an increasingly dangerous and inappropriate imbalance in our Nation's copyright laws.●

By Mr. DOLE (for himself, Mr. SIMON, Mr. HELMS, Mr. ROBB, Mr. MCCAIN, Mr. D'AMATO, Mr. KENNEDY, Mr. GRAMM, and Mr. HATFIELD):

S. 230. A bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance; to the Committee on Foreign Relations.

HUMANITARIAN AID CORRIDOR ACT

Mr. DOLE. Mr. President, I rise to speak briefly today to reintroduce the Humanitarian Aid Corridor Act. I am joined again by the distinguished Senator from Illinois, Senator SIMON, in addition to the following cosponsors: Senator MCCAIN, Senator D'AMATO, Senator KENNEDY, and Senator GRAMM. In my view, our legislation will further an important American foreign policy objective: to facilitate the prompt delivery of humanitarian aid. This would be achieved by establishing the principle that if a government obstructs humanitarian aid to other countries, it should not receive U.S. assistance. It seems to me that this is a principle that could be readily accepted by everyone. Very simply, our legislation would prohibit U.S. foreign assistance to countries which prohibit or impede the delivery or transport of U.S. humanitarian assistance to other countries. It makes a lot of sense to me.

The intended effect of this legislation is to ensure the efficient and timely delivery of U.S. humanitarian assistance to people in need. It will help deter interference with humanitarian relief, as well as provide for the appropriate response in the event of interference or obstructionism.

Mr. President, our legislation would be universally applicable—the Humanitarian Aid Corridor Act does not single out any one country. It would apply to all relief situations. Currently, however, there is one country that would clearly be affected. Turkey continues to receive large amounts of assistance in the form of grants and concessional loans financed by the American taxpayer while at the same time, it is enforcing an immoral blockade of Armenia. As a result, outside relief supplies must travel circuitous routes, thereby greatly increasing the cost of delivery. Moreover, many supplies never make it at all. This same blockade prevents care packages from the American Red Cross from entering Armenia, as an example.

In sum, United States aid to Armenia is far less effective and much more expensive because of Turkey's blockade. More importantly, Armenians freeze and go Hungry as a result of actions taken by the Turkish Government. The delivery of humanitarian assistance to aid those in need, like the Armenians—is consistent with the fundamental values of our Nation. This legislation will strengthen our ability to deliver such assistance which is an important component of our foreign policy.

Let me repeat, this bill does not name names. The legislation could apply to many other relief operations.

Indeed the United States conducts relief operations around the world, operations that depend on the cooperation of other countries. I recognize that Turkey has been a valuable ally in Nato and recently in Operation Desert Storm.

Mr. President, this legislation recognizes that there may be a compelling U.S. National Security interest which would override the principle of noninterference with Humanitarian aid. For this reason, U.S. foreign aid to nations in violation of this act may be continued if the president determines that such assistance is in the National Security Interest of the United States.

Mr. President, it does not make sense to me to offer U.S. taxpayer dollars unconditionally to countries that hinder our humantiarian relief efforts. In light of budgetary constraints, it is imperative that U.S. relief efforts be timely and efficient. The bottom line is that countries that prevent the delivery of such assistance, or intentionally increase the cost of delivering such assistance, do not deserve unrestricted American assistance.

Mr. President, this legislation will be referred to the Committee on Foreign Relations where I hope it will get rapid and positive consideration and a good rapid hearing. Similar legislation will be introduced in the House. I hope that Congress will quickly enact this legislation and send it to the White House for approval.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

We are just simply saying if a country blocks humanitarian aid, they do not get any assistance. It seems to me that it is pretty hard to dispute that argument or come to any other conclusion, notwithstanding, as I said, the fact that Turkey has been an ally.

I would hope that Turkish officials would take another look and make it easier for people in Armenia to receive humanitarian assistance from the United States.

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

S. 230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Humanitarian Aid Corridor Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States Federal budget deficit and spending constraints require the maximum efficiency in the usage of United States foreign assistance.

(2) The delivery of humanitarian assistance to people in need is consistent with the fundamental values of our Nation and is an important component of United States foreign policy.

(3) As a matter of principle and in furtherance of fiscal prudence, the United States should seek to promote the delivery of humanitarian assistance to people in need in a manner that is both timely and cost effective.

(4) Recipients of United States assistance should not hinder or delay the transport or delivery of United States humanitarian assistance to other countries.

SEC. 3. LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT THE TRANSPORT OR DELIVERY OF UNITED STATES HUMANITARIAN ASSISTANCE.

(a) PROHIBITION ON ASSISTANCE.—Notwithstanding any other provision of law, funds appropriated or otherwise made available for United States assistance may not be made available for any country whose government prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) WAIVER.—The prohibition on United States assistance contained in subsection (a) shall not apply if the President determines and notifies Congress in writing that providing such assistance to a country is in the national security interest of the United States.

(c) RESUMPTION OF ASSISTANCE.—A suspension or termination of United States assistance for any country under subsection (a) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such country is no longer prohibiting or otherwise restricting, either directly or indirectly, the transport or delivery of United States humanitarian assistance.

SEC. 4. REPORT.

(a) IN GENERAL.—At the time of the annual budget submission to Congress, the President shall submit a report to Congress describing any information available to the President concerning prohibitions or restrictions, direct or indirect, on the transport or delivery of United States humanitarian assistance by the government of any country receiving or eligible to receive United States foreign assistance during the current or preceding fiscal year.

(b) APPLICABILITY OF LAW.—The President shall include in the report required by subsection (a) a statement as to whether the prohibition in section 3(a) is being applied to each country for which the President has information available to him concerning prohibitions or restrictions, direct or indirect, on the transport or delivery of United States humanitarian assistance.

SEC. 5. DEFINITION.

As used in this Act, the term ''United States assistance'' has the same meaning given that term in section 481(e)(4) of the Foreign Assistance Act of 1961.

By Mr. KEMPTHORNE (for himself, Mr. WARNER, Mr. DOLE, Mr. CRAIG, Mr. MCCAIN, Mr. MACK, Mr. SMITH, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. THURMOND, Mr. INHOFE, Mr. SANTORUM, Mr. HEFLIN, Mr. SIMPSON, Mr. COATS, Mr. KYL, Mrs. FEINSTEIN, Mr. COCHRAN, and Mr. ROBB):

S.J. Res. 17. A joint resolution naming the CVN–76 aircraft carrier as the U.S.S. *Ronald Reagan*; to the Committee on Armed Services.

U.S.S. ''RONALD REAGAN'' AIRCRAFT CARRIER

Mr. KEMPTHORNE. Mr. President, I introduce a joint resolution and ask that it be referred to the appropriate committee.

The joint resolution I am introducing today was developed with the help and guidance of the senior Senator from Virginia, Senator JOHN W. WARNER. Senator WARNER and I separately came up with this idea and we joined forces to put this resolution together. In addition, Senators DOLE, THURMOND, CRAIG, SMITH, MCCAIN, MACK, LOTT, NICKLES, HUTCHISON, INHOFE, SANTORUM, FEINSTEIN, COCHRAN, KYL, SIMPSON, COATS, and HEFLIN have jointed Senator WARNER and I as cosponsors of this joint resolution.

The joint resolution Senator WARNER and I are introducing today will direct that the aircraft carrier approved and funded by the last Congress, known heretofore as CVN–76, shall be named the U.S.S. *Ronald Reagan*. I can think of no better tribute to our Nation's 40th President.

In 1980, Ronald Wilson Reagan was elected the 40th President of the United States of America. After campaigning on a platform dedicated to peace through strength, President Reagan initiated policies to rebuild and strengthen America's military power. As a result of the so-called Reagan build up, President Reagan was able to negotiate the first true nuclear arms reduction agreements, the INF Treaty and the START I accord, with the Soviet Union.

President Reagan also enacted policies to promote democracy and challenge Soviet-style communism around the world. In fact, the policy of challenging communism with democracy was given a name, it was called the Reagan doctrine. As a result of the Reagan doctrine, freedom fighters in nations such as Afghanistan and Nicaragua were able to escape the grip of Communist tyranny.

As Commander in Chief, President Reagan never forgot the men and women who volunteer to wear the uniform of the United States of America. Indeed, President Reagan's policies and actions restored the respect given to American military personnel around the world.

President Reagan served his Nation for 2 terms with unmatched style and grace. After his first term in office, an appreciative nation reelected President Reagan with a 49-State landslide. Throughout his 8 years as President, no one served as a more dignified, nor proud, representative of the United States than Ronald Reagan.

I think it entirely appropriate that CVN–76 be named the U.S.S. *Ronald Reagan* because of our 40th President's steadfast commitment to a robust Navy, strong Armed Forces and a global U.S. military presence. I believe that the sight of the U.S.S. *Ronald Reagan* patroling the high seas to defend America's interest will serve as a fitting tribute to the man who reminded his fellow countrymen, and the world, that America's best days are yet to come.

Mr. President, I hope my colleagues will take the time to look at the proposed joint resolution and I look forward to bringing this joint resolution to the Senate floor. I would like to ask unanimous consent that Senator WARNER's letter to President Clinton, and

my letter to the Secretary of the Navy, the Honorable John Dalton, regarding this proposal be entered into the RECORD. I also want to once again thank Senator JOHN WARNER for his much appreciated cooperation and assistance in this joint effort.

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

U.S. SENATE,
Washington, DC, November 16, 1993.

Hon. JOHN DALTON,
Secretary of the Navy, Department of the Navy, Washington, DC.

DEAR SECRETARY DALTON: As you know, the Fiscal Year 1994 Defense Appropriation Act provided $1.2 billion to begin construction of the next aircraft carrier (CVN–76). Once this ship is authorized, I assume construction of this vessel will begin.

I am writing to urge you to name CVN–76 in honor of former President Ronald Reagan. I believe the ''USS *Ronald Reagan*'' would be a fitting tribute to the man who played a key role in winning the Cold War. Whatever one's political views, President Reagan's commitment to ''peace through strength'' and his dedication to the men and women in our armed forces cannot be denied. I am confident that the American people and the Congress would strongly support this tribute to our 40th president.

I hope we can discuss the name of CVN–76 sometime in the future. I look forward to hearing from you.

Sincerely,

DIRK KEMPTHORNE,
U.S. Senator.

U.S. SENATE,
December 9, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Yesterday the Department of the Navy finalized the principle contract for constructing America's newest nuclear aircraft carrier, CVN76.

Several ships of this class proudly bear the names of our Nation's former Presidents.

As you will soon be selecting a name for the ship, I respectfully urge you to consider designating it ''USS *Ronald Reagan*.''

The first mission of these carriers is to deter aggression against our Nation's security interest and that of our allies.

President Reagan was the principle architect of America's defense and foreign policy during the period which not only deterred aggression from communist adversaries, but also laid the foundation for the decline and ultimate demise of European communist Nations.

The ''USS *Ronald Reagan*,'' as she sails the seven seas to deter future aggression, will serve as a symbol of America's role, together with other nations of the free world in successfully defeating communism.

With kind regards, I am

Respectfully,

JOHN WARNER.

Mr. WARNER. Mr. President, as an original cosponsor, I rise today to express my full support for the joint resolution introduced by Senator KEMPTHORNE which would name the Navy's newest aircraft carrier, CVN–76, the U.S.S. *Ronald Reagan*.

Throughout the 1980's and into the early 1990's, the United States boasted the strongest military in the world—unmatched in the quality of its people, weapons, munitions, and equipment. The nucleus of that force remains today and, with some focused hard work, we will continue to be the world's foremost military power.

Our preeminent military force did not simply evolve, however. It was methodically built utilizing foresight, dedication and a lot of hard work by a lot of devoted people. One individual, however, stands above all others as the principal architect and master builder of our strong military, and that individual is Ronald Reagan.

President Reagan often quoted George Washington's maxim that ''To be prepared for war is one of the most effectual means of preserving the peace.'' Throughout his time in office he followed that maxim, provided us with a clear vision of what a powerful American military should be and then tirelessly worked to assure that the force was built. His efforts guaranteed peace through strength.

President Reagan inherited a military that was not at the level of readiness required of a superpower. Recall that when he was elected, 52 Americans were being held hostage in Iran. The previous April, a military effort to rescue those hostages had ended in tragedy and failure at a place called Desert 1. The Iranian hostage situation and the debacle at Desert 1 reflected a country whose respect within the world community had eroded and a military whose members were undertrained, less than adequately equipped when compared to their potential adversaries, and generally dispirited.

Ronald Reagan pulled America out of that dilemma. On August 20, 1981, the old ex-horse cavalryman, as he often referred to himself, set the tone for his 8 years in office when he made the following statement to the crew of the aircraft carrier, the U.S.S. *Constellation:*

> I know there've been times when the military has been taken for granted. It won't happen under this administration * * *. Providing security for the United States is the greatest challenge and a greater challenge than ever, but we'll meet that challenge * * *. Let friend and foe alike know that America has the muscle to back up its words * * *.

During Ronald Reagan's tenure in office, he held true to that statement. His vision led to the creation of the most technologically superior military in the world. Moreover, increased pay and benefits for our people in uniform, something that President Reagan so strongly advocated and relentlessly pushed for, resulted in the recruitment and retention of the highest quality people who have ever served in the military. Perhaps even more significantly, President Reagan's strong leadership as the Commander in Chief instilled in the American people, and in the world community, a renewed high level of respect for our Armed Forces while at the same time restoring the confidence of our military people, making them believe that they are members of an honorable profession, performing a vital service to their Nation.

CVN–76 will be our ninth *Nimitz* class nuclear powered aircraft carrier. One is named the U.S.S. *United States*. The other seven currently in service or being built are named after people who made great contributions to the American military—either leading forces in battle, serving as President during war or working during times of peace to assure the continued strength of the American military and the security of the United States. The *Theodore Roosevelt*, in particular, honors a President who built the Great White Fleet and sailed it around the world to proclaim America as a naval power and an emerging international economic power.

Ronald Reagan's service to our Nation merits his taking a rightful place alongside those other great Americans who have been honored by having *Nimitz* class aircraft carriers named after them. Like Theodore Roosevelt, President Reagan built a military that announced to the world that the United States is, once again, a great power. And like Roosevelt, George Washington, Abraham Lincoln, and Dwight Eisenhower, Ronald Reagan is a great leader whose vision and guidance have taken us, as a nation, to new heights of strength and respect among the other nations of the world.

The primary mission of CVN–76 will be to deter aggression against our Nation's security interests and those of our allies. As such, it should bear a name which reflects audacity and decisiveness as well as the respect which we trust our allies and potential adversaries alike will hold for it and the Nation it represents. I can think of no name for this vessel which would be more appropriate than that of the individual who designed, built, and led the world's most potent military force in the 1980's: Ronald Reagan.

Mr. President, I believe my colleagues will agree that naming CVN–76, a ship that will assure peace through strength, the U.S.S. *Ronald Reagan* will be both an enhancement of Navy traditions and a fitting tribute to a most deserving former Commander in Chief. I strongly urge adoption of this joint resolution.

Mr. HEFLIN. Mr. President, I rise today to endorse this proposal to name the next aircraft carrier, CVN–76, the U.S.S. *Ronald Reagan*. I believe this would be a fitting tribute to a great man and a great President.

Ronald Reagan was elected the 40th President of the United States on November 4, 1980. Central to President Reagan's agenda was the defeat of communism and the rebirth of America as a ''beacon of hope for those who do not have freedom.'' He therefore made the buildup of the Nation's Armed Forces, which began under President Carter, his No. 1 budget priority.

Two defensive weapon systems, in particular, have become synonymous with the Reagan administration. First

and foremost is the strategic defense initiative, which the President announced in his historic 1983 address to the Nation. It was the work of scientists and engineers in Huntsville and California that convinced President Reagan to endorse research on missile defenses, and I am proud of the leadership role that Huntsville has continued to play in this regard.

The second weapon system associated with the Reagan administration was the MX missile. The intercontinental ballistic missile was the cornerstone of our ICBM modernization program and it, together with SDI, can be credited with convincing the Soviets to begin serious arms control talks. In fact, by the end of the Reagan's second term the START talks has begun and we had signed the Intermediate Nuclear Force [INF] Treaty which eliminated an entire class of nuclear missiles. It should be noted that the INF Treaty led to the first actual reduction of nuclear missiles in history.

In retrospect, many credit the Reagan arms buildup with the eventual bankruptcy and collapse of the Soviet Union. While I believe the main causes of the collapse were the inherent flaws of communism, the arms race certainly played a major role and the President does deserve praise for his steadfast commitment.

In his own words, Ronald Reagan's hope was to ''go down in history as the President who made Americans believe in themselves again.'' He was successful. He reminded us of our glorious past, that we were in a nation founded on the principles of freedom and democracy. He took world leadership on the issues of the day and reassured us we were still the greatest nation on earth. Finally, through his philosophy of peace through strength, he held the forces of communism at bay and set the ground work for their eventual defeat, giving us new hope in the future.

Mr. President, aircraft carriers are the pride of the U.S. Navy and are floating symbols of our national strength and conviction. Five times before we have named an aircraft carrier after a President, with the last being the U.S.S. *John F. Kennedy*. Ronald Reagan also deserves this honor. I, therefore, encourage my colleagues to join me in supporting this tribute to President Reagan.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 16

At the request of Mr. DOLE, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 16, a bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

S. 43

At the request of Mr. FEINGOLD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 43, a bill to phase out Federal funding of the Tennessee Valley Authority.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 91

At the request of Mr. COVERDELL, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 91, a bill to delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such act.

S. 137

At the request of Mr. BRADLEY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 137, a bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills.

S. 164

At the request of Mr. BRADLEY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 164, a bill to require States to consider adopting mandatory, comprehensive, statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by excavations, and for other purposes.

SENATE RESOLUTION 31

At the request of Mrs. BOXER, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Resolution 31, a resolution to express the sense of the Senate that the Attorney General should act immediately to protect reproductive health care clinics.

SENATE RESOLUTION 53—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 53

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition and Forestry is authorized from March 1, 1995, through February 28, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 28, 1996, under this resolution shall not exceed $1,708,179, of which amount (1) not to exceed $4000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $1,746,459, of which amount (1) not to exceed $4000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 28, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

AMENDMENTS SUBMITTED

THE UNFUNDED MANDATE REFORM ACT OF 1995

DORGAN (AND OTHERS) AMENDMENT NO. 18

Mr. DORGAN (for himself, Mr. GRAHAM, Mr. LEVIN, Mr. AKAKA, Mr. KEMPTHORNE, and Mr. BYRD) 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:

On page 39, strike out lines 4 through 11 and insert in lieu thereof the following:

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 Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the ''Advisory Commission''), 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 State, local, 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 State, local, and tribal governments.

SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) IN GENERAL.—The Advisory Commission on Intergovernmental Relations shall in accordance with this section—

On page 43, beginning with line 1, strike out all through line 17 on page 49 and insert in lieu thereof the following:

SEC. 303. MONITORING IMPLEMENTATION.

(a) IN GENERAL.—The Advisory Commission shall monitor and evaluate the implementation of this Act, including by conducting such hearings, and consulting with such Federal, State, local, and tribal governments, as the Advisory Commission considers appropriate for obtaining information and views about the purpose, implementation, and results of this Act.

(b) BIENNIAL REPORT.—The Advisory Commission shall submit a report to the President and the Congress every 2 years which—

(1) presents the findings of the Advisory Commission under subsection (a); and

(2) presents recommendations for improving the implementation of this Act, including regarding any need for amending this Act.

SEC. 304. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) EXPERTS AND CONSULTANTS.—For purposes of carrying out this title, the Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) DETAIL OF STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out this title.

(c) CONTRACT AUTHORITY.—The advisory Commission may, subject to appropriations, contract with and compensate government and private persons (including agencies) for property and services used to carry out its duties under this title.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Advisory Commission—

(1) to carry out section 301, $1,000,000 for each of fiscal years 1995 and 1996;

(2) to carry out section 302, $5,000,000; and

(3) to carry out section 303, $200,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

KEMPTHORNE AMENDMENT NO. 19

Mr. KEMPTHORNE (for himself, Mr. COCHRAN, and Mr. LEVIN) proposed an amendment to the bill S. 1, supra; as follows:

On page 15, line 12 after ''nesses'' insert the following: ''including a description of the actions if any, taken by the Committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.''

ADDITIONAL STATEMENTS

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD at this point.)

THE DEATH OF JAMES T. FLEMING

● Mr. JOHNSTON. Mr. President, I rise today to express my deep sorrow at the death of James T. Fleming, one of the most talented and professional individuals to ever work in the Congress, and one of the finest gentlemen I have ever had the pleasure of knowing.

For the past 20 years, Jim Fleming served as administrative assistant for the senior Senator from Kentucky, the Honorable WENDELL H. FORD. He also served as counsel to Senator FORD on the vast array of legislative matters under the jurisdiction of the Committee on Energy and Natural Resources. It was in this capacity that the committee members and staff came to know Jim and to appreciate his wry sense of humor, his great personality, his warmth, and his enormous expertise.

Jim's contributions were invariably grounded in good common sense, a keen understanding of good government, and a realistic point of view. He was absolutely dedicated to working for the people of Kentucky and Senator FORD's agenda.

Much of the legislation written by the Energy Committee reflects Jim Fleming's influence, including natural gas policy, the Nation's coal program, the uranium enrichment program, and natural resource protection and utilization.

Mr. President, the future meetings of the committee will not quite be the same without Jim Fleming there to offer his unique expertise. I fondly recall that as past committee deliberations would proceed with senatorial formality, Jim Fleming could be counted on to listen with a poker face, weigh all options, and then with a profound wit and twinkle in his eye, offer a perspective that would be both illuminating and constructive.

Jim Fleming will be sorely missed. In the words of the former Speaker of the House, the Honorable Thomas ''Tip'' O'Neill,—''So long, old pal. So long.''●

ORDERS FOR TUESDAY, JANUARY 17, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of the 9:15 a.m, on Tuesday, January 17, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day.

I further ask consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m, with Senators permitted to speak for not more than 5 minutes each.

I further ask that at 9:30 a.m. the Senate resume consideration of S. 1, the unfunded mandates bill.

I finally ask that on Tuesday the Senate stand in recess from 12:30 until 2:15 in order for the weekly party luncheons to meet.

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

PROGRAM

Mr. DOLE. Mr. President, I just say for the information of my colleagues that it could be that votes could occur before the 12:30 luncheons on Tuesday. Members should be alert that we will start on S. 1 at 9:30. We will have amendments, hopefully, at 9:30. We have had enough delay on this bill. We, in effect, wasted yesterday and wasted today. We do have an interest in getting this legislation passed. It is very important.

I agree with the distinguished Senator from West Virginia, Senator BYRD, there are a lot of questions about the bill. Hopefully, we can start the debate on the bill, start off with the amendments so that many of the questions that my colleague from West Virginia and other Senators may have will be answered.

There are a number of very important amendments on each side of the aisle that are germane that should be

discussed, should be debated. We have to start the process.

I would suggest that probably, at least on Wednesday and Thursday, if we do not complete the bill by Thursday evening, we will probably be in late, say, on Wednesday and maybe Thursday of next week and probably have a pretty good day on Friday unless we can complete action on the legislation.

I just ask my colleagues for their cooperation. As leader, I do not want useless votes. Somebody misses a vote, we do not want those kind of votes. We want meaningful votes on substantive issues and substantive amendments and we will try to proceed on that basis. As long as we have the cooperation of our colleagues we will continue that process.

RECESS UNTIL TUESDAY, JANUARY 17, AT 9:15 A.M.

Mr. DOLE. Mr. President, if there is no further business to come before the Senate and no other Senator seeking recognition, I now ask consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 4:46 p.m., recessed until Tuesday, January 17, 1995, at 9:15 a.m.