United States
of America

Congressional Record

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

Vol. 141 WASHINGTON, TUESDAY, JANUARY 17, 1995 *No. 9*

Senate

(Legislative day of Tuesday, January 10, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be led by our guest chaplain, Dr. Mark Dever, pastor of the Capitol Hill Baptist Church.

PRAYER

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

Let us pray:

Great, all powerful God, we come to You this morning first in acknowledgment of Your greatness. We know that you have no need of us, that you are in no way dependent on our actions, that Your existence awaits no vote of this Chamber, nor our own personal assent.

We praise You that, being the One whom You are, out of Your love You have made us in Your image, as creatures who, like Yourself, want to know and be known.

Thank You for the way we see that in our personal lives and in our society. Thank You for those who have gone before who have taught us something of what it means to live together as one nation. We pray that You would today help this body in its deliberations. You know, Lord, the pressures of time and public expectation, the good motives, on both sides of the aisle, to help the people of this land.

We ask that in this Chamber of debate, You would help each one who speaks remember the account that she or he will give not only to their colleagues here and the voters, but to their own consciences and most of all, to You, Lord.

We know that the secrets of our hearts are entirely discovered to You, and we praise You that You do not allow us to hide ourselves completely from You.

We ask that You would give a measure of Your wisdom to these gathered here today. Help them to pass laws that ennoble rather than enervate the people. Give them wisdom to speak today with the liberty of knowing that they are about purposes, that are not only great, but that are also good.

For those who are discouraged, finding only emptiness amid all the success which the world tells them they have, show them Yourself.

For those who are swollen with pride, in Your love, break them that You might bind them up; wound them, that You might heal them again.

Thank You for the freedom of speech which we enjoy in this land. Help these Senators today to use that freedom realizing the privilege that it is, for our good and for Your glory.

In Christ's name 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 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

REGISTRATION OF MASS MAILINGS

The filing date for 1994 fourth quarter mass mailings is January 25, 1995. If a Senator's office did no mass mailings during this period, please submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224–0322.

1994 YEAR END REPORT

The mailing and filing date of the 1994 year end report required by the Federal Election Campaign Act, as amended, is Tuesday, January 31, 1995. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 7 p.m. on the filing date to accept these filings. In general, reports will be available the day after receipt. For further information, please contact the Public Records office on (202) 224–0322.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. GREGG. Mr. President, I will note that at 9:30, after morning business, which the Chair has just noted, we will resume consideration of S. 1, the unfunded mandates bill.

Also, I note that the Senate will recess from the hours of 12:30 p.m. to 2:15 p.m., in order for the weekly party luncheons to occur.

For the information of all Senators, the majority leader has indicated that rollcall votes may occur prior to the 12:30 p.m. recess today.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant 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. INHOFE). Without objection, it is so ordered.

USDA REPORT ON THE PERSONAL RESPONSIBILITY ACT

Mr. LEAHY. Mr. President, today the USDA issued a report analyzing the effects of the House Republican Personal Responsibility Act (H.R. 4), which is part of the Contract With America. All States including Vermont are big losers. I suggest that all Senators read this report which I am inserting into the RECORD.

My home State of Vermont alone will lose $10 million in Federal nutrition aid in 1996 according to the USDA report.

H.R. 4 will increase malnutrition among children and the elderly. This Contract With America bill is antichild, antifamily, and it is false advertising. It promises block grants, but delivers not even a penny.

The report also concludes that this bill could reduce retail food sales by as much as $10 billion, reduce gross farm income by as much as $4 billion, and cost the economy as many as 138,000 jobs.

It could reduce the income of the average dairy farmer in Vermont by as much as $2,000 per year and could also double the cost of the dairy program nationwide.

This is a double whammy—it will force dairy farmers to apply for food assistance just when that assistance is slashed.

Nutrition funding nationwide will be cut by almost $31 billion over the next 5 years.

It eliminates the Meals on Wheels Program which provides food to the homebound elderly.

Seventy-five percent of the school children in Vermont will be thrown off the School Lunch Program. Nutrition standards for healthy school lunches are eliminated. And the cuts in child nutrition in Vermont exceed the total size of our School Breakfast Program and the Summer Food Service Program.

As bad as this is, I am worried that the USDA report issued today greatly understates the harm that will be caused by the Contract With America. The report in many respects assumes that the block grants will be fully funded. I believe that in a couple years, they will be only funded at a fraction of the full amount authorized.

America's Governors will be stunned when they read the fine print and realize they have to come to Washington each year and plead for money.

States will be forced to reduce the number of people served, cut benefits or somehow make up for the loss with State funds.

The effect would be even worse during a recession. Under current law, programs such as school lunch, food stamps, and the Child Care Food Program, automatically give States more money to respond to increased needs during periods of higher unemployment.

This Contract With America bill changes all that and says to the States, ''tough luck, next time don't have a recession.''

According to the USDA report, if that bill had been in effect over the last 5 years, the block grant in 1994 would have been over $12 billion less than the food assistance actually provided—a reduction of about one-third.

They are proposing a massive Federal experiment on America's children. If it works, I admit that Federal costs will be reduced.

If it doesn't, and funding is not provided, millions of children, the elderly, and pregnant women will go hungry. Medical costs will skyrocket as more and more children are born disabled, and more and more children become handicapped in their efforts to learn.

Before we have a wholesale dismantling of every major nutrition program under the guise of welfare reform, we ought to take a look at how this will affect hungry children.

This is not welfare reform. Do not be fooled by this bill. It implies that States will get block grants to fund food assistance programs. But as I said earlier, not one penny is provided to states or communities by the bill—separate legislation would have to pass each year to provide funding.

Let us not forget what happened in early 1981—hasty cuts were made in child nutrition programs. Those programs were cut by 28 percent. The cuts resulted in 3 million fewer children receiving school lunches.

I stand ready to work with responsible Members of both parties to encourage work, to cut costs, to punish abuse, but I will not sacrifice the nutrition of America's children for legislation by bumper sticker.

I ask unanamous consent that the USDA report be printed in the RECORD.

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

[From the U.S. Department of Agriculture, Jan. 17, 1995]

THE NUTRITION, HEALTH, AND ECONOMIC CONSEQUENCES OF BLOCK GRANTS FOR FEDERAL FOOD ASSISTANCE PROGRAMS—EXECUTIVE SUMMARY

The proposed Personal Responsibility Act, a key component of the Contract with America, would make sweeping changes that alter the very character of the existing food assistance programs. Specifically, the Personal Responsibility Act, if enacted, would:

Combine all USDA food and nutrition assistance programs into a single discretionary block grant to States;

Authorize an appropriation of $35.6 billion in fiscal year 1996 for food and nutrition assistance;

Eliminate all uniform national standards;

Give States broad discretion to design food and nutrition assistance programs, provided only that no more than 5 percent of the grant support administration, at least 12 percent support food assistance and nutrition education for women, infants, and young children, and at least 20 percent support school-based and child-care meal programs; and

Eliminate USDA's authority to donate commodities; USDA could only sell bonus commodities to States.

The consequences of these changes on the safety net of food assistance programs, the nutrition and health of low-income Americans, the food and agriculture economies, and the level and distribution of Federal support to States for food assistance are significant.

The Personal Responsibility Act would significantly reduce federal support for food and nutrition assistance.

Federal funding for food and nutrition assistance would fall by more than $5 billion in fiscal year 1996 and nearly $31 billion over 5 years (Table 1).

All food and nutrition assistance would be forced to compete for limited discretionary funds. States' ability to deliver nutrition benefits would be subject to changing annual appropriation priorities.

Programs would be unable to respond to changing economic circumstances. During economic downturns, funding would not keep up with rising poverty and unemployment. The demand for assistance to help the poor would be greatest at precisely the time when state economies are in recession and tax bases are shrinking.

For example, if the Personal Responsibility Act had been in place over the last five years—a period marked by both economic recession and recovery—the block grant in 1994 would have been over $12 billion less than the food assistance actually provided, a reduction of about one-third (Table 2).

States would be forced to reduce the number of people served, the benefits provided, or some combination of both. The bill could lead to the termination of benefits for 6 million food stamp recipients in fiscal year 1996.

The reduced investment in food and nutrition assistance programs and elimination of the authority to establish nutrition standards will adversely affect the nutrition and health of low-income families and individuals.

The scientific link between diet and health is clear. About 300,000 deaths each year are linked to diet and activity patterns.

Low-income households are at greater risk of nutrition-related disorders and chronic disease than the general U.S. population. Since the nationwide expansion of the Food Stamp Program and the introduction of WIC, the gap between the diets of low-income and other families has narrowed.

The incidence of stunting among preschool children has decreased by nearly 65 percent; the incidence of low birthweight has fallen from 8.3 percent to 7.0 percent.

The prevalence of anemia among low-income pre-school children has dropped by 5 percent or more for most age and racial/ethnic groups.

The Personal Responsibility Act would eliminate all federal nutrition standards, including those in place to ensure that America's children have access to healthy meals at school. Even small improvements in average dietary intakes can have great value. The modest reductions in fat, saturated fat, and cholesterol intake due to the recent food labeling changes were valued by the Food and Drug Administration at $4.4 billion to $26.5 billion over 20 years among the U.S. adult population.

The Act would also threaten the key components of WIC—a tightly prescribed combination of a targeted food package, nutrition counseling, and direct links to health care. Rigorous studies have shown that WIC reduces infant deaths, low birthweight, premature births, and other problems. Every dollar spent on WIC results in between $1.77 and $3.13 in Medicaid savings for newborns and their mothers.

By reducing federal support for food assistance and converting all remaining food assistance to a block grant, the Personal Responsibility Act would lower retail food sales, reduce farm income, and increase unemployment.

Under the proposed block grant, States could immediately cash-out any and all food assistance programs in spite of evidence that an in-kind benefit is more effective in stimulating food purchases than a similar benefit provided in cash.

In the short-run, the bill could reduce retail food sales by as much as $10 billion, reduce gross farm income by as much as $4 billion, increase farm program costs, and cost the economy as many as 138,000 jobs.

In the long run, the bill could reduce employment in farm production by more than 15,000 jobs and output by more than $1 billion. The food processing and distribution sectors could lose as many as 83,000 jobs and $9 billion in output.

The economic effects would be felt most heavily in rural America. In both the short- and long-run, rural areas would suffer disproportionate job losses.

Every $1 billion in added food assistance generates about 25,000 jobs, providing an automatic stabilizer in hard times.

The proposed basis for distributing grant funds would result in substantial losses for most States.

If Congress appropriates the full amount authorized, all but 8 States would lose federal funding in fiscal year 1996. California could gain about $650 million; Texas could lose more than $1 billion (Table 3).

Although some States initially gain funding, all States would eventually fare worse than under current law. Over time, the initial gains will erode because the block grant eliminates the automatic funding adjustments built into the existing Food Stamp and Child Nutrition programs.

TABLE 1.—EFFECT OF THE PERSONAL RESPONSIBILITY ACT ON USDA FOOD ASSISTANCE PROGRAM COSTS

[In millions of dollars]

	Fiscal year—					Total
	1996	1997	1998	1999	2000	
Current law:						
Food stamps/NAP	$27,777	$29,179	30,463	$31,758	$33,112	$152,290
Child nutrition	8,681	9,269	9,903	10,556	11,283	49,692
WIC	3,924	4,231	4,245	4,379	4,513	21,291
All other	382	351	351	351	351	1,784
Total	40,764	43,029	44,962	47,042	49,260	225,057
Proposed law	35,600	37,138	38,756	40,457	42,214	194,166
Difference	−5,164	−5,891	−6,206	−6,585	−7,046	−30,892
Percent difference	−12.7	−13.8	−13.8	−14.0	−14.3	−13.7

Notes.—Based on current service program level for USDA food assistance programs in Department estimates of September 1994 (excluding projected costs of Food Program Administration but including anticipated mandatory spending for WIC, consistent with the Presidential policy). This table does not include the budgetary effects of food programs operated by the Administration on Aging in the Department of Health and Human Services.

The Food Stamp total includes the cost of the Nutrition Assistance Program in Puerto Rico.

The Child Nutrition total includes all administrative and program costs for the National School Lunch, School Breakfast, Special Milk, Summer Food Service, Nutrition Education and Training, and Child and Adult Care Food Programs, the value of commodities provided to schools, and support for the Food Service Management Institute.

The All Other total includes all administrative and program costs for the Commodity Supplemental Food Program, the Emergency Food Assistance Program, the Food Distribution Program on Indian Reservations, the Nutrition Program for the Elderly, and Food Distribution to Charitable Institutions and Soup Kitchens and Food Banks.

Proposed levels for the block grant in fiscal years 1997 through 2000 are increased from the 1996 amount using the projected increase in total population and the cost of the Thrifty Food Plan for the preceding year. Totals may not equal the sum of columns due to rounding.

This table assumes that Congress appropriates the full amount authorized in each year.

TABLE 2.—HISTORICAL ILLUSTRATION OF FOOD ASSISTANCE BLOCK GRANT

[In millions of dollars]

Year	Actual food assistance	With initial reduction[1]			Without initial reduction		
		Adjusted block grant	Difference		Adjusted block grant	Difference	
			Total	Percent		Total	Percent
1989	$21,697	$18,941	−$2,756	−12.7	$21,697	N/A	N/A
1990	24,778	20,666	−4,112	−16.6	23,672	−$1,106	−4.5
1991	28,849	21,971	−6,878	−23.8	25,167	−3,682	−12.8

TABLE 2.—HISTORICAL ILLUSTRATION OF FOOD ASSISTANCE BLOCK GRANT—Continued

[In millions of dollars]

Year	Actual food assistance	With initial reduction [1]			Without initial reduction		
		Adjusted block grant	Difference		Adjusted block grant	Difference	
			Total	Percent		Total	Percent
1992	33,519	23,232	−10,287	−30.7	26,612	−6,907	−20.6
1993	35,397	23,369	−12,028	−34.0	26,769	−8,628	−24.4
1994	36,928	24,374	−12,554	−34.0	27,920	−9,008	−24.4

[1] The initial 12.7 percent reduction in the first year is equivalent to the estimated percentage reduction in food assistance funding in the first year of the Personal Responsibility Act as shown in Table 1.

Notes.—Actual food assistance includes total federal cost of all USDA food assistance programs, excluding Food Program Administration. The cost of food programs operated by the Administration on Aging in the Department of Health and Human Services are not included.

These figures assume that Congress would have appropriated the full amount authorized in each year. The block grant authorization is adjusted by the change in total U.S. population and the Consumer Price Index for Food at Home in the preceding year (ending on July 1 for population and in May for the CPI).

TABLE 3.—EFFECT OF THE PERSONAL RESPONSIBILITY ACT ON USDA FOOD ASSISTANCE PROGRAMS BY STATE IN FISCAL YEAR 1996

[In millions of dollars]

State	Level of food assistance		Difference	
	Current	Proposed	Total	Percent
Alabama	$818	$713	−$105	−13
Alaska	97	84	−13	−13
Arizona	663	554	−109	−16
Arkansas	422	403	−19	−4
California	4,170	4,820	650	16
Colorado	412	417	5	1
Connecticut	297	248	−49	−17
Delaware	92	58	−34	−37
District of Columbia	137	85	−52	−38
Florida	2,194	1,804	−389	−18
Georgia	1,209	934	−275	−23
Hawaii	215	198	−17	−8
Idaho	127	176	49	38
Illinois	1,741	1,483	−258	−15
Indiana	713	691	−22	−3
Iowa	297	266	−31	−11
Kansas	307	270	−37	−12
Kentucky	740	582	−157	−21
Louisiana	1,141	765	−375	−33
Maine	188	167	−21	−11
Maryland	576	404	−172	−30
Massachusetts	608	577	−32	−5
Michigan	1,390	1,109	−281	−20
Minnesota	508	490	−18	−4
Mississippi	730	603	−127	−17
Missouri	810	754	−56	−7
Montana	111	140	29	26
Nebraska	187	175	−12	−6
New Hampshire	89	94	5	5
New Jersey	836	704	−132	−16
New Mexico	361	321	−40	−11
Nevada	145	150	5	3
New York	3,101	2,661	−440	−14
North Carolina	930	849	−81	−9
North Dakota	86	76	−9	−11
Ohio	1,768	1,287	−481	−27
Oklahoma	528	475	−53	−10
Oregon	410	346	−64	−16
Pennsylvania	1,617	1,465	−152	−9
Rhode Island	128	101	−27	−21
South Carolina	602	546	−56	−9
South Dakota	99	95	−4	−4
Tennessee	983	743	−241	−24
Texas	3,819	2,665	−1,154	−30
Utah	234	277	−43	18
Vermont	76	66	−10	−13
Virginia	783	597	−185	−24
Washington	660	444	−216	−33
West Virginia	405	309	−96	−24
Wisconsin	467	442	−25	−5
Wyoming	57	57	(1)	1
Total	40,764	35,600	−5,164	−13

[1] Equals less than $1 million.

Notes.—Individual cells may not sum to totals because of rounding.

Total includes the Commonwealth of Puerto Rico, other territories and outlying areas, and Indian Tribal Organizations.

This table assumes that Congress appropriates the full amount authorized for fiscal year 1996.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise today to continue my weekly practice of reporting to the Senate on the death

toll by gunshot in New York City. Last week, 6 people lost their lives to bullet wounds in New York City, bringing this year's total to 27.

THE APPOINTMENT OF MARGARET FLEMING TO THE WHITE HOUSE CONFERENCE ON AGING

Mr. BAUCUS. Mr. President, today I rise to inform the Senate that I have chosen Margaret Fleming from Butte, MT, to represent our State at the White House Conference on Aging in May. While Margaret is proud to be a senior citizen, anybody who knows her also knows that she adds meaning to the saying that you will never grow old if you are young at heart. Her energy, her hard work and sense of public service are an inspiration to me and so many other Montanans.

From May 2d through the 5th, several of our Nation's top senior citizens will meet in Washington, DC, to discuss issues that are important to the aging community. This year's theme, ''America Now and Into the 21st Century: Generations Aging Together With Independence, Opportunity, and Dignity,'' focuses not only on the current aging population, but future generations as well. The issues to be discussed impact all Americans. They include comprehensive health care, including long-term care, economic security, housing, and quality of life.

Throughout her career, Margaret Fleming has earned the greatest respect and admiration. But her activities in retired life are just as commendable. She has been president of the Montana chapter of the National Association of Retired Federal Employees, and before was president of Butte's local chapter. Currently, Margaret is president of the Legacy Legislature, a congress of seniors that meets annually in Helena. And as if that isn't enough, she is president of the Lady of the Rockies, a group responsible for youth group tours and the construction of a chapter near the Lady on the Hill in Butte. Last year, the Montana Soroptimist Club honored her with the Women of Distinction Award. Of course, Margaret's toughest job of all is baby-sitting her grandchildren on the weekends.

In a recent letter to me, Margaret remarked:

> The needs of our Nation are so great. I'm sure you know that I believe a health care plan like your Health Montana is so important. However, the problems with poverty, educational opportunities and a myriad of other issues are equally important. I only hope the participants unite, and think of America's future, as well as our immediate needs.

The honor of representing Montana could not go to a more dedicated, deserving, and accomplished person. I congratulate Margaret Fleming and wish her well at the White House conference on Aging.

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through January 13, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $2.3 billion in budget authority and $0.4 billion in outlays. Current level is $0.8 billion over the revenue floor in 1995 and below by $8.2 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.7 billion, $2.3 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated January 4, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 17, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through January 13, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated January 4, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 13, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,238.7	1,236.5	−2.3
Outlays	1,217.6	1,217.2	−0.4
Revenues:			
1995	977.7	978.5	0.8
1995–99[3]	5,415.2	5,407.0	−8.2
Maximum deficit amount	241.0	238.7	−2.3
Debt subject to limit	4,965.1	4,718.8	−246.3
OFF-BUDGET			
Social Security outlays:			
1995	287.6	287.5	−0.1

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 13, 1994—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/ under resolution
1995–99	1,562.6	1,562.6	[4]0
Social Security revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Includes effects, beginning in fiscal year 1996, of the International Antitrust Enforcement Act of 1994 (P.L. 103–438).

[4] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS JANUARY 13, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	(250,027)	(250,027)	
Total previously enacted	1,238,376	1,213,992	978,466
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(1,887)	3,189	
Total current level[1]	1,236,489	1,217,181	978,466
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:.			
Under budget resolution	2,255	424	
Over budget resolution			766

[1] In accordance with the Budget Enforcement Act, the total does not include $1,212 million in budget authority and $6,360 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $1,027 million in budget authority and $1,041 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

Notes.—Numbers in parentheses are negative. Detail may not add due to rounding.

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

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but up to now hardly anybody has undertaken the responsibility of doing anything about it. The Congress now had better get cracking—time's a-wasting and the debt is mushrooming.

In the past, a lot of politicians talked a good game—when they were back home—about bringing Federal deficits and the Federal debt under control. But many of these same politicians regularly voted in support of bloated spending bills that rolled through the Senate. The American people took note of that on November 8.

As of Friday, January 13, at the close of business, the Federal debt stood—down to the penny—at exactly

$4,808,661,268,393.04. This debt, remember, was run up by the Congress of the United States.

The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend even a dime unless and until the spending had been authorized and appropriated by the U.S. Congress.

The U.S. Constitution is quite specific about that, as every schoolboy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes you hear false claims that Ronald Reagan ran it up; sometimes they play hit and run with George Bush.

These buckpassing declarations are false, as I said earlier, because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big spenders.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,808 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at 4 trillion, 808 billion, 661 million, 268 thousand, 393 dollars and 04 cents. It will be even greater at closing time today.

TRIBUTE TO AVIATION PIONEER BEN R. RICH

Mr. DOLE. Mr. President, I would like to take a moment to note with deep sadness, the passing of a legend in the aviation industry. I was just recently informed that Ben R. Rich, former president of the Lockheed Skunk Works passed away after a long illness. Best known as the Father of the F–117 Stealth fighter aircraft, his passing is a sad moment for several Senators and the many staffers that Ben has had contact with in the Senate over the years.

Perhaps his finest hour came during Operation Desert Storm, with the deployment of the F–117 to the gulf. As many will recall, the F–117 destroyed 40 percent of all strategic targets, yet represented only 2 percent of the allied forces tactical aircraft, and it was the only aircraft to attack the heavily defended Baghdad area. This aircraft uniquely reduced the cost of war by enabling strike missions to be accomplished with fewer attack and supporting aircraft, thereby putting fewer combat pilots at risk. Utilizing this aircraft further minimized collateral damage and civilian casualties. Indeed, Ben's vision and genius throughout the design and development of the F–117 have revolutionized air warfare as we know it.

Ben Rich's many achievements have been recognized throughout the aerospace industry. Just last May, Secretary of Defense William J. Perry honored Ben by presenting him with the Distinguished Public Service Award. At the time, some in the media had proclaimed Perry to be the Father of Stealth. However, at the presentation ceremony, Secretary Perry said it was Rich who provided the intellectual and spiritual leadership and that the title of ''Father of Stealth really belongs to Ben Rich.''

Mr. President, this was only one in a long line of accomplishments in Ben's 40 years of distinguished service in the aviation industry. He played a leadership role in the design and development of the F–104, U–2, A–12, and the famous SR–71 Blackbird—the latter still holds the world's flight records for speed and altitude. In addition, he also led the development and production of the YF–22A advanced tactical fighter program until his retirement in January 1991.

For his accomplishments, Ben was a Corecipient of the Collier Trophy presented by the National Aeronautic Association; selected as a Wright Brothers lecturer by the American Institute for the Advancement of Engineering; an elected member of the National Academy of Engineering and a nominee for the 1994 Wright Brothers Memorial Trophy.

To the many who knew him, he will be remembered as a colorful character—for his sparkling wit and enthusiasm. To some, he was a gifted teacher who could explain in the clearest terms some of the more complicated technical aspects of aviation. To others, he was a forceful advocate for innovative ideas and futuristic solutions to problems in aviation design. To all, he was a patriot.

To Ben's wife, Hilda, to his family and his many friends and coworkers, we send our deepest condolences. And from this Nation, a heartfelt debt of gratitude to Ben Rich.

WALTER SHERIDAN

Mr. HATCH. Mr. President, I rise to say a few words about Walter Sheridan, a long-time Senate investigator and friend who passed away last Friday morning.

Walter—he hated for anyone to call him ''Mr.'' Sheridan—first made his mark on the national scene in the mid-1950's. when he went to work on the Senate Permanent Investigations Subcommittee as an investigator for Chief Counsel Robert Kennedy in the subcommittee's probe of organized crime and labor racketeering. As Attorney General, Robert Kennedy took Walter with him to the Justice Department, where Walter headed the unit that successfully prosecuted Teamsters Union President James Hoffa. During those days, Walter attained a well-deserved reputation as a resourceful and tenacious investigator.

I came to know and admire Walter Sheridan later in his career, when he came back to the Hill in the 1970's to work as chief investigator for my friend Senator EDWARD KENNEDY, first on the Judiciary Committee and later on the Labor and Human Resources Committee. In these roles, Walter was the chief staffer on hearings that led to significant improvements in the operation of the Food and Drug Administration, the Mine Health and Safety Agency, and other Federal offices.

When we were on opposite sides of issues, as our philosophies and politics often dictated, I found Walter to be a tough but honorable adversary. When our interests coincided, as they did on a number of oversight issues, I found him to be a strong and dependable ally. He was a man of integrity, foresight, and, always, good humor.

My warmest sympathies go out to Mrs. Sheridan and the family. Walter Sheridan was a man, operating mostly behind the scenes, who made a difference in the performance of Government. His work will be carried on by a whole generation of investigators, on both sides of the aisle, who benefited from their association with Walter Sheridan. His professionalism set a high standard for public service for all of us to follow.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

UNFUNDED MANDATE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 having arrived, the Senate will 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 number 9, beginning on page 15, line 6, to modify language relating to reports on Federal mandates.

Mr. KEMPTHORNE. Mr. President, today the Senate will resume debate on Senate bill No. 1, the Unfunded Mandate Reform Act of 1995. We began debate on this issue last week. I believe

we had thoughtful discussion about this bill. We also made progress on the consideration of several committee amendments and two amendments to those committee amendments.

We have stated continually, and I will do so again, that we will take what time is necessary for us to complete the thoughtful and thorough discussion of Senate bill No. 1 and any amendments that may be offered by any Members of this body. My hope is that we will complete work on this bill this week.

There have been a number of encouraging developments, also, Mr. President, that have occurred since the bill came on the Senate floor. I would like to reference a few letters that I have received. This one I received from the American Farm Bureau Federation, which represents 4.4 million families.

They say:

We believe that Federal mandates to State and local governments must provide complete and continuous funding. It is our hope that information on the costs to the private and public sectors of proposed regulations and legislation will lead Congress to stop imposing burdens it is unwilling to fund.

S. 1, the Unfunded Mandate Reform Act of 1995, will require the Congressional Budget Office to estimate and report the public and private sector cost, and any Federal effort to ameliorate that cost of proposed legislation.

That is from Dean Kleckner, the president of the American Farm Bureau Federation.

He says:

The provision requiring this information is important if lawmakers and the voters they represent are to make judgments regarding the cost and benefits of proposed legislation.

Farm Bureau supports the Unfunded Mandate Reform Act of 1995 and will work to ensure its passage.

I received a letter from the Public Securities Association.

They state:

PSA supports legislation to provide relief from unfunded Federal mandates imposed on State and local governments. PSA is the association of banks and brokerage firms that underwrite, trade and sell municipal securities, U.S. Government and Federal agency securities, mortgage-backed securities and money market instruments. PSA's members account for over 95 percent of municipal securities market activity.

We support S. 1, the Unfunded Mandate Reform Act of 1995, and congratulate the swift action taken by the jurisdictional committees.

That is from John Vogt, vice president, external affairs.

Then I received a letter from the city of El Monte.

The letter states:

On behalf of the El Monte City Council, we wholeheartedly support your aggressive efforts in sponsoring legislation to stop unfunded Federal mandates. This noble effort is especially appreciated by cities in California, who are facing the negative impacts of the recession along with the State's revenue raids on local government.

The City of El Monte has raised new revenues and has cut back on spending for the past 3 years to be reliant on other levels of government. However, with the continuation of Federal mandates on cities, it has become very difficult to fund even the most essential services to our residents and businesses.

That is from Patricia A. Wallach, the mayor of El Monte.

Then there is a letter from the Petroleum Marketers Association of America.

On behalf of the Petroleum Marketers Association of America (PMAA), I would like to express our strong support for the passage of S. 1, legislation which would curtail the passage of legislation implementing unfunded mandates. The PMAA represents over 10,000 marketers of petroleum products nationwide. Collectively, these marketers sell nearly half the gasoline, over 60 percent of the diesel fuel and approximately 85 percent of the home hearing oil consumed in the U.S. annually.

PMAA favors passage of the ''unfunded mandates'' legislation as a necessary step to help stem the increasing cost of federal regulations to state and local government, as well as to provide industry.* * *

The financial burden of federal regulations in reaching critical levels with estimates nearing $581 billion annually.* * *

Please vote in favor of S. 1 and oppose any efforts to weaken the legislation by removing the private sector language. Thank you for your consideration.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

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

AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, January 5, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the 4.4 million families represented by the American Farm Bureau Federation, I want to thank you for your leadership in addressing the serious problem of unfunded federal mandates. We believe that federal mandates to state and local governments must provide complete and continuous funding. It is our hope that information on the costs to the private and public sectors of proposed regulations and legislation will lead Congress to stop imposing burdens it is unwilling to fund.

S. 1, The Unfunded Mandate Reform Act of 1995, will require the Congressional Budget Office to estimate and report the public and private and private sector cost, and any federal effort to ameliorate that cost of proposed legislation. It will further require the Congress to vote for a waiver of its rules before passing any legislation that has not been subject to this analysis, or if the cost of implementation of any proposed unfunded obligations exceeds $50 million.

In addition, federal departments will be required to analyze the impact of proposed regulations on the economy, and to report those findings through the normal rulemaking process by publication in the Federal Register.

The provision requiring this information is important if lawmakers and the voters they represent are to make judgments regarding the cost and benefits of proposed legislation. We at the Farm Bureau look forward to building on this legislation to help reform the rulemaking and legislative processes.

Farm Bureau supports the Unfunded Mandate Reform Act of 1995 and will work to ensure its passage.

Sincerely yours,

DEAN R. KLECKNER,
President.

PUBLIC SECURITIES ASSOCIATION,
Washington, DC, January 12, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: We applaud your leadership on the issue of unfunded federal mandates. PSA supports legislation to provide relief from unfunded federal mandates imposed on state and local governments. PSA is the association of banks and brokerage firms that underwrite, trade and sell municipal securities, U.S. government and federal agency securities, mortgage-backed securities and money market instruments. PSA's members account for over 95 percent of municipal securities market activity.

We support S. 1, The Unfunded Mandate Reform Act of 1995, and congratulate the swift action taken by the jurisdictional committees. However, S. 1 is applicable only to prospective laws and regulations. PSA believe that municipal bonds could play a significant role in the battle against existing unfunded mandates by providing leveraged financing for currently mandated requirements and developing creative ways to deal with unfunded mandates in a responsible manner. The federal government provides substantial assistance to state and local governments to support their borrowing in the form of the federal tax-exemption on municipal bond interest. Because interest earned by investors on municipal bonds is exempt from federal taxation, states and localities pay much lower costs of capital than they would otherwise face.

PSA proposes creation of Mandatory Infrastructure Facility (MIF) Bonds to assist state and local governments in financing current federally mandated infrastructure improvements. MIF bonds would be used for the construction, acquisition, rehabilitation or renovation of infrastructure facilities that are mandated by the federal government or required in order to comply with a federal mandate. The MIF bonds would be categorized as public purpose rather than private activity bonds, regardless of the level of private participation in the financed project and would be exempt from some other restrictions on municipal securities. While it would be inappropriate to attempt to add MIFs to S. 1, we hope to pursue this issue in the context of future legislation such as budget reconciliation.

We have enclosed for you review the report of the PSA Economic Advisory Committee and draw to your attention the concerns expressed in the report where it notes that ''economic gains from reducing the federal deficit could prove illusory if federal programs are cut, but replaced by unfunded mandates upon state and local governments.''

We welcome the opportunity to work with you on issues concerning unfunded mandates. Please do not hesitate to call if there is any further information we can provide.

Sincerely,

JOHN R. VOGT,
Vice President, External Affairs.

CITY OF EL MONTE,
El Monte, CA, January 4, 1995.

Re unfunded Federal mandates.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the El Monte City Council, we wholeheartedly support your aggressive efforts in sponsoring legislation to stop unfunded federal mandates. This noble effort is especially appreciated by cities in California, who are facing the negative impacts of the recession

along with the State's revenue raids on local government. Also, your leadership in providing legislation to stop unfunded mandates will have an impact at the State level, whereby State mandates have also created economic problems for cities.

The City of El Monte has raised new revenues and has cut back on spending for the past three years to be less reliant on other levels of government. However, with the continuation of federal mandates on cities, it has become very difficult to fund even the most essential services to our residents and businesses.

We are fortunate to have your support in sponsoring this legislation and our appreciation and gratitude for your fine efforts in understanding the needs of cities.

Sincerely yours,

EL MONTE CITY COUNCIL,
PATRICIA A. WALLACH,
Mayor.

PETROLEUM MARKETERS ASSOCIATION OF AMERICA,
Arlington, VA, January 11, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the Petroleum Marketers Association of America (PMAA), I would like to express our strong support for the passage of S. 1, legislation which would curtail the passage of legislation implementing unfunded mandates. The PMAA represents over 10,000 marketers of petroleum products nationwide. Collectively, these marketers sell nearly half the gasoline, over 60 percent of the diesel fuel and approximately 85% of the home heating oil consumed in the U.S. annually.

PMAA favors passage of the ''unfunded mandates'' legislation as a necessary step to help stem the increasing cost of federal regulations to state and local government, as well as to private industry.

As you know, S. 1 would require the Congressional Budget Office to conduct a cost impact analysis (or be ruled out of order) whenever Congress wants to impose an unfunded mandate of more than $200 million on the private sector. Federal agencies would have to analyze and report the effects that proposed regulations would have on the nation's economy, productivity and international competitiveness.

Petroleum marketers have been especially hard hit by the financial burdens placed upon them by federal and state regulations. The financial burden of federal regulations is reaching critical levels with estimates nearing $581 billion annually. Providing relief from federal unfunded mandates is crucial to the future livelihood of the business community and the economy in general.

Please vote in favor of S. 1 and oppose any efforts to weaken the legislation by removing the private sector coverage language. Thank you for your consideration.

Sincerely,

PHILLIP R. CHISHOLM,
Executive Vice President.

Mr. KEMPTHORNE. Mr. President, I believe this demonstrates again, whether we are talking to farm families about the act, whether we are talking to local governments such as El Monte City Council, or whether we are talking to the private sector as represented by the Petroleum Marketers Association of America, all of them strongly support this legislation. And this week, again, we hope to be able to move forward on this legislation so that we can enact what our partners in both the public and private sectors have been asking for.

Mr. President, with that being said, and in the spirit of trying to move forward now on the progress of dealing with the issues before us, I ask unanimous consent that the remaining committee amendments be considered en bloc, agreed to 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 (Mr. THOMAS). Is there objection?

Mr. GLENN. Mr. President, reserving the right to object, and I will object, not for myself, but I believe we do have another Senator who wants to come to the floor and speak on this. So I would object until he can be here and express his views on this. I think he wanted to object to the unanimous-consent agreement, so, on his behalf, I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GLENN. Mr. President, I ask unanimous consent that it be in order, while we are waiting for the Senator to come to the floor to express his views on this, that I be given permission to speak with regard to the bill until he arrives on the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the Washington Post this morning has an editorial titled ''More on the Mandates Issue.'' The Washington Post has editorialized on this before, and they very properly, in this lead editorial this morning, point out the difference between the House bill and the Senate bill.

I want to make sure that some of our colleagues who are trying to make up their minds on support for this legislation, that they not get confused between the two bills. This is not a long editorial, but I would like to read it so that everyone will understand exactly what the issue is. The title is ''More on the Mandates Issue.''

House Republicans partly disarmed critics of their unfunded mandates bill by keeping a promise and quietly fixing one defect last week in committee. They should fix another when the bill comes to the floor, perhaps this week.

The mandates bill could well be the first major building block of the Republican congressional agenda to pass. The Senate's version is on the floor as well, and the president has said while avoiding details that he too favors such a measure.

Mr. President, I would add that I entered the President's letter to us into the RECORD last week.

The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from federal mandates is meant to assuage them.

In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. It would merely create a parliamentary presumption against them and require explicit majority votes in both houses to impose them. That's the right approach.

Mr. President, I see our distinguished colleague, Senator BYRD, is on the floor. I know he has some comments to make on this.

I ask unanimous consent that the editorial out of the Washington Post be printed in the RECORD in its entirety, and I yield the floor.

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

[From the Washington Post, Jan. 17, 1995]

MORE ON THE MANDATES ISSUE

House Republicans partly disarmed the critics of their unfunded mandates bill by keeping a promise and quietly fixing one defect last week in committee. They should fix another when the bill comes to the floor, perhaps this week.

The mandates bill could well be the first major building block of the Republican congressional agenda to pass. The Senate's version is on the floor as well, and the president has said while avoiding details that he too favors such a measure. The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from federal mandates is meant to assuage them.

In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. It would merely create a parliamentary presumption against them and require explicit majority votes in both houses to impose them. That's the right approach. Though there is a genuine problem that needs fixing here, not all unfunded mandates are unjustified, nor are state and local governments, which receive a quarter trillion dollars a year in federal aid, always the victims they portray themselves to be in the federal relationship. What would happen is simply that future bills imposing mandates without the funds to carry them out would be subject to a point of order. A member could raise the point of order, another would move to waive it and there would be a vote. That works in the Senate. The problem in the House was that the rules would not have allowed a waiver motion. A single member, raising a point of order that the chair would have been obliged to sustain, would have been enough to kill a bill. The Rules Committee found a way around that rock last week. The bill now provides expressly for the majority

votes that the sponsors say are its main point.

The other problem involves judicial review. The Senate bill would rightly bar appeals to the courts by state and local officials or others on grounds the terms of the bill had been ignored, the theory being that is mainly an internal matter—Congress agreeing to change its own future behavior—and a political accommodation of the sort that courts should have no role in. The House bill contains no similar ban, in part because a section would require the executive branch to do certain studies before issuing regulations and the sponsors, or some of them, want that to be judicially enforceable. But Congress has power enough to enforce these requirements itself; it needn't turn to the courts. The Republicans rightly say in other contexts that there is already too much resort to the courts in this country. They ought to stick to that position. In fact, because the House bill is silent on the matter, it isn't clear whether it would permit resort to the courts or not. The House should say not.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I have an inquiry, and that is, am I correct that the amendment that is currently before us is a committee amendment that is found on page 15, lines 6, 7, 8, and 9?

The PRESIDING OFFICER. The Senator is correct.

Mr. KEMPTHORNE. Mr. President, in light of the objection to the prior unanimous-consent agreement, I would like to ask the Senator from West Virginia if he wishes to debate the committee amendment found on page 15, beginning on line 6. I would like to make that inquiry without losing the floor. And I ask this with all due respect to the Senator from West Virginia, who has been forthright with me in communicating his concerns. So I just wanted to try to establish a process so that we can proceed.

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

Mr. BYRD. Mr. President, I thank the able Senator, who is manager of the bill, for his courtesies extended to me. I want to assure him that it is not my desire to frustrate him. He is trying diligently to move this bill forward, and the bill, of course, will move forward.

I am not in a position at this point to accede to the unanimous-consent request. I do not have any particular amendment in mind, may I say in response to the able Senator's question.

I do not want to accede to the request. For one thing, I do not want to agree to the adoption of committee amendments en bloc and that they be considered as original text for further amendment. Committee amendments that are in place as they are now, as long as they are in place can be amended by second-degree amendments. They are open to an amendment in the second degree. And it may be that some Senators would want to offer second-degree amendments and not have their amendments topped with an amendment.

Once the committee amendments are adopted en bloc, then, of course, they are open to amendments in two degrees. I have no particular amendment in mind at this point. I just feel that there are some areas of the bill that we need to understand. I probably will, in the final analysis, vote for this bill if there are certain amendments adopted thereto. I do not say at the moment that I will do that exactly for sure, but I may very well vote for the bill. But for now, I do not choose to agree to the request. I may agree to it at a later point. I do not have any particular question with respect to a specific amendment. That will be for others on the committee who understand the bill better than I do to more clearly explain.

Mr. KEMPTHORNE. Mr. President, would the Senator yield?

Mr. BYRD. Mr. President, I yield.

Mr. KEMPTHORNE. Mr. President, I appreciate that.

To the Senator from West Virginia I would point out that the amendment that is before the Senate was unanimously agreed to by the Budget Committee, and with this amendment properly being before the Senate now as our item of business, if the Senator from West Virginia does not feel compelled to debate the particular specifics of that amendment then I would seek or ask the Chair to put the question on the committee amendment before the body.

Again, I want to assert, because of my respect for the Senator from West Virginia, if the Senator has a desire to debate that issue; if not, I would like to put that question before the Chair so that we can proceed.

Mr. BYRD. Mr. President, the Senator is certainly within his rights to hope the Chair will put the question, and I can understand that. I fully appreciate his desire to do that. The Chair is not only entitled to put the question but the Chair is required to put the question if no Senator seeks recognition.

Mr. KEMPTHORNE. Based on that, Mr. President, I ask the Chair to put the question on committee amendment No. 9.

The PRESIDING OFFICER. Is there further debate on the amendment? Hearing none, the question is on agreeing to the amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, as I have indicated to my friend, the distinguished Senator from Idaho, I have no particular thoughts with respect to this specific amendment, but I do want to say a few things in regard to the bill and other matters.

Mr. President, first on another matter. There is an adage among computer users that says ''garbage in, garbage out.'' What that means, of course, is that if unreliable or incomplete information is put into a computer, then unreliable or incomplete information will come out of that computer. Although ''garbage in, garbage out'' comes from the world of computers, the basic theory applies to other disciplines as well.

For example, consider the question: ''Do you support or oppose a constitutional amendment to require a balanced Federal budget?'' As of January 4, 1995, 80 percent, we are told, 80 percent of the American people say that they support such an amendment. My source is an article in the Friday, January 6, edition of the Washington Post.

According to a poll taken for the Washington Post and ABC news, that overwhelming percentage buys on to the concept of a balanced budget amendment. Amazing, one would think that on the face of it, this extremely popular idea would have nearly no opponents. On the surface, if one went solely by that overwhelming percentage, one could say that this surely is an idea whose time has come.

What is wrong with this Congress that it has not already passed this fabulous balanced budget amendment? How can anyone question its wisdom? That is the problem with simplistic questions. They usually provoke equally simplistic answers. But there is nothing simple about the constitutional amendment to balance the Federal budget. If one looks a little closer at the same poll, the problem with any balanced budget amendment becomes glaringly apparent. There exists no consensus as to how actually to get to a balance of the budget.

Of those who support a balanced budget amendment in the poll, the further question was asked: ''Would you still support a constitutional amendment to require a balanced Federal budget if it meant cuts in Federal spending on welfare, or public assistance, for the poor?'' Fifty-nine percent said yes, they would. Now, this is not 59 percent of the 100 percent. It is not 59 percent of the total number of persons who are included in the poll. It is 59 percent of those who support a balanced budget amendment.

In other words, it is 59 percent of the 80 percent of those who say they support a balanced budget amendment.

Then the same supporters were asked if they would support the amendment if it meant cutting national defense or the military budget. Fifty-six percent said yes, they would. Again, that is not 56 percent of the total. That is 56 percent of the 80 percent who support a balanced budget amendment.

Then the same supporters were asked if they still would support the amendment if we had to cut Federal funds for education. Only 37 percent said yes, they would. Now, that is not 37 percent of the 100 percent. That is not 37 percent of all those who were polled. That is 37 percent of the 80 percent who support a constitutional amendment. That makes a difference.

Then the same supporters were asked if they were still on board if we had to cut Social Security; only 34 percent said they would. We will say there are 100 apples on the table here and that the 100 apples represent the total number of persons who were polled on the various questions. Eighty percent support, that would mean 80 of the 100 apples taken off the table. They all support the balanced budget amendment.

But if Social Security is increased, of those who support a balanced budget amendment, only 34 percent then would support the amendment. So if Social Security is included, only 34 percent of the 80 apples, or approximately 27 percent of the whole number favor the amendment.

So that would mean less than 34 percent of the 100 percent; in other words, only approximately 27 or 28 percent of the whole number would then support the balanced budget amendment.

I ask the rhetorical question, are we beginning to see a pattern emerge here? There is vast agreement on a goal; in other words, balancing the Federal budget, but virtually no agreement on how to achieve that goal among the general public.

Let us understand one thing, if Congress passed the amendment today and we had to start moving toward that goal, virtually all talk of tax cuts would have to be abandoned. If Congress passed the amendment today and we had to start moving toward that goal, virtually all talk of tax cuts would have to be abandoned.

There is a lot of talk about tax cuts in the air. Both Republicans and Democrats seem—according to what I have read—to be racing toward the finish line to see who can get there first with a tax cut. And there may be a bidding war on that subject in due time.

But this Senator from West Virginia thinks it is absolute folly—folly—to talk about a tax cut at a time when we are talking about passing a constitutional amendment to balance the Federal budget.

We seem to be going in two different directions all at once, and we are going to meet ourselves head on. If we have a tax cut and then if the constitutional amendment on the balanced budget is adopted, we may have to increase taxes to balance that budget. It cannot be ruled out.

So what is going on here? We cut taxes one day and raise them the next. It is going to be much more difficult to raise taxes than it will be to cut them.

I think we ought to stay on the course we are on; that being to attempt to balance the budget. And we have had two good efforts in 1990 and 1993, in both of which years Congress passed legislation that reduced the rates by which the deficits were growing and actually made reductions over a period in the deficits. That is the course we ought to stay on, and that is not an easy course.

But now to forsake that course and say, ''Well, let's have a tax cut,'' that is flying in the face of the strong efforts that have been made in 1990 and 1993 to bring about a reduction in the deficits and to move on a glide path toward a balanced budget. It does not make sense. We ought to be thinking of our children and grandchildren. No, we want to cut taxes now for political purposes, cut taxes now, do something for ourselves, forget about the kids, forget about the children down the road; let us shift this burden over on them, shift it over to them; let us have the tax cut now, though; let our children, and grandchildren and their children worry about it.

That seems to me to be very shortsighted, very shortsighted.

I would rather see the President and the Democratic Party stay on the course we were on of balancing the budget, of reducing the deficits. I think it is not only poor judgment but it is wrong to talk about a tax cut now. It is easy to cut taxes. Nobody likes to vote to increase taxes. I do not like to vote to increase taxes, but I am not going to join in the rush to cut taxes at a time when we have budget deficits in the $200 billion range and a national debt that is $4.5 trillion. Talk about declaration of rights, petition of rights, bills of rights, and all these things, I think we might better focus on a petition of rights, declaration of rights or bill of rights for our children's children and their children. I would not think that a tax cut for those of us in our generation would be wise. It certainly would not be a part of my declaration of rights for posterity.

We should not have a tax cut at this time, in my view, and we certainly should forgo that idea if Congress adopts a balanced budget amendment. Now, if we did that, if we abandoned all thoughts of a tax cut, we would still need to cut spending or raise taxes from projected levels by more than $1 trillion over 7 years, according to the Congressional Budget Office, in order to balance the budget.

We could go ahead and cut welfare. That seems to be popular, but it would not be nearly enough. We could go ahead and slash defense spending. That also seems to have a fair amount of support among balanced budget enthusiasts, but that would not get us to balance without massive tax increases either. How popular does anyone within the sound of my voice think massive tax increases are?

My point is that no one area of cuts would get us anywhere near a balance by the year 2002. The cuts would have to hit most all of the extremely popular Federal programs and those cuts would have to be severe.

It is obvious on its face from the results of the ABC poll that the American people have no real understanding of what passing this amendment means in reality. The conventional wisdom around here is that the balanced budget amendment is a forgone conclusion; that its adoption is foreordained. Mr. President, it may be that a constitutional amendment to balance the budget will be adopted. It may be, but I am not going to concede that yet.

We heard that same thing last year being said. It was said last year that the balanced budget amendment would be adopted, but it was not. The constitutional amendment to balance the budget may or may not be adopted. That is something that will be decided as we go down the road.

I am not going to join in the stampede to adopt a constitutional amendment to balance the budget. I am in favor of balancing the budget from time to time when we can, but I do not think that can be done every year in the normal course of things, for fiscal reasons, cyclical and countercyclical fiscal reasons.

I am not in favor of a constitutional amendment on the balanced budget. That is not news to anyone. But let me just say again that I do not concede at this point that such an amendment is going to be riveted into the Constitution. Perhaps it will be. We shall see.

We in the Congress have not adequately educated our people about what the amendment really means. It means enormous changes in the lifestyles and in the opportunities available to every man, woman, and child in this Nation. Furthermore, if the economy goes into a recession, which simultaneously increases spending on programs such as unemployment compensation and decreases revenues coming into the Treasury because of poorer performance in the private sector, spending cuts will have to be steeper and the tax increases will have to be larger than anticipated. Any first-year economic student knows that raising taxes or cutting spending during a recession is a recipe for plunging the economy into a depression.

It is the height of irresponsibility to avoid speaking very plainly to the American people about what is at stake here. We have to form a consensus about how to continue to reduce the Federal deficit rather than pass a constitutional amendment that would place our Nation's economic policy in a straitjacket. There has to be a national debate about the available options and their consequences. Honesty and integrity demand it.

I have heard it said that we were sent a message with this most recent congressional election. I believe that is a true statement. The message was: Involve the American people. Involve the American people in decisions that affect their lives and their livelihoods. The message was: Do not dictate to us, the people, from on high anymore. That Washington crowd must stop trying to tell us, the American people, what is best for us to do, what is always best. That is one of the reasons why we have this bill on the floor. The American people are tired of being bossed around from Washington, told what to do, when to do it, how much to do.

When I was in the State legislature 49 years ago, my feeling as to my associates in the legislature was—and I think it was a consensus among the West Virginia legislators in the House at that time and also in the West Virginia Senate where I later served—those fellows up in Washington, we do not need them to tell us what to do. We do not even want our Senators, who were Democrats like most of us were in the legislature, we do not want them telling us legislators at the State level what to do. They have enough to do. We will take care of our work here.

Well, that just applied to the members of the legislature. But the American people generally are tired of the heavy hand of Washington. They do not want to be dictated to anymore. They are tired of it. They are fed up to the earlobes with being told from Washington how to plant, when to plant, and how much to plant. And here we are caught in a headlong rush to pass, to adopt, a balanced budget amendment, rivet it into the Constitution.

Now we have a bill before the Senate that deals with unfunded mandates, and it is going to pass the Senate. As I say, my vote may be one of the votes that helps it to pass. But the balanced budget amendment will be the largest unfunded Federal mandate of all time—the largest Federal unfunded mandate of all time. A constitutional amendment to balance the budget would dump huge new responsibilities on the States because of massive and precipitous cuts in Federal dollars. At virtually the same moment in time when we are poised to pass legislation curtailing the Federal Government's ability to enact unfunded Federal mandates on the States, here we are hot and bothered about passing a constitutional amendment to balance the Federal budget without a hint as to how we will actually bring the budget into balance.

''Oh,'' they say, ''well, let's get the amendment into the Constitution and then we will talk about that.'' Well, then it is too late. Once that amendment is in the Constitution, it will take some years—it will not be a matter of days or weeks or months to remove that constitutional amendment, but it will take some years to remove that amendment from the Constitution if it develops, as I think it very well may be develop, that the amendment proves to be unpopular with the American people in the long run.

It is arrogant, Mr. President, it is the acme of arrogance for us as Members of the Senate and the House of Representatives to put forward a constitutional amendment to balance the budget without laying on the table, so that the American people can see what it is, the plan by which we expect to achieve that balanced budget by the year 2002.

It has been said, ''Oh, well, we must not do that. If the American people know the details, we will never get that amendment adopted around here.'' Well, that is the height of arrogance—arrogance. If we let the American people know what is good, what is bad about balancing the budget under a constitutional amendment to balance the budget, we let them know, we will not pass it. We will not have the votes to adopt the amendment. In other words, do not let the American people know. Keep them in the dark as to where the pain will be, keep them in the dark as to where the cuts will have to be made, keep the American people in the dark as to what tax increases will have to be made, because if the American people are told that, the 80 percent of those who answered the polls to which I earlier alluded will dwindle away. We will not have the votes even here in the Senate to adopt that amendment, because the American people will rise up. They will be disturbed. They will become excited. And they will contact their Senators and House Members and tell them to slow down, slow down. So, ''We do not want to tell them that. They are just like children.'' That argument assumes the attitude that the American people are children; they should not be told the truth, if the truth hurts. It takes the attitude that the American people do not have a right to know what the problems will be, what their burdens will be, where the cuts will be applied, where the taxes will be increased if a constitutional amendment to balance the budget passes.

That is superarrogance, on the part of those of us who are not willing to lay out the course which the American people will have to follow in order to balance that budget. That is being superarrogant.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. I would like to just note and acknowledge what the Senator from West Virginia stated, in the fact that he has been a State legislator. I think as State legislators across the United States realize that he has sat in their very circumstances, he has an empathy for what they are trying to do in establishing their priorities, I think they take courage in knowing that we have another champion who has been in their shoes, whom we hope will help champion this unfunded mandate legislation.

I would like to make an inquiry then. Because we are having this discussion—and I point out that there are points the Senator has made which I agree with and I appreciate the Senator has stated them—since we are having this discussion as this amendment is pending, would the Senator be willing to enter into a time agreement so we could have some sense as to how long we would have discussion before we would put this amendment to a vote?

Mr. BYRD. Mr. President, that is a legitimate question. I would not be willing to do so at this point.

May I make it clear to my friend and to all who are listening and viewing what is going on here, I am not out to kill this bill. I may vote for it. And I am in no position to know—I am in no position to say how soon we will pass this bill. It may be today, it may be tomorrow, it may be Friday. I do not know.

Others who are on the committees that were involved, the Governmental Affairs Committee and the Budget Committee, are very much closer to the facts and to the problems that are being addressed than I am. I am not a member of either of those committees.

But, first of all—and I hate to say this again, but sometimes repetition bears being repeated—I was a bit astonished and taken aback when both committees, the Governmental Affairs Committee and the Budget Committee in the Senate, by rollcall votes declined to submit committee reports. I was, in a manner, offended as a Senator, as a Senator who has been here many years, who is accustomed to having committee reports on major bills, as a Senator who has always stood for the rights of the minority. I have always stood for the rights of the minority in this body. I felt that the rights of the minority were being trampled underfoot by the rejection in both committees of minority requests that there be committee reports, and the minorities in both committees were refused. That was not in accordance with my views as to what the minority has a right to expect here. I understand that the votes were party-line votes.

Mr. GLENN. Yes, that is correct.

Mr. BYRD. By denying the minority, the American people were likewise denied. Again, this is arrogance, arrogance, to deny the minority the right to present its individual and minority views in a committee report.

I thought that was what the American people, in part, were sending us a message about. They are tired of this arrogance: ''They know it all, in Washington. They know it all.'' No, there was such a hurry, such a big rush. ''We have a Contract With America. It has to be accepted within 100 days.'' That seems to be the big rush. Up to this point I have been remonstrating and protesting that kind of procedure in the committees. I hope it will not be done again.

I am not saying that the same thing may not have happened in times gone by. I would never be one to defend the trampling of a minority's rights in this respect on a major bill, a bill which may be controversial. I think that my colleagues on this side of the aisle deserve to have some time to study the committee report. We finally received the committee reports and over the weekend I have had an opportunity to read them.

I am not a major player on this bill at all. But I just think we ought to slow down and take a little while to study what this is all about and know what is in the bill. I can best understand the pros and cons by reading the committee reports. That is why we

have committee reports—one reason why we have committee reports. I cannot just read the bill and understand it fully. I need to read the committee reports. I need to see what the minority thinks. I always—always look to see what the minority is saying in a committee report because if there are problems with the bill, with a given bill, the minority is likely to raise those problems, give them visibility. So that, by way of explanation, again, is why I have become involved here. I want to hear what my colleagues on this side of the aisle have to say about this bill. I will probably hear a little of that, or some explanation in the conference that is coming up.

But I do not propose to be rushed. I may be run over by the steamroller, but I do not propose to get out of its way or just jump upon it and ride along with it, necessarily, at least. There may be some parts of the Contract With America that I will support. Mr. President, I do not put it on the level however, with the Federal Constitution. I do not put it on a level with the Declaration of Independence. I do not put that document—I have not read it, as I say. I have never read a Democratic platform. Why should I read this Contract With America? I did not have anything to do with it. I am not a part of it. I do not put it on a level with the Federalist Papers. So it does not have all of that aura of holiness about it or reference that I would accord to some other documents.

I say to my friend from Idaho that he is doing what he thinks is right. I assume that he believes in all particulars of the bill. Or he may not. He may not believe in every particular. And the Senate will have its opportunity to work its will on that bill. I fully recognize the need to do something about unfunded mandates. I recognize that need. We have gone down that path too far in many instances.

I just have a little more to say on this particular subject, and then I will talk a little about the matter before the Senate.

But here we all are hot and bothered about passing a constitutional amendment to balance the Federal budget without a hint as to how we will actually bring the budget into balance. Furthermore, there are those in this body who are completely unwilling, as I have said, to share the details of any plan to balance the budget with the people before we pass the amendment. Now I ask Senators. How does that comport with the so-called ''message'' that we just got in the November election? How is this bringing Government back to the people? How is this putting vital decisions back into the hands of the voters of America?

A member of the other body's leadership was quoted in the newspaper last week as admitting that, if the details of getting to a balanced budget by the year 2002 were public, there would be virtually no possibility—no possibility—of passing the amendment. Is it all that bad? In other words, for Heaven's sake, do not tell the people what we are about to do to them. Do not tell them. Keep them in the dark. They want the amendment. Eighty percent said so in that poll. Keep them in the dark. Let us give it to them. They do not need to know what getting to balance entails. They do not need to know that. They do not need to be bothered with that.

If we exempt further tax increases or cuts in Social Security and defense, then what are we left with? In fiscal year 1995, the current fiscal year, Federal expenditures will total slightly more than $1.53 trillion. Excepting Social Security at $334 billion, defense at $270 billion, and of course, interest on the national debt of $235 billion, any cuts required to balance the budget would have to come out of the remaining $692 billion. It has been estimated, with a fiscal year 1995 budget deficit of $175 billion, those cuts would have to total 25.4 percent across the board on that $692 billion. And in fiscal year 2002, using the same assumptions, those cuts would have to equal 28 percent in order to eliminate a projected deficit of $322 billion.

Not discussing the options with the American people is like a suitor telling his prospective bride, ''Marry me and I will make you happy.'' But when she asks what he has in mind, he simply answers, ''Trust me, baby. You don't need to know the details. Trust me baby, you don't need to know the details.'' Talk about a pig in a poke; that is a hog in a rucksack.

This is big, arrogant Government going completely hog wild. This is us big guys, we big guys in Washington, saying to the American public, ''We refuse to give you any idea of how we are going to enact over $1 trillion of spending cuts and tax increases over the next 7 years.'' Note carefully that the 7-year period puts many of us in this body safely through the next election, by the way. It puts us safely through the next election. If this constitutional amendment is going to be sent out to the people, why do we not amend it; instead of having 7 years, make it 5. Make it 5 years. That is not customary. But there is no reason why it cannot be done. Make it 5 years so that the chickens will come to hatch during the terms of those of us who are here now who were elected in the past election, and they will certainly come to hatch during the terms of those who will be running next year, those who will be reelected or those who will be elected. It does not have to be a 7-year period. Make it a 5-year period. The 7 years puts us all safely through the next election.

Any plan to do that kind of violence to the Federal budget and to the national economy simply must be shared with the American people before we take an action that mandates that the violence be done. Let us not be a party to trying to pull the wool over the eyes of the people who sent us here. We do not allow it in other matters. We do not expect anyone to buy a used car without knowing whether or not that car has defects. We do not expect anyone to buy a house without knowing if the roof leaks. We could not allow anyone to take out a mortgage on that house without requiring the lending agency to fully disclose the terms of the loan. Mr. President, we have truth-in-advertising statutes in this country. We have truth-in-lending requirements. Why, then, should the American people be expected to accept the constitutional balanced budget amendment that would lock this Government into a rigid and unforgiving economic straitjacket without knowing precisely what that means?

Mr. President, in August 1993, the Congress passed a reconciliation bill that accomplished well in excess of $450 billion of deficit reduction, certainly well in excess of $400 billion. Every single dollar of spending cuts and every single dollar of revenue increases were laid out in plain language for Members and the American public to see. Obviously, those cuts were difficult to vote for. The revenue increases were difficult to vote for. But that package is something that needed to be enacted then, and it is something that needs to be enacted now.

Most importantly, Mr. President, that deficit reduction was passed without a balanced budget amendment in the Constitution.

Mr. President, if those who have signed on to the Contract With America are so sure that they have the necessary 67 votes to pass the balanced budget constitutional amendment, then they should lay down a plan that will actually balance the budget. If they have 67 votes to pass the constitutional amendment on a balanced budget in both Houses, they should not have any concern that their budget plan would not pass. After all, a budget resolution requires only 51 votes, only a simple majority—16 votes less than would be required for a constitutional amendment, if all Members were present and voting.

So why not accomplish through a statute a plan which can begin to take effect immediately, instead of waiting for the year 2002? If they can produce 67 votes for a constitutional amendment, they can produce 51 votes to pass the tough legislation required to achieve that balanced budget. Why do they not do it?

Let us not undermine the Constitution of the United States and the people's faith in that Constitution by putting off the bitter medicine that will surely come if a constitutional amendment to balance the budget passes in the House and Senate and is ratified at the State level. There will have to be some tough, tough decisions. Well, why not make those tough decisions now? We do not need a constitutional amendment, if there are 67 votes in this body now. And if two-thirds of the 435 Members of the other body can

produce the votes for a constitutional amendment now, or next week, or the week after, or next month, why go through all these motions and why go to all that extent to fool the American people and to perpetrate on the American people a hoax? If they have the 67 votes, let them bring forward their budget plan now; let us adopt it. Sixty-seven votes can pass any budget plan in this Senate.

If we are going to go down this road, we need to begin to take the first steps now. Waiting will only make the tough decisions tougher for the proponents. I say let them showdown now if they are really serious and they have the votes.

So let us involve the American people. Let us hear their voices. Let us have them weigh in on this most critical of decisions. Let us heed their wisdom, once they fully understand the ramifications of such a massive endeavor. Let us not literally thumb our noses at the very public who just put us into office and who also put us on notice they were tired of our arrogance, with this most arrogant and disingenuous of acts—a constitutional amendment on a balanced budget.

I favor a balanced budget as much as anybody favors it. There are those who say, ''Well, the American families out there have to balance their budgets, why should we not?'' That is a bit disingenuous, also. Not many families, relatively speaking, really balance their budgets. I have been married 57 years, going on 58 years, and it was only yesterday that I came across an old contract that I kept—not the Contract With America but the contract with Kopper Stores. I was a meat cutter. I worked at Kopper Stores. I married on May 29, 1937. And on May 25, 1937, I entered into a contract with the store at which I worked for some bedroom furniture, a bedroom suite—four or five pieces, I believe it was. I will bring up the contract one day and speak of it again briefly. But in that contract I was to pay $5 down on a new bedroom suite, and I was to pay $7.50 every 2 weeks, either in cash or in script; $5 down, $7.50 every 2 weeks. That was to continue until I had paid the entire amount of $189.50 for that bedroom suite.

Now, did I balance my budget? I had to go into debt. I was in debt. I had to go into debt to buy a bedroom suite. Most people in this country have to go into debt to buy a car, to buy a bedroom suite, to buy a living room suite, to buy a house. So, if the American families who are watching via that electronic eye there will stop and think, they will agree with me. We do not really balance our budgets, do we? ''Now, those politicians up there are saying that the American people balance their budgets. Why don't we balance the Federal budget?''

Well, I will go into that more at a later time.

But I have had a hard time at times in my life making ends meet, even with borrowing money.

So we are in debt. The American people have to go into debt. They do not all balance their budgets and end up at the end of the year, scot-free, slate-clean, not owing a penny.

The public trust is low, but it will surely sink lower if we go down to this unworthy path of insisting on a constitutional amendment on a balanced budget without laying out the roadmap, without laying out the plan.

If we have the 67 votes to pass a constitutional amendment, then we have the votes to pass the bitter pills of cutting programs or raising taxes. And we can begin to do that now.

Now, Mr. President, I want to give my attention to the committee report on the budget.

Mr. GLENN. Would the Senator yield for a comment?

OBJECTION TO THE JUDICIARY COMMITTEE MEETING

Mr. BYRD. Mr. President I object to any further committee meetings today. It is 13 minutes after 11 o'clock.

Mr. President, I amend my objection to make it apply only to the Senate Judiciary Committee.

The PRESIDING OFFICER. The RECORD will so note.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, the distinguished Senator from Ohio [Mr. GLENN] has asked me to yield for a question. I would be glad to.

Mr. GLENN. Mr. President, I just want to comment briefly.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield for that purpose and retain my rights to the floor.

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

Mr. GLENN. I thank my distinguished colleague and I thank the Chair.

I just wanted to comment briefly on his comments on the balanced budget amendment before he moves on to his comments on the consideration of S. 1.

I share his concerns in this area about whatever we do with regard to voting on the balanced budget amendment when this comes before us here in the Senate. We have to know what we are voting on and what we are doing, or the forcing action that we are taking and the impact that it is going to have on many, many programs that I think people have not yet really come to grips with.

We talk about this Contract With America as though it is something sacrosanct here. I think each one us here—I have a contract with the people of Ohio and I, in turn, as a U.S. Senator, have a contract with the people of this country myself, a contract with the people of the United States I take very, very seriously.

And I think that we have to know what impact that is going to have on the people out there in our respective States and across the country. We do not know that now.

To just vote, as my distinguished colleague said, on a pig in a poke here without knowing what is going to happen—I would say, as far as the Contract With America, we have been down that track of voting on something without knowing what was going to happen before, and we are $3 trillion additional in debt now to prove that it did not work before. And if we did not know how to make it work before, how are we going to make it work again?

We trusted the Reagan administration. Many of us here voted for that, voted for the tax decrease of 25 percent over a 3-year period, with the idea that if it did not work, if all the new, higher level of economic activity did not occur as was predicted at that time, then we would be able to come back to the Senate floor and we would be able to address that and say, ''OK, so it didn't work the way it was advertised. We are going to correct it.''

The problem is, we have never been able to get the votes to correct it. So here we are some additional $3 trillion in debt right now, not knowing which way to turn.

Let me say this on a little bigger worldwide scale. Prime Minister Thatcher had the same problem. She wanted to reduce the size of their Government at the same time President Reagan wanted to reduce the size here. What happened is, she went about reducing the programs first and then said we will have the tax reduction. It is just the opposite here.

The proposal of President Reagan was, we will reduce the taxes and that will force us into other action which never occurred. So now we are being asked once again to take this on faith and we will be able to work this thing out.

I would say to my constituents in Ohio and indeed all across the country, I think we do have to have the definition of this, as my distinguished colleague from West Virginia says.

Can anybody say that Social Security, Medicare, Medicaid, those big items in the budget—that takes up over half of the Federal budget right there. Then when you add the interest on the national debt and defense, we are up to almost two-thirds or 60 percent. So where are the cuts going to occur?

If we say those things that everybody is concerned about across the country are off limits, then where do the limits apply? What do we take in to consideration then?

Well, is it educational funds to the States? Is it higher education funds that we administer mainly out of the Federal Government but through the States? Are we going to cut the FAA, their consideration of flying safety in this country? Are we going to consider highways for cuts? That is 90 percent of

the Federal funding that goes to highways and only a 10 percent match. Do the people of this country want us to cut health funds for the Centers for Disease Control that is working so hard to try to get a solution to the AIDS problem? Are we going to cut the Food and Drug Administration that is looking at things that might create another thalidomide crisis in this country? All of these things are going to have to be cut if we pass a balanced budget amendment.

I have not positively said that I am going to vote against it here. I am still considering that. So I would say we are just buying a pig in a poke when Social Security is off base, when Medicaid is off base, when Medicare is off base, and when interest on the national debt is off base.

So it just does not work. I would say to the people in Ohio in particular that are on Social Security: Watch out. I think they are going to have to get into that, if we vote a balanced budget amendment, on Medicare. They are going to have to get into limiting Medicare in one way or another, and Medicaid. We cannot say do not pay the interest on the national debt.

And I would say the reason this ties into our debate here on the floor today on unfunded mandates is I think the estimate is we put out about $230 billion per year to the States for various programs. I believe the figure is that about $70 billion of that is in discretionary funding, the remainder in entitlements, mainly in the Medicaid Program.

Now, it seems to me, if we pass a balanced budget amendment without knowing in advance what the plans are for where the cuts are going do come from with this unfunded mandates legislation, of which I am a cosponsor, coauthor of here, I do not see how we avoid getting into those payments to the States right now if we vote ourselves a guillotine balanced budget amendment. And that is that. Then we will have to look to cutting down these entitlements and the $230 billion per year that goes to the States right now. Can we afford to continue that kind of funding if we have a balanced budget amendment and cannot cut Social Security, Medicare, Medicaid, and interest on the national debt and defense? I would submit that it will be very, very difficult to do that.

So I think in fairness, to make sure that some of the other programs are not cut, I think we have to look at the balanced budget amendment very, very carefully.

I think people will start asking their own questions, once they look at these things, as to how it will affect them. If we are going to have to balance the Federal budget at least in part by cutting out what we send to the States right now, then it undercuts what we are trying to do with this unfunded mandates bill. I do not want to do that.

I am trying to treat the States fairly, as is my distinguished colleague from Idaho, who pushed this bill for the last couple of years, brought it out of committee last fall, and could not get it through on the floor. I am a supporter, absolutely and unequivocally, of the unfunded mandates bill. I know there are some questions. We have some amendments to correct some of those. Senator LEVIN wants to address this sometime today. And there are others concerned. The Senator from Nebraska has some concerns. I see him here. I have some concerns.

I have a couple of amendments that I think will take out some of the doubts about how this would be administered. I am very concerned, along with my colleague from West Virginia, about the balanced budget amendment. I think it does tie over into unfunded mandates, because I think once we enact a balanced budget amendment, the States will have to look very carefully at what goes to the States right now. They are being too hard pressed now. I think there is a tie in that direction.

I wanted to make those comments, and I appreciate the Senator from West Virginia yielding to me for that purpose, to raise some of the same questions he has raised. I hope we can get on with S. 1 sometime this afternoon or sometime today so we can deal with the number of amendments we have. I hope we can get done with it this week. That means we will have to move expeditiously or we will not be able to bring up all the amendments this week.

Some of the amendments that are proposed are real busters, I guess I would call them. Some of them are not germane, necessarily, to this bill and deal with other matters that are of very major import. Some on the other side of the aisle and some on our side of the aisle will require considerable debate. Some over there, for instance, go back and say that we have to take up all past mandates, not make it prospective but go back. That would cost trillions of dollars. I do not know whether these amendments are talking amendments, talk a little bit and are not serious, but when you have things like that, it will require some time on this bill.

It all comes back, though, to whether we are dealing fairly with the States. I think this bill, even in its present form without amending, goes a long, long way toward addressing some of the sins of the Federal Government, if we want to put it that way, of the past 50 or 60 years.

There were good reasons why a lot of these provisions or a lot of the social services—a lot of reasons why some of those things moved to the Federal levels. Because the States back in those days, back in the days of the Great Depression, either could not or would not move to address some of the concerns when many of our people were bordering on starvation. Roosevelt came in with a package, the New Deal, that moved a lot of these responsibilities out of the community and away from the States, because communities and localities and States were not able to address those programs at that time. So these things moved to the Federal level.

Well, have some of them grown too far? I am the first to say they certainly have. Are the States now willing to pick up all these responsibilities that 50 or 60 years ago they were not able or could not pick up? We have to be careful with that and monitor what is going on to make certain that, as we move this unfunded mandates legislation through, we do not see a lot of people fall in the cracks, that we are depending on the Federal programs, excessive though they may have been. We just want to make sure that we monitor this very, very carefully.

I am all for the unfunded mandates bill. I hope we can work out all these details that people have concerns about.

Tying that back to the balanced budget amendment, once again, if we pass the balanced budget, it seems to me, there will be big pressure on the Federal Government to reduce what we send to the States now, which is about $230 billion a year.

Mr. President, I appreciate my colleague yielding for those remarks. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Ohio, [Mr. GLENN].

Today's Washington Post has an editorial titled, ''More On the Mandates Issue.'' It reads in part:

> The mandates bill could well be the first major building block of the Republican congressional agenda to pass. . . . The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from Federal mandates is meant to assuage them.
>
> In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. . . . Not all unfunded mandates are unjustified, nor are state and local governments, which receive a quarter trillion dollars a year in Federal aid, always the victims they portray themselves to be in the Federal relationship.

Mr. President, I ask unanimous consent that the entire editorial from the Washington Post be printed in the RECORD.

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

MORE ON THE MANDATES ISSUE

House Republicans partly disarmed the critics of their unfunded mandates bill by keeping a promise and quietly fixing one defect last week in committee. They should fix another when the bill comes to the floor, perhaps this week.

The mandates bill could well be the first major building block of the Republican congressional agenda to pass. The Senate's version is on the floor as well, and the president has said while avoiding details that he too favors such a measure. The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from federal mandates is meant to assuage them.

In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. It would merely create a parliamentary presumption against them and require explicit majority votes in both houses to impose them. That's the right approach. Though there is a genuine problem that needs fixing here, not all unfunded mandates are unjustified, nor are state and local governments, which receive a quarter trillion dollars a year in federal aid, always the victims they portray themselves to be in the federal relationship. What would happen is simply that future bills imposing mandates without the funds to carry them out would be subject to a point of order. A member could raise the point of order, another would move to waive it and there would be a vote. That works in the Senate. The problem in the House was that the rules would not have allowed a waiver motion. A single member, raising a point of order that the chair would have been obliged to sustain, would have been enough to kill a bill. The Rules Committee found a way around that rock last week. The bill now provides expressly for the majority votes that the sponsors say are its main point.

The other problem involves judicial review. The Senate bill would rightly bar appeals to the courts by state and local officials or others on grounds the terms of the bill had been ignored, the theory being that is mainly an internal matter—Congress agreeing to change its own future behavior—and a political accommodation of the sort that courts should have no role in. The House bill contains no similar ban, in part because a section would require the executive branch to do certain studies before issuing regulations and the sponsors, or some of them, want that to be judicially enforceable. But Congress has power enough to enforce these requirements itself; it needn't turn to the courts. The Republicans rightly say in other contexts that there is already too much resort to the courts in this country. They ought to stick to that position. In fact, because the House bill is silent on the matter, it isn't clear whether it would permit resort to the courts or not. The House should say not.

Mr. BYRD. Mr. President, the fact is that States receive massive amounts of Federal funds. In fact, we provide so much money to the States that it takes a separate 373-page report—right here it is, a separate 373-page report—from the Office of Management and Budget to list all the grants, talking about grants which we provide to States.

On page 1 of this report entitled ''Budget Information for States Fiscal Year 1995,'' there is a table that provides a State-by-State listing of the total Federal dollars going out in fiscal year 1995. The total for all States is $208,910,820.

Does anyone really believe that if we try to balance the budget without cutting defense or social security and without raising taxes that these State grants will not be cut? West Virginia, estimated for fiscal year 1995 is shown on the list as receiving 0.85 percent of the total for the United States, $1,765,000. The fiscal year 1993 total to the States was $177,984,295.

So all the States are listed with indications of the States' shares as a percentage of the total. If one excludes interest on the debt, that would be over $200 billion, and if we exclude defense, which is over $270 billion, and if we exclude Social Security, which is $334 billion, where can we find the cuts? We will have to cut State grants dramatically, and this unfunded mandates bill will not stop these massive cuts that will come as we proceed to balance the budget over the next 7 years.

So you Governors out there beyond the beltway, you State legislators out there beyond the beltway, hear this: Friends, Romans, countrymen, if we pass a balanced budget amendment and even if the Congress passes the bill that is now pending before the Senate, which it will pass, do not think you are getting off scot-free out there in the States. You are still going to have to give a pound of flesh. It is still going to come out of your hide. We will have to cut State grants that are not mandates dramatically—dramatically—and this bill will not stop these massive cuts as we proceed to balance the budget over the next 7 years.

Unfunded mandates are not a new thing. Indeed, one might easily argue that unfunded mandates are as old as law itself. When the Lord told Israel that on the seventh day thou shalt not do any work, he was imposing an unfunded mandate on the 12 tribes. The tribes may have perceived a short-run loss in productivity, and that may have been only partly made up for by God's provision of manna and quails, but surely the benefits of keeping the Sabbath far outweigh the mere economic costs of doing so.

That can also be said about a number of other mandates. We can learn a lot by going back to that old book that our fathers and mothers read. We think that our constitutional forebears came up with something new when they and the Members of the first Congress set up the Federal court system. That legislation was initiated in the United States Senate in the very first Congress.

But those Senators and House Members were not coming up with something that was entirely new. One needs only to read the 18th chapter of Exodus to understand that there was a court system established by Moses hundreds and hundreds and hundreds of years ago that was, in many ways, somewhat like our own Federal court system.

Moses was hearing all of the people's cases himself. It is a little like Lucius Tarquinius Superbus, who was the seventh and last king of Rome, who heard capital cases himself. He did not take the advice of the Senate at that time.

But Moses was hearing all of these cases himself, and the people stood in long lines waiting to adjudicate their grievances. Jethro, the father-in-law of Moses, came to see Moses and saw all of what was happening and saw that the people were waiting and Moses was being required to take an inordinate amount of time to deal with these cases.

Jethro suggested to Moses that he should break down this work, divide it, have a division of the work and that he should appoint rulers or judges over tens, rulers over fifties, rulers over hundreds, and rulers over thousands, and let those rulers over the various categories judge the people and that Moses confine himself only to the hard causes—not the minor matters—or to those cases that were appealed up to him.

And Moses took Jethro's advice, and instead of deciding every small matter himself and keeping the people waiting, there would be a division and speeding up of the work. Justice delayed is justice denied. Moses established this plan that Jethro, his father-in-law, had suggested. Moses appointed judges to deal with tens of people, those who would deal with fifties, those who would deal with hundreds, those who would deal with thousands, and he himself, Moses, would take the major matters or those that were appealed.

And so we have somewhat the same system. We have the Federal district courts, and we have the Federal appeals courts. We have the Supreme Court. We also have municipal judges, county judges, district judges, State supreme court judges.

There are Federal district judges in West Virginia. We used to have one in the north and one in the south and we had what they called a roving judge or rotating judge. So you have district judges and then we have the appeals court level and then we have the United States Supreme Court.

We can learn a lot by going back into history and seeing how the Israelites did things.

The Federal Government's wage and hour restrictions on State and local governmental units can trace their lineage to the Lord's admonition to observe a weekly day of rest. But the Federal Government does not compensate Federal, State, and local governments for imposing those rules. We can probably all agree that some unfunded mandates yield more in benefits to society than their simple economic costs would reflect.

Mr. President, over the weekend I looked at the committee reports, studied them carefully. This is what the committee report from the Committee on the Budget has to say with respect to the additional views of Senator JIM EXON. Here is what Senator EXON says. In the first paragraph he speaks of his

support for S. 1, which is before the Senate. But then he says:

Although I am an ardent supporter of this legislation I feel compelled to criticize the procedure under which it was taken up.

The Senate Budget Committee met on January 9th to mark up this legislation. We adopted 8 amendments in the committee. At the end of the markup, I asked Chairman Domenici whether we would be filing a report on this important measure. Senator Domenici answered that the Republican leader had asked that the committee not file a report, so as to expedite the Senate's consideration of the bill by Wednesday morning, January 11th. Several members on our side of the table objected to this procedure.

Senator Domenici then made a motion that the committee report the bill without a report. The committee adopted that motion on a straight party-line vote of 12–9. The following evening, January 10th, the majority asked us whether they could file a report on the following night, on the condition that there be no objection to shortening the normal 3 day period for the submission of minority views. Two Senators objected to that request. They wanted the full 3 days to do their minority views and review the report. The majority then filed a statement in the record in lieu of the report.

''This morning''—this was the morning of January 12th, which would have been Thursday of last week.

This morning, January 12th, the majority extended us the opportunity to review the proposed report and add minority views until January the 17th. [That is today.] Yet, this afternoon [meaning the afternoon of January 12th] on the Senate floor they announced that they intended to file the report immediately. While the majority may have been prepared to file its report, the members of the committee in the minority did not have a straight story on when their views were due.

This is Senator EXON.

The members of the committee in the minority did not have a straight story on when their views were due.

For this reason, I objected to the unanimous consent agreement requested on the Senate floor because I was not sure that all the minority members had the opportunity to submit their views and I was concerned that members might still be working on their minority views. I believe that it is extremely important that anything purporting to be a report on this bill include such minority views.

Unfortunately despite my objects, I have been informed that the report will be filed at 6 PM tonight, January 12th.

This is the ranking minority member of that committee who is speaking and who is writing, Senator EXON of Nebraska.

''I was concerned,'' Senator EXON stated, ''that members might still be working on their minority views. I believe that it is extremely important that anything purporting to be a report on this bill include such minority views.'' Unfortunately, he said he had been informed that the report would be filed at 6 p.m. on the evening—p.m. on January 12. Continuing:

And so we have discovered a means to evade both the Committee's requirement of 3 days for the preparation of minority views and the Senate Rules requirement for a report to be available for 48 hours before proceeding to a bill. You simply say that you are not going to file a report. Then you proceed to the bill, as early as the next day. Then you file a report. This procedure evades both the Committee and Senate rules——

Why all this hurry? Why all the rush? It is the 17th day of January. We have 11 months and 14 days to go yet in this year. Why all this rush?

Senator EXON says, again:

This procedure evades both the Committee and Senate rules, but apparently cannot be enforced in either forum.

Have they gained anything? Has any time been gained by this thumbing of the nose at the committee rules and at the Senate rules? Has anything been gained? Senator EXON continues, ''I find this practice very troubling and am extremely concerned about the precedent that it sets.''

He continues. This time he speaks of the sunset provision.

Last year's version of the Unfunded Mandates Bill, S. 993 contained a sunset date. It was my understanding, and also that of many of the negotiators who hammered out this bi-partisan compromise, that we would have a sunset date. It is unclear why the provision was not included in the bill introduced to the Senate. Despite former assurances that a sunset provision would be included in the legislation or added during markup, a sunset provision was voted down 3 times during the Budget Committee markup in a straight 12–9 party line vote.

I believe a sunset provision is crucial to the success of this bill. A sunset provision will help—not hurt—this important piece of legislation. Sunset provisions are a common sight on the legislative landscape. For example, the revenues used to fund to the superfund program sunset this year. We have sunset provisions in everything from the crime bill to school to work to the 1990 farm bill.

We are dealing with an entirely new concept. It is untried and untested. This bill needs a trial period so that any problems and bugs can be worked out. The Congressional budget office has expressed concern over the analyses that are required in the bill. In testimony before the Senate Committee on Governmental Affairs, Director Reischauer gave a candid assessment of the difficulty in completing these analyses on a timely basis, not to mention, culling reliable information for them.

A sunset provision in 1998 would allow Congress to pause and examine the job that CBO has performed to date. We could then fine tune and if necessary retool the process to make this bill even more effective.

A sunset provision is not going to kill the unfunded mandates program. The bill's time has come and there is no reason to believe that the bill would be scrapped four years from now. Currently the legislation has 57 co-sponsors. If the legislation lives up to its expectations, there should be no problem marshalling the same support in 1998.

Lastly, the unfunded mandates bill does not operate in a vacuum. It must be viewed in the context of the budget act. The caps and other major provisions in the Budget Act—including the supermajority points of order—expire in 1998. Since we will have to revisit the entire Budget Act in 1998, it makes sense to be consistent and provide for a 1998 sunset provision in this piece of legislation as well.

Mr. President, may I without losing my right to the floor inquire of the managers as to whether or not they anticipate an amendment to be offered that will provide a sunset provision and, if so, if they feel that there is a reasonable chance of its being accepted.

Mr. GLENN. Mr. President, I would be glad to respond.

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

Mr. GLENN. I believe Senator LEVIN brought that up in committee and has talked about putting an amendment in to that effect. And I think that is what we addressed.

I favor a sunset because I think this is really landmark legislation. I think it is the first real piece of legislation that readdresses the relationship between the State, local, and Federal governments. As such I think the impact of this is going to be enormous. I do not disagree with making certain that we take another look at this because, if it is working well, we can reauthorize it at that time. If it is not working well, we can either make appropriate changes, or we can do away with it, if it is just fouling things up and having unintended effects. I do not think that is going to be the case.

I have supported Senator LEVIN. I do not want to speak for him. It is my impression that at the appropriate time he will present a 3-year sunset provision.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Does the Senator from Idaho wish me to yield under the same understanding?

Mr. KEMPTHORNE. Yes. I appreciate that.

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

Mr. KEMPTHORNE. With regard to the sunset provision, yes. I think we fully anticipate that there will be an amendment offered. I do not know how many years will be offered. I know that in the Budget Committee an amendment was offered for 3 years, and I believe also for 5 years and also for 7 years. All of those were rejected by majority vote.

I will tell the Senator from West Virginia that I resist a sunset provision. To me this is going back to the fundamentals of what the Founding Fathers intended; that is, that we have this sort of partnership in the federalism program between the States, localities, and the Federal Government.

If there is a problem with Senate bill 1, once it is implemented and it is clearly identified that there is a problem, I would not contend to wait 3 years. There is nothing to preclude us from going in and, if there is need for modification, make any modification as necessary.

But I am reluctant to say that after we have worked so hard, and the Senator from West Virginia has referenced the rush and the 100 days measured that has been put on this. I would just say that this bill in getting to this point has taken 600 days in the making because much of the core of Senate bill 1 comes from Senate bill 993 of the last session.

So again, I resist the idea that we are just going to get it implemented and in 3 years it will sunset. If there are problems with it, I would like to see us modify them. There is nothing to preclude that from happening.

Mr. BYRD. Were there not sunset provisions in the legislation last year?

Mr. KEMPTHORNE. The Senator from West Virginia is correct. I can tell him that is something that—and I will defer to the Senator from Ohio who was chairman of the Governmental Affairs Committee at that time when that provision was included. Again, I was not a strong proponent of it being placed in that. But that was not my decision at the time.

Mr. BYRD. Mr. President, I thank both Senators.

I personally favor a sunset provision in this legislation. We are reading and hearing a great deal about welfare reform. I think that if we had had a sunset provision in the laws regulating and governing welfare in this country we would have had sunset provisions. A great many of the perceived flaws in the legislation would have been corrected.

Mr. CONRAD. Mr. President, will the Senator yield on that point for a question?

Mr. BYRD. Yes, without losing my right to the floor. I do not intend to hold the floor much longer.

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

Mr. CONRAD. Mr. President, I wanted to inquire of the Senator if he had perhaps seen the testimony of the Governor of Michigan in the House of Representatives last week. I saw it replayed this weekend.

As we start out the discussion of the proper relationship between the Federal Government and the States, his testimony in the House is very important. He told the House of Representatives that the role that he saw for the Federal Government was just to send the money. He said, you in the Federal Government, you just send the money back and we will decide how it is spent at the State level. I must say I was very troubled when I saw this notion of what the Federal-State relationship is supposed to be. I was very troubled by the Governor of Michigan, who was on the committee determining the welfare reform policy for the party on the other side of the aisle, suggesting that the role ought to be that the Federal Government levies the taxes, raises the money, and has nothing to say about how the money is spent. Now, if that is not a perverse notion of Federal-State relations, I do not know what is. I told my staff this morning, ''in his dreams,'' as far as this Senator is concerned.

My own notion is that there should never be a separation between the responsibility for raising the money and the responsibility for spending the money. That ought to be a fundamental principle that we adhere to in this Chamber. And I believe that because, if we raise the money and the States decide how to spend it, it is free money for the States. They did not have to go through the political risk of levying the taxes to raise the money. They just eat the dessert. They just spend money. Oh, no. That is not going to be the relationship, at least if this Senator has anything to say about it. I must say that I thought it was arrogant in the extreme for a Governor to say all we ought to do is write the checks. We raise the money, levy the taxes, and then send them the money and they will decide how to spend it.

I was going to ask the distinguished Senator from West Virginia his reaction to this notion that we raise the money, and then have no say in how it is spent. We just send it back to the States and they will decide how to divvy it up. I am very interested in the Senator from West Virginia's reaction to that notion.

Mr. BYRD. I reacted the same way that the distinguished Senator from North Dakota reacted. It is arrogance. It is a new ''Caesarism.'' It is the same arrogance that is displayed by those who beat the drums for a constitutional amendment on the balanced budget without at the same time being willing to lay out the plan to let the American people know what is in the offing, what is the price to be paid for this approach. How would the taxes be cut? What taxes will be cut? How much will they be cut? What cuts will there be in programs? What programs will be exempted? What programs will not be exempted? And it is an arrogance that is being manifested within this institution, the Congress of the United States, when it says you folks up there just pass a constitutional amendment to balance the budget, and do not tell us what it entails; do not tell the people in the legislatures what action we are going to have to take to continue programs from which we are presently receiving grants in our States, and so on. Do not tell us that. We do not want to know that.

So the big folks up there in Washington—us big folk—we know it all. That Governor is saying: You fellows just send the money down to the States with no strings attached. That is the same thing on both subjects. Just pass a constitutional amendment and let the American people find out, in due time, where the pain is.

(Mr. SMITH assumed the chair.)

Mr. CONRAD. Will the Senator yield on that point?

Mr. BYRD. With the same understanding, Mr. President.

Mr. CONRAD. I am asking a question. First of all, with respect to what the Governor from Michigan was saying, I would say to him, look, if the Federal Government raises the money, the Federal Government is going to have something to say about how the money is spent. If the Governors want to make all the decisions on how the money is to be spent, then they raise the money. That is an appropriate State-Federal relationship. It is ridiculous and extreme to say that the Federal Government should levy the taxes and raise the money but the States will decide how it is spent.

I will follow up with a question on the matter of a plan to balance the budget. Last week, I came down to the floor and gave a speech on something I have detected that I call the Republican credibility gap. It is more than a gap now. It is a chasm. In fact, it is approaching Grand Canyon size. This chart shows what would need to be done to balance the budget over the next 7 years. According to the Congressional Budget Office, we would need over $1 trillion in cuts over the next 7 years. That is if we did nothing to make the problem worse before we started.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator briefly—I only want to hold the floor for a few more minutes—without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. I am interested in the Senator's reaction to the credibility gap I have detected. This chart shows we need $1 trillion over the next 7 years if we do not do anything to make the situation worse before we start to solve the problem. But look what happens with our Republican friends' plan. The first thing they do is propose $364 billion of tax cuts, not spending cuts, but $364 billion of tax cuts. This is according to the Treasury Department. So now the $1 trillion problem over the next 7 years is nearly $1.4 trillion.

The next thing they do is say, well, we want to cut spending someplace. We do not want to be too clear on exactly where we are going to cut spending, but before we start cutting spending, we want to increase spending. We want to increase spending on defense by $82 billion. So now the problem that started out as a $1 trillion problem has turned out to be a $1.48 trillion problem. That is the amount that would have to be cut in order to balance the budget over the next 7 years. We start with $1 trillion, and we add their $364 billion in proposed tax cuts, according to the Treasury Department, then we add the $82 billion of increased defense spending, and the problem now is $1.481 trillion. That is a big number. That is not a million; that is not a billion; that is a trillion.

The interesting thing is to look at what they have come up with by way of specific proposals to cut spending. This is where we get to what I call the credibility gap. The credibility gap really is a chasm, because we need to find $1.481 trillion of cuts. But so far the Republican side has identified $277 billion in specific spending cut proposals. It is a paltry amount in comparison to what is needed to get the job done.

So I say to the Senator from West Virginia, it looks to me like they have

a $1.2 trillion credibility gap—the difference between what is necessary to balance the budget over 7 years and what they have outlined to balance the budget over 7 years. I say to my colleague from West Virginia, $1.2 trillion—that is one thousand two hundred billion—is a lot of money. Even in Washington talk that is a lot of money.

I think our friends on the other side owe it to us, and they owe it to the American people, to come forward with a plan to tell us specifically, precisely, how are they going to cut an additional $1.2 trillion. Are they going to take it out of Social Security? They say not. Are they going to take it out of Medicare? They say not. They say they are not going to take it out of defense. They cannot take it out of interest on the debt. That means well over half of all Federal spending is off the table.

I ask the Senator from West Virginia for his reaction to what I see as this enormous credibility gap by our friends from the other side.

Mr. BYRD. I thank the distinguished Senator. The $1.2 trillion, it seems to me, represents $1,200 per minute since Jesus Christ was born. To count $1 trillion—so that we might have a little better sense of the numbers that the Senator is talking about—at the rate of $1 per second would require about 32,000 years. It would take 32,000 years to count $1 trillion at the rate of $1 per second.

So the Senator is talking in terms of big money. There is a gap.

But there is another gap I am thinking about, also. If those from behind this steamroller—this constitutional amendment on a balanced budget—if they can mount 67 votes—and the conventional wisdom around of late is that that amendment is a sure thing and it is going to be adopted. In the discussion, they are already talking about how it will fare at the State level. If the 67 votes are found in this Senate, and two-thirds of the 435 Members of the House are going to vote for that constitutional amendment, why can those who support the amendment not lay out the road plan now? Why do they not bring in their plan now if they have 67 votes in the Senate and two-thirds of the 435 votes in the House that will vote for a constitutional amendment on a balanced budget? Why do they not simply bring in the plan now and start voting on it? It would only take 51 votes in the Senate. It only takes a majority to pass legislation. Why do they not do that? They have all the votes. They have all the votes that are necessary to raise taxes now. Instead they are going in the opposite direction and everybody is talking about cutting taxes—not everybody.

The administration is for cutting taxes, the Republican Party is for cutting taxes. But also the Republican Party wants—the Republican Party on the Hill—a constitutional amendment on a balanced budget. Why not start on it today? Why not start to deal with balancing the budget today, next week, next month? All they need is a majority of the votes to do that. They do not need two-thirds to do that, as they will need for a constitutional amendment. So that is a big gap. I cannot understand why it is easier to get 67 votes than it is to get 51.

Mr. CONRAD. Will the Senator yield further?

Mr. BYRD. I am going to give up the floor shortly. I will yield, if I may, without losing my right to the floor. I just wanted to ask another question.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, the Senator is recognized.

Mr. CONRAD. Mr. President, I just want to go further on this point. It just strikes me there are those of us who very much want a balanced budget. I am in that camp. The Senator from West Virginia knows that I feel strongly that we ought to balance this budget; we ought to do it the right way.

Mr. BYRD. That is why I voted for the 1990 package that was developed at the summit among the Republicans and the Democrats, when Mr. Bush was President. That is why I voted for the 1993 package. Not a Member, not one of our friends on the other side of the aisle, voted for the 1993 package, as I recall. I voted for it. It was tough to do it.

Mr. CONRAD. I think we should say that that 1993 package has, in fact, reduced the deficit. We had a Federal budget deficit in 1992 of $290 billion. In 1993, that was reduced to $255 billion. Last year, it was further reduced to just over $200 billion. This year, the estimate is it will be further reduced to some $176 billion.

The fact is, on that plan that the Senator from West Virginia and I both voted for, we did not get a single vote from the other side of the aisle; not a single vote. And voting for that plan took political courage, because it did cut spending. It cut over 100 programs by over $100 million. It also raised taxes on the wealthiest 1 percent.

People, of course, do not want to pay more taxes. I do not want to pay more taxes. I levied more taxes on myself in that vote; I wound up paying more in taxes. But I did it because I recognized we have a national crisis. We have to get our fiscal house in order. And if we are to do that, it requires a plan.

The point I wanted to make is that our friends on the other side of the aisle say they are for a balanced budget, but they have not come forward with a plan to do it. Talk is cheap. Talk is cheap. It is easy to say, ''I am for it.'' The difficult thing is to put down a plan that actually starts to do it.

I think it is terribly important that the American people know that there is this extraordinary gap between what our friends on the other side have said they are going to do and what they have identified to get the job done—a $1.2 trillion gap.

I said last week that gives a whole new meaning to the phrase, ''don't ask, don't tell,'' because that is what they are asking here. ''Don't ask, don't tell'' the American people. They are saying to the people, ''We are going to pass this balanced budget amendment, but we are not going to tell you how we are going to do it. We are not going to tell you where we are going to make $1.2 trillion in cuts over the next 7 years.''

I think the American people deserve better; I think our colleagues deserve better. I know the Senator from West Virginia believes that they have an obligation to come forward and be specific. I think that ought to be central to any debate we have.

I again thank the Senator from West Virginia for his courtesy and just ask him once again: Does not the other side have an obligation to come forward with a plan? Do not the American people deserve to know where they intend to cut $1.2 trillion over the next 7 years? Do not the people have a right to that plan?

Mr. BYRD. I thank the distinguished Senator, Mr. President.

Of course they are entitled to know what is in the plan. And we have a responsibility, in my judgment, before we rivet this piece of garbage into the Constitution, we have a responsibility to tell them what our plans are, how we expect to achieve this goal.

Mr. President, I thank the distinguished Senator. I hope he will expound further at some point on the subject matter concerning the constitutional amendment on the balanced budget. I hope he will use those charts. I hope he will elaborate on the matter further.

I do not intend to discuss that matter further right now. There will be a time, when we will be talking about the constitutional amendment on the balanced budget, that like Shallow, in ''The Merry Wives of Windsor'', ''I will make a star chamber matter of it.''

Right now I just want to ask one more question of the distinguished managers. In looking over Mrs. BOXER's views, minority views, I have noted—and I will not read her entire views as expressed in the report, but she says, in part:

> I am also disappointed that the bill fails to directly address one of the biggest unfunded Federal mandates faced by California: the costs imposed by illegal immigration. I therefore plan to offer an amendment on the floor to ensure that the costs to States and local governments of illegal immigration be addressed in the bill.

Mr. President, I share her viewpoint on this. I share the view that she has expressed with regard to the costs imposed by illegal immigration. As a matter of fact, the full Appropriations Committee, under my chairmanship last year, conducted some hearings on this matter. The members were very concerned about illegal immigration, about the costs of illegal immigration that are being imposed on States like

California, and the various Governors appeared at that time.

Do the managers feel that it is likely that we will have an opportunity to debate this amendment? Mrs. BOXER says she is going to offer an amendment ''to ensure that the costs to States and local governments from illegal immigration be addressed in the bill.''

What is the likelihood of such an amendment being adopted?

She also expresses concern that the amendments to sunset the bill were rejected by a party-line vote. What can we expect? Can we expect any relief for those States that have such humongous problems at this time with respect to illegal immigration? Can we expect them to get any relief?

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. Mr. President, I believe the Senator from California raises a very important issue when she raises this question of immigration. The Senator from Florida, the Senator from Texas, the Senator from Arizona, and many others have raised this issue.

But in listening to the distinguished Senator from West Virginia as he talks about the process and the fact that he believes there is a process where the committee should be involved, this issue of immigration is a monumental issue. I do not know that, by bringing that to the floor, this is the forum for us to finally resolve that.

I have also spoken to the distinguished Senator from Wyoming [Mr. SIMPSON] who has also been providing leadership on this issue. My concern is that I do not believe this is the bill to attach it to.

But, am I empathetic to what those Senators are saying? Absolutely. This Nation needs to deal with that issue of immigration, but I do not believe this is the vehicle to accomplish that.

Mr. BYRD. I do not mean for the Senator to address that particular aspect of it. That was not my point. I do not expect this bill to address that aspect of it.

But Mrs. BOXER and others are obviously very concerned with respect to the unfunded mandate or mandates that are being placed upon the States to deal with this problem. My question goes to that aspect, not to dealing with a solution to the overall problem.

Mr. KEMPTHORNE. Will the Senator yield further?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. I would just read to the Senator about 10 lines from the bill. This is on page 3, under the purpose of the bill. It states:

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

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

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

I believe, I say to the Senator, that if S. 1 were in place right now, this would be the process that would help, for example, the Senator from California in dealing with what may be further Federal mandates where there are costs imposed on the States under that title of immigration.

This is a process before we cast our vote. Because, the Senator is well aware of how many times, when we have a 15-minute rollcall vote, we will go down there and we may confer with one another during those 15 minutes and we will ask, ''Is there a mandate in here?'' That is the extent of the knowledge we have today.

This is going to give us a process so that we will know that there is a mandate or there is not. We will know the cost of it. We will know the impact on both the public and private sector. And we will know that information up front before we cast our vote. So that is why I am so desirous to get on with the implementation of S. 1, because then we can take some of these very important issues that the Senator has raised.

Now we have a process to allow Members to deal with it so that it is informed as opposed to the current process.

Mr. GLENN. Will the Senator yield for an additional reply to his question?

This bill is prospective. It does not try to go back and undo what may have happened or what may have built up in the past.

I see our distinguished colleague from Iowa on the floor, and I am sure he may want to address this because I understand he had a proposed amendment that we go by. But this bill is strictly prospective. It tries to address what has been the major problem with regard to the Federal-State relationship, and that is that we have specifically passed a lot of laws that impose mandates on the States.

Now, we do not propose in this legislation to try to correct the situation where the Federal Government has had a responsibility—for example, immigration control—and that responsibility has been inadequately met to the point where it is developing into a major problem, at a major cost to States. We do not try to address some of those things.

Now, that has to be addressed. I do not think it necessarily needs to be addressed in this legislation, because if it is, then, we are into a real quagmire of considering every situation where States or particular Senators from States have a feeling that because the Federal Government did not meet the States' responsibilities—say, in flood control or in whatever area it might have been—that we then have to come back and assume responsibilities for that later in this legislation.

Now, I think it is very fair and proper that we address the immigration problem, but we made no attempt in this bill, nor do I really feel that we should in this bill, to address something like immigration, which is where the Federal Government, obviously, has not met its responsibility to control immigration for the United States of America. We have not been doing it, particularly in California, Texas, the border States along our southern border, and to some extent in other States, also.

That is where the major problems have occurred, because the Federal Government did not meet its responsibilities. Then I think there should be separate legislation that deals with this. But this bill is not set up to address something that is of that nature and that is already behind us.

I would say this: The major problem for most States—although that is a major problem for California, for instance—but the major problem for most States has not been of that nature where the Federal Government did not meet its responsibilities. The major problem we are trying to address here is where the Federal Government has in many respects gone too far, maybe, in meeting this responsibly and tossing this requirement downhill to the States and local communities and saying, ''You pick it up''—the States—''we are not going to do it.'' That was not done intentionally from the Federal Government with regard to immigration, although we have to address that.

So, what we are trying to do, and the major cost to most States has come from the unfunded mandates where we have passed laws that require clean air, clean water, clean whatever it was, and said, ''OK, States, but you pick up the bill on this.'' We have not tried to address something that has happened where a Federal responsibility is not met and tried to address that in helping States like California, or Texas, or New Mexico—Arizona in particular, pick up the costs that they have, I feel, unfairly, been saddled with. I yield the floor.

Mr. BYRD. Mr. President, I agree with the Senator. I thank both Senators for their responses to my questions.

I have over the weekend, as I say, read the reports. I found some positive things in the reports which have an attraction with respect to this legislation.

At some point I would like to ask some further questions, but I yield the floor at this time. I thank both Senators for their courtesy.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, again, many of the points raised by the Senator from West Virginia I may happen to agree with. In fact, I do agree with many of the points that were made this morning.

The discussion about the balanced budget amendment, now while that is an important issue, this is not the legislation dealing with the balanced budget amendment. That will come sometime in the future. This is about

Senate bill 1. This is about a process so that we can finally start casting votes around here based upon information before the act instead of after the act.

Therefore, Mr. President, with all due respect, I now move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. 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. GLENN. Mr. President, under the previous order, I believe it was agreed that we would go out for our recess for the respective party conferences at 12:30. The hour of 12:30 having arrived, is it the Chair's opinion we should recess?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Chair will recess.

Mr. GLENN. The hour of 12:30 having arrived, are we in recess now then, or does the Chair propose to put us in recess?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate is prepared to stand in recess, but the Senator from Iowa is seeking recognition.

Mr. GLENN. Is it, Mr. President, under the previous order or is it the desire of the Senator from Iowa to speak?

The PRESIDING OFFICER. The Chair, as a courtesy, will recognize the Senator from Iowa first. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that, irrespective of the previous order, I be granted 7 minutes to speak as in morning business on a subject unrelated to unfunded mandates.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, on the condition that upon the completion of the Senator's statement, the Senate then stand in recess under the order.

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

The Senator from Iowa is recognized for 7 minutes.

AMERICORPS

Mr. GRASSLEY. Mr. President, we have recently heard in the news quite a bit about AmeriCorps, and that is President Clinton's new program on voluntarism.

As many of my colleagues know, I spent several months investigating this whole matter, and I continue to review and will continue to review for a long time into the future the merits of AmeriCorps. There has been bipartisan criticism of this program and this concept of so-called voluntarism.

This administration seems to have learned nothing from its recent efforts to force a top-down solution to programs, for instance, like health care. The American people rejected at the ballot box last November a bureaucratic solution that the administration had for health care reform.

Now the administration believes the answer to voluntarism is to have it driven from the top down. They want to bureaucratize voluntarism. In health care reform, they wanted to make the choice for each citizen's health care. In this program, they want to make the moral choice for each volunteer, and they want to pay him for that.

That subverts the concept of voluntarism, in my view. It turns the notion of voluntarism on its head. Nevertheless, the administration wants to go forward despite the fact that 1.9 million Americans are already volunteering on their own and doing it without pay and they are doing it all over the United States because they are doing it by making their own moral choices within their own communities as they see the needs of those communities.

Mr. President, it is discouraging that the President has completely disregarded the findings of Vice President GORE's National Performance Review when it comes to the question of AmeriCorps or the expansion of the program. A founding principle of reinventing Government is that, according to Vice President GORE, you should not increase funding a program until it is a proven success. This administration has sought dramatic increases for AmeriCorps with little to no support the proposition whether or not it is succeeding.

The problem with AmeriCorps is the same problem that I see in the boondoggles of the Defense Department. As you remember, a decade ago, $500 hammers got a lot of attention, the $500 hammers that the Defense Department was buying.

In AmeriCorps, we recently uncovered that President Clinton's AmeriCorps is paying over $70,000 for one—yes, Mr. President, that is one—volunteer for AmeriCorps. That $70,000 could instead be used to provide dozens of young people Pell grants so that they could attend college. This point was made on this very floor 2 years ago by the then chairman of the Appropriations Committee, the distinguished Senator from West Virginia, and that was when we were considering authorizing AmeriCorps at that particular time.

Instead, we are spending this money on creating one job with the Philadelphia Bar Association. That $70,000 job in Philadelphia is, unfortunately, not an anomaly. AmeriCorps has already provided me with many, many grants where the costs will be over $40,000 per year per job.

I am very pleased to announce to my colleagues today that the General Accounting Office has agreed to my request made in behalf of myself and Senator MIKULSKI to initiate an investigation into the actual costs of AmeriCorps. I am confident that the GAO investigation into AmeriCorps will help us all be better informed about the tremendous costs of this program.

As I read reports on the President's remarks, he intends to draw a line in the sand on this program. He intends to use this program to delineate the two political parties. I welcome this challenge because I believe the American people just repudiated the approach exemplified by the AmeriCorps Program. Just as they did not want to have a top-down bureaucratic solution on health care reform, they cannot fathom the same approach to voluntarism.

The American people do not want Government to make their moral choices for them. They do not want Government telling them for whom they should and should not volunteer, and they certainly can see through the rather thinly veiled attempt to subvert voluntarism by paying for it rather than using moral suasion.

Mr. President, I have received much data already from AmeriCorps pertaining to their grants. That data only further fuels my skepticism. I have also asked the General Accounting Office to independently analyze and evaluate the program. I will await their report this spring until I render a final judgment about the program.

But I must say, the celestial bodies seem to be aligned against the program, and the American people are against the approach embodied here. The administration would do better to more accurately apply the principles of reinventing Government to this concept. Rather than bureaucratizing and rather than drawing a line in the sand, we can be working together to make voluntarism work the way it has—and quite effectively and quite amazingly—since the earliest days of the Republic.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m. today.

Thereupon, at 12:37 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. SNOWE].

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

VOTE

The PRESIDING OFFICER. The pending question is now the motion to lay on the table the committee amendment beginning on page 15, line 6.

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 New Jersey [Mr. BRADLEY], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

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

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—55

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

NAYS—39

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hollings	Pell
Campbell	Inouye	Reid
Conrad	Johnston	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Wellstone

NOT VOTING—6

Bradley	Hutchison	Kerrey
Gramm	Kennedy	Pryor

So the motion to lay on the table the committee amendment on page 15, line 6, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

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

Mr. LEVIN. I thank the Chair.

Madam President, I am wondering if I could engage the managers in some colloquy and dialog as to how this bill will function in the real world. There are some real problems in terms of the process.

This bill is different from last year's bill. First, I want to make sure that our colleagues are aware of the fact that this is not Senate bill No. 993. There is a new point of order which is incorporated in this bill which is going to have some very serious ramifications in the way we function around here.

I am somebody who voted for last year's bill. I would like to vote for this year's bill. I came out of local office. I was in local government for 8 years. I understand the impact of unfunded mandates. I believe we have to do more than what we have done and that last year's bill was about the right balance to accomplish a greater awareness on our part to create a point of order in order to ensure that we would have an estimate before us. But this year's bill goes significantly beyond that. And that point of order in this year's bill is frequently an impossibility.

We are building into the structure here something which, at times, cannot be accomplished. The Congressional Budget Office has told us that. They have written to us that it is impossible, or nearly impossible, to make estimates as to the cost of mandates 5 or 10 years down the road on State and local government. They just simply cannot do it.

This bill says that on every bill and amendment—not just every bill, but every amendment—that comes to the floor, it will not be in order even to offer the amendment, or to offer the bill, unless there is an estimate in that amendment and in that bill which we know, going in, cannot be made at times. We know it. The Congressional Budget Office has told us.

We can all close our eyes around here and pretend that these estimates can be made all the time. We know they can be made some of the time. By the way, it is current law that the Congressional Budget Office make these estimates whenever they can, whenever feasible. They have been making estimates for the last 10 years. They have made hundreds of estimates at the cost of these mandates on local and State government. I do not know how many times folks around here have looked at those estimates. But they have made hundreds of them. It is not new, attempting to make the estimate.

What is new in this bill is that there is so much that hangs on that estimate for the first time. A point of order will be available. It will be out of order to offer an amendment on this floor that does not contain an estimate. What happens if you cannot get the estimate? What happens if you just cannot get the estimate, or the Congressional Budget Office cannot make an estimate? Can they tell us they cannot make an estimate? Oh, no; they cannot tell us they cannot make an estimate.

If it were in the private sector, they can tell us. If this were a mandate that applied to the private sector, the bill says, yes, then they can tell us that they cannot do the estimate. But when it comes to the intergovernmental sector, to the State and local government, if the Congressional Budget Office cannot make the estimate, they are not allowed to tell us.

But the point of order still lies. You cannot offer an amendment unless it contains an estimate, and we know going in—I think each one of us knows—that there will be times when an estimate cannot be made of the cost of something 5 or 10 years down the road on 87,000 local jurisdictions.

We have to spend some time on this mechanism. This is too serious a change. This was not in last year's bill.

This year's bill, in Governmental Affairs, at least, was offered on a Wednesday night. This was filed on a Wednesday night. The hearing was on a Thursday, and the markup was scheduled for Friday. Well, we resisted, some of us, and said, ''There just isn't enough time. Can you at least give us a few more days on the markup?'' We fought for that and got a markup on a Monday.

We asked for a committee report. No, that was denied on a party line vote. We could not get a committee report in Governmental Affairs on the Monday markup. So we did not have a committee report. And then we had to delay consideration here using whatever means were available to us until we could at least get a committee report.

The same process in the Budget Committee. A request for a committee report. No effort to try to defeat this bill. Most of us are cosponsors of this bill. I think this bill has something like 60 or 70 cosponsors. Most of us, maybe 80 of us, would like to vote for this bill. This is not an effort to kill a bill. This is an effort to produce a bill that is workable, that has a decent balance in it that we can live with on the floor.

As I said, I cosponsored the bill last year. But this is a different bill this year, and it has a mechanism in it which is potentially going to create havoc for us, which we are either going to have to ignore, which no one should want to put in place. We do not want a point of order that is constantly ignored around here or it is going to have so much bite it is going to strangle this process. ''I send an amendment to the desk.'' Someone jumps up, ''Point of order. It does not contain the language that says that local and State governments will not have to comply with the mandate.'' ''There is no mandate in this amendment.'' ''Yes, there is.'' ''No, there isn't.''

Is the Parliamentarian going to decide whether there is a mandate? And then who is going to decide how much that mandate costs 5 or 10 years down the road? Is that just going to be decided here at 8 o'clock at night after an

amendment is sent to the desk, how much it will cost 87,000 jurisdictions 5 years from now? Are we seriously legislating when we put into place a point of order like that?

No provision for saying that they cannot make an estimate when we know full well they cannot. What about a range? Can we get a range? Well, some say yes, some say no. Some say this bill will allow for a range; some say it will not. What happens if it does? What happens if the CBO throws up its hands and says, ''You are asking us to figure what this will cost 87,000 local jurisdiction 5 years down the line. We say it will cost somewhere between $1 and $500 million. That is the best we can do.''

Well, now you have to have an estimate in a specific amount and you have to pay for it or you have to waive it as to local government, State government. Or you have to say, in order to avoid the point of order, if the Appropriations Committee 5 or 10 years down the line does not appropriate what you estimate today or what CBO estimates today, then it will be ineffective at that time.

We are building in a nightmare for ourselves. We have to try to solve the problem for State and local governments, and we can, I believe. We can force a greater awareness upon ourselves as to what they go through when we adopt a mandate. But we just cannot simply here, without spending some time on how a point of order would work such as has been constructed in this bill, unlike last year's bill, we cannot simply put ourselves into a potential grinder here where we have to ignore a point of order, routinely ignore it.

Since this is 50-vote point of order, some people say, ''Well, you can just vote down the point of order.'' Well, we do not want to put ourselves, on amendment after amendment after amendment, where a point of order lies because the amendment does not contain those words which are required, either ignoring it routinely or having this thing that has so much force that we are in a straitjacket. We have to be able to legislate.

Should we force ourselves in some way to consider what the costs are? Yes, I would like to do that. I used to have to live with these mandates. For 8 years in local government in Detroit, I had to live with these mandates.

One of the reasons I came to this town was because I was so upset with Federal mandates and the way Federal programs were operating. That was one of the reasons I ran for the Senate. I understand local officials and Governors who have to deal with what we do.

So we have tried in the last few years to put estimates into law and into the committee reports. We have required CBO to come up with estimates. And CBO has tried, with bills, at least, reported out of committee, to come up with estimates. Sometimes they cannot do it. They are unable to tells us. They just cannot do it. But we will not let them do it here on the intergovernmental mandates. We will not let them be honest. We are adding to the bills as they come to the floor a requirement that that same estimate in a specific amount be made by the CBO on every amendment that comes to the floor.

So, Madam President, what I would like to do, and before I go further, let me just commend the managers and the sponsors of this bill. While I have problems with certain aspects of the new bill, I must say they have been steadfast in their determination that we do a lot better to force ourselves to consider the costs of these mandates on State and local and tribal governments.

And while I have some disagreements with the new bill, I must say that they deserve a tremendous amount of credit and thanks of this Senate and of this country for keeping the issue before us. It is an important issue. And no one that I know of is trying to sink this bill. A number of people are trying to make this bill look more like last year's bill in terms of the balance that was struck, and that is going to take some time and I think legitimately should take some time of the Senate.

This bill simply goes too far. Unlike last year's bill, which had a point of order if there was no estimate and if the estimated amount was not authorized. This year's bill, in effect, requires that you either fund it or put language in your authorization bill which will direct the agency to ignore it for State and local governments unless the appropriators downstream put in the amount of money which the estimates indicate will be required for State or local governments.

Now, there is a very basic philosophical issue. What about cases where you have businesses competing with local government? My friend from Kentucky just mentioned the word ''business,'' which raises a very important point that I want to address. And I am not sure it is exactly the same point that crossed his mind, but there is a very significant issue here.

You have two incinerators that are competing for the same business. You have a government-run incinerator and you have a privately run incinerator. Do we want to imply or suggest that there will be a mandate that is either not applied to the government-run incinerator—on clean air for instance, a new clean air requirement—but it will be applied to the private incinerator? Do we want to create a presumption that when you have business competition between a private and public facility such as that, be it an incinerator or a hospital, that we are going to apply a new mandate to the private sector but not to the public sector? Is that the assumption we want to make? Is that the presumption we want to create?

That, I believe, creates a real problem. This is real, folks. We have private and public hospitals all the time. Are we saying that there will be a presumption that a new increase in the minimum wage will apply to the private hospital but not to the public hospital? Is that the message we want to send? Should we consider the impact on the public? Of course. Should we consider the impact on both public and private? I believe we should.

I hope that this bill will succeed in another one of its purposes, which is to get Members to look at the impact on the private sector, as well as on the public sector. That is one of the purposes of this bill.

This bill goes beyond that when it comes to the public sector. On the public sector, it creates this point of order that I just described, a point of order which does not exist relative to the private sector. I think there is a serious problem, philosophically, which is raised when we do that in areas where we have competition, where the greater impact of a mandate is on the private rather than on the public.

It seems to me that we have a serious issue philosophically as to whether we want to create the expectation that this mandate is going to be waived or paid for when it comes to that public incinerator or to the public hospital, but not going to be waived or paid for when it comes to that private incinerator or that private hospital.

What I would like to do, if I could, with my friends from Idaho and Ohio, is to take a hypothetical case and walk through the steps. What I have done is just set forth a hypothetical Senate bill. I believe I have given a copy of this description to each Senator so they can have it in front of them. This hypothetical bill mandates controls on dangerous levels of mercury from incinerator emission after October 1, 2005. That is the bill. It also designates the EPA to determine what constitutes a mercury level dangerous to human health.

I would like to focus on that hypothetical and ask a number of questions of the managers. First of all, what is the effective date of that mandate? Now, the reason that that becomes critical is that that triggers the estimate, the estimate upon which so much hangs—including a point of order—the estimated cost to State and local governments in the first fiscal year after a mandate is effective, and in each of the 4 fiscal years thereafter.

So the first question I would like to ask the Senators from Idaho and Ohio is, what is the effective date of that mandate?

Mr. DOMENICI. Madam President, will the Senator repeat the last part of the precise question?

Mr. LEVIN. Madam President, I am sorry, I did not give a copy of this to my friend from New Mexico. Let me get this to the Senator.

The PRESIDING OFFICER. If there is no objection, Members may engage in a colloquy.

Mr. DOMENICI. Madam President, I yield the floor.

Mr. LEVIN. Madam President, I ask unanimous consent, then, that I be allowed to engage in a colloquy with the managers relative to the way in which this bill would be implemented, without losing my right to the floor.

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

Mr. KEMPTHORNE. Madam President, in response, first a few points.

I appreciate the fact that both the chairman of the Budget Committee and the chairman of the Governmental Affairs Committee are here. I think what is most important, as the Senator from Michigan poses these questions, is that either myself, the ranking member on Governmental Affairs, the Senator from Ohio, or the two chairmen respond to that so we can lay this issue out there.

Also, a couple of other points I will make, because the Senator from Michigan gave a bit of an overview. One of the points that was stated is what if CBO simply cannot estimate this? What if we cannot come to terms with it?

The alternative, then, is that we will continue the process we now have, which is we do not require this information and we do not really make the effort. So we want to have as much information as possible before the vote, instead of after the vote, so that if at some future point we know the impact to local or State government after the fact, then we do the calculation.

Mr. LEVIN. Madam President, I wonder if my friend will yield on that point.

We do require such a calculation now. We have had something like 850 of those calculations, I think, in the last 12 years. There is a law, the Congressional Budget Act, which requires the Director of the Congressional Budget Office, to the extent practicable—very important words, to the extent practicable—to prepare for each bill or resolution an estimate of the cost, which would be everything incurred by State or local governments.

We do currently require these estimates. Now, sometimes, those estimates cannot be made. We have gotten a report from the Congressional Budget Office that they cannot make the estimate at times. They just simply cannot estimate. They say it. When they cannot estimate it, they say they cannot estimate it.

What this bill does, is say, ''You have to estimate.''

Mr. KEMPTHORNE. Madam President, if I may, to continue our discussion; yes, we do ask CBO to make an estimation. The Senator is correct. Since about 1981, CBO has been required to do some estimating. They have begun to build some years of information that will help them, I think, in making future estimates.

Now, in the event that CBO undertakes to accomplish what is required in this bill, to estimate the cost of the mandate, we asked them to make that effort. If they come back and their report says, ''We are unable to do so for these reasons,'' then they have fulfilled their responsibility.

Mr. LEVIN. With an intergovernmental mandate.

Mr. KEMPTHORNE. With an intergovernmental mandate. If they simply cannot—but they must make the effort. That is the point.

Mr. LEVIN. If the Senator will yield, that is not the way I read this bill, because this bill explicitly permits in the private sector that statement. But there is no such explicit permission to make that statement with the intergovernmental sector.

As a matter of fact, I believe the committee report explicitly notes the difference. I think the Budget Committee report explicitly takes note of the fact that in the private sector, we do permit the Director of the CBO to say that he cannot make the estimate.

On page 20, line 24, of the bill, it says:

> If the Director determines that it is not feasible to make a reasonable estimate that would be required, the Director shall not make the estimate but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for the determination in the statement.

That is referring to ''private sector mandates,'' subsection B. That provision is explicitly part of the private mandates section. When it comes to the intergovernmental mandates, there is no such language which allows the Director to be honest. We have an honesty provision when it comes to the private sector. We say, ''If you cannot do it, you can tell us,'' but when it comes to the intergovernmental sector, there is no such language.

Mr. KEMPTHORNE. Again, Senator, that is correct. We require, on an intergovernmental, that there not be an estimate. But in going through that process, it may be that the conclusion of that estimate is that they just cannot provide the data that we are after.

So, Senator, because of the process, there is a waiver. That may be the rationale, the justification, to come to the floor and to seek a waiver of that point of order.

Mr. LEVIN. Why, then, do we not have the same language on the intergovernmental as we do on the private?

Mr. KEMPTHORNE. If there is no estimate for CBO, the Chair will have no alternative but to rule that the point of order will not lie, because there would be nothing upon which to base a decision.

Mr. LEVIN. But the question is, if we allow for the fact that a director in the private sector is unable to make the estimate, why do we not have the same language relative to the intergovernmental mandates? Why not the same honesty? Why not the same honesty allowance relative to the intergovernmental mandate as we have in the private sector? Why that distinction in the bill?

Mr. DOMENICI. Will the Senator yield for an observation?

Mr. KEMPTHORNE. Sure.

Mr. DOMENICI. Madam President, first of all, I want to say to my good friend, who is managing the bill, I would very much like to be here for the whole dialog. I am not sure I can. I have to leave for a little while, but I will just address this one this way.

Mr. LEVIN. If I could interrupt, I will be happy to try to schedule this to accommodate my friend, the chairman of the Budget Committee, if that would be helpful. Please just let us know and we can try to schedule this.

Mr. DOMENICI. I am one who has been preaching reform measures around here that the Senate floor ought to come first, and here I am telling the Senate that I have something else that, obviously, is more important. But I already had these appointments, and I cannot get out of them.

Let me just answer the precise question and then try to come back here.

I say to both Senators and the managers, if there is something further that I might accomplish later on, I will come down again and I will go back through the RECORD and answer them as I see them.

First of all, let me suggest, on your last question about why in one section and not in the other, with reference to the impossibility of doing it, we have 11 years, my staff tells me, of experience in estimating the cost of public mandates. We do not have any experience in estimating the cost of private sector mandates, to speak of. That means that clearly the Congressional Budget Office, which has to gear up for this entire episode, both public and private—we know it is going to take some additional money, but we also know it is going to take brand-new staff, and we are fully aware, while we are cutting everything, that has to go up a little. We need to give some latitude on the private end because we have not done it, and we follow up and say since we have been doing it on the public we ought to be able to.

Let me proceed and take your specific statute and just give a few observations. Frankly, while I understand we have passed environmental laws in the past that are even harder to estimate than this, because we leave to the EPA or some other department almost full latitude, I am advised that probably the way the Congressional Budget Office would handle this—this is from people who have been there and are experienced. I went and called when the Senator from Michigan started asking questions—they would get in touch with each other and maybe even visit and talk about this mandate. The Environmental Protection Agency would hopefully give every bit of information they have as to the parameters of this mercury level. It is apt to be here or at least give them something to work with. Then they would probably take that, in terms of that level and they would give us the best estimate they could with reference to maybe either of two levels, but we would get something.

If they said it is absolutely impossible, then it appears to me that we cannot ask for anything more, and one of two things will happen: Either what the distinguished manager has said, that the Chair would rule that a point of order cannot be made against it, or the point of order could be made and waived on the basis that we do not know.

But let me suggest that there might be a third thing that could happen. It may very well be that the looseness with which we delegate might be tightened up somewhat. I am not suggesting that a bill with that in it is wrong, but I am suggesting that if this bill is saying to the American people, ''We want to honestly tell you the cost before we pass it to the maximum extent,'' then we may be finding that we have to get more clarity in the legislation that passes so it can be evaluated more properly.

I thank the Senator, and I yield the floor.

Mr. LEVIN. I certainly agree with the third point that the Senator from New Mexico made. Let me go back to the first point, the fact we have had experience with these estimates. This is not new, making estimates on intergovernmental mandates. We have had hundreds of them. We are required by current law. What we have never done is hung a point of order on it the way this bill does when it is impossible, in some cases—and we know it will be—to make the estimate.

This is the experience of the Congressional Budget Office. Based on their experience in intergovernmental mandates, they have told us it is impossible sometimes to make these estimates. That is on a bill where they are being given a bill in advance of consideration of the floor. Multiply that by 100 times when it comes to amendments, because this current bill, S. 1, does not just cover bills that come to the floor, it covers amendments.

I believe if we are going to be straight with ourselves, we have to acknowledge two things: That with this experience that the Congressional Budget Office has in making estimates, they are telling us there are times when they cannot make estimates on intergovernmental mandates. That is based on their experience.

Second, I think if we are being straight with ourselves and with this process, we are going to have to acknowledge that there is no way that when you include all amendments under this point of order process that we are going to be able, with any intellectual accuracy, to get an estimate of the cost of every amendment and its mandate which is offered here so it can be properly considered.

Every amendment is subject to a point of order. The language of the bill is it will not be in order to offer a bill or an amendment unless certain language exists in that amendment, unless there is an estimate of the cost of an intergovernmental mandate in that estimate.

There are a number of questions: Can I even get an estimate as an individual Member of the Senate so I can offer my amendment? There is no provision for an individual Senator to get an estimate. The way I read this, the only estimates that are required by the Congressional Budget Office are estimates after a bill is marked up in committee and is sent to the floor. The chairman and ranking members of committees can also seek estimates, as I read the bill. But there is no provision in this bill which gives me any assurance as an individual Member, or it gives 100 of us an assurance that we can even get the estimate, and if we do not get the estimate, a point of order lies.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. LEVIN. I will be happy to yield. I will just conclude this point.

What this bill requires us to do, unlike last year's bill, is to get an estimate which at times we know is impossible to make from the experience of CBO, even on a bill, and we know it is even more impossible on more amendments to get. There is no provision in the bill that we even have standing as individual Members of the Senate to obtain the estimate, in any event, since the only ones that seem in the bill to be guaranteed that estimate from the CBO would be bills that come to the floor that have been approved by committees and, to the extent practicable, Chairs and ranking members of committees.

I will be happy to yield. I do want to go back, however, to my first question, which is, what is the effective date of the mandate in this hypothetical that I have given? And again, so that we are all working from the same hypothetical, it mandates reductions of dangerous levels of mercury from incinerator emissions after October 1, 2005, and the EPA is designated to determine what constitutes a mercury level dangerous to human health.

My specific question is, What is the effective date of that mandate since that is what triggers the estimate? It is critical that we know the effective date because that is when the 5 fiscal year estimates begin.

Mr. KEMPTHORNE. If the Senator will yield?

Mr. LEVIN. I will be happy to.

Mr. KEMPTHORNE. We are calculating that so we can respond to that specifically.

I also, though, want to respond to the point that we are creating something unusual, we are creating—I do not know what terms were used—but suddenly we are going to make this very difficult for legislation to proceed or for amendments.

If I may, I think this is important. Yes, S. 1 establishes a new point of order under the Budget Act against incineration mandate legislation in the Senate unless the mandate is paid for. I believe strongly in that. So do local and State governments and tribal governments. The point of order—this applies to all legislation including bills, joint resolutions, amendments, motions or conference reports and can be waived by majority vote. It is a process.

This point of order and the Budget Committee's role in its enforcement are modeled after similar provisions in the 1974 Budget Act. The language in S. 1, and I think this is very important, applying the mandate point of order to amendments, is identical—identical to language in the Budget Act. Madam President, 21 separate provisions of the Budget Act provide a point of order in the Senate against consideration of amendments; five of these provisions establish points of order that only apply to amendments.

This is not new ground. This is not something unprecedented. Madam President, 21 separate provisions have a point of order. The Senate, the Senate Parliamentarian's office, the budget committees, have 20 years of experience with these Budget Act points of order and their application to amendments.

In practice, the Senate Budget Committee staff monitors legislation, works with the Parliamentarian's office to determine violations, and works with CBO to provide the Parliamentarian's office with estimates to determine whether legislation would violate the Budget Act. In instances where the press of Senate business does not allow CBO sufficient time to prepare such estimates, the Senate Budget Committee is called on to provide them. Regardless of what estimate is used, the Senate is the final arbiter of its rules, that is the rules of the Senate. Should a Senator disagree with the estimate, he or she could appeal the ruling of the Chair. But as these amendments are brought forward, the burden of proof that they exceed—in case of intergovernmental, a $50 million threshold—that burden of proof lies with the Senator who would make the point of order.

You can bring your amendment to the floor of the Senate without having had it scored by CBO. But, in all reality, it just seems to me and it seems to a lot of other folks that if you have an amendment that is somehow close to this threshold, it makes sense that you would call and get CBO to give you an estimate of the cost, or that you would work with the Budget Committee because soon we would be voting on that amendment.

Are we saying that because we may want to take a few minutes to call and get that estimate that we should not do that because the hour is late? And it is a multimillion-dollar decision that we are going to cast votes on, and the implications that it would have?

Mr. LEVIN. I am saying quite the opposite, if the Senator would yield. Quite the opposite.

It is worth getting an estimate. It is worth getting an honest estimate. And

there is no way that in a few minutes, or in a few hours—indeed in a few days, if you listen to the Congressional Budget Office—that you can get an estimate of the cost of a mandate on 87,000 jurisdictions. Of course we have points of order in the Budget Act. They have to do with levels of Federal spending of the Federal Government. What is new here is that a new point of order is going to be created, unless you have an estimate in a specific dollar amount of the cost. It could be years away—on 87,000 State and local units of government. That is very new.

Is it worth getting? Of course it is worth getting, if you can. But you say you can bring an amendment to the floor even without an estimate. The way I read the bill: ''It shall not be in order in the Senate to consider''—and then the words are ''any bill, joint resolution, amendment, motion, or conference report.''

It is not in order for the Senate to consider those.

Several Senators addressed the Chair.

Mr. KEMPTHORNE. I am sorry. If I could just complete that thought. It is not self-executing.

Mr. LEVIN. Someone could raise a point of order.

Mr. KEMPTHORNE. Someone could raise a point of order but you could allow amendments in a given event without anybody making that point order.

Mr. LEVIN. Is that the intent of the Senator, that a point of order not be raised when an estimate is not present?

Mr. KEMPTHORNE. I think I have made it clear. I think it is a responsible thing. But if you are going to offer a multibillion-dollar amendment, certainly that did not just come to mind that night. Certainly you have talked with either the Budget Committee or CBO.

But, again, it is not self-executing. That would be the basis that a ruling could be made that the point of order lies. Then you could seek the waiver.

Mr. LEVIN. I think we are in a way on the same wavelength because I think it is important that we get honest estimates, too. My question is, If the CBO cannot estimate it—cannot estimate it, it is still out of order.

Let me put it a different way. If the CBO cannot estimate it—it is tough. They have to. Because you do not have the language on the intergovernmental side that you do on the private side that allows them to say they cannot make the estimate. You could still keep your point of order, because there is no estimate that meets your test. But what you do not do in this bill, for the intergovernmental sector, is to allow the CBO to be honest the way you do in the private sector.

We tried this amendment in conference, to simply say if the CBO cannot make the estimate in the—excuse me. We offered an amendment in markup, where we said if the CBO cannot make the estimate—which has been true in many cases before—that they should be allowed to say so on the intergovernmental side, the same as they are allowed to do on the private side, so we can know that.

Mr. GLENN. Will the Senator yield?

Mr. LEVIN. I will be happy to yield. This may be something where we have asked weeks in advance, by the way, not just minutes in advance, weeks or months in advance, assuming we can get answers as individual Senators from the CBO, which we have no right to do in this bill.

But assuming we could get an answer from the CBO, they may tell us they cannot make this estimate. We have been diligent. We have tried for weeks and weeks and weeks and months to get an estimate and cannot get it because they say there is no way they can make this estimate for various reasons. It may be that the EPA is going to determine a level after a public hearing, notice and comment, as to what an unsafe level of mercury is. And they are not willing to say in advance of a public hearing and comment what that unsafe level of mercury is. And the CBO comes back to us and says we cannot make this estimate.

Why not allow them to say that in the intergovernmental side the way we allow them on the private side? The Senator from New Mexico says they have more experience on the intergovernmental side. That works exactly the opposite way because their experience tells them they cannot do it in some cases. Why not let them say it? We offered an amendment in committee to allow them to say it, allow them to be honest on the intergovernmental side the way we do on the private mandate. But that was defeated.

So, I think it is a matter of just honesty, frankly, in legislating, to allow the CBO to say what we all know is true. That there are times that, even with a lot of notice, they cannot estimate the cost of intergovernmental mandate the way they cannot do a private mandate. I will be happy to yield.

Mr. GLENN. Madam President, If the Senator will yield, I think, backing up the Senator from Michigan, I would have to say, in law—whether being misconstrued or not—but to leave any doubt that CBO can say there are things we cannot score, there are things we do not know the answers to, there are things we cannot make estimates on, and they say that—and to say, ''but you have to whether you can or not,'' or something is not going to apply on the floor here, I think is the height of folly. I do not see the point of this, in trying to say if you cannot make an estimate that you have to anyway.

What is the worst thing that happens if we say OK, we recognize the fact that you cannot make an estimate and if the CBO, with all their expertise cannot, I am not going to say that the Budget Committee is going to be any more able to do some of these things? There will be occasions where the Budget Committee also will say CBO could not and we cannot either.

Does that say that a bill cannot come to the floor? No. I will tell you what it says. It says we will not have the waiver and the point of order and the waiver vote on it. But the worst that happens is a bill comes to the floor like it does now. We say, Here is what we think, and debate it, and we pass it or we do not pass it. But to say that a bill that CBO has considered and the Budget Committee has considered and say there is no estimate we can possibly make on this just by the nature of it—we already have a letter from CBO saying that would be the case sometimes—but to say you have to have one no matter what or you cannot bring a bill to the floor sort of seems to me a little bit ludicrous.

Mr. DOMENICI. Will the Senator yield?

Mr. GLENN. Yes.

Mr. DOMENICI. I have just been called by the leader, so I am leaving. But I wanted to make an observation, and then I will come back. If you want to come, you and I, sometime to further clarify, I will be here.

First of all, everybody should know that since the Budget Act has been in existence—how many years?—20 years, this same puzzle has been there. Some things cannot be estimated—very difficult to do it, I should say. Amendments are hard to examine. I give you the best example of just forcing it to work. That is health care. The Senator spoke of how many thousands of jurisdictions? About 87,000 would be affected. We had millions in health care. We never took up an amendment without an estimate. In our debate some things had to wait awhile. Some amendments had to be set aside. CBO had to beef up. They had to ask for lots of help.

I think those of us who are looking at the effect of mandates on the Federal Government versus the States in terms of governance and a lot of other things are saying times must change, we have to find a system. This system is not perfect, but let me suggest that if the Senate desires in the future to offer a bill or an amendment that is so tough to estimate that as hard as we try somebody comes down here and says, ''Senators, that is it,'' what it will permit is for the U.S. Senate to work its will, not this bill. The Senate will then have before it what is probably an onerous mandate. If it is not very onerous on its face, nobody would ever be worried about it. So you probably will have an onerous mandate. It is going to cost a lot of money. And the Senate will be put to the test. Do you want to pass it anyway? That is by a simple majority. Or do you want to say something different for a change, and you probably, in living up to the spirit of this, will do something different for a change. You will probably say we are not going to pass this. I would think that is one alternative. We have to get some better way to define what we are

trying to do. Or you might find another way. You might pass it and put an amendment in that 3 years from now we will come back to the floor because by then we ought to have mandates and it still will not be in effect. Then we will pass on that.

In other words, we will make the kind of senatorial, in the Senate, on-the-floor changes to accommodate. But it will be an accommodation to a very, very different set of precepts—which I believe my friend agrees with—precepts of getting it done if you can, not hanging them out there without anything about them, if you can do other business. I think he agrees with that. I think that is what this process is going to yield. It has been tried a long time.

Sometimes it is very befuddling when we try to use a point of order. But I also say that those who want to amend the 51-vote point of order to 60, there is another example why whoever crafted it crafted it well because a point of order is a majority vote, not a 60-vote point of order. That clearly makes the U.S. Senate work its will on the kind of cases you are describing which are brought up by this amendment.

Mr. LEVIN. If the Senator will yield on that point, it is fine for the Senate to work its will, but it ought to have an estimate in front of it, if it is feasible, which is reasonably accurate when it works its will because a point of order is hanging on this unlike any point of order in the Budget Act. This point of order does not relate to Federal spending and the level thereof. It relates to what it would cost 87,000 jurisdictions. This is a different kind of an animal from anything that we have ever had in the Budget Act, No. 1.

No. 2, I think here my friend would agree with me. If the Senate is expected to work its will on waiving the point of order—and both the Senator from Idaho and the Senator from Ohio are absolutely correct; this is not a no money/no mandate. This says under some circumstances, if there is no money, there will be no mandate.

But what is unique about this is that you are not allowing in this bill the Congressional Budget Office to say that you cannot make the estimate. We do it in the bill for the private sector. We do it in the bill for the private sector, but it does not allow the CBO to be honest. Why not allow the CBO to be honest when it comes to the intergovernmental mandate?

It is true, we still have a 50-vote point of order. If they say they cannot make the mandate, that point of order still lies. But now you have something that you can be aware of. The CBO says it is impossible to estimate the cost of that mandate and why. That may cause some people to vote no. I think my friend from New Mexico is right. A lot of people will vote ''no'' if the CBO says it is impossible to estimate the cost. It may on the other hand cause other people to vote to waive the point of order because there had been an honest effort made to get the estimate and it is simply impossible; it is too far out. It depends upon agency determination to have closed rulemaking.

My question is why not allow honesty on the part of the CBO and, if they cannot make an estimate, to say so in the intergovernmental mandate the way we do in the private mandate? We being the bill. If the bill says, CBO, be honest, if you cannot estimate the cost in the private sector, tell us for whatever impact that has on the Senate floor, that may cause some of us to vote no on the whole bill. That may cause others to vote ''yes.'' We do not know the impact of that information. But we do know that, when it comes to the private sector, we allow the CBO to tell us if they cannot make the estimate, but when it comes to the intergovernmental side, there is no such authority to CBO; you must make an estimate. And I want the Senate to work its will. But I want it to work its will on the basis of information which is solid. If we are going to force the CBO to make an estimate when they cannot make an estimate, we are going to be getting bum information from the CBO. They are going to take wild, out-of-the-blue guesses as to what this thing costs. In order to comply with the law, they must make an estimate.

Is that legislating in the light? Is that legislating knowing the cost of estimates? No; what that is saying is we are going to go through a formalistic process forcing the CBO to do something which they have told us at times they cannot do, and somehow or other we are going to feel better if we therefore now know the estimated cost of a mandate on State and local government. Do we really feel then that we now have information which is usable to us, that we can make a decision based on information because we have forced the CBO to do something that they have told us at times they cannot do? So what happens if they come up with a range? They just throw up their hands. This will cost from $1 million to $500 million. That is their estimate.

By the way, it is unclear that they can even give us a range. But to the extent that they are allowed to give us a range—again it is very unclear in the bill. We get two different answers on that question. But assuming they are allowed to give us a range, is that helpful to us? This will be from $1 million to $500 million. Now, are we really legislating knowing the impact on local government? That does not tell us anything. What level does the appropriations have to reach in order to avoid the requirements of this bill? Is it the $1 million or the $500 million? Is it a range?

So, again, I agree with what this bill is trying to do. I think last year's bill did it. Last year's bill had the support of all the Governors, by the way. This year's bill has even stronger support of the Governors, I am sure. But the Governors association and local governments supported last year's bill where we did not have this point of order that we have in this year's bill. We had the estimates. We had a requirement that they get an estimate. But we did not say that a point of order would lie, unless there is an estimate in a specific amount with certain ramifications.

I know my friend from Delaware is the chairman of the committee, and he has been attempting to get the floor. I certainly do not want to, in any way, control the floor. I am in the middle of a colloquy, with the unanimous consent of the body, with the manager of the bill. I will be happy to either yield further, or whatever it requires, to allow the Senator from Delaware to get a question in here.

Mr. ROTH. Madam President, I say to my distinguished friend and colleague, if he will yield without his losing the floor, it does seem in a very real way to me that you are comparing apples and oranges. The reason I say that is that in the case of a mandate being imposed on the public sector, then it is the rule or the general requirement of this legislation that funds be provided to finance it.

On the other hand, in the case of the private sector, while they are asking that an estimate be made, if there is no estimate, there is no requirement that funds be provided. So there is a very real difference between the public sector and the private sector.

I do not think there is anything being said that says the Congressional——

Mr. LEVIN. If my friend will yield——

Mr. ROTH. If I may finish. What we are saying is that in the case of a mandate on the public sector, it is the general rule that either funds be made available to finance it, or a waiver be obtained. So there is a very real difference in the policy between the two situations.

But I do not think anything is being said that the Congressional Budget Office cannot come back and say: We cannot make an estimate. But if they come back and say they cannot make an estimate, and it is a mandate on the public sector, then I, as author of that legislation or that amendment, either have to clarify the amendment so an estimate can be made, or I have to make sure that funds are provided. Or the third option is, of course, to get a waiver.

So it seems to me we are hanging up on whether or not the CBO, in the one case, can say it cannot make an estimate. If it cannot make an estimate, then we have those three options. Otherwise, we cannot move ahead. In the case of the private sector, we can still move ahead because the legislation does not require funding.

Mr. LEVIN. Madam President, the point the chairman makes, it seems to me, cuts exactly the opposite way. Since an appropriation is hanging on the estimate when it comes to the intergovernmental money, it seems to me that is more of a reason that estimate should be accurate.

We should not force the CBO to make wild guesstimates in order to comply with the requirement. They have told us over and over again that there are times when they cannot make estimates. But this bill says, ''Tough.'' That is what you are basically telling the CBO when it comes to the intergovernmental estimate: Make it anyway.

Mr. ROTH. If the Senator will yield.

Mr. LEVIN. Yes, I yield to the Senator.

Mr. ROTH. What I am saying is, if the Congressional Budget Office—in either situation, whether it involves the private or public sector—can make the statement that it cannot make an accurate estimate——

Mr. LEVIN. I beg to differ with the chairman, because the bill explicitly says——

Mr. ROTH. Where does it forbid CBO, in the case of the public sector, from coming back and advising the author or authorizing committee that it cannot make an estimate? What this legislation——

Mr. LEVIN. Here is where it does it, if I may tell you.

Mr. ROTH. I will make one further statement, and then yield back to the Senator who has the floor.

What we are saying in that situation is that, as a general rule, whoever is authorizing the legislation should clarify it so that an estimate can be made. What we are really trying to provide and really require is a reasonable estimate so that when Congress acts, it knows what it is acting on. That is the whole intent, as I understand this legislation.

Mr. LEVIN. Madam President, it is a very good intent. We have a current law which says exactly the same thing. The Budget Act now requires the Congressional Budget Office to make the estimate, where practicable. The chairman, my friend from Delaware, asks, ''Where does this bill say that they have to make an estimate in the intergovernmental sector?''

The answer is what it does is it has the explicit language relative to the private sector that:

> If the Director determines it is not feasible to make a reasonable estimate that would be required, the Director shall not make the estimate but shall report in the statement that the reasonable estimate cannot be made, and shall include the reasons therefore.

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

Mr. LEVIN. If I may read from the committee report of the Governmental Affairs Committee on this point.

It says:

> If the Director determines that it is not feasible for him to make a reasonable estimate that would be required with respect to Federal private-sector mandates, the Director shall not make the estimate but shall report in the statement that the reasonable estimate cannot be reasonably made.

And then the committee report goes on to say this:

> No corresponding section applies for Federal intergovernmental mandates.

That is very clear. We allow them to be honest when it comes to the private sector, yet do not permit them to be honest when it comes to the intergovernmental sector. It says they shall estimate. It does not have the possibility that they cannot make an estimate in the intergovernmental sector the way it does to the private sector.

Mr. ROTH. If the Senator will yield, the point I was trying to make is that nowhere, as far as I am aware, does the legislation forbid expressly the CBO from saying that it cannot make an estimate.

Mr. LEVIN. Why not allow it to do so, to say that?

Mr. ROTH. The important fact is what flows from that determination. The present language permits, in my judgment, CBO to say exactly that.

Mr. LEVIN. May I then ask the chairman why do we not explicitly say that?

Mr. ROTH. One reason is that it is difficult. You cannot fund a mandate for which there is no estimate. So what we are trying to——

Mr. LEVIN. The point of order would lie.

Mr. ROTH. So we are trying to require the authors of the legislation to go back and spell out the legislation in such a manner that an estimate indeed can be made.

Mr. LEVIN. Which is a good goal. But if the author of the legislation attempts to obtain that estimate, and it is impossible for the CBO to make it, even if there is a diligent request, why not allow the Director to be honest? Why force the Director to make an estimate which is absolutely a wild, out-of-the-blue estimate, just so he can comply with the law? Is that helpful to us in terms of our legislative process?

Do we really know more about the cost of intergovernmental mandates when a Director of the CBO, faced with this kind of a requirement that he estimate the specific amount of a mandate, throws up his or her hands and says, ''I cannot do it, and if I have to do it—and that is what the law says when it comes to intergovernmental mandates—I am going to say it is from $1 million to $1 billion; that is the best I can do''; is that really helpful to us in terms of understanding the impact of mandates?

I do not think it is helpful. I think we ought to be honest and acknowledge that there will be occasions when the Director of the CBO cannot estimate. The point of order would still lie if we want to keep the point of order in this area, because there is no estimate. But at least you would have had the statement as to why there is no estimate.

Mr. KEMPTHORNE. If the Senator will yield, I think that may be the crux of this. When it is a public-sector mandate, we are saying that we should pay for that.

Mr. LEVIN. Unless it is waived.

Mr. KEMPTHORNE. Unless it is waived. On the private sector, we say we will not be paying for that, but we ought to know the cost and impact up front.

With the private sector, if the Congressional Budget Office comes back and says, ''We just cannot make an estimate,'' then no point of order can lie. The Chair will not rule. They have no alternative. It does not lie, because the CBO has said there is no estimate, and so there can be no point of order.

That is the difference with the public sector. The CBO may come back and, in their report of estimate, state, ''We have tried this method and we have tried that, and we have consulted with the public entities, our partners, and this is the conclusion: Our estimate is that we cannot come to some conclusive information.''

But then we have a report. We have a report. We have not allowed a loophole that we are not going to deal with the issue of whether or not we should still fund it.

It may cause us to rethink this because if in fact you have the Congressional Budget Office—and I underscore the term ''Budget'' in Congressional Budget Office—and they say, ''We don't know what this will cost; it may well be beyond $50 million,'' if we allow them the same language as in the private sector, then we are not going to deal with it.

Mr. LEVIN. Why?

Mr. KEMPTHORNE. We are just going to vote. There is no point of order because the Chair cannot rule that a point of order lies.

Mr. LEVIN. May I ask my friend from Idaho why not? Why cannot the Chair rule that there is no estimate?

Mr. KEMPTHORNE. Because there will be nothing upon which to base the decision. There would be nothing to base the decision upon.

Mr. LEVIN. There is a failure of the amendment to have an estimate.

Mr. KEMPTHORNE. But I say to the Senator, with the process as prescribed, you will have that report from CBO. You then, as the Chair of that committee, can use that and come down to this floor, and you can get a majority to vote to waive that. Because you now have a report from CBO saying, ''We do not know what it is going to cost. We do not know how to estimate this.''

Mr. LEVIN. What is the amount going to be, then?

Mr. KEMPTHORNE. That is what we are going to decide. The will of the Senate is going to determine that.

Mr. LEVIN. The Senate has no basis. The CBO told us that they cannot make the estimate. You say they can be honest. You ought to say that in the bill, they can be honest. But you do not want to say that in the bill because then the point of order might be in effect.

But then my question is, you say they can be honest and tell us they cannot make the estimate, but you do not want to put that in the bill the way we have for the private sector; then what is the amount of the estimate

upon which the point of order will be based? What are we going to vote on?

Mr. KEMPTHORNE. I say to the Senator, it might cause us to then rethink the mandate.

But the Senator keeps going back, saying, let us be honest; let us be honest. S. 1 gives us this process to be honest. it is going to give us the best information possible.

Mr. LEVIN. With one exception.

Mr. KEMPTHORNE. By allowing the private sector process which is prescribed here, if you were to apply that to the public sector, then we will not come back for that sort of discussion because there is no basis from which to make that decision. The Chair cannot rule that a point of order exists. But, again, I say this with all sincerity, if the Congressional——

Mr. LEVIN. Why would the Chair rule there is no estimate?

Mr. KEMPTHORNE. If the Congressional Budget Office comes back and says, ''We have run the calculations on the estimate and our conclusion is we cannot give you a good number,'' what is wrong with that, to come back here with that information?

Mr. LEVIN. I think that is exactly what they should say, but you do not allow for it. I am the one who says the bill should allow for it.

Let me make sure there is no confusion as to who is saying what. I am the one who says that we ought to allow them to do precisely what the Senator from Idaho said they should be allowed to do.

Mr. KEMPTHORNE. The difference, I say to the Senator, is he is saying the same language used in the private sector. If you do so, then there is no way the point of order can lie.

Mr. LEVIN. Does the Senator from Idaho believe if they cannot make the estimate, that they should be allowed to tell us that?

Mr. KEMPTHORNE. Of course they should.

Mr. LEVIN. Should we so state in the bill?

Mr. KEMPTHORNE. We do not want to provide it so that the CBO can make the determination that we do not come back here and deal with the point of order. That is what I am saying. I mean, there may be some way we can craft this.

Mr. GLENN. Will the Senator yield?

Mr. KEMPTHORNE. I am happy to yield.

Mr. GLENN. It would seem to be going the route my colleague from Idaho wants to go on this, where you cannot say there is no cost, which seems to me preeminently sensible that you are going away from the $50 million threshold, because on every single thing that comes before the Senate, the $50 million threshold would mean nothing. It means there is some expense, even if it is on a postage stamp. If they say they cannot estimate this, but you are going to bring it to the floor on a point of order, the $50 million threshold means nothing.

We are now saying, in effect, that on every single bill, every single thing that comes before the Senate, even though we cannot make an estimate on it, that it is going to have a point of order and it is going to have the same treatment as everything else, and the $50 million threshold, it seems to me, just went down the drain.

I do not see what is wrong with doing exactly, by amendment, what the Senator from Michigan is doing. All he is saying is that where the authority is charged with making these estimates, they can say they cannot make it. And we have a letter here from them that says on occasion it is going to be extremely difficult, if not impossible, to make that kind of a judgment.

If it is impossible, who are we to say you have to do it anyway? ''You do what you say you don't have the staff, don't have the people, don't have the estimates to do on some of these 87,000 communities around the country.''

Why would we tell them to do something that they say they cannot do, or the Budget Committee itself say, ''Well, if CBO cannot do it, we will,'' just to get a figure out there, when it would be an absolutely fictitious, false figure on which nobody could base any vote on the floor.

It seems to me the way to go, which I thought you were about to agree to a moment ago, is with language that would say if the CBO cannot make an estimate, then they just say that. They say we cannot make an estimate and the bill would come to the floor and everybody would know that they cannot make an estimate. They would make their own judgment on the bills, just as we do now when they come to the floor without an estimate.

But the point is, probably 95 or 98 percent of the bills that would come before us would in fact have an estimate hooked up with them, and we would have taken much better cognizance of the cost in advance, which is the purpose of this bill.

I think we are all bogged down here on sort of a technicality. The purpose of this bill was really to say, we are going to force the Senate, where possible—and I underline that; where possible—to take account up front of what the cost of the bills are going to be and what the Federal mandates to the States are going to be, which we have never done before. And that will cover probably 95 or 98 percent of the bills that come before us.

It would seem to me just sensible that when the Budget Committee says it cannot make an estimate, with the people and the expertise and experience they have had for the last 20 years, and they say, ''We can't do that,'' and we are, in effect, telling them, ''You have to do it; we are forcing you to do it, even though you cannot do it,'' what are they going to do?

Well, they come up with some fictitious figure just to comply with what we have told them to do, and that figure will not mean anything because it will not be based on their best judgment. It will be based on what they somehow had to do when they told us they could not.

I think it would be common sense to me to do exactly what the Senator from Michigan is saying: Permit them in law—no fudging around; no alternate message here or no unclear message to them—to say that if you cannot make a judgment, you cannot make a judgment. You tell us that, and then the Senate proceeds to work its will, as we do now when we have bills where we do not have an estimate.

So it seems to me very fair to do that. I do not yet see the logic, with all due respect, of saying we are going to force them to say something that they tell us they cannot say. It just does not make any sense to me.

Mr. KEMPTHORNE. If the Senator will yield, I really believe that—and the good Senator from Michigan keeps referencing the 87,000 jurisdictions—they would be arguing what I am trying to say. Maybe I am not very eloquent in saying it.

It is not in any stretch of the imagination to say that CBO is to come up with some number, no matter how fictitious it is. I am saying there is a process that says they are to do their best effort in coming up with that estimate. That is the report they will receive. But it does not stop there.

Mr. GLENN. What If their estimate is zero?

Mr. KEMPTHORNE. That is the report, I say to the Senator.

Mr. GLENN. But they just say: We cannot say whether it is zero or $50 billion. Then what do we do?

Mr. KEMPTHORNE. Then I think we ought to rethink the mandate itself.

Mr. LEVIN. That is a good argument on the floor.

Mr. KEMPTHORNE. Exactly.

Mr. LEVIN. The question is, should they be able to tell us they cannot make an estimate. The Senator from Idaho keeps saying sure, they ought to. A minute ago, he said a good-faith effort. The words ''good-faith effort'' are not in the bill. The words ''good faith effort'' are not in the bill. It says they shall make an estimate in a specific amount, acknowledging in the private sector it may be impossible. They have told us in the public sector it may be impossible. They told us that over and over again for the last 12 years.

Most of the time they can do it, by the way, and should do it. And 95 or 98 percent of the time they can do it.

The Senator from Idaho keeps saying if they cannot do it, they should tell Members they cannot do it. All I am saying is, great, let Members put that in the bill. If they cannot do it, they should tell Members they cannot do it. And it is up to Members whether we waive a point of order.

Mr. KEMPTHORNE. Madam President, I agree with that but it is up to Members not CBO to certify by note that they cannot do it. So there is no

point of order, there is no basis for the Chair.

I think we may be caught in a bit of a technicality or semantics issue. I would be happy to sit down with the Senator and see if we cannot craft something here. Again, I am simply saying I do not want to see the Senate go with the same procedure as prescribed on the private sector because it will then allow the Senate to no longer deal with whether or not, as the Senator just said, we ought to come to the floor and seek a waiver. We would not be required to do that. I think we should when we are using the taxpayers' money in the million- and billion-dollar categories.

Mr. LEVIN. Madam President, the Senator from Michigan simply said we should allow the CBO to state that they cannot make an estimate in the intergovernmental site, in the same way they are allowing Members to say that on the private sector.

I did not say we should use the same procedure, but I say we allow them to be honest when it comes to the inability to estimate the cost of a private mandate. We should allow them to be honest when it comes to the cost of an intergovernmental mandate. That is all I am saying. It is an honesty amendment.

By the way, it will allow the Senate to legislate a lot better. We will not be gaining useful information if we force someone to make an estimate which is impossible to make. We are not doing ourselves a favor legislatively. Believe me, we are not legislating in a knowledgeable way, which is one of the purposes of this bill, and I have to say I totally agree with, that we know, where feasible, the cost of these estimates to State and local governments. By the way, where it is not feasible to know it, that it is a pretty good argument for not imposing.

There may be circumstances, by the way, where you still want to impose it. It may be the reasoning it is not feasible is it is dependent upon EPA estimates and there is no way, prior to a public hearing, prior to notice, prior to an administrative procedure, that EPA is going to whisper into the ear of the Budget Committee what their level of mercury will be 3 years in advance of their decision. So, there may be good reasons to just simply vote ''no'' on the mandate because we cannot get an estimate.

On the other hand, the majority may say, no, that would be unreasonable in this case to require and we do want to impose that mandate on local and State governments. We want all levels to reduce their level of mercury in incinerators, not just the local.

Mr. FORD. Madam President, as I understand, the Senator from Michigan retains his right to the floor regardless of the colloquy here.

The PRESIDING OFFICER. That is correct, the Senator from Michigan has unanimous consent.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I am not trying to control the floor here at all. I am trying to have a colloquy which will help to illuminate, hopefully, and I would be happy to ask unanimous consent that I be allowed to yield the floor to the Senator from Kentucky, or if there is objection to this process from any one of the colloquies, I am happy to yield the floor, period.

Mr. GLENN. Madam President, reserving the right to object, the Senator wanted a couple of minutes, and I wanted to make another point on this before we leave this.

Mr. FORD. Madam President, I will be happy to yield to the Senator.

Mr. GLENN. Madam President, go ahead and we will come back.

Mr. FORD. Madam President, the thing that disturbs me here, and I think it is a legitimate disturbance, that those in the Senate that would like to help business, those that would like to see that business gets a fair shake, I think applying the laws to the Senate, that we apply to our constituents, was something that was very significant.

Now in this language we are saying that we can stick it to business out there as hard as we want to because we cannot get an estimate. But to reverse that and say to the intergovernmental agencies, the communities, the counties, and the States that they are going to be exempt. So we are coming down as a business-oriented climate, I hope, and we are saying that we are going to stick it to business, but we will let Government, intergovernmental agencies, cities, counties, States, et cetera, I just think that this is wrong.

If it is fair for Members to say that business—the regulations, et cetera, will be imposed on business, but not imposed upon public operations, then we have a real problem. It is my judgment, if I was business, I would be up here trying to defeat this bill because then I would not be allowed to compete because the regulations and fees, or whatever, to be imposed upon business, would be excluded from the public sector.

Therefore, we are in competition with incinerators, and Lord, do we have problems out there trying to find disposal sites. It would just be horrendous in my opinion.

Hospitals. I see hospitals now trying to make it work where they have a private hospital and a public hospital trying to come together on some sort of HMO and it makes it difficult. So, in that category we would apply rules to the private hospital that we would not apply to the public hospital and, therefore, they would not be able to come together in an ability to cover communities with health care.

Schools. What are we going to do to asbestos and all its removal in private schools? And the cost is over $50 million, so therefore we exclude public schools.

I think it is time that we all sit down and rethink this. When people say we are trying to filibuster this, we are not. I am not. I am for the bill. I am for the bill that says we should not put in unfunded mandates. I introduced a bill 8 years ago, 6 years ago. The Senator from Ohio and I have been on there for a long time. Got two cosponsors first time I introduced this legislation. And $50 million was a threshold then. Still is the threshold.

So I am not against this legislation. But we have just gone so far, so far and attempted to jam it down our throat here, that some have just said, ''No, let's wait a minute.''

I think the public has benefited, particularly business has benefited, by the debate that has developed here. Now this, in my opinion, is what the Senate is all about: The right to debate. Now that we have had the right to debate, even though we are trying to be painted into a different position here, different image, I think this debate has been very successful and very useful, particularly as it applies to the business community.

So I want people who are saying this is a filibuster, it is not. Want to file cloture? Members can file cloture. Thirty-six amendments are floating out there in various and sundry types, on both sides of the aisle.

So we have, I think, played the role that our forefathers expected of the Senate when we are now questioning the aspects of this particular piece of legislation. So, it is not a filibuster. Not a filibuster in any stretch of the imagination. But it sure is, in my opinion, developing into something we better take a second look at because it has become so broad.

So I thank the Chair. I thank my friend from Michigan. I hope there will be a way to accommodate each side here so that the public and private sectors of our economy, both will be treated the same. Right now they are not.

If we are going to help business, we better sit down and try to help it out so business will not be placed at a disadvantage rather than the public being placed at an advantage. I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. Madam President, if I could just briefly, to my friend from Ohio, thank the Senator from Kentucky, my good friend, for focusing on a very important fundamental issue, which is whether or not we want to send a message, create a presumption, however we want to phrase it, that we are going to put the private sector at a competitive disadvantage in those areas where there is a lot of competition. And there are a lot of those areas. In the environmental area, we have gotten letters, by the way, from the environmental disposal community—I think three or four associations—strongly opposing what we are doing

here because it could put them at a competitive disadvantage.

So there is some real concern in the private sector, or at least parts of the private sector that compete with the public sector, about either the assumption or the presumption that we will be funding their competitors while we are not funding them.

And so Senator LIEBERMAN and I, and some others, will be offering some amendments later on in this debate to try to address that very significant point that the Senator from Kentucky has made.

Madam President, I am going to yield the floor in just 1 minute. I would just like to, before I yield the floor—and I have many more questions that I would like to pursue with the managers of the bill as to the way in which this process works, but I understand that they wish to make a unanimous-consent request, and I do not want to totally just dominate here. I want to try to clarify this process because it is very important what we are about to undertake.

My question of the manager of the bill, the Senator from Idaho, is this: The first question I asked had to do with when was that mandate effective. What is the effective date of that mandate in my hypothetical? I am wondering whether or not we can have that answer yet.

Mr. GLENN. Might I respond to that first? I did not get in that discussion before. If I might give my view on that, it seems to me you do this a couple of ways. The committee should have some idea of how long it is going to take for a State or local community to get ready for whatever the mandate is. In other words, if it is a water system, a sewer system or whatever it is that we are dealing with, they would have an idea of how long it is going to take in advance of the requirement date, such as the Senator puts down here, the year 2005.

If there was not a time put in, it would be my opinion that you would make an estimate of how many years it would take them to comply, and our sharing of the cost of that would start at whatever that time is. In other words, if the time limit that the Senator used in his example of the year 2005, if it was going to take 3 years in advance of that, the Federal funding portion of this, or whatever we worked out on that, would take the 3 years or 4 years or whatever the estimate was that would help them comply with that, or it would be worked out with the States. You could not wait until the mandate is to go into effect, in the year 2005 in his example, you could not wait until the year 2004½ and then say, ''OK, we are now going to help a little bit because their expenditures, if they are going to comply with that mandate, have to be made many times years in advance to allow them to comply.''

Mr. LEVIN. That is the reason, if my friend will yield, the reason I requested this information is exactly that. If the law or the bill states that after October 1, 2005, emissions of mercury at an unsafe level will be permitted and delegates the EPA to make the determination of what level is unsafe to human health, my question is: Now you are CBO. Is there any way of knowing what is the first year that any local government will modify its incinerator? Some local governments may start in the year 1998, 2000, 2001. Does it just take a wild stab in the dark as to how many incinerators that are publicly owned will be modified in each of the 5 years up to 2005? How can it possibly make that estimate?

And if—if—the managers of this bill are saying, in that case, the effective date of that mandate is before October 1, 2005, there better be a definition in this bill—there is not now—as to how you arrive at an effective date. It just simply says ''the effective date of the mandate.'' I think anybody reading that mandate that requires reductions of dangerous levels of mercury from incinerator emissions after October 1, 2005, would say the effective date of that is October 1, 2005.

The Senator from Ohio very correctly points out that a lot of the expenditures would have to be made in the years up to then. Absolutely. But we are triggering a point of order. We are triggering a required appropriation in order to avoid a very serious result from occurring.

The Appropriations Committees in each year, up to 2005—if my friend from Ohio is correct, which I think he is—would have to appropriate money to local governments. They have to be told how much to appropriate and they have to be told that 10 years in advance. This estimate of costs to State and local governments must be made in the authorization bill now. Someone has to figure out what is the effective date. This is not just some casual report. This triggers a point of order and a mandatory appropriation downstream in specific amounts, some of which are, again, impossible to estimate. But that is the earlier debate we had, the earlier discussion.

The question here is: If we are going to say the effective date is earlier than October 1, 2005, which is the first date that they must comply with a new mandate, if the effective date is going to be earlier than that, we better define ''effective date'' in this bill, because there is a lot that hangs on this. There is a point of order and there are appropriations downstream in specific amounts which must meet those estimates if certain things are going to follow.

So, again, we are not just talking about reports here. We are talking about points of order and specific appropriations that are going to be dependent on when this mandate is effective.

I thank the managers of the bill and, again, they have requested that I yield so that they can make a unanimous-consent request, and I am happy to yield the floor, but I do hope that at some point after their request, I will be able to again seek or obtain recognition so we can pick up our colloquy at that point.

I thank the Chair, and I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

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

Mr. KEMPTHORNE. Mr. President, I appreciate the Senator from Michigan. It is very apparent that his background in local government has helped him to understand. I think we were trying to communicate together. I think there may be a way that we can resolve this, and it may be something other than what he is recommending and may be something other than what I was recommending. I think we may be able to resolve this.

Mr. President, I am going to put in a quorum call just for the purpose of notifying a Senator who may have an interest in what will be a unanimous-consent request that I will make. I ask unanimous-consent that during the quorum call, I will have the right to retain the floor so that when we lift the quorum call, I will again have the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. Mr. President, reserving the right to object.

Ms. MIKULSKI. I am sorry, I cannot see the Senator.

Mr. KEMPTHORNE. I certainly have no reason to not allow the Senator from Maryland to proceed.

But, again based on my earlier unanimous consent, I would again ask that upon completion of her remarks that I would have the floor?

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

The Senator from Maryland?

Ms. MIKULSKI. Mr. President, knowing there is important legislative work to be done on the issue of unfunded mandates, I will not take unduly the time of the U.S. Senate. However, I do wish to speak on two items, one, an unsung hero from Maryland who has just passed away and the other on the issue of national service.

SISTER MARY ADELAIDE SCHMIDT

Ms. MIKULSKI. Mr. President, when we think of the word ''hero,'' we usually think of brave men who have gone

to war, who have served their country, and indeed as in the wonderful men who fought at the Battle of the Bulge and saved western civilization. But I wish to speak about another hero, a hero by the name of Sister Mary Adelaide Schmidt, school Sister of Notre Dame who taught me in Catholic elementary school. Sister passed away in the last few days at age of 97. She was born in 1898, when we did not even have the right to vote, but she certainly knew how to empower women, empower us with the message of the gospel, empower us with the skills that we needed to make it in the world, and to know how to claim our womanly virtue and at the same time make a difference.

Sister Adelaide played a special role in my life. This booming voice that you hear on the Senate floor today was a voice that was shy about speaking up when I was in the sixth grade. The same kind of voice, low pitched, husky, that can be heard throughout the Senate Chamber, could be heard throughout the sixth grade at Sacred Heart of Jesus Elementary School. As a result, I was shy about speaking up because my voice was lower than the other girls' in the classroom, when boys voices were changing.

Sister Adelaide asked me to stay after school, brought this out in her kindly way, to have me share that with her. And then for the next couple of weeks she said, let us make sure you know how you sound and how good it is going to make you feel. She had me read poetry, she had me read passages of the Psalms, she had me read out loud from both the Bible and contemporary works of literature. By the time I finished that stretch of time I knew how to speak up; I was comfortable in doing it. Two years later I ran for class president in the eighth grade and, as Paul Harvey says, ''You know the rest of the story.''

So today I would like to pay tribute to Sister Mary Adelaide and the enormous sacrifice that she made with her life that made a difference in so many others', like my own. And for all of the wonderful men and women who are teachers, and teach in religious day schools: Know that you have made a difference. I believe that they are unsung heroes.

So, Mr. President, I wanted to salute Sister Mary Adelaide.

NATIONAL SERVICE

Ms. MIKULSKI. Mr. President, I wanted to speak on the issue of national service. The new issue of Newsweek quotes the new Speaker of the House as unequivocally opposing national service because it is, in his words, ''coerced voluntarism.''

I believe the new Speaker does not understand national service or the grounding that went on behind it.

As one of the founding godmothers of this initiative, I rise this afternoon to express my dismay at yet another attempt by Republican leaders to distort a bold approach to solving our country's problems.

It appears from these recent comments and others made earlier on the floor today, that some in this Congress will try to lump national service in with every other program headed for the chopping block as part of our institution's budget cutting fever.

Well, I am here today to say that national service is not a Government-run social program. And that is the point that the Speaker and some of national service's critics misunderstand.

It is not a program but a new social invention created to provide access to the American dream of higher education and to help create the ethic of service and civic obligation in today's young people.

Under national service, young Americans receive a reduction in their student debt, or a voucher for higher education, in exchange for full- or part-time community service. Service projects are driven by the choices of local nonprofits organized around one of four broad themes—public health, the environment, public safety, or education.

National service began as a concept with the Democratic Leadership Council and other Democrats like myself in the 1980's. But its purpose was not born of political gamesmanship or partisan advantage. It was designed to address two of the most pressing needs that our country faces. One, how can students pay off their student debt; and how can we create a sense of voluntarism.

The first is the issue of student indebtedness and access to higher education. Most college graduates today face their first mortgage the day they leave college—it is called their student loans. That debt often forces them to make career choices oriented strictly to getting them financially fit for duty.

Worse yet, for many the high cost of higher education simply denies them access to college at all.

By providing a post-service benefit, national service members can ease their student debt, or accrue savings that will help them go to school. It is not an entitlement, and it is not a hand out.

Educational benefits are linked to work service. Participants are eligible only when they have finished their work service commitment.

The second problem national service is designed to address is more idealistic. It is how to instill in young Americans what de Tocqueville called the habits of the heart. To address the sharp drop over the last two decades in the number of Americans who volunteer in their own communities, a fact representative of Americans disinvesting in those social institutions which helped build our country.

Bob Putnam, a Professor at Harvard, has written an article called ''Bowling Alone.'' He says more people bowl today than a decade ago but few belong to bowling leagues. So, Senator MIKULSKI, what does that have to do with national service?

The point is bowling alone is a metaphor for the way Americans have come to view civic involvement and citizenship. There has a been an absolute decline in developing community involvement. People have less time available because many households have two wage earners instead of one. They are more mobile. We have a society that is more influenced by TV. And they are also less committed. There is a serious lack of a sense of civic obligation.

Fewer people attend PTA, groups like Red Cross and the Boy Scouts have fewer volunteers.

My point in saying this is that national service is an idea that promotes exactly the values that the Republican leader wishes to instill. The fact that we should not rely on Government, that there should be a role for nonprofit organizations, that there should be for every opportunity, an obligation; for every right, a responsibility. And that is what national service is about. It is not coercive. Nobody is forced to get into the national service program. But I will tell you what they do. Their lives are significantly changed by it and their communities are significantly changed by it.

Young American men no longer have the shared experience of military service that served for the men of my generation as a rite of passage into adulthood. Where they learned that there was more to being a good citizen than just staying out of trouble. That instead, civic responsibility meant uniting with people of all different walks of life for a common purpose to help people help themselves; to be part of an American effort bigger than themselves.

National service is the latest in a long series of social inventions we have created to help provide access to higher education. We created night schools to teach immigrants English. We created the GI bill for returning veterans, and we invented community colleges to bring higher education close to home at a modest cost.

The argument that national service is coerced voluntarism is a knee-jerk statement that belies the facts. I chaired the Appropriations Subcommittee which has funded national service in the past. In the first 2 years of the Clinton administration, no one coerced anyone to participate. Instead, people were knocking down the doors to join.

Two facts make this point. First of all, there are more people who want to participate than there are opportunities.

In national service's first 2 years, about 1,500 organizations applied for funds. Only 300 were selected because of lack of funds. That is a selection rate of just 20 percent—a lower selection rate than peer-reviewed research grants at either the National Science

Foundation or the National Institutes of Health.

Second, in the current fiscal year, we provided enough funds to get about 23,000 people participating in full- or part-time national service. Yet since the President launched his call for a season of service, the Corporation for National Service has received calls from nearly 200,000 different persons wanting to participating in the program. So just 1 in 10 who have wanted to voluntarily participate have been able to do so.

Now some discount the kind of work undertaken through national service. They say it is trivial, or unnecessary, or even irrelevant. But I can tell you that in my own State of Maryland, national service is making a difference—not with fancy bumper sticker programs or activities that simply touch the surface of what is needed.

For example, 30 national service volunteers in Montgomery County are working with cops as victim assistance advocates for 1,000 senior citizens. They help teach crime prevention techniques and organize neighborhood watch activities. They work every day to make Montgomery County, MD, a safer place to live.

National service is helping senior citizens avoid crime by teaching crime prevention, organizing neighborhood watchdogs and rural, urban. In suburban areas they have service corps related to conservation. They are rehabilitating houses for low-income families. When we were hit by tornadoes, the National Service Corps moved in and helped families help themselves to be able to pull themselves out of the tragedy that affected them. There are many criticisms of national service, and Senator GRASSLEY raised a few related to bureaucracy. I do think we need to make sure that bureaucracy is kept at a minimum.

Mr. President, regardless about how one feels about it as an organization, let us not lose sight of the mission. We need new social inventions in this country to take us into the 21st century just like we need new technological inventions. We have continued creating social inventions that have provided access to the American dream around owning a home and acquiring higher education. In terms of acquiring education, we in the United States of America invented night school so immigrants could be able to learn English, citizenship, and move ahead. No other country in the world had it until we invented it. There is the GI bill that said ''thank you'' to Americans who made sacrifices in World War II, and part of that was to be able to have a VA mortgage and a VA opportunity to seek higher education. We even invented the community college system to make sure that you did not have to go away to be able to learn.

National service is an opportunity. It is an organization right now that is providing volunteer slots of 20,000 people a year to actually work hands on in their own community, primarily working through nonprofits and enabling themselves to pay off their student debt, helping the community. Mr. President, I believe their lives will be changed. I believe that when the voucher part of this program is over they will go on volunteering the rest of their lives.

I think it is an important program. I hope that before we go around attacking some of these programs that we take a look at their mission. If we have to fine tune the administrative aspects of it, so be it. But I believe national service is an important part of our national agenda and should have bipartisan support.

In rural, urban, and suburban places around Maryland, the Maryland service corps—like the Maryland Conservation Corps, Civic Works in Baltimore, and Community Year in Montgomery County—are teaming up to rehabilitate houses for low-income families.

These are but two examples of hundreds of ones that are taking place across America in 49 of the 50 States. They are fighting to make a difference in people's lives, 1 day at a time, one person at a time. Because in today's culture of mass marketing, mass production, and mass advertising, we need to teach every young American that he or she can make a difference. Whether they are from a middle-class suburb, a tough inner-city neighborhood, or a rural county that's economy is driven by the labor of the land.

Earlier today, one of my colleagues alluded to a General Accounting Office study that I initiated when I chaired the VA-HUD Appropriations Subcommittee. It is a routine review of the administrative costs of national service activities designed to help us improve it where possible, and guarantee as much money goes into service activities instead of overhead.

The fact that we began it in the last Congress demonstrates the long-standing desire of those who support the program to make it bipartisan, and focused on results, not rhetoric. It doesn't indicate any evidence that this initiative is off-track or funds wasteful service efforts.

To suggest otherwise is simply to let one's rhetoric get ahead of the facts.

So, I for one, look forward to the GAO's findings and intend to use them to improve national service, not undermine it.

As the new Republican majority takes shape in both Houses of Congress, I hope that they keep an open mind on national service. Rather than criticizing it, national service seems to be the kind of program they should like.

Service choices are selected on the basis of merit, not political muscle. And those choices are made at the State and local level, not by bureaucrats in Washington.

It rewards the kind of values like sweat equity and hard work that are the heart of American family life. It does not identify with victims, but instead calls people to self-responsibility—by helping not just yourself, but others too.

What better way to help a young woman on welfare but to help her understand that she can not only receive help, but provide it to others as well.

Benefits are earned through work, not a Government handout. There is no entitlement.

And national service promotes the kind of social cohesion—rich and poor, black and white—best achieved by people working together, a theme the new Speaker outlines so eloquently in his maiden speech as Speaker.

I worked for many years as a social worker and community organizer in Baltimore. I learned from that experience more than I have ever learned from memos and briefings in Washington. I am a better Senator because of what I learned from the people and the communities I worked with every day. The people who work in national service are also learning and being changed by their experience too.

It was 35 years ago that President Kennedy challenged Americans to ask not what their country could do for them, but what they could do for their country. In that spirit, I will join the President and my colleagues on both sides of the aisle in fighting to preserve national service in the days and months ahead.

I yield the floor under the unanimous-consent agreement that we had agreed to.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senate from Idaho is recognized.

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

Mr. President, it was going to be my intent to seek unanimous consent that we proceed to a vote of the pending amendment before us, which, as I understand it, is the amendment on page 15, lines 23, 24, 25, and on page 16, line 1. But it is my understanding that there would be objection to that. Therefore, Mr. President, in order to continue to proceed forward, I move to table this amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the committee amendment on page 115, lines 23, 24, and 25, and on page 16, line 1. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas

[Mr. GRAMM], and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—52

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

NAYS—42

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

NOT VOTING—6

Bradley	Gramm	Kennedy
Faircloth	Hutchison	Pryor

So, the motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the motion was agreed to and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to table is agreed to.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 25, LINE 11

Mr. KEMPTHORNE. Mr. President, we now have before us the committee amendment which begins on page 25, line 11. It would be our hope that we could now have a meaningful discussion of this amendment which is properly before us, and that at approximately 1 hour from now we could seek a vote on this amendment. In all likelihood, that would be the last vote.

Mr. FORD. Mr. President I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KEMPTHORNE. Mr. President, as I believe my colleagues in the Senate know, S. 1 was considered and passed by two Senate committees, the Budget Committee and the Governmental Affairs Committee, but there is one issue of disagreement between the two committees. That issue is which committee, if any, should resolve future disputes about whether legislation contains mandates that may be subject to a point of order.

During its markup, the Senate Governmental Affairs Committee added two amendments. The first made the Budget Committee responsible for determining mandate costs and the second amendment gave the Governmental Affairs Committee a role in deciding issues related to the point of order.

As I understand the Senate Governmental Affairs Committee's view, the committee expects that during those instances when the Parliamentarian must rule on a point of order under this section, there may be occasions when there is a need for consultation regarding the applicability of this law.

These two amendments provide that on all such questions that are not within the purview of the House and Senate Budget Committees, it is the Senate Governmental Affairs Committee or the House Government Reform and Oversight Committee that shall make the final determinations.

For example, on the question of whether a particular mandate is properly excluded from coverage of the act or is a bill which enforces constitutional rights of individuals, the Governmental Affairs Committee would be the appropriate committee to consult. On a question regarding the particular cost of such mandate, the Budget Committee would be the appropriate committee to consult.

Now, the Senate Budget Committee took a different view. The Senate Budget Committee struck these two amendments. The Senate Budget Committee's view is that the reference to the Budget Committee's role is unnecessary, for it is similar to language already in the Budget Act. In other words, the Budget Committee already has the responsibility to do the work that the Governmental Affairs Committee gave it.

About the issue of having the Senate Governmental Affairs Committee consulted about points of order, the view of the Senate Budget Committee is that it is not needed. For the past 20 years the Senate Parliamentarian and the Senate Budget Committee have 20 years of experience with these Budget Act points of order. S. 1 follows the exact same process now used in Budget Act estimates.

The Budget Committee does not believe there is a precedent for two committees to resolve Budget Act points of order. That is the issue as simply as I can explain it.

Since the markups, Senators DOMENICI and ROTH, the Budget and Governmental Affairs Committee chairmen, have discussed this issue and both have agreed to support the Budget Committee amendments. I believe that Senators GLENN and EXON, the ranking members of these two committees, have yet to reach agreement.

With that as an overview, Mr. President, I believe that we have the chairmen of the committees, the ranking members and other Senators that would like to address this issue. I yield the floor.

Mr. DOMENICI. Mr. President, could I ask the Senator to correct something? I heard the Senator say Senator EXON has not decided. He supported the amendment that I put forth in the committee, so I believe he is here to speak in favor of the amendment.

Mr. EXON. Mr. President, the Senator from New Mexico is certainly correct.

Mr. KEMPTHORNE. Mr. President, I accept that correction.

Really, my intent there was to point out that Senator EXON and Senator GLENN, as ranking members, have not yet come to an agreement. I think that is fair to say.

Mr. President, I yield the floor.

Mr. GLENN. Mr. President, I rise to oppose the Budget Committee's amendment.

Mr. President, I was elected to the Senate the same year that the Governmental Affairs Committee, then called Government Operations, enacted the Budget Act and the Budget Committee. The Senate rules provide that changes to the Budget Act are the joint responsibility of the Governmental Affairs Committee and the Budget Committee.

We gave the Budget Committee the responsibility to provide estimates on direct spending and created the Congressional Budget Office to help determine the costs of legislation to the Federal Government, and we now require that committee reports contain CBO estimates of such costs.

We have seen for many years that there have been some controversy that has resulted over different opinions as the costs of a particular bill, joint resolution, or regulation. We went through months of stormy debate last year over the costs of health care legislation, as my distinguished colleague, the chairman of the Budget Committee, mentioned earlier on the floor today.

Why did we do that? Because cost estimates in most cases are highly sensitive to underlying assumptions as to how a piece of legislation or regulation will be implemented and enforced. A so-called expert in making cost estimates who uses an underlying assumption that is wrong or highly speculative will provide a cost estimate that is no better than a wild guess by an amateur.

Nonetheless, for the purpose of having an orderly budget process, we have agreed to use CBO figures and in their absence, Budget Committee estimates in dealing with Budget Act estimation requirements. So we created the Budget Committee, gave them the jurisdiction and responsibility to oversee and provide technical cost estimates. And

now here we are some 20 years later, and the claim is made that their experience enables them to do estimation of the costs of Federal mandates on some 87,000 States, localities, tribal governments, as well as the private sector.

We in the minority of the Governmental Affairs Committee did not challenge the decision made without our input to have last year's unfunded mandates' bill rewritten as an amendment to the Budget Act. It was not written as an amendment to the Budget Act last year. Last year the Budget Committee did not seek or claim any jurisdiction over S. 993, a bill that in substance forms the basis for S. 1. I repeat, we did not object when that was proposed that it be rewritten as an amendment to the Budget Act.

Despite this decision, our staff worked with the staffs of Senator KEMPTHORNE and the Budget Committee to produce another bill that we could support. When the minority staff on our committee were confronted with the fait accompli that the bill was now to be an amendment to the Budget Act and the demand that last year's bill had to be strengthened to make it more difficult to avoid a point of order on a bill, the minority staff worked with their Democratic and Republican colleagues on both the Governmental Affairs and Budget Committees to try to produce a bipartisan result that we could all support.

In that spirit, the Governmental Affairs Committee produced a bill that recognized the varied interests of those supporting the principle that we should legislate unfunded mandates only with full realization of the burdens being imposed by such mandates. As we worked through the bill it became clear that the procedures in the bill had the potential for providing significant delays that could be exploited for purposes not of clarifying the effects of legislation, but for purposes of, in effect not lobbying but filibustering for purposes of perhaps stopping the legislation. Accordingly, we in Governmental Affairs felt wherever possible, the bill's procedures should be very clearly spelled out along with who has responsibility for what.

We recognize that making estimates of the cost of mandates is complicated and has the built-in conflict of interest produced by dependence on the States and local governments for most of the cost data. Because of the profound changes in the Senate procedures that the bill would allow in the case of legislation containing mandates, there is a quite legitimate question as to whether the Budget Committee alone, since budget process jurisdiction is shared with the Governmental Affairs Committee, should determine if a threshold has been breached by an amendment of a bill.

Nonetheless, since someone should be responsible for cost data and for overseeing the CBO State and local cost estimating process we agreed in S. 1 to give the Budget Committee explicit responsibility for this, which in my view I think they should have but they do not uniquely have, under the Budget Act.

This responsibility is actually shared with the Governmental Affairs Committee. We felt we had an agreement with Senator ROTH and myself, the chair and ranking member of the Governmental Affairs Committee, and Senators DOMENICI and EXON, chair and ranking member on the Budget Committee, on language in S. 1 that details the responsibilities of each committee in overseeing implementation of S. 1. All four of us cosponsor the bill.

Then, the Budget Committee took this explicit language out of the bill and I thought broke the agreement that we had. They thereby created a situation in which the chair, advised by the Parliamentarian, would be the entity that would determine whether the cost of a mandate exceeds the threshold. In other words, is it a Federal mandate or not?

Now, I have no doubt that the Parliamentarian would probably tend to look to the Budget Committee for guidance on this despite the fact that it is the Budget Committee's experience estimating the cost of Federal intergovernmental mandates is not significantly different than that of the Governmental Affairs Committee which under rule XXVI has had the jurisdiction over intergovernmental relations and federalism for many years going beyond the length of time we have had a Budget Committee in existence. In other words, our committee on Governmental Affairs has the mandate as part of our mandate, written into law and rules of the Senate here, that we deal with intergovernmental matters—Federal, State, and local matters—and that is written into our reason for being.

Should we depend on the uncertainty of the Parliamentairan's approach and our belief as to how he might act based on precedence dealing with things other than the cost of the mandates? I believe the Parliamentarian should be given explicit instructions in the bill to look to a specific committee for guidance on estimates. Since they want to do it, I support the Budget Committee having the responsibility to do the estimates. That is why both committees explicitly agreed to write that responsibility into the bill, not only for the Senate Budget Committee but also for the House Budget Committee in the case of legislation containing Federal mandates that come before the House.

Now, unfortunately, what has happened in this legislation is the Senate Budget Committee has taken out the reference we put in giving them and the House Budget Committee the responsibility for doing estimates but then in a later section they put language back there giving the House Budget Committee explicit responsibility to do the estimates, suggesting that the Budget Act does not need something in it clarifying committee responsibilities in this area.

That raises the question of why the House Budget Committee is treated differently than the Senate Budget Committee in this Senate amendment. I do not believe they should be treated differently. But, frankly, the question before us is not only who should do the estimates that we may agree on, but who determines whether a bill contains a mandate.

This is not a trivial matter, and the Governmental Affairs Committee worked hard, in cooperation with Senator KEMPTHORNE and State and local government organizations, to produce a definition that we think makes sense.

The Governmental Affairs Committee has been in existence since 1920 and, under rule XXVI, has jurisdiction over intergovernmental relations. It has worked on this legislation for the better part of a year and is in the best position to make judgments about whether a bill contains a Federal intergovernmental mandate, meeting the definition in S. 1.

So in S. 1, we gave Governmental Affairs the explicit responsibility to make this determination for the Senate, and we gave our counterpart committee in the House, the Committee on Government Reform and Oversight, the same authority with respect to House bills.

The Senate Budget Committee, in marking up S. 1, now has removed the Senate Governmental Affairs Committee from determining for the Senate whether a mandate exists but has not removed the authority of the House Committee on Government Reform and Oversight from the bill. The result is that the House will have a process whereby the determination of whether a mandate exists will be made by a House Committee on Government Reform and Oversight. But in the Senate, the Parliamentarian, backed up by the entire body, will have to make the decision every time a challenge arises.

How will the Parliamentarian rule and to whom should he turn for consultation before making his ruling? There is no precedent, and there is no process. I think it is illogical and I think it is inefficient. I think it will result in further procedural delays in passing legislation through the Senate and more misunderstanding about what this process is that we are putting into place.

If the House Committee on Government Reform and Oversight is considered the appropriate body to make a final determination for the House on whether a mandate exists in a bill, it makes sense for the Senate to turn to its sister committee, the Governmental Affairs Committee, for that purpose. That is a responsibility, I would add, that we are given under the rules of the Senate as to what that committee is responsible for.

Mr. President, this is more than just a jurisdictional issue, although jurisdiction has been injected into the issue by rewriting last year's bill as an amendment to the Budget Act which, in my view, was unnecessary. The issue here is what is logical and what is efficient.

Many people have concerns that the procedures of this bill may be used to delay or kill legislation opposed on ideological grounds. I have those concerns myself, even though I am a supporter of the thrust of S. 1. Accordingly, I believe it is a disservice to good process to eliminate from this bill the specific responsibility of a Senate committee, the Senate committee assigned to intergovernmental relations, to make determinations of applicability of this legislation and turn that responsibility over to the Parliamentarian with no guidance and no precedent.

So, Mr. President, I urge the defeat of the Budget Committee amendment.

What this boils down to is, is the Senate assignment of responsibilities to the Governmental Affairs Committee, in this regard, one that the Senate wishes to carry out, or do we permit, because the bill was written as a change to the Budget Act, is it now to go to the Parliamentarian, which I think is unjustified?

So I urge the defeat of the Budget Committee amendment for those reasons, as well as the fact that we are treating the House and the Senate differently. The responsibilities do lie over in the House, split between the Budget Committee and the Government Reform and Oversight Committee over there, as it should be here.

I think to make the processes conform and to prevent any further misunderstanding about this bill, I urge defeat of the Budget Committee amendment.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in support of the Domenici amendment, which was reported from the Budget Committee. The amendment has the effect of deleting any reference in the legislation to the Senate Committee on Governmental Affairs and the Senate Committee on the Budget in deciding whether a point of order may lie under the proposed section 408 of the Budget Act.

The Domenici amendment, reported from the Budget Committee, is identical with an amendment I filed but did not offer during Governmental Affairs' consideration of S. 1. I did not offer it because of opposition from the minority side of that committee and I wished to expedite reporting the legislation to the floor.

Under the precedents of the Senate, the Chair rules on all points of order except a few that it submits to the body itself and except where a statute may otherwise require. The only example of the latter is the Budget Act, which gives the Budget Committee a special role on certain points of order.

S. 1 as introduced would create a new exception for Governmental Affairs while making clear that the Budget Committee's role on budget issues also carried over to ''the levels of Federal mandates'' for any fiscal year under proposed section 408.

At first look, one might assume that both committees should have distinct and equal roles in deciding points of order—that Governmental Affairs opine on whether a provision is a mandate covered by proposed section 408 and that Budget opine on whether provision contains sufficient funding. But the roles are not parallel at all. For the Budget Committee allows its chairman to act on its behalf because all that the chairman does is present the CBO figures to the presiding officer. The Governmental Affairs Committee would have no similar role in conveying its determination on whether section 408 applies or not to the provision against which a point of order is lodged.

All types of questions might arise as to whether or not a bill or amendment falls under this legislation. S. 1 contains a list of exemptions on matters affecting constitutional or civil rights, emergency relief, other emergencies, national security, and so on. These questions involve a lot more discretion than matching up a CBO estimate of costs with a provision's level of funding.

When an amendment is offered and a point of order is made under S. 1, how is it possible for an entire committee to meet and decide in time for the Chair to rule? It is not possible at all.

Suppose the point of order is made against an amendment that requires States to buy computers and software to create a database that facilitates registering to vote. Does such a provision fall within the exclusion in section 4 of S. 1 for those that ''enforce constitutional rights?'' Does the provision enforce a right to vote or only make it easier to enjoy? Is the exclusion limited to constitutionally required rights or does it cover any extra measures that simply involve constitutional rights?

Equally nettlesome questions may arise in determining whether a provision increases the ''stringency of conditions of assistance'' to States with respect to certain entitlement programs. Every change in such conditions will raise the stringency issue. Suppose some changes increase stringency and some relax stringency. These are not always quantifiable issues and may be difficult to assess.

Since answering such questions is a far cry from delivering a CBO estimate to the presiding officer, I support the Domenici amendment deleting language which I believe is both unworkable and inappropriate.

The crux of the distinction is that S. 1, as introduced, would allow the subjective decision of one committee, or even one Senator, on a qualitative matter to be the final authority. In contrast, the language of S. 1 does not give the Budget Committee's determination on the levels of Federal mandates the status of finality even though its determination is a quantifiable one informed by input from CBO, whose evaluations are thought to be politically unbiased. In view of such considerations, the language in question should be deleted. It is, as I said unworkable and inappropriate.

For that reason, I support the Domenici amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to speak long. Senator EXON is here and he wants to speak also. I want to thank Senator ROTH, as chairman of the Governmental Affairs Committee, for supporting the committee amendment that is pending now, which amendment, essentially, would take out all reference to either the Budget Committee or the Governmental Affairs Committee having any new powers to pass judgment on a bill's relevance, on this bill fitting the definition, and on this bill exceeding the amount of money that are the limits in this bill.

It essentially is saying that we do not need to create new authority in a new committee, and certainly not of the type found on page 25, which I really do not believe that the Senate, under any circumstance, would have approved. Because it says that the Government Reform and Oversight Committee in the House and Governmental Affairs Committee in the Senate would make final determinations.

Essentially what we want on points of order is whether a bill or an amendment or resolution fits the definition of a mandate, and then what we need is to find out if it breaks the $50 million mark in terms of cost to local government—we need that decision made by the U.S. Senate, not by a committee.

Essentially what our amendment will do, and Senator ROTH encapsulated it perfectly, is it will put the decision on what is a mandate to be made by the Chair upon advice of the Parliamentarian. And we have, over and over, tried to write language as to what a mandate is in this legislation. We have written language in this legislation as to what exceptions there are. So what Senator ROTH quite properly is saying is that decision as to whether a piece of legislation fits that or not should be made by the Chair upon advice of the Parliamentarian. That is what happens in many instances here. A question of germaneness under the budget. There is language, there is germaneness language, and the question is put to the Chair.

The Parliamentarian advises the Chair and the Chair rules. And if the Senate wants to get involved it then proceeds thereafter to say we do not like the decision, we will overrule it.

The Parliamentarian determines whether a question is divisible. The Parliamentarian also determines questions about extraneous provisions under the Byrd rule. We do not send that to the Budget Committee to make that determination. We do not send it to the Government Ops Committee. We send it to the desk and the Parliamentarian informs the Chair based upon precedent, based upon language. The Chair says that matter is extraneous.

And then who makes the final decision? The final decision is made by the Senate of the United States.

What we are doing by adopting the so-called Domenici amendment is saying: This bill creates no new authority in any committee to determine the relevancy of an amendment or a bill or resolution—that is, is it a mandate or not. It creates no new authority. We rely on the definitions and the exceptions and approach the Chair. If somebody brings something down here and we are wondering whether it is really a mandate, we will just have to say I raise a point of order. I will read it and then read the language that is in here, in the bill itself, and say this seems not to be a mandate.

The Parliamentarian will do what he does on many such occasions and advise the Chair. And then we will proceed as I have described before.

Let me get to the cost issue. Frankly, I think the role of the Budget Committee and the Budget Committee's chairman or chairperson—the role is not quite understood. The reason the chairman of the Budget Committee has a role is because he has the Congressional Budget Office standing behind him. It is not his role, but the role of the Congressional Budget Office, CBO, to furnish the information under the Budget Act that is to do the numerical evaluation. The chairman then delivers that to the Parliamentarian and says here is what CBO says.

The Parliamentarian then says to the Presiding Officer: CBO says this. We are obliged to accept CBO's information, unless the Senate changes it, this is the ruling. And the Chair so rules.

What is the chairman of the Budget Committee going to do when we have stricken the language? He is going to do the same thing with reference to what? With reference to having the CBO standing behind him or her, because they are charged with doing the economic evaluation and coming up with what? With dollar numbers. They are going to say this mandate only will cost local government $42 million. They are going to say that.

The chairman is going to take it up to the Chair. What is the chairman going to tell the Parliamentarian? ''Mr. Parliamentarian, they say 42. The statute says unless it exceeds 50 it is not subject to the point of order.''

And the Parliamentarian will not take my word or the chairman's word. The Parliamentarian will read it and he will turn around and say to the Chair, ''The Congressional Budget Office, whom we are bound to accept numbers from on this, has spoken. And they say 42.'' He will say to the Chair, ''This does not come within the purview.'' Let us not have any more mandates unless we pay for them.

What is the other role? The other role has to do with when the CBO says it is going to cost $250 million. Therefore it is within the purview of the mandate legislation.

What is the chairman of the Budget Committee going to do when the Domenici amendment is adopted that does not give this authority to anyone new—no new committee, no new chairman? The very same thing. He will be backed up by the CBO, who will tell him $250 million. He will carry it to the Chair in the same manner I have described.

The second part of this legislation has to do with regulations on business. Therein, there are no points of order but, again, we have to know what we are doing before we pass the legislation. And to know what we are doing requires that we actually understand the economic impacts.

Where are we to get them? We are not going to get them from a committee. No committee has final determination of that. The Government Ops, Foreign Affairs, Budget—we get them from the Congressional Budget Office. Because that is what this bill says. The chairman will bring that, through the Parliamentarian, to the Chair; and thus from the Chair the Senate will be advised.

So frankly I do not believe we need to change the practices. I believe we have the Congressional Budget Office and the Parliamentarian interpreting the intent of legislation vis-a-vis definitions in this bill or exclusions in this bill and we communicate those in one way or another. And we are suggesting that we have had 20 years of experience in communicating it through the CBO—from the CBO, through the chairman of the Budget Committee, to the Parliamentarian, to the Senate through the Chair, through the Presiding Officer.

So I would think that the issue here has both support of the chairman of Government Operations, the ranking member of the Budget Committee, Senator EXON, whom I will yield to momentarily, the chairman of the Budget Committee—and I hope we will dispose of this amendment without taking a lot of time tonight. But clearly that is not for me to decide. I do not intend to try to use any more time than I absolutely feel is necessary for me. With that I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself such time is needed in support of the amendment offered by myself and Senator DOMENICI.

Mr. President, I rise in support of the distinguished chairman of the Budget Committee and the amendment unanimously recommended by the Budget Committee regarding the role of the Budget and Governmental Affairs Committee in the application of this legislation.

My friend and colleague, the Senator from New Mexico, makes a lot of sense. When we write legislation such as the broad fresh brush of this legislation, we must be vigilant not to set dangerous precedents. Unfortunately in one very troubling area, we have let down our guard. Granting the Government Affairs Committee sole jurisdiction to determine whether or not a piece of legislation is an unfunded mandate is a very dangerous precedent. However, if we strike the Budget Committee amendment we would be vesting in one committee, the Government Affairs Committee, the authority to make final determinations on the applications of a point of order.

I am very uncomfortable with such a radical change. I have always relied on the good wisdom of the Parliamentarian on such matters and that is the time-tested course of action we should take with us on S. 1. Currently, for all other points of order under the Budget Act, the Chair turns to the Parliamentarian for any such determination of law. The Senate Parliamentarian's office is staffed with skilled and able lawyers, learned in the precedents of the Senate. They do an admirable job, often on very short notice. When the Parliamentarian determines that the budget estimates are required, the Parliamentarian turns to the Budget Committee as required by the Budget Act.

I am not a lawyer. But for my colleagues who are lawyers, I am advised that the Parliamentarian decides questions of law much as does a judge in a trial. The role of the Budget Committee is limited by law and precedent to questions of fact, not questions of law. The Budget Committee merely provides the budgetary numbers to the Parliamentarian, who then takes these numbers into account in advising the Chair. This system has worked well for 20 years. Over the years, the Chairs of the Budget Committee have fulfilled this advisory role with objectivity and without regard to partisan advantage. By and large, the Chair of the committee merely passes along a Congressional Budget Office estimate and only rarely does an analyst for the committee have to extrapolate from such estimates.

I have full confidence that Senator DOMENICI will continue to fulfill this role with objectivity and evenhandedness now that he has regained the chair of the committee. He did that previously. I think he will do so again. But let me say parenthetically that I shall be sure to point out most vocally any instance in which he does not.

Let me also say that it is altogether fitting that a single Senator be charged with this estimating responsibility.

The Presiding Officer must be able to turn to someone in the Chamber who can provide these estimates, sometimes long after the Congressional Budget Office has gone home for the night. Giving two committees this authority would almost certainly lead to confused advice to the Parliamentarian. The Chair must know who to turn to, as they have in the past, on such matters.

The amendment proposed by the chairman of the Budget Committee and unanimously approved by that committee would merely continue that practice, indeed. If the language slipped into the draft of S. 1 that this amendment corrects were merely dropped and there were no references to the committees at all, the Parliamentarian would continue his practice of turning to the Budget Committee for budgetary estimates. What is more reasonable than that?

I believe stripping the Domenici amendment from the bill would needlessly complicate the enforcement procedures in S. 1. With the Domenici amendment, we have the right mechanism to enforce violations of S. 1. Why clutter it up with a very cumbersome, clumsy, and untested process? The Budget Committee has for 20 years done this. They have the experience in dealing with language such as that contained in S. 1. We have served as the liaison with the Congressional Budget Office to provide the Parliamentarian with CBO cost estimates for all of that period.

Mr. President, there is no compelling reason to set such a dangerous precedent as that suggested by the underlying governmental affairs language. There is no compelling reason to grant one Senate committee such unprecedented power over matters better left to the Parliamentarian. There is no compelling reason to change what is not broken.

I urge my colleagues to accept the Budget Committee's amendment as unanimously accepted by the Budget Committee and clearly endorsed by Senator ROTH, the chairman of the Governmental Affairs Committee.

S.1 AND BUDGET COMMITTEE'S ROLE

Mr. ROTH. The Budget Committee's amendment strikes the roles of both the Budget Committee and the Governmental Affairs Committee in making determinations regarding the point of order in this bill. The bill would, with the amendment, become silent on how these determinations should be made. I wonder if the distinguished chairman of the Budget Committee would respond as to how the determinations of levels of mandates would be made under this legislation?

Mr. DOMENICI. I would be happy to respond to the distinguished chairman's question. First of all, the Budget Act generally provides that the determinations of budget levels for the purposes of Budget Act points of order are based on estimates made by the Budget Committee. In practice, the Budget Committee works with CBO to provide these estimates to the Presiding Officer for the purposes of determining whether a point of order lies against legislation. In those instances where a CBO estimate is not available, the Presiding Officer turns to the Budget Committee for an estimate.

While this legislation does not explicitly give the Budget Committee this authority. I do not think this authority is necessary. The Budget Act generally assigns this responsibility to the Budget Committee. The committee's intent in this amendment is that the Presiding Officer continue to seek the advice of the Budget Committee for a determination of the budgetary levels in order to determine whether legislation violates this point of order.

Mr. ROTH. I understand that the Budget Committee would retain authority for making estimates for the purposes of determining the levels of mandates, but some may still have a question about the impact of striking the Governmental Affairs Committee's role. By striking the Governmental Affairs Committee's role in the bill, are we now giving the Budget Committee the authority to determine what constitutes a mandate?

Mr. DOMENICI. The determination on what constitutes a mandate would reside with the Presiding Officer. The Budget Committee's role would be limited to providing estimates on mandate levels.

Mr. ROTH. I wonder if the distinguished ranking minority member of the committee, the senior Senator from Nebraska, could respond to these questions?

Mr. EXON. I concur with the remarks made by the Senator from New Mexico. Let me reiterate several points. In this legislation, the authority given to the Budget Committee for the purpose of determining estimates coincides with the authority already granted by the Budget Act. The Budget Committee would continue to work with the Congressional Budget Office to produce the estimates of mandate levels. This bill grants the committee no new authority.

The Presiding Officer would have the final determination as to the applicability of this legislation. The Budget Committee would not be involved in this process. The committee's role would be confined to providing estimates.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I would like to respond to my friend from Nebraska briefly because I think there is some misunderstanding about what the provisions in this bill are, as well as to how the provisions were put into the bill. Nothing was slipped into, as he said, S. 1. Nothing was slipped into S. 1. It was in the bill submitted to the committee. We did not put it in. It was not an amendment in committee. It was placed into the legislation in the original language of the bill.

A little while ago, the statement was made that this particular portion of the language was introduced in the Governmental Affairs Committee. That is just not true. The language was put in as a part of the original legislation that was submitted, the part on page 25.

So any indication that something was slipped into S. 1, as though we were trying to get somebody else's jurisdiction, is just flat not true. There was basically an agreement made by all parties that were working on this bill that the division of responsibilities on this would be that the costs would be gone through and would be monitored by the Budget Committee. I had no objection to that. The mandates part of this, though, was part of the responsibilities the Senate, in our written instructions to the committee, the intergovernmental relations part, should be a responsibility of the Governmental Affairs Committee. There was no taking of somebody else's jurisdiction; quite the opposite.

What is in the bill now is that the amendment would provide for taking responsibility away from the Governmental Affairs Committee, where it logically resides and where Senate instructions would normally be interpreted, where it should reside, and give it to the Parliamentarian to make a judgment on what is a mandate or what is not a mandate.

I did not object to making this an amendment to the Budget Act. I did not expect at that point that making it a part of the Budget Act would mean that the Budget Committee then would insist that the mandates part of this or a judgment on the mandates part would be taken away from the responsibilities of the Governmental Affairs Committee.

If this makes sense, then let me make one other reference to change that was made and is included in the language on page 27 of the bill. It is in heavy print. This was not in the original bill. It specifically gives the responsibility for making cost judgments over in the House to the Budget Committee. And also in the House, on any judgment regarding mandates, it gives that responsibility to the House Committee on Governmental Reform and Oversight.

That was not in the original bill. That is, the Budget Committee here that we are mandating to the House that the Budget Committee over there will take up costs, and that the Committee on Governmental Reform and Oversight will deal with mandates. That was not even in the original bill.

So we are saying: House of Representatives, here is how you have to take up this legislation, and here is the division of responsibilities on making judgments on it.

At the same time, we come to the Senate, and instead of having the comparable committees in the Senate responsible for similar judgments over here, we say what is OK on the Budget Committee over here, we take it away from Governmental Affairs and give it to the Parliamentarian. Over in the House, you specifically made changes to provide specifically where the responsibilities would go and made them different than here in the Senate. I think that is wrong.

I do not see why we specify that over there. If it is so wrong here, why is it so right in the House of Representatives? I just do not see the logic of this at all. So what the Budget Committee did in its markup was to vitiate an agreement that we had made prior to the introduction of the bill. There was no language introduced in the Governmental Affairs Committee at all. This all came out of the changes that the Budget Committee insisted upon. I am sorry that our committee chairman, Senator ROTH, has left the floor because all this language we are talking about here was in the bill over there. Yet, he did not disagree with it in committee. He voted for the bill coming out of committee, supported the bill, moved it to the floor and wanted a vote on it. I was for that. I did not disagree.

We had lost on several amendments we proposed that we thought would have made it stronger over there. Now we come to the floor and suddenly what is good for the House of Representatives, in the wisdom of the Budget Committee in giving it to the oversight committee over there, jurisdiction over mandates and jurisdiction over costs over there, when they come out of CBO; yet when we come to the Senate, we say the Budget Committee would consider costs over here. I do not quarrel with that one bit. I think that is a logical place to be.

Suddenly, for reasons beyond my understanding, the Budget Committee tells the Senate Governmental Affairs Committee, without any action on the Senate floor, your jurisdiction is down the tubes, and it goes to the Parliamentarian. It does not make any sense to me. That is the reason I think we were dealt with very unfairly over here.

I will not ask the Parliamentarian, but I do not know whether the Parliamentarian prefers to have this particular responsibility, as a matter of fact. This puts an enormous responsibility on the Parliamentarian that is supposed to rule on Senate order and rules and not get off into the legislative function of making judgments that no Parliamentarian in the Senate has ever made except on points of order provided under the Budget Act. We are giving House committees specific responsibilities, but we are saying the Senate cannot have those same responsibilities in our comparable committees. So that is the reason I get exercised on this when I think it is a little bit ridiculous. I repeat that this was not something slipped into S. 1, as my colleague referred to. This was in the bill as submitted to the committee.

I yield the floor.

Mr. EXON. Mr. President, it may be a misunderstanding and we may be talking by each other on some of these matters. I simply point out what I think the ranking member of the Governmental Affairs Committee just alluded to, and that is the fact that what we are trying to do is leave the process the way it was. There can be no argument but what if you would follow the position taken by the ranking member of the Governmental Affairs Committee, we would not be making a change. The normal order is for the Parliamentarian to rule. The Governmental Affairs Committee bill would differ with that and change it. We objected to this Governmental Affairs proposal during negotiations. We did not control the process. They said they would take out the language, as we understood it, between meetings of the staff.

Mr. GLENN. Will the Senator yield?

Mr. EXON. I will say this, and then I will be glad to yield. I also simply say that with regard to the House of Representatives, we merely included what we understood our colleagues in the House wanted to do. We do not choose to impose any solution on the House of Representatives. We think we are doing here what our colleagues in the House want to do. Also whether it is unanimously agreed to over there or not, I know not. I simply say that I am not confusing the ranking member of the Governmental Affairs Committee in bad faith. It might be that we are talking past each other.

I simply point out that S. 993 did not include the Governmental Affairs' language that is in S. 1 that we are asked to vote on. So a change, therefore, has been made. Maybe there is some misunderstanding on the part of the Governmental Affairs Committee on this. I simply point out, Mr. President, that not only the total Budget Committee—Members on both sides of the aisle, including myself as the ranking Democratic Member, and Chairman DOMENICI, and our position is supported by Senator ROTH, the chairman of the Governmental Affairs Committee support the amendment. I would like at this time, Mr. President—and then I will yield and be glad to respond to any questions from my friend from Ohio that I might—to refer to part of a colloquy that will be included in the RECORD, which indicates a question Senator ROTH asked me as part of the colloquy, and my response was—I hope this might help clear up the matter—''I concur with the remarks made by the Senator from New Mexico. Let me reiterate several points. In this legislation, the authority given to the Budget Committee for the purpose of determining estimates coincides with the authority already granted in the Budget Act. The Budget Committee would continue to work with the Congressional Budget Office to produce the estimates of mandated levels. The bill grants the committee no new authority. The Presiding Officer would have the final determination as to the applicability of the legislation. The Budget Committee would not be involved in that process. The committee's role would be confined to providing estimates, which is a role the committee has always played, and we hope the Senate, by supporting the amendment offered by the chairman of the Budget Committee, will continue in that traditional role.''

Mr. GLENN. The Senator from Nebraska answered the question I was going to ask. But I do not understand yet why it is right for the Senate to dictate to the House, when it is in the legislation what the jurisdictions of different committees will be.

My friend from Nebraska says, ''We understand they wanted it that way.'' Well, I do not automatically accede to the House having legislation over there that says, well, we think somebody in the Senate wants it, so that is the way we will do it. Yet, we dictate in this thing very specifically. The language is even almost identical from one part to the other in the language that provides for the assignment of responsibilities here in the Senate. It was in the legislation. And that is over in the House. Yet, we very specifically said, by action of the Budget Committee, OK, that is alright over in the House, we agree with that in the House. This is a logical definition of where things should go in the House. In the Senate we have to take the responsibility away from the Governmental Affairs Committee that, by the rules of the Senate, deals with matters of intergovernmental relations up and down the line, and we are going to take that responsibility away, without saying anything about it, and put it in this legislation and give that authority to the Parliamentarian. I just think that is illogical. I cannot accept the explanation by my friend from Nebraska as to exactly why we are doing this when it seems to me so logically in the other direction. If it is logical for assigning this to the House the way we did, then it is logical to assign it to the Senate the way we did.

I yield the floor.

Mr. EXON. Mr. President, as we may be beginning to make progress on this, maybe we can agree to this amendment. I advise my friend from Ohio that this Senator did not negotiate with the House of Representatives on this matter. I understand that the majority side has been negotiating with them. I have been told by the majority side that the House of Representatives endorses and wants us to leave this matter. We are checking on that right now. I hope that I can reach Senator DOMENICI so he can come back on the floor, since I believe it was he or one of the Republican members of the Budget Committee who did the actual negotiations with the House on this and not

this Senator, or as far as I know any Democrat or minority member of the Budget Committee.

Let me emphasize once again that the Budget Committee has always followed the procedure, as has the Senate for 20 years, that when matters with regard to points of order have been raised on the figures supplied to the Budget Committee—which most people would agree is the authority on this, has the staff to follow it, and has the responsibility to work with CBO to get exact numbers—that those matters have traditionally been decided by the Parliamentarian, advising the Chair. We simply want to leave that the way it has always been and not change it.

I hope that we will have a more definitive answer to the legitimate question raised by the Senator from Ohio with regard to what is the pleasure of the House of Representatives on this matter. It was not our intention to be doing anything except to try to parallel the processes that will be necessary to work out, I suggest, some parliamentary questions that are going to be raised and to which points of order might lie. In that instance, the Parliamentarian would be advising the Presiding Officer as to what the situation was.

I emphasize again, as has Senator DOMENICI and as has Senator ROTH, the chairman of the Governmental Affairs Committee, that all we are doing is trying to leave this the way it was.

Now, I happen to think that the Budget Committee should legitimately play a role when budgetary matters are considered, and it is simply the position of the Budget Committee that we should leave well enough alone and not try to fix something that is not broken.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I agree completely with what the Senator from Nebraska just said. I do not propose to change the point of order at all. We do not change that. There is nothing about a point of order in this particular section of this thing. It has worked well for 20 years. I agree with that, with the Budget Committee, with the cost estimate and whether points of order lie, and the Parliamentarian makes that judgment.

What we are talking about is what happens when it is not clear as to what is a mandate and what is not. Now, I think this problem would occur only very infrequently. I think most of the legislation put in will appear to be very clear when there is a mandate or when there is not a mandate.

But what happens when there is a question about what is a mandate or what is not a mandate? That is the question.

We do not propose to change the point of order that has worked well for 20 years. I agree with that. The language we are talking about here has nothing to do with points of order. It has to do with who makes the determination on what is a mandate and what is not.

Over in the House, by the wisdom of the Budget Committee here, we give that authority to the Budget Reform and Oversight Committee in the House to make that determination in the few times it may come up. We see no reason why over here that should not be in the committee that has the assigned jurisdiction over intergovernmental matters—Federal, State, and local—assigned by the rules of the Senate, and the committee does its best to carry those out.

So I submit it does not have anything to do with points of order. I support the points of order, the procedure we have had in the Senate for 20 years. I see nothing wrong with that. This is a whole different matter from that.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, with regard to the question of whether the Parliamentarian can do what this bill would ask him to do, let me say that we have given the Parliamentarian even more difficult tasks in the past than this one.

For example, the Byrd rule that we are familiar with, on extraneous matters on reconciliation bills, which are very important, and it is a very complicated statute that requires many decisions of law.

Furthermore, the War Powers Resolution, to cite another example, requires the Parliamentarian to make hard choices.

In the Senate, the Parliamentarian can consult with whatever committee he wishes.

The point that we are making here as members of the Budget Committee, supported by the chairman of the Governmental Affairs Committee, is that the process in place has worked well.

Why do we find ourselves in this debate that has taken the last hour's time of the Senate? Because we are passing an important new piece of legislation called S. 1, which has to do with mandates on governmental agencies. What we are simply saying, Mr. President, is that we are not trying to interfere at all with the responsibility that we in the Budget Committee recognize fully is in the prerogative and responsibilities of the Governmental Affairs Committee with regard to the affairs of different levels of Government.

What we are simply saying, Mr. President, is that we, as a Budget Committee, feel that we should leave well enough alone with regard to points of order that would affect the budget. We think that it has worked very well to leave that authority completely in the hands of the Presiding Officer with the advice and counsel of the Parliamentarian. It has worked well in the past and we want to continue it that way.

I suggest, absolutely, that we think there is a matter of jurisdiction here, but more important than the matter of jurisdiction is keeping a system in place that works well. We still feel that the attempts by the Senator from Ohio, the ranking member of the Governmental Affairs Committee, would complicate a process that we think has worked very well under the jurisdiction of the Budget Committee.

Now, I would certainly emphasize once again that if we have a point of order—and we hope that the Presiding Officer, under the advice of the Parliamentarian, would go back to the Budget Committee for the exact figures and numbers—there is nothing to say that if it is the opinion of the Chair or the Parliamentarian that other committees should also be consulted about this, then that would be something that could be done.

I will simply say that what we are objecting to is the specific inclusion of the provision the Governmental Affairs Committee is trying to get approved in this legislation. That is why we have offered the amendment authored by the Senator from New Mexico, the chairman of the Budget Committee, and supported by Senator ROTH, the chairman of the Governmental Affairs Committee.

I hope with that background, Mr. President, that we could come to a vote quite soon on this. I hope and I urge the Senate to support the recommendations made unanimously by the Budget Committee, by the chairman of the committee, Senator DOMENICI, by myself, the ranking member, and strongly supported also by the chairman of the Governmental Affairs Committee, the distinguished Senator from Delaware.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, I want to comment on some of the remarks of my friend from Nebraska by making a parliamentary inquiry.

I make the inquiry of the Chair as to whether the Parliamentarian has previously ruled as to whether or not language in a bill or an amendment has constituted a mandate on State and local governments.

The PRESIDING OFFICER. The Parliamentarian has not so ruled.

Mr. LEVIN. Now, when we say, ''Just keep doing it the way we have done it before,'' let us understand what we are talking about.

We have a Budget Act—and I will get to that in a minute, because the Budget Act makes specific references to the Budget Committee.

I will come to that one in a minute. What we have heard on this issue is just leave it the way it has been done. Let the Parliamentarian rule the way he has ruled for 20 years on these points of order.

The Parliamentarian has never ruled on whether or not there is an intergovernmental mandate. The Parliamentarian has never ruled, and I will make this a parliamentary inquiry of the Chair, Has the Parliamentarian ever ruled whether or not a provision in a bill requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the U.S. Government? Have we ever had a ruling like that from the Parliamentarian?

The PRESIDING OFFICER. No.

Mr. LEVIN. Mr. President, I can go on and on through these exemptions. I think the point is clear. We are skating out on a new pond.

The Parliamentarian has never ruled on these issues, whether or not language constitutes a mandate; whether or not, because it is an exception to the requirement provision if a bill enforces the constitutional rights of individuals, establishes or enforces a statutory right that prohibits discrimination based on rights. I can go through all of these with the Parliamentarian but I know the answer.

This is a new process that is being undertaken. The Parliamentarian has not ruled on this type of thing before. And we are asking the Parliamentarian to undertake on every bill, resolution, amendment, et cetera, every one, subject to a point of order. This is not just a Byrd rule on reconciliation. This is not just a War Powers Act.

I agree the Parliamentarian has some difficult decisions to make. I fully agree with my good friend from Nebraska on that issue. This is on every bill that comes to this floor, every amendment that comes to this floor, the Parliamentarian will have to rule as to whether or not there is a mandate on that. Because if there is, it is out of order.

When I say he will have to rule, he may have to rule on every bill. He may have to rule, and will have to, if somebody raises a point of order. But if the language which exempts local government from paying for a mandate is not in a bill or resolution, and if it does not have that other language relative to the appropriations, and if it does not have an estimate, it is subject to a point of order. Anybody can raise a point of order on every amendment, every bill, that comes to this floor.

The Parliamentarian, for the first time in history, is going to have to rule as to whether or not language in a bill constitutes an intergovernmental mandate. The Parliamentarian has never ruled on anything like that before. We have just heard from the Parliamentarian through the Chair. I could go on and on and on, by the way, as to other elements of the bill which constitute exceptions to the mandate requirement where the Parliamentarian has never ruled. The argument that, look, this thing has worked for 20 years, why change a good thing, does not work when it comes to the question of what constitutes a mandate or an exception to the mandate requirement. The argument simply is not applicable to that.

Now, should the Parliamentarian on that issue consult with Governmental Affairs? I use the term ''consult'' with Governmental Affairs? I think the answer is ''yes.'' I think we ought to provide language which, in effect, says that. That is the intent of the language which is in the bill which would be struck by the Budget Committee amendment.

While my dear friend from Nebraska is on his feet I am wondering whether or not I might have unanimous consent to ask the Senator from Nebraska a question and not lose my right to the floor?

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

Mr. LEVIN. Mr. President, I listened very carefully to the Chairman of the Budget Committee and to the ranking member, Senator EXON.

Is it my understanding that the way the Senator from Nebraska reads this bill, that the Budget Committee is bound to accept the estimate of the Congressional Budget Office relative to the cost of an intergovernmental mandate, and is simply the transmission belt or the liaison to transmit the data from the Congressional Budget Office?

Mr. EXON. Mr. President, the answer to my very dear friend is that, no, the Budget Committee does not have to accept in toto the dollars and cents on anything submitted by the Congressional Budget Office to the Budget Committee.

But for all practical purposes, we do it that way.

Mr. LEVIN. Mr. President, I thank my friend from Nebraska.

Now, the next question would be, is the Parliamentarian bound under the Budget Act to accept the figures given to it by the Budget Committee?

Mr. EXON. Mr. President, my answer would be that obviously I would think that since the Parliamentarian does not have an estimating organization under his control, I would think the precedent, as the Senator from Michigan fully well knows, that the Parliamentarian would go along with whatever information he had at hand from the reliable source which we think in this instance is the Budget Committee.

Mr. LEVIN. Mr. President, is it the Senator's understanding of the Budget Act that in determining a figure under the Budget Act in ruling on scoring, for instance, that the Parliamentarian must accept the figure given to it by the Budget Committee?

Mr. EXON. Mr. President, I am not an authority on that as the Senator from Michigan knows. I am not a lawyer so I cannot give him a legalistic answer to the question.

I would simply amplify what I said before: in practice, that is the way it has always worked. It has worked very, very well. We do not think it should change.

Mr. LEVIN. Mr. President, let me make a parliamentary question, whether or not under the Budget Act the Parliamentarian is required to accept the scoring figure from the Senate Budget Committee?

The PRESIDING OFFICER. The Budget Act does authorize the Parliamentarian to accept the figures given by that Budget Committee.

Mr. LEVIN. My parliamentary inquiry is, is the Parliamentarian bound to accept the figure from the Senate Budget Committee?

The PRESIDING OFFICER. Where the law authorizes the Budget Committee to make those estimates, the Parliamentarian is then obliged to accept those estimates.

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

Now, that becomes a very critical point because the law in many places does not just simply throw the budget number at the Parliamentarian and say, ''here, you figure it up.'' It assigns that responsibility to the Budget Committee.

I was interested in the Senator from New Mexico's comment about leaving this to the Parliamentarian, as though the law assigns certain responsibilities to the Budget Committee. The way I read the law, the four references out of the five in the Budget Committee's report, it is the Budget Committee—not the Parliamentarian, but the Budget Committee—which makes the determination at the budget level when there is a point of order.

Suddenly, it becomes unnecessary to be specific about assigning this function to the Budget Committee. Why are we shy here about assigning the same function to the Budget Committee, which is to try to figure out what a mandate costs, when we have made that same assignment to the Budget Committee—not the Parliamentarian—to the Budget Committee over and over and over and over again, in the Budget Act? I said four ''overs'' because I got four sections of the Budget Act.

For instance, section 311(C) for purposes of this section, and this is a point of order section, ''the levels of new budget authority, budget outlays, new entitlement authority and revenue for fiscal year shall be determined on the basis of estimates made by the committee on the budget of the House of Representatives or of the Senate,'' as the case may be. Why are we shy about doing it in this bill?

Why are we shy about being explicit in this bill the way we have been explicit over and over again in the Budget Act, assigning a responsibility to the Budget Committee, so it is clear?

Do we want to leave ambiguity—there is enough ambiguity in this bill already, I must say. We have a new point of order which is incredibly complex which, in many instances, is going to be made against a bill for not containing an estimate which cannot be made. A point of order is going to lie

against a bill for not containing an estimate when we know now some estimates cannot be made. We have been told by the Budget Office. And yet a point of order is going to lie.

We are creating a point of order for the absence of something which cannot be supplied. That is pretty complicated for being straight with ourselves and with all those local officials and State Governors. It is pretty complicated. We know it cannot be supplied at times, and yet we are telling them that a point of order is going to be made for the failure to supply an estimate which is impossible to be made. You watch those points of order being waived like mad down the road. But that is neither here nor there. The point is we have a complicated bill.

We have a complicated bill with a new point of order which was not in last year's bill. And, by the way, the reason for the language which the Senator from Nebraska objects to in the bill and seeks to strike through the Budget Committee amendment is, there is a new point of order and there was an effort made to clarify who would make a determination.

Do we want to just leave it to the Parliamentarian and kid ourselves? The Parliamentarian is not in a position to determine how much it would cost 87,000 local governments to put in a new scrubber on an incinerator to get rid of mercury. Come on. That is not the job of a Parliamentarian. The Parliamentarian is going to be handed a number by the Budget Committee and they will have been given a number, maybe, if we are lucky, by the CBO. That is the way it is going to happen, just the way the Senator from Nebraska has indicated. The CBO will try to make an estimate. If it cannot, precedent is the Budget Committee is just going to be the liaison, the transmission belt. Even though legally, I think the Senator from Nebraska is correct, it is not obligated to do so, it will as a matter of precedent.

But this is a very, very complicated bill, and we should not leave ambiguity on purpose. We should not leave it on purpose. If it is going to be the Senate Budget Committee which is going to make a determination and hand it to the Parliamentarian, let us say it is the Budget Committee. Let us just say it. We do it in other places in the Budget Act. I read one of them, and I will not read the other. There are many places in the Budget Act. We say that the Budget Committee shall make the estimate.

We know where the Budget Committee gets it. That is where they should get it: the Congressional Budget Office. That is exactly the right place to look. But why be ambiguous.

I was intrigued by the committee report of the Budget Committee, where it says that:

> The committee does not believe that the authority needs to be explicitly stated . . .

Why?

> In the absence of a CBO estimate—

Here they talk about an absence of an estimate, which is news to me because we did not think it was possible. Now there is acknowledgement there may not be one.

> the committee intends that the determinations of levels of mandates be based on estimates provided by the Senate Budget Committee.

The argument here is you do not have to make it explicit because it is implicit that the Senate Budget Committee is going to give to the Parliamentarian the figures, if it has any, from the Congressional Budget Office.

What everybody knows would happen. That is what my friend from Nebraska referred to when he said it has worked for 20 years. Estimates come in from the Congressional Budget Office to the Budget Committee, the Budget Committee hands them over to the Parliamentarian, and the Parliamentarian rules. But we have been explicit about that. We have said that the estimates would be made by the Budget Committee.

One of the sections which is being stricken by the amendment before us makes it clear that it is the Senate Budget Committee which will make the estimate. I do not know why there is any reluctance to do that. It has been done over and over again.

But I think what the Senator from Nebraska is saying is that there is some reluctance to have the Governmental Affairs Committee be involved on the question of whether or not there is a mandate. This is no longer a question of the number of or the cost of something. This is now a question of whether or not there is a mandate at all. The cost issues under the language of the bill are left for the two committees. How much is for Budget; whether it was left to the Governmental Affairs.

I believe that it is proper for Governmental Affairs to be at least consulted—at least consulted—on the question of whether or not an intergovernmental mandate exists when the Parliamentarian has had no experience in doing that, and I think properly should not be put in a position where they are going to have to make decisions of this nature.

So I hope that the committee amendment from the Budget Committee will be defeated and that we can work out some language which would at least require consultation with the Governmental Affairs Committee on the question of whether there is a mandate or whether or not there is an exclusion from the mandate, leaving it to the Budget Committee to, again, determine the amount of the cost, which is the traditional thing that the Budget Committee has determined.

So I thank my friend from Nebraska for responding to my questions, and I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with keen interest to my friend from Michigan and the points he has made.

I will simply reply that in the first interest, several sections vest the Budget Committee with decisions on matters of fact, not matters of law. Under the situations we are talking about, the Parliamentarian is the chief legal advisor to the Presiding Officer. He is the official in whom we should vest this power. I believe from the beginning that is what we intended to do. It is inappropriate to vest that power in another committee.

I will simply say that the Senator from Michigan could have conducted a similar set of inquiries with regard to any new point of order. Of course, the Parliamentarian has not ruled on a point of order that has not yet been adopted or enacted into law. I do not know that there would be a different ruling from a Parliamentarian in the future, but I hope that that Parliamentarian will continue to rule on the precedents of the past.

But neither does the Governmental Affairs Committee have any expertise at all in this matter. And certainly I would simply say to the U.S. Senate that regardless of the twists and turns of this matter, and regardless of this debate, which has carried not so much on the specifics of the amendment offered by the chairman of the Budget Committee, Senator DOMENICI from New Mexico, but has carried over into some concerns that I know the Senator from Michigan has on the whole matter of mandates and how they are going to be enforced.

I simply say that those kinds of considerations and arguments that are going to be made in very articulate fashion, I suggest, by my friend from Michigan, probably refer to—and may be appropriate on—passage of the whole mandate bill. I have talked with the Senator from Michigan. He has done a lot of research on this. I was very much interested and impressed with the information that has been brought to his attention in the form of a letter, after inquiry by the Senator from Michigan, from the Congressional Budget Office that raises a whole set of new questions about whether or not CBO can make these estimates, and they have said in some instances they have no way of making these estimates.

I believe part of the argument that is being made against the amendment offered by the Senator from New Mexico are arguments that will be made along the same lines, but possibly in a little different fashion, by the Senator from Michigan. The Senator from Michigan talks about allowing consultation with the Government Affairs Committee. I have no objection to that. But the language of the bill provides no such compromise. The bill says that the Government Affairs Committee, ''shall have the authority to make the final determination.'' That is what we are trying

to strike in the pending committee amendment.

It is open to a compromise, I suggest, regarding consultation. But to get to the compromise first we have to adopt the Budget Committee amendment to page 25 that strikes the exclusive power—and I emphasize, Mr. President, exclusive power—of the Governmental Affairs Committee that they want to maintain as they wrote S. 1, and is a part that the Budget Committee and chairman of the Governmental Affairs Committee is trying to correct for the reasons that we have outlined.

The basic reason is why change a system that has worked well? Leave well enough alone. That is the heart of the argument. And that is why we hope the Senate will adopt the amendment offered by the Senator from New Mexico.

Mr. President, I had hoped and had agreed earlier, a couple of hours ago, on a time agreement—an hour equally divided. I think the RECORD will clearly show the Senator from Nebraska felt, when we started this debate, we were on controlled time. I find out later that has not been the case.

May I suggest in the interests of moving the Senate along in expeditious fashion, since we have been on this a long time and I suspect not a great deal new is going to be said pro and con on the amendment by the Senator from New Mexico, that we agree to, I suggest, a 20-minute extension of time equally divided from this time forward and then have a vote? Is there any objection to that?

Mr. GLENN. Mr. President, 5 minutes; 3 minutes?

Mr. EXON. How about right now?

Mr. LEVIN. I need about 3 minutes.

Mr. EXON. OK. I still have the floor. Before I lose the floor, let me make one more try.

I ask unanimous consent that there be 10 more minutes of debate, 5 minutes controlled by the Senator from Ohio or his assignee and 5 minutes controlled by the Senator from Nebraska?

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, I agree to a time limit but I want to make a couple of phone calls first before I agree to a specific time limit. I think the Senator from Michigan had a couple of comments to make and I will make the phone calls while he is doing that.

Mr. EXON. Let the RECORD show I tried.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I just have one additional question of the Senator from Nebraska. That has to do with the House of Representatives. We are in a position here where he, as ranking member of the Budget Committee, has said it is inappropriate to vest power in the Governmental Affairs Committee. Yet that is exactly the power that is being vested in the House Committee on Government Operations in this bill. And this amendment does not touch that.

If it is inappropriate to vest that power in a committee of the Senate, it seems to me it is equally wrong to vest it in a committee of the House.

But in terms of vesting power in committees, the Budget Act vests power in the Budget Committee. I want to just make reference to four sections of the Budget Act where, on points of order, the power is vested in the Budget Committee.

I think I have made reference before to section 311(c), for purposes of this section the levels of new budget authority—et cetera:

> Shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

There is power vested right in the Budget Committee.

In section 313(e), and these are points of order sections: For purposes of this section the levels of new budget authority, budget outlays, et cetera, ''shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.''

Power is vested in the Budget Committee directly, right in the Budget Act. Yet one of the two sections which is being stricken here is exactly that. It puts the power to make the estimate of the cost of any mandate in the Budget Committee, exactly as we have done over and over again. There is nothing unusual about that at all. The Budget Committee has explicit power vested in it over and over again in the Budget Act to make these kinds of determinations of outlay. Yet in the bill as introduced, it wants to put that precise power of the Budget Act here—suddenly we find there is a committee amendment by the Budget Committee striking that clear grant of power.

I think it is useful, just in terms of avoiding ambiguity itself. This thing is going to be complicated enough. We might as well not build in an ambiguity. Make it clear. The budget committee has the power. Relative to Governmental Affairs, there is this power granted in the House which is left in place. The Budget Committee apparently does not want this power to be granted to the Governmental Affairs Committee here. It seems to me what is sauce—fair for the goose is fair for the gander. If it is right for the House, it is right for the Senate. My understanding was the Senator from Ohio had worked out an agreement relative to this kind of reference and if that, in fact, was correct, then it seems to me this would be a move away from what was in the original bill agreed to by the Senator from Ohio.

Finally, I would say, Mr. President, I hope that this amendment would either be defeated or be tabled, because unless you have clarity as to where the responsibility lies to both determine whether there is a mandate or an exception, and to determine the amount of the mandate—unless you have clarity on that, we are making into law ambiguities which are going to bedevil us just about every day we operate around here.

We ought to clarify where the responsibility lies. We have done it before. It was in the original bill. We should leave it the way it was in the original bill and defeat the Budget Committee amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that following my suggestion of the absence of a quorum, that when we come back after the order for the quorum call is rescinded that I retain the right to the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KEMPTHORNE. Mr. President, I yield the floor, and I will look to the Senate from Ohio to make a request.

Mr. GLENN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The 11th reported committee amendment is the pending question.

Mr. GLENN. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''nay.''

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Massachusetts [Mr. KENNEDY] are necessary absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—27

Akaka	Feingold	Kohl
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Breaux	Glenn	Lieberman
Bryan	Graham	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Reid
Daschle	Johnston	Robb
Dorgan	Kerry	Wellstone

NAYS—66

Abraham	Frist	Moseley-Braun
Ashcroft	Gorton	Moynihan
Bennett	Grams	Murkowski
Bingaman	Grassley	Murray
Bond	Gregg	Nickles
Boxer	Harkin	Packwood
Brown	Hatch	Pressler
Burns	Heflin	Rockefeller
Campbell	Helms	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Sarbanes
Cochran	Kassebaum	Shelby
Cohen	Kempthorne	Simon
Conrad	Kerrey	Simpson
Coverdell	Kyl	Smith
Craig	Lautenberg	Snowe
D'Amato	Lott	Specter
DeWine	Lugar	Stevens
Dodd	Mack	Thomas
Dole	McCain	Thompson
Domenici	McConnell	Thurmond
Exon	Mikulski	Warner

NOT VOTING—7

Bradley	Hatfield	Pryor
Faircloth	Hutchison	
Gramm	Kennedy	

So the motion to lay on the table the committee amendment on page 25, lines 11 through 25, was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, will the distinguished Senator from Idaho give me just a moment of his time so I might ask him a question or be involved in a colloquy?

Mr. KEMPTHORNE. Mr. President, I will be happy to.

Mr. FORD. Mr. President two things have happened that bother this Senator considerably.

Last week, I made an effort to stop the House from using frequent flier miles that were paid for by taxpayers for personal use. I was admonished by my friends on the majority side for trying to tell the House what they should do or should not do. The amendment was amended. I lost.

It said to the Senate that under those circumstances, the Senate ought to take care of itself and we ought not to tell the House what to do. Now, as we are, in this amendment and in this bill, setting out a lot of proposals that the House must comply with—change their rules, assign to committees, things of that nature—I keep hearing that this is what the House is asking the Senate to do.

Now, Mr. President, I would like for the distinguished Senator from Idaho to respond to who in the House is telling the Senate what to do, or what the leadership over there is saying, whether they want this in the bill so that it will apply to the House. Can you give the Senate this information tonight? If not, in the morning. I would like to have an answer.

Mr. KEMPTHORNE. Sure, Mr. President. The Members of the House with whom we have been working closely, and I will name them, are the Chairman, BILL CLINGER; Congressman ROBERT PORTMAN, and Congressman GARY CONDIT. Those are the individuals with whom we worked most closely on this companion legislation in the House.

Mr. FORD. So they are saying to put it in the Senate bill to make the House comply with the rules of the bill we passed?

Mr. KEMPTHORNE. Mr. President, to further answer that, that is correct. They have said in the inquiry, Could you put this in the bill?

However, I tell you there has been further clarification that if the Senate were to determine that it just did not feel appropriate for the Senate to put that House language in there, they can deal with it in a different setting.

Mr. FORD. Mr. President, I appreciate the Senator's being candid with me because I think we are making a mistake. One week, we will not apply the rules to the House and the next week we apply the rules to the House. Something has to be consistent. One was not a very important amendment. This one is.

So I hope that in the discussion with the Senators, between now and maybe working out something on this amendment in the morning, I understand, I hope Senators will look at the whole aspect of saying to the House ''You must comply with the rules that we pass.'' I am not sure that that is right.

I might say to the Senator, with all respect, that I think we are going to have to start being consistent, regardless of what bills we are on, and we will have to say that these rules passed on the Senate do not apply to the House unless the House wants to do that.

So, at some point, if there is not an agreement to the imposition of our rules on the House, we will offer an amendment that will take the application of this legislation to the House.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. FORD. I will be glad to. I have no problem.

Mr. KEMPTHORNE. Mr. President, just in response to that—and I appreciate the idea of consistency—in this particular legislation, it was really many, many hours of working together with the House.

I was not privy to what sort of arrangements the Senator had worked out with the House on his amendment last week.

One of the things that I think may help us to be consistent is when we see that it deals with the House of Representatives, probably part of our information that we exchange with one another is to state to what extent this really is coming from the House. This was a strong request.

Mr. FORD. The Senator says he is working with the chairman. That is fine. The House leadership, at some point, is going to have to put it all together. I would not want to take a chairman here and say that his advice to me is above the majority leader's. I would go to the leader and to the Senator's elected leadership, and I would get my direction from them rather than a committee chairman, unless they have acquiesced their authority to them.

I am glad the Senator and I wanted to know that. We keep saying, ''As the House has advised us, as the House has advised us.'' I just wanted to know who was advising the Senator, and I am still concerned about applying our rule to the House or passing legislation saying the House must comply. Oh, it has been done, but I think if we are going to stay out one way, we ought to stay consistent. I will be observing it very closely.

I yield the floor, Mr. President

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, at the heart of the unfunded mandates legislation we continue to debate today is the 10th amendment to the U.S. Constitution.

This is an amendment that many here in Washington seem to have forgotten over the years, as more and more power has been taken away from the States and placed in the hands of Federal bureaucrats.

As I said in my remarks on the first day of this session, if I have one goal for the 104th Congress, it is that we will dust off the 10th amendment and restore it to its rightful place in our Constitution.

As a reminder of that goal, I also promised to insert the 10th amendment into the CONGRESSIONAL RECORD every week that we are in session, and I would like to do so now.

Mr. President, the 10th amendment to the U.S. Constitution reads:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

Let us always keep those simple yet powerful words in mind, as we continue our work of returning government back to the American people.

CLOTURE MOTION

Mr. DOLE. Mr. President, having said that, I send a cloture motion to the desk.

Let me say before I send it to the desk, it is obvious to me what is happening here is nothing is happening. We had amendment after amendment on congressional coverage, on which we wasted all of last week, and part of last week on unfunded mandates.

We are told there are 40, 50, 60 amendments. I am not certain how many are germane. This is an issue supported by the Governors, supported

by the mayors, supported by the county commissioners, supported by people all across America—Republicans and Democrats—and supported by the President of the United States.

It is pretty obvious we are not going to be able to move it quickly in the Senate because people are using the rules to frustrate efforts. That is the way it works. I do not fault that. I think we may have done that in the past a time or two.

This is something where there is broad bipartisan support. We would like to complete it this week. If we can get cloture, we may be able to complete it this week.

So I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

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

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

Mr. BYRD. Mr. President, will the leader yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. May I say to my friend, I was not aware until just now, in listening to the distinguished leader's comments, that there was any necessity for a cloture motion to be entered. I did not realize that there was a filibuster occurring.

Mr. DOLE. I began to realize it, if I may say to my friend. I can just see maybe the beginning of one.

Mr. BYRD. I thought progress was being made on the bill. It seems to me that the Senate was working its will.

Mr. DOLE. If the Senator will yield, I might say to my good friend from West Virginia, I have indicated to the Democratic leader that if we can reach some agreement—I do not disagree with the Senator from West Virginia totally. I will withdraw the motion if we can agree on limited amendments so we at least have some finite number of amendments, hopefully germane amendments. But not having that, and looking at the fact that my colleagues on the other side would like to have a retreat on Friday of this week, I would like to be accommodating, but I do not know how we can accommodate that request unless we make some progress on what is a bill that enjoys strong bipartisan support.

Mr. BYRD. Is there a list of amendments? I have not seen any list. I heard there might be a list of amendments, so I suggested that I have three. I may not call up any of them. So I thought we were making progress.

Mr. DOLE. It may be progress, depending on how it is defined. I have not checked Webster's lately. But it would be slow progress if it is progress. But it is my hope we can put a list together, with staff working on each side, and submit a copy of that to the Democratic leader and also the Senator from West Virginia, and others who have an interest, and see if we can reach some agreement on a list of amendments. If it is going to be 40, 50, or 60, probably half are nongermane. I hope in the interest of expediency, we will have support for the vote of cloture, which would eliminate all the nongermane amendments.

Mr. BYRD. Mr. President, this kind of underlines everything I was saying earlier today and last Friday and Thursday. What is all this big hurry? Here we are, this is the 17th of January, and why can we not be legislators and take time to understand what is in a bill? I was seeking to have the committees provide committee reports, and it was mainly for that reason that I took the floor and complained that the minority in both committees had been denied that opportunity to have reports in which they could file views, individual views and minority views. Now that has been accomplished.

I say, therefore, that the distinguished leader has done, what he has every right to do—he is the leader and he has introduced a cloture motion. But it seems to me that the Senate is now beginning to work its will, now that it has had access to the committee reports, and I do not know what all the rush is. What is there that is coming behind this measure?

Mr. DOLE. I think the Senator from West Virginia may have some inkling. There may be—I would not suggest that, but I know, knowing the Senator from West Virginia is a master of the game, and I say that in a complimentary way—he knows that a balanced budget amendment may be somewhere on the horizon. And I assume that the further away the better for the Senator from West Virginia. And one way to keep it at a distance is not to rush through anything else that may be on the Senate floor.

I am not suggesting that might motivate the Senator from West Virginia, but it is something that has occurred to me a few times, and I had the same problem on this side of the aisle.

Mr. BYRD. But it is my understanding that the balanced budget amendment has not yet been reported out of the Judiciary Committee.

Mr. DOLE. But we hope it may be by the time we complete action on this bill. We will be coming in later tomorrow morning to accommodate the Judiciary Committee. And we may adjourn in the afternoon to accommodate the Judiciary Committee.

Mr. BYRD. Well, as I said earlier, I may vote for this unfunded mandates bill. I probably will. I do not know yet. I still want to study it some, and may offer an amendment or so. But I am a little bit surprised that the leader is implying that a filibuster has been going on.

Mr. DOLE. I say to my friend, I do not think there is a filibuster in the real sense. We have not had a real filibuster, as the Senator said the other day, around here for years. I think I would know a real one if one occurred.

It seemed to me, with the broad support we have for this unfunded mandates bill, it is not only filed because of what the leader may consider delay, but also to avoid a lot of nongermane amendments. We went through that turkey shoot last week and the week before.

So it seems to me that one way to talk about unfunded mandates and germane amendments to unfunded mandates is to get cloture and 30 or 40 of those amendments will disappear. We can have the debate the Senator from West Virginia wants. If necessary, I would be willing to see—we can extend the 30 hours by consent. I am not trying to shut anything off, but I would like to eliminate some of these nongermane amendments.

Mr. BYRD. Mr. President, if the majority leader will yield, of course the majority leader knows as well as I do that there is no rule on germaneness in the Senate except with respect, in a small way, to appropriations bills. But this cloture motion just underlines what I said earlier, that there is an effort to ram this bill through, an effort to steamroll it through.

It seems to me that a good legislator would seek to know what is in a bill. I am just trying to play the part of what I think a good legislator ought to do. A good legislator ought to try to understand what is in a bill. And we have been deprived, to a degree, of knowing earlier what was in this bill; having the benefit of a committee report as an explanation of what is in the bill. We were deprived of that, not through my fault, not through anybody's fault on this side of the aisle, but actually against the wishes of certain Senators on this side of the aisle who are on those committees.

A good legislator, it seems to me, would want to know what is in a bill. He would want access to a committee report. I have been in legislative bodies now going on my 49th year and I have found it beneficial to have committee reports. I think the American people want their legislators to know what is in a bill. We owe that to the American people.

So the distinguished majority leader has the right to offer a cloture motion. He is the leader. If he thinks that there is a slowdown here and if he thinks that necessity requires that we have a cloture vote on this bill and then limit it to nongermane amendments, that is his right. Senators from time to time offer cloture motions when there is no filibuster. Their sole objective is to create a situation in which there will not be nongermane amendments.

Our friend Russell Long used to do that from time to time when he was managing a Finance Committee bill on the floor. He would offer a cloture motion, not for the purpose of shutting off debate so much but more so for the purpose of ruling out nongermane amendments. So the distinguished Republican leader has a point there and that may be his goal.

But let me just say, lest the RECORD be left to appear that there is a filibuster going on here, we have been making progress. We will continue to make progress. But it just underscores my concerns that the idea here is to ram things through. Do not take the time to study the bill. Do not take the time to understand what is in the bill. Just get the bill passed.

How poor are they that have not patience!
What wound did ever heal but by degrees?

Mr. President, I will yield the floor. I hope we will have an opportunity before the cloture vote to offer other amendments and I hope the leader will not put us on any other measure until we finish this one, so we will really have 2 days in which to discuss the bill and offer amendments.

I thank the leader for yielding. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

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

THOUGHTS AND PRAYERS ARE WITH THE PEOPLE OF JAPAN

Mr. DOLE. Mr. President, the thoughts and prayers of all Americans are with the people of Japan today, as they begin the recovery process from this morning's earthquake.

Ironically, this tragedy hit Japan exactly 1 year after the Northridge earthquake that devastated the Los Angeles area.

And as the people of Japan who were affected by this morning's earthquake begin to rebuild their cities and their lives, they can take great inspiration in the courage and cooperation exhibited over the past year in southern California.

Mayor Richard Riordan wrote in today's Los Angeles Times that ''It has been said that much can be determined about the character of an individual tested by difficult times. The same is true for our city and the emergency response provided by every level of government.''

In the days, weeks, and months following the Northridge quake the people of southern California, humanitarian organizations like the American Red Cross, and local, State, and Federal governments—under the superb leadership of Pete Wilson—passed every test with flying colors.

Again, Mr. President, I know all Members of the Senate join with me in mourning the loss of life in Japan, and in admiring the courage and resourcefulness exhibited over the past year by the people of southern California.

THE 1-YEAR ANNIVERSARY OF THE NORTHRIDGE EARTHQUAKE

Mr. DOLE. Mr. President, a year ago yesterday, an earthquake measuring 6.8 on the Richter scale wreaked havoc on the southern California counties of Los Angeles, Orange, and Ventura. The Northridge temblor brought about the collapse of apartment buildings, hospitals, and schools, and destroyed major portions of that area's transportation infrastructure.

Within hours of the earthquake, our former Senate colleague Gov. Pete Wilson proclaimed a state of emergency in those counties, and set in motion the implementation of what is now widely viewed as an extraordinary recovery from the earthquake's crippling impact on the movement of people and goods in one of the most populous areas of the country.

In addition to executing the necessary recovery measures to protect public safety and ensure for the food and housing of earthquake victims, Governor Wilson signed a series of innovative Executive orders that cut through the redtape of State bureaucracy and either streamlined or eliminated statutes and regulations governing everything from highway contracts to mobile schools.

As a result, California's recovery from the Northridge earthquake has proceeded at a record pace. Among the most impressive of the recovery efforts was the opening of the world's busiest freeway, the Santa Monica Freeway, in less than 3 months, and 74 days ahead of schedule, after it was destroyed by the quake. Governor Wilson heralded this accomplishment by proclaiming it the most stirring symbol yet of California's endurance. I would add that it is also a symbol of what can happen when government gets out of the way and is willing to break old molds and explore new and innovative approaches to challenges.

There is no doubt as to the resiliency of spirit of the people of California. Over the course of the past 4 years, they have endured more than their fair share as a result of natural disasters, but they continue to emerge victorious time and time again from the ashes of destruction wrought by earthquakes, fires, droughts, and floods. I might add that Governor Wilson is already taking similar steps in the face of the current California floods, using emergency authorities to speed rebuilding in flood areas. Moreover, he has asked the President to suspend operation of the Endangered Species Act for the purposes of repairing and replacing flood damaged facilities.

It is with respect for this indomitable California spirit, and with admiration for a State and its Governor who together forged a better, smarter avenue to disaster recovery, that I mark the first year anniversary of the Northridge earthquake. I ask unanimous consent that the materials detailing the Northridge disaster and recovery efforts, which have been prepared by Governor Wilson's staff, be reprinted in the RECORD immediately after my remarks.

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

THE WILSON ADMINISTRATION'S RESPONSE TO THE NORTHRIDGE EARTHQUAKE

On January 17, 1994, at 4:31 a.m. (PST) southern California experienced a major earthquake (6.8 Richter) in the Northridge area of Los Angeles.

Within hours of the earthquake, Governor Pete Wilson issued a Proclamation directing all agencies of state government to utilize available resources in responding to the emergency.

Jim van Loben Sels, Director of the California Department of Transportation (Caltrans), delegated authority and accountability to the Director of Caltrans, District Seven for all restoration and repair work estimated to cost less than $4 million.

Seven Caltrans Director's Orders were approved and subsequent force account contracts were let to remove damaged structures, construct detours and install shoring to insure the safety of existing, standing structures.

Within minutes of the tremblor, Caltrans staff began inspecting the freeway system throughout Los Angeles and Ventura counties. More than 1,000 structures were checked—that day alone.

Tuesday, January 18, Director van Loben Sels called together representatives of the Los Angeles County Metropolitan Transportation Authority (LACMTA), Los Angeles Department of Transportation (LADOT), the Federal Highway Administration (FHWA), and Caltrans to discuss emergency response strategies and to identify earthquake-related damage to local transportation facilities.

January 19, Governor Wilson appointed Dean R. Dunphy, Secretary of the Business, Transportation and Housing Agency, as Chairman of the Emergency Transportation Task Force. This group included the California Highway Patrol, Caltrans, Los Angeles County Metropolitan Transportation Authority (LACMTA), Metrolink, Los Angeles Department of Transportation (LADOT), the Federal Highway Administration (FHWA), and eventually numerous other local transportation agencies. The group originally met daily and became a control point of information about damage, detours, cost estimates, and other emergency transportation control measures.

On January 23, Governor Wilson issued a further Proclamation which suspended the operation of all statutes, rules and regulations which apply to Caltrans contracts that would hinder or delay the restoration of facilities and services as a result of the Northridge earthquake.

The Governor's emergency proclamation modified contracting procedures and enabled

Caltrans to respond more effectively and efficiently to the emergency. Innovative emergency contract procedures allowed the Department to put contractors to work immediately. The informal and streamlined bid process initiated by the Governor's emergency proclamation cut the time for advertising, awarding and approving contracts from a standard time frame of four to five months to as little as three days.

On January 24, Governor Wilson issued an emergency proclamation suspending certain limitations on hours that commercial vehicle operators could drive and work. This allowed greater flexibility for commercial truck traffic that was critical for maintaining the economic stability of the region and delivering rebuilding materials.

On January 24, at the behest of Director van Loben Sels, a draft Memo of Understanding (MOU) was finalized between Caltrans and the Federal Highway Administration (FHWA). This MOU outlined the contractual process and established criteria for issuing emergency contracts.

Pursuant to the Governor's executive order and following FHWA approval on critical projects, Caltrans limited the number of contractors bidding on the five major reconstruction projects to firms that were experienced bridge builders with a record of working in Los Angeles and the ability to meet the ambitious minority and disadvantaged business participation goals. At least three bidders were asked to complete for each project. Companies were restricted to receiving the contract for only one of the emergency jobs. Emergency contracting procedures for repair and construction also included a commitment to obtain a 20%-40% goal of participation by Disadvantaged Business Enterprises (DBEs). Governor Wilson challenged Caltrans to meet the 40% participation goal.

Caltrans suggested and obtained FHWA support to utilize the A+B bid process on selected projects. This process combines the contractor's proposal for construction costs (A) with the cost per day of loss in use multiplied by the number of days bid (B). This process empowers the innovative contractor to use a combination of construction costs and construction days to achieve the lowest possible bid. The benefit to the State is a reduction in total cost and the potential of reopening the facility to the public's use in the shortest amount of time.

For the first time in the history of the Department, Caltrans contractual timelines required contractors to work 24 hours a day, seven days a week, without allowances for bad weather or holidays.

Caltrans also initiated incentives and disincentives on selected projects, with FHWA concurrence, to provide bonuses to contractors who completed construction early and to penalize contractors who could not meet their anticipated deadline. These assigned incentives and disincentives ranged from $8,500 to $200,000 per day and represent the highest ever used nationwide. Providing bonuses and penalties further encourages contractors to complete their projects early and return the facility to the traveling public in the shortest time possible.

Within days of the earthquake, Caltrans engineers hand-delivered bid packages and contract plans to selected contractors at the nearest airport to their home office.

In the initial week following the earthquake, Caltrans worked with the FHWA to develop an accelerated funding procedure that provided the Department with an initial funding allocation of $15 million on January 19, 1994. Two additional requests were approved on January 21, and January 27, for $30 million and $55 million respectively. Within ten days of the earthquake, Caltrans received $100 million in Emergency Relief funds. Once Congress approved the additional funding and the funds were allocated to FHWA, Caltrans requested that FHWA make an additional $250 million available for obligation. This $250 million was based upon Caltrans' estimate for additional funding needed through the end of its current fiscal year.

On January 27, pursuant to Governor Wilson's Emergency Proclamation, Caltrans Director van Loben Sels issued guidelines to suspend usual contracting procedures. These guidelines included provisions to protect the public welfare, for example—ensuring ample competition, compliance with OSHA regulation, licensing, and participation by DBE firms.

Saturday, January 29, the first A+B contract was opened, awarded, executed and approved for Interstate 5. This process was completed in one day instead of the standard five to seven weeks. On January 29, Caltrans also opened a newly paved, four-lane detour for the traffic on Interstate 5. This reopened a vital bypass both to and from Los Angeles.

Sunday, January 30, less than two weeks after the earthquake, construction began on the bridge replacement at Interstate 5.

As of February 17, 1994, 30 days after the earthquake, Caltrans had successfully acted upon the emergency contracting powers that were granted by Governor Wilson's executive orders. With the concurrence of PHWA, Caltrans awarded: 35 Emergency Contracts worth $9.6 million, (these are Force Account contracts for small demolition and debris clean-up); 5 Informal Bid contracts, worth $47.3 million, (for major construction and some demolition); and 2 Architectural and Engineering contracts worth $18.5 million, (for private consultants to assist in design of structural repairs and to manage traffic around the damaged parts of the transportation system).

As of April 7, 1994 Caltrans had approved a total of twenty-two informal Bid contracts worth $113 million, for the restoration and repair of transportation facilities damaged in the Northridge Earthquake.

Construction was completed on the busiest freeway in the Nation, the I–10 Santa Monica Freeway, on Tuesday, April 12. The I–10 is the busiest roadway in the Nation. This vital artery was reconstructed in 66 days, a total of 74 days prior to the anticipated completion date, resulting in a bonus payment of 13.8 million for the contractor, C.C. Meyers of Rancho Cordova. By opening the I–10 Freeway earlier than anticipated, Caltrans saved the Los Angeles economy approximately $1 million a day.

Construction was completed on the I–5 Golden State Freeway at Gavin Canyon on May 17, 1994, 33 days ahead of schedule. By opening the I–5 earlier than anticipated Gavin Canyon, Caltrans saved the Los Angeles economy approximately $400,000 a day.

Construction was completed on the first phase of the I–5/Route 14 Interchange on July 8, 1994, 20 days ahead of schedule. By opening the Interchange earlier than anticipated, Caltrans saved the Los Angeles economy approximately $1.6 million each day.

The Simi Valley Freeway (State Route 118) in Granada Hills was partially restored to original traffic patterns on September 3, 1994. By September 7, total access to the entire 10-lane facility was complete.

Construction was completed on the second phase of the I–5/Route 14 Interchange (the southbound to northbound connector ramps) on November 4, 1994. This opening of this arterial was the last major project in the Northridge Earthquake response effort. The entire response was amazingly completed in less than 10 months.

CONCLUSION

Governor Wilson's proactive leadership to empower Caltrans with the tools necessary to get Los Angeles moving again has brought great success, Los Angeles recovered in record time. While the initial goal for completing the earthquake recovery was the end of 1994, many of the vital structures damaged or destroyed by the quake were returned to service in less than six months.

The Wilson Administration's emergency response to the Northridge Earthquake not only streamlined, but reinvented the contracting process at Caltrans. This enabled the Department to respond to the restoration and reconstruction efforts of Los Angeles in an unprecedented, accelerated fashion.

By cutting red tape, Governor Wilson moved bureaucracy out of the way and empowered Caltrans, in coordination with the private sector, to respond effectively to the Northridge Earthquake. Now it is our challenge to ensure that the lessons learned from this tragic disaster are implemented into every day business at Caltrans.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

A NEW ADMINISTRATION IN PENNSYLVANIA

Mr. SPECTER. Mr. President, earlier today the Commonwealth of Pennsylvania established a new administration with a new Governor, Tom Ridge, and a new Lieutenant Governor, Mark Schweiker, in very ornate and interesting ceremonies at the State capital in Harrisburg, PA. That event is worth a comment for our colleagues for permanency in the Congressional RECORD.

Tom Ridge is a man well known to those of us in the Congress because Congressman Ridge served for 6 terms, 12 years in the House of Representatives, and takes an extraordinarily fine record to the Governor's chair in the Commonwealth of Pennsylvania.

Governor Ridge had served in Vietnam, he had served as a prosecuting attorney in Erie County, PA, and he had served as a distinguished trial lawyer. Today he became the Governor of Pennsylvania.

Pennsylvania is a State which is now in its 314th year, some 100 years-plus more than the United States of America. And Governor Ridge made a very, very profound speech in outlining his aspirations and goals for the Commonwealth of Pennsylvania. He talked about the problems of an expanding economy, talked about the issue of crime, discussed the future of education, talked about environmental control with an appropriate balance for an expanding economy and for job opportunities in what was a profound and distinguished speech.

He said that tomorrow he will call a special session of the legislature of Pennsylvania to deal with the issue of crime. And was eloquent in his determination to hold accountable, as he put it, ''those who prey on the weak,'' and expressed his determination as the new Governor of the Commonwealth that they would be called to account and firm action would be taken. In his

definition he talked about addressing the social and economic causes of crime as well on a very broad approach to the problem. He called for a redefinition of the relationship between State government and the local communities, articulating on the State level the kind of legislation which is now being considered here in the U.S. Senate on trying to redefine the federalism and the relationship between the United States Government and the States.

What Governor Ridge was talking about was leaving more authority in local communities to try to bring government down to the grassroots so that people in the townships and in the ''burbs'' or in the cities who know best what their problems are and can best address them in trying to reach as much revenue as possible, cutting taxes at the Federal level, cutting taxes at the State level, to leave the resources as close to the people as possible so that the problems are addressed by the people who know the most about them.

He said in eloquent terms that, ''Government has gone too far in treating people as the servants rather than as the served,'' an objective which really ought to be the standard for all governments. He said again in eloquent terms, ''What government can do for people is limited. What people can do for themselves is limitless.''

I think in that articulation he is talking about more accountability for the individual, more opportunity for the individual, and really more responsibility for the individual.

Sworn in alongside Governor Ridge today was a distinguished Pennsylvanian, Mark S. Schweiker, who came to that position having served as a commissioner in Bucks County. Mark Schweiker made a very distinguished speech as well in his induction ceremony in the ornate Pennsylvania Senate an hour-and-a-half before Governor Ridge took the oath of office. One of Lieutenant Governor Schweiker's statements, which was very profound, was, ''A government big enough to give you everything you want is a government big enough to take everything you have.''

I think in Pennsylvania today with the legislature, both houses, the State house of representatives and the State senate, under Republican control, and the newly elected Governor being a Republican, mirrors very much what happened in the elections nationwide last November.

If I may say, not in a partisan sense, but in a recognition of what the voters did, returning to what would be called core Republican values as expressed by the people in the historic election of the Republican U.S. House of Representatives and in a change in leadership in the U.S. Senate now controlled by the Republicans and an effort to return to core values of limited Government, less spending, lower taxes, strong crime control, that is the pledge which was made by two very distinguished Pennsylvanians today, Gov. Tom Ridge and Lieutenant Gov. Mark Schweiker.

Mr. President, if anyone else seeks recognition at this point, I would be glad to yield. If not, I would like to proceed to a discussion of another subject.

I ask unanimous consent that I may proceed again in morning business for a period not to exceed 10 minutes.

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

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 60 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

THE 50TH ANNIVERSARY OF THE ARREST OF RAOUL WALLENBERG

Mr. MOYNIHAN. Mr. President, there are still many puzzles left unsolved from the cold war. Perhaps one of the most frustrating is the disappearance of Raoul Wallenberg. To this day, a full account of why Raoul Wallenberg was arrested and what has become of him is still not forthcoming from the Russian government. I rise today to commemorate this brave hero of the Holocaust who worked tirelessly and with great courage to save thousands of Jews from Nazi concentration camps in Hungary.

It is 50 years ago today since Mr. Wallenberg was arrested by agents of the Soviet Union at the time of the invasion of Budapest by the Red Army. He disappeared while in Soviet custody and despite the collapse of the Soviet Union, many questions concerning his fate are unresolved.

This is matter which has long held my attention. In the summer of 1979, I met with Nina Lagergren, Raoul Wallenberg's sister. Shortly thereafter, Senators PELL, Church, Boschwitz and I founded the Free Wallenberg Committee. This working group, with the active involvement of my wife Liz, Lena Biorck Kaplan and others, strongly encouraged the administration to pursue the facts of the Wallenberg case with the Soviet Union. Support from then Secretary of State Vance was strong, but the Soviets were not cooperative. In August 1980 I introduced Senate Concurrent Resolution 117, calling upon the President to raise the Wallenberg case at the Madrid Review Conference of the Helsinki accords which took place that year. Ambassador Max Kampelman and the other U.S. officials made several overtures to the Soviets at the Madrid Conference but found them to be as unyielding as ever.

We too are unyielding. I later joined Senator PELL and other members of the Free Wallenberg Committee in sponsoring Senate Joint Resolution 65 to grant Raoul Wallenberg U.S. citizenship. When President Reagan signed that legislation into law, Raoul Wallenberg became only the fourth person ever to be granted honorary U.S. citizenship.

A truly remarkable man, Raoul Wallenberg was undaunted in his efforts to undo or prevent some of the evil done by Nazis. He was a hero of the best and boldest kind, and demonstrated what free men, even when acting alone, can accomplish against those who would crush the freedom of others.

We await answers. Until there is satisfaction that we have the most thorough accounting of his life and whereabouts since being taken into Soviet custody 50 years ago, we will not let this rest. This is not a problem of the Russian Government's making, but of their Soviet predecessor. They should take it upon themselves to undo the nefarious deeds of the Soviet Union. The world deserves to know the fate of this brave Swedish soul.

MESSAGES FROM THE HOUSE

At 5:47 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2. An act to make certain laws applicable to the legislative branch of the Federal Government.

The message also announced that pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 United States Code 2211), and upon the recommendation of the chairman of the Committee on Ways and Means, the Speaker appoints the following members of that committee to be accredited by the President as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements on the part of the House during the first session of the 104th Congress: Mr. ARCHER, Mr. CRANE, Mr. THOMAS, Mr. GIBBONS, and Mr. RANGEL.

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–92. A communication from the Secretary of the Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting, pursuant to law, the annual report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–93. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report under the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC–94. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 1994 through September 30,

1994; to the Committee on Governmental Affairs.

EC–95. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 1994 through September 30, 1994; to the Committee on Governmental Affairs.

EC–96. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of reports and testimony for October 1994; to the Committee on Governmental Affairs.

EC–97. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the audit of the Congressional Award Foundation's financial statements for the periods ended December 31, 1992 and September 30, 1993; to the Committee on Governmental Affairs.

EC–98. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of health promotion and disease prevention activities; to the Committee on Governmental Affairs.

EC–99. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of surplus real property for fiscal year 1994; to the Committee on Governmental Affairs.

EC–100. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report relative to the Office of the Inspector General for the period April 1, 1994 through September 30, 1994; to the Committee on Governmental Affairs.

EC–101. A communication from the President of the United States, transmitting, pursuant to law, the report on the implementation of locality-based comparability payments for General Schedule employees for calendar year 1995; to the Committee on Governmental Affairs.

EC–102. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report of the notice and order concerning proposed express mail rulemaking; to the Committee on Governmental Affairs.

EC–103. A communication from the Manager (Benefits Communications), Ninth Farm Credit District Trust Committee, the annual report for the plan year ended December 31, 1993; to the Committee on Governmental Affairs.

EC–104. A communication from the Director of Federal Management Issues, General Accounting Office, transmitting, pursuant to law, the report entitled ''Managing for Results: State Experiences Provide Insights for Federal Management Reform''; to the Committee on Governmental Affairs.

EC–105. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report relative to locality-based comparability payments; to the Committee on Governmental Affairs.

EC–106. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the privately-owned vehicle operating cost investigations; to the Committee on Governmental Affairs.

EC–107. A communication from the Human Resources Manager of the National Bank for Cooperatives Trust Fund, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC–108. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of reports and testimony for November 1994; to the Committee on Governmental Affairs.

EC–109. A communication from the Special Assistant to the President and Director of the Office of Administration, transmitting, pursuant to law, the aggregate report on personnel employed in the White House Office; to the Committee on Governmental Affairs.

EC–110. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC–111. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report of the opinion and recommended decision in the 1994 omnibus rate case; to the Committee on Governmental Affairs.

EC–112. A communication from the Chief Judge of the U.S. Tax Court, transmitting, pursuant to law, the actuarial reports for calendar year 1991; to the Committee on Governmental Affairs.

EC–113. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the Foreign Service Retirement and Disability Fund for fiscal year 1993; to the Committee on Governmental Affairs.

EC–114. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–115. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–116. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–117. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–118. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–119. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–120. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–121. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–122. A communication from the Director of Selective Services, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–123. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–124. A communication from the Administrator of the Agency For International Development, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–125. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–126. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–127. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–128. A communication from the Executive Director of the Martin Luther King, Jr. Federal Holiday Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–129. A communication from the Director of the Trade and Development Agency, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–130. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 54. An original resolution authorizing expenditures by the Judiciary Committee.

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation.

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. KYL (for himself and Mr. MCCAIN):

S. 231. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself, Mr. SARBANES, and Mr. BOND):

S. 232. A bill to provide for the extension of the Farmers Home Administration program under section 515 of the Housing Act of 1949 and other programs relating to housing and community development; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. CAMPBELL, and Mr. EXON):

S.J. Res. 18. A joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office; to the Committee on the Judiciary.

By Mr. BROWN:

S.J. Res. 19. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HATCH:

S. Res. 54. An original resolution authorizing expenditures by the Judiciary Committee; from the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mr. COHEN (for himself and Mr. PRYOR):

S. Res. 55. A resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. PRESSLER:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; from the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. DOLE):

S. Res. 57. A resolution making majority party appointments to the Small Business and Aging Committees for the 104th Congress; considered and agreed to.

By Mr. LOTT (for Mr. STEVENS):

S. Res. 58. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; considered and agreed to.

S. Res. 59. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

By Mr. SPECTER:

S. Res. 60. A resolution expressing the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality; to the Committee on the Judiciary.

S. Res. 61. A resolution expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of appropriation and that the President should exercise that authority without awaiting the enactment of additional authorization; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. MCCAIN):

S. 231. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

THE WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION ACT OF 1995

Mr. KYL. Mr. President, I introduce today with my colleague from Arizona, Senator JOHN MCCAIN, the Walnut Canyon National Monument Boundary Modification Act of 1995. Identical legislation is being introduced in the House of Representatives by Representative J.D. HAYWORTH.

This legislation is based upon consensus reached last year among interested parties, including local officials in Arizona, as well as residents of the Walnut Canyon area, the National Park Service and U.S. Forest Service, with respect to modification of the monument boundaries for the purpose of better protecting important archeological resources.

Walnut Canyon National Monument was originally established by Presidential proclamation in 1915 to preserve and protect numerous Sinaguan cliff dwelling and associated sites. The canyon includes five areas where archeological sites are concentrated around natural promontories extending into the canyon, areas which early archeologists referred to as forts. Three of the five forts are within the current boundaries of the monument, but the two others are located on adjacent lands administered by the U.S. Forest Service. The legislation I am introducing today would redraw the monument boundaries to include those areas and provided the protection that those resources need and deserve.

About 1,239 acres of forest land would be transferred to Park Service administration. No State or private land would be affected.

Mr. President, 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. 231

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 ''Walnut Canyon National Monument Boundary Modification Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as ''forts'', would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Act is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Act referred to as the ''national monument'') to improve management of the national monument and associated resources.

SEC. 3. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled ''Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona'', numbered 360/80,011, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

SEC. 4. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Act) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 3 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as part of the Coconino National Forest.

SEC. 5. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Act and the provisions of law generally applicable to units of the National Park Service, including ''An Act to establish a National Park Service, and for other purposes'' approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. D'AMATO (for himself, Mr. SARBANES, and Mr. BOND):

S. 232. A bill to provide for the extension of the Farmers Home Administration program under section 515 of the Housing Act of 1949 and other programs relating to housing and community development; to the Committee on Agriculture, Nutrition, and Forestry.

THE FARMERS HOME ADMINISTRATION SECTION 515 RURAL MULTIFAMILY HOUSING PROGRAM EXTENSION ACT OF 1995

● Mr. D'AMATO. Mr. President, I am today introducing, along with my colleagues Senators SARBANES and BOND, the Farmers Home Administration Section 515 Rural Multifamily Housing Program Extension Act of 1995. The Section 515 Program, now administered by the Rural Housing and Community Development Service [RHCDS] at the Department of Agriculture, is an important rural affordable housing program. It provides long-term, low interest rate direct government loans for nonprofit and for-profit developers to develop multifamily rental housing for low-income families in rural America. Moreover, this program is one of the few sources for low-income rental housing in rural America, with over 440,000 rental units in rural America to its credit.

This simple legislation permanently reauthorizes the Section 515 Program and allows RHCDS to administer $220 million in funding appropriated as part of the HUD/VA fiscal year 1995 appropriations bill. While providing funding

for projects in the section 515 pipeline, it also will help with pressing rehabilitation needs. In addition, this bill enjoys strong bipartisan support and deserves quick action to help ensure the availability of low-income affordable housing in rural America.

This program is of particular importance to my State, New York. Many people may not realize that New York is a very rural State, with a large number of persons below the poverty line living in rural areas. Of the hundreds of thousands of New Yorkers below the poverty line, one-third live in rural communities. This program has been of great assistance to working families and the elderly who live in rural areas. There are currently 473 section 515 developments with 12,281 units in New York. Nearly 7,000 of these units are reserved for elderly citizens and 4,500 units are used by families. There is approximately a 4-year pipeline of projects in New York that are awaiting funding. Reauthorization of this program will help address this backlog in New York, as well as nationwide.

The Section 515 Program has received widespread support. In addition to helping working families and the elderly obtain rental housing in rural areas, the program has provided construction and management employment opportunities. These jobs are desperately needed in States, such as New York, with rural areas that have been hit hard economically.

I know there have been some concerns in recent years about possible program abuses in the Section 515 Program. In response to these concerns, the Housing and Community Development Act of 1992 made a number of reforms to ensure that developers would not be receiving unreasonable or windfall profits. The Department of Agriculture, through Farmers Home and RHCDS, has also been implementing a series of regulatory reforms to combat fraud and abuse in the Section 515 Program. Moreover, I expect that all rural housing programs, including the Section 515 Program, will be included in this Congress' overall reform of Federal housing policy.

Finally, this legislation provides the Department of Housing and Urban Development with authority to renew, for up to 18 months, certain section 8 project-based contracts on terms identical to the current contract. This is a temporary provision. Section 8 contract renewals will be a major part of any housing reform considered by Congress this year.

Mr. President, I ask for unanimous consent that the text of this legislation be printed in the RECORD.

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

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 ''Section 515 Rural Multifamily Housing Program Extension Act of 1995''.

SEC. 2. RURAL HOUSING.

(a) UNDERSERVED AREAS SET-ASIDE.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking ''fiscal years 1993 and 1994'' and inserting ''fiscal year 1995''; and

(2) in the second sentence, by striking ''each''.

(b) RURAL MULTIFAMILY RENTAL HOUSING.—Section 515(b) of the Housing Act of 1949 (42 U.S.C. 1485(b)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) RURAL RENTAL HOUSING FUNDS FOR NON-PROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking ''fiscal years 1993 and 1994'' and inserting ''fiscal year 1995''.

SEC. 3. TEMPORARY EXTENSION OF EXPIRING SECTION 8 CONTRACTS.

(a) REQUIREMENT.—Subject only to the availability of budget authority to carry out this section, not later than October 1, 1995, the Secretary of Housing and Urban Development shall make an offer to the owner of each housing project assisted under an expiring contract to extend the term of the expiring contract for not more than 18 months beyond the date of the expiration of the contract.

(b) TERMS OF EXTENSION.—Except for terms or conditions relating to duration, the terms and conditions under an extension provided pursuant to this section of any expiring contract shall be identical to the terms and conditions under the expiring contract.

(c) DEFINITION OF EXPIRING CONTRACT.—For purposes of this section, the term ''expiring contract'' means a contract for assistance pursuant to section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983), including a contract for assistance referred to in section 209(b) of the Housing and Urban-Rural Recovery Act of 1983, having a term that expires before October 1, 1996.

(d) DISPLACEMENT ASSISTANCE.—The Secretary of Housing and Urban Development may make available to tenants residing in units covered by an expiring contract that is not extended pursuant to this section, either—

(1) tenant-based assistance under section 8 of the United States Housing Act of 1937; or

(2) a unit with respect to which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.●

● Mr. SARBANES. Mr. President, I am pleased to join with my colleagues from the Banking Committee as an original cosponsor of this legislation.

The bill we are introducing today would extend the rural rental housing program authorized under section 515 of the Housing Act of 1949. This program, now administered by the Rural Housing and Community Development Service [RHCDS] at the Department of Agriculture, is a valuable and critical source of funding for the development of affordable housing for low-income families who live in rural areas. The legislation is needed because the authorization for the Section 515 Program expired at the beginning of this fiscal year. The Appropriations Act provided $220 million for this program. With this authorization, the RHCDS will be able to address pressing needs for the rehabilitation and preservation of existing housing, as well as provide funding for a large pipeline of worthwhile projects. I am particularly pleased that this bill also extends two important features of the Section 515 Program—a set-aside for nonprofit developers and a set-aside for underserved areas.

The bill we are introducing today will also provide the Secretary of the Department of Housing and Urban Development [HUD] with the authority to extend the section 8 contracts on low-income housing projects whose subsidy contracts will expire before October 1, 1996. Under the current section 8 contracts, owners must provide their tenants with a 12-month notice before the expiration of the subsidy contract. The contracts on a relatively small number of projects nationwide will expire in the next 12 months or the owners of the projects will be required to provide notice in the next 12 months. It is important to note, Mr. President, that this provision is temporary and the extension of the contracts cannot exceed 18 months. The provision's inclusion in this legislation will give the Administration and the Congress time to review the Section 8 Program and examine long-term strategies for dealing with contract expirations, without causing uncertainty for residents or the inadvertent displacement of low-income households who reside in section 8 developments.●

● Mr. BOND. Mr. President, I support the Farmers Home Administration Section 515 Rural Multifamily Housing Program Extension Act of 1995. The Section 515 Program, now administered by the Rural Housing and Community Development Service [RHCDS] at the Department of Agriculture, is an important program that makes multifamily rental housing available for low-income families in rural America. I emphasize the importance of this program. Since the program's inception in 1963, section 515 has financed some 440,000 affordable, low-income rental units in rural America.

This legislation permanently reauthorizes the Section 515 Program and allows RHCDS to administer $220 million in funding appropriated as part of the HUD/VA fiscal year 1995 appropriations bill. I believe the fiscal year 1995 $220 million appropriation provides adequate authority for RHCDS to administer the Section 515 Program. Nevertheless, RHCDS refused to administer this program without a new reauthorization. Therefore, I ask my colleagues for their support of this legislation. I emphasize that this bill enjoys strong bipartisan support and industry support. I ask for quick consideration of this bill to help ensure the continued availability of low-income affordable housing in rural America.

Moreover, I want to rest the concerns of my colleagues about reported problems with the Section 515 Program. In response to past concerns, the Housing

and Community Development Act of 1992 made a number of important reforms to the program, including reforms to safeguard the program from unscrupulous developers. The Department of Agriculture, through Farmers Home and RHCDS, has also recently put in place a number of additional needed regulatory reforms. Finally, I expect all rural housing programs, including the Section 515 Program, to be part of a major housing policy overhaul during this Congress.

This bill also allows the Department of Housing and Urban Development to extend, for up to 18 months, certain expiring section 8 project-based contracts. These contracts can only be renewed on terms identical to the current contracts. This is a stop-gap measure designed to provide some certainty to the section 8 project-based programs as Congress considers major reforms to address the cost and designs of these programs. I urge my colleagues to support this legislation.●

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. CAMPBELL, and Mr. EXON):

S. J. Res. 18. A joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office; to the Committee on the Judiciary.

CAMPAIGN REFORM CONSTITUTIONAL AMENDMENT

Mr. HOLLINGS. Mr. President, I rise today to address a problem with which we are all too familiar—the ever-increasing cost of campaign spending. The need for limits on campaign expenditures is more urgent than ever, with the total cost of congressional campaigns skyrocketing from $446 million in 1990 to well over $590 million in 1994. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending; again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a limit on campaign expenditures. In May 1993, a nonbinding sense-of-the-Senate resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and the States to limit campaign expenditures. During the 104th Congress, let us take the next step and adopt such a constitutional amendment—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is ''the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere.'' Adds Professor Ashdown: ''If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated.''

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign contributions on the grounds that '' * * * the governmental interest in preventing corruption and the appearance of corruption outweighs considerations of free speech.''

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you are talking between $1000 and $2,000 for 30 seconds of primetime advertising. In New York City, it is anywhere from $30,000 to $40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you are not on TV, you are not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, ''It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start.''

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put on additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.1 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up to $4.1 million this past year. To raise that kind of money, the average Senator must raise over $13,200 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $403 million in 1990 to more than $590 million in 1994—almost a 50-percent increase in 4 short years.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting a bid country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. We are out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It is a vicious cycle.

After the election, I held a series of town meetings across the State. Friends asked, ''Why are you doing these down meetings: You just got elected. You've got 6 years.'' To which I answered, ''I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the

campaign. I was too busy chasing bucks.'' I had a similar experience in 1992.

I remember Senator Richard Russell saying: ''They give you a 6-year term in this U.S. Senate 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue.'' Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to politics and demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $800,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of mortality in upper Chamber elections. And as to the alleged invulnerability of incumbents in the House, I would simply note that more than 50 percent of the House membership has been replaced since the 1990 elections.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

I also agree with University of Virginia political scientist Larry Sabato, who has suggested a doctrine of sufficiency with regard to campaign spending. Professor Sabato puts it this way: ''While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages.''

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—''sufficient,'' to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small businesspeople, senior citizens, unionists, you name it. They permit people of modest means and limited individual influence to band together with others of mutual interest so their message is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, ''Oh, no, your influence is corrupting, your money is tainted.'' This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. First, it would end the mindless pursuits of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we would not have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is not coincidence that all five of the most recent amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you are talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through constitutional amendment.

And let us not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970's, and we haven't advanced the ball a single yard. It has been a quarter of a century, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1996 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, this joint resolution, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and it is not subject to veto or Supreme Court challenge.

And, by the way, I reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this joint resolution will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In the Buckley decision, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge passage of this joint resolution, the freedom of speech in political campaigns amendment. Let us ensure equal freedom of expression for all who seek Federal office.

By Mr. BROWN:

S.J. Res. 19. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT

● Mr. BROWN. Mr. President, today I rise to offer a joint resolution calling for the adoption of a constitutional amendment limiting congressional terms.

Congress is considering several measures that will change the way Congress does business. Congressional accountability will apply the laws to Congress. Unfunded mandate reform will reduce burdens on the States. The balanced budget amendment will fundamentally alter our budget process, and the line-item veto will end an era of midnight pork-barrel spending.

My amendment offers change of a different sort. Instead of changing our procedures, term limitations will change the way we think.

Following ratification of term limits, politicians would no longer view Congress as a lifetime career. The era of constant campaigning and the short-sighted policy making that comes with it would come to an end. Incumbent advantages would be limited. Elections would become more competitive. Voters would have a wider electoral choice as more and more people run for office. Instead of making political choices to preserve their seats, Members would be more likely to make the tough choices necessary to preserve our Nation.

When our Founding Fathers wrote the Constitution, they limited Government by disbursing power between the branches of Government. Checks and balances were created to provide oversight amongst the branches, and to ensure that Government remained loyal to the people, all other powers were specifically reserved for the people.

Over 80 percent of Americans favor limiting congressional terms; 22 of 23 initiative States have passed term limits for their Federal delegations and the 23d State should pass term limits this year.

Despite this overwhelming support, this body has voted on term limits only three times this century. Even worse, term limits has never made it to the floor of the House of Representatives. I was responsible for initiating two of the three votes in the Senate. The first time we received 30 votes, the second time 39 voted with us.

It is now time for the whole of Congress to answer the call of the people. The success of grass roots groups is impressive but incomplete. Congress must act to bring term limits to the millions of Americans whose wishes for a citizen legislature have been ignored at the State level.

My amendment would impose term limits on all Members of Congress. Senators would be limited to serving no more than two consecutive 6-year terms and Representatives would be limited to six consecutive 2-year terms.

Only elections following the amendment's ratification would be counted, and appointments and special elections would be excluded from the limits.

Mr. President, it is time we return to the fundamental belief of our Founders—that holding public office is a public service, not a lifetime career.

Term limits will restore the competition, responsiveness, and diversity intended by the Framers of the Constitution and demanded by our constituents.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 15, a bill to provide that professional baseball teams and leagues composed of such teams shall be subject to the antitrust laws.

S. 38

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 38, a bill to amend the Violent Crime Control and Law Enforcement Act of 1994, and for other purposes.

S. 194

At the request of Mr. MCCAIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 194, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

SENATE RESOLUTION 31

At the request of Mrs. BOXER, the name of the Senator from Maryland [Ms. MIKULSKI] 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 54—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 54

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 the Judiciary is authorized from March 1, 1995, through February 29, 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 29, 1996, under this resolution shall not exceed $4,343,438.00 of which amount (1) not to exceed $40,000 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 not to exceed $1,000.00 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 of March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $4,444,627.00 of which amount (1) not to exceed $40,000 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 not to exceed $1,000.00 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 29, 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 for the disbursement of salaries of employees paid at an annual rate, the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

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 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 55—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. COHEN (for himself and Mr. PRYOR) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 55

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 Special Committee on Aging is authorized from March 1, 1995, through February 29, 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 nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed $1,046,685.

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $1,070,031.

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 29, 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,

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) for payments to the Postmaster, United States Senate,

(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 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''.

● Mr. COHEN. Mr. President, today on behalf of myself and Senator PRYOR I am submitting a resolution to authorize funding for the Senate Special Committee on Aging for the period of March 1, 1995, through February 28, 1997.

This resolution makes a technical change in the amounts requested for committee operations from the funding resolution we introduced last week. The amounts contained in this resolution fully comply with the guidance issued by the rules Committee that directed each Senate committee to reduce its committee expenditures by 15 percent below the committee's budget authorization for 1994, plus approved cost of living adjustments.●

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 56

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 Commerce, Science, and Transportation is authorized from March 1, 1995, through February 29, 1996, and from 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 from March 1, 1995, through February 29, 1996, under this resolution shall not exceed $3,369,312, of which amount (1) not to exceed $14,572 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 $15,600 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 $3,445,845, of which amount (1) not to exceed $14,572 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 $15,600 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 29, 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 from March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 57—MAKING MAJORITY PARTY APPOINTMENTS

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 57

Resolved, That the following shall constitute the majority party's membership on the following Senate committees for the 104th Congress, or until their successors are appointed:

Small Business: Mr. Bond (Chairman), Mr. Pressler, Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mrs. Hutchison, Mr. Warner, Mr. Frist, and Ms. Snowe.

Aging: Mr. Cohen (Chairman), Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, and Mr. Thompson.

SENATE RESOLUTION 58—RELATIVE TO JOINT COMMITTEES

Mr. LOTT (for Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 58

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Ted Stevens, Mark O. Hatfield, Thad Cochran, Wendell H. Ford, and Daniel K. Inouye.

Joint Committee on the Library of Congress: Mark O. Hatfield, Ted Stevens, Thad Cochran, Claiborne Pell, and Daniel P. Moynihan.

SENATE RESOLUTION 59—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. LOTT (for Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 59

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

SENATE RESOLUTION 60—RELATIVE TO THE LINE-ITEM VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 60

Whereas Federal spending and the Federal budget deficit have reached unreasonable and insupportable levels;

Whereas a line-item veto would enable the President to eliminate wasteful pork-barrel spending from the Federal budget and curb the deficit before considering cuts in important programs;

Whereas evidence may suggest that the Framers of the Constitution intended that the President have the authority to exercise the line-item veto;

Whereas scholars who have studied the matter are not unanimous on the question of whether the President currently has the authority to exercise the line-item veto;

Whereas there has never been a definitive judicial ruling that the President does not have the authority to exercise the line-item veto;

Whereas some scholars who have studied the question agree that a definitive judicial determination on the issue of whether the President currently has the authority to exercise the line-item veto may be warranted: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

Mr. SPECTER. Mr. President, earlier today the Constitutional Law Subcommittee of the Judiciary Committee had hearings scheduled on the line-item veto, and regrettably those hearings were not held because an objection was lodged under the rule which prohibits committee hearings from going forward or subcommittee hearings from going forward if they are in process more than 2 hours after the U.S. Senate commences its business.

I thought it was unfortunate that the hearings were canceled on that ground because a great many witnesses had come, and some from far distances, such as the distinguished Governor of Wisconsin, Gov. Tommy Thompson, to testify about this very important measure.

Mr. President, as the CONGRESSIONAL RECORD will show, this Senator has

long supported the line-item veto. That is a provision which would give the President of the United States the authority to strike a given line of expenditure without vetoing the entire bill.

There was a very dramatic presentation made by President Reagan a few years ago when the Congress submitted to the President a continuing resolution which was all 13 of the appropriations bills. And it was an enormous pile, about 20 or 24 inches in size. President Reagan at his State of the Union speech was expressing his concern that, instead of sending 13 individual appropriations bills which the President might approve or veto one at a time, this continuing resolution had been sent, so that it was not even the line-item veto but it was a circumstance where the President had this massive legislation.

He had the bill precariously positioned on the edge of the podium, and I became somewhat concerned that it was going to fall. Then after 1 minute or 2, I realized that it was President Reagan's method—perhaps you might call it a theatrical method—to underscore the volume and size of the bill. And I think the people watching around the country on national television were concerned that the bill might fall as well.

That was a very dramatic way of depicting the problem the President faces with a continuing resolution with some 13 appropriations bills. But the same principle applies to a single bill. I believe that it is very much in the national interest so that the President would have the authority to strike an individual item one by one without vetoing the entire bill.

It is my view, Mr. President, that the President of the United States possesses constitutional authority under existing law to exercise the line-item veto. That proposition has been supported by very intensive local research which my staff and I have undertaken, and also by very extensive research which has been undertaken by distinguished leading scholars, including Professor McDonald, who has written extensively on this subject.

The constitutional approach that the Constitution currently gives the President the line-item veto arises from the fact that clause 3 of article I, section 7, of the U.S. Constitution is an exact copy of the Massachusetts Constitution. The Massachusetts Constitution was enacted substantially before the U.S. Constitution. It goes back to the Massachusetts fundamental charter of 1733, and was implemented specifically to give the royal governor a check on the unbridled spending of the colonial legislature.

Professor McDonald points out that at the time of the Constitution's ratification process anti-Federalist pamphleteers opposed the U.S. constitutional provision because it ''made too strong a line-item veto in the hands of the President.'' Federalists, on the other hand, saw this clause, clause 3, and the power to veto individual items of appropriations, as an important executive privilege.

James Bowdoin, the Federal Governor of Massachusetts, argued that the veto power conferred upon the President in the Federal Constitution was to be read in light of the Massachusetts experience which did give the U.S. President the line-item veto. In the Federalist Paper No. 69, Alexander Hamilton, a member of the Constitutional Convention, who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto gave power which ''tallies exactly with the revisionary authority of the council of revision'' in New York, which according to Professor McDonald had the power to revise appropriation bills and in effect exercise the line-item veto.

Without going into great detail—and I will put in the RECORD a statement which will amplify this—in the early days of the Republic the President did in effect exercise the line-item veto. President Washington and Treasury Secretary Hamilton acted upon the authority to shift appropriated funds from one account to another.

And Thomas Jefferson as President also embraced that practice and on at least two occasions refused to spend money that the Congress had appropriated. President Andrew Jackson declined to enforce provisions of a constitutional enactment, in effect exercising the line item veto, and similarly in 1842, President John Tyler signed a bill which he refused to execute in full—there again, really exercising the line-item veto. It was not until after the Civil War that the President assumed that he did not have the individual line-item veto when President Grant urged Congress to grant him such authority.

Mr. President, that is an abbreviated statement of the reasoning that there is constitutional authority presently for the President of the United States to exercise the line-item veto. I had occasion to discuss this matter with President Bush when he was in office on a long plane ride, and the President said that his lawyer told him he did not have the power to line-item veto. I suggested, perhaps somewhat cavalierly, that perhaps he should change lawyers. I quickly suggested that President Bush not tell the bar association because I might want to practice law again some day.

In 1993, I had occasion to travel with President Clinton to western Pennsylvania and discussed with him the issue of the line item veto, and upon my saying to President Clinton that he had the authority to exercise the line-item veto, he asked me to send him a memorandum on the subject, which I did.

I think it useful at the conclusion of my presentation to include that memorandum together with the letters I sent to President Clinton and his reply to me on the subject.

I am introducing, Mr. President, two resolutions, so that the Judiciary Committee will have these resolutions before them when they next have deliberation on the line-item veto. We had a Judiciary Committee hearing last year on a resolution which I had introduced, which would propose:

> The Constitution grants to the President the authority to veto individual items of appropriation and the President to exercise that constitutional authority to veto individual items of appropriation without awaiting the enactment of additional authorization.

When that matter was pending before the constitutional law subcommittee, there was considerable sentiment among other Members that that might have gone a little farther than they wanted to go. But they were prepared to vote out a resolution which would say that there was at least sufficient authority so that the President should exercise the line-item veto. I am introducing the first resolution again which was before the 103d Congress, and then the second resolution which would provide that it is the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

In my opinion, Mr. President, the line-item veto is very, very important and ought to be exercised now. I think anyone who is President ought to move forward because of the legal authority that the President currently has that authority. But at a very minimum, there is sufficient legal authority for the law to be submitted for a judicial test.

Mr. President, I have long supported a line-item veto for the President, I have proposed constitutional amendments to grant the President such authority, and I have supported statutory enhanced rescission authority.

As these measures have failed, after extensive legal research and analysis, I now urge the President to exercise the line-item veto without further legislative action. I do so because I believe, after a careful review of the historical record, that the President already has the authority under the Constitution to veto individual items of appropriation in an appropriations bill and that neither an amendment to the Constitution nor legislation granting enhanced rescission authority is necessary.

The line-item veto would be effective in helping to reduce the huge deficit that now burdens our country. While alone it is no panacea, its use would enable the President to veto specific items of appropriation in large spending bills, thereby restraining some of the pork-barrel or purely local projects that creep into every appropriations bill. With the broad national interest rather than purely local concerns at work, the President's use of the line-item veto would cut significant amounts of this type of spending.

The line-item veto would also have a salutary effect on Members of Congress. Knowing that their attempts to insert items into appropriations bills will be subjected to presidential scrutiny, Members are likely to become more reluctant to seek special favors for the home district at the expense of the Nation at large. While such discretionary programs and earmarks do not account for a large part of Federal spending, getting control over them will improve the authorization and appropriations process. The President could use the veto to eliminate funding for unauthorized programs. Such a message would motivate Congress to reauthorize programs with regularity, improving our oversight and the effectiveness of the Government.

The line-item veto is not a partisan issue. It is a good Government issue. Many Democrats support the line-item veto; some Republicans oppose it. As a candidate in 1992, Bill Clinton firmly embraced the line-item veto. As President, he has the opportunity to make effective use of it to help control in some small measure the deficits we accumulate. By exercising this option, the President can provide a check on unfettered spending and carve away many of the pork-barrel projects contained in both versions of the budget that serve primarily private, not national interests.

Beyond the specific savings, the presence and use of the line-item veto by the President could give the public assurances that tax dollars were not being wasted. Each year the media report many instances of congressional expenditures which border, if in fact they do not pass, the frivolous. Those expenditures are made because of the impracticality of having the President veto an entire appropriations bill or sometimes a continuing resolution. That creates a general impression that public funds are routinely wasted by the Congress.

The line-item veto could eliminate such waste and help to dispel that notion. The resentment to taxes is obviously much less when the public does not feel the moneys are being wasted. Notwithstanding the so called taxpayers' revolts in some States, there is still a willingness by the citizenry to approve taxes for specific items where the taxpayers believe the funds are being spent for a useful purpose. The line-item veto could be a significant factor in improving such public confidence in governmental spending even beyond the specific savings.

I now turn to the basis for my position that the President already has authority under the Constitution to exercise the line-item veto, without a need for additional constitutional or statutory legislation.

The constitutional basis for the President's exercise of a line-item veto is found in article I, section 7, clause 3 of the Constitution. Clause 2 of article I, section 7 provides the executive the authority to veto bills in their entirety. The question of conferring on the President the power to veto specific items within a bill appears not to have been discussed at the Constitutional Convention. During the drafting of the Constitution, however, James Madison expressed his concern that Congress might try to get around the President's veto power by labeling bills by some other term. In response to Madison's concern, Edmund Randolph proposed and the Convention adopted the third clause of article I, section 7, whose language was taken directly from a provision of the Massachusetts Constitution of 1780.

Clause 3 of article I, section 7 provides that in addition to bills—the veto of which is set forth in clause 2:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

While the clause does not explicitly set out the executive authority to veto individual items of appropriation, the context and practice are evidence that that was its purpose. According to noted historian Prof. Forrest McDonald of the University of Alabama, the clause was taken directly from a provision of the Massachusetts Constitution of 1780. In his article entitled ''The Framers' Conception of the Veto Power,'' published in the monograph, ''Pork Barrels and Principles: The Politics of the Presidential Veto'' 1–7 (1988), Professor McDonald explains that this provision dates back to the State's fundamental charter of 1733 and was implemented specifically to give the royal Governor a check on the unbridled spending of the colonial legislature, which had put the colony in serious debt by avoiding the Governor's veto power by appropriating money through ''votes'' rather than through legislation.

Professor McDonald also points out that at the time of the Constitution's ratification process, anti-Federalist pamphleteers opposed the proposed Constitution and in particular clause 3 of article I, section 7, precisely because it ''made too strong a line-item veto in the hands of the President.''

Federalists, on the other hand, saw clause 3 and the power to veto individual items of appropriation as an important executive privilege—one that was essential in assuring fiscal responsibility while also comporting with the delicate balance of power they were seeking to achieve. For example, during his State's ratifying convention, James Bowdoin, the Federalist Governor of Massachusetts, argued that the veto power conferred to the President in the Federal Constitution was to be read in light of the Massachusetts experience under which, as I have already noted, the Governor had enjoyed the right to veto or reduce by line-item since 1733.

In the Federalist No. 69, Alexander Hamilton, a member of the Constitutional Convention who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto power ''tallies exactly with the revisionary authority of the council of revision'' in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely accept or reject legislative enactments in their entirety. This power was not unique to New York, as the Governors of Massachusetts, Georgia, and Vermont—soon to be the first new State admitted to the new union—also enjoyed revisionary authority over legislative appropriations.

As many of my colleagues know, our distinguished colleague from West Virginia, the chairman of the Appropriations Committee, has made a series of speeches on the Senate floor drawing on his vast knowledge about the historical underpinnings of our republican form of government and on the Framers' rationale for the checks and balances they created. His review of Roman history is apt, because, as he knows, the Framers were acutely aware of Roman history. This awareness helped them develop their government of limited powers and of checks and balances. The Framers knew that the vice of faction, the desire to pursue one's private interest at the expense of the public interest, had helped bring on the downfall of the Roman Republic. Madison and others were convinced that by diffusing power and balancing it off in different branches of government, we might avoid to the fullest extent possible, the defects of faction.

In another sense, however, the distinguished chairman of the Appropriations Committee, overlooks the fundamental differences between Rome's ancient government and ours. In ours, the people have a direct say. In Rome's the male citizens had a limited, indirect say, but mostly the ruling class was hereditary or was based on wealth. We have a democracy; Rome did not.

This fundamental difference between our Nation and ancient Rome means that there are more factions with which our Government must contend. With so many different factions, or ''interest groups'' as we call them today, it is much easier for one of them to capture a single Member of Congress to advance its cause and to fund it. Each Representative has a much narrower focus than a Senator, each of whom has a much narrower focus than the President. Thus, Congress is more susceptible to pressure from factions, as one Member who wants a favor for a particular faction trades his or her support for another Member's preferred faction. We all know that this appropriations log-rolling occurs. Ultimately, the President is presented with one large spending bill, much of which reflects the political horse-trading that occurs.

The line-item veto sheds light on the power of private interests that seek to use the appropriations process for their own private benefit. By excising line items and making Congress vote on them individually in an effort to override the veto, the President can shed light directly on these private interests and force Members to be more accountable to their constituents by voting on the projects identified by the President as unnecessary and wasteful.

Some, like the distinguished chairman of the Appropriations Committee, contend that the line-item veto would result in an intolerable shift of power from Congress to the Executive. To this argument, I have two responses. The first is that, as I believe I show, the Framers of the Constitution intended that the President have the authority to veto individual items of appropriations. Thus, in their concept, the line-item veto does not offend the balance of powers.

The second response is related to the entire structure of the Government. The Constitution places the power of the purse in the hands of Congress. It is a peculiarly legislative function to decide how much money to spend and how to allocate these expenditures. In this regard, however, spending is no different than any other legislative function. Thus, there is no reason to consider the line-item veto any more of an infringement of the separation of powers than the President's ability to veto bills at all. Hamilton recognized the structural importance of the veto in the Federalist 73, when he wrote that the veto provides ''an additional security against the enaction of improper laws * * * to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of [the legislative] body'' from time to time. The Framers were acutely aware that it is the legislative branch that is most susceptible to factional influence. Thus, they understood that the veto served a critical role.

But, opponents of the line-item veto argue, Hamilton's point went to bills as a whole, and not simply pieces of them. The legislative process necessarily relies on horse-trading to get things done, and nowhere is such trading more important than in the appropriations process. This response, while acknowledging the reality, is an answer that directly contradicts the Framers' intent and leads to bad government, for it accepts the premise that factions and the prominent Members of Congress who support their causes must be bought off with goodies in appropriations bills. But that is precisely the evil that the Framers sought to insulate against with the veto.

Given the role of factions in the appropriation process, the use of the line-item veto is completely consistent with the Framers' conception of the veto power. Indeed, that is not surprising, as the Framers believed they had granted the President a line-item veto. Despite the arguments of the distinguished chairman of the Appropriations Committee to the contrary, the line-item veto was not only intended by the Framers but is an appropriate limitation on congressional authority to combat the force of faction.

This process would not surprise the Framers of the Constitution. Madison and the others who met in Philadelphia in 1787 were not just knowledgeable about history. They were practical men of affairs and politics who understood human nature. They knew the dangers of faction and the likelihood that faction would influence Congress more so than the President, who is responsible to the entire Nation, not a single district or State.

Thus, it is only to be expected that the Framers provided Congress with the power to appropriate funds, tempered with executive authority to line-item veto as a means of expunging special interest spending was their resolution, and history bears this out. The line-item veto is entirely consistent with the Framers' conception of government and the dangers of faction.

Shortly after the new Federal Constitution was ratified, several States, including Georgia, Vermont, Kentucky, and my home State of Pennsylvania, rewrote their constitutions to conform with the Federal one and specifically incorporated language to give to their executives the authority to exercise a line-item veto. These States were in addition to the States like Massachusetts and New York, where the Governor's power to revise items of appropriation was well-established. For example, article II, section 10 of the Georgia Constitution of 1789 gave the Governor the power of ''revision of all bills'' subject to a two-thirds vote of the general assembly. Section 16 of chapter II of the Vermont Constitution of 1793 vested in the Governor and council the right to revise legislation or to propose amendments to the legislature, which would have to adopt the proposed amendments if the bill were to be enacted. Article I of the Kentucky Constitution of 1792 and section 23 of article I of the Pennsylvania Constitution of 1790 tracked the language of article I, section 7, clause 3 of the new U.S. Constitution.

The chief executives of both the State and new Federal governments immediately employed the line-item veto. On the national level, the early practice was one in which the President viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary Hamilton assumed the authority to shift appropriated funds from one account to another. Although his party had at one time opposed such transfers, once he became President, Republican Thomas Jefferson also embraced the practice, and at least on two occasions, he refused to spend money that the Congress had appropriated.

The practice continued. As late as 1830, President Andrew Jackson declined to enforce provisions of a congressional enactment. Likewise in 1842, President John Tyler signed a bill that he refused to excute in full. It was not until after the Civil War that a President assumed he did not already have the authority to veto individual items of appropriation, when President Grant urged the Congress to grant him such authority.

But President Grant's view was anomalous. The Framers' understanding and their original intent was that the Constitution did provide the authority to veto or impound specific items of appropriation. The States understood that to be the case, and many in fact embraced the Federal model as a means of providing their own executives this same authority.

I believe that the evidence strongly supports the position that under the Constitution the President has the authority to employ the line-item veto. At the very least, the President's use of the line-item veto will almost certainly engender a court challenge if the veto is not overridden. The courts will then decide whether the Constitution authorizes the line-item veto. If they find it does, then the matter will be settled. If they find it does not, then Congress may revisit the issue and decide whether to amend the Constitution or grant statutory enhanced rescission authority to the President.

In conclusion, I urge the President to employ the line-item veto if he is seriously committed to deficit reduction. As I have argued here today, the authority to exercise this power is not dependent on the adoption of a constitutional amendment or any additional legislation; it already exists. The Framers' intent and the historical practice of the first Presidents serve as ample evidence that the Constitution confers to the Executive the authority to line-item veto. Given President Clinton's use of the line-item veto as Governor and his support of it as a candidate, I urge him to act on that authority consistent with his rightful power to do so.

Mr. President, with these documents in the RECORD, there will be a reasonably full explanation of the legal basis for the line-item veto and the two resolutions which I am submitting for consideration of the Senate and which will be on the record when the Judiciary Committee next holds its hearing on this subject.

I thank my colleagues for the time I have taken.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

MEMORANDUM

Re Presidential authority to exercise a line-item veto

The President currently enjoys the authority under the Constitution to exercise a line-

item veto without any additional constitutional or statutory authority. The consistutional basis for the President's exercise of a line-item veto is to be found in article I, section 7, clause 3 of the Constitution.

The first article of the Constitution vests legislative authority in the two Houses of Congress established thereunder. Clause 2 of section 7 of the first article provides the presidential authority and procedure to veto ''bills.'' This is the basis for the President's clearly established authority to veto legislation. The provision also established the procedure under which Congress may override the President's veto.

The question of conferring authority on the President to veto specific items within a bill was not discussed at the Constitutional Convention. During the drafting of the Constitution in 1787, however, James Madison noted in his subsequently published diary that he had expressed his concern that Congress might try to get around the President's veto power by labeling ''bills'' by some other term. In response to Madison's concern and in order to guard the President's veto authority from encroachment or being undermined and preserve the careful balance of power it sought to establish, Edmund Randolph of Virigina proposed and the Convention adopted language from the Massachusetts Constitution which became article I, section 7, clause 3.

This clause requires that in addition to bills:

''Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill [these being set forth in article I, section 7, clause 2].''

In combination with the preceding clause 2 of section 7, this third clause gives the President the authority to veto any legislative adoption of Congress, subject to congressional override.

The historical context of its adoption supports the position that clauses 3 vests the President with authority to veto individual items of appropriation.

According to the noted historian Professor Forrest McDonald in his paper ''The Framers' Conception of the Veto Power,'' published in ''Pork Barrels and Principles: The Politics of the Presidential Veto'' 1–7 (1988), clause 3 was taken directly from a provision of the Massachusetts Constitution of 1780. This provision set in the State's fundamental charter Massachusetts law dating to 1733 first implemented to give the Royal Governor a check on unbridled spending by the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through ''votes'' rather than legislation. Professor McDonald has also noted in an oped article published in the Wall Street Journal, that the agents of the King of England could disapprove or alter colonial legislative enactments ''in any part thereof.''

Discussion and debate at the Constitutional Convention over the meaning of clause 3 was scant. In his notes of the proceedings of the Convention, our main source for the intent of the Framers of our fundamental Charter, Madison noted only that Roger Sherman of Connecticut ''thought [article I, section 7, clause 3] unnecessary, except as to votes taking money out of the Treasury.'' No other member of the Convention appears to have discussed the clause. Sherman's comment was important, as it demonstrates the context in which the Framers saw the newly added provision: it was needed only insofar as it pertained to votes appropriating money from the Treasury. Perhaps discussion was so scant because the meaning of the clause was clear to the Framers.

In his 1988 article, Professor McDonald notes that two Anti-Federalist pamphleteers opposed the proposed Constitution in part because article I, section 7, clause 3 ''made too strong a line-item veto in the hands of the President.'' The Federalist Governor of Massachusetts, James Bowdoin, argued during the Massachusetts ratifying convention that the veto power was to be read in light of the Massachusetts experience in which, as noted, the lint-item veto was exercised by the governor. In ''The Federalist'' No. 69, Alexander Hamilton wrote that the constitutional veto power ''tallies exactly with the revisionary authority of the council of revision'' in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely turn down the entire legislative enactment. Massachusetts, Georgia, and Vermont also gave their executives revisionary authority over legislative appropriations.

Roger Sherman's comment was prescient, as he focused on the issue confronting us over 200 hundred years later. The language of clause 3 has proven to be redundant, as Congress has not attempted to avoid the strictures of the second clause. But clause 3 is not superfluous as regards, in Sherman's language, ''votes taking money out of the Treasury.'' In order to give effect to this provision, the President must have the authority to separate out different items from a single appropriation bill and veto one or more of those individual items.

This reading is consistent with the early national practice, under which Presidents viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary, Alexander Hamilton, assumed that the President had the authority to shift appropriated funds from one account to another. The former Anti-Federalists, having become the Republican party, objected to these transfers. Once a Republican, Thomas Jefferson, became President, however, he too considered appropriations bills to be permissive and refused on at least two occasions to spend money that had been appropriated by Congress.

Professor McDonald points out in his 1988 article that shortly after the new Federal Constitution was ratified, several of the States rewrote their constitutions to conform their basic charters to the new Federal one. The contemporaneous experience of these States is highly relevant to the Framers' understanding of the text they had devised. Several States adopted new constitutions in 1789 or the early 1790's. Of these, Georgia and Pennsylvania, and the new States of Vermont and Kentucky all adopted constitutions that included the phrasing of article I, section 7 to enable their governors to exercise the line-item veto.

According to a 1984 report of the Committee on the Budget of the House of Representatives, ''The Line-Item Veto: An Appraisal,'' the practice at the national level of the President's exercise of a line-item veto continued. President Andrew Jackson declined, over congressional objection, to enforce provisions of a congressional enactment in 1830. In 1842, President John Tyler signed a bill that he refused to execute in full. Instead, he advised Congress that he had deposited with the Secretary of State ''an exposition of my reasons for giving [the bill] my sanction.'' Congress issued a report challenging the legality of the President's action.

Professor McDonald noted that between 1844 and 1859, three northern States, responding to fiscal problems, adopted constitutions explicitly providing their governors with power to veto individual items of appropriation. Building on this history, the provisional Constitution of the Confederate States of America also made explicit that the President of the Confederacy had line-item veto authority.

It was only after the Civil War that President Grant suggested that he did not already enjoy the authority to veto individual items of appropriation and other specific riders to legislation and urged that he be granted such authority. President Grant's position that he did not enjoy a line-item veto under the Constitution was directly contradictory to the original understanding of the Constitution, a position endorsed by Presidents Washington, Jefferson, Jackson, and Tyler through usage. It ignored the original understanding of the Framers of the Constitution and the historical context in which that document was drafted. Proposals for a Federal line-item veto have been made intermittently since the Grant Administration.

An alternative argument based on the language of article I, section 7, clause 2, but consistent with the original understanding of the veto power, has also been made to support the President's exercise of a line-item veto. In discussing why the issue of a line-item veto was not raised during the Constitutional Convention, Professor Russell Ross of the University of Iowa and former United States Representative Fred Schwengel wrote in an article ''An Item Veto for the President?'' 12 Presidential Studies Quarterly 66 (1982), ''[i]t is at least possible that this subject was not raised because those attending the Convention gave the term 'bill' a much narrower construction than has since been applied to the term. It may have been envisioned that a bill would be concerned with only one specific subject and that subject would be clearly stated in the title.''

Professor Ross and Mr. Schwengel quote at length the former Chairman of the House Judiciary Committee, Hatton W. Sumners, who defended this view in a 1937 letter to the Speaker of the House that was reprinted in the Congressional Record on February 27, 1942. Chairman Sumners was of the view that the term ''bill'' as used in clause 2 of section 7 of the first article was intended to be applied narrowly to refer to ''items which might have been the subject matter of separate bills.'' This reading he thought most consistent with the purpose and plan of the Constitution. Thus, Chairman Sumners believed that clause 2, as originally intended, could also be relied upon to vest line-item veto authority in the President.

Chairman Sumners' reading is also consistent with the practice in some of the colonies. Professor McDonald cites to the Maryland constitution of 1776, which expressly provided that any enacted bill could have only one subject. Several other States followed Maryland during the succeeding decades and limited legislative enactments to a single subject.

A review of the contemporary understanding of the veto provisions of the Constitution when drafted supports the view that the President currently enjoys line-item veto authority, which several Presidents have exercised.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, November 9, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Following up on our conversation on Air Force One enroute to Pittsburgh last week, I am enclosing for you a copy of a statement which I presented on the Senate floor today together with a memorandum of law on your power to exercise the line-item veto without a constitutional amendment or statutory authority.

The essence of the position is that Article I, Section 7, Clause 3 of the U.S. Constitution adopted language from the Massachusetts Constitution which authorized the line-item veto. Pennsylvania, Georgia, Vermont and Kentucky included that phrasing to enable their governors to exercise the line-item veto. Presidents Jefferson, Jackson and Tyler refused to execute portions of congressional appropriations enactments constituting a line-item veto.

Again my thanks for including me in last week's trip to Pennsylvania.

My best.

Sincerely,

ARLEN SPECTER.

THE WHITE HOUSE,
Washington, DC, December 18, 1993.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter discussing the President's power to exercise line-item veto authority. Your remarks on the Senate floor, as well as the memorandum of law enclosed, are thoughtful statements on the issue, deserving of considered attention. I appreciate your sharing them with me.

As you know I have supported granting the President line-item veto authority legislatively. I believe that H.R. 1578 as passed by the House, which provides for a modified line-item veto, represents a good compromise that would go a long way toward achieving the purposes of a line-item veto. I hope that I will continue to have your support in the effort to control spending and eliminate undesirable items of spending.

With best wishes,

Sincerely,

BILL CLINTON.

SENATE RESOLUTION 61—RELATIVE TO THE PRESIDENTIAL VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 61

Whereas article I, section 7, clause 2 of the Constitution authorizes the President to veto bills passed by both Houses of Congress;

Whereas article I, section 7, clause 3 of the Constitution authorizes the President to veto every ''Order, Resolution, or Vote'' passed by both Houses of Congress;

Whereas during the Constitutional Convention, Roger Sherman of Connecticut opined that article I, section 7, clause 3 was ''unnecessary, except as to votes taking money out of the Treasury'';

Whereas the language of article I, section 7, clause 3 was taken directly from the Constitution of the Commonwealth of Massachusetts of 1780;

Whereas the provision of the Massachusetts Constitution of 1780 that was included as article I, section 7, clause 3 of the United States Constitution vested in the Governor of Massachusetts the authority to veto individual items of appropriation contained in omnibus appropriations bills passed by the Massachusetts Legislature;

Whereas the Governor of Massachusetts had enjoyed the authority to veto individual items of appropriation passed by the legislature since 1733;

Whereas in explaining the purpose of the constitutional veto power, Alexander Hamilton wrote in The Federalist No. 69 that it ''tallies exactly with the revisionary authority of the council of revision'' in the State of New York, which had the authority to revise or strike out individual items of appropriation contained in spending bills;

Whereas shortly after the new Federal Constitution was adopted, the States of Georgia, Pennsylvania, Vermont, and Kentucky adopted new Constitutions which included the language of article I, section 7 of the Federal Constitution, and allowed their Governors to veto individual items of appropriation on the basis of these provisions;

Whereas the contemporary practice in the States is probative as to the understanding of the framers of the Constitution as to the meaning of article I, section 7, clause 3;

Whereas President Washington, on a matter of presidential authority, exercised the prerogative to shift appropriated funds from one account to another, effectuating a line-item veto;

Whereas President Jefferson considered appropriations bills to be permissive and refused on at least two occasions to spend funds appropriated by the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Constitution grants to the President the authority to veto individual items of appropriation and

(2) the President should exercise that constitutional authority to veto individual items of appropriation without awaiting the enactment of additional authorization.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 17, 1995, at 10 a.m. in open and closed sessions to discuss the worldwide threat to the United States.

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

MAKING MAJORITY PARTY APPOINTMENTS TO COMMITTEES ON SMALL BUSINESS AND AGING

Mr. LOTT. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 57) making majority party appointments to the Small Business and Aging Committees for the 104th Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

So the resolution (S. Res. 57) was agreed to, as follows:

Resolved, That the following shall constitute the majority party's membership on the following Senate committees for the 104th Congress, or until their successors are appointed:

Small Business: Mr. Bond (Chairman), Mr. Pressler, Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mrs. Hutchison, Mr. Warner, Mr. Frist, and Ms. Snowe.

Aging: Mr. Cohen (Chairman), Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, and Mr. Thompson.

PROVIDING FOR MEMBERS OF JOINT COMMITTEES ON PRINTING AND THE LIBRARY

AUTHORIZING PRINTING OF SENATE RULES

Mr. LOTT. Mr. President, I send to the desk two resolutions regarding Rules Committee routine matters and ask unanimous consent for their immediate consideration, en bloc, that they be agreed to, en bloc, and the motion to reconsider be laid on the table, en bloc.

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

So the resolutions (S. Res. 58 and S. Res. 59) were agreed to, as follows:

S. RES. 58

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Ted Stevens, Mark O. Hatfield, Thad Cochran, Wendell H. Ford, and Daniel K. Inouye.

Joint Committee on the Library of Congress: Mark O. Hatfield, Ted Stevens, Thad Cochran, Claiborne Pell, and Daniel P. Moynihan.

S. RES. 59

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

ORDERS FOR TOMORROW

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 a.m. on Wednesday, January 18, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of routine morning business not to go beyond the hour of 12 noon, with Senators permitted to speak for not more than 5 minutes each with the following Senators permitted to speak for the designated times: Senator INHOFE, 10 minutes; Senator THOMAS, 10 minutes, and Senator CAMPBELL for 5 minutes.

I further ask unanimous consent that at the hour of 12:00 p.m. the Senate resume consideration of S. 1, the unfunded mandates bill, and pending at that time will be the committee amendment No. 11 dealing with jurisdiction.

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I advise the Members that votes are expected throughout the day on Wednesday and late into the night, in order to make progress on the bill. Senators should be on notice that a cloture motion was filed on the bill this evening. Therefore, a cloture vote will occur on Thursday.

Also, Senators should be aware that first-degree amendments should be filed at the desk no later than 1 p.m. tomorrow to be in order to the bill under a postcloture situation.

RECESS UNTIL WEDNESDAY, JANUARY 18, 1995, AT 11:30 A.M.

Mr. LOTT. If there is no further business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order.

There being no objection, the Senate, at 7:37 p.m., recessed until Wednesday, January 18, 1995, at 11:30 a.m.