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Senate

(Legislative day of Tuesday, January 10, 1995)

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

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.—Genesis 2:24.

Father in Heaven, we pray this morning for our families. Thou didst begin human history with marriage and the family, and history makes it clear that no civilization can survive the disintegration of the family.

Forgive our negligence as husbands and wives and parents. Teach us to be subject to one another out of reverence for Christ as Thy word exhorts. Help husbands to love their wives as Christ loved the church and laid down His life for her.

Forgive us when we fail to be models for our children, when our actions contradict our words, and they wonder in their confusion whether to believe what we say or what we do. Forgive us for frustrating them by demanding of them conduct which we fail to demonstrate. Help us to love our children even when they do not conform to our hopes for them.

Remind us that when we are too busy for our families, we are too busy.

Protect our families from the many destructive forces which are peculiar to this Federal city and common among those who bear the responsibilities of national leadership.

We pray this in the name of Him whose life was the very incarnation of selfless love. Amen.

RESERVATION OF LEADER TIME

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

UNFUNDED MANDATE REFORM ACT

The PRESIDENT pro tempore. Under the previous order, 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:

Levin amendment No. 172, to provide that title II, Regulatory Accountability and Reform, shall apply only after January 1, 1996.

Levin amendment No. 174, to provide that if a committee makes certain determinations, a point of order will not lie.

Levin amendment No. 175, to provide for Senate hearings on title I, and to sunset title I in the year 2002.

Levin amendment No. 176, to clarify the scope of the declaration that a mandate is ineffective.

Graham amendment No. 184, to provide a budget point of order if a bill, resolution, or amendment reduces or eliminates funding for duties that are the constitutional responsibility of the Federal Government.

Murray amendment No. 188, to require time limitations for Congressional Budget Office estimates.

Graham amendment No. 189, to change the effective date.

Harkin amendment No. 190, to express the sense of the Senate regarding the exclusion of Social Security from calculations required under a balanced budget amendment to the Constitution.

Bingaman amendment No. 194, to establish an application to provisions relating to or administrated by independent regulatory agencies.

Glenn amendment No. 195, to end the practice of unfunded Federal mandates on States and local governments and to ensure the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

Kempthorne amendment No. 196 (to Amendment No. 190), to express the sense of the Senate that any legislation required to implement a balanced budget amendment to the U.S. Constitution shall specifically prevent Social Security benefits from being reduced or Social Security taxes from being increased to meet the balanced budget requirement.

Glenn amendment No. 197, to have the point of order lie at only two stages: (1) against the bill or joint resolution, as amended, just before final passage, and (2) against the bill or joint resolution as recommended by conference, if different from the bill or joint resolution as passed by the Senate.

Lautenberg amendment No. 199, to exclude from the application of the act, provisions limiting known human (Group A) carcinogens defined by the Environmental Protection Agency.

Byrd amendment No. 200, to provide a reporting and review procedure for agencies that receive insufficient funding to carry out a Federal mandate.

Boxer amendment No. 201, to provide for unreimbursed costs to States due to the imposition of enforceable duties on the States regarding illegal immigrants or the Federal Government's failure to fully enforce immigration laws.

A unanimous-consent agreement was reached providing for the consideration of amendment No. 201 on Thursday, January 26.

Boxer amendment No. 203, to provide for the deterrence of child pornography, child abuse, and child labor laws.

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

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Wellstone amendment No. 204, to define the term ''direct savings'' as it relates to Federal mandates.

Wellstone amendment No. 205, to provide that no point of order shall be raised where the appropriation of funds to the Congressional Budget Office, in the estimation of the Senate Committee on the Budget, is insufficient to allow the Director to reasonably carry out his responsibilities under this act.

Grassley amendment No. 208, to require an affirmative vote of three-fifths of the Members to waive the requirement of a published statement on the direct costs of Federal mandates.

Kempthorne amendment No. 209, to provide an exemption for legislation that reauthorizes appropriations and does not cause a net increase in direct costs of mandates to States, local, and tribal governments.

Kempthorne amendment No. 210, to make technical corrections.

Kempthorne (for Dole) amendment No. 211, to make technical corrections.

Glenn amendment No. 212, to clarify the baseline for determining the direct costs of reauthorized or revised mandates, and to clarify that laws and regulations that establish an enforceable duty may be considered mandates.

Byrd modified amendment No. 213, to provide a reporting and review procedure for agencies that receive insufficient funding to carry out a Federal mandate.

Gramm amendment No. 215, to require that each conference report that includes any Federal mandate, be accompanied by a report by the Director of the Congressional Budget Office on the cost of the Federal mandate.

Gramm amendment No. 216, to require an affirmative vote of three-fifths of the Members to waive the requirement of a published statement on the direct costs of Federal mandates.

Byrd modified amendment No. 217, to exclude the application of a Federal intergovernmental mandate point of order to employer-related legislation.

Levin amendment No. 218, in the nature of a substitute.

Levin amendment No. 219, to establish that estimates required on Federal intergovernmental mandates shall be for no more than 10 years beyond the effective date of the mandate.

Brown amendment No. 220, to express the sense of the Senate that the appropriate committees should review the implementation of the act.

Brown-Hatch amendment No. 221, to limit the restriction on judicial review.

Roth amendment No. 222, to establish the effective date of January 1, 1996, of title I, and make it apply to measures reported, amendments and motions offered, and conference reports.

AMENDMENT NO. 201

The PRESIDENT pro tempore. The pending question is the Boxer amendment numbered 201.

Mrs. BOXER addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from California.

AMENDMENT NO. 223 TO AMENDMENT NO. 201

(Purpose: To require development of a plan to reimburse State, local, and tribal governments for the costs associated with illegal immigrants and to authorize expenditure of such sums as are necessary to fulfill the reimbursement plan)

Mrs. BOXER. Mr. President, I send a second-degree amendment to the desk and I ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 223 to amendment No. 201.

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

Mrs. BOXER. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The amendment has not been read. A motion is not in order at this time.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

In the amendment strike all after ''(e) IMMIGRATION'' and insert the following:

REPORT.—Not later than 3 months after the date of enactment of this act, the Advisory Commission shall develop a plan for reimbursing State, local, and tribal governments for costs associated with providing services to illegal immigrants based on the best available cost and revenue estimates, including—

(1) education;

(2) incarceration; and

(3) health care.

(f) The appropriate Federal agencies shall be authorized to expend such sums as are necessary to fulfill the plan for reimbursement described in section 302(e).

Mr. KEMPTHORNE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Idaho.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

(Mr. KEMPTHORNE assumed the chair.)

CHANGE THE INCOME TAX LAW

Mr. DOMENICI. Mr. President, while the Senate is trying to work out some other matters pertinent to the bill and to the amendment that is pending, Senator NUNN and I are on the floor and we want to talk for a few minutes, each of us, about the need to abolish the income tax law of this land and substitute a brandnew one for it that will be much simpler and that will lead our country into the 21st century with the right kind of policies promulgated by the Tax Code.

We also want to do this because we believe simplification is absolutely imperative. The Tax Code of the United States in terms of its complexity, the cost to society, the cost to business, the frustration to citizens, the anger toward the Internal Revenue Service is truly a disgrace. We have to make it simple and make it work.

Let me just give a couple of examples. Take the simple notion of a personal exemption that everyone has to deal with. I quote section 151(A):

An exemption of the exemption amount for the taxpayer; and an additional exemption of the exemption amount for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income, and is not the dependent of another taxpayer.

It goes on to define a ''child'' and a ''student.'' The code tells us that the exemption amount is disallowed in the case of certain dependents. There are provisions on the phaseout of the exemptions. In addition, a taxpayer would have to wade through definitions of ''applicable percentage'' and ''threshold amount'' and how this threshold is coordinated with other provisions, and the adjustments for inflation both pre- and post-1991 because they are done differently.

Anyone who tried to read the Internal Revenue Code would agree that it is complicated beyond belief. And I am describing an easy, short, and basic provision.

I ask unanimous consent that the full text of section 151 appear in the RECORD so that Senators can read for themselves this law of the land and decide if it is intelligible or if it is gibberish.

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

INCOME TAX—PERSONAL EXEMPTIONS

Sec. 153. Cross references.

[Sec. 151]

SEC. 151. ALLOWANCE OF DEDUCTIONS FOR PERSONAL EXEMPTIONS.

[Sec. 151(a)]

(a) ALLOWANCE OF DEDUCTIONS.—In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

[Sec. 151(b)]

(b) TAXPAYER AND SPOUSE.—An exemption of the exemption amount for the taxpayer, and an additional exemption of the exemption amount for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

[Sec. 151(c)]

(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—

(1) IN GENERAL.—An exemption of the exemption amount for each dependent (as defined in section 152)—

(A) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than the exemption amount, or

(B) who is a child of the taxpayer and who (i) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student who has not attained the age of 24 at the close of such calendar year.

(2) EXEMPTION DENIED IN CASE OF CERTAIN MARRIED DEPENDENTS.—No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(3) CHILD DEFINED.—For purposes of paragraph (1)(B), the term ''child'' means an individual who (within the meaning of section 152) is a son, stepson, stepdaughter of the taxpayer.

(4) STUDENT DEFINED.—For purposes of paragraph (1)(B)(ii), the term ''student'' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

(5) CERTAIN INCOME OF HANDICAPPED DEPENDENTS NOT TAKEN INTO ACCOUNT.—

(A) IN GENERAL.—For purposes of paragraph (1)(A), the gross income of an individual who is permanently and totally disabled shall not include income attributable to services performed by the individual at a sheltered workshop if—

(i) the availability of medical care at such workshop is the principal reason for this presence there, and

(ii) the income arises solely from activities at such workshop which are incident to such medical care.

(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term ''sheltered workshop'' means a school—

(i) which provides special instruction or training designed to alleviate the disability of the individual, and

(ii) which is operated by—

(I) an organization described in section 501(c)(3) and exempt from tax under section 501(a), or

(II) a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

(C) PERMANENT AND TOTAL DISABILITY DEFINED.—An individual shall be treated as permanently and totally disabled for purposes of this paragraph if such individual would be so treated under paragraph (3) of section 22(e).

AMENDMENTS

P.L. 100–647, §6010(a):

Act Sec. 6010(a) amended Code Sec. 151(c)(1)(B)(ii) by inserting ''who has not attained the age of 24 at the close of such calendar year'' before the period.

The above amendment applies to tax years beginning after December 31, 1988.

[Sec. 151(d)]

(d) EXEMPTION AMOUNT.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term ''exemption amount'' means $2,000.

(2) EXEMPTION AMOUNT DISALLOWED IN CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

(3) PHASEOUT.—

(A) IN GENERAL.—In the case of any taxpayer whose adjusted gross income for the taxable year exceeds the threshold amount, the exemption amount shall be reduced by the applicable percentage.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ''applicable percentage'' means 2 percentage points for each $2,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the threshold amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting ''$1,250'' for ''$2,500''. In no event shall the applicable percentage exceed 100 percent.

(C) THRESHOLD AMOUNT.—For purposes of this paragraph, the term ''threshold amount'' means—

(i) $150,000 in the case of a joint of a [sic] return or a surviving spouse (as defined in section 2(a)),

(ii) $125,000 in the case of a head of a household (as defined in section 2(b)),

(iii) $100,000 in the case of an individual who is not married and who is not a surviving spouse or head of a household, and

(iv) $75,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

(D) COORDINATION WITH OTHER PROVISIONS.—The provisions of this paragraph shall not apply for purposes of determining whether a deduction under this section with respect to any individual is allowable to another taxpayer for any taxable year.

(4) INFLATION ADJUSTMENTS.—

(A) ADJUSTMENT TO BASIC AMOUNT OF EXEMPTION.—In the case of any taxable year beginning in a calendar year after 1989, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ''calendar year 1988'' for ''calendar year 1992'' in subparagraph (B) thereof.

(B) ADJUSTMENT TO THRESHOLD AMOUNTS FOR YEARS AFTER 1991.—In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (3)(C) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ''calendar year 1990'' for ''calendar year 1992'' in subparagraph (B) thereof.

AMENDMENTS

P.L. 103–66, §13201(b)(3)(G):

Act Sec. 13201(b)(3)(G) amended Code Sec. 151(d)(4)(A)(ii) and (B)(ii) by striking ''1989'' and inserting ''1992''.

The above amendment applies to tax years beginning after December 31, 1992.

P.L. 103–66, §13205:

Act Sec. 13205 amended Code Sec. 151(d)(3) by striking subparagraph (E). Prior to being stricken, Code Sec. 151(d)(3)(E) read as follows:

(E) TERMINATION.—This paragraph shall not apply to any taxable-year beginning after December 31, 1996.

The above amendment is effective on the date of enactment of this Act.

P.L. 102–318, §511:

Act Sec. 511 amended Code Sec. 151(d)(3)(E) by striking ''December 31, 1995'' and inserting ''December 31, 1996''.

The above amendment is effective July 3, 1992.

P.L. 101–508, §11101(d)(1)(F):

Act Sec. 11101(d)(1)(F) amended Code Sec. 151(d)(3)(B) by striking ''1987'' and inserting ''1989''.

P.L. 101–508, §11104(a):

Act Sec. 11104(a) amended Code Sec. 151(d) to read as above. Prior to amendment, Code Sec. 151(d)(as amended by Act Sec. 11101(d)(1)(F)) read as follows:

(d) EXEMPTION AMOUNT.—For purposes of this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''exemption amount'' means—

(A) $1,900 for taxable years beginning during 1987,

(B) $1,950 for taxable years beginning during 1988, and

(C) $2,000 for taxable years beginning after December 31, 1988.

(2) EXEMPTION AMOUNT DISALLOWED IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

(3) INFLATION ADJUSTMENT FOR YEARS AFTER 1989.—In the case of any taxable year beginning in a calendar year after 1989, the dollar amount contained in paragraph (1)(C) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting ''calendar year 1988'' for ''calendar year 1989'' in subparagraph (B) thereof.

The above amendments apply to tax years beginning December 31, 1990.

P.L. 99–514, §103(a):

Act Sec. 103(a) amended Code Sec. 151(f) to read as above. Prior to amendment Code Sec. 151(f) read as follows:

(f) EXEMPTION AMOUNT.—For purposes of this section, the term ''exemption amount'' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the next highest multiple of $10).

P.L. 99–514, §103(b):

Act Sec. 103(b) amended Code Sec. 151 by striking out subsections (c) and (d) and redesignating subsections (e) and (f) as subsections (c) and (d), respectively. Prior to amendment, Code Sec. 151(c) and (d) read as follows:

(c) Additional Exemption for Taxpayer or Spouse Aged 65 or More—

(1) For Taxpayer.—An additional exemption of the exemption amount for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(2) For Spouse.—An additional exemption of the exemption amount for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(d) Additional Exemption for Blindness of Taxpayer or Spouse.—

(1) For Taxpayer.—An additional exemption of the exemption amount for the taxpayer if he is blind at the close of his taxable year.

(2) For Spouse.—An additional exemption of the exemption amount for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the

spouse dies during such taxable year such determination shall be made as of the time of such death.

(3) Blindness Defined.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

The above amendments apply to tax years beginning after December 31, 1986.

P.L. 99–514, §1847(b)(3):

Act Sec. 1847(b)(3) amended Code Sec. 151(e)(5)(C) by striking out ''section 37(e)'' and inserting in lieu thereof ''section 22(e)''.

The above amendment is effective as if included in the provision of P.L. 98–369 to which such amendment relates.

P.L. 98–369, §426(a):

Act Sec. 426(a) amended Sec. 151(e) by adding at the end thereof a new paragraph (5) to read as above.

The above amendment applies to tax years beginning after December 31, 1984.

P.L. 97–34, §104(c)(1), (2):

Amended Code Sec. 151 by striking out ''$1,000'' each place it appeared and inserting in lieu thereof ''the exemption amount'' and by adding at the end thereof new subsection (f), effective for taxable years beginning after December 31, 1984.

P.L. 95–600, §102(a):

Amended Code Sec. 151 by striking out ''$750'' each place it appeared and inserting in lieu thereof ''$1000'', effective for taxable years beginning after December 31, 1978.

Mr. DOMENICI. This simple section has more than 14 jump sites which refer readers to other sections of the code for additional information. With all of its complexities, the current Internal Revenue Code still fails to collect $127 billion each year in taxes that are owed.

Capital costs, which everybody is beginning to understand, is the lifeblood of an economy now and in the 21st century. How much can we get capital for? What do we have to pay for it? That cost is one-third more than it should be if we had an efficient Tax Code. That means every time a business borrows money to grow, they pay about one-third more for that capital because of this Tax Code than if we had one that promoted savings and investment.

Since we started talking about abolishing the current Income Tax Code and replacing it with an unlimited savings allowance tax to be known as the USA tax, we have heard from hundreds of people who have told us about their experiences with this current code.

I have a small business advocacy group in New Mexico. Every time we meet, the agenda is dominated by complaints about the Internal Revenue Service and the Internal Revenue Code, and the top Federal Government problem that they face is constantly fighting with the IRS over this Tax Code.

It is not just small business. One of America's crown jewels as far as high-technology companies is concerned told me they have three IRS auditors who are assigned full-time to reviewing the company's taxes. As of 1994, and the IRS auditors were still reviewing 1987 returns.

Another company with worldwide operations told me they rent time on a supercomputer to calculate some of the foreign tax credit provisions.

Tax Code complexity costs America about $50 billion annually in compliance costs.

I have concluded, and I am joined by my distinguished friend from Georgia, Senator NUNN, that the Federal Tax Code is un-American in spirit, wrong in principle because it levies a double tax on dividends and taxes savings, and it discourages risk-taking and entrepreneurship and the creation of jobs. It is hostile to savings and investment, and tilted in the opposite direction. It encourages corporate management to neglect long-term investment in favor of focusing on short-term profits.

Now, we do not want to tell businesses what to do. We want to create a code that encourages them to do the things that are best for our future.

The way a country taxes its people deeply influences its potential for future growth.

Our current code penalizes savings by taxing income when it is earned and then taxing interest and dividends that are generated by the initial investment. When an activity is penalized in the code, it influences behavior. Taxpayers do less of those disfavored activities, and the current code is doing a good job of discouraging savings. Americans are only saving about 2.8 percent of the gross domestic product.

The lack of savings leads to a shortage of investment, which in turn leads to insufficient growth, stagnating incomes, and a loss of high-wage jobs.

Acknowledgment of this is rampant. Congressional Budget Director Robert Reischauer spoke to this recently. I ask the quote be made part of the RECORD.

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

* * * the best way for the nation to prepare for [the] future * * * is to save and invest more now. Greater investment, the main engine of growth, would enlarge the future economic pie * * *. Investment in turn, fundamentally depends on the available pool of saving, whether private (personal and corporate) or government (federal, state and local) * * *.

Mr. DOMENICI. The administration testified before Ways and Means the deplorable state of savings in the United States.

We believe that the savings rate is too low to sustain a sufficient level of private investment into the next century. Without adequate investment, the continued healthy growth of the economy is at risk.

Our prototype tax is a quest for the best tax system we can develop, one that should vastly expand the pool of savings and achieve significant simplicity in that bargain. We estimate that of the 700 Internal Revenue Code sections, over 75 percent would be eliminated.

Here is the Tax Code in very small print. We need a magnifying glass to read it. For a tax lawyer, there are 21 volumes of this code; 21 volumes, annotated—that is interpretations—and case law on this code, which, I repeat, I do not believe anybody who is the least bit nearsighted could even read this. They would have to have a magnifying glass, it is that tiny.

Our tax, the prototype we are developing, is a single tax in two parts, a tax on individuals and a tax on business. The individual tier of the USA tax system has two characteristics: first of all, it is progressive, a goal achieved through a combination of graduated rates, exemptions, and personal deductions; and a family living allowance for lower income individuals, the earned-income tax credit. The family living allowance recognizes that every family's budget includes necessities and the Federal Government should not tax that portion of a family's monthly expenses.

The net new savings deduction is an important feature of this system. For those would want to expand IRA's, this is the ultimate expansion. It will give all Americans, including those of modest income, an opportunity to have more control over how their income is taxed each year. As a consequence, it empowers taxpayers to have some say in how large their tax bill will be. The net savings deduction combines the best tax policy of the individual IRA accounts and the capital gains differential.

The IRA debate usually focuses on back end verus front ended; sophisticated saver verus unsophisticated; whether the benefit should be limited to people without other pensions or not; whether funds could be withdrawn for three worthy purposes—first time home buying, college education, or catastrophic medical expenses, or five worthy purposes adding long-term unemployment or caring for an incapacitated parent; and whether IRA's add to the savings pool or merely divert assets from existing nontax preferred accounts.

The net new savings deduction in the tax system Senator NUNN and I are proposing avoids all of these arguments. First, it recognizes that savings and investing is good for the economy and that people shouldn't be called upon to pay taxes on income that they are dedicating to the savings pool.

It puts no time constraints on the savings or investment so that individuals can move from investment to investment without tax consequences as long as they continue to save and invest the proceeds from the preceding investment. In this respect the net new savings deduction is not only an expanded, universal IRA, it is a new, and improved capital gains mechanism which allows taxpayers a series of investments and rollovers without incurring tax liability.

Instead of a capital gains rate of 7, 14, or 28 percent, the net new savings

deduction works like a zero rate on capital gains as long as the proceeds are reinvested.

We avoid the debate about whether IRA's add to the savings pool or merely divert assets from existing nontax preferred accounts because the deduction only applies when an individual has, at the end of the year more saving than he or she had at the beginning of the year. Mere portfolio shuffling without a net addition to saving does not result in a deduction.

These are but a few of the features of our new tax system. We will be introducing legislation which will provide far more detail in the next few weeks.

Now, I will yield shortly, because I want my friend, Senator NUNN, to explain in more detail how this is going to work. Let me just suggest that the deduction for personal savings—that is, deferring income if a person saves—parallels business expense deductions for capital investment. The former allows the individual to defer tax on that portion of income that is saved and ultimately converted into capital. The latter allows a business to recover capital before paying taxes.

The net new savings deduction maximizes choice and flexibility. It encourages people to save for whatever purpose they deem worthwhile, not some Government-concocted list.

Hopefully, my friend, the Senator from Georgia, will elucidate on the corporate tax side. But let me give you the main characteristics:

It has a flat tax on all businesses including corporations, partnerships, sole proprietorships, and other forms of business organization. The base is very broad so that the rate can be quite low.

It includes an unlimited deduction for capital investment—unrestricted expensing. The expensing deduction allows a business to recover capital before being taxed.

The Contract With America recognizes the sound tax policy behind expensing. It proposes to increase the current limit from $17,500 to $25,000. When the National Federation of Independent Business [NFIB] testified before the Ways and Means Committee, they proposed increasing the annual expensing limit to $100,000 because it is the best tax policy tool to encourage investment.

Our proposal provides unlimited expensing. Small firms favor expensing for several reasons: It is simple, it helps cash flow and it encourages capital formation. Expensing allows businesses to escape the complexity associated with calculating and tracking the depreciation schedules for every piece of equipment. Expensing is good for all businesses, but it is particularly attractive to small businesses because it helps them with the day-to-day cash flow problems that they face. It allows them to deduct more up front—putting resources back in the hands of the entrepreneur faster instead of keeping it in the hands of the Federal Government.

Expensing helps firms who need working capital as well as the entrepreneur who wants to expand his business through the purchase of an important piece of productivity enhancing equipment. Finally, expensing is good for the economy. If businesses are allowed to write off their investments in the year they are purchased businesses are much more likely to make such investments, thereby increasing jobs and economic growth.

As we started to design the Unlimited Savings Allowance Tax Act [USA] we made certain general assumptions:

Raise as much revenue as the current code; corporations and businesses would continue to shoulder the same share of the total revenue burden as under current law.

Retain current code progressivity so that high-income earners in the top 20 percent, as a group would pay no more, and no less in taxes. The bottom 20 percent of the taxpayers would see no change, as a group in their share of the tax burden. The same would be true of each 20 percent or quintile.

Improve competitiveness of our exports by designing the system to meet international trade rules. This border adjustability allows a country's exports to leave the producing country without including a tax burden in its export price. Border adjustability is enjoyed by many of our competitors, yet unless we sack the Federal income tax, this advantage will not be available to our exporting companies.

Provide unlimited expensing for businesses making capital investments and an unlimited deduction for personal saving.

Senator NUNN and I cochaired the Strengthening of America Commission. This Commission was established by Center for Strategic and International Studies [CSIS]. The purpose of the commission was to develop policies to put our fiscal house in order. One of the major recommendations was to abolish the current income tax system and to replace it with the tax system we have been talking about today. That bipartisan Commission deserves a lot of recognition for their work on this project.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Georgia.

Mr. NUNN. Mr. President, I join my friend from New Mexico, Senator DOMENICI, to discuss the proposal that he has briefly described. I certainly join him completely in his analysis of the current Tax Code. In my view, it is broken and it cannot be fixed. We have to replace it. That is what the Nunn-Domenici proposal is all about and one that we will be introducing sometime during the month of February. It is in the drafting stage now. It will require review.

We certainly will be introducing it in the spirit of welcoming both debate, constructive suggestions, and even constructive criticism, because we believe it is going to be a major change in the way America taxes itself and the way America saves money and the way America invests money.

I believe it is going to have a tremendous effect on the American economy over a period of time if it is enacted and implemented, and we hope it will be.

Mr. President, in the coming days, many proposals to change different components of the Tax Code are likely to come before the Senate—initiatives to expand IRA's, to which the Senator from New Mexico referred; accelerate depreciation of business investments; provide differential tax treatment for gains on capital investment; and other proposals.

What drives these and similar proposals is the important truth that the current Tax Code penalizes the efforts of individuals and businesses to save and invest more of their current income to pay for future obligations and to ensure future prosperity.

My colleague from New Mexico and I believe we must raise the national level of savings. If someone does not agree with that, then they will not favor this change. If they do agree with it, then I think there is a tremendous challenge here to make the changes that we are talking about.

Higher levels of savings lead to higher levels of investment. Higher levels of investment lead to higher productivity. It is only through higher productivity that we can improve our Nation's economy and its capacity to create more and better jobs for our people and ultimately a higher standard of living for our people. So that is the chain on which we have to focus. Savings in this country will eventually pay off in terms of the standard of living of the American people.

Senator DOMENICI and I do not think, however, that incremental changes will be equal to the large task before us. Our fear is that incremental changes, however well-intentioned, will complicate an already Byzantine Tax Code without yielding the new savings and investments that all of us seek. There is a better way.

In a few weeks, we will introduce a comprehensive proposal to replace the individual and corporate income tax with an alternative that will accomplish everything the piecemeal reform attempts tried to accomplish and much, much more. We believe this sort of fundamental reform is essential, and we also believe it is within the capacity of the Congress to enact.

After careful consideration, Senator DOMENICI and I agree that if we are serious about our Nation's future, we must scrap the current tax system and put in its place a system that works. What do we mean by a system that works? We mean a system that encourages savings and investment. We mean a system that is perceived to be fair by the American people. We mean a system that is understandable. We mean a system that wrings fewer dollars, less

forms, less paperwork, less complication, less litigation, and less sweat from our citizens and businesses in trying to comply with it.

We mean a system attuned to international competitive realities, and I will speak more on that in a moment. We mean a system that is fiscally responsible. There is no point in creating a new Tax Code that increases private sector components of national savings while squandering the public sector component of savings by allowing our deficit to balloon.

We call our new tax system the USA tax system, or the Unlimited Savings Allowance Tax System. It is a single integrated tax in two basic parts: a low flat tax on all businesses and a progressive tax on individual incomes. These two parts flow together. It is important that people not separate them in their own mind because if they do, they will not grasp the significance of the whole concept.

This proposal allows an unlimited deduction at the business level for capital investment and, most important, it permits all citizens an unlimited deduction for the amount of their annual incomes that they save and invest. The USA tax system directly and systemically addresses our saving and investment problem.

To the individual, the USA tax system says, ''If you choose to defer some of your current consumption in favor of savings income for your future and the future of your children, the Tax Code will not penalize you for doing so.''

And to the business enterprise, whether very small or very large, manufacturing, service, or agriculture, the USA tax system says, ''If you choose to invest your profits in a new machine or a new process that will help you grow and put more people to work, the Tax Code will help make this feasible.'' The USA tax system, by its very nature, would align the way we tax with our common desire to provide our people with a better future, a better tomorrow.

Let me turn briefly to a description of how both the individual side and the business side would work and mesh together. Under the USA tax system, individual income tax would be defined much the same as it is today. But—and here is the crucial difference—taxpayers would have the right to subtract the amount they saved and invested from what they earned during the year before they pay their tax. The balance would be subject to tax.

Let me make it clear that the USA individual tax defines savings as ''net new savings.'' There will be no deduction for a mere portfolio shifting. Taxpayers only receive credit for net additions to their savings. At the same time, however, the USA individual tax places no limit on the amount of an individual's net new savings that he or she may deduct from gross income. Nor must that savings be limited to a specific use, such as retirement.

Ultimately, the unlimited savings allowance is about giving taxpayers greater freedom and responsibility, the freedom to save as much as they want and the responsibility to save for whatever is important to them.

Along with a savings allowance, the USA individual tax includes a few other deductions, only a few because for every deduction we add, marginal tax rates must increase in order to raise the same amount of revenue.

The most important deduction is a generous family living allowance already referred to by my friend from New Mexico. It is similar to but much larger than the current standard deduction. By providing a family living allowance, we ensure that working Americans on the low end of the economic ladder are not taxed on essential spending for food, shelter, and the other necessities of life.

The USA individual tax retains the current deduction for home mortgage interest and for contributions to charity. It also allows a deduction for tuition expenses, for postsecondary education, whether college, trade or vocational school, or remedial education.

This innovation recognizes the importance of investment in our young people and really, for that matter, in adults who want to have continuing education as a key component of our future prosperity. Our prosperity depends not only on financial capital but also on human capital, and this proposal recognizes that essential fact.

It parallels the deduction of the USA business tax allowance for investments in physical capital. Once the taxpayer has calculated his or her gross income and subtracted the allowable deductions, the remainder is subject to tax.

Let me make it clear, our USA individual tax proposal will have graduated rates. On the individual side, we are proposing a progressive system, not a flat tax. I do not believe it is necessary, nor desirable, to abandon fairness in order to fashion a simpler, more efficient, growth-oriented Tax Code. There will be those who want to move toward a flat tax. Our system is not incompatible with that, but I believe myself that we should retain the current progressive system based on the amount of income that a person takes in, less the savings that they make.

I think everyone should recognize, however, marginal rates, higher rates at the margin, will not have anything like the same effect they have today because these will be marginal rates after deferring the tax by deducting saving and investment, a totally different psychology, and I hope people stop and think about that as they weigh the question of flat versus progressive taxation.

Under the USA individual tax, lower income working Americans are allowed a tax credit for their portion of the payroll tax. The USA individual tax also retains the earned income tax credit.

Mr. President, the most regressive part of our current Tax Code and one of the things that happened, most regrettably, in the 1980's, is that low- and medium-income people basically had a much higher percent of their money going into overall taxation, because while the income tax came down where they would be taxed at lower rates, the FICA tax, the self-employment tax, and the tax on a checkoff on employees went up and went up very significantly.

There are many thousands, perhaps millions, of Americans who pay more in the FICA tax than they do in income tax. So what we are doing in this proposal—and this is a strong element of fairness to those of modest incomes—is we are giving those people a credit back against taxes for the employee portion of Social Security. We also are giving a credit back to the businesses—and I will mention that in a moment—for their portion. This ensures fair treatment for people of modest means.

The payroll tax credit mitigates that tax's harsh regressivity while preserving the financial foundation of the Social Security system. We do not in any way affect the amount of money going into the Social Security system, and I think people who are concerned about that should recognize the same amount of money will go in from employees and employers.

The simplicity gains of the USA individual tax are obvious. The administrative apparatus to collect the tax is already in place. We do not have to have a new administrative apparatus which would be required under anything like a VAT.

From the perspective of both the taxpayer and tax collector, adjusting to this new tax will be both feasible and, I believe, understandable.

At the same time, from the perspective of the philosophy of taxation, the change portended by the USA individual tax could not be more profound. Profound change is what we call for.

First, our tax proposal would rid the system of the current crippling double taxation of savers. Under the present Tax Code, savers are taxed once on the income saved and again on the returns to those savings. This is the fundamental, inescapable reason why the Tax Code today is antisaving. The USA individual tax would tax every dollar of income once and only once.

Just as important, under the USA individual tax, each dollar is taxed when it is removed from the society's savings pool, not before. I think people have to understand that savings goes to the benefit of all Americans, not just the person saving. That savings pool is where we get our capital for business, for investment, for automobile loans, for home loans. So the more that savings pool increases, the better off we all are, and that is an important part of this philosophy.

Based on the history of the world, not just the United States, it is my view we will always have taxes to pay

as long as we have civilization, but is it not better to tax people when they take out of society's common savings and investment pot rather than when they put money into this pot? That, again, is the philosophy of what we are talking about.

The USA individual tax, by deferring the tax on saved income, does just that.

When Senator DOMENICI and I introduce our USA tax proposal—and hopefully that will be, certainly it will be, in the month of February—we will specify an individual rate structure designed to collect the same amount of money raised by the current personal income tax. Correspondingly, the USA business tax, which I will describe in a moment, will raise the same amount of money as the current business income tax produces. There is no shell game here. We are not trying to shift the tax burden from business to the individual or from the rich to the poor or vice versa. We are not looking for that elusive fellow behind the tree that the Senator from Louisiana, Senator Long, used to talk about with such great humor and with such great specificity to the point being made in the debate that was taking place then and continues to take place, always looking for someone else to tax.

In the final analysis, everybody pays taxes. That is not going to change. We are not offering a tax cut or tax increase. We are proposing a change in the way our democracy raises revenue.

With that in mind, let me describe the second component of our new tax proposal, the USA business tax.

Under the USA business tax, all businesses, corporate and noncorporate, would be taxed the same. Firms would deduct expenses from gross sales to determine gross profits as they do today. From those profits, they would also be permitted to deduct the full cost of all investments in new plant and equipment in the year the funds are expended.

These investments work for all of us—not just the company investing but the people who have jobs, the people who buy the products, and the people who basically invest in the business.

The balance would be taxed at a low and flat rate. We now estimate this rate to be approximately 10 percent. That is not absolutely precise, but when people are looking at this business tax and the fundamental changes made in it, they need to understand we are not talking about the same rate structure as today. We are talking about a dramatically lower rate, but we are applying it to all businesses, not simply corporations.

Beyond allowing an immediate deduction for investments in future growth, the USA business tax would be border adjustable. That is enormously important. Products made in America and exported would not be taxed. I repeat that, because it is fundamental and it is important. Products made in America and exported would not be taxed. However, when a company, foreign or American owned, manufactures abroad and sells into the U.S. market, the company is, through the operations of a new import levy, taxed essentially the same as if the factory were located in the United States. Products coming in will be taxed the same as products sold in America.

Moreover, the USA business tax applies only to business income generated in the United States. Profits earned by American companies overseas would not be included in the new tax base, while the profits of subsidiaries of foreign corporations located in America would be.

In other words, this is a territorial tax. It eliminates enormous complexity. It encourages exports, and it levels the playing field in terms of businesses in this country competing with businesses all over the world.

By rebating the tax on American exports and by making U.S. subsidiaries of foreign companies pay their fair share of tax, the United States would with the USA Tax Code in one stroke attune our Tax Code to world competitive realities.

To enjoy the benefits of the export rebate, under current international trade agreements, we have to include wages in the business tax base. Many will be concerned about that. But there are two important things to remember. First, our business tax rate will be quite low—10 percent or, hopefully, even less—after we go through transition. Second, under our proposal, businesses would receive a credit for the employer share of the payroll tax against their taxes owed to the amount of $7.65, again a very important concept.

The combination of the low, flat rate and the payroll tax credit means that inclusion of wages in the gross tax base will for most businesses result in a comparatively small amount of tax. And do not forget, under the USA business tax, unlike the current code, firms would have the advantage of a tax rebate on their exports and, more fundamentally, the opportunity to expense the capital investment necessary to raise productivity and create better and higher paying jobs.

While I have described the USA business and individual tax apart from one another, it is essential to regard them as comprising a single tax levied at two places: at the level of the firm where the wealth is created and at the level of the individual where the wealth is received. The key to the USA tax system and what makes it work is the fundamental principle of the saving deduction for the individual taxpayer.

The deduction for individual saving permits a new perspective toward designing the business tax. Because individual saving is exempt under our proposal, it eliminates enormous complexities in the Tax Code. There is no reason to be concerned under our proposal about people sheltering their savings in corporations. This drives a huge portion of the complexity of the Tax Code. We do not need elaborate rules to force businesses to distribute sheltered savings.

In an economy with a gross domestic product of over $6 trillion, taxation will never be a completely simple affair. But because the USA tax system eliminates the need for rules against sheltering and because it is based on cash rather than accrual accounting, it promises real advances in simplicity and clarity.

On the day of its enactment, as the Senator from New Mexico has already stated, whole volumes of the Tax Code complications would fall away into welcome oblivion. The tax shelter industry would shrink and compliance costs would plummet. There would be no more fights over capital gains. All income would be treated alike. The wage earner that earns $40,000 a year would have his income treated the same as someone who has $40,000 in capital gains.

The key is what they would do with it. The capital gains debate would be over. If it is reinvested, then the taxation on it would be deferred. If it is not reinvested, if it is consumed, then ordinary tax rates would apply. And that would be the same for the factory worker as for the investor who sits at home with stock investments or bond investments or other kinds of investments.

There would be no more fights over capital gains, investment tax credits, accelerated depreciation, individual retirement accounts, and other targeted incentives for saving. The USA tax system eliminates these issues because it offers a blanket deduction for personal saving and business investment.

Mr. President, Senator DOMENICI and I want to simplify the Tax Code and make sure it serves the long-term national interest by encouraging growth and a higher standard of living. There is a direct connection between savings and real income for our people. We need more thrift not for thrift's sake but because our willingness to save and invest today means more jobs and greater wealth tomorrow—more ability to consume tomorrow. Our parents saved to provide us with our current prosperity; we owe the next generation no less.

A good way to begin is to understand that the current tax system is broken and, in my opinion, it cannot be fixed. In a very real way, it has abetted our irresponsible tendency to live beyond our means. Our current Tax Code, I believe, must be abolished and replaced.

We must begin anew. The USA tax system provides a way to eliminate the cynical complexities, the special subsidies, the crippling biases present in the current code. By accomplishing real reform of the tax system, this Congress can take a giant step toward securing our future.

Mr. President, I thank the patience of the others on the floor, Senator

KEMPTHORNE and others, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

UNFUNDED MANDATE REFORM ACT

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that time prior to a motion to table the Boxer amendment, No. 201, be limited to 30 minutes equally divided in the usual form and that following the conclusion or yielding back of time the majority manager or his designee be recognized to make a motion to table the Boxer amendment, No. 201.

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

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am very pleased to be able to offer this amendment. I wanted to clarify the reason why I second-degreed my own amendment.

Late last night we presented our second-degree—actually we wanted to modify our initial amendment and we were told there would be no unanimous-consent agreement to the modification. The modification is very important. I will get into that. But I wanted to make sure the manager of the bill understood that I was not meaning to surprise him, I just was acting because I was not able to modify my amendment.

I also want to say to the manager—actually to both managers —that they are doing a terrific job of moving this bill along. I think we are in fact making good progress. I think the American people understand better what it is we are doing.

This is the first day I have spoken on this bill when I did not have my charts behind me that show what I call an incredible bureaucracy that is growing up as a result of S. 1, which is very much changed from the initial unfunded mandates bill that I supported last year. Yesterday I was very heartened to see that 44 Members of this U.S. Senate voted to add as an exception to that bureaucracy, any law that deals with our most vulnerable populations—namely our children under 5, our pregnant women, and our frail elderly. We do not want to have this U.S. Senate—or at least I hope we do not want to have it tied up in knots when it comes to dealing with those populations.

I was rather surprised to see the Republicans again vote in lockstep against that amendment which is a commonsense amendment. I am happy we did get one Republican to cross that line, Senator SPECTER. I thank him for that show of independence.

I have, after this amendment, another amendment dealing with an exception to the bill as it relates to child pornography, child sexual abuse, and child labor laws. We will be debating that, hopefully, later in the day.

Let me talk a little bit about this amendment. When we talk about unfunded mandates, I think it fair to say that in California the mother of all unfunded mandates is the unreimbursed costs from illegal immigration. Why do I say that? It is because California gets almost one-half the number of illegal immigrants coming into the country. We put the number of illegal immigrants in our State at about 1.7 million people. The children go to schools; it costs the taxpayers money. People get sick; and it costs the taxpayers money. Illegal immigrants are incarcerated; and it costs the taxpayers money. Simply, in this amendment we are saying: Pay attention to this unfunded mandate that is really wreaking havoc on our State.

The people in our State voted for prop 187, a very controversial, a very controversial measure. They voted for it because, I believe, they wanted to send a message to this U.S. Senate, to this Congress, and to our President: Help us. This is not fair. Although we are doing more to control the border we are not doing enough and we are continuing to have to deal with this issue.

So, what I simply do in this amendment is ask that not later than 3 months after the date of enactment, the Advisory Commission shall develop a plan for reimbursing States, local and tribal governments for the costs associated with providing services to illegal immigrants based on the best available cost and revenue estimates.

Let me underscore that. Illegal immigrants do pay taxes in many cases and those are revenues. But the GAO report that I asked for shows us very clearly there is a very large net cost to my State of California of approximately $1.4 billion. So we asked this Advisory Commission to look at the costs to educate, incarcerate, and to provide medical care for these illegal immigrants. And then we say that the Advisory Commission come in with a plan for reimbursement; and that the appropriate Federal agencies shall be authorized to expend such sums that are necessary to fulfill the plan for reimbursement described in this section.

So it is not just talk. It is action. It is not just process. It says this is a real unfunded mandate. This is the opportunity on S. 1 to address it and let us move forward.

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

I ask how much time I do have left? May I ask through the Chair, how much time I have left?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from California has 10 minutes remaining.

Mrs. BOXER. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me first of all express to the Senator from California my understanding of the procedure from last night. There was a misunderstanding about the acceptance of the substitute language. There was certainly no intent to deny the opportunity to present this language.

I also want to say I agree very much with the spirit in which the Senator offers this amendment. My State of Arizona suffers relatively from the same kind of expenses that are imposed on States like California and other border States that have experienced a tremendous increase in illegal immigration—over the last several months in particular, but certainly over the last few years. In fact, it is estimated in the State of Arizona the cost of incarcerating illegal felons in our prisons is in the neighborhood of $100 million.

This year, just in the first few weeks of this year, the Tucson sector has experienced record high apprehensions of illegal immigrants coming across the border, part of which is due to the additional agents put in California and Texas and therefore illegal immigration appears to be funneling through Arizona. So my State is certainly experiencing this problem.

I have been trying to work with the Attorney General to have an allocation of more agents for the Arizona border to prevent this problem and the attendant expenses. So I certainly understand the problem and associate myself with the remarks of the Senator from California about the need to begin this reimbursement process.

Under the crime bill, of course, last year $1 billion was authorized for reimbursement for incarceration of illegal aliens. The first tranche of that money has come to the States, but it is not enough. Where I disagree with the Senator from California, and why I will be moving to table the amendment, has to do with the fact that this amendment is not well drawn and is in the wrong place. It has no business on the unfunded mandates legislation. And second, it is not really necessary.

The Immigration Reform Act of 1990 establishes a commission to study precisely the costs that are involved here, the costs associated with providing services to illegal immigrants. As a matter of fact, it calls for a report. Because the Appropriations Committee last year felt that this was so important, it appropriated an additional $400,000 beyond the request in order to expedite this report.

As a matter of fact, let me read from the report language from the appropriations committee. The committee says:

> The Committee is supportive of the Commission on Immigration Reform's mandate and the request for funds as submitted. In reviewing the broad range of issues to be examined by the Commission, however, the Committee is particularly concerned about the quality of the data currently available on the costs and benefits of immigrants, especially unauthorized immigrants, and the vast range of estimates on this topic.

Then the committee concludes:

> To that end, the Committee has included $400,000 above the request to enable the Commission to join with the National Academy

of Sciences in a collaborative effort to address these methodological issues and provide a higher level of credibility to immigration cost data.

It is my belief that when this information is available it will be imperative for the Federal Government to then establish a plan for reimbursement of States for the expenses attendant to the Government's failure to control the border. But that is different from an unfunded mandates.

I would like I to take us back to the bill. The presiding officer authored this bill, and understands full well that it is designed to deal with the problem of unfunded Federal mandates and the costs associated with the illegal immigration are not unfunded mandates.

They are, rather, costs associated with the failure of the Federal Government to perform an obligation which we all recognize it has to perform. But it is not an unfunded mandate.

This amendment of the Senator from California amounts to—in fact, it is an authorization, an open-ended authorization—from the Federal Government to pay for the benefits which are undefined and which are unidentified in terms of scope. As a matter of fact, the amendment of the Senator from California contains no criteria for determining what would be eligible for requirements and what would not. This bill is a pure, open-ended authorization.

I suggested to the Senator from California yesterday that we perhaps include in the Commission that was established under the 1990 act in that Commission's mandate, a requirement for presentation of options for the reimbursement of the States, an actual plan for reimbursement, but the Senator from California wanted to go beyond that and actually create an authorization in this bill. That is something which cannot do, and we are not prepared to do it. Among other things, it puts the cart before the horse. I think we have to first determine how much reimbursement is necessary and to whom.

Otherwise, as I said, it is open ended without and without limitation and, very importantly, it is without criteria.

Under the bill which was introduced by you, Mr. President, there is a very important component which precedes the action by the Congress on a determination of whether to make a reimbursement to a State or not. That is a CBO estimate of the costs involved. Obviously, we want to understand what the potential costs are before we simply sign, basically, a blank check and we want to establish the criteria. Under this amendment of the Senator from California, there are no criteria. It is simply an open-ended authorization without any indication of what would qualify or not.

One question that I would like to ask is, are these reimbursements only for programs that are mandates by the Federal Government? In other words, unfunded mandates. If that is the case, it will cover very little because most Federal laws deny benefits to illegal aliens. Would it apply to something such as a court-determined benefit?

There is a court case that says we cannot deny educational benefits to illegal aliens. So perhaps that would be covered. Would any program offered by the States but not mandated by the Federal Government be violated here? That would violate the legislation that the Senator seeks to amend. The spirit of this legislation is that if the Federal Government requires a State or a local government or a tribal government to expend money, then the Federal Government ought to reimburse the local government for the expense. That I support. That is why I am a strong supporter of this legislation. But where a State voluntarily does something on its own, it is not the Federal Government's obligation to reimburse for those expenses.

The Senator from California will rightly argue that part of the problem here is that because the Federal Government has failed in its obligation to control the borders. The States have little leeway in providing benefits to those illegal immigrants. And that may be true in certain cases. I think we have to understand in which cases we believe it to be true before we commit the Federal resources to reimburse the States. Otherwise, we get into the situation of the States literally deciding to do whatever they want to do, and the Federal Government has no control over the situation. We would have to reimburse them whether we it is an obligation. We have to reimburse them whether we believe it is an obligation, whether it is appropriate or not. So the amendment is simply too broadly drafted. It is an open-ended authorization and clearly would bind us in ways that we do not want to be bound at this time.

Finally, Mr. President, as I said, these expenses are almost never unfunded mandates. They are expenses for a failure to perform. That is the reason why this entire amendment really has no place in this unfunded mandates legislation.

I will strongly support the Senator from California in her efforts to get the Federal Government to reimburse the States and local governments for expenses attendant to the problem of illegal immigration. I want to do that. But obviously this legislation is not the place to do it. And it is not appropriate either for us to create an open-ended authorization.

So those are the reason, at the conclusion of this debate, I will be moving to table the amendment of the Senator from California.

Mr. President, I would like to reserve the remainder of my time.

Mrs. BOXER. President, I yield myself 5 minutes.

I want to thank the Senator for his very thoughtful words today. I am glad he likes the spirit of my legislation. I would prefer he endorse the amendment. But I think he understands as I do that this is a huge problem, and I think one of the reasons people get so frustrated is because when we are facing a situation in my home State of California and in the Senators State, that is clearly an unfunded mandate. And I will explain why it is an unfunded mandate, and then we have Senators get up and say this does not belong in the bill. This does not belong in the bill. The fact is the State of California has to spend more than $1 billion a year for a couple of reasons. One is that the provision of the emergency medical services is a direct Federal mandate. In the Omnibus Budget Reconciliation Act of 1986 the Federal Government is telling the States you have to provide emergency medical services. So for someone to say that there is no basis for that in the law—that individual simply has not read that act.

Let me tell you what that means to my State: $395 million a year. That is not small change. And then I will say to my friend that there was a legal case in the Supreme Court which said very clearly there is a legal mandate in our Constitution that requires the State to educate undocumented children. Let me tell you that cost to the people of my State: $1.6 billion a year. The Senator says it is not much money. There are no mandates. I just gave you two of the mandates. How about the third one which I discussed—incarceration. Do you know what that cost is to my State for incarceration of illegal immigrants? It is $360 million a year. Do you know what they have reimbursed my State? It is $33 million.

So I have now shown you and given you the references for where our States have no choice but to provide these services, and they are getting very little back. Yes, there is revenue that comes in. But it does not nearly match. It does not nearly match what these costs are.

My colleague from Arizona says he is very satisfied with Washington's response. He said in the Appropriations Committee they know this is a problem. They are working on it. Why does not he check with Governor Wilson who filed a lawsuit against the Federal Government? He should also know about the amicus brief that is going to be filed tomorrow on the California reimbursement lawsuit. So our Governor thinks it is one of the biggest issues facing the State. He is a Republican. I agree with him in terms of the unreimbursed sums. I am shocked to hear a Senator from a State that has the problem agree with me in spirit but oppose my legislation, which would in essence say we know enough to know these are unreimbursed costs; let us get with it.

The Commission he talks about was not set up to make a plan for reimbursement. This bill says we know enough. How long are we going to wait?

So, Mr. President, I hope we will have support for this amendment. We

can use words and say it is not relevant. But when the Federal Government says you must provide certain services and because of its failure to control the borders, those services are going out of control, to me it would be highly, in a sense, hypocritical not to include this section in this bill.

I will retain the remainder of my time.

Mr. KYL. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER (Mr. ROTH). The Senator has 7 minutes.

Mr. KYL. Thank you. Mr. President, I would like to yield myself 5 minutes of time.

I want to make my position perfectly clear on this, because I think it was, to some extent, misrepresented by the Senator from California.

I never said, for example, that this is not much money; quite the contrary. My State of Arizona has been severely impacted by the problem of illegal immigration and has had to bear significant costs as a result. I do not doubt for a moment that the cost estimates suggested by the Senator from California represent an approximation of what the State of California has had to bear. If you add to that the costs of other border States, I know they are significant. I want it clearly understood that I have never said this is not much money or that it should not be reimbursed. In fact, I said quite the opposite, that we do need to reimburse States.

I said at the beginning of my remarks that in Arizona, the Governor estimates the expense for incarceration of illegal aliens to be about $100 million a year, about a third of what California apparently estimates. The Senator from California points out the fact that California's Governor is a Republican. The Governor of Arizona is also a Republican, and they both want to see the Federal Government reimburse the States for the expenses of illegal immigration. I do not doubt their estimates.

I am sure the Senator from California is aware of the fact that there are widening disparate numbers involved here, and that it is very difficult to correctly identify what each State would be entitled to in terms of reimbursement.

The crime bill passed last year authorized $1 billion for reauthorization for incarceration. So to the extent that the Senator from California identifies incarcerating illegal aliens as a problem for which we need immediate authorization, that authorization already exists. My State received already just under $1 million, not nearly enough. The State of California has not received nearly enough, but those reimbursements are beginning. So her amendment is not necessary to begin the process for reimbursement for incarcerating illegal aliens.

The second area is education. I brought up a Supreme Court ruling which says that a State must educate its children. We understand that to be an obligation. What we do not know is what the criteria for determining the appropriate level of expenses are and, therefore, what the burden of the Federal Government would be in reimbursing States for those incurred expenses. I agree with the Senator from California that the States should be reimbursed, but we have to understand what costs we should be reimbursing and not sign a blank check authorization, as the Senator's amendment would be.

The third area that the Senator mentioned was emergency medical services, and as far as I know, the Senator is correct in that regard. That would be an additional expense, but I do not know of anybody who knows how much that is. That is why we established a Commission in 1990 to determine the correct amount. And as the Appropriations Committee said last year, because of the widely divergent views on how much money is involved here, it is important for us to identify those amounts first, and then I hope we will authorize and appropriate the necessary funds for that.

Beyond those three things, the Senator from California has not identified any additional mandates. I think my original point is valid, and that is that much of what we would seek to be reimbursed here, and what I would seek to have reimbursed, is not a mandate from the Federal Government, which is what is covered in our legislation here, but rather costs associated with the failure of the Federal Government to perform its duties. In my view, that is just as important to be reimbursed from the Federal Government to the States as the cost of an unfunded mandate. I took the floor a week ago and made precisely that point. So the Senator from California and I are in agreement on that.

But I also made the point that this bill on unfunded mandates is not the place to put that requirement. It certainly is not the place to put an open-ended authorization.

That is why I conclude with this point: The Senator from California says, well, you cannot just agree with the intent or with the spirit; you have to agree with the method. That has never been the case in this body, or in the United States of America, or anywhere else. We can agree that something needs to be done and still have a disagreement as to precisely how to do it. That is the nature of our agreement here.

What we are saying on this side is that this piece of legislation, which deals with unfunded mandates and has a CBO estimate of the costs that the Federal Government would be required to reimburse, is not the place to put an open-ended authorization without any such ability to estimate costs, without any criteria for determining what the obligation of the Federal Government would be. That is why, as I said, I will soon move to table the amendment of the Senator from California.

Mrs. BOXER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GLENN. Mr. President, there will be a little bit of delay getting everybody here.

Mr. President, I ask unanimous consent that the Senator from California be able to use the last 6 minutes of her allotted time.

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

Mrs. BOXER. Thank you very much.

I think we can conclude this debate, but I would like to respond to my friend from Arizona. And he is my friend and I know he is going to work on this issue in the months and years ahead because we are, being border States, having a lot of problems and a lot of difficulties handling, frankly, what is the failure of the Federal Government under many administrations to control the borders and because of that we see that States have these incredible costs which I have named essentially unfunded mandates.

My friend from Arizona does not see it that way. He thinks it is wrong to put this amendment on this bill. He thinks it is not relevant. I think it is completely relevant, Mr. President, because when I talk with my Governor what I hear over and over again, is we want to be reimbursed for these costs. And these costs are in direct relation not only to the Federal Government's failure to control borders, but laws, such as the Omnibus Budget Reconciliation Act which forces us—and, by the way, I agree—to provide emergency medical services to people. We are humans. But it is a cost, and it is unreimbursed.

And because of our Constitution of the United States of America—which Senator BYRD carries around with him, and I have decided to do that as well; I think it is a good idea—the States are providing education to children who are not here legally, and that is a very large expense.

Now, in response to the Senator's point that we need more information on the cost, let me advise him—and I will share with him a report that I got back from the General Accounting Office in November, just a few months ago. They took the best available estimates of revenues and costs and said they could come up fairly comfortably with an appropriate number. So we do not need to stall this thing. This is the

appropriate mechanism. This bill is the appropriate mechanism to handle this situation.

The Senator says I have put in here, I forget his exact words, an open-ended, I believe he said, an open-ended authorization. Well, anyone who knows things around here knows that there are many authorizations here, but they have to go to the Appropriations Committee.

So to say that this is uncontrollable, open-ended, nobody has control, is simply not true. The appropriators will decide. And nothing in my amendment changes that at all, nor would I want to change it.

What we say is that this Advisory Commission shall come back—we put a timeframe on it—they will come back, and they will tell us what these costs are and, believe me, they have a lot of information already at hand, because the GAO report is merely the latest report that deals very clearly with this matter.

The Senator says it is not clear what I am talking about. If he reads my amendment he will see what I am talking about—education, incarceration, and health care. Now there may be some other things, but those are the main things and I have identified them. This is not an open-ended amendment at all.

So I think for us not to deal with this huge unfunded mandate, that goes to the States because of the Federal Government's failure to control its borders, that comes about because of laws and Supreme Court decisions, makes this bill rather irrelevant in many ways. It is like saying you are going to have a Clean Air Act and you deal with everything but the quality of the air.

This is one of the largest unfunded mandates to my State. And I would have a very hard time explaining to the people of my State why this Congress could not go along with this.

I think it is a very reasonable plan—a commission comes back within 3 months. They take all the data and then immediately we can begin to seek appropriations.

Now my colleague says, ''Well, this is unnecessary because we are already getting reimbursed for incarceration.''

I praised the Clinton administration, the first administration that requested funding for this program, but let me tell you, we still need more money. The funding is still so far off the mark—as the Senator himself said, they got $1 million for $100 million spent. We got about $33 million so far for $360 million spent. We need to have the reimbursement plan which is called for to come forward within a time certain.

And I have to just say, Mr. President, my deep concern about the way these amendments are being treated. I have been around here long enough to know that when one party marches lockstep on amendments that they have supported in the past such as this—and I can point to amendments that my colleagues have supported in the past—and suddenly they are not going to support this, it is because they have another agenda. And the agenda is the 100 days contract—''This is what we said. Let us not put anything else on. Keep the green eyeshades on. Keep your eye on the 100 days. Don't do anything in this bill.''

Listen, I had friends of mine on the other side of the aisle essentially tell me that they were very sad they could not support some of my amendments.

So there is another agenda going on here, Mr. President. And that is all right. But I wish that we would just put it out in the open and say, ''We are going to vote lockstep against all amendments. We want to make sure that Speaker Gingrich gets his 100-day contract, because if we add these amendments we are going to slow the process down, we are going to have to go to conference and the like.''

Well, America has other things on its agenda other than this Contract With America. Thank goodness we took some time out to pass the resolution against clinic violence. Thank goodness we took some time out to pass a resolution on the earthquake in Japan. Thank goodness we took some time out to express the Senate's view on the tragic terrorist bombing in Israel.

But, my goodness, let us not have such a narrow view of this bill that we ignore something so fundamental as the costs of illegal immigration to our States.

So, Mr. President, that concludes my argument. I want to again thank the managers for their consideration of this amendment.

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

Mrs. BOXER. I hope that when a motion is made to table, Senators will vote against that motion.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I look forward to joining the Senator from California in developing appropriate legislation to reimburse States for costs associated with illegal immigration at the appropriate time, but we should not have in this bill such amendment as proposed by the Senator from California.

Therefore, at this time, I move to table the amendment of the Senator from California 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 Arizona [Mr. Kyl] to table the amendment of the Senator from California [Mrs. BOXER].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

I also announce that the Senator from Wyoming [Mr. SIMPSON] is absent due to a death in family.

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

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

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—58

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

NAYS—40

Akaka	Feingold	Levin
Biden	Feinstein	Mikulski
Bingaman	Ford	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Gramm	Murray
Breaux	Harkin	Pell
Bryan	Hollings	Pryor
Bumpers	Hutchison	Reid
Campbell	Inouye	Robb
Conrad	Johnston	Sarbanes
Daschle	Kennedy	Simon
Dodd	Kerry	Wellstone
Dorgan	Lautenberg	
Exon	Leahy	

NOT VOTING—2

Helms	Simpson

So the motion to lay on the table the amendment (No. 201) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 199

The PRESIDING OFFICER. The question now is on agreeing to the motion to table amendment No. 199 offered by the Senator from New Jersey [Mr. LAUTENBERG]. The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is absent due to a death in family.

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

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

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—63

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

NAYS—36

Akaka	Feingold	Lieberman
Biden	Feinstein	Mikulski
Boxer	Harkin	Moseley-Braun
Bradley	Hollings	Moynihan
Breaux	Inouye	Murray
Bryan	Kennedy	Pell
Bumpers	Kerrey	Pryor
Byrd	Kerry	Reid
Campbell	Kohl	Rockefeller
Conrad	Lautenberg	Sarbanes
Dodd	Leahy	Simon
Dorgan	Levin	Wellstone

NOT VOTING—1

Simpson

So the motion to table the amendment (No. 199) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 213, AS FURTHER MODIFIED

Mr. BYRD. Mr. President, I ask unanimous consent to further modify my amendment numbered 213.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I send the modification to the desk.

The amendment (No. 213), as further modified, is as follows:

On page 23, strike line 18 through line 21 on page 24 and insert the following:

''(III)(aa) provides that if for any fiscal year the responsible Federal agency determines that there are insufficient appropriations to provide for the estimated direct costs of the mandate, the Federal agency shall (not later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit either—

''(1) a statement that the agency has determined, based on a reestimate of the direct costs of a mandate, after consultation with State, local, and tribal governments, that the amount appropriated is sufficient to pay for the direct costs of the mandate; or

''(2) legislative recommendations for either implementing a less costly mandate or making the mandate ineffective for the fiscal year;

''(bb) provides expedited procedures for the consideration of the statement or legislative recommendations referred to in item (aa) by Congress not later than 30 days after the statement or recommendations are submitted to Congress; and

''(cc) provides that the mandate shall—

''(1) in the case of a statement referred to in item (aa)(1), cease to be effective 60 days after the statement is submitted unless Congress has approved the agency's determination by joint resolution during the 60 day period;

''(2) cease to be effective 60 days after the date the legislative recommendations of the responsible Federal agency are submitted to Congress under item (aa)(2) unless Congress provides otherwise by law; or

''(3) in the case of a mandate that has not yet taken effect, continue not to be effective unless Congress provides otherwise by law.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief.

We have had discussion here on the floor regarding various issues of unfunded mandates. Also a couple of people have talked regarding some of our nutrition issues in America, and how things should be made better and different. I would just like to remind all Senators, from whatever State they come from, that the various feeding programs in this country affect their States a great deal. I would also remind Senators that when we look at our feeding programs, whether it is food stamps, women, infants, and children, supplemental feeding, over 80 percent of the recipients of our food programs are families with children. Our nutrition programs are children-oriented programs. We have to look at our school lunch program as one of the great successes of this country.

Right after World War II, President Harry Truman asked why so many people who were drafted into that war arrived malnourished, with all kinds of diseases. And they found out the obvious reason: Most of them were malnourished. Most of them had not had adequate nutrition. Many of them had failed in school because of their lack of being able to feed themselves. And from that, as a matter of national security, we started our school lunch program, one of the most successful feeding programs in this or any other country.

The Contract With America speaks of turning this all back to the States but leaves out one little part. It does not put the money in to send it back to the States. If we want to speak about unfunded mandates, the Contract With America would be a pretty big unfunded mandate to our States and how they are going to feed our people.

Mr. President, before we rush headlong into thinking that we can pass these bumper-sticker slogan policies, ask ourselves who is affected by it? Eighty percent of these changes are going to affect families with children, the hungry children of America. We are the wealthiest most powerful nation on Earth and yet even though we spend hundreds of millions of dollars to store surplus food, hundreds of millions of dollars to convince people not to plant food, we have millions of young people, children and others who are going without food, who are hungry in our streets, in our cities and towns of America.

So everything does not have to be done in 1 week, or 2 weeks, or 3 weeks, especially if it undoes those things that we have done over the years.

So I worry very much about what is going to happen. We want welfare reform. We should not throw elderly homebound citizens off the Meals on Wheels Program, and yet that is part of the so-called welfare reform program in the Contract With America. If we are going to have welfare reform, does that mean to end the school lunch program, WIC, and child care food programs? Let us ask ourselves just what we are doing. Let us take the time to fix those programs that need fixing. If there are ways to improve the feeding programs, then let's do it. If people are defrauding these programs then send them to jail. But also let us not say while we are doing this, children put your hunger on hold. We should not be throwing millions of pregnant women, infants, and children out of the WIC Program under the guise of welfare reform.

I have heard from the elderly, from parents, from school teachers, and from day care providers around the Nation. I have heard from senior citizens who get Meals on Wheels, school lunch advocates, and from many Vermonters. They are worried and feel betrayed.

They want welfare reform; they want able-bodied adults to work. So do I, and so does every Member of this Chamber, but welfare reform should not include throwing elderly homebound citizens off the Meals on Wheels Program. A Wall Street Journal article paints a devastating picture of the need to strengthen the Meals on Wheels Program, not eliminate it.

The article talks about John Fisher, an 86-year-old retired Detroit truck driver who has been on a waiting list, along with thousands of other Detroit residents, for free delivery of hot meals. Widowed last year, Mr. Fisher cannot cook because arthritis makes it difficult for him to stand long, even to boil soup.

The article talks about Carlos Castillo, 71, who applied for meals last February, writing on his application: ''Please help me. I just got out of the hospital. Please, I need the meals now and every day * * *.''

Mr. Castillo died in September, before his turn came up on the waiting list. Over his handwriting, the application now has two words: ''Cancel. Deceased.''

Welfare reform should not mean an end to the Child-Care Food Program. This program feeds low-income children so that their parents can work. Welfare reform should not throw half of America's children off the school lunch program and permit schools to just serve whatever they want for lunch.

The American Food Service Association has called the Contract With

America bill, H.R. 4, the greatest threat to the School Lunch Program in the history of its existence. They predict that if passed, 40,000 schools would drop out of the School Lunch Program and 10 million children would be without a hot lunch. Welfare reform should not throw millions of pregnant women, infants, and children off the WIC Program.

The WIC Program saves up to $4 in medical costs for every Federal dollar invested in pregnant women, but the Contract With America does just that—it has a hidden agenda.

This hidden agenda includes ending the Meals on Wheels Program for elderly homebound Americans. This hidden agenda includes ending the School Lunch Program for millions of children. This hidden agenda includes ending the Child Care Food Program for day care homes. This hidden agenda includes cutting the WIC Program for pregnant women and infants.

I was very surprised that the fine print in the contract singled out WIC, Meals on Wheels, Senior Meals Programs, and school lunches for the worst treatment. When you read the fine print you realize that the contract With America does not provide a penny in block grants to States. It allows for authorizations that would be fought for every year. Governors think that the contract will give them a block grant with a 5-percent cut built in. The problem is that the contract itself gives them nothing. Even if fully funded, the Contract With America will increase malnutrition among children and the elderly. This Contract With America bill is antichild, antifamily, and it is false advertising.

Last week the USDA issued a report detailing the affects of this Contract With America bill, assuming full funding, which is very unlikely. In my home State of Vermont, even assuming the full amount is appropriated, the contract will reduce nutrition assistance by over $10 million in 1996 alone. Behind that automatic cut are faces of the elderly no longer receiving hot meals, children receiving a hot school lunch. Working parents should be able to leave their children in day care and know that they will get a good meal.

Nutrition funding nationwide will be cut by almost $31 billion over the next 5 years. And once again this is assuming that the full amount of a nutrition block grant is funding, this is a big assumption. As bad as this is, I am worried that the USDA report issued last week 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. According to the USDA report, if that bill had been in effect over the last five 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, and on America. If it does not work and funding is not provided, millions of children, the elderly, and pregnant women will go hungry. Medical and education 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 effect hungry children and the elderly.

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 am pleased that this part of the Contract With America has no Senate counterpart. However, the House plans to mark up this bill in the next 2 weeks. I fear that this bill could pass the House very quickly. It will be left to the Senate to make sure that children and the elderly do not get hurt under the guise of welfare reform. Probably when most people think about food stamps that have an image of food stamp fraud and food stamp trafficking. Yes, food stamps are exchanged for cash.

This must be stopped. Last year I introduced legislation to eliminate all food stamp coupons, and switch instead to electronic benefit transfer cards. This will eliminate food stamp coupon trafficking. The Office of Technology Assessment found that over 80 percent of food stamp fraud and diversions of benefits could be reduced by EBT. We have to keep in mind that over 89 percent of food stamp benefits go to families with children, the elderly, or the disabled. Food stamps help children and the elderly. Those engaged in fraud should be put in jail but America's children and elderly should not be punished.

I stand ready to work with responsible members of both parties to fight food stamp abuse, encourage work, to cut costs, but I will not sacrifice the nutrition of America's children and the elderly for legislation by bumper sticker.

Mr. President, I ask unanimous consent that the Wall Street Journal article I referenced, along with a table showing proposed USDA food assistance cuts, be printed in the RECORD.

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

[From the Wall Street Journal, Nov. 8, 1994]

FRAYED LIFELINE: HUNGER AMONG ELDERLY SURGES; MEAL PROGRAMS JUST CAN'T KEEP UP

(By Michael J. McCarthy)

DETROIT.—For four months, John Fisher has waited in nutritional limbo.

The 86-year-old retired truck driver has been on a waiting list, along with a thousand other elderly Detroit residents, for free hot meals delivered weekdays. Widowed last year, Mr. Fisher can't cook because arthritis makes it difficult for him to stand long, even to boil soup.

His monthly $541 Social Security check barely covers rent, utilities and other basics. With the nearest grocery store more than a mile away from his tidy downtown apartment, Mr. Fisher, who suffers also from diabetes and glaucoma, treks three blocks with his cane to Theodore's Family Dining and buys the cheapest entree: the $3.50 fish and chips. He eats half, and carries the rest home. ''It's a long, painful walk,'' he says.

Carlos Castillo, 71, applied for the meals in February, writing on his application: ''Please help me. I just got out of the hospital. Please, I need the meals now and every day. Thank you. I will appreciate it.'' He died in September before his turn came up on the waiting list. Over his handwriting, the application now has two words: ''Cancel. Deceased.''

More than two decades after the creation of a federal law aimed at providing free meals to anyone over 60, several million older Americans are going hungry—and their numbers are growing steadily. Federal food programs can't keep up with the nation's rapidly graying population. ''For the first time, we have growing waiting lists,'' says Fernado Torres-Gil, assistant secretary for aging at the U.S. Department of Health and Human Services. ''The level of malnutrition and real hunger is only increasing.''

This wasn't always the case. In the 1970s, public concern about the plight of the elderly poor mobilized what until then had been only a pilot program: The federal Meals on Wheels movement, in which local communities began providing government-subsidized, home-delivered meals. Demand surged. By last year 827,000 elderly had such meals delivered, and another 2.5 million received subsidized lunches at senior centers.

But interest in the issue has slipped over the past decade as the national spotlight shifted to the expanding ranks of affluent retirees, a silver-haired generation healthier and more prosperous than their earlier counterparts. As a result, elderly-nutrition programs have been eclipsed by broader issues like health-care reform and preserving Social Security amid federal deficit slashing.

The Urban Institute, sensing the emergence of a huge but hidden problem, conducted a nationwide study a year ago of elderly hunger. The institute, a private, nonprofit social and economics policy-research group based in Washington, estimated after the study that as many as 4.9 million elderly people—about 16% of the population aged 60 and older—are either hungry or malnourished to some degree, often because they are

poor or too infirm to shop or cook. Further, it found that at least two-thirds of needy older people aren't being reached by federal food-assistance projects, including food stamps. The institute partly faulted systemic claws: Aging groups hadn't traditionally focused on hunger, while hunger advocates hadn't targeted the elderly.

Meanwhile, funds for federal nutrition programs haven't kept pace with either the rising cost of food or the surging tide of older people. Increases in funding trailed the inflation rate throughout the 1980s, and in the 1990s program budgets have risen only marginally.

In contrast, the elderly population swelled by more than 20% in the 1980s alone.

Concerned, HHS began in the fall of 1993 a two-year, $2.4 million study to evaluate the federal meals program, to quantify such things as how many people are on waiting lists nationwide. Awaiting results, Mr. Torres-Gil says his agency has enlisted the Agriculture Department to help craft plans to feed more older people, adding, ''The problem has gotten bigger than the both of us.''

And it is certain to worsen. Some nine million people 65 or older live alone, putting them at increased risk for poor nutrition, and their numbers are expected to grow to 11 million within a decade, according to HHS figures.

Given current funding levels and an aging population, David Turner, a social worker in Salt Lake City, echoes a sentiment heard at many nutrition sites: ''We don't have a prayer.''

Already, the view from the trenches is dismal. The people on lengthy waiting lists in many cities usually represent only a fraction of those who really need meals. In Detroit, for example, 2,200 elderly people get home-delivered meals. But last Thanksgiving and Christmas, when seasonal sentiments sparked private donations, Detroit was able to deliver holiday meals to 4,500 elderly shut-ins.

Unable to feed that total daily, Paul Bridgewater, Detroit's aging-department director, says, ''We're nowhere near meeting demand.''

The meals programs in Detroit, like those in other cities, are funded substantially by federal funds, which HHS splits up among the states based on the relative size of their population 60 or older. Each state then subdivides the pot according to the needs, with preference given to the poor.

Each local aging agency can determine how it can best stretch its money: Some prepare meals in-house, some pay a caterer; a few hire drivers, although most use volunteers. Some hire and some contract out social workers who can screen and assess the needs of older people. Some deliver two meals a day, many only one.

The Detroit aging agency, for example, contracts out meal preparation and relies almost exclusively on 300 volunteers, who use their own cars for deliveries. Most take meals to 25 people on weekdays, driving 20 miles a day on average.

In Michigan, federals funds for meal projects, $13.8 million last year, are down 3% from 1988 levels. During the same period, with the aid of special allocations, state funding increased 19%. The net result for Detroit is that it currently has an elderly-nutrition budget of $3.3 million—13% less than in 1983. Back then, Detroit served 6,000 older people. Today it can feed only 4,800 a day, primarily because of the higher cost of food.

In New York state, 2,500 older people are on waiting lists for home-delivered meals. About 62,000 people are on the program, but state surveys suggest as many as 10,000 more actually need them. Says Ed Kramer, an aging-department official for the state: ''There are a lot of hidden elderly, particularly in urban areas and high-rises, who are literally starving to death.''

The mismatch of funds and need comes amid trailblazing research on growing old. Conditions once considered the unavoidable ravages of aging—from cataracts to mental lethargy to slow-healing wounds—may really stem from poor diets, deficits of vitamins and other nutrients, researchers say.

Geriatric specialists recently coined the term ''anorexia of aging.'' It isn't like anorexia nervosa, in which people develop an aversion to food or an obsession with weight. The poor appetite and debilitating weight loss of the elderly have a range of causes: depression, dementia, denture problems and eating alone. Poverty is often a factor, but one national survey found that more than one in five older Americans, regardless of income, routinely skips at least one meal a day. And poor nutrition raises the risk of a fall, which is for many a prelude to costly medical care.

That something as basic as nutrition could be a problem in a country of vast resources illustrates how older individuals, their families and government agencies have been caught unprepared by the combination of increased life expectancy and frailty. Some advocates of the elderly say long-term solutions will have to be more creative, perhaps offering tax incentives so more family members can buy and prepare meals for older relatives.

But for now the main weapon against hunger remains the federal nutrition programs. Funded under the Older Americans Act, passed in 1965 when Lyndon Johnson was president, the congregate-dining and home-delivery projects allow anyone over age 60 to apply for free meals, regardless of income. Many of those who use the program donate something, but more than half of the participants nationally are poor.

Because the elderly-nutrition program is not an entitlement—as opposed to, say, Social Security—Congress has discretion to approve whatever funds it decides will meet the need. ''This is one of the places Congress can fine-tune funding when they must pay for entitlement programs,'' says Jean L. Lloyd, nutrition officer at the HHS's administration on aging.

Last year saw a small funding increase for the meal projects, but Congress in September left the budget for the current fiscal year flat, at nearly $470 million. Along with another $150 million from the Agriculture Department, which reimburses states for some food costs, the financing has to stretch far and wide.

Even if the 3.2 million people who receive meals in congregate dinning rooms or through home delivery got only one meal per day, the government funding works out to about 53 cents a day per person. Concluded a 1992 Government Accounting Office report on the elderly poor: ''Funding for nutrition services cannot possibly provide comprehensive food assistance to the entire eligible population.''

For many years, the meals projects could count on potent advocates such as Rep. Claude Pepper, the legislative champion of the elderly who died in 1989. Even a lobbying group as powerful as the American Association of Retired Persons, based in Washington, says that in recent years the best it has been able to do is stave off ''devastating cutbacks,'' says Jo Reed, senior coordinator for consumer issues.

The National Association of Meal Programs, an Alexandria, Va., trade group composed of providers of congregate and home-delivered meals, lobbies for increased funding, but says it has not been very successful either. Noting that her group's constituents are often frail or isolated, Margaret Ingraham, legislative representative, says, ''We just don't have the political clout.''

The result is that the meals projects, much like the elderly they serve, have become severely strapped. In Chicago, the city had to pump $700,000 in community-development block grants earlier this year to eliminate a waiting list of 650 people for delivered meals. In Baton Rouge, La., the aging office, citing budget problems, began soliciting donations from meal recipients last year, prompting some poor people to drop from the program. In Salt Lake City, channeling money to the meal program has meant taking it away from another service—creating yet another waiting list—in which workers help frail elderly people with grooming, laundry and cooking in their homes.

Sometimes the people reached by the overwhelmed food programs still must battle hunger. The Friendly Neighborhood Center, a congregate dining room in Salt Lake City, serves only one meal a day. Among the dozens who file in for the weekday lunch are the sickly thin women some call the ''stick ladies.'' Seated at folding tables around a big bingo board, the women sometimes secretly slip lunch portions into their purses. ''They're trying to stretch one meal into two or three,'' says one program manager.

Central Florida's Osceola County, where nearly a quarter of the population is 60 or older, offers a glimpse of what the rest of the country faces. In the past year, the Osceola County aging department has had to jump hardle after hurdle just to keep from axing any of the 400 people, averaging 87 years of age, who rely on it for cooked and delivered meals.

With federal funds flat in 1993 at $76,763, the agency persuaded several area restaurants to donate $50,000 in food. That helped, but the department still couldn't meet its goal of eliminating its waiting list of about 50 people. So, the agency found a dirt-cheap caterer to take over meal-preparation: the Osceola County Jail.

Using prisoners to fill food boxes for the elderly, and with the warden not charging for labor, the county cut expenses by more than half, to 58 cents a meal from $1.78. It wasn't a smooth transition, though. One of the first days, the meals rolled outside the barbed-wire fences two hours late because an inmate, threatening suicide, had grabbed a knife in the jail's kitchen.

Hoping to wipe out the waiting list soon, Beverly Houghland, the aging council's executive director, says, ''The hardest thing you'll ever have to do is tell someone that you can't give them meals.''

Yet it happens daily all over the country. In Detroit, when meal recipients go into the hospital and have deliveries stopped, they sometimes can't get them restarted once they return home. Someone on a waiting list has been given their spot in the program. Says one frustrated case manager, Frances Taylor, ''It's like deciding who is going to get in the lifeboat and who has to stay in the water.''

Detroit's aging department does set some priorities. Last month, for instance, the agency rushed meals out to one couple after discovering how the 87-year-old husband and his wife, 83, were getting to the grocery store. The husband, who was nearly blind, steered their car—instructed by his wife, who was too frail to drive but could watch the road from the passenger side.

Higher food costs last year forced Orlando, Fla., to abandon a two-decade-old practice of serving hot dinners. Now the city offers cold breakfasts, with cheaper fare like sweet rolls or cereal, to the roughly 600 older people it serves, for a saving of about 40 cents a meal, or $50,000 annually. (By law, each meal,

breakfast or otherwise, must have at least one-third of a day's recommended dietary allowances.)

Even with the cheaper menu, Orlando still must depend on an all-volunteer force, which can make deliveries chaotic. One day this summer, Nanette Klemens, Orlando's Meals on Wheels director, had to deliver food to 10 older people left waiting after a volunteer's car broke down. Some days, as many as 30 routes go unserved, because volunteers are sick, late or noshows. Volunteers must use their own cars and absorb gasoline costs—even though some cruise the city's poorest streets and are sometimes approached for drugs. Occasionally a route is missed altogether.

But for many elderly recipients in Orlando, the daily food package is a delicate lifeline. One particular stop is so disturbing that the aging office tries to forewarn new volunteers. A meal deliverer's knock at the screen door one day is answered by a slight-framed woman creeping on her knees. She reaches up, clutches her two meal cartons, and crawls back inside the apartment.

A stroke years ago left Marjorie Norris, 84, unable to stand, and moving in and out of her wheelchair is painful, so she doesn't use it. Hobbling about on her knees, she can't stretch up to the range of her white stove, neglected so long that cobwebs cover the burners. Asked if she can cook, she quickly replies, ''Oh, yes. I make my own coffee.''

Orlando estimates that it only reaches about 25% of the elderly who need meals delivered. Says Donna Stiteler, former president of Orlando's elderly agency, ''How the rest are making it, we have no idea.''

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

[Dollars in millions]

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	310	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 calls 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.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. 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.

AMENDMENT NO. 172, AS MODIFIED

Mr. LEVIN. Mr. President, I ask unanimous consent that we return to the consideration of amendment No. 172. I also ask unanimous consent that I be able to modify the amendment.

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

Mr. LEVIN. I thank the Chair.

I send a modified amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

On page 38, after line 25, insert the following:

SEC. 205. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 60 days after enactment.

Mr. LEVIN. Mr. President, this bill has a number of titles. In title I, the bill has an effective date of January 1, 1996, but title II does not have an effective date. And that is a problem which has arisen, which is that we have a very important title in this bill with not a specific effective date. Title III has an effective date of 60 days after enactment.

When we discovered this, we had some discussions as to what the most appropriate date would be for title II.

We have worked out an agreement, that the effective date for title II will be 60 days after enactment of the bill. That is what this modified amendment provides. I believe that it will be supported by both the managers. I yield the floor.

Mr. KEMPTHORNE. Mr. President, the Senator from Michigan is correct. We are prepared to accept this amendment. We want to thank the Senator from Michigan and also the Senator from Oklahoma, Senator NICKLES, for working this out.

Mr. GLENN. Mr. President, we are glad to accept on this side. This started out as a contentious issue. They kept at this and did a great job of working this out. Both sides agree on this. We are glad to accept it on this side.

Mr. LEVIN. I thank the managers and add my thanks to Senator NICKLES. I yield the floor.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified.

So the amendment (No. 172), as modified, was agreed to.

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

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Was leaders' time reserved?

The PRESIDING OFFICER. Yes.

BASEBALL STRIKE

Mr. DOLE. Mr. President, today is day 168 of the baseball strike, a strike that prematurely ended one of the most exciting seasons in recent memory and prevented World Series play, for the first time in 90 years.

Of course, the real victims of the strike are not the owners or the players, but the fans—the millions of Americans who have loyally supported their home teams, rooted on their favorite players, and filled up the bleachers in ballparks across America.

Like most Americans, I have little interest in learning about salary caps or baseball media markets. Nor have I kept abreast of the offers and counter-offers that have been floated across the bargaining table, only to end up in the rejection file.

Like most Americans, my interests lie elsewhere; not with the economics of baseball, but with the game of baseball—a game that I grew up with as a child and as a young man, and a game I continue to cherish today.

Of course, the baseball strike is not an issue of national security; without baseball, our shores will remain safe from foreign invasion. No American lives are at risk.

But what is at risk is the integrity of one of our great national institutions. Spring training in March. Opening day in April. July's all-star game. The August division races. The September playoffs. And the World Series in October. When baseball is disrupted, so too is the rythym of American life.

Mr. President, I have had the opportunity to discuss the strike with Bill

Usery, a former Secretary of Labor and the mediator appointed by President Clinton. Mr. Usery has indicated to me that this dispute ought to be resolved where it started—at the bargaining table. I agree. And that is why today I am publicly offering the use of my own office and its conference room as the forum for the next round of negotiations.

Over the years, many, many legislative compromises have been crafted in room S–230 of the Capitol, one of the most historic settings in all of Washington. Some of the toughest, most stubborn, legislative knots have been untangled in these offices. And perhaps, just perhaps, some of the compromise magic can wear off on the baseball negotiators. We will lock the doors, and we will supply plenty of pencils and writing pads. We have good computer software, and you can count on an unlimited supply of black coffee, too.

Mr. President, I have no doubt that the baseball strike could be resolved in a matter of days—perhaps hours—if only there was the will to do so. We do not need legislation. We do not need Congress. But what we do need is some good old-fashioned, brass-knuckled bargaining; bargaining that is real, that is tough, that gets the job done.

With that said, let me just add this cautionary note: If the players and owners are unable to find common ground—and find it soon so that the 1995 baseball season can begin on time in April—then we will have to find some way to empower those who are the most important element in the baseball equation: the fans themselves, because no one—player, owner, manager, stockholder—has the right to tarnish what truly belongs to the American people: the game of baseball, America's pastime.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, I ask to speak as if in morning business for 15 minutes.

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

THE STATE OF THE FORCES

Mr. THURMOND. Mr. President, Tuesday night President Clinton gave his annual address on the State of the Union. As was expected, he gave his administration a passing grade on its 2-year report card. It is not my intention to challenge that passing grade on every issue—the American people made their views about the administration's performance clear enough in the November election. However, I do feel obliged to point out that the last 2 years have produced serious shortfalls in our national defense capabilities, and these shortfalls are growing worse. Today I want to speak briefly about the state of the forces. I want to outline the priorities which I feel the 104th Congress must emphasize to restore the combat readiness of the services, and to revitalize our overall defense preparedness.

By now it is no secret that the Armed Forces are experiencing severe deficiencies in combat readiness. Some of these deficiencies were recently conceded by the Secretary of Defense himself. Last week the Armed Services Committee held a hearing on the condition of the services, and heard about other shortfalls and problems looming on the horizon.

For example, we have learned in recent weeks that 3 of the Army's 12 combat divisions were at the next to lowest level of readiness. Lack of funds has deprived units of fuel, ammunition, and maintenance; and mission training has suffered as a result. Marine and Navy aviation squadrons have had to cut back flying time for lack of funds. Funding shortfalls prevented the Army from meeting its 1994 requirements for trained helicopter pilots. Longer-than normal deployments are causing hardship for service members and their families, causing morale, recruiting, and retention to suffer as a result.

The Clinton administration has conceded that the defense budget is chronically underfunded. In early December the President said he would ask for an additional $25 billion over his planned defense budget requests for the next 6 years. However, this increase will be applied primarily to the out years, and is unlikely to reverse the downward trend in preparedness.

In addition to cutting defense spending too deeply and too rapidly, the administration has committed the Nation to expanded peacekeeping and nontraditional missions. This deeper involvement with peace operations has caused many of the shortfalls in training and maintenance funds. Operations in Somalia, Rwanda, Haiti, and the Caribbean have been enormously costly, both in terms of funds, and in stress on servicemembers and families because of the extended deployments. We are now expecting a request from the administration for a $2.6 billion supplemental appropriation to pay the huge, unexpected bill for these peacekeeping and humanitarian operations. We must not allow our growing involvement in such operations, which in my view provide little or no national security benefit, to undermine readiness.

In this session of the 104th Congress, the Senate Armed Services Committee will be working on several priorities.

The first, which undergirds everything else, is to make sure that sufficient funds are available for national defense. Money is the lifeblood of national defense. Without adequate funds we cannot pay our personnel, nor procure the weapons needed to perform their mission, nor buy the fuel and spare parts to train and to operate. None of the subsequent priorities I will outline can be met without an adequate defense budget.

Everyone realizes that we are facing an immense Federal deficit and a rising tide of debt which threaten us as surely as any foreign enemy. In this budget environment, we must keep Government spending down. Consequently, I do not advocate major increases in defense spending over the present level. My proposal is to compensate for inflation and to fund defense for fiscal year 1996 at the same level in real dollars as in fiscal year 1995. This means we must must increase the defense budget by approximately $12 billion over the administration's budget request for fiscal year 1996. Budget authority for fiscal year 1996 would then be approximately $270 billion.

Once adequate funds are provided, our first priority must be to restore unit readiness, revitalize our overall defense capabilities, and guarantee our status as the world's leading military power—not out of pride and arrogance, but to ensure that potential aggressors will not challenge us or our interests. The ancient Romans said, ''If you want peace, be prepared for war.'' In other words, preparedness is the best deterrence.

We must immediately restore funds to operations and maintenance accounts, since shortfalls in those accounts is the main source of today's readiness problems. But we cannot neglect future readiness. Future readiness includes modernization, which means that research, development, and procurement accounts must be supported. We must buy the right weapons and equipment, and in sufficient quantity, so that our forces will be as able to fight and win in the next decade as they were in the last. We must maintain adequate stocks of spare parts, fuel, and munitions. We must retain an adequate, safe, and reliable nuclear deterrent. We must reevaluate our increasing involvement in peacekeeping and nontraditional missions.

I am also deeply concerned that current defense spending will not pay for the force structure in the Bottom-Up Review. Yet the Bottom-Up Review force may not be adequate for the future. In the absence of a coherent national security strategy, who can say? We must formulate a sound strategy so that we can properly match military means, missions, and methods.

The next priority is the well-being of military personnel and their families. Every American should be grateful to the men and women who wear the uniform, and who undergo the sacrifice of long separations, and sometimes wounds and death, for the Nation's interests. We owe service members adequate compensation. Above all, they must be able to take care of their families so they can have peace of minds

when deployed for long periods far away. Despite the pressure on the budget, I will support reasonable pay raises for military personnel, increased funding for family housing, and other quality of life requirements.

In terms of specific programs, a top priority will be to reenergize the ballistic missile defense effort. Our forces and allies abroad face a serious and increasing threat from the spread of ballistic missiles, some possibly armed in the future with weapons of mass destruction. Someday soon the United States homeland could face renewed ballistic missile threats from hostile Third World regimes, or from the return to power of militant Russian hard-liners.

Though our emphasis must be to correct immediate and near-term readiness problems, we also have to keep a sharp eye on the future. Historically most military disasters have come from failure to anticipate. We must avoid becoming complacent because we won the cold war, and because we triumphed so dramatically in Desert Storm. We must remain alert and capable of responding to threats we have not yet envisioned.

In the past, war was primarily conflict between nation-states, the continuation of politics by other means. But the collapse of the Soviet Union has unleashed demons kept contained during the superpower confrontation of the last 45 years. Today we are entering an Age of Chaos. Wars now rage between tribal, ethnic, and religious groups, between the remnants of old empires and new forces of nationalism. We must learn to adapt to this Age of Chaos, and be able to prevail in new kinds of conflict which are uncertain and ambiguous. We will need new concepts of warfighting, new ways of organizing, and new capabilities. Just as the crossbow, the catapult, and the horse cavalry became obsolete, so in time the weapons we regard today as essential may become obsolete.

During the cold war, we and our adversaries concentrated on perfecting weapons of mass destruction. Perhaps now the time has come to build and perfect weapons of mass protection. Missile defense is an important first step in that direction.

Though new states, new technologies, and new challenges will arise, human nature will remain largely the same. The same injustices, the same greed, the same lust for conquest that breed conflict will continue to plague us. We must not let the dizzy pace of change in the world obscure the permanence of danger, nor undermine our commitment to the freedom and security of the United States. We must recommit ourselves to the defense safety of the greatest Nation the world has ever known.

I am committed to this great task—the primary responsibility which the American people have sent us here to perform. I ask my colleagues to stand with me when the time comes to vote for modest but real increases in defense spending, and to make sure the state of the forces is always the highest state of combat readiness.

I thank the Chair, and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 194

Mr. BINGAMAN. Mr. President, I would like to call up amendment 194 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending.

Mr. BINGAMAN. Mr. President, this is an amendment that I believe would improve Senate bill 1. Let me just alert my colleagues that this is something I have spoken to the managers of the bill about, and they are going to consider the amendment and decide probably in the next few hours is there any version of it that would be acceptable. But I would like to present it now and at least make the points that I think justify its adoption.

This is an amendment that would improve S. 1 by clarifying that Congress will maintain and retain its present authority to consider legislation regarding or administered by independent regulatory agencies.

Mr. President, S. 1, as it now stands, does not apply to the actions of these independent regulatory agencies. We take the definition out of title 44 of the United States Code. It is my understanding, however, that Congress, in considering matters regarding these agencies or administered by these agencies, would, under the legislation as it now stands, apply the provisions of S. 1; that is, points of order could be raised against Congress considering legislation in areas where we are not imposing any similar obligation on independent agencies. To me, that is illogical. It does not make sense for us to do that.

I believe that Congress should retain to itself at least the same authority that it is retaining to independent regulatory agencies to act in certain of these areas. I am concerned that the legislation, as it now stands, puts Congress in the position of having less power than these very agencies that we have established.

As the bill was reported, for example, a point of order could prevent us from legislating policies that enforce safety standards for the disposal of nuclear waste. That has been discussed by myself and Senator MURRAY from Washington State in previous amendments. But a point of order could be raised unless we were fully able to fund any increased costs to other levels of government in cases where the legislation would result in over $50 million in additional costs.

The Nuclear Regulatory Commission, however, would have the authority through rulemaking to go ahead and impose those requirements even if they exceeded the $50 million amount.

Likewise, it is conceivable that Congress could not act, through legislation, on policies of the Federal Communications Commission or the Federal Energy Regulatory Commission, Securities Exchange Commission, or any other independent regulatory agency. Again, we would be putting in place a procedural roadblock to action by Congress, where we would not have any similar procedural roadblock to the same action being taken by the independent regulatory agency.

Some of my colleagues may think that the chances of this happening are unlikely. I do believe that the chance is real, and there are various examples I could cite with the Securities Exchange Commission, who, on November 17 of last year published a final rule to deter fraud in municipal securities. The published rule indicates that the changed regulations may require some municipal security issuers to provide additional information and could result in costs to municipalities. The rules, as first proposed, certainly would have increased costs, although the final rule was changed in an attempt to reduce the costs.

In a similar action the Federal Energy Regulatory Commission announced in December of this last year in the Federal Register a change in policy that will allow FERC to review individual hydropower licenses. Some are, in fact, municipal licenses. Again, it is not known whether the costs would exceed $50 million. But it is clear that if they did, FERC would have the authority to make the change, while Congress itself would not be able to, absent waiving the point of order that is provided in this legislation.

Let me make one other point before I conclude, Mr. President. The amendment that I have called up here and offered to the Senate, amendment No. 194, still leaves in place the requirement for the various cost estimates, still leaves in place the requirement to go to CBO and determine what the expected cost would be of any legislative action. And that requirement would be on Congress, even though by the language of the bill itself, it is not on the independent regulatory agencies.

All I am saying is that we should go as far as to require the cost estimates of ourselves before we act. We should not go so far as to provide for the raising of a point of order against us considering legislation—against the Senate or the Congress considering legislation in these important areas, when the very agencies that are involved are not themselves restricted from doing by rule or regulation what we might consider doing by legislation.

It seems to me to be an eminently logical amendment. It is one that I hope we can work out with the managers of the bill, and I urge my colleagues to support this. I urge the managers to support it either in the form in which it has been offered or in some similar form.

With that, I yield the floor.

Mr. KEMPTHORNE. Mr. President, I have discussed this with the Senator from New Mexico, and I understand what he is trying to accomplish. I respect what he is trying to accomplish. I could not agree to the language in the amendment in its present form. But as I have indicated to the Senator from New Mexico, I am willing to see if there is some way we could reach some agreement, some modification of that language that might allow us to support this. I cannot give any assurance that that would be the final result, but I am very willing to see if we cannot resolve this.

I yield the floor.

Mr. BINGAMAN. Mr. President, I appreciate that statement by the Senator from Idaho. I look forward to working with him and the Senator from Ohio to see if we can come up with language that is acceptable which accomplishes the result intended.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEWINE. 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. DEWINE. Mr. President, I rise today to offer my strong support for Senate bill 1, the Unfunded Mandate Reform Act of 1995.

Let me first begin by congratulating the floor managers of the bill. They have done great work, Senator KEMPTHORNE and my distinguished colleague from Ohio, Senator GLENN. They have led the fight for this legislation not just in this Congress but in the previous Congress, as well. When the final vote for passage occurs, which it will, they will deserve a great deal of the credit for the fine work they have done for sending this bill on to the President.

It is appropriate, I think, Mr. President, that this should be the first major item of business before the Senate. Two years ago, talk about unfunded mandates made people's eyes glaze over. Really, as late as last year, there were at least 166 bills in the Senate that would have increased and imposed new mandates on State and local governments. Now, in this Congress, this legislation to slow the unfunded mandates is Senate bill 1.

What happened? What happened was that local elected officials throughout this country, the hard-working men and women who are closest to the real problems of their communities, finally got sick and tired of being treated as mere clerks for the Federal Government. Mayors are tired of it. Governors are tired of it. County commissioners are tired of it, as well.

We have been listening now, for days, as Senators have piled example on top of example to demonstrate that unfunded mandates are, in fact, a bad thing. Frankly, Mr. President, I do not think I need to cover that ground again. It is pretty clear that intrusive Federal mandates are a costly burden on States and local communities.

Indeed, we in Ohio have taken the lead in bringing this issue to America's attention. In August 1993, Ohio Governor George Voinovich and I issued this landmark report which has become an important resource in the debate over legislation known as Senate bill 1. This study is called ''The Need for a New Federalism: Federal Mandates and Their Impact on the State of Ohio.''

Another entirely valuable study was issued by Columbus Mayor Greg Lashutka in May 1991. It is called ''Environmental Legislation: The Increasing Costs of Regulatory Compliance to the City of Columbus.''

Both of these have been a valuable resource. Mayor Lashutka is now the first vice president of the National League of Cities and the vice chair of the Unfunded Mandates Caucus of the U.S. Conference of Mayors. He has been a major resource for the debate we have had over the last few weeks.

Mr. President, in the course of compiling these studies, we discovered some very sobering things. We discovered that unfunded Federal mandates will cost Ohio more than $1.74 billion between 1992 and 1995. We discovered something even worse. We found that the Federal mandates were robbing communities of the money and the flexibility that they need to cope with local problems. Every dollar, every dollar in local spending that is controlled by a Federal mandate, is a dollar taken away from some genuine community need and concern.

Let me give you an example. In Richland County, OH, $3 out of every $4 in the county budget represents mandated cost; 75 percent of the budget is already spent before the county commissioners meet every year for the first time. That leaves one quarter of the county budget to pay for services actually decided on by the local elected officials in Richland County. Visit county after county or city after city or town after town, as I did last year. We all hear the same story. That is what unfunded mandates do to communities all over America. They take decisionmaking away from those closest to the people and give it to the Federal Government.

An example: The Federal Government gives Ohio schools only about 7 percent of those local schools' total operating budget. Yet, that same Federal Government imposes over 50 percent of the paperwork that that local school has to comply with. In Ohio, we cannot afford to spend our money on paperwork.

Mr. President, we need to be spending our money in this country on our children. Education is just one example of how the Federal Government is forcing Ohio to waste tax dollars. Let me give you another example. Congress passed a highway bill, a highway bill which mandated that States had to use scrap tires in highway pavement. It sounds good. It would seem to make sense.

Here is the impact on Ohio: Ohio would have to spend $50 million a year to comply with this mandate. From my perspective as a former local county-elected official, I can say that the loss of $50 million is really not the worst consequence of that mandate. Mr. President, the worst consequence of that mandate is the lost lives in the State of Ohio. Because every single dollar—in this case, $50 million—that is spent for this Federal mandate in a nonproductive way is a dollar that could have been spent on straightening roads, or replacing traffic lights, or building new railroad crossings. That is $50 million that could be used to make our roads safer.

Earlier this month, Governor George Voinovich said it well. He declared, with that $50 million, ''Ohio could repave nearly 700 miles of rural highways or rehabilitate 137 aging bridges.''

So, Mr. President, while the issue of unfunded mandates is certainly a question of money, it is primarily an issue about which level of Government is best equipped to make decisions about the proper use of the finite amount of taxpayers' dollars that we have.

This issue is, of course, as old as the Republic. In the Federalist era, Alexander Hamilton actually recommended that the Federal Government assume the debts of the States that financed the American Revolution.

Now today we are talking about the opposite idea. We are debating whether the States should assume the responsibilities that were undertaken earlier in this century by the Federal Government.

So it is far from a new issue. The era we live in really began in the 1930's. With the beginning of the New Deal and Franklin Roosevelt, the 1930's saw the beginning of a steady shift of power from the States to the Federal Government.

But, Mr. President, while the Federal Government's power has grown steadily, its performance has really not kept pace. In fact, the American people are in general agreement that the Federal Government's performance has actually declined.

Remember what happened in last year's health debate in this country. President Clinton's health reform bill did not fail because the American people thought there were no problems connected with our health care system. No, rather it failed because the American people believed that the Clinton bill would mean more Federal Government involvement in the health care

decisions of America's families. Americans just did not trust the Federal Government to do a better job in this area.

I have always believed, on a philosophical basis, that local Government is best equipped to make decisions about local problems. And now, after 18 years of involvement in public life, my concrete experience with the different levels of Government—State, local, Federal—has made me even more certain that the best problem solvers are those closest to the people.

I believe that the American people share this belief in local decisionmaking. The passage of S. 1 will begin a long process of transforming this deeply held conviction into legal reality.

Let me stress, Mr. President, and I say to Members of the Senate, that this is just a beginning. By itself, the passage of S. 1 will not create a new balance of power between the States and the Federal Government. It will not abolish Federal mandates. But I believe that it will do something even more valuable. It will begin an intelligent national debate on how our Government should work.

I believe that in this Congress, we have a truly historic opportunity. We can divide responsibilities of government in a rational and systematic way by paying attention to the nature of the problems we need to address and the respective abilities of the various levels of government.

Mr. President, this is really not an ideological question. It is rather a more practical question: What works? For too long we have been trapped in a mindset that tells us every problem should have a Federal solution. Well, it is true, some problems should have a Federal solution. At some point, we will decide, I am sure, that a particular mandate is, in fact, in the national interest of this country. But these are decisions that we have to make with our eyes wide open. They have to be made rationally, systematically, and not simply by the force of inertia.

Mr. President, last year the American people voted for a less expensive, less intrusive and more responsive Federal Government. If we succeed in revamping the Federal system along the lines that I have discussed, we will be well on the way toward achieving the goals set by the voters of this country in the last election.

I yield back the remainder of my time.

Mr. KEMPTHORNE addressed the Chair.

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

Mr. KEMPTHORNE. Mr. President, I would like to compliment the Senator from Ohio for his thoughtful delivery, for his strong support of S. 1, and for his strong support on behalf of State and local governments and the private sector, just to say how much we realize that he will be an effective and positive force with his membership in the U.S. Senate.

Mr. President, I ask unanimous consent——

Mr. GLENN. Will the Senator hold?

Mr. KEMPTHORNE. Yes, I hold.

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

Mr. GLENN. Mr. President, I certainly wish to acknowledge what my distinguished colleague from Ohio has said. I know of the work that he did in Ohio, along with Governor Voinovich.

Governor Voinovich and I have had many conversations with regard to unfunded mandates. He has led a lot of the effort on behalf of the Governors to get an unfunded mandates bill passed. We had bill S. 993 last year that we kept the Governors advised on, as well as the other members of the big seven, those organizations that represent officials at all levels of government outside the Federal Government.

He also mentioned Mayor Lashutka who did a study in Columbus as to the impact on the Columbus budget. It was landmark in that I do not think any other city had gone into it to the extent that Mayor Lashutka did.

If I can recall the figures correctly with regard to the Federal mandates they have to comply with, just in the environmental area between 1991 and the year 2000, Columbus will have to expend approximately $1.6 billion—one city—over a 10-year period. That is an enormous amount of money, and that does not include all of the Federal mandates.

Multiply that by all the cities of similar size around the country—I think Columbus is ranked 16th in size nationally—and it means some of the mandates that have gone up over the past 10 or 12 years—have left cities literally financially strapped. They cannot keep up with the mandates that are being imposed upon them.

At the same time, we had what was called the new federalism that, in effect, cut back on some of the community development block grants, and other things that were helping the States. So we cut back on some of the means that the States were using to accomplish some of these mandates.

We have multiple studies. I have entered those in the RECORD. We talked about them on the floor. I congratulate my colleague for his bringing these to our attention and for his support of this legislation. We look forward to getting legislation through, and we want to complete the amendment process as fast as we possibly can. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

UNANIMOUS-CONSENT AGREEMENT

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that upon disposition of the statement by Senator BYRD, that the Senate resume consideration of the KEMPTHORNE second-degree amendment No. 196 and it be considered under the following time restraints: 1 hour equally divided between Senator KEMPTHORNE, or his designee, and Senator HARKIN.

I further ask unanimous consent that following the conclusion or yielding back of time, the Senate proceed to vote immediately on, or in relation to, the Kempthorne amendment.

I further ask unanimous consent that immediately following the disposition of the Kempthorne amendment, Senator HARKIN be recognized to offer a second-degree amendment, which is similar to the text of amendment No. 190, as offered, and it be considered under the following time restraints: 1 hour to be equally divided in the usual form.

I further ask unanimous consent that following the conclusion or yielding back of time, the Senate proceed to vote immediately on, or in relation to, the Harkin amendment.

Finally, I ask unanimous consent that no other amendments be in order to amendment No. 190, and that following the conclusion of the Harkin second-degree amendment, the Harkin amendment No. 190, as amended, if amended, be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Reserving the right to object, and I do not plan to, but I just want to clarify this, that this would in no way curtail statements by anyone who wished to speak on Senator BYRD's amendment. I know Senator LEVIN wished to have 10 minutes or so on Senator BYRD's amendment. I might wish to speak on it also. It is a very, very important amendment. Probably the most single important amendment we have been able to work out here. It does solve a very major problem. I may want to address that also.

I hope nothing in this is to be construed as limiting any comments on Senator BYRD's amendment. It is only after all that has been completed and accepted that we would move on to this unanimous-consent request; is that the understanding?

The PRESIDING OFFICER. The agreement is after Senator BYRD concludes his remarks, we would move on to this amendment.

Mr. GLENN. It says upon the disposition of Senator BYRD's statement, that would mean we could comment on it before there was a final vote on his amendment; is that correct?

Mr. KEMPTHORNE. Mr. President, I modify the unanimous-consent agreement so that it is with regard to the Byrd amendment, so that we can have final disposition of the Byrd amendment.

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

Mr. KEMPTHORNE. Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 213

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 213, offered by the Senator from West Virginia.

Mr. BYRD. Mr. President, on previous occasions I have risen to speak on this bill. I believe that it is a very important measure which can have far-reaching effects on the Federal budget and, if not carefully considered, S. 1 could have unintended and harmful results.

I do not think any of us really know what the effects ultimately will be—what the results will be. The best we can do is just do the best we can and try to work out as good a product as possible here, crafting with all of our painstaking care and hope that it will be beneficial to the country and that it will fulfill the hopes and aspirations that we have, as we work on it and vote for it. Not all of us will vote for it. I may vote for it. I have not finally decided. I may not vote for it.

For example, will the enactment of S. 1 result in certain situations where States and localities will receive reimbursement for the net costs to them of Federal mandates, but where the private sector will receive no such reimbursement, even though the private sector also has to meet the same mandate?

Let us take, for example, minimum wage. There have been discussions of minimum wage recently. If an increase in the minimum wage is enacted at some point in time, it will apply equally to the private sector and to the State and local governments. This bill would require that we reimburse the State and local governments for their costs relative to an increase in the minimum wage, as I understand it. Yet, as of now, it is my understanding the private sector would receive no such reimbursement.

Moreover, if the enactment of an increase in the minimum wage can be considered simply as an unfunded Federal mandate, have we not lost something which has been a mainstay of this country's ideology and tradition since 1938? We are not discussing an amendment that has anything to do, directly, with the minimum wage. But I just want to develop my thinking along these lines.

Fair wages for even the most unskilled in our society are, I believe, a basic American value.

I worry that we are not fully considering the ramifications of this piece of legislation on the health, safety, and opportunity of our people. Are we putting the private sector at a disadvantage versus its ability to compete with the public sector? Are we doing that? Are we sure that the States can take up the slack that a withdrawal of the Federal contribution will mean in some areas? Are we sure that we are not setting up the American people for reduced services and massive tax increases at the State level with the passage of this legislation? Nothing pains so much as painful, unintended consequences. And here I am talking about unintended legislative consequences. They are mighty hard to correct, mighty hard to correct.

Take for example the portion of S. 1 which relates to the authorization of appropriations as one of three ways to pay for future Federal mandates.

Pages 21 through 24 of the bill set forth two new points of order under this legislation. The first states that it shall not be in order in the Senate to consider:

(A) any bill or joint resolution that is reported by a committee unless a committee has published a statement of the Director on the direct costs of Federal mandates in accordance with subsection (a)(6) before such consideration;

If we examine what this means, Mr. President, I think we will find that any bill or resolution must have a statement from the Director of the Congressional Budget Office estimating the direct costs of Federal mandates as follows—and I am now again quoting directly from the bill, beginning on page 18, line 2:

. . . the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

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

These requirements raise at least two questions which I think bear scrutiny by the Senate. First, the language I have read directly from the bill makes it out of order in the Senate to consider any bill or joint resolution unless the aforementioned statement of the CBO Director has been published by the committee.

As I read the bill, there is no requirement for any statement by the Director of CBO relating to floor amendments. How then are we to determine the costs of floor amendments? There will be floor amendments.

Secondly, it should be noted that CBO, under the language in the bill that I have read is required to provide estimates for only 5 years, even if the mandates in question are to last for 10 15, or 50 years.

Now let us turn to the second point of order created in the bill, which begins on line 24 of page 21 and runs through page 24 line 21. Without reading the language of the bill, permit me to summarize it by saying that this second point of order will exist against any bill, joint resolution, amendment, motion, or conference report unless they ''pay for'' any mandates which equal or exceed $50 million for any fiscal year. There are three methods provided in the bill to pay for such mandates. First, these new mandates may be paid for by an increase in direct spending. Implicitly, under the pay-go provisions of the Budget Act, any committees which choose this method of paying for mandates will have to charge the costs of them against their allocations under each year's budget resolution.

The second method which may be used to pay for new mandates would be to raise receipts sufficiently to offset the costs of reimbursing state and local governments for any new Federal mandates. In other words, increase taxes. Somehow, I do not believe this method will be employed very often.

The third and final method which may be used to pay for future mandates will be to authorize appropriations and I will now quote directly from the bill: I begin on line 24 of page 22.

. . . any bill, joint resolution, or amendment proposed in the conference report includes authorization for appropriations in an amount equal to the estimated direct costs of such mandate, and one . . .

(I) identifies a specific dollar amount estimate of the full direct costs of the mandate for each year or other period during which the mandate shall be in effect under the bill, joint resolution, amendment, motion or conference report, and such estimate is consistent with the estimate determined under paragraph (3) for each fiscal year;

(II) identifies any appropriation bill that is expected to provide for Federal funding of the direct cost referred to under subclause (IV)(aa);

(III) identifies the minimum amount that must be appropriated in each appropriations bill referred to in subclause (II), in order to provide for full Federal funding of the direct costs referred to in subclause (I); and

(IV)(aa) designates a responsible Federal agency and establishes criteria and procedures under which such agency shall implement less costly programmatic and financial responsibilities of State, local, and tribal governments in meeting the objectives of the mandate, to the extent that an appropriation Act does not provide for the estimated direct costs of such mandate as set forth under subclause (III); or

(bb) designates a responsible Federal agency and establishes criteria and procedures to direct that, if an appropriation Act does not provide for the estimated direct costs of such mandate as set forth under subclause (III), such agency shall declare such mandate to be ineffective as of October 1 of the fiscal year for which the appropriation is not at least equal to the direct costs of the mandate.

Here again, these provisions raise a number of questions. First of all, Senators will recall that under the bill, CBO will have to provide estimates for new or increased mandates in excess of $50 million for any year which are contained in any bill or joint resolution.

Yet, we now find that unless we pay for them by one of the three methods I have stated, we will face points of order against amendments, motions, and conference reports as well as bills and joint resolutions. Who is to determine what the cost of an amendment's mandate is, if not the CBO? The bill is silent in this regard.

As Alexander Pope said, ''Who decides when doctors disagree?'' So who is to determine what the cost of an amendment's mandate is, if not the CBO? The bill is silent in this regard.

Are we going to have Senators locked in endless combat over what various amendments have done to the cost of a conference report? Are we going to ask the Nation to wait endlessly while we compute and recompute the costs of a bill which has been substantially changed by the impact of an amendment adopted with no estimate of its cost? Talk about grid-lock! Or, better. Rail against Byrd-lock! The ambiguities in this legislation will make grid-lock or Byrd-lock look like a fast track by comparison.

Perhaps every Senator ought to go out and hire his own budget analyst—that is if nobody makes the usual move to cut legislative branch appropriations.

Now get that. We can usually expect around here an amendment or amendments cutting legislative branch appropriations. So we cut and cut and cut until it has been cut to the marrow of the bone—not just down to the bone, but to the marrow.

So every Senator probably ought to go out and hire his own budget analyst, if he can afford it—that is if nobody makes the usual move to cut legislative branch appropriations so that we cannot afford such an analyst.

Incidentally, if the usual move is made and CBO's budget is thereby cut, this bill in and of itself will constitute an unfunded mandate because CBO will have to cut staff and would be even more hard pressed to spit out these estimates.

A second question raised by the bill language is what costs we are referring to. On page 23 alone we find the following terms having to do with costs:

Page 23, lines 2 and 3: ''estimated direct costs of such mandate'';

Page 23, lines 5 and 6: ''full direct costs of the mandate'';

Page 23, line 16: ''direct cost referred to under subclause (IV)(aa)''; and

Page 23, lines 18–21: ''minimum amount that must be appropriated in each appropriation bill referred to in subclause (II).''

Mr. President, with all of these terms, it will be difficult, if not impossible, to know what it is that has to be done with regard to points of order.

Third, the language I have read relating to appropriations requires each new bill, joint resolution, amendment, motion, or conference report to identify the minimum amount that must be appropriated in each appropriation bill for every year that any mandate would be in effect. That could be 10 years; it could be 20; it could be 50; it could be more. And remember, the Congressional Budget Office is not required to provide any estimate beyond 5 years and, even then, they are only required to make estimates on bills and joint resolutions, not on floor amendments, or motions, or conference reports.

Let me just take a few minutes to remind my colleagues of how wildly mistaken even the best estimates can be. The estimates of outlays and receipts of Federal expenditures have been off by billions of dollars in the past.

The chart to my left is titled ''Differences Between Actual Budget Totals and First Budget Resolution Estimates for Fiscal Years 1980 Through 1993.''

These are the latest figures. I am told we do not have the figures for 1994 as of yet. But if we look at the chart, we will see the word ''revenues.'' We will see a horizontal line. I like to think of that as meaning the estimate of revenues for each of the years shown. If there is no bar above or below the line, then we hit the estimate right on the head for that year.

Senators will note that the nail was never hit on the head in any of those years. Take, for example, 1980. In that year, the revenues, the incoming revenue, exceeded the estimates. So we did very well that year by $11.1 billion. We can say, hooray, we came in with more money in the pot than we estimated, more than we thought we would receive.

But the very next year, 1981, the revenues received were $11.3 billion under the estimates. For the following year, 1982, the revenues were $40 billion under the estimates. The subsequent year was 1983, and in that year the revenues failed by $65 billion to meet the estimated revenues. And so it is on across the board.

One year in which the estimates of revenues and actual revenues received were almost on point—almost hit the nail on the head but missed it by $1.7 billion—was 1981, in which year the revenues exceeded the estimates by $1.7 billion. But the next year it went out of whack again. The revenues amounted to $23.8 billion less than the estimated receipts for that year.

And so across this chart, which represents the years 1980 through 1993, there were only 3 years—1980, 1987, and 1989—when the actual revenues exceeded the estimated revenues. But in the remaining years—1981, 1982, 1983, 1984, 1985, 1986, 1988, 1990, 1991, 1992, 1993—the revenues were less than the estimates by the amounts shown. In 1983, $65 billion. In 1992, $77.5 billion. The average difference across the period was $24.7 billion. So we failed to hit the nail on the head by an average of $24.7 billion. That is $24.70 for every minute since Jesus Christ was born.

Now let us take a look at outlays. We will find the same pattern. The estimates are off. In no year do we hit the nail on the head. Again, the horizontal line on the chart represents the estimated outlays. This chart is entitled, ''Differences Between Actual Budget Totals and First Budget Resolution Estimates for Fiscal Years 1980 Through 1993,'' in billions of dollars. And in each instance here, the source of the information is the Congressional Budget Office.

Let us take a look at this chart that stands to my left. It deals with outlays. The viewers will note that in 1980, the estimated outlays, estimated expenditures, the estimated outgo of funds, the expenditures, were greater than the estimates by $47.6 billion. The red bars on the chart so indicate that the expenditures exceeded the estimates in the given years represented. In only 4 years did the actual expenditures come in lower than the estimates. In one of those years, as the chart will indicate, the estimates were $85 billion off; that was the year of 1990. And in 1993, the estimate was $91.9 billion off.

The next chart to my left is entitled, ''Differences Between Actual Budget Totals and First Budget Resolution Estimates for Fiscal Years 1980 Through 1993,'' in billions of dollars. This chart represents the deficit in each year. The deficit is represented in all these years by how far under the estimates the revenue, actual revenues are, and how far over the estimates the actual outlays or expenditures are.

So, in 1980, we see that the actual deficit was $36.5 billion over the estimate. In 1981, the deficit was $58.3 billion above the estimated deficit. In 1982, the actual deficit was $73 billion more than had been the estimate. In 1983, it was $91.4 billion.

There was one year which the deficit missed the estimate only by $3.7 billion and we were in the red that year, in the red to the tune of $3.7 billion.

But if we look at the year 1990 on the chart, the viewers will note that we came in with $119 billion, with a higher deficit than was estimated. And the average for the period of 1980 through 1993 was $34 billion a year higher than the deficit—a $34 billion higher deficit each year on the average than had been estimated.

So what we see here is what really happens. The estimates never are right. They are off one way or the other in the case of outlays, in the case of receipts, and in the case of the deficit.

So despite the very best efforts of the very best analysts, fluctuations in the economy, a recession, changes in interest rates, even changes in the international situation, our trade balance, and so forth, can cause extreme fluctuations in the estimates. How in the world, then, can we ask for estimates in connection with this bill that are 10 years out, 20 years out, with any confidence at all in the product?

The charts have reference to estimates that were made. CBO made estimates and every estimate was off.

So here we will be, under the terms of S. 1, expected to appropriate the minimum amounts—I am talking

about we appropriators, we who are on the Appropriations Committee, and then the full Senate—we will be expected to appropriate the minimum amounts required to fully fund the direct cost of all covered mandates, based on ''the estimated direct costs'' of the mandates for every year for the life of the mandates, which may be 5 years, 10, 15, 20, 50.

I say impossible. I say improbable. I say it is ridiculous to expect it to be done.

Let us follow this process. First, we bring a new mandates bill to the floor which will run for 30 years, let us say. Yet, in order to avoid a point of order, the bill needs only to have a 5-year CBO estimate. Now, on the floor, there are amendments which may add to the cost of the mandate. Who is to make the estimate of the cost of the floor amendment? Even if the Budget Committee attempts to get CBO's estimate, what if CBO says they just cannot come up with an estimate on such short notice? What happens? Is the bill pulled down, put back on the calendar? Do we wait, then, for CBO's estimate of all floor amendments? Do we simply ignore the problem? Do we waive the point of order? That can be done by a majority. It would not be difficult to waive the point of order. If so, will this not encourage Senators to defer the offering of amendments to create new mandates until action on the floor takes place, rather than offer such amendments in committees? Will it not be an invitation to Senators to hold off with their amendments until they reach the floor because then it might not be possible for the CBO to come up with estimates in time?

Then, there is the question of reliability of the estimates which will be required. And as I have pointed out, the bill will require minimum amounts to be appropriated for all future years that covered mandates will be in effect, even if the period is 10, 20, or 30 years. How can we expect those estimates to be anywhere close to accurate? It is difficult enough for CBO and OMB to provide accurate estimates of Federal spending for 5 years, much less 10 or 20 years. Furthermore, the estimates called for in S. 1 will require CBO and/or other estimators to calculate such long-term costs for some 87,000 state and local governments—for every year that such mandates will be in effect, no matter how long that period is. Clearly, Mr. President, these estimates will not be worth the paper they are written on.

Yet, under the bill's provisions, if any future appropriation bill fails to provide the minimum amount set forth for any year that a mandate is in effect, then the bill would turn over to the Federal agency responsible for carrying out the mandate the power to either (1) implement a less costly mandate, or (2) to declare such mandate to be ineffective for any fiscal year for which an appropriation act does not provide for the estimated direct costs of such mandate.

Mr. President, in my remarks on Wednesday, January 18, a week ago this past Wednesday, I expressed my concern to the Senate about the delegation of legislative authority to the executive branch.

Mr. President, I am not saying here today that this provision in this bill is unconstitutional. The legislative branch can delegate certain authority from time to time if adequate and appropriate criteria and standards are established whereby the delegatee can make fair and correct judgments. But I am saying that we may be opening the door to a constitutional problem here. That is for the courts to say ultimately, but we have a responsibility also, as we act on legislation, to try to avoid constitutional problems and to act accordingly.

So my amendment would close that door that is in the bill. My amendment will strike the provisions of the bill that would delegate this power to the Executive Branch and replace them with a requirement that, for any fiscal year for which a responsible Federal agency determines that insufficient appropriations are available to fully fund any mandate, that agency shall so notify the appropriate authorizing committees of Congress within 30 days of the beginning of the fiscal year. In its report to said committees, the agency shall set forth its legislative recommendations for either implementing a less costly mandate or suspending the mandate for the fiscal year.

My amendment provides, in addition, that in instances where an agency finds that it can fully carry out a mandate with less funding than was authorized for any fiscal year, the agency will be able to provide a statement to that effect to the Congress. If we agree by joint resolution, the agency statement will become effective.

Finally, for instances where a new mandate which has not been in effect is underfunded, the amendment provides that it shall not go into effect until Congress enacts a law to resolve the funding shortfall.

Also, under my amendment, all legislation establishing future covered mandates shall provide expedited procedures. I am not suggesting a way here that will hamstring the effort. This is a good-faith try at making it work, and it leaves the responsibility of making it work in the legislative branch, not downtown in an executive agency.

In other words, my amendment, rather than delegating to the executive branch the authority to either cut back or eliminate statutory mandates, Congress will retain that authority in Congress. Within 30 days we will receive a responsible agency's recommendation as to whether a less costly mandate or no mandate should go into effect for any year that insufficient appropriations are available to fully carry out any mandate. We will then have 30 days to act on such recommendations under expedited procedures.

I generally do not favor expedited procedures but I can see here in this instance the necessity for expedited procedures. I might add that my amendment does not set up any particular set of expedited procedures. Instead, it requires that each future bill containing covered mandates set up the procedure.

If I vote to roll back a popular Federal mandate because I do not believe it should be funded, and that vote upsets the people in my home State of West Virginia, then they can go to the polls and vote against me. They can write to me in the meantime. They can pick up the telephone and raise their objections to my vote or give me their advice, let me know how they feel. They can tell ROBERT BYRD that they are not happy with his performance. I will be held accountable. But how does anyone with a complaint vote against some civil servant—and we have to have them, I do not disparage civil servants—how can anyone in West Virginia or Iowa or Michigan pick up a telephone and complain to some civil servant in the Environmental Protection Agency or the Transportation Department, or the Securities and Exchange Commission? They cannot do it. The American people cannot hold those unelected, invisible, unknown, officials responsible even if they knew who they were. Even if they knew the identity of the civil servant, how could they hold that civil servant responsible?

Well, is that how we intend to respond to the American people? Is that how we shoulder our responsibilities as elected representatives of the people? Are we not simply setting up a fall guy in the person of some agency bureaucrat so that we do not have to take the blame for pulling the plug from some necessary and popular Federal mandate? If that is the consequence of this legislation, whether intended or unintended, I submit that that result is an unworthy one. We need to shoulder our own responsibilities and belly up to the bar.

Accountability is a basic linchpin of our representative democracy. Not our democracy. We do not have democracy. Ours is a representative democracy, a republic. But accountability is a basic linchpin of our system, and we ought not muddy the waters so that the people who put us here cannot tell who is making these decisions which so impact upon the people's health, safety, and livelihoods.

I urge Senators to support my amendment. It keeps the Congress' legislative powers intact instead of placing them in the hands of unelected bureaucrats. I yield the floor.

Mr. KEMPTHORNE. Mr. President, I want to compliment the Senator from West Virginia [Mr. BYRD], for his amendment.

I thought how best to describe his amendment, and I think it is best described as a perfecting amendment. We

have just heard Senator BYRD and his description of this amendment. But the principal concept that it contains is that it leaves with Congress the responsibility for deciding whether to impose unfunded mandates on States, cities, schools.

Before we go into further discussion on this amendment, I want to make sure that Senators know that last night the Senate adopted an amendment by Senator MCCAIN that says if the Appropriations Committee includes a mandate in an appropriations bill, that appropriations bill will be subject to the same process that S. 1 provides for all of the bills.

The Byrd amendment perfects a principle that we sought to achieve in Senate bill 1, greater congressional accountability, the mandates imposed on State and local governments. I have learned a lot about the Senate rules just in the 2 weeks that I have been the floor manager on Senate bill 1, and many of these lessons came from the Senator from West Virginia.

It is with the utmost respect that I say that. I know that in the context of Senate rules a perfecting amendment means a minor modification. In this context, I use the term ''perfecting'' in the sense that it does make the bill better. I have consulted this morning with mayors, with Governors, with county commissioners, throughout the United States and they agree with my assessment.

If I may, I would like to briefly explain the heart of the Byrd amendment. Senate bill 1 approached the issue by having committees include in their mandate bills, procedures that agencies should follow in sunsetting or scaling back mandates if sufficient funds are not appropriated. If authorizing committees choose to fund a mandate with an appropriation the bill containing that mandate must contain provisions for making the mandate ineffective.

The Byrd amendment perfects this approach by directing committees to include in their bills procedures for agencies to report back to Congress if there are insufficient or no funds to pay for mandate costs. Further, the legislation must also provide for making the mandate ineffective if Congress and the President do not enact subsequent legislation proving or modifying the unfunded mandates. This makes sense to me. It also makes sense to representatives of the Nation's mayors, Governors, county commissioners, school board administators as based on my consultation with them this morning.

So I want to compliment Senator BYRD for his studious approach of this legislation, and for this amendment which I think enhances significantly Senate bill 1, and also enhances something that I believe strongly in as well, and that is that Congress must retain an oversight so that what we intend is what is actually carried out.

This is just one more example of why so many Members respect the Senator from West Virginia. I know on our side of the aisle that we are willing to accept this amendment. I yield the floor.

Mr. GLENN. Mr. President, let me associate myself with the remarks of my distinguished colleague from Idaho. It is questionable, in many respects, whether or not this legislation would have been workable without this amendment. I think it is that important.

I think the whole concept of unfunded mandates is to make the Federal Government work, and work right. If there is a challenge, and that challenge is delegated to an agency, the duty assigned to that agency is a mandate. However, often times the Government finds that it cannot provide all the money for the mandate that has been imposed, and that will happen. Under the legislation as it was introduced, it would have been up to an agency to associate with the State, city, or entity to which the mandate applied, and the agreement that was reached by the agency would have gone into effect. The agency would have had the force of law. In other words, we were delegating to an agency the right to enforce what would normally be enforced by Congress and telling them, ''You work it out.''

That may sound rather innocuous, and why are we getting so excited about this? Well, we have a $50 million threshold. Fifty million dollars is not going to bankrupt the United States, but remember, we may be dealing with laws that involve environmental concerns—clean water, clean air—and some of these things can range into hundreds of billions of dollars, particularly if taken over a 5-year period or 10-year period.

Let us say there is a 10-percent funding provided. That would give you one set of options if you were an agency trying to work this out. Let us say 40 percent, 60 percent, 90 percent is what the appropriators are able to fund. We would have said with this bill, perhaps something is going to be an impact, a mandate impact over maybe a 5- or 10-year period, it might be $300 or $400 billion, potentially.

That is not out of the range of things that could happen. We have an estimate over a 20-year period of $300 billion just to clean up the nuclear waste problem. We have not even dealt with that yet. So we are talking not just about $50 million. We are talking about programs that would be mandated to the States or local communities that might range into the tens of billions of dollars, and then we have a few people at an agency or Department whose job is to say, ''Well, how are we going to distribute this 10- or 20-percent allocation of money we got?''

Some of them might be more interested in one part of the Clean Air Act, while others may be interested in the hole in the ozone layer over the Antarctic. Somebody else may be interested in exhaust gas emissions in Los Angeles. The Agency would be deciding where that partial funding went, unless we had this amendment which corrects that and very properly says, ''OK, you people are experts, but you are not the final judge on what goes on; the Congress is, the Senate is.''

In the event that a situation like this occurs, what we can say now is, ''You people over in the agencies can work this out and make a recommendation, and you have 30 days to bring your recommendation back to Congress.'' In any event, the recommendation must come back here for final approval, and it will be up to the will of the Congress to make the final decision on these matters.

I think this is an excellent amendment, and I want to congratulate the Senator from West Virginia, again, for working this problem out. I am very happy that my colleague from Idaho sees fit to accept this on the other side of the aisle, and on our side we are very happy to accept it. I do not know if the Senator wants a rollcall vote on this. We are happy to accept it on our side if he does not want a rollcall vote.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Senator. I thank the two managers for their comments.

First, with reference to the comments by the distinguished Senator from Idaho, I have to say, and I am proud to say, that the new Senator from Idaho has greatly impressed me by his approach to the management of a bill. He has been very civil, very respectful of everyone's views and wishes. He has listened. He has been the very model of patience and fortitude. He has demonstrated a great skill in managing the bill. He has worked on this bill for a long time, I am sure.

Tennyson said:

> I am a part of all that I have met. . .

And I am proud to think of Tennyson's words as I contemplate working together with Senator KEMPTHORNE in the days to come. I have had experience working with him in recent days. He can reflect with great pride on his work here on this legislation, and I may or may not vote with him. I may or may not, I do not know yet. But there is something that supersedes and transcends things of that nature, and that is the respect we have for one another here. And I must say that I have great respect for Senator KEMPTHORNE, of Idaho.

I, of course, have equal respect for Senator GLENN, of Ohio. We have known each other for a long time.

I was thinking the other night, he was the first American to orbit the Earth. It took Lindbergh 33 hours to fly from this country to Paris in 1927. He ate one and a half of his five sandwiches as he crossed the ocean, sometimes flying 10 feet above the water, sometimes 10,000 feet above the water.

As he went over Cape Breton, the viewers with powerful glasses, according to the New York Times, could see, could make out the number ''211'' on Lindbergh's small plane that carried a load of only 5,500 pounds.

I would like to inquire of the distinguished Senator from Ohio how many minutes it required him to circle the Earth?

The Senator answers for the RECORD, he encircled the Earth once every 1 hour and 29 minutes; in other words, 89 minutes.

But let me sum it up like this.

Mr. GLENN. Will the Senator yield?

Mr. BYRD. Yes.

Mr. GLENN. There is another way to put the speed that is a little more interesting. It is a little under 18,000 miles an hour. But think where we are right now, and to your home would be 10 miles, I suppose, all the way out there.

Mr. BYRD. Yes.

Mr. GLENN. We would make that trip in the space of 2 seconds. You are making about 4.8 miles per second.

Mr. BYRD. Two seconds. The New York Times reported that Lindbergh flew over Cape Breton at the great speed of 100 miles per hour—100 miles per hour!

Well, things have changed a lot. Some things stay the same, or about the same. When I came to the Senate, it was the 86th Congress when I came to the Senate. I came to the House in the 83d Congress. But in the 86th Congress, I came to the U.S. Senate. Suppose an agency, a civil servant in a Federal agency—suppose this bill had been enacted into law the year I came, let us say, to the Senate, January 1959, in the 86th Congress.

I was the 1,579th Senator ever to serve in this body, and there have now been 1,826 Senators. What I am saying is suppose in the 86th Congress, this bill had become law and certain criteria had been established for the guidance of the Federal agencies. Suppose also that that law were still in effect. Imagine, since that Senate, in which I was the 1,579th, we have seen almost 2½ complete turnovers in the Senate, with the exception of Senator THURMOND—almost 2½ complete turnovers—yet the criteria remained the same. The Senators, who had voted in the committees in 1959 to establish the standards and the criteria by which the agency head would be guided, are gone. They would have passed from the stage of this life and gone on to their reward, most of them. And the agency head, the person down in the agency, has long since been replaced also.

The criteria that were established in the 84th might be much out of date today, as much out of date as Lindbergh's *Spirit of St. Louis* was when JOHN GLENN, Senator JOHN GLENN, circled the Earth. The criteria would be out of date. Would we be satisfied in letting someone down at the agency make these decisions with respect to mandates—less money, less mandate, or nullify the mandate—based on criteria that were created 37 years before?

I just pose that rhetorical question. I think that is what we are attempting here to rectify or avoid or to prevent.

I thank both of the managers for their kind remarks. I am ready to take my chair if another Senator wishes to speak.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment offered by Senator BYRD is clearly an improvement in this bill. It leaves an awful lot of problems remaining, with which I think my friend from West Virginia would agree, but it does address at least a problem, and it does it in a very important way, and I wish to just kind of summarize what I understand the Byrd amendment will do.

The Senator from West Virginia said near the end of his comments that some things change and some things stay the same. One of the things which changes is, indeed, the criteria over the years or, to put it another way, technology over the years.

We might estimate in 1994 that 25 years from now it is going to cost State and local governments $60 million to clean up something. There could be a totally new technology in those years which would reduce the cost of that cleanup by 90 percent, and yet under the bill, before this amendment, that agency would have to be directed to reduce the mandate on State and local governments if the amount was not appropriated equal to what was thought to be the cost of that cleanup two decades before.

It makes no sense. This amendment gives us at least one way to correct it down the road. It does not solve the problem of whether or not these estimates are useful to begin with and whether we ought to create these points of order on such weak estimates to begin with. But at least it gives us at the end of the line—10, 20, 30 years down the line—a legislative way to correct a misestimate. That is the part that stays the same. That is the enduring part of this Constitution which this amendment protects. And that is the right of the legislative body to legislate. This amendment avoids directing agencies to do what legislatures ought to do.

Now, I know we can say in the bill that authorizing legislation has to set forth criteria, but the truth of the matter is that unless we adopt the Byrd amendment, there is a significant delegation of what should be a legislative function to the agencies, overcoming the constitutional argument that you cannot do it broadly by simply, as in S. 1, having used the word ''criteria,'' which may get by a constitutional point of order but barely. And it is not the way we should legislate. We should not be abdicating legislative function to agencies, creating points of order unless bills direct agencies to reduce mandates 20, 30 years down the road, based on estimates decades earlier which were squishy.

I want to add my voice of commendation of the Senator from West Virginia because he is doing two things in this amendment that are important. One is based on the reality of change, which he has illustrated much better than I can, and the other is based on the reality that some things should stay the same under our Constitution, which is our responsibility to legislate and not to just shove it all off on agencies decades down the road.

Now, that is two things which the amendment does. There are some things it does not do. It does not solve the problem of creating that point of order based on that estimate to begin with. I think my friend from West Virginia would agree with me that that problem remains. When does the mandate even begin?

We had a colloquy here in the Chamber the other night. We spent an hour trying to figure out when a mandate began and could not figure it out. That is the triggering moment. When does a mandate first create direct costs?

I put up a chart with CBO figures, and the managers at that time were unable to tell me when does that mandate begin. So it is very difficult to know when a mandate begins, frequently.

Sometimes it is clear but frequently it is difficult. In many authorization bills, it is impossible to know when the mandate ends unless you have an authorization bill that is 5 years, 10 years, 15 years, 20 years. If it is a permanent authorization, you do not know when that mandate ends. So we have the CBO trying to figure, sometimes in a matter of hours—maybe minutes—the cost of a mandate on 86,000 jurisdictions, and we as people who are legislating cannot even figure out when some mandates begin and when they end. We are putting a whole lot of importance on that estimate at the beginning point when a point of order is created.

That is the basic problem with this bill, and we have tried to address some of those problems. I am going to have an amendment later on this afternoon which is going to say the maximum length of that estimate will be 10 years. I do not know whether or not the amendment will be adopted, but I think we ought to have some finite time for the amount of the estimate if we want to be realistic.

As the Senator from West Virginia pointed out, right now in this bill the CBO has got—once it is triggered, once there is a $50 million threshold estimate in any 1 of the 5 years after it is effective, assuming you can figure that out—assuming that $50 million threshold is reached in any year, then they have to estimate the cost each year for the entire length of the bill's effectiveness, which can be forever. In order to make this a little more realistic for the CBO, I will offer an amendment

later on today which says just go out 10 years from the effective date.

Now, the Senator from West Virginia has addressed an important problem, but it also leaves unaddressed what I have described and also creates the following duplication, I believe. I would like him to comment on this. We have not had a chance to chat so this will be our chat.

Under his amendment, as I understand it, which is the best he was able to work out with the managers, what will happen is this. Fifteen years from now, an Appropriations Committee will be appropriating money in an area, and they will be reminded there was an estimate 15 years back by the CBO that the authorization bill that they are working on will cost State and local governments $60 million.

Now it is 15 years later. The new Appropriations Committee is looking at this authorization bill and they have information, which is reliable, that because of new technology that mandate will now cost no more than $6 million, about one-tenth of what the estimate was 15 years ago. The Appropriations Committee, I hope, would do the sensible thing and appropriate at the most what it would cost to implement the mandate, 10 percent of what the estimate was 15 years before. When they do that, they will send the bill to the Senate floor, the Senate will act on it, pass $6 million, send it to the House—maybe it would have come from the House, whatever, the House will say yes, you are right, whatever, it is only $6 million this year—the House will approve the bill, although the order will probably be reversed. In any event, both Houses will probably work out the difference. At that point the bill will go to the President, he will sign the appropriation bill, and then there will be $6 million.

And then the agency, under the Byrd amendment, will say whoops, that estimate 15 years ago was for $60 million. We have to send a statement to the Congress saying we can do that now for $6 million. And if we do not think we can then we can reduce the scope of the mandate. There are a number of options which the Byrd amendment provides. If they do that there will be expedited procedures. I will get into that in a moment. But there will be expedited procedures to be sure that the Congress can act on that recommendation of the agency so it is the Congress that is acting and not the agency.

Again, I applaud the Senator for that. I think it is a very important change. But nonetheless we have to legislate all over again. We have to go through that process twice. Now we will have a recommendation from the agency, expedited procedures, joint resolution, has to go to both Houses, then has to go to the President.

So there is another hoop, another hurdle, another moat, another wrinkle. It is worth doing. I do not use any of those words in the sense that I think it is not worth putting in that extra burden, that double appropriation process. Because I think it probably is, in order to avoid the other two problems which the amendment of the Senator addresses. But I am wondering if the Senator from West Virginia would agree with me that, in order to address the two problems which he has, that it will be required down the road, whenever that is, that there be two steps taken to appropriate the right amount of money instead of one? And even though we have gone through the appropriations process once and presumably the appropriation folks know all the facts when they appropriate and they appropriate the 10 percent of that estimate and it goes to the President and is signed into law—as I understand the amendment, I think I have it straight—we still have to go through this second step of having this report from the agency, the expedited procedure, the joint resolution that becomes law?

I am wondering if I am accurate? And if not, I would like to be illuminated on that point.

Mr. BYRD. It seems to me, Mr. President, this would not pose a problem. I would think that the appropriations bill could say ''notwithstanding any other act.'' Notwithstanding any other act or any other provision of law, the agency shall carry out the mandate with less money.

So that Appropriations Committee and the Senate at that time—the same thing with the other body—can act accordingly, in the light of the new facts and new circumstances.

Mr. LEVIN. I am wondering if that would also be the case, even in the absence, presumably, of the Senator's amendment?

Mr. BYRD. I would think so, yes.

Mr. LEVIN. So what the Senator's amendment adds to that possibility, which always exists, a subsequent legislative body could say, ''Notwithstanding any previous position of law,'' is a second avenue of overcoming an estimate which turns out either to be inaccurate or which a subsequent Congress does not want to legislate, basically.

Mr. BYRD. Exactly.

Mr. LEVIN. And if that second path is used, which is the substance of the Senator's amendment, at that point there would be the second step used?

Mr. BYRD. Yes.

Mr. LEVIN. I thank my friend. On the expedited procedures issue, the Senator from West Virginia indicated that he has not set forth one expedited procedure. So I assume from that we could have, in effect, as many expedited procedures basically as there are authorizations?

Mr. BYRD. Conceivably that is the case.

Such procedure might become like any other boilerplate language in connection with this type of legislation. I said earlier I do not like expedited procedures but there are times when they may be necessary. In this case I did not want to try to raise a barrier to the effectiveness of the legislation. I want to expedite the operation of it, so as to retain here in the legislative branch responsibility to act rather than offloading that responsibility on an agency head.

Mr. LEVIN. I thank the Senator from West Virginia for reminding us of just how far off estimates are—budget estimates that come from the CBO.

I also just add to that one thought. These estimates are the product of the work, frequently, of months, of I would guess hundreds of people with great skills in this area, for one Government. And they are off.

Mr. BYRD. They are off.

Mr. LEVIN. And the estimates that so much is going to depend on in S. 1 are estimates which will frequently be produced in hours. They will have to be if it is an amendment on the floor, and I think the Senator from Ohio is going to try to address the amendment issue.

Mr. BYRD. Yes.

Mr. LEVIN. But the problems will be even greater because of a number of reasons.

One, there are just going to be, presumably, few people working at most on trying to estimate the cost of a bill or an amendment for this purpose. That is No. 1.

No. 2, the period that the estimate has to be made for—in other words, when is the mandate effective—is frequently unknown and has to be guesstimated. The length of the mandate is longer. It is unlimited, unless the bill has a limit in it. The authorization bill could be 20, 30, 40 years—unlike these bills which I think at the most are 5 years. But it is an annual estimate.

So you have in the case of a budget deficit estimate which is way off, huge numbers of people working on it knowing months in advance that it has to be prepared for a certain date for one Government for a finite period of time. Whereas the estimate referred to in S. 1 is an estimate that could be for an infinite number of years—could be unlimited, with not knowing when the estimate is going to have to be made because amendments are offered without warning, frequently. Sometimes they are second-degree amendments. And it is even a far more uncertain process that has to be produced in a shorter timespan than the estimates which my friend from West Virginia has reminded us of.

Is that a fair statement?

Mr. BYRD. I think it is. And, as the Senator from Michigan has so often pointed out, in 87,000 different political entities throughout this Nation.

Mr. LEVIN. I thank my friend. I commend him for his efforts on this bill, to improve this bill. This has huge, vast problems remaining. I think it is a labyrinth that is being created here with so many uncertainties that it is going

to create problems for everybody, including the State and local governments frankly, as well as the legislative process. But this really represents a significant effort. I commend my friend for taking, always, the time to get into the details of a bill so we try to come up with something which makes sense beyond the beltway and which is workable inside this institution.

Mr. BYRD. Mr. President, I thank my distinguished friend. As we have commented on the estimates and pointing out invariably they are off, of course, there is no criticism of the fine people in the Congressional Budget Office; it is just simply that there is no man or woman in the 261 million people in these United States who can estimate accurately. It cannot be done. God, in His infinite wisdom, could tell us that figure. It is humanly impossible, absolutely impossible in light of changing circumstances, inflation, unemployment, et cetera, to come up with the right estimate.

I was just musing to myself. In ancient times you will remember the dream in which the baker and the butler had dreams. And the baker's dream was interpreted meaning in 3 days off would go his head, unlike the pleasant outcome of the prediction of the butler in his dream; namely, that in 3 days he would be back serving the king or the pharaoh. In ancient times the heads of these poor CBO people would roll.

Mr. LEVIN. Mr. President, we have adopted a number of amendments which are trying to make their life a little more realistic than otherwise, amendments allowing them to say—for instance my amendment—if they cannot make an estimate, they are allowed to be honest in the intergovernmental area the way they were originally in the private area.

I have one question of the Senator from West Virginia to make sure that I understand the meaning of his reference to the word ''mandate.''

On page 2 of his amendment, lines 20 and 21, he makes reference to the word ''mandate.'' Am I correct in understanding that the mandate referred to there is the mandate which is the subject of the section, which is the intergovernmental mandate?

Mr. BYRD. That is my understanding. It conforms to this language, namely, Federal intergovernmental mandates, on page 22, line 2, which is in the bill.

Mr. LEVIN. I thank the Senator.

Mr. BYRD. Mr. President, I thank Senator LEVIN. He is one of the most meticulous legislative craftsmen, not only in this body but that I have seen in any legislative body in which I have served. He is meticulous. He will not ''cavil on the ninth part of a hair,'' but he will study it very carefully. If we did not have a CARL LEVIN, we ought to make one.

Let me take this opportunity to thank Senator LEVIN's staff, Senator GLENN's staff, and Senator KEMPTHORNE's staff for their patience and their helpfulness in working with Jim English of my staff on this bill. The contributions of those three Senators and their staffs and my own staff have been great, and I am very thankful.

Mr. President, for those who may wonder, I have no objection to setting this vote for later. I would like to get the yeas and nays. I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

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

Mr. GLENN. Mr. President, I ask unanimous consent that the vote on the Byrd amendment take place at 2:45, and that until that time we take up the Wellstone amendment which is going to be agreed to on both sides. That should take up most of the time between now and until the vote on the Byrd amendment.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank all Members.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I am trying to remember. I believe the amendment number is 204.

Mr. GLENN. I believe that is correct.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the manager.

Mr. President, let me first of all thank the floor managers, the Senator from Idaho and the Senator from Ohio, for their work. I would also like to thank their staffs and thank Ken Boley, who has been working with me. We have been involved in negotiations, and I think we have come up with a very reasonable compromise.

This amendment makes sure that when we talk about savings we have a definition of what we mean by direct savings. It is not currently defined in the bill. In other words, what this amendment says is that if savings can be reasonably estimated, then it should be counted. When we do the cost-benefit analysis, we want to do the cost but we also want to do the benefit. And this just tightens up the definition of savings.

As I have said many times, I support the premise of this legislation. I think there are a variety of different rough spots that we have been trying to smooth over with the amendments. I think this amendment does that.

I thank both Senators for their support.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to thank the Senator for his contribution with this amendment. I would also like to inquire if the modifications that we have discussed have been sent to the desk.

Mr. WELLSTONE. 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.

AMENDMENT NO. 204, AS MODIFIED

Mr. KEMPTHORNE. Mr. President, I send to the desk the modifications that have been made, and ask unanimous consent that they be accepted.

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

The amendment (No. 204), as modified, is as follows:

Insert at the appropriate place the following:

( ) The term 'direct savings'—

( ) in the case of a federal intergovernmental mandate, means the aggregate estimated reduction in costs to any State, local government, or tribal government as a result of compliance with the federal intergovernmental mandate.

( ) in the case of a Federal private sector mandate, means the aggregate estimated reduction in costs to the private sector as a result of compliance with the Federal private sector mandate.

Mr. WELLSTONE. Mr. President, if the Senator will yield, I apologize. I thought that had been sent up.

Mr. KEMPTHORNE. Mr. President, we are ready to accept the amendment.

Mr. WELLSTONE. Mr. President, before we vote, I ask unanimous consent that Senator BOXER be listed as an original cosponsor.

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

Mr. GLENN. We are happy to accept the amendment on our side also. I think the Senator from Minnesota has made a good contribution. This certainly clarifies some things that were not clear before. I think that is good. I compliment him for pointing out these things. We are glad to accept it on our side also.

Mr. WELLSTONE. I thank the Senator from Idaho for his work in coming to an agreement on this amendment.

What we are trying to do with this amendment is to make it clear that the Congressional Budget Office ought to be diligent in calculating the savings a mandate will create for State and local governments. The focus of the Unfunded Mandates Act is on costs, but there is a recognition in the bill that mandates can also provide savings to state and local governments. That recognition is critical.

Under S. 1, costs to the public sector as a result of a Federal mandate must be paid for, or else a point of order lies

against the proposed legislation containing the mandate. Savings are involved because under the bill we need not pay for costs to the extent that they are offset by savings. In other words, you cannot calculate costs unless you can calculate savings.

Costs and savings are two sides of the same coin. Both are important. But S. 1 includes a 2½-page definition of costs, and absolutely no definition of savings. However, the bill does make the important point that the ultimate cost of a mandate is the net amount resulting when savings are subtracted from costs. What we do in this amendment is provide that clarifying definition of direct savings. If a savings can be reasonably estimated, it should be counted.

For example, assume that following reports of a rise in incidence of carpal tunnel syndrome, a bill is proposed to restrict the number of hours a data entry technician may work. In analyzing the costs and savings resulting from this mandate, CBO estimates that employers' liability will likely decrease under such a law because of fewer cases of the syndrome, and that insurance premiums will likely be lower as a result. Is that a direct savings? Also, since liability would be decreased, perhaps the amount of settlements and awards not covered by the insurance would decrease as well. Is that also a savings? Under S. 1 as clarified by this amendment, CBO will have guidance and balance in making that decision.

How about savings that would result from workers not taking as many sick days? And savings from lower hospital bills the State might have to pick up? Again, under S. 1 as clarified by this amendment, CBO will have guidance and balance in making that decision.

I ask my friend the Senator from Idaho who is the prime sponsor of this legislation if he agrees with the intent of this amendment as I have outlined it.

Mr. KEMPTHORNE. I would respond to the Senator from Minnesota that I do agree with the intent of this amendment as he has outlined it.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment (No. 204), as modified.

The amendment (No. 204), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. 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.

AMENDMENT NO. 213, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of amendment No. 213, as modified.

Mr. HATCH. Mr. President, I congratulate Senator BYRD and Senator KEMPTHORNE on agreeing to mutually satisfactory language on this point-of-order provision. While I did not share Senator BYRD's concerns over what he saw as constitutionally dubious language in S. 1, I am pleased that he and Senator KEMPTHORNE have been able to agree on language that resolves his concern.

I am satisfied that the language in Senator BYRD's amendment is constitutional. For the sake of clarification only, I add that the language on page 3, lines 11 to 14 of the amendment, referring to approval by Congress of a joint resolution, is understood by all to contemplate that that joint resolution will become law. In short, no joint resolution will be deemed approved by Congress within the meaning of this language unless and until it has been signed by the President or, if it has been subject to a veto, the veto has been overridden by both Houses. This understanding is necessary and adequate to ensure that the procedure contemplated by the provision complies with the Constitution.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—100

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

So the amendment (No. 213) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, what is the order of business?

AMENDMENT NO. 196 TO AMENDMENT NO. 190

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 196, offered by the Senator from Idaho, which is pending to amendment No. 190 offered by the Senator from Iowa. Debate on the amendment is limited to 1 hour equally divided and controlled by Senators KEMPTHORNE and HARKIN.

Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I would like to congratulate my colleagues, Senator KEMPTHORNE and others, for offering this amendment.

The PRESIDING OFFICER. Does the Senator from Idaho yield time to the Senator from Utah?

Mr. HATCH. I am managing the bill at this time.

The PRESIDING OFFICER. The Senator from Utah yields himself such time as he may consume.

Mr. HATCH. Mr. President, I would like to repeat that. I would like to congratulate my colleagues, Senator KEMPTHORNE, and others, for offering this amendment. This amendment expresses the sense of the Senate that in implementing the balanced budget amendment, Congress will neither cut Social Security benefits nor increase Social Security taxes to balance the budget. Let me repeat that: Congress will neither cut Social Security benefits nor increase Social Security taxes to balance the budget.

This is a very good approach to ensuring that we will not harm either our current nor our future retirees as we get the Nation's fiscal house in order.

For all our generations, this is important. We all want to protect Social Security. There is not a person in this body who is not going to do that. And yet there are going to be a number of amendments that are basically irrelevant trying to show that they are going to try and protect us from ourselves with regard to Social Security. I do not know of anybody in the House or the Senate who is not going to protect Social Security under the balanced budget amendment. But everybody knows that if we amend the balanced budget amendment to exclude Social Security from its features, that balanced budget amendment will not be worth the paper it is written on. Everybody knows that, including those who basically are arguing this issue.

There is no question that we will protect Social Security in the implementing legislation. There is not a Member of Congress who will not vote to do that, and that definitely will be there.

This sense-of-the-Senate resolution says in passing the implementing legislation, Congress will neither cut Social Security benefits nor increase Social Security taxes to balance the budget. So we cover both ends of the spectrum.

We all want to protect Social Security. It holds a special place in our national programs. We want to protect Social Security in an appropriate and reasonable way. This provision does that. It is wholly appropriate, it is wholly reasonable, and it points the way to real protection for those who are relying upon the Social Security Trust Funds.

This provision goes to the heart of the concern of some that Social Security benefit cuts or tax hikes could result from attempts to balance the Federal budget. It expresses the sense of the Senate that as we move to balancing the budget that we will not cut benefits nor raise taxes in the Social Security trust fund in order to balance the budget.

I wholly agree with the intention of this provision, and I urge my colleagues, all those who, like me, support a balanced budget and all of those who, like me—meaning everybody—support protecting Social Security to vote for this amendment. Let us adopt this reasonable and appropriate approach to protecting Social Security as we move toward balancing our Federal budget.

One last comment. We have to do it this way. We will pass implementing legislation that will fully protect Social Security. This resolution commits us to doing that. But if we try to amend the balanced budget amendment and put statutory language of protection for Social Security in that, it is gone. It will not be worth the paper it is written on, and everybody who knows constitutional law knows that. I presume every Member of Congress knows that.

Mr. President, I yield 3 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I join my colleague from Utah in urging the adoption of this and the rejection of anything that suggests that we ought to have a Social Security exemption in the Constitution.

The interesting thing about the wording, and we went through this in the Judiciary Committee, what you would do for the first time in the history of the Nation is you would exempt a specific statute. That is not the way you write a Constitution. Then you have a huge loophole through which you can put anything you want in that statute. It just is not the way we ought to do things.

Second, by exempting Social Security, we do not make ourselves obligated in the years to come. Starting in the year 2012 or 2014, depending on how quickly people retire, Social Security will start going into the red. We need to anticipate that.

This is a commitment to people that we are going to try and act responsibly in this whole process. Are there going to have to be adjustments to future retirees in Social Security or to employers or to a FICA tax or something? The answer is at some point in the future that will have to take place because we want to make sure Social Security is sound but this does no favor, long-term, to Social Security recipients.

Let me add one other point. Those who oppose a balanced budget amendment are going around telling every group—we just had it yesterday from the Secretary of Defense. He said, ''Oh, this is all going to come out of defense and you are going to hurt defense.'' They are going to groups that fight for social causes and saying, ''Oh, it is all going to come out of yours.'' And they are going to Social Security recipients and others saying, ''Oh, this is all going to come out of you.''

This is a commitment that we want to do this thing responsibly, and I believe we will. We need to get on a glidepath toward a balanced budget, and that is the commitment of the balanced budget amendment.

I will vote for this amendment. I will oppose any secondary amendments that suggest that we ought to have an amendment to the Constitution on this.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield 5 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I, at the appropriate time, will move to table the Kempthorne amendment. Last year, when we debated the balanced budget amendment I also exempted Social Security. At the time, my friend from Utah said, ''It is a fig leaf.''

They did not invent a fig leaf until the amendment now before us had been offered. This is the biggest farce to the senior citizens of America that has been attempted to be perpetrated on them in a long time. If, in fact, this fig leaf is adopted, people can walk out and say, ''We are going to put it in the implementing legislation.'' And, in fact—I have every respect for my friend from Utah—I am sure he will do his best that it does become part of the implementing legislation. But what happens 5 years from now, 7 years from now, 8 years from now? Any legislative body can change the implementing legislation.

This is a farce. Everyone within the sound of my voice should understand that the Committee to Preserve Social Security, the AARP—all those groups that represent senior citizens in this country—oppose an amendment like this. This is offered only for show. But those who are watching this debate will see through its transparency.

We are going to have an opportunity when the balanced budget amendment is brought before this body to debate and vote on whether or not there should be an exclusion from the balanced budget amendment of Social Security. The resounding answer is that there should be an exclusion. Why? Because Social Security should rise or fall on its own merits.

I sat for the better part of 1 year on the entitlement commission. We studied Social Security. We know what is powerful about Social Security. We know the weaknesses of Social Security.

Mr. President, Social Security is this year going to have a surplus of $80 billion. Right after the turn of the century, the surplus will be in the hundreds of millions of dollars. We have to stop raiding these Social Security trust funds to make the books look better in Congress. We have to do that to protect the original contract with America, passed during the Great Depression, a contract of which we all are very proud. One of the most resounding acts of politics, of Government in the history of the world has been the Social Security agreement that we have in this country.

I think it would be a disservice to the people of this country to allow this amendment to pass. That is why I will move to table it. I believe that if we are going to have a debate, it should be reserved to whether or not the people of this body are going to exempt Social Security. That is the vote. That is why I applaud and commend my friend from Iowa for bringing this to the Senate's attention. We must recognize that Social Security should be exempted.

Finally, Mr. President, including the exemption in the constitutional balanced budget amendment is the only way to ensure that the trust funds will not be looted and that the trust fund will not become a slush fund. Congress has long recognized the special nature of Social Security. It is a contract that must be enforced. We can only guarantee continued performance of this contract if we expressly exempt Social Security from a balanced budget amendment. I recommend and plead with my colleagues to vote with me in tabling this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield 5 minutes to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, I rise to oppose the Kempthorne second-degree amendment. Senator KEMPTHORNE is attempting to weaken Senator HARKIN's amendment, which would put the Senate on record on a very important issue. Senator HARKIN's amendment would commit the Senate to protecting Social Security in the balanced budget amendment that we debate next week.

Let me try to underscore what is at work here.

This is not a discussion about good intentions. Everybody here has good intentions. All Senators would stand up, I am sure, and say, well, we are headed toward a balanced budget. Count on me. I guarantee we are not talking about cutting Social Security benefits.

Mr. President, if this is truly the case, then let us turn good intentions into a constitutional provision.

Here is why it is important. The agenda of the new majority party says the following three things: One, we want to increase defense spending, one of the largest areas of spending in the Federal budget. Two, we want to cut taxes. And three, we want by the year 2002 to force a balanced budget.

The question is, how? How does that add up, if one says we want to have a balanced budget by the year 2002 without affecting Social Security? I have heard the argument made: We want to do that without affecting Social Security. But if you take Social Security out, people tell us, that means nothing. What on Earth is that saying? That is a contradiction in logic that, I am sorry, I just do not follow.

Look, we take money out of workers' paychecks every day and every way in this country for one specific purpose, and it is labeled on the paycheck. It is money to go into a trust fund to pay for Social Security. That is the compact between those who work and those who used to work. That goes into a trust fund.

That trust fund this year had $69 billion more come into the trust fund than was spent out of the trust fund. Not one cent of the Federal deficit this year was created or caused by the Social Security system.

Now, why are we collecting more? Because we are saving it for when the baby boomers retire. If we do not take this surplus out of the balanced budget amendment's calculations, we will surely raid the Social Security trust funds, and all of us know it, in order to achieve the balanced budget amendment. Then we will probably deny it all the way to the bank.

The only way to keep the promise that has been made in this country is to pass the sense-of-the-Senate resolution offered by Senator HARKIN today, and then pass the proposal to the balanced budget amendment that will be offered by Senator REID and myself, Senator CONRAD, and Senator HARKIN next week, and that simply says this: No one shall be entitled or enabled to raid the Social Security trust fund to accomplish a balanced budget amendment because the Social Security system has not caused one penny of the Federal deficit. It is now running a very substantial surplus. The money that is taken from the workers' paychecks and from the employers who employ them is money that is sent into a trust fund to be spent for only one purpose. If this money is not for that purpose, then we ought to change the tax, eliminate the Social Security tax.

But all of us know exactly what is going on here. We want to play a little game and talk about a goal out there in the year 2002 without tying your hands.

Well, with respect to raiding the Social Security trust funds, I say let us bring some rope and tie some hands around here. Let us provide some guarantees. Let us tell seniors and workers for whom this compact exists that we mean what we say, that this is not about good intentions. This is about a good constitutional amendment to balance the budget. And the way that constitutional amendment will be a good amendment is if we keep this promise that the American people have made and kept decade after decade after decade since the 1930's.

This issue is not going to go away, and this issue is not going to be solved by good intentions or rhetoric. It will be solved not by passing the Kempthorne second-degree amendment which, as the Senator indicated, does not solve this problem. It will only be solved by passing today the sense-of-the-Senate resolution offered by Senator HARKIN and passing next week the amendment we intend to offer to the constitutional amendment and which we hope this Senate will adopt.

Mr. President, I yield the remainder of my time to my friend from Iowa.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, everybody knows that everybody in this body, everybody in the other body, is going to protect Social Security. We are going to protect it in the implementing legislation without question. If we put in an exemption, a statutory exemption for Social Security in the balanced budget amendment, it will make the balanced budget amendment worthless. We all know that.

But more importantly, if it is put in there, I guarantee you, you are putting Social Security at risk, and I will tell you why. Because once you put it in the balanced budget amendment, then everybody and anybody is going to be pouring their programs through that Social Security loophole calling it Social Security. I can see child care; I can see almost everything else. And guess who is going to lose? It is going to be the senior citizens in this country.

It is far better to legislate with legislation than to legislate on a constitutional amendment. And we are going to guarantee it. There is no doubt of anybody in the world that we are not going to guarantee Social Security on the implementing legislation.

So this argument is really a bogus argument. In a sense, it is an unconstitutional argument because we do not legislate on constitutional amendments. And if you provide any loophole for any part of the budget, that will be the hole through which they will drive millions of trucks in the form of all kinds of ideas on legislation. Everybody's special interest will be labeled that loophole exception.

Now, we all know that. We all know this is kind of let's-see-who-can-stand-up-for-Social-Security-the-most, although everybody does. So we simply believe the way to do it is the way the Kempthorne amendment is written. We protect Social Security. We will do it in the implementing legislation, and we will protect it from decreases or increases through tax increases. We will not allow the taxes to increase, either.

That way it is a level playing field and everybody is protected, plus we give the assurance that after the balanced budget amendment is passed we will work on implementing legislation which will do in a better form, in a better way, with greater guarantees, exactly what my sincere colleagues—and I acknowledge they are sincere—are trying to do here.

I yield 5 minutes to my friend and colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank the Senator from Utah for yielding.

I suspect he and I and a good many others ought well get used to the floor, because starting next week the chairman of the Judiciary Committee, my colleague from Utah, will be leading the battle, the debate, the discussion, on a balanced budget amendment as it comes to the floor of the Senate.

I did not think we would start that debate until then. But it is obvious there is a lot of partisan jockeying at this moment to see who can appear to be the better defender of the Social Security system. Mr. President, that kind of jockeying will not work; it has not worked. It has been tried before. The American public have clearly rejected it.

If I could take just a few of us back a decade to the early 1980's when the Social Security trust fund was truly in trouble, there was no money; it had been spent out and the revenue flows coming into the trust fund simply were not adequate to build any kind of revenue base, to build any kind of security to that system, and there was a real question that the checks could even go out. The partisan wrangling began. Thank goodness, Ronald Reagan and the Democrat Speaker of the House, Tip O'Neil, said: This will not work. We have as a nation always stood together in our support of Social Security. And we will stand together now. And Social Security will be as strong in the year 2002, when the Federal budget is balanced, as it is today. Because the American people will expect it and our Federal budget will not be balanced on the back of the Social Security System.

The American people want a stable Social Security System and they expect it to pay out what they put in.

They need to be assured that their benefits will not be cut to pay for other spending programs. The Senator from Utah is absolutely right. If we create the exclusivity of a massive loophole as the Senator from Iowa and those who support him tonight are trying to do, what will occur is exactly what happened in the 1950's and the 1960's and the 1970's, when there was a great desire to do social good but nobody had the will to raise taxes. We began to plug programs into the Social Security System, and myriad programs were plugged in. Were they socially worthy? Absolutely. None of us disputed that at that time. I was not here. Many Senators were not. But we had to pick up the pieces in the 1980's when the Congress of the United States finally had to fix the result of a broken trust fund system because already too much had been added.

If you create a giant revenue source and you create exclusivity to it—and that is exactly what the Senator from Iowa is attempting to do this evening—then you will in fact create a magnet that will draw all other kinds of programs under the guise that this somehow has a unique lure to the Social Security System. And the elderly of this country will say, it is for children? It is for the poor? I thought this was an exclusive income supplement program for those who had paid into it and those who were worthy and eligible by age and by definition. That is what we risk tonight.

What the Senator from Idaho in his second-degree amendment has proposed to do is to state clearly the intent of the U.S. Senate, much like the House did just yesterday in a resolution to speak clearly to the intent of the House. It is not much different from what we are attempting to do here, that it is the collective will, wisdom, and understanding of the U.S. Congress that as we work over the next 7 years to balance the Federal budget, we will not look to Social Security as a method and approach and revenue source to do so. It will be the responsibility to honor the trust funds and honor our responsibility and our pledge to the elderly of America that we will not balance the Federal budget on the backs of that program.

That is, of course, what the second-degree amendment speaks to, not just a revenue flow out from the System but a revenue flow in; that we will not attempt to use taxes to bolster up a System in the guise of Social Security to pay out for programs that would otherwise fall outside.

So I strongly support the second-degree amendment. I hope my colleagues can see the games that are being played. They really ought not be played, because this is without question a strong bipartisan issue. It has always been that. It should never be anything less than that.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa?

Mr. HARKIN. Mr. President, I will yield to my colleague in just a second. I do want to respond a little bit, though, to the comment made by the Senator from Idaho and the Senator from Utah.

It is hard to know where to begin. Basically what the Senator from Idaho and the Senator from Utah are saying to the elderly and to the workers of America is: Trust us. We do not have to exempt it from the balanced budget amendment. Just trust us.

It sounds like a used car salesman. You go to buy a used car and they say: We will not give you a guarantee, just trust me. That is the kind of argument we are hearing here.

They are talking about, somehow, if we do this in a constitutional amendment, if we exempt Social Security, then all of these other programs will be run through Social Security. It is evident to this Senator maybe the Senator from Idaho and the Senator from Utah have not really read the pertinent legislation. We took Social Security off budget in 1990. Then later on we made it an independent agency. Social Security is an independent agency with an independent board. If they try to run through poverty programs and everything else they are talking about through it, they would be guilty of a criminal conspiracy. It is impossible to do that. It is an independent board. That is why we removed it from politics.

Last, sort of an argument made by the Senator from Utah and the Senator from Idaho: if we put this on, we will try to add everything else onto the constitutional amendment to balance the budget.

Last year the same thing. I do not see any rush of other amendments to exempt this and exempt that and exempt anything else. This is the only one I know of. It makes common sense and good sense because it is a separate trust fund, separate taxes, separate trust fund.

Let me say, I think the proof of the pudding is what has happened so far. The Senate Judiciary Committee just passed it out. Let me say the Senate Judiciary Committee, led by the Senator from Utah, my good friend, the language that they passed clearly includes Social Security receipts and benefit payments to recipients in calculating whether or not we will have a balanced budget. There was a vote in the Judiciary Committee. It was debated and a vote was taken. The Judiciary Committee by a vote of 10 to 8 decided to have Social Security figured into the calculations of whether the budget is balanced or not. It makes no difference whether you put it in implementing legislation. That is nothing.

Mr. HATCH. Will the Senator yield on that?

Mr. HARKIN. In just 1 second I will.

In implementing legislation—we can change that next year. We had a constitutional amendment in 1913 to put in the Constitution that the Federal Government can collect income taxes. How is that implemented? We implement that through the IRS Code and we change that every year. That is what you would be facing with Social Security.

As the Senator from North Dakota said, with those many billions, actually $3 trillion by 2020, in the Social Security trust fund, that is where they want to go to balance the budget: on the backs of the elderly, on the backs of the workers of America. That is where they want to go.

The Senator from Utah can correct me, but I understand the vote was 10 to 8 and the only Republican who voted for the Feinstein amendment to exempt Social Security was Senator SPECTER.

If I am wrong on that, if my information is wrong, I will stand corrected. But there was an amendment to exempt it. It was 10 to 8. I think the intentions are clear there. Those who want a constitutional amendment to balance the budget—and I am one of those; I have voted for one in the past and I will in the future, but I will not vote for a constitutional amendment to balance the budget that is going to balance it on the backs of the elderly by using Social Security. It is separate. It is off budget. It is a separate agency and it ought to be left that way.

I yield.

Mr. EXON. Mr. President, with all due respect, I hate to ask either side for time because neither side is going to be particularly appreciative of what the Senator from Nebraska is about to say.

Therefore, I ask unanimous consent I be allowed to speak for not to exceed 4 minutes with the time not charged to either side.

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

Mr. EXON. Mr. President, I hope I am wrong, but I am not sure that I am. There may be some well-meaning attempts on both sides of the aisle for the underlying amendment by the Senator from Iowa and the second-degree amendment by the other side of the aisle, Senator HATCH or Senator KEMPTHORNE or whoever. I simply say, certainly there will be a lot of votes one way or the other on these measures. I want to explain the Senator from Nebraska will be voting against both. I am not saying I am any holier or any prouder or any more honest than any of my colleagues, but I simply say if you believe in a balanced budget amendment, then we should have a balanced budget amendment. That is going to be very, very difficult to do by the year 2002.

We should have a balanced budget amendment without any handcuffs. I for one am not sure that I would or that everybody would vote for making any reductions whatsoever in either tax increases, or benefit decreases to

balance the Federal budget. I simply say that I am fearful that there is a great deal of politics being played on both sides of the aisle on this issue. There are those who really believe that we should have as part of a constitutional amendment to balance the budget a hands off policy on Social Security.

It seems to me that the second-degree amendment is what we generally call an amendment around here that lets you vote for it but really you are not. I simply say once again emphasizing I am not sure that as we proceed to balance the budget that we need to or we should touch Social Security—the well-known third electrical rail of politics, touch it and you are dead politically. But I am going to vote against both of these amendments because I think both of them, from my perspective, without trying to judge what the proponents of the two amendments are trying to do—I judge that the courageous, honest thing to do if you want to balance the budget is not put a whole group of caveats in, we are not going to do this and we are not going to do that. I do not think we should touch Social Security. But to put it in the constitutional amendment, in my view, would be unwise. I think it would also likely be unwise just for cover to have a sense of the Senate that says the same thing.

Another way of saying that I damn both of their houses because I think this is not realistic. I think it is not politically honest. If you do not want to balance the Federal budget, then it is a good amendment.

I hope that we will defeat both the first- and second-degree amendments. That is how this Senator will vote.

I thank the Chair. I thank the body.

Mr. HARKIN. Mr. President, I want to respond to my good friend from Nebraska. If you really want a tough constitutional amendment to balance the budget, I hope the Senator will support our efforts to exclude Social Security because, if you include Social Security, that is where they are going to go. That is going to be easy because by 2002 we are going to have about pretty close to $1 trillion in that trust fund. That is where they will go to get it to balance the budget. Everybody will feel good. But what is going to happen then is later on when that baby-boom generation starts to retire, those trust funds will be depleted. I believe those who want to include Social Security are looking for a quick fix, are looking for an easy way out. I do not think there ought to be an easy way out.

I yield up to 5 minutes to the Senator from North Dakota.

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

Mr. HARKIN. Yes; I yield for a question.

Mr. EXON. Mr. President, my question is, If you are going to make a special case in the exemption of Social Security—which you can have arguments for and in some cases I might support—where are we going down that road to elimination? What about the veteran laying out here in the veterans hospital with two of his lower limbs off? Are we going to put in a caveat to make sure that his benefits are not touched? I suppose, if we are going to do that for one program, we could do it for another. I cannot think of anything more important than our veterans. That is an issue that we do not want to talk about, but it is an issue I suggest should be discussed. And I would like my colleague from Iowa to answer that question.

Mr. HARKIN. Mr. President, as a veteran myself I agree with the Senator. But the point is there is no separate trust fund for that. If the Senator would like to propose setting up a veterans trust fund, then we can go down that road. The fact is since the 1930's we have had a separate trust fund for Social Security. There is a separate line on the paycheck. That is where the money goes. We took it off budget a few years ago. We set up an independent agency all separate and apart. Funds that come into Social Security that workers pay in go out for the benefits. They are not commingled. Yet now they want to raid it.

So while I understand the Senator's views on veterans and I sympathize with that, it is simply not a trust fund, and we would have to go ahead and establish such a thing before we could ever exempt it. I do not know that the will is here to set up that kind of independent trust fund.

I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Iowa. This has been an interesting debate. We have heard that everybody here is going to protect Social Security. I wish that were true, but that is not the record. Before I came here in 1986, the Republicans were in the majority, and they went right after Social Security. We are not talking about just cutting the growth. They wanted to cut Social Security minimum benefits, cut them, less money the next year than the year before. That is the record.

So it is easy to stand on the floor and say everybody is going to protect it. But we can look back in history and see what our friends on the other side of the aisle did the last time they were in control. They went right after Social Security. Make no mistake about that record.

What is important to understand is we are here talking about a giant hoax. It is all a giant hoax on the American public because we have been hearing about a Social Security trust fund. There is no trust fund. Go try to find it. Go look. Have a search around Washington to try to find where this money is in the trust fund. It is nowhere to be found. It has all been spent. That is the truth of the matter.

What is happening around here is that the Social Security surpluses are being consistently systematically looted. The money is being taken to cover up how big the deficit really is. That is what the truth is. That is what really is happening. What some of us believe is that a trust fund ought to be a trust fund. It ought to be held in trust. It ought not to be looted for some other purpose. Why is it being done, people might ask? Why is this being done in Washington? Why are the Social Security surpluses being systematically looted to pay for the rest of the operating budget? I believe it is because a payroll tax which is regressive is financing the Social Security fund and those surpluses. And to the extent there are surpluses, that money is being used to offset the rest of the Federal deficit because you are using a payroll tax to fund the ongoing operations of Government. That is a burden and responsibility that ought to be shared by everybody, not just those who are on a payroll.

In fact, in this country, two-thirds of the people pay more in payroll taxes than they pay in income taxes. And to the extent those surpluses are being used to fund the ongoing operations of Government, what we have going on here is absolutely unconscionable and a fraud.

I asked my colleagues on the Budget Committee several years ago. ''Why is the Reverend Jim Bakker in jail? Why did he go to Federal penitentiary?'' The reason? Because he raised money for one purpose and he used it for another. That is called fraud. That is exactly what is going on with Social Security. We are raising money, taking it with a payroll tax out of people's pockets. Two-thirds of the people pay more in payroll taxes than they pay in income taxes. And we tell them we are using it to fund Social Security. Part of that is true. But to the extent there is a surplus, it is not true.

Mr. President, this chart shows the systematic looting of the Social Security trust fund that we will enshrine in the Constitution if we go ahead and pass the Kempthorne amendment and not put this provision in the balanced budget amendment.

I favor a balanced budget amendment. I think we ought to pass a balanced budget amendment. I am persuaded in my 8 years here that we are not going to balance the budget unless we have one. But it ought to be done in the right way. It ought not to be done by assuming we are going to loot a trust fund in order to balance the budget.

How big we are talking about here? This chart shows how big it is. This chart shows what the surpluses will be from 1995 to 2002. That is an 8-year period. The total amount of this is over $700 billion. That is what is at stake. Those who do not want to put it in the balanced budget amendment and put it in the Constitution and want Social Security treated as a trust fund are

really saying we want to take $636 billion over the next 7 years. And we ought to use that to balance the operating budget.

Mr. President, any CEO in America who stood up and announced that he was going to use the trust funds, the retirement funds of his employees to balance the operating budget, would be on his way to a Federal penitentiary. That is a violation of Federal law. That same standard ought to apply to us, as the stewards for the Social Security trust fund.

Mr. President, if people really want to treat Social Security as a trust fund, if they really want to be true to the trust, then we need to put in the Constitution with a balanced budget amendment that Social Security surpluses will not be systematically looted to balance the operating budget. That is what this debate is all about.

Mr. President, I have a financial background. Maybe that makes it more difficult for me to approach these issues. But I say to my colleagues, if you pass the Kempthorne amendment, it is like putting lipstick on a corpse; it does not make it any more attractive. It may add a little superficial appeal, but it is a cold corpse. That is what we are talking about.

The Kempthorne amendment says we are going to protect Social Security until next year when we might change this statute and decide to loot it, just like we have been looting it every year. Mr. President, that is not good enough. If we are going to have a balanced budget amendment enshrined in the Constitution, then we ought to make certain that enshrined in the Constitution as well is the obligation that a trust fund is treated as a trust fund, not as a honey pot, not as a place we go to loot in order to make balancing the operating budget easier. That is precisely what this vote is all about.

I thank the Chair and yield the floor.

Mr. HATCH. Mr. President, I am really interested in the argument of the distinguished Senator from North Dakota. He has just been making our case. If you enshrine this into the constitutional balanced budget amendment, this statutory provision, that will be the loophole through which every spending program in the country will be able to be expanded—all at the expense of our senior citizens.

The Senator from North Dakota makes our argument better than I have made it. Under the Harkin amendment—if we go to the Harkin amendment—there is every opportunity and incentive to continue to use the Social Security Trust Funds to fund general budget outlays. Every opportunity. Look at how they are robbing it now. Yes, they are looting it. We have all kinds of programs that they define as Social Security that are now being paid for under Social Security, as general budget outlays.

In fact, if Social Security is our only way to borrow—and that is what we would do by putting it in the actual constitutional amendment—I would have to say there would be even more temptation to loot the Social Security trust funds to pay for general budget items.

The Harkin amendment, the underlying amendment, increases the problem. I do not know how anybody can argue for that. I think the arguments of the Senator from North Dakota make our case for us.

Let me cite the Seniors Coalition. In a letter, they said:

> If Social Security is exempted—

These are seniors, and that is what they want to do in the Harkin amendment.

> the total force of balancing the budget will find its way to Social Security. There will be an overwhelming temptation to either redefine Government programs as Social Security programs, or pull money out of the trust fund to balance the budget by cutting Social Security taxes to offset tax increases elsewhere. In fact, there would be nothing to stop Congress from ''borrowing'' as much money as it wanted from the trust funds to finance any other Government program.

My gosh, I do not see the logic in their arguments. I do know that when you talk about constitutional amendments, you do not legislate on constitutional amendments. I do know that if we do legislate on them and we provide any loophole—I do not care whether it is Social Security, veterans' rights, you name it—that will be the loophole through which they will drive every spending program that they do not want to balance the budget with.

The argument of the Senator from Iowa is an argument which says, ''Trust us wonderful Members of Congress by exempting Social Security.'' He is saying ''trust us'' to the senior citizens and workers. It says to Americans, ''Give us a constitutional exemption to the balanced budget rule, and trust us to resist the pressure to fund worthy programs.'' We are talking about worthy programs, through Social Security trust financing.

Does anybody in America believe that Congress can resist doing that, if we provide this loophole in the balanced budget amendment? My gosh, how could we resist this balanced budget spending loophole? Could the Congress resist using any available money to fund worthy programs, including Social Security moneys? That is why we have the deficit and debt problem we have. Congress is the fiscal drunken sailor, and here these folks—and they are sincere, and I have no doubt about that; these are my dearest friends and these are great people, and they worry about people who have disabilities and they worry about our senior citizens. Everything they are doing here is sincere, but it is constitutionally very unsound. That is why we have to vote for the Kempthorne amendment.

The reason we have this huge debt and these deficit problems is because Congress cannot control itself. That is why we want a balanced budget amendment. These folks—sincere and honest and decent people—who want to do what is right, which I acknowledge—want to exempt Social Security in the actual constitutional amendment. If they do that, my gosh, that becomes an exemption through which everybody is going to call their special spending program, their worthy program, Social Security. And many of them are worthy programs. I do not know how you can avoid it. I do not see the logic in their argument.

The Kempthorne amendment says, look, we have expressed the sense of the Senate that once the balanced budget amendment is passed, without loopholes, without special consideration to anybody, we are going to, in the implementing legislation and all legislation that follows that—exempt Social Security from being raided. It is just that simple. And there is not one Senator on this floor who would not vote for that after the balanced budget amendment is passed. But if we go with the Harkin amendment, sincere as it may be, my gosh, I doubt that any of these three or four who have been arguing for it would raid the Social Security funds. But they are only 4 of 100 people here. I can name at least 51 of them here who would raid those funds every time they had a chance to do something noble and worthy. Why, we do that all the time around here. They think every program is noble and worthy, and most of them are.

The problem is, like drunken sailors, we cannot quit drinking because it is more fun to spend money than to conserve money. That is what the balanced budget amendment is all about. It is against these gimmicks of trying to exempt anything. And then let us face it straight up in the implementing legislation afterwards, and we will protect our seniors, and there is nobody in America who understands this who would doubt that.

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

Mr. HATCH. Yes.

Mr. CONRAD. I just ask the Senator, in the balanced budget amendment you have outlined, what budget is being balanced?

Mr. HATCH. Over a period of 7 years, we will have to have a glidepath to balancing the Federal budget, and I believe it will be without utilizing Social Security funds, as we do today, to help do that. That is what I will be working on, and that is what the implementing legislation is.

Mr. CONRAD. But that is not what the amendment before us says, Mr. President. The amendment before us says that the budget that will be balanced is all of the funds coming into the Federal Government matched against the outlays of the Federal Government. And, by that definition, it says we are going to use $636 billion of Social Security trust funds to balance the budget. That is, in effect, looting the Social Security trust funds in order

to balance the budget. It is commingling the operating funds with the trust fund.

Mr. HATCH. Mr. President, if I could reclaim my time, that is not what the amendment says. The amendment says we are not going to play this game of legislating on the balanced budget amendment. It basically says that the sense of the Senate is that we will neither cut Social Security benefits nor will we increase the Social Security taxes. That is all it says.

We are going to have to face that problem post the balanced budget amendment to do what the distinguished Senator says we have to do. The amendment by the distinguished Senator from Iowa only provides a loophole through which we can ignore the law and actually call things Social Security and go right through the loophole.

Mr. CONRAD. Will the Senator yield for a further question?

Mr. HATCH. On your time, I will be happy to.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. HARKIN. I yield one minute to the Senator for a question.

Mr. CONRAD. Mr. President, I would say to the Senator from Utah, the balanced budget amendment to the Constitution that is before us says, on line 7, page 3, ''Total receipts shall include all receipts of the United States Government except those derived from borrowing.'' That, by definition, includes the Social Security surplus. That, by definition, means that, unless we adopt the Harkin amendment, you will be enshrining in the Constitution that we are going to loot the Social Security trust fund of $636 billion in the next 7 years alone.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I just want to also respond to the Senator from Utah.

He is saying that my amendment to actually enshrine it in the Constitution to exclude it from the constitutional amendment to balance the budget would have the people saying, ''Trust us.'' That is not quite so.

The Kempthorne amendment tells the elderly to trust us. My amendment says to the elderly, ''Trust the Constitution of the United States.'' They have trusted us, and the Senator from North Dakota has shown how the Social Security trust fund has been looted. I say now it is time to put our trust in the Constitution of the United States and not in this legislative body.

Mr. HATCH. Will the Senator yield?

Mr. HARKIN. Let me just finish. I do not have much time. I have to yield to the Senator from Nevada.

If you think I am wrong, look at what the chairman of the House Judiciary Committee said on January 16 in ''Tax Notes.'' The publication ''Tax Notes'' quoted the chairman of the House Judiciary Committee as saying that failing to include Social Security assets in the budget ''would require us to make spending cuts more sweeping than currently contemplated''—''than currently contemplated.'' They are contemplating Social Security cuts. And the only way to keep their hands off of it is to specifically exclude it from the balanced budget amendment and not do this fig leaf. And that is what this is. The Kempthorne amendment is a fig leaf. It is not only a fig leaf, it is a transparent fig leave. You can see right through it.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. HARKIN. I yield 3 minutes to the Senator from Nevada, and more if he needs it.

Mr. REID. Mr. President, there is not a Democrat that is on the floor today—and we will have others who will come over here—that has not, during their campaigns, received information from the group that my friend from Utah has talked about. This senior group that he talks about is a Republican front organization. It does not represent mainstream American senior citizens.

We have letters from the American Association of Retired Persons, the Committee to Save Social Security, and other senior groups that represent those people who do not have to have some front that is really only for a Republican Party.

Here is what the AARP says about this amendment:

> Only by specifically excluding Social Security in the balanced budget amendment itself can American families be sure that Social Security trust funds are protected from raids to balance the budget.

Mr. President, we are talking about more than just people who are now drawing Social Security. We are talking about my daughter and my four sons. Even my grandkids. I would like to see, when they reach their golden years, when they go to the Social Security drawer, that there is money in it. And there will not be unless we exempt the Social Security trust fund from the balanced budget.

My friend from Utah, the manager of the bill presently, was an outstanding trial lawyer. I personally did not have trials in the same judicial district as he, but I have heard about him. ORRIN HATCH was a fine trial lawyer. As a result of that, I know that my friend had trust funds set up in his law office.

If a lawyer violates a trust fund, he is either censored, disbarred, or somehow reprimanded by the bar association which has authority over him, or that person goes to jail. We want to bar any type of similar tampering with the Social Security trust fund. We can only do this by expressly exempting the Social Security trust funds.

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

Mr. REID. My 3 minutes are up?

The PRESIDING OFFICER. Yes.

The Senator from Iowa has 1 minute left.

Mr. HARKIN. I yield 15 seconds to the Senator.

Mr. REID. So I say, let us defeat the Kempthorne amendment by agreeing to the tabling motion that I am going to make.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I will use the remainder of my time.

Mr. KERREY. Will the Senator yield?

Mr. HARKIN. I do not have any time.

Mr. KERREY. I would, as the senior Senator from Nebraska did, ask unanimous consent for 2 minutes. I want to be the Senator to close, and I wanted 2 minutes.

Mr. HATCH. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes.

Mr. HATCH. I yield 2 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Is the Senator from Iowa finished?

Mr. HARKIN. I was going to save my 45 seconds.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I rise, as the senior Senator from Nebraska did, in opposition to both of these proposals.

I understand the intent and I am sympathetic with the intent, but I must say I believe it sends a very bad message to the American people. It sends a message that says the largest account we have in the Government, we are going to take it off the books.

I understand the reason for being cautious in this regard. I understand the arguments that are made. But I urge my colleagues to consider a rather lengthy document that was sent not just to us but to the President of the United States in 1994. It is called ''The 1994 Annual Report of the Board of Trustees of the Federal Old Age and Survivors Insurance and Disability Insurance Trust Fund,'' the trustees that manage the Social Security trust fund, with three Cabinet Secretaries out of six people that have signed this thing saying to us that Social Security is in trouble.

Now, I appreciate, for a variety of reasons, that we want to leave this thing alone. But I think it sends a very bad signal to the American people that, right at the beginning with the consideration of a balanced budget amendment, we are going to take the most contentious and most difficult thing of all off the table.

Mr. REID. Will my friend yield so I may respond to a question because, in effect, he did ask a question.

Mr. KERREY. I only had 2 minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HARKIN. Mr. President, I guess I have about 45 seconds remaining.

I ask unanimous consent, first of all, to have printed in the RECORD the letter from Horace Deets, from the AARP.

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

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, January 26, 1995.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The House engaged in a vigorous debate on Wednesday, January 25th, over the status of Social Security in a balanced budget amendment. In light of the debate, the American Association of Retired Persons (AARP) wishes to make clear its view.

The Association continues its long-standing belief that the balanced budget amendment is a bad idea. In any event, if an amendment should pass, Social Security should be specifically excluded for the following reasons:

Social Security is a self-financed program based on contributions from employers and employees that are credited to the Social Security trust funds.

Social Security currently has over $400 billion in reserves and is not contributing one penny to the deficit. The reserve is projected to grow by about $70 billion dollars this year alone; and

Raiding the trust funds would be devastating to both current and future beneficiaries and would further undermine confidence in this nation's most important program.

The Association is concerned that yesterday's vote on the Flanagan resolution may mislead the public into believing that Social Security has been protected. Whatever the intent, a non-binding resolution can in no way substitute for language in the amendment itself. Indeed, the resolution, while perhaps expressing the intent of the current Congress, would have no impact whatsoever on a future Congress.

The vote in the Judiciary Committee to reject a specific exclusion for Social Security in the amendment makes it clear that Social Security remains ''on the table.'' In fact, the proposed Constitutional amendment, by referencing all receipts and outlays, would reverse action taken in 1990 to take Social Security ''off-budget.'' The Constitutional amendment thus puts Social Security at risk, and a non-binding resolution simply will not save it.

Only by specifically excluding Social Security in the balanced budget amendment itself can American families be sure that the Social Security trust funds are protected from raids to balance the budget—a promise made by the leadership of both parties during and after the November election.

Members of the House may honestly disagree on whether Social Security should or should not be exempt from the balanced budget amendment. However, the way to resolve this issue would be to vote on a specific amendment to the balanced budget amendment itself, not by voting on a non-binding resolution that may only mislead the public.

AARP believes that while Social Security is currently in good financial shape, its long-term solvency must be addressed within the next few years. However, any changes to the Social Security system must be used only for the long-term solvency of the program. Social Security should not be put at risk for a deficit it did not cause. The House—and the American people—should be under no illusion that a non-binding resolution protects Social Security from substantial risk.

The American people have grown angry and wary of promises from Washington. To tell the American public that Social Security is protected—and then fail to address the issue directly—will only lead to an increase in the cynicism that is currently prevalent throughout the nation.

Sincerely,

HORACE B. DEETS,
Executive Director.

Mr. HARKIN. Again, Mr. President, I will just close by saying, if you want a fig leaf, a transparent fig leaf, you can vote for the Kempthorne amendment. That is all it is.

But you are sending a signal to the elderly of this country and the workers of this country, ''Look out, because we are going to raid the Social Security trust fund.'' Just like the Senator from North Dakota, Senator CONRAD, said, it is there and they are going to raid it to balance the operating budget. And I say, ''No way.'' It is time for Senators to stand in the doorway and say, ''Absolutely not.'' We will use Social Security for the retiree, and not to balance the budget on the operating side, as they want to do with it.

Vote down the Kempthorne amendment and put some teeth in it by exempting it from the Constitution.

Mr. HATCH. Mr. President, I hate to say it. I recognize the sincerity of my friends and colleagues, and I think they are striving to do the same thing as all Senators on this side. The difference is we do not want to write it into a constitutional amendment when we know that we can accomplish that better and in a more statutorily refined and constitutional way in the implementing legislation.

The Harkin amendment says, ''Give us an exemption and we will figure out how big it is later,'' because I do not see how anybody can argue against the fact that it becomes a loophole if it is put into the Constitution. A loophole through which anybody—any sincere, dedicated, kindly person—can drive any favorable legislation through. Just by calling it Social Security.

The way to protect Social Security under a balanced budget amendment is the way suggested by the Kempthorne second-degree amendment. It protects Social Security benefits from cuts and stops tax increases against our workers while protecting a balanced budget.

Under the Harkin amendment, if that were to become law, benefits can be cut, and Social Security taxes can be increased. It does not protect seniors. If truth is known, if we have that loophole, then everybody will be raiding the Social Security account to do good with their programs. It is just that simple. It is just that simple.

I take it the distinguished Senator from Nevada is going to move to table the Kempthorne amendment. I will be happy to yield back the balance of our time. I hope we will vote against tabling, because the way the distinguished Senator from Iowa and his colleagues would like to go is as unconstitutional a way as I know. We do not want to clutter up the constitutional amendment. That is what implementing legislation is for. That is the way we should do it. I hope people will vote against the motion to table.

Mr. SIMPSON. Mr. President, I rise to offer a brief statement explaining my vote in favor of the Kempthorne amendment—in opposition to the tabling motion—pertaining to Social Security.

I join my colleagues in voting for this amendment because I do believe that it is absolutely vital to replace the language in the underlying Harkin amendment. As I stated during Judiciary Committee consideration of the balanced budget amendment, I strongly oppose carving out exemptions from the balanced budget amendment for any statutory program, whether they be for Social Security, or veterans' benefits, or defense, or child nutrition, or anything else.

There is no question at all that the underlying Social Security exemption amendment, as advanced here by Senator HARKIN, and as will be advanced during floor consideration of the balanced budget amendment, is nothing less than an attempt to kill the balanced budget amendment outright. We all know that. It is part of a concerted strategy to begin the piecemeal dismantling of the balanced budget amendment, beginning first with the most politically sensitive program of all.

I would like to simply say a brief word about where I personally differ from many of my colleagues, even many of my Republican colleagues, as to whether we should consider any changes to Social Security. I will shortly be chairing the Social Security Subcommittee of the Finance Committee, and I will certainly be giving my earnest attention to whatever changes are necessary to restore that system to long-term solvency. Proponents of the exemption speak of a ''contract'' with our senior citizens. In my view, part of that ''contract'' means making certain that the system remains solvent.

But I will vote with my Republican colleagues against the motion to table the Kempthorne amendment, because I believe it is crucial to make the point that we will not be balancing the budget on the backs of Social Security recipients. If retirees need a signal, need some assurance, that balanced-budget-implementing legislation will not mean an assault on the Social Security surplus, then I am perfectly willing to make that clear to them. Indeed, Social Security will be in surplus at all times before the year 2002, when the balanced budget amendment is to be fully implemented. It does not project toward insolvency until the year 2029. That date is moving ever closer, but I do not expect it to get anywhere close to 2002. Thus, we can be reassuring about Social Security's future prior to that date.

I vote for this amendment to make clear that when I speak of reforming entitlement programs, I do not mean using entitlement cuts to correct imbalances in other parts of the Federal budget. I mean restoring balance and sanity to entitlements programs themselves. So I will vote against the motion to table the Kempthorne amendment, with the caveat that I personally will be examining all issues pertinent to Social Security—not as a part of balanced-budget-implementing legislation—but rather in meeting my responsibility to ensure that the Social Security system remains sound and reliable for future generations as well as the current one.

Mr. REID. Mr. Preident, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Idaho. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—44

Akaka	Exon	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Bingaman	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Packwood
Bryan	Hatfield	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kohl	Wellstone
Dorgan	Lautenberg	

NAYS—56

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

So the motion to lay on the table the amendment (No. 196) was rejected.

Mr. SIMPSON. Mr. President, I rise to explain my vote against the Kempthorne amendment.

Moments ago, I voted against the motion to table the Kempthorne amendment. I did so because I believed it was absolutely vital to displace the language in the underlying Harkin amendment. I will also vote to table the Harkin language again when it is offered as a second-degree amendment.

As I stated in my remarks against the motion to table the Kempthorne amendment, I wanted to make absolutely clear that it was understood that charges of raids on Social Security amounted to whole schools of red herrings, and that the short-term task of balancing the budget by the year 2002 was unrelated to the long-term problems in Social Security.

However, I personally do not wish to tie my own hands by making sweeping blanket declarations that no changes whatsoever can be made in Social Security. I am in the process of assuming the chairmanship of the Social Security Subcommittee of the Finance Committee. In that capacity I am obliged to ensure that Social Security remains stable and available for future generations as well as for current retirees. If it requires reforms, then I will certainly propose reforms. That is my policy, and it is my responsibility in that capacity. It has nothing to do with the balanced budget amendment.

I did not want to vote in favor of the Kempthorne amendment, knowing full well that it would pass in any event, because if I conclude that Social Security is best served by reforms that I would advocate—including in budget implementing legislation some time before 2002—then I would indeed recommend the inclusion of such reforms. I do not want there to be any mistake, any misunderstanding, any suggestion that I had ever promised to advocate no changes at all.

Social Security has serious problems coming, very real problems—an insolvency date of 2029 and growing nearer—a plummeting worker to collector ratio—and internal deficits that will begin in the year 2013 under all current projections. I am determined to face those problems head on and to recommend solutions to them. I voted against tabling the Kempthorne amendment because it was crucial to displace the underlying Harkin language, but I want to convey with utmost clarity that my own position and my own analysis will oblige me to correct the deficiencies that certainly now exist within the system.

I submit this statement in order that the RECORD will show why I voted ''no'' on this amendment after voting against the tabling motion.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 196 offered by the Senator from Idaho [Mr. KEMPTHORNE]. 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 Kentucky [Mr. FORD] is necessarily absent.

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

The result was announced—yeas 83, nays 16, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—83

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

NAYS—16

Byrd	Jeffords	Robb
Chafee	Kerrey	Rockefeller
Dodd	Lautenberg	Sarbanes
Exon	Moynihan	Simpson
Graham	Nunn	
Hatfield	Packwood	

NOT VOTING—1

Ford

So the amendment (No. 196) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized to offer an amendment.

AMENDMENT NO. 224

(Purpose: To express the sense of the Senate regarding the exclusion of Social Security from calculations required under a balanced budget amendment to the Constitution)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 224.

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

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

The amendment is as follows:

At the end of the amendment add the following:

(a) FINDINGS.—The Senate finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Debate on the pending amendment offered by the Senator from Iowa is limited to 1 hour, equally divided by Senator KEMPTHORNE and the Senator from Iowa.

Mr. HARKIN. Mr. President, we have just finished the skirmish, so to speak, and we have all had a chance to vote on a figleaf. That is what the Kempthorne amendment was, nothing more, nothing less. We all recognize it as that. The senior citizens groups also recognize it as a figleaf. Let us recap exactly why that is so.

The Kempthorne amendment, again, only says that on consideration of the balanced budget amendment to the Constitution, in the implementing legislation—that is, if it passes and you implement it—only in the implementing legislation do we not consider Social Security in figuring out whether or not we are really balancing the budget.

That means it is just a law, like anything else we pass around here. We can change it tomorrow, change it next week, change it next year. Basically, what that argument says to the elderly of our country is, trust us, we will take care of it. As the Senator from North Dakota showed in an earlier debate before the vote on the Kempthorne amendment, the senior citizens have every right not to trust the Congress.

The Social Security trust fund today is being raided every year to pay for the Government's operating expenses. I daresay that if a balanced budget amendment is passed and ratified without a specific exemption for Social Security, that Social Security is exactly where the money will be gotten to balance the budget. It'll be taken right out the of the Social Security trust fund. That would not only be unfair to the seniors who are retired, or those workers who are retiring soon, but it would be unfair to those young people now who are paying into the Social Security system, because they will not be certain it will be there when they retire.

I found rather unique the arguments of the Senator from Utah, my good friend, Senator HATCH, that if we take Social Security out of the figuring for the balanced budget amendment, then it can be the catchall for all these other programs. He says we could run poverty programs through it and children's programs and everything else. I would like to know how he is going to do that, because Social Security is a trust fund, specifically delineated in law that goes for specific limited purposes, and always had. That trust fund is funded out of specific employer and employee payroll contributions. You can call Social Security right now and find out exactly how much money you have put into the trust fund and what you would have available when you retire.

Legislation could be passed setting up another, separate trust fund to be taken out of your paycheck to pay for another program. Can Congress do that? Absolutely. If we wanted to, we can set up a trust fund next week to pay for Head Start and take it out of people's paychecks. We can do that. I do not think we are going to, and to my knowledge, no one has ever suggested that. I would not suggest that. But that is how we would do what the Senator from Utah suggested.

I think the odds of doing that are infinitesimal, compared to the odds of this body, the Senate and the House, using the Social Security trust fund to balance the budget, unless we specifically exempt Social Security out of the constitutional amendment. Understand this argument, because it comes to the heart of the argument of the Senator from Utah. He says that if we keep the Social Security trust fund out of consideration on balancing the budget, we will put all of the programs we want into it, which would require us to set up separate trust funds.

I say the odds of that are small, very small. What Congress will do is, if you do include Social Security in with considering how to balance the budget, with that $700 billion in there by the year 2000, believe me, that is where this body will go to get the money to balance the budget.

Again, you do not have to take my word for it. We had a vote already in the Senate Judiciary Committee just the other day. Let me read the language of the constitutional amendment reported by the Senate Judiciary Committee. Here is the language:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide, by law, for a specific excess of outlays over receipts by a rollcall vote.

That language, Mr. President, clearly includes Social Security receipts and benefit payments to recipients. Cutting Social Security benefits would reduce the budget deficit under the Senate Judiciary Committee measure that will be before us next week. This issue was debated in the committee. An amendment was offered, I believe, by Senator FEINSTEIN from California—an amendment to exempt Social Security. It was debated and a vote was taken. The vote was 10 to 8 to reject the Feinstein amendment. In other words, it was 10 to 8 on the Judiciary Committee to keep Social Security in the consideration of how we balance the budget, to figure it into the calculations as to whether it is balanced or not.

So, again, I think the Judiciary Committee is telling us: Look out, Social Security is at dire risk. Well, that was the committee. I do not believe we have to follow the committee. I believe now we can pass the amendment I have sent to the desk to provide a clear sense-of-the-Senate resolution that, in fact, we are going to exempt Social Security from calculations under the balanced budget amendment.

The Kempthorne amendment does not exempt Social Security, does not keep it out of how you figure a balanced budget amendment. It only says that later on down the road, when you have implementing legislation, you cannot use it. But that is just a law and history shows us that laws implementing constitutional amendments have been changed many, many times.

As I pointed out, we had a constitutional amendment in 1913 that said the Federal Government could levy an income tax, taxes on income.

Later on, we had implementing legislation called the IRS Code. We change that just about every year. We could do the same thing to protections against cutting Social Security under the Kempthorne approach.

If you really want to protect Social Security, make it clear in the balanced budget amendment that when we calculate receipts and expenditures, Social Security is out of that calculation.

So basically what my sense-of-the-Senate resolution says is—and I will read it:

> It is the sense of the Senate that any joint resolution providing for a balanced budget amendment to the United States Constitution passed by the Senate shall specifically exclude Social Security from the calculations used to determine if the Federal budget is in balance.

A lot different than what Senator KEMPTHORNE's amendment was; a lot different.

As I said before, that was a fig leaf. The votes we had before were a skirmish. I said, not even a fig leaf, a transparent fig leaf.

Now comes the real vote. Do Senators really want to protect Social Security, protect it by saying, ''Yes, we will have a constitutional amendment to balance the budget and if we have that, we are going to specifically exclude Social Security from it''? That is the only way we can protect it.

If we do not, again, all Congress is saying to the people is, ''Trust us.'' Well, as I said earler, that's as comforting as when a used car salesman says, ''Take the car, you don't need a guarantee. Trust me. It will run.''

I say if it is important enough to put in the Constitution of the United States a requirement that we balance the budget, and I believe it is, it is equally as important to put into that Constitution that Social Security is exempt from that calculation.

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

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, it ought now to be extremely clear to all of the Senators what the intent of the Senator from Iowa is, and that is the intent of every other Senator. We have now voted twice and he is asking us to vote again that there is a general sense of the Senate that, as we move to begin the process of balancing the Federal budget, we will protect Social Security. That is exactly what the Kempthorne amendment says.

The House, yesterday, spoke to that issue as a sense of the Congress. They, too, want to protect Social Security.

I am not quite sure what the Senator intends, other than that if we vote often enough over the next 24 hours somehow we will indelibly plant in the minds of every citizen in this country that the Congress intends to do what the Congress has twice said in the last hour they intend to do.

That is a bit frustrating—fig leaf, no fig leaf, big, small, transparent, opaque. The bottom line is the Congress of the United States has as its intent, as we begin to balance the Federal budget, a protection of Social Security.

Last year, as we debated the balanced budget resolution here on the floor, there was a hue and cry that the way you destroy Social Security is you damage its integrity or you begin to create within the trust fund of Social Security a destabilizing mechanism which defeats a balanced budget resolution.

Robert J. Myers, who for 30 or 40 years of his professional life served in the Social Security Administration and was known as the father of Social Security, said to us at that time, and let me repeat the general intent of his comments and letters: The way you protect Social Security is to balance the Federal budget. The way you maintain the integrity of the trust funds is to stop the raiding that that Senator and this Senator and all of us have done by voting for the current budgets that use the accountable reserves as part of a way of masking over the deficit spending that we do.

Now we are all guilty of that because of the nature of the budgeting system of our Government. We know it and the American people know it.

I am not quite sure we accomplish anything here this evening beyond another vote which could well come up like all of the past votes. And it will not be a determiner. It will not be anything that the Senator from Iowa can go to a press conference and say, ''You see, I, and no one else, am the sole defender of the Social Security system of this country.'' That would not be a valid statement for him to make, or for me, for that matter, to make.

The bottom line is there is a clear intent—whether it is expressed through the Kempthorne amendment, as it amended the Harkin amendment, or whether it is the Harkin amendment as the Harkin amendment attempts to amend the Harkin amendment, as amended —and that is, of course, that Congress intends to work hard to balance the Federal budget and in so doing to protect the Social Security system.

Therefore, it is my opinion, and I think the opinion of most Senators, that this effort at this moment in time is a phenomenal waste of our time as we move to try to solve the problem and pass a very important piece of legislation. And that is to create the mechanism that my colleague from Idaho, Senator KEMPTHORNE, has so clearly articulated here in the last numbers of days, now into the second week, and that, of course, is to create a mechanism that causes the Congress to stop and look at itself and what it does when we attempt to push forth mandates from this Government to the governments of the States and the local communities of our Nation.

I hope that Senators, if they are listening to this debate, would recognize in the vote that is about to occur that it is not like the other votes; in the sense that it is redundant, yes, but in the sense that it accomplishes nothing.

We have spoken. Why speak again and again and again? The record shows that it is the intent of this Congress to protect Social Security as we work to balance the Federal budget.

I reserve the remainder of my time.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 22 minutes remaining.

Mr. HARKIN. Mr. President, my good friend, the Senator from Idaho, has said something about: Do we have to vote again? We have already voted twice on this. Well, yes, we do have to vote again. We have to vote again to clear it up and to make crystal clear just exactly what it is we do intend to do and what we want to do.

The Senator from Idaho has said he could not understand what it is that I intend. He says Congress has just spoken that we have the intent to protect Social Security. Let me repeat that. The Senator from Idaho said that the Senate has just spoken that we have the intent to protect Social Security.

Weigh those words carefully.

I remember when I was in Catholic school, Sister Rose Angela said something to me when I believe I was in sixth grade. I will never forget what Sister said to me. ''Just remember, the road to hell is paved with good intentions.'' I am sure we have all heard that before.

Oh, we can intend not to raid the Social Security trust fund, we can say that now, but those intentions can be washed away by a constitutional amendment that requires us to balance the budget and does not exclude Social Security from that calculation and leaves all that money dangling out there and saying, ''Yeah, good intentions.'' But when the Constitution demands for us to balance the budget and we have an easy pot to go to, that is where this body will go to. They will go to the Social Security trust fund.

So my intention is very clear. No, this Senator in no way believes that he is the sole protector of Social Security in the Senate. Absolutely not. I believe strongly in Social Security. I saw what happened to my own family. And my father, who went on Social Security, who worked on WPA in the Depression, when he got injured later in life and retired, the only thing he had was Social Security, less than $2,000 a year. In fact, if I am not mistaken, it was about $1,600 a year. That was the sole source of income for our family. I was 12 years old at the time. That was all we had, other than what we earned working in summers.

So I come from a situation where I have seen Social Security first hand and what it does. Through my service here over the last 20 years, I have seen time and time again little nicks here, little pieces here, little bits there, trying to get at that Social Security trust fund.

We did take it off budget, and we set up an independent commission to administer it. That is the way it ought to be. I think the Congress did the right thing in that regard. But now if we put it back in with the constitutional amendment to balance the budget, we will wipe all that out because then the

Social Security trust fund will be raided.

So the vote we have coming up is to clear up what it is we intend to do. Do we just want to have it on implementing legislation, or do we believe Social Security is important enough to protect it in the Constitution?

I ask my good friend, the Senator from Idaho—I know he feels strongly about a constitutional amendment to balance the budget. So do I. I have so voted in the past. I happen to believe that, as important as it is to balance the budget, it is equally as important to ensure that the Social Security trust fund is kept separate and not figured in that calculation.

So I ask, when it gets this time, whether or not he thinks the Social Security trust fund is that important. I do. Reducing the deficit is important, but not reducing it on the backs of the elderly and taking it away from the workers today who expect that Social Security trust fund to be there.

Again, keep in mind that the Kempthorne amendment only talked about the implementing legislation. Well, Mr. President, we had the Civil Rights Act, which implemented the 13th and 14th amendments to the Constitution. They have been amended numerous times. The Income Tax Code implemented the 16th amendment, adopted in 1913, and amended about every year. It is true that any so-called protection that we have under the Kempthorne amendment is fleeting, at best.

Lastly, I ask my friend from Idaho, and he is my friend, to consider this: If we intend to protect Social Security, and I believe the Senator does, but if all we do is protect it by saying that sometime in the future, with implementing legislation, we will do it, I ask the Senator from Idaho how many votes does it take to change implementing legislation? If I am not mistaken, I believe it takes 51 votes in this body. If, however—and I ask my friend to consider this—we exclude Social Security from the constitutional amendment and that amendment is adopted and becomes a part of the Constitution, then it is not 51 votes to change Social Security, not 51 votes to use it; it will take a two-thirds vote and an amendment to the Constitution to change it.

Mr. CRAIG. Will the Senator yield on that, if he directed that to me as a question?

Mr. HARKIN. I am delighted to yield to my friend.

Mr. CRAIG. The Senator's vote counts, I believe, are correct, but there is a problem with what he says.

If we place within the Constitution the words ''Social Security,'' we do not by constitutional wording define what it means. By his own admission, the Senator says we define what Social Security means in statute. Since its inception through until just the last few years, we have constantly redefined it as we felt there was a need to change it—demographics change, the economy changes, and Social Security has evolved.

What the Senator is suggesting is what the Senator from Utah tried to express. I think the Senator from Utah referred to it as a ''gigantic loophole.'' What the Senator from Iowa is saying is let us put the words ''Social Security'' in the Constitution; but what he does not say is that lying outside the Constitution is the statutory ability of this Senate to change the definition of what Social Security means.

We can expand it, we can broaden it, we can reshape it, we can add programs to it, all under the umbrella of that constitutional protection. Literally, we could put the entire Federal budget under the umbrella if we could meet the definition so prescribed.

I believe the Senator is inaccurate. To change the statutory definition of Social Security, that would dramatically change the intent from this moment in time of his amendment. Embodied in a constitutional amendment does not require a two-thirds vote of the Congress, it requires a 51 vote of this House and a 218 vote of the other body.

Now, that is exactly what would happen. I have looked at his wording, and I have helped craft the amendment that will come to the floor in the next couple of days. I have spent a lot of time with constitutional scholars over the last 6 years. To the Senator from Iowa, here is what they have told us.

Mr. HARKIN. I was yielding to the Senator for a question. If the Senator wants to use a lot of time, I hope it will be considered on his time.

Mr. CRAIG. I will deal with it on my own time. But I must stay with the premise when we put wording in the Constitution that can be redefined by statute by the Congress of the United States that you can change at any moment in time the given meaning of those words.

Mr. HARKIN. I appreciate that. I hope the Senator would be as generous yielding to me as I have been to him. I know he will be.

Mr. CRAIG. I will.

Mr. HARKIN. Mr. President, yes, Congress can change by statute the definition of Social Security. The Senator is absolutely right about that.

There is one thing, however, we cannot change by statute if my amendment is adopted and the Reid amendment is passed when he offers it next week. There is one thing that cannot be changed.

If the Senator will read my amendment, it says that ''Any legislation required to implement a balanced budget amendment to the U.S. Constitution shall specifically exclude Social Security from the calculations used to determine if the Federal budget is in balance.''

That is one thing we will not be able to touch. Now, that is what I am getting at. We can always change the definition of Social Security, obviously. But what we cannot do, if my amendment passes, is by a 51 vote, say, ''OK, we will balance the budget. Let us take it out of Social Security and use it in figuring the calculations of how we balance.'' That is where my friend from Idaho mistakes the intent of my amendment.

My amendment is not to lock in place forever and ever exactly what Social Security is. That is not it. We can always change it. We will have to change Social Security in the future. I understand that. Everybody understands that. What my amendment addresses is that we can never use, we cannot be a simple majority vote here and say, ''OK, now we will use Social Security, however we define it, to balance the budget.'' Very simple. Very straightforward.

I hope the Senator from Idaho understands that very crucial distinction. I yield the floor.

Mr. CRAIG. Mr. President, before I yield to the Senator from Maine, let me repeat again, I believe the Senator from Iowa just said this: ''However we redefine Social Security, that redefinition is exempt from calculation.'' I believe that is what he said. I think the RECORD ought to show that that is exactly what I was saying in my debate of a few moments ago. You have created a giant definitional loophole that a majority vote of the U.S. Congress can vote at will, for good or for bad.

I yield such time to the Senator from Maine as he may consume.

Mr. COHEN. Mr. President, I will try to be very brief. I believe it was yesterday that a meeting was held, chaired by Senator DOLE, the majority leader, talking about quality of life in the Senate. I decided not to go. This is a subject matter that has been raised time and time again as to whether or not there might be some way to get control of the schedule, to be more disciplined in our habits, perhaps to try to accommodate Senators who still have young families. I do not. Mine are all grown and married.

I decided just not to bother anymore, because I see nothing but a repetition of what has been going on for too many years now. Nothing has changed. If anything, it has gotten worse. As I left the Chamber on the last vote, a group of reporters were waiting outside. They said, ''Do you think the Democrats are lining up their 30-second spots right now?''

I said, ''In all probability, they are.''

But the fact of the matter is, I do not think that is going to work anymore. They can produce all the 30-second spots that they want, but the American people, I hope, are going to be informed enough and surely intelligent enough to see what is going on here.

I want to know why is this amendment being debated at 5:30 in the afternoon? For the past week and a half, we have been talking about unfunded mandates, and now we have switched to talking about balanced budget amendments and Social Security.

I do not defer for 1 second to the Senator from Iowa about his concern for Social Security. I have a dad who is 86 years old. He is still working 18 hours a day, 6 days a week, and all he takes home, frankly, is Social Security. Everything else has to stay with the business to help keep it going so he can continue to work. There is nothing else. There is no pension plan. There is no other thing he has in the way of resources. I think I know what Social Security means to him and my mother. I must say, for anyone to stand on the floor and claim a corner on morality or they alone are trying to protect the Social Security system from assault by Members on this side of the aisle is out of line. It is out of line on its merits and its timing.

Next week we are supposed to debate the balanced budget amendment. I expect that debate to take weeks—not days—but weeks, because every Member here will be entitled to offer whatever amendment he or she desires, whether or not it is relevant or germane.

I must say, I question the relevance of this amendment to this bill. But here we are, because under the Senate rules each Member has an opportunity to offer an amendment of his or her concern.

I want to reiterate, now as chairman of the Aging Committee, that we deal with issues affecting our elderly population day in and day out. I have been serving on that committee in the House and the Senate since 1975. I do not take a back seat to anyone in my concern about issues affecting our senior citizens. But I must say that this is one more example of having to debate an issue which has no relevance—no relevance—to the unfunded mandates bill before the Senate. But here we are taking up this issue because one Member feels so strongly about it, and you cannot feel any more strongly than any of the others in this Chamber. We all feel strongly about Social Security, but now we are going to debate whose intent is more sincere and who is trying to pull the wool over whose eyes.

Mr. President, I listened very carefully to the President of the United States the other evening. I, unlike some of my colleagues who did not see fit to go to the Chamber to listen to the President's speech, listened very carefully, and I wrote down the words when he said, ''Can't we put a stop to the pettiness and the partisanship?'' And I wrote those two words down, because I was asked about the speech afterward.

Frankly, I was very complimentary of the President's speech, not its length, necessarily, but the contents of the speech and the tone of the speech. I thought it was conciliatory in tone. I thought he was reaching out to Republicans and saying, ''Can't we work together?''

That is what I have tried to do during my last 16 years in this Chamber and in the 6 years I served in the House of Representatives. I can recall an issue in the very final days of the last session, a very, very bitter dispute dealing with the California wilderness bill. I was one of those who resisted the temptation, and there was great temptation, because those on the other side of the aisle, every single Democrat lined up behind that bill—even some of those who initially opposed it. It became a partisan issue.

Once again, I tried to respond to what I felt were the merits of the issue. I was in disagreement with some of my Republican colleagues, but I wanted to put aside partisanship.

I think that what we have seen is a destruction of civility, not only in this society, but right here in this Senate Chamber; that we are going to continue to offer amendments because Members feel passionate about an issue, whether it is germane to the bill, whether it is relevant to the bill, we are going to take hours to debate it, and it is going to be debated again.

I have no doubt about the outcome of this particular vote. There will be tabling motions and another amendment will be considered and that will be adopted or tabled. Ultimately, we are not going to deal with this issue today. We are going to deal with it next week or the week after that, and there may be—may be—bipartisan support at that time.

But if this continues along this line, I must say to my colleagues, I am finding it increasingly difficult to be willing to reach across the aisle to join hands with my colleagues on issues that they feel passionately about when, in fact, those issues have nothing to do with the pending legislation—nothing to do with the pending legislation. This is an issue that ought to be debated next week. When we take up the balanced budget amendment, there will be a plethora, an abundance of amendments to offer. Social Security is one of them, and it ought to be debated at length and as long as is necessary.

But I must say, I find it increasingly difficult to try to put aside pettiness or put aside partisanship when I find that the quality of life is not only deteriorating but the quality of civility is deteriorating in both bodies. We saw an example of that in the House yesterday, everybody taking down each other's words.

What I think we have to do is return to some sense of discipline and order and not worry about the reporters who are standing outside the Chamber saying, ''Well, you guys went over the cliff again on this one.'' The Democrats just cannot wait to get those 30-second spots out that you voted against immunization or you voted against pregnant women or you voted against children and now you are voting against a sense-of-the-Senate on Social Security. They have those spots all lined up. And that is what is wrong with what is taking place in today's politics.

So we will have this vote. I think it is unfortunate, not because of the subject matter but because it is not relevant to the issue at hand, and we ought to complete the debate on unfunded mandates, we ought to move on to the balanced budget amendment, we ought to take up the Social Security amendment at that time and debate it at that time and debate it as vigorously and as long as necessary.

This is not the time for a full-fledged debate on this issue. Frankly, even in view of the limited time agreed to, all we are going to do is face ''Senate Votes Down Protection for Senior Citizens.'' That is what is going to come out.

I recall a headline back home that Senator SNOWE and I had occasion to read: ''Cohen and Snowe Vote Against Cutting their Own Salaries.'' That is another little amendment that was offered to the unfunded mandates bill. Or ''Cohen and Snowe Vote Against Banning Gifts by Lobbyists,'' even though the majority leader has promised a vote on that issue in this session in the very near future.

So we can continue to play the games, and I know that Social Security is not a game for any of us in this Chamber, but what is taking place right now is unnecessary. I think it is unfortunate, and what it is doing, it is contributing to the polarization of this Chamber.

I am going to be less and less encouraged to try to reach across the aisle on issues which I share with other Members in this Chamber if we continue to see amendments which have no relevance and no bearing on legislation under consideration and yet take up hours and hours of debate.

Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, that was quite a speech by the Senator from Maine. I agree with him, there is nothing partisan here. A lot of us do feel strongly about Social Security. It is not relevant to this bill, but it is relevant to the Senate and it is relevant to the debate here.

As the Senator from Maine might remember, I tried earlier this year, the first vote we had in the Senate, to cut down on the filibuster. At that time, I said one thing I do not want to give up is the right of Senators to amend. We should have open amendments, as we do, nongermane amendments. We have that right. We ought to have the right to slow things down to make certain they are carefully considered. But I think the majority ought to be able to get its program through. Well, the RECORD will show we did not get one vote from the other side for that.

So I am on record saying, yes, we should not stymie the other side, the majority, but we ought to have open amendments.

I listened to the speech of the Senator from Maine. I remember last year, we had bills on the floor dealing with

domestic issues and we get an amendment from the other side on Bosnia. I do not remember—now the Senator can correct me if I am wrong—but I do not remember the Senator from Maine giving that speech last year when all those nongermane amendments on Bosnia were offered to domestic bills we had here on the floor. I do not remember that speech then.

So, again, it is not partisanship. This is the Senate. We have the right of open debate. We have the right to offer amendments. I do not think we ought to give up that right, whether the amendments are relevant to a particular bill or not. This is the Senate, and we have the right of nongermane amendments in the Senate. I do not think we ought to give that up.

If we feel strongly about an issue, yes, we ought to be able to bring it up and debate it. I am not trying to protract anything here. I agreed to an hour debate on my amendment. In fact, I have been trying for 3 days to get my amendment up. We finally got it under a good time agreement. I have no problem with that. It is a fair and open debate.

We express ourselves time and time again in sense-of-the-Senate resolutions. I think we ought to. That is exactly what I am trying to do, is to get the sense of the Senate that we are not going to include Social Security when we calculate a balanced budget constitutional amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 8 minutes 50 seconds.

Mr. HARKIN. Mr. President, I do not know of anyone else on this side who wishes to speak. Let me close up my remarks, first of all, by reading an excerpt from a letter from the American Association of Retired Persons. This is a group that represents over 30 million, I believe, mainly retired citizens in this country. I'll read just several paragraphs. It says:

> The vote in the Judiciary Committee to reject a specific exclusion for Social Security in the amendment makes it clear that Social Security remains on the table. In fact, a proposed constitutional amendment, by referencing all receipts and outlays, would reverse action taken in 1990 to take Social Security off budget. The constitutional amendment thus puts Social Security at risk and a nonbinding resolution simply will not save it. Only by specifically—

and this is the guts of this letter—

> only by specifically excluding Social Security in the balanced budget amendment itself can American families be sure that the Social Security trust funds are protected from raids to balance the budget, a promise made by the leadership of both parties during and after the November election.

The letter continues:

> The American people have grown angry and wary of promises from Washington. To tell the American public that Social Security is protected and then fail to address the issue directly will only lead to an increase in the cynicism that is currently prevalent throughout the Nation.

Mr. President, I think we have pretty much spelled out what is at issue here. Lastly, I want to reference a recent poll by the Garin-Hart firm conducted over the last month. It found that 81 percent of Americans believe Social Security should be exempt from a balanced budget constitutional amendment. And support for maintaining the integrity of the Social Security program also is very strong among younger voters. This next item is very important. When survey respondents were asked how their Member of Congress should vote if the only way to pass a balanced budget amendment were to include Social Security, three-quarters—75 percent—said their representative should vote against this legislation.

Let me repeat this important finding from a very respected survey firm. Eighty percent of the respondents said they wanted to exclude Social Security from the consideration of how to balance the budget. And when respondents were asked how their representative should vote if the only way to pass a balanced budget constitutional amendment were to include Social Security, fully 75 percent said we ought to vote against it.

There is clearly a very deep and strong feeling among the people of this country. Quite frankly, I think the time is right. It is my intention, if an exemption for Social Security is included in the balanced budget amendment, to support that amendment. I basically feel it will be for the good of the country. But if not, I do not see how I can because I know full well, barring all good intentions, that that pull, that magnet of the Social Security trust fund surpluses will be just too great, and that the funds will be raided to balance the budget. I do not think we ought to do it.

So the vote on the Harkin amendment is very clear. If you want to include Social Security in calculating how we balance the budget, you can vote against my amendment. If you believe Social Security ought to be taken off, ought to be exempted, ought not to be figured in on how you calculate a balanced budget, then you ought to support the amendment, because it sends a sense-of-the-Senate resolution that this is what we intend to do.

So I hope Senators will support it, not in any partisan fashion, but in a way of sending a very clear, powerful, unmistakable, unequivocal message to the people of this country that Social Security is not going to be tampered with when we try to balance the budget.

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

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe there is one speaker remaining on our side, and at this time I will yield to the Senator from Wyoming such time as he might consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I urge my colleagues to join in tabling the Harkin amendment pertaining to Social Security.

There are so many reasons why this amendment should be tabled. I am certain that I cannot list more than a fraction in a brief statement.

First, this is neither the time nor the place to be debating this. I share that with my good friend from Iowa. We all know Social Security is just a big bomb, and you roll it up and down the aisle here day and night, and people just shriek and run for the doors.

I have been here 16 years. It is great fodder to play with Social Security. But, ladies and gentlemen, Social Security is going broke, and that is not the word of some reconstructed Reaganite or Reaganaut or whoever. It is the word of the trustees of the Social Security system. The last report was from Senator Bentsen, Donna Shalala, Robert Reich, and two people outside the Government. The doomsday date has been moved up 7 years in 1 year. Instead of going broke in the year 2036, it will go broke in the year 2029, and we are all just ignoring it.

It is wonderful to hear the tales of Social Security and violated trust and stealing the funds. I have heard those for years. The real issue is, as Senator SIMON, our friend from Illinois, tells us, is that in the year 2013 it will begin to go. And when it goes, it will end in the year 2029. So it is not the place to debate this. As Senator CRAIG noted so well, the balanced budget amendment will be debated on this floor, and, wow, that will be a spirited debate. Despite strenuous party efforts on the other side to delay it for many years or to hinder it in many ways, we are going to get to it next week. But inclusion of this subject matter here is an effort to delay, in my mind, and obstruct the unfunded mandates bill.

I do not know, in my time here, that I have ever seen a freshman Senator work with more diligence, skill, and patience and kindness and generosity than Senator KEMPTHORNE. I feared that all of us would flunk the test, knowing the Senator from Iowa as I do; he and I have had some spirited conversations in this Chamber in years past and will probably have many more. With Senator GLENN, the more senior Member, working with the junior Member, it is a pleasant thing to watch that type of bipartisan cooperation. They will get there and soon. But I think that we will talk about exemptions when we get to that.

I think it is a grave mistake, second, to make an amendment to the Constitution dependent upon an individual statute. The laws passed by the Congress here are supposed to be subordinate to the Constitution, not the other way around. I find it an absurdity in some ways to suggest that the creation of a fundamental constitutional obligation to balance the Nation's books

should be contingent upon a Government program passed roughly 150 years after the Constitution itself was ratified.

Our laws exist to give force to constitutional values and this exemption would assert that our constitutional framework should bend in deference to a particular statute.

Third, and this point I think was very well made by my colleague from Nebraska, Senator EXON. This amendment is designed to open the door to every manner of exemption from the balanced budget amendment. I chair the Veterans' Affairs Committee. Senator Al Cranston chaired it before, when I came here, and then I became chairman. Senator MURKOWSKI—oh, we do know what that is.

Do you mean to, in any way, say if we exempt Social Security our Nation's veterans will stand still for that? Believe it, they will not. Of course they will not. They will demand an exemption, too. So will Federal retirees—believe it. They have never failed. Because you see the ancient ritual is this. They come to our offices in droves and they say, ''If everybody will do it, we will do it,'' knowing full well that everybody will not do it and they will be off the hook.

Then we will exempt child nutrition and on and on. It would not be right for children to go hungry while seniors were properly looked after, and so it goes. This is an amendment which I doubt is intended to gut the force of the constitutional amendment in that way, but it certainly will.

Finally, I hear it said that Social Security is different. It is different from these other programs because of the existence of a special trust fund. That was the Senator from Iowa's response to Senator EXON, I believe. Certainly there is no separate veterans' trust fund. But we do have various kinds of trust funds. We even have a Highway trust fund and an unemployment compensation fund. We cannot begin by exempting programs because of the trust fund concept.

I am a veteran, as is my friend from Iowa. I served overseas, as did my friend from Iowa. Certainly I would object to any notion that our veterans should be less protected than our Social Security beneficiaries merely because they happen to contribute with their lives and limbs instead of with payroll tax contributions. It is an artificial distinction to make, and it is aimed, not at equity, but rather at undermining the integrity of the balanced budget amendment.

Fourth, a special exemption for Social Security is exactly what would be more likely to lead to cuts in benefits. It is not hard to see why, my colleagues. There is a huge surplus. I have heard everyone referring to the surplus and it is there. But after 2012, that situation turns exactly around and Social Security begins its deep and fatal plunge into the red. And we all know that. There is not a person in here who does not know that. If we exempted Social Security from the terms of the balanced budget amendment, we would be forbidden to credit any general fund surplus towards Social Security's balance. We would have to increase taxes and decrease benefits in order to meet our payments to recipients, if the rest of the budget was balanced.

Finally, we should remember the dynamics here. Last year we had sufficient cosponsors to pass the balanced budget amendment in the Senate by the necessary two-thirds majority. But lo and behold, certain modifications were offered as amendments—even though the underlying language was perfectly fine when it came to attracting cosponsors—and when those modifications were defeated, suddenly we did not have enough votes.

That is a curious exercise to go through in here. It was the sort of mischief that caused the voters to turn out by the dozens and turn out the officeholders by the dozens in November. They sent individuals to Washington who claim to favor, always, a balanced budget amendment, and those individuals would create and develop the most clever schemes to avoid actually having to vote for one. And the voters finally caught wise, as they say in both Houses. This is much the same, continued, a reprise.

Opponents of the balanced budget amendment have been burning the midnight oil, trying to come up with hypotheticals as to why, and excuses why they cannot vote to balance the Nation's books. And this is another entry in that book. There really is not a gram of reason to believe that Social Security would be better protected with a special exemption from the balanced budget amendment. The idea, to my mind, is to undercut the support for the balanced budget amendment.

Finally—I said that three times, finally, which is the curse of our work—but there is no trust fund. I keep saying that and I hope people will finally hear that—there is no Social Security trust fund. Because Franklin Delano Roosevelt and the Congress, when they set it up, said that all surplus would be invested in the securities of the United States Government. So by law they are invested in the securities of the U.S. Government. There is no trust fund. It is all in T-bills and savings bonds and then it is purchased by banks and individuals and the interest on those is paid from the general treasury. There is no kitty to pay interest from a Social Security trust fund.

Then when we go home and they come to the town meetings and say, ''You robbed the trust fund.'' Usually that is said with a great deal of more passion than I just gave it. And I say, ''Wait a minute there is no trust fund.''

Then of course the next one is: ''I paid into it from the beginning. I want it all out.'' Then can you have a real field day, and I love those, because really if you paid in at the beginning you put in $30 a year for the first 8 years. Then you never put in over $174 a year for the next 18 years, ladies and gentlemen—get these figures. Then you got nailed $300 a year, $500 a year, $800 a year.

I have a form in my office. I share it with all constituents. It costs you a stamp. You ship it off to the Social Security Administration and in 6 weeks you get back what you paid in and what you are going to get out. I always say to them, ''If you do not like what you see be sure you contact me.'' I have never heard from anybody, because they are embarrassed when they see that they have put in $170-a-year, or self-employed making $100,000 a year and putting in $700 a year; or making $200,000 in the fifties and sixties and putting in $500, $700, $800 a year. Finally, this year, about the biggest ding you can take is $3,300.

And then it shows what you are going to get. And there it is as clear as crystal. You are going to get—depending on the replacement rate, depending on what job you had—you are going to get $750 a month, $850 a month—in my case that is at 65 I will get, I think it was $800-and-something. If I wait until 70 it will be $1,140 a month. And I had a job when I was 14. In the Army I did not pay Social Security. In college I did not because I did not make enough in the summer jobs. So there it is. You cannot avoid it. We are all just still playing with it as a detonating device.

I always have some fascinating experiences with the AARP. I ask them if any of them have grandchildren and if they care one whit about them. Obviously many of them do not care one whit about them or they would not be doing what they are doing as they whack our brains out, saying that everybody is going to lose $1,154 a year if they vote for the balanced budget amendment.

So I thank the managers. I really am looking forward to the balanced budget amendment. But what I am really looking forward to is chairing the Social Security Subcommittee of the Finance Committee. That has sent a definite rigor—understand there is a shockwave—through the offices of the AARP, and the National Committee for the Preservation of Social Security and Medicare, and the Gray Panthers and the Pink Panthers and all the groups that are waiting out there to beat us into submission so they can do a number on our successors.

I think that is unfortunate. I do not know what we will do. I hope they do something reasonable, but we all know what is out there.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time is remaining to both sides?

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Ohio has 3½ minutes and the Senator from Idaho has 1½ minutes.

Mr. HARKIN. Mr. President, I will just take a minute to respond to my

friend from Wyoming. He made a very reasoned presentation of his views.

I would just point out, however, that as noted in the 1994 Trustees Report, the size of the Social Security trust funds are projected to go up every year through the year 2020, at which time there will be $3 trillion in the trust funds. Then, after that, the trust fund will dwindle down to zero by the year 2030.

So they are saying by the year 2030, if we do not do something, the Social Security trust funds will be busted. That is 35 years from now. So we do have time to act. I can tell you this: The Senator from Wyoming, I think made my argument. If we leave the Social Security trust fund alone, by the year 2030, it will be broke. If we include it, however, in figuring out how to balance the budget and use it to balance the budget, it will be broke a lot sooner than that. In fact, I predict it probably will be broke by the year 2005.

We have to make some changes in Social Security. The Senator from Wyoming is right. It does not make sense to me that someone making $60,000 a year pays the same amount into Social Security as someone making $1 million a year. If we want to raise the cap, we ought to raise it. Everybody ought to pay into Social Security the same percentage of their wages, even millionaires. That might help us out a great deal, and hopefully we will have that debate sometime in the future. There are some things we will have to do with the Social Security trust fund. We have 35 years.

Contrary to what the Senator said, I believe the members of AARP do care about their grandchildren. Because if we do not ensure the security of the Social Security system, the elderly once again will be burdens on their children. I will be the children who will have to take care of the elderly once again, just as it used to be in the old days. Lord knows, our kids cannot hardly make it as it is now. They get married. Both people have to work. They can barely make a living, afford a home and a car, and put some money away for their kids' education. If Social Security is destroyed it would be saying to them: You have to take care of your parents and grandparents.

That is why we have Social Security. That is why I believe the members of AARP are concerned about their grandchildren, for that and many other reasons. Of course they care.

Again, the trust fund is a trust fund. Does the money go into a shoe box? No. It is not sitting in a hole in the ground someplace. Of course, the trustees invest the money, and by law, as the Senator said, they have to invest it in U.S. securities, which are backed by the full faith and credit of the U.S. Government.

So the only way we can default on paying the Social Security payments is if, in fact, the whole Government goes under. So it is backed by the full faith and credit of the United States. And that is the only thing I would like to see the Social Security System backed by.

So again, it is a trust fund. It is like any trust fund, like any trust account. The trustees invest the money, and interest is paid into it. That is what happens in Social Security.

I always tell my constituents, every day the Social Security takes in money, and every day they lend it out to the U.S. Government. Those are backed by the full faith and credit of our country. We would not want them to take the money and put it in a shoe box. It ought to make some money, and it is.

So again, it is time to say that we are going to keep Social Security separate and apart, that we are not going to let it be used in the calculation of a balanced budget. If we do, it is going to be broke by 2005. As it is now, we are going to have it secured until the year 2030, and we can make the needed changes as they come along in the future.

Mr. CRAIG. Mr. President, I believe that just about all that can be said has been said. I think it is very clear to anyone who is listening to the debate this afternoon that there is not anyone in this Congress who does not choose to protect the Social Security System as best as possible, and to do so in every way as we work to balance the budget of our country.

So I hope that we need not be redundant and play the test of ''I voted three times for'' and ''I voted four times against.'' It simply will not work. The only solution to securing and maintaining the integrity of the Social Security System is a bipartisan solution. It was in the 1980's that we created the stability. That is what allows us to stand on the floor today and talk about the year 2030, because of a bipartisan decision on the part of the Congress of the United States to resolve that. That will be the issue.

I urge my colleagues as we move to deal with this issue to vote down the Harkin amendment.

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

Mr. HARKIN. Mr. President, before the Senator asks for a quorum——

Mr. CRAIG. I withdraw that.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. 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. CRAIG. 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. HATFIELD. Mr. President, I agree that Congress should work to balance the budget. I do not agree that passing an amendment to the U.S. Constitution requiring a balanced budget is the way to achieve that goal. The Congress can balance the budget if it has the political will to do so. Moving specific items off the table, be it Social Security, veterans' benefits, or corporate tax deductions, is not the way to have a sensible debate about reducing our continuing budget deficits. Congress does not need to make more promises on this issue, it needs only to exercise the power it already has. There is no substitute for political will and there never will be.

Mr. CRAIG. Mr. President, I move to table the Harkin amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from Iowa. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—62

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

NAYS—38

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dorgan	Kohl	Wellstone
Feingold	Lautenberg	

NOT VOTING—0

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 190, AS AMENDED

The PRESIDING OFFICER. Under the previous order, the underlying amendment, as amended by the Kempthorne amendment, is agreed to.

So the amendment (No. 190), as amended, was agreed to.

Mr. WELLSTONE. I thank the Senators from Idaho, Ohio, and Michigan for their help and consideration in addressing a concern I have regarding the ability of the Congressional Budget Office to carry out its responsibilities under S. 1. In a nutshell, I am concerned that CBO may not have sufficient funds appropriated for its use to meet its new obligations.

That is the concern that prompted my offering amendment No. 205. The Levin-Kempthorne-Glenn amendment No. 143 that was adopted by a unanimous vote of the Senate makes it clear that there may be occasions when the Congressional Budget Office will find that it is not feasible to make estmate referred to in that amendment. It is my understanding that it was the intent of the sponsors of amendment No. 143 that CBO's lack of sufficient funds to carry out the provisions of S. 1 is one of the grounds under which the Director may determine that it is not feasible to make the estimate.

I ask my friends, the distinguished Senators from Idaho, Ohio, and Michigan whether their intent in sponsoring amendment No. 143 was as I have outlined.

Mr. LEVIN. Yes, the Senator from Minnesota has accurately outlined my intent.

Mr. GLENN. I agree. That was my intent also.

Mr. KEMPTHORNE. I thank the Senator from Minnesota for his question, and I say to him that he has accurately stated my intent in sponsoring amendment No. 143.

Mr. WELLSTONE. I thank the Senators. That was my intent in voting for amendment No. 143. I am glad that we have cleared this up. Accordingly, I withdraw my amendment No. 205.

AMENDMENT NO. 207

Ms. SNOWE. Mr. President, I am proud to be added as a cosponsor to the amendment offered by Senator GRASSLEY and I urge my colleagues to vote for its adoption.

As drafted, S. 1 ensures that Congress is at least given the opportunity to review the estimated costs of mandates that are contained in the legislation it considers. All bills reported from committees must be scored by CBO and—as the recently adopted Levin amendment provided—individual members may request a CBO cost estimate for other legislation that may be introduced as an amendment on the floor. However, there remains one important step in the unfunded mandates debate: the drafting of regulations.

Virtually all legislation that is passed by Congress and signed into law by the President requires the drafting of regulations. The Office of Management and Budget now provides cost estimates on these regulations, but—as we know from the drafting of regulations for the recently enacted motor-voter bill—the size and scope of these rules often has a dramatic effect on the actual cost of the unfunded mandate and often lead to unanticipated compliance costs.

If S. 1 is adopted with this amendment, nothing will force agencies to draft regulations that meet the prior cost estimates of the CBO. But this amendment will ensure that—at the request of any Senator and only to the extent practicable—Congress would receive a study comparing the initial cost estimate of the mandates against the final cost estimate of the regulations. This is a crucial tool for Congress to utilize in evaluating the effectiveness of law—and the cost that law ultimately places on States and communities.

Mr. President, I consider the sense-of-the-Congress resolution contained in this amendment to be a valuable statement about our commitment to curbing unfunded mandates. Because regulations dramatically affect the final costs of legislation, Federal agencies must work to draft regulations that fall within the original cost estimate of the bill. To do otherwise would negate the significance of providing Congress with an estimate in the first place. I understand the concerns of those that would oppose the codification of such a requirement—but I join Senator GRASSLEY in emphasizing that this is a sense-of-the-Congress resolution not a new mandate on Federal agencies.

Mr. President, there will be times when the costs of regulating a proposal exceed the initial estimate for bona fide reasons—and this amendment will not force regulators to revise these regulations. It does, however, ensure that—at the request of any Senator—a full accounting for these discrepancies be provided. OMB already provides a study of the estimated costs of regulations, and—under this amendment—CBO would be able to give an account to Congress for the reasons behind changes in estimated costs. This not only gives us an accurate review of the mandates we pass, but it provides a level of accountability on the part of CBO. If the original estimates of CBO are consistently out of sync with the cost of regulations, CBO should be prepared to give us an explanation. After all, we're relying on these estimates to give us an accurate cost-benefit analysis of proposed legislation.

I would also emphasize that, just as the agencies are not asked to rewrite their regulations under this amendment, Congress is under no obligation to make any changes to the underlying act due to any discrepancies. Congress could either ignore differences, or decide to revisit the act in an effort to make changes that would impact the final regulatory costs—the choice would be entirely at their discretion.

Finally, I think it is important to note that CBO has assured us that the requirements of complying with this amendment could be met within existing resources.

Mr. President, I believe this amendment will only add to the final value of S. 1. Congress needs the initial CBO estimates to properly debate Federal mandate legislation—and Congress needs followup to determine that no new hidden costs are incurred. This amendment provides Congress with the tools to determine our success in curbing unfunded mandates, and I urge my colleagues to join in supporting this amendment.

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

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order, please.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, I understand that the Senator from Oregon wants to make one statement. I am happy to yield to him with the understanding that I retain my right to the floor.

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

Mr. PACKWOOD. I thank the Senator from Washington.

CHANGE OF VOTE

Mr. PACKWOOD. Mr. President, I ask unanimous consent that, on vote No. 51, I be recorded in the negative. I mistakenly voted for the amendment and intended to vote against the amendment. This request has been cleared by the two leaders and the vote would not change the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. PACKWOOD. I thank my friend from Washington.

Mr. FORD. Mr. President, the Senate is not in order. I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will suspend until the Senate is in order. Senators wishing to converse will please take their conversations to the cloakroom.

The Senator from Washington.

AMENDMENT NO. 188

Mrs. MURRAY. Mr. President, I ask unanimous consent to take up amendment numbered 188 related to CBO time limits.

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

Mrs. MURRAY. Mr. President, I ask unanimous consent to take up amendment No. 188, relating to CBO time limits.

I had originally intended to offer this amendment. I want to be assured we will not be creating a big, new powerful bureaucracy at the Congressional Budget Office. I want to be sure that

CBO does not become the traffic cop directing the Senate's legislative schedule.

After the adoption of the Levin amendment, giving CBO flexibility to say when it cannot provide a cost estimate, and after numerous discussions with the managers on both sides of the aisle and the chairman of the Budget Committee, some of my concerns have been addressed.

My concerns focus on two main items. The first concern is the bill would give CBO great, new powers. Powers to dictate the Senate legislative schedule by deciding which bills and amendments to work on, and which ones to delay. This would be power wielded by unelected bureaucrats.

The second concern is this bill fails to impose any time deadlines on the CBO to complete its work. My fears are reinforced by our experience with health reform legislation last year. CBO's failure to produce cost estimates prevented Congress from moving forward on this important bill. Some say it was because this was such a large bill. Others say this was because the CBO Director disagreed with the legislation.

My fear is this bill could allow the second scenario to play out again and again as the Senate attempts to take up important legislation. I certainly do not want that to happen.

Again I have listened carefully to the debate on this bill. And, I think it is fair to say we all agree it is our responsibility—our responsibility as legislators—to act carefully as we set policy for the people we represent.

I would like to support a bill on unfunded mandates that is reasonable and reflects common sense. Mr. President, before the adoption of the Levin amendment and certain others, this bill went too far.

The people of this country should understand exactly what this bill does.

Every one of us here in this Chamber, every one up in the galleries, every one watching us on C–SPAN, and every one in this country has to realize that this bill will create a new bureaucracy at the Congressional Budget Office.

I believe this will be a huge bureaucracy, with very wide-ranging powers.

And the staff of this huge, new bureaucracy will not be elected by anyone. They will not be accountable to the American taxpayers. But this bill will give them enormous power to control the legislative process. To bring Senate debate to a halt on an amendment or bill. Even to dictate the Senate's legislative schedule.

This vast new power should give every American pause.

That's why I asked outgoing CBO Director Robert Reischauer about this yesterday at a hearing of the Budget Committee. I asked him how the CBO would prioritize requests for cost estimates that will come from the Senate and from the other body.

Dr. Reischauer responded that the Congressional Budget Office staff was working ''flat out'', trying to fulfill their obligations to the Congress at this point. Dr. Reischauer said the CBO would need more resources if we enact this bill.

Then, Mr. President, I repeated my question about prioritizing requests. I asked the Director how he would decide which mandate to estimate first. His reply frankly, troubled me. He said the CBO would rely on the guidance of the bipartisan leadership of the Congress to decide which to do first. And, then he added that the CBO had tried this approach with the health care debate last year, and it was a failure. That should concern everyone in this country.

It should also concern everyone that this is not the time to talk about increasing budgets. As the ranking member on the Legislative Branch Appropriations Subcommittee, I know we will be struggling to cut about $200 million from the budget this year. Is it fair to talk about a large, $200 million cut in the legislative branch appropriations, while saying to the CBO ''don't worry, we'll make sure you get an increase of $4.5 million a year to take care of the unfunded mandates bill.''

Mr. President, I want to be able to assure my friends and neighbors this bill will not take away their voice in setting priorities of the issues this body considers. They do not want unelected bureaucrats to determine which bills will come before Congress.

I believe we need reform. I believe Congress should be honest and upfront with the American taxpayers about the cost of laws it passes. But, I do not believe we should be creating new bureaucracies or putting American families in jeopardy.

Mr. President, I want to thank the managers of the bill for working with me to find answers to my questions. I especially want to thank the chairman of the Budget Committee, Senator DOMENICI, for his time in responding to my questions. His responses are important.

BUDGET ESTIMATES AND S. 1

Mrs. MURRAY. Will the legislation give CBO tremendous powers to dictate the Senate's legislative schedule?

Mr. DOMENICI. S. 1 is patterned after the existing Budget Act. We have 20 years of experience with the Budget Act and its application to amendments.

The bill provides no powers to CBO to dictate the Senate's legislative agenda or schedule. The bill provides that the determination of mandate levels will be based on estimates made by the Budget Committee. In practice, we use CBO estimates.

S. 1 will operate in the same manner as the Budget Act currently affects budget legislation. On major spending or tax legislation, Budget Committee staff are on the floor to make sure amendments are scored by CBO. In the press of Senate business, these estimates may be based on telephone calls between the Budget Committee staff and CBO.

If a Senator disagrees with the CBO estimate, the full Senate is the final arbiter of its rules. Under the bill, any ruling by the Presiding Officer can be appealed by a Senator. A majority vote of the Senate would appeal the Chair's ruling.

Finally, with the adoption of a Levin amendment, S. 1 does not require an estimate of legislation if CBO finds it impossible to produce such an estimate.

Mrs. MURRAY. What happens if an amendment is proposed and there is no CBO cost statement?

Mr. DOMENICI. Budget Committee staff would seek such a statement from CBO. If the amendment would cause the $50 million threshold to be exceeded then a point of order would lie against the amendment. Points of order are not self-executing. A Senator would have to raise a point of order against an amendment.

Mrs. MURRAY. Will the Parliamentarian seek the advice of the Budget Committee on the cost estimate? Will the Budget Committee turn to CBO for its advice on these estimates.

Mr. DOMENICI. Yes. The bill provides that the determinations of mandate levels are based on estimates made by the Budget Committee. The Budget Committee relies on CBO for these estimates.

Mrs. MURRAY. Is there any time limit on when CBO must produce a cost estimate?

Mr. DOMENICI. No. In practice, these estimates can be turned around quickly. For a very complicated bill, say on the order of the health care reform bill, the estimate may take longer. However, if we are going to impose a mandate as costly and complicated as health care, should we not take the time to get an estimate?

Ultimately, the Senate decides its rules. If the Senate disagrees with the CBO estimate, the Chair's ruling can be overturned by a simple majority.

If there is no CBO estimate and no basis for the Budget Committee to make an estimate, then there is no basis for a point of order.

Mrs. MURRAY. Is a second-degree amendment laid aside until we get a CBO estimate?

Mr. DOMENICI. No. Nothing in the bill requires a CBO estimate before the Senate can proceed to consider, debate, or adopt an amendment.

Mrs. MURRAY. Will CBO have the necessary resources to conduct its duties under S. 1?

Mr. DOMENICI. S. 1 authorizes $4.5 million for CBO's new duties. This authorization is based on CBO's assessment of its needs under the bill. The most costly aspect of S. 1 deals with CBO's responsibilities to produce cost estimates on private-sector mandates. The point of order against consideration of legislation only applies to

intergovernmental mandates and does not apply to private-sector mandates.

I have discussed with Senator MACK, the chairman of the Legislative Branch Appropriations Subcommittee, and the current CBO Director the need to accommodate this additional funding in the fiscal year 1996 appropriation bill.

CBO has a lot of experience with State and local estimates. CBO has been preparing State and local cost estimates for 12 years. While the existing law establishes a $200 million threshold, CBO must review every bill under current law to determine whether it will exceed the threshold.

Mrs. MURRAY. Mr. President, I ask unanimous consent to withdraw from consideration my amendment numbered 188.

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

The amendment (No. 188) was withdrawn.

Mrs. MURRAY. Mr. President, I yield the floor.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from Washington for the effort she has put in this, and the action she has just taken.

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

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

AMENDMENT NO. 194, AS MODIFIED

Mr. BINGAMAN. Mr. President, I earlier called up amendment No. 194. At this point, I send a modification of that amendment to the desk and I ask unanimous consent that the modification be agreed to in place of the amendment.

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

The amendment, with its modification, is as follows:

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

(4) APPLICATION TO PROVISIONS RELATING TO OR ADMINISTRATED BY INDEPENDENT REGULATORY AGENCIES.—

Notwithstanding any provision of paragraph (c)(1)(B), it shall always be in order to consider a bill, joint resolution, amendment, or conference report if such provision would be properly considered for adoption as a rule by an independent regulatory agency as part of its existing authority.

Mr. BINGAMAN. Mr. President, let me briefly explain this. I understand the managers are going to propound a unanimous-consent request setting a vote on this an hour or so from now. But on the substance of this amendment, as I modified it, let me just explain to my colleagues what we are doing here because I have to say I think it is eminently logical, and it is an amendment I am sorry the managers are not able to accept, because I think it would improve and make more consistent S. 1, which we are here discussing today.

In S. 1, on page 11, in the definitions, we say that the term ''agency'' has the meaning as defined in section 551 of title 5 of the United States Code but does not include independent regulatory agencies. So we are making it very clear in this bill that we are not in any way restricting the actions of independent regulatory agencies to issue rules or regulations which might constitute unfunded Federal mandates.

That is a policy judgment, a policy decision, which the sponsors of the bill, the drafters of the bill, made when they put the bill together.

I am not disputing that, but I am saying if we are not going to apply this bill, the requirements of this bill, to unfunded mandates imposed by independent regulatory agencies, then it is also logical that we not apply anything. Any legislation that would properly be considered for adoption as a rule by an independent regulatory agency should not be subject to the point of order that is possible under this S. 1.

So essentially, my amendment says that anything which relates to an independent regulatory agency that comes before this Senate, you would have to get the cost estimates; you would have to get the CBO estimates; you would have to get the reports and go through the entire rigamarole but nobody could raise a point of order that the Senate should not consider the legislation if in fact the legislation was such that it could be considered for adoption as a rule by an independent regulatory agency.

To put it even more simply and more broadly, Mr. President, the point here is that we should not deny to ourselves here in the Senate the authority we are preserving for independent regulatory agencies to exercise. And that is all the amendment does. It seems to me to be straightforward. It seems to me to be eminently logical. I am disappointed that I have been advised by the managers they cannot accept this amendment because it certainly is consistent with the rest of the bill. But I understand they cannot, and for that reason I still urge my colleagues to support it. I think it would improve the bill, and for that reason I do urge its adoption.

I yield the floor.

COMMEMORATION OF THE 50TH ANNIVERSARY OF THE LIBERATION OF THE AUSCHWITZ DEATH CAMP IN POLAND

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 74) commemorating the 50th anniversary of the liberation of the Auschwitz death camp in Poland.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BRADLEY. Mr. President, I rise to call attention to a dark moment in the history of our civilization. Tomorrow marks the 50th anniversary of the liberation of the Auschwitz death camp in Poland. Fifty Years. Half of a century. It is unfathomable to think that in our lifetimes such inhumanity transpired.

But indeed such inhumanity was possible. Over 13 million innocent people were murdered during the Holocaust at the hands of Adolph Hitler and his tyrannical regime.

On January 27, 1945, Auschwitz, one of the largest death camps, was liberated by Allied Forces. Five years had passed between the opening of the camp and its ultimate liberation, allowing for unbounded murder, rape, torture, and inhumane medical experimentation. More than one million innocent civilians—men, women, the old and feeble, and children—were murdered at Auschwitz alone. Such infamous names as Mengele, Himmler, and Hoss were associated with Auschwitz.

With the opening of the U.S. Holocaust Museum in Washington, DC 1993, we have made an important step in sustaining the legacy of the victims. I would encourage those who come to our Nation's capital to visit this museum.

I recently read a moving piece in Newsweek concerning Auschwitz. I ask unanimous consideration that it be printed in the record at the conclusion of my remarks.

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

(See exhibit 2)

Mr. BRADLEY. One passage in particular remains with me: Jean Amery, the Austrian Jewish philosopher who was also a victim of the Holocaust, explained, ''Anyone who has been tortured remains tortured.'' Mr. Amery, after years of mental anguish resulting from the Holocaust, would finally take his own life.

Mr. President, the pain did not end with the liberation of the camps. Instead, those who were victimized and were somehow able to live through this remain both emotionally and physically scarred. I note in this regard the case of Hugo Princz, a survivor of Auschwitz and now a citizen of my State of New Jersey, who is still fighting the German Government for compensation for his suffering. There are also many in this country and throughout the world who are still mourning the relatives they lost to the Holocaust. Their pain must not be forgotten.

Mr. President, today I offer a resolution commemorating the liberation of Auschwitz and calling on all Americans

to remember the more than one million who were murdered at Auschwitz. We must never forget this terrible crime against humanity. It is our responsibility to educate future generations about the Holocaust and the dangers of intolerance to fulfill our pledge of ''never again.''

EXHIBIT 1

[From Newsweek, January 16, 1995]

FIFTY YEARS AFTER THE END OF THE DEATH CAMP, SURVIVORS TELL UNTOLD STORIES OF RESISTANCE, LOVE, AND LIBERATION

(By Jerry Adler)

On the afternoon of Jan. 27, 1945, Sal De Liema, a 30-year-old Dutch Jew, five months reident in Auschwitz, ventured into the snow outside his barracks door for the first time since the Germans had evacuated the camp nine days earlier. He had climbed into his bunk on Jan. 18 expecting the SS to blow him up along with the barracks, but as the alternative was a forced march to an unknown destination through the icy Polish winter, De Liema chose to die lying down. He slept four days, then survived by sucking on sugar cubes foraged by another prisoner who had stayed behind. On Jan. 27 he felt better, pulled himself to his feet, and walked out the door and through the gate of the camp. The first thing he noticed were a number of furry brown dogs in the snow. He thought, ''Gee, what nice little dogs.'' Then they started to move. The dogs were Russian soldiers in fur caps and white camouflage, who had just liberated the camp. In Auschwitz even deliverance came in the guise of absurdity.

Also in Auschwitz at that time, a young Soviet colonel struggled to understand an apparition. Retired Lt. Gen. Vasily Petrenko, the only surviving commander among the four Red Army divisions that encircled and liberated the camp, was a hardened veteran of some of the worst fighting of the war. ''I had seen many people killed,'' Petrenko says. ''I had seen hanged people and burned people. But still I was unprepared for Auschwitz.'' What astonished him especially were the children, some mere infants, who had been left behind in the hasty evacuation. They were the survivors of the medical experiments perpetrated by the Auschwitz camp doctor, Josef Mengele, or the children of Polish political prisoners rounded up after the ill-fated revolt in Warsaw the previous fall. But Petrenko didn't yet know that. ''I thought: we're in a war. We've been fighting for four years. Million-strong armies are battling on both sides—and suddenly you have children. How did they find themselves there? I just couldn't digest it.'' Only later did Petrenko realize that this was a place where children were brought to be killed. By the hundreds of thousands they had vanished into thin air, and Petrenko's troops marched by the ashes of their bones.

Caught up in a great war, the world took no special notice of the event. The big news in The New York Times that day was that Soviet troops had swept to the Baltic. Buried in a long list of the towns overrun by the Red Army was Oswiecim, the Polish name for Auschwitz. The place was by then a virtual ghost town, only with a ghost population the size of Philadelphia. Of the approximately million and a half who had passed through it, most of whom left behind only their hair and the smell of their burning bodies, just 65,000 were still there in January 1945. As the Russians advanced from the east, the Nazis retreated to Germany, providently bringing their prisoners to kill along the way. Only about 7,000 stayed behind to be liberated by the Russians, many of them near death.

And liberation did not put an end of their dying. Albert Grinholtz, a French Jew, remembers Mongol soldiers of the Red Army riding into the camp on horseback. ''They were very nice,'' he says. ''They killed a pig, cut it in pieces without cleaning it and put it in a large military pot with potatoes and cabbage. Then they cooked it and offered it to the sick.'' The effects of that meal on people on the edge of starvation were nearly as lethal as anything the Nazis did. For that matter, Auschwitz is still claiming victims, as some survivors realize that the pain of their memories does not diminish with age. The Italian writer Primo Levi, author of ''Survival in Auschwitz,'' threw himself down a stairwell in 1987. ''Anyone who has been tortured remains tortured,'' wrote the Austrian Jewish philosopher Jean Amery, who took his own life 38 years after the Nazis failed to take it from him.

Better never to have been born at all, perhaps, than to live through Auschwitz. Of course, the Carthaginians probably felt that way, too. Each generation marches into history dripping the blood of its respective massacres. But Auschwitz, and the Holocaust of which it was a part, have a unique place in the annals of human slaughter. When Rwandans beat their neighbors to death with clubs, we take it as dismaying evidence that human nature will never change. But Auschwitz was something new on the earth. Its elaborate mechanisms for transporting, selecting, murdering and incinerating thousands of people a day constituted a kind of industrialization of death. It raised the terrifying possibility that with the advent of modern technology human nature really had changed. No wonder General Petrenko has been uneasy for 50 years. At Auschwitz that day, the 20th century saw itself in the mirror, and turned away in horror.

Auschwitz was only one—the largest—of several Nazi extermination camps, and there's no reason to think it was the worst. It owes its prominence to its size and its special role as both a death camp for Jews and Gypsies (technically, the gas chambers were located in neighboring Birkenau) and the headquarters of a network of slave-labor camps housing Jews, Polish political prisoners, POWs, homosexuals and common criminals. Although newcomers were routinely told that the only way out of Auschwitz was through the chimney, that was never quite true. Along with more than a million who died there, tens of thousands lived there—worked, schemed endlessly and obsessively to stay alive—and even fell in love. Those who succeeded brought with them memories of how men and women lived in the shadow, the smell and dust of death. Their stories—some never before told—covering the period from the last great killing spree that began in the spring of 1944 to the ''death marches'' the following winter have been collected by Newsweek correspondents on three continents for this, the 50th anniversary of the liberation of Auschwitz.

In the spring of 1944, as the war increasingly turned against the Germans, trains bearing the first of Hungary's Jews began arriving at Birkenau. Until then, Hungary's 800,000 Jews, although oppressed, had been spared the worst of the Nazi terrors, and it is likely that none of them had even heard the word Auschwitz. On one of these trains rode 17-year-old Rita Yamberger, her older sister Berta Morganstern and Berta's two children. Eighty people stood together in boxcars for four sweltering days and nights. There was a bucket to drink from and another that served as a toilet. At one stop, Yamberger got off to refill the water bucket and almost missed getting back on. As the train to Auschwitz began to pull away, she ran after it so she wouldn't be forgotten.

Yamberger's train arrived at Auschwitz late at night and parked there until dawn, when the doors were flung open and the dazed passengers formed into lines for a ''selection.'' Five by five, they marched past Mengele himself—''as beautiful as a statue,'' Yamberger remembers, in his glistening boots and crisp black SS uniform. Old people, sick people, young children and their mothers went to the left and potential workers to the right. Yamberger's sister saw that mothers with children were going off together, but, of course, she had no idea why. ''So she put a scarf over my head so I would look older, and I took the hand of her son as if I was the mother,'' Yamberger remembers. ''We all went left. We were happy because we were together. Then I felt a hand on my shoulder. It was Mengele. 'How old are you?' he said. In that second I was hypnotized. I had the boy by the hand. I told the truth. He shoved the boy away. He fell down, and I was thrown to the right. And that's how I didn't go to the crematorium.''

Other families were more successful at staying together. Gloria Lyon, who was 14 when she was rounded up with her family in eastern Czechoslovakia, recalls how her 12-year-old sister, Annuska, was sent off with the old people and children, but managed to sneak back into the other line and rejoin the family. ''My mother was very angry that she did this,'' Lyon said, ''because we conjectured that the old people will take care of the children, and our group would have to do the hard work.'' Never was disobedience in a child better rewarded; both sisters survived the war and are still alive.

Sometimes the inmates who met the trains and escorted the victims to the gas chambers would—at the risk of their own lives—whisper to young mothers to give their babies to older relatives. Not many obeyed, of course. Helen Farkas, arriving at Auschwitz as part of an extended family from Transylvania, recalls that ''my sister Ethel said, 'He's crazy. What do they mean I should give my child to an older person?' '' But in the confusion the baby began to cry, and he mother-in-law took charge of him and disappeared off to the left; guards beat Ethel back when she tried to join them. The sisters, selected for work, were stripped and shaved to the skin. ''We started to look for each other, shouted each other's name,'' Helen says. ''We couldn't recognize each other, naked, without hair. When we found each other, we started laughing, we laughed so hysterically it turned into crying.''

So the transports arrived, with their cargoes of innocent flesh, from anywhere the SS could lay their hands on a Jew: France, Holland, Slovakia, Greece and, of course, Hungary, until the government halted the deportations in mid-July, after 438,000 Jews had been shipped to Auschwitz in little more than two months. The victims, unsuspecting, walked to the gas chambers under the blank and baleful gaze of the SS, and then were turned into smoke that blackened the skies, and a stench so awful and pervasive that Lyon lost her sense of smell for nearly five decades after. Those selected for work were shorn, tattooed with a number on their left forearm, issued uniforms, bowls and spoons and turned out into the barracks. Hundreds slept in triple-tiered rows of bunks. The newcomers faced the scorn of the Polish and Czech Jews who had come earlier. ''They told us, 'While you were going to theaters, we were already here'.'' recalls Judy Perlaki, who was brought to Auchwitz from a town in Hungary in May. The religious ones would pray. The old-timers taunted them: '''Go ahead, pray. But do you know where your mother is? Right up in that chimney'.''

The new inmates entered a life of roll calls, beatings and work, punctuated by surprise

selections for the gas chambers, which the Nazis kept busy even if no trains arrived. The roll calls were held twice a day, always in the open, and prisoners stood at attention until the count was complete, which might take several hours. This was hard enough even for prisoners who weren't suffering from the camp's rampant diarrhea. Standing became even harder, naturally, as Poland's harsh winters set in. *Kapos,* the prison trusties—many of them criminals—whom inmates feared almost as much as the SS, roamed the ranks. They would hit anyone who stepped out of place, or stamped his frozen feet, or whom they felt like hitting. By a whim of the commandant, an orchestra of inmates was commissioned to serenade the prisoners as they marched off to the factories, mines and construction sites. ''This was the unreal thing: this beautiful music,'' says Rachel Piuti, who came to Auschwitz in 1944 from a labor camp in central Poland. ''We marched out, the music accompanied us. We marched back, the music welcomed us. This is why it seemed already like life after death.'' The orchestra also played for the deportees on their way to gas chambers, and one inmate remembers the elderly Hungarian men tipping the hats appreciatively as they marched by.

An inmate's rations were ersatz coffee in the morning, a pint or so of watery soup for lunch and a half pound or so of bread for dinner. A person doing heavy labor outdoors obviously could survive this diet for no more than a few weeks or months. So those who lived, by definition, had some means of obtaining extra food—a skill the SS valued, a job where they could steal, or a protector somewhere in the camp. A large number of the survivors worked in the unit where the belongings of new arrivals were meticulously sorted, tagged, logged, stored and immediately stolen. The warehouses were known as ''Canada'' after that fabled land where everyone had warm socks and cigarettes. In August, Siggi Wilzig, a German Jew who had been in Auschwitz since 1942, landed one of the most sought-after positions in the camp, organizing the Canada warehouse. One whole room was for storing toilet paper—''a huge room, 12 or 15 feet high full of toilet paper. It just stayed there and no one knew why.'' He had labeled each roll and stacked them in order as the Germans wanted, and then filled the insides of the tubes with rings, watches and other small valuables he could barter for food.

Another job which provided enough to eat was *sonderkommando*—the Jewish prisoners who met the trains, escorted the condemned to the gas chambers and then hauled the bodies to the crematoriums. ''When they got off the trains, they had to strip in the dressing room,'' says Henryk Mandelbaum, who worked as a sonderkommando in the fall of 1944. ''Whole families went in, supposedly to take showers. When the chamber was more than half filled, they realized something was wrong. There was commotion. The SS beat them brutally with sticks.'' The sonderkommandos' was hard physical work, made worse by the burden of never knowing when a relative might turn up in the gas chamber. Mandelbaum tells of one legendary sonderkommando who voluntarily walked into the gas chamber with his own family; and another, who encountered his mother and assured her until the last minute that she was only being taken to the showers. For that sin, the sonderkommando's own colleagues were said to have killed him themselves.

Some people screamed in the gas chambers, at least one group sang the Czech national anthem and some prayed. Sonderkommando Yehoshua Rosenblum escorted a venerable rabbi to the gas chamber and warned the naked old man that he was going to die. ''I told him he should say a prayer: 'Put something on [meaning a hat; Jews pray with their heads covered] so you can say a prayer before you die.' I had a chance now to talk to someone about what was going on here. 'Children, parents who never did anything in their lives—why should such a thing happen?' He said: 'Quiet. It is forbidden to complain; this is the will of God. You cannot answer these questions.'

''He told me: 'Tell the world what these evil persons are doing to the Jews'.'' But Rosenblum answered: ''Rabbi, today it's you, tomorrow me.'' All the sonderkommando expected to wind up in the crematoriums themselves eventually; it was part of the job. The Nazis assured their silence by periodically killing them and starting fresh with a new batch.

One Jew who escaped the gas chambers that summer was Roman Friester, who was 15 and an orphan when he arrived in Birkenau from a small labor camp elsewhere in Poland. He talked his way into a job by volunteering as a specialist in running a lathe, a machine he had never laid eyes on. Survival had a cost. Lying in his bunk one night, he was raped by another prisoner, an older may who had access to food. ''He put his hand with a piece of bread into my mouth. I badly wanted this bread. I wanted to swallow the bread quickly before he finished, so he would have to give me another piece of bread. I got a second, and a third.

''He went off and in a moment I realized that I didn't have my prisoner's cap. Any prisoner at the morning roll call without his cap was shot. He wanted to liquidate me and so he stole my cap.

''That night, I stole a cap from some other prisoner. So that next morning, some other prisoner was killed instead of me. I never looked to see who it was.''

One more prisoner killed—who was to notice? Lives were saved and lost all the time that summer. Max Garcia, a Jew from Amsterdam, was saved by his appendix. After four days of severe stomach pains, he was sent to the camp hospital, which often would have been a ticket to the crematorium. But the SS surgeon had never seen a case of acute appendicitis and decided to open up Garcia for the experience. Sal De Liema was saved by a kapo, who had smashed his eyeglasses out of spite. Shortly after, he went through a selection and saw healthy men sent off to the gas chambers. He asked another prisoner why, and was told: ''They were wearing glasses.''

But the great news at Auschwitz that summer was the escape of Mala Zimetbaum and Edward Galinski—the most famous of the hundreds of Auschwitz escapes, because even in failing it gave courage to the thousands of inmates who knew about it and witnesses its legendary end. Zimetbaum, who was barely 20 in 1944, was one of the most extraordinary prisoners to pass through Auschwitz. Fluent in several languages, she was put to work as a messenger and interpreter. She apparently made full use of her position to carry out assignments for the camp resistance, even managing to replace the identify cards of women selected to be gassed with those of women who had already died.

Zimetbaum fell in love with Edward Galinski, a Polish political prisoner, and they resolved to escape. They succeeded in bribing an SS man to supply them a uniform, and Zimetbaum filched a pass from the guard room. On June 24, Galinski marched out the gate of Auschwitz with a female prisoner in tow. But Auschwitz did not give up its victims so easily. They were caught two weeks later, still in southern Poland, and brought back to the camp for execution. The hangings were scheduled for Sept. 15. Galinski went first: he slipped the noose over his head, and, by one account, kicked over the stool that served as his scaffold, shouting ''Long Live Poland!'' Zimetbaum was stood in front of the assembled women prisoners, who were subjected to a lecture on the consequences of trying to escape. But before the guards could hang her, she pulled out a razor blade and slit her wrists, spraying her executioners with her blood.

But even while the camp was awaiting the fate of the two lovers, something else happened to give them hope. On Aug. 20, more than 120 Flying Fortress bombers from the American air base in Foggia, Italy, flew over Auschwitz en route to bomb the factories of Upper Silesia. One of the targets was, in fact, a satellite camp of Auschwitz itself, the giant I.G. Farben plant (know as ''Buna'') that converted coal to synthetic fuel. ''We heard the sirens in camp, but there was no cover,'' says Max Sands, who worked in a warehouse at Buna. ''We stayed in the barracks and when I looked out, the sky was covered.'' At his next shift two days later, the damage made such an impression on him that he swears he saw locomotives on roofs. The downside of all this was that he and his brother lost their soft warehouse jobs and were put to work hauling bags of cement on a repair crew, but it was worth it to see the Germans bombed.

But no bombs ever fell on Auschwitz itself, nor on Birkenau. American Jewish leaders, by this time well aware of Auschwitz, pleaded with Washington to bomb the crematoriums. Hundreds of inmates might have died in such an air raid, of course, but it might have saved some of the thousands of new victims who arrived every day. For that matter, the prisoners in the camps were hoping for the same thing. ''Our greatest anticipation was when the air raids were on,'' recalls Celia Rosenberg, 66, who was brought to Auschwitz from Hungary in May. ''It would have been our pleasure to be bombed. It never occurred to us to be afraid.'' But the War Department—contravening even President Roosevelt's wishes—seems to have stuck to a policy of not mixing military and humanitarian objectives. ''The best way to help those people,'' Assistant Secretary of War John J. McCloy insisted, ''was to win the war as quickly as possible.''

Even so, the bombing raids and the news filtering back to the prisoners in the fall of 1944 made it clear that the war had turned decisively against the Germans. For the sonderkommando, who never expected to survive the war, this was a call to action. They enlisted the help of prisoners who worked in a munitions plant—most of them women—to smuggle out gunpowder, a few grams at a time. A plan took shape to blow up the gas chambers, attack the guards and break through the electrified fence that surrounded Auschwitz and Birkenau. But before they could act, on Oct. 7, the SS demanded 300 sonderkommando for ''transfer''—barely a euphemism—and the victims decided to die fighting.

Unplanned, unorganized and vastly outnumbered, the rebellion had no chance. The sonderkommando fought the well-armed SS troops with knives, chains, stones and perhaps homemade grenades. One part of it worked: bales of human hair, destined for German carpet factories, had been stashed in the attic of Crematorium 4: the sonderkommando sprinkled them with gasoline and ignited them, setting ablaze the roof of the whole vast structure. Three SS men were killed. But no one escaped, and of the 663 members of what became known as the Last Sonderkommando, 451 were shot by the SS and tossed in the ovens by the end of the day.

And of the women who helped them, four—Roza Robota, Ester Wajcblum, Ala Gertner and Regina Safirsztain—were arrested and taken to the infamous prison Block 11, where they were tortured for weeks, although without revealing the names of any other conspirators. In a letter smuggled out to her sister Anna, Ester wrote about how ''the familiar sounds of the camp—the screams of the kapos, the screams for tea, soup, bread, all those hated sounds now seem so precious to me and so soon to be lost . . . Not for me the glad tidings of forthcoming salvation; everything is lost and I so want to live.'' Ester was 20. On Jan. 6, 1945—less than two weeks before the Germans abandoned Auschwitz altogether—the four women were taken to the gallows. Their fellow prisoners had been assembled for the spectacle. Two women grabbed Anna and pushed her into a barracks to keep her from watching, but she heard the groans. It was the last public execution at Auschwitz.

As fall turned to winter, and the Red Army drew closer, new orders arrived from Berlin. The transports stopped coming, the crematoriums went cold—in fact, the whole vast operation went furiously into reverse, as the Germans began dismantling the evidence of what was to have been the crowning achievement of the Third Reich. Crews sent to clean out the chimneys had to scrape out deposits of human fat 18 inches thick. The prisoners greeted these developments with mixed emotions: happy to see the Nazis losing, but troubled by the general assumption that the Germans would slaughter them all first.

The Soviet offensive on Upper Silesia began on Jan. 12, and the Germans quickly fell back. Red Army guns boomed over the roll call on the evening of Jan. 17. The next day, long columns of prisoners began marching out of the camp, thousands at a time—past the famous sign with its mendacious promise ARBEIT MACHT FREI (WORK MAKES ONE FREE), leaving behind the remains of the chimneys that were supposed to be their only exits. Most were in various stages of starvation; many had only wooden shoes or rags to cover their feet as they tramped over the freezing mud. The German officers enforced one simple rule: anyone who fell behind, for any reason, was shot dead on the spot. ''You were outside, without fences, but you were not free,'' said Siggi Wilzig. ''If you thought the camp was bad, just wait until the death march.'' Wilzig had usable shoes, but several days into the march a shoelace broke, which could have cost him his life. Just then he spied a sapling poking out of the snow; he worked it free and lashed his shoe together in time to rejoin his march. ''An act of God!'' he exults.

In the confusion of these days quite a few prisoners managed to escape. Louis Zaks, who had been in concentration camps since 1941, was working in the coal mines of the Jaworzno subcamp when the Soviets approached; he declared his own emancipation a day early by refusing to go to work, which in normal times would have meant a bullet in the head. He was marched to another subcamp, Blechhammer, where he ran off and hid in a coal pile. After several hours, he felt safe enough to stretch, and the coal began to move, and 20 people stood up from nearby piles. But freedom had its perils also. Walking on the highway north toward Lodz, he and his fellow escapees encountered a group of Soviet soldiers. ''They asked for our watches. We told them, 'We have no watches, we are from a concentration camp.' 'Oh.' they said, 'you are Jews. Nobody likes Jews. Germans don't like Jews, Poles don't like Jews, we don't like Jews.' They chased us into the forest and lifted their rifles.'' Zaks was saved by the timely arrival of some Russian officers, including one who was Jewish.

Those who didn't escape or die on the death marches were eventually loaded onto open railcars for the trip to camps in Germany; having come in sealed boxcars in the summer, they now traveled in the open in the winter. They were so emaciated and pitiable that civilians sometimes threw them bread and even clothing as they passed. The SS guards discouraged the practice by shooting at the civilians. The last few weeks and months, as the Reich collapsed around them, were some of the hardest the prisoners had to endure. Linda Breder, interned near Ravensbrück, in Germany, gives a calm account of her 33 months at Auschwitz and the death march along a road ''paved with corpses in the snow.'' But she breaks down in tears at the memory of a kettle full of soup that overturned as it was being served, leaving the starving women to lick the food from the snow. Freed eventually by the Russians, she set off with some friends to walk back to Slovakia, living off the land. They went into a German woman's house; the table was set with dishes and napkins, there was a tureen of hot soup. The women had seen nothing like it for three years. Anger and hunger waged war within them, until one grabbed the tablecloth and sent everything crashing to the floor. They searched the house and found the woman, hiding, and two SS uniforms in a closet. They roughed her up and moved on.

Meanwhile the Russians, having done their part for history, had moved on themselves. The survivors stood and walked out as free men and women, and miraculously got on with their lives. They went back to being tailors, or jewelers, doctors and writers; some went to Palestine and fought another war. You couldn't pick them out of a crowd, now, in Jerusalem, Toronto or Los Angeles, unless you happened to spot the numbers graven on their forearms. They (and the others who passed through Auschwitz) left behind, according to a subsequent Soviet accounting, more than a million suits, coats and dresses, seven tons of human hair and comparable heaps of shoes, eyeglasses, cooking utensils and other goods, counting only what was found in only six of the 35 storerooms of Canada, the Germans having burned the rest. They took with them the indelible memory of the moment when a tall man in shiny boots condemned them to life, the moment in which Rita Yamberger sees a young boy pulled roughly from her grip and shoved to the left. ''From afar, I saw the little boy. He was lost in the crowd, shouting for his mother. He was lost. I hope he found his mother and they died together.''

COMMEMORATING THE 50TH ANNIVERSARY OF THE LIBERATION OF AUSCHWITZ

Mr. D'AMATO. Mr. President, I rise today to commemorate the 50th anniversary of the liberation of Auschwitz.

On January 27, 1945, Soviet Red Army troops liberated the deathcamp where upwards of 1.5 million people were exterminated. In the years since, the very word has become a synonym for death. It was said that in Auschwitz the only path to freedom—freedom from torture and starvation—was through the smokestacks of the crematorium.

The Nazis, with pathological precision, collected Jews and their other victims from all over Europe and the Soviet Union and funnelled them into the twin camps of Auschwitz and Birkenau. Once there, their belongings were collected, their heads shaved, and they were pushed like cattle either into barracks or directly to the gas chambers. Those spared death by gas were subjected to death by starvation and intense forced labor. In all, the Nazis dehumanized their victims and simply eliminated them when they had no further use for them.

Today, the twin camps of Auschwitz-Birkenau lay silent, belying the horrors that occurred there. When one walks among the ruins of the partly bombed out crematoriums and the remains of the barracks where the victims lived, if one could call it that, one cannot escape the question, is there no limit to man's cruelty to his fellow man?

As we celebrate this anniversary we must do so in the realization that in commemoration we seek prevention—prevention of such horrors in the future. The words never again, must keep their original meaning and not be tossed aside dependent upon the new victims' group.

Finally, we must teach the lessons of this dark past to our children so that they know that there was indeed a time like the Holocaust and that because of that it must never, never, be allowed to happen again.

The PRESIDING OFFICER. Is there further debate on the resolution?

If not, the question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 74) and its preamble are as follows:

S. RES. 74

Whereas on January 27, 1945, the Auschwitz extermination camp in Poland was liberated by Allied Forces after almost five years of murder, rape, and torture;

Whereas more than one million innocent civilians were murdered at Auschwitz alone;

Whereas Auschwitz symbolizes the brutality of the Holocaust;

Whereas Americans must ''never forget'' this terrible crime against humanity and must educate the generations to come so as to promote the understanding of the dangers of intolerance in order to prevent similar injustices from happening ever again; and

Whereas commemoration of the liberation of Auschwitz will instill in all Americans a greater awareness of the Holocaust: Now, therefore, be it

Resolved, That the Senate hereby—

(1) commemorates January 27, 1995, as the fiftieth anniversary of the liberation of the Auschwitz death camp by Allied Forces in the Second World War; and

(2) calls upon all Americans to remember the more than one million innocent victims who were murdered at Auschwitz as part of the Holocaust.

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

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

The motion to lay on the table was agreed to.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 209

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the pending business be set aside and that we call up amendment No. 209.

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

Is there debate on amendment 209?

Mr. KEMPTHORNE. Mr. President, with regard to amendment No. 209, we have made the point repeatedly that S. 1 is not retroactive. This amendment simply provides language to clarify that it is not retroactive. It is language which is similar to what had been put in the House version also stating that clarification that this is not retroactive.

Mr. GLENN. Mr. President, I would like to explain my understanding of this amendment and its impact. I would also like to ask a few questions of my friend and colleague from Idaho, Senator KEMPTHORNE, about his understanding of this amendment and its impact, so that we can try to avoid any misunderstanding.

Throughout this debate, my colleague from Idaho and I have indicated that S. 1 does not cover mandates in existing law.

Thus, even if a Federal statute contains a large mandate, a bill to reauthorize or amend that statute is not subject to the detailed analysis and point-of-order requirements of S. 1—unless enactment of the bill would result in a net increase in aggregate direct costs of Federal mandates large enough to exceed the thresholds in S. 1.

The threshold for Federal intergovernmental mandates is $50 million per year, and for Federal private sector mandates it is $200 million per year.

Thus, the detailed analysis and point-of-order requirements of S. 1 would not apply to the reauthorization or amendment bill—unless the bill would establish new or additional duties beyond the duties in the preexisting statute, or unless the bill would reduce the authorization of Federal financial assistance below what is authorized in the preexisting statute, such that the net increase in the aggregate amount of direct costs would exceed the applicable threshold.

Is my understanding correct?

Mr. KEMPTHORNE. Yes, the Senator is correct. The requirements of S. 1 would apply to the bill only if the new or additional duties or reduced Federal financial assistance would impose a net increase in the aggregate amount of direct costs on State, local or tribal governments exceeding the $50 million per year threshold, or on the private sector exceeding the $200 million per year threshold.

Mr. GLENN. Second, as I understand this amendment, the requirements of S. 1 would not be triggered just because there is a lapse in the authorization of appropriations.

Even after the previous authorization of appropriations had lapsed, a bill that would only reauthorize the appropriations would not be covered under S. 1, because it would not increase the duties already established in the existing legislation.

Likewise, a bill that would reauthorize appropriations, and would thereby restore Federal financial assistance at the same level as before the lapse, would restore—not reduce—the Federal financial assistance available to be used to comply with the mandate.

Thus, even if the previous authorization of appropriations had lapsed, the reauthorization would not impose a net increase in the aggregate amount of direct costs exceeding the thresholds, and would therefore not be covered under S. 1.

Does the Senator from Idaho agree with my understanding?

Mr. KEMPTHORNE. Yes, I have this same understanding of the proposed legislation.

Mr. GLENN. Finally, when a bill would amend Federal legislation, S. 1 would apply only to the amount of net increase in the aggregate amount of direct costs that would result from enactment of the bill. This is true for reauthorization bills and for other bills that amend Federal statutes.

Let me give a couple of examples:

Suppose that a pre-existing Federal statute would require State governments to spend $40 million per year for the next 5 years to perform certain activities.

And suppose that a bill is proposed that would amend this Federal statute, by adding new requirements that would cost an additional $20 million per year for the next 5 years.

Such a bill would not trigger the point of order under S. 1. It is true that, if the bill is enacted, the amended statute will cost $60 million per year over the next 5 years.

But we must subtract $40 million per year, which is the amount that would be required by the pre-existing Federal statute in the next 5 years if it is not amended.

Thus, the net increase in the aggregate amount of direct costs that would be caused by the bill would be only $20 million per year. This is below the threshold of $50 million per year.

Does the Senator from Idaho agree with my analysis?

Mr. KEMPTHORNE. Yes I do.

Mr. GLENN. Now let me offer a slightly different example:

Again, suppose that a pre-existing Federal statute would require State governments to spend $40 million per year for the next 5 years to perform certain activities.

This time, though, suppose that a bill is proposed that would add a duty that would cost the States an additional $50 million per year for these same activities.

But suppose that the same bill would also reduce the duties that are already in the pre-existing statute, saving the States $5 million per year.

In other words, the pre-existing statute would cost $40 million per year for the next 5 years, if the statute were not amended, but enactment of the bill would reduce this amount to $35 million per year.

This $5 million saving is offset against the $50 million imposed by the new duty in the bill. Therefore, the net increase in the direct cost of the bill would only be $45 million per year, which is below the threshold.

This concept of net increase in the aggregate amount of direct costs is stated in the amendment now before us. This net increase approach is also required by the provisions in the definition of ''direct costs'' already contained in the S. 1.

Does the Senator from Idaho agree?

Mr. KEMPTHORNE. Yes, I agree with the description of the legislation as presented by the Senator from Ohio.

AMENDMENT NO. 225 TO AMENDMENT NO. 209

Mr. GLENN. Mr. President, I send to the desk an amendment in the second degree and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 225 to amendment No. 209.

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

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

The amendment is as follows:

Strike page 1, line 2, through page 2, line 4, and insert the following:

''( ) CLARIFICATION OF APPLICATION.—(1) This section applies to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute, or that otherwise amends any statute, only if enactment of the bill, joint resolution, amendment, motion, or conference report—

''(A) would result in a net reduction in or elimination of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use for the purpose of complying with any Federal intergovernmental mandate, or to the private sector for use to comply with any Federal private sector mandate, and would not eliminate or reduce duties established by the Federal mandate by a corresponding amount; or

''(B) would result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates or Federal private sector mandates otherwise than as described in paragraph (1).

''(2) For purposes of this section, the direct cost of the Federal mandates in a bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out a statute, or that otherwise amends any statute, means the net increase—

''(A) in the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted,

''(B) over the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution,

amendment, motion, or conference report were not enacted.''

Mr. GLENN. Mr. President, just a short statement regarding this amendment.

This amendment clarifies how the provisions of S. 1 will treat a reauthorization or other amendment of existing statutes that contain mandates. Our understanding all along, as Senator KEMPTHORNE said, with both of us is that S. 1, as did S. 993 last year, applies only to future mandates that add new costs. And this amendment clarifies that intent.

Basically, the amendment does the following. It ensures that reauthorizations which do not change existing laws but merely extend the authorization are not covered under S. 1.

So if an authorization is simply extended for several years without any substantive change, it is not covered.

Second, if a bill to reauthorize or amend a statute imposes new costs on State and local governments or the private sector, but in another part of that bill the cost of existing requirements are reduced, then those savings are credited against the new costs imposed. So direct costs are net costs. And if the savings outweighed the new costs, and the net costs do not exceed the threshold, then S. 1's points of order would not apply.

Finally, this language makes clear that in bills to reauthorize or amend a statute, it is new costs that will be scored, and the baseline of costs that would be imposed under the preexisting statute are not part of the CBO or Budget Committee calculation of costs.

I believe that this amendment is noncontroversial, and it has been accepted on the other side. It clarifies what has been our intent all along—that S. 1 apply to new mandates imposing new costs.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I am prepared to accept the second-degree amendment as proposed by the Senator from Ohio.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 225) was agreed to.

The PRESIDING OFFICER. Is there further debate on the first-degree amendment as amended? If not, the question is on the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 209), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that when the Senate resumes the Boxer amendment No. 203, Senator KASSEBAUM be recognized to offer a second-degree amendment, and there be 20 minutes for debate to be divided in the usual form, and that Senator BOXER be recognized to offer a further second degree amendment which shall be debated during the same 20 minutes.

I further ask that following the conclusion or yielding back of time, the Senate proceed to vote on the Kassebaum amendment to be followed by a vote on or in relation to the Boxer second-degree amendment to be followed immediately by a vote on the Boxer amendment No. 203, as amended, if amended.

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

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that at 8 o'clock tonight the Senate proceed to vote on the motion to table the Bingaman amendment to be followed by a vote on the Kassebaum amendment to be followed by a vote on or in relation to the Boxer second-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object, and I do not plan to object.

Mr. KEMPTHORNE. Mr. President, I ask that I be allowed to modify the unanimous consent request so that the Kassebaum amendment would occur first, followed by the Boxer second-degree amendment, then followed by the Bingaman amendment, to be tabled.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. May I ask a procedural question at this point? The Senator from California has introduced her amendment, is that correct? So it has been introduced and is at the desk?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 226 TO AMENDMENT NO. 203

(Purpose: To ensure that the President fully enforces laws against child pornography, child abuse, and child labor)

Mrs. KASSEBAUM. Mr. President, I send an amendment in the second degree to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 226 to amendment No. 203.

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

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

The amendment is as follows:

In the pending amendment, strike the language after ''(7)'' and insert the following: ''expresses the Sense of the Senate or the Sense of the House that the President should fully enforce existing laws against child pornography, child abuse, or child labor.''.

Mrs. KASSEBAUM. Mr. President, this amendment expresses the sense of the Senate that the President should fully enforce laws against child pornography, child abuse, and child labor.

During the 103d Congress, we passed a resolution opposing the administration's position before the Supreme Court in the Knox case that would have weakened our child pornography laws. My recollection is that the resolution passed with over 95 affirmative votes.

We sent a strong signal to the administration that we expect the Federal Government to take a tough stance against child pornography. I think we have an opportunity to re-send that signal to assure ourselves that the Justice Department received the message.

Mr. President, child abuse and pornography is a serious matter. It leaves scars that last a lifetime. Children who were abused sometimes grow up to become abusers themselves, and their personal relationships—with spouses, friends, and relatives—are rarely the same as they would otherwise have been.

The amendment I am offering today expresses the sense of the Senate that the administration should strongly enforce Federal laws designed to address child pornography. I urge my colleagues to support the amendment.

Mr. President, for just a moment I would like to speak on the underlying amendment of the Senator from California. While the first vote will be on the second-degree amendment, I have some serious concerns about the underlying amendment.

Just briefly, I would note that the amendment of the Senator from California would exempt unfunded mandate restrictions from future legislation dealing with child labor, which is an important and serious matter, there is certainly no question about that. But I point out that many of our child labor restrictions come from the Department of Labor regulations rather than by statute, and they address problems that are a long way from children working in the salt mines, which led to unfortunate abuses which we have tried to correct over the years.

Let me give an example. The Secretary of Labor, to his credit, allowed an exemption of our child labor laws so that children could work as bat boys at major league baseball games. By regulation, children ages 14 to 15 cannot work after 7 p.m. on school nights without a Labor Department exemption.

I think it is very important that whenever we consider legislation that we debate whether the benefits of the unfunded mandate outweighs the burden. We have seen countless examples where, indeed, it reaches absurd proportions.

That debate will only take place if we assure that child labor and other labor standards be included within the unfunded mandates bill. Weighing costs is an important part of the legislative

process, and for this reason I oppose excluding labor standards, even child labor standards, from S. 1.

Mr. President, to reiterate, we will be voting on the second degree amendment that I offered, but I want to comment for a moment on the underlying amendment offered by the Senator from California. I have serious concerns with the underlying amendment.

Let me provide another example of a Federal mandate regarding child labor restrictions. During the 102d Congress, the Labor Committee held a hearing on Senator METZENBAUM's child labor bill, S. 600, that required children under 16 years of age to obtain a certificate of employment from their State labor department before starting work.

Under the Metzenbaum bill, parents would have had to sign the certificate, and a responsible official at the child's school would have had to certify that the child was meeting the school's attendance requirements. Each State labor department would then send a copy to the child's parents and fulfill detailed reporting to the Federal Government regarding the number and type of certificates issued.

Mr. President, many school boards and State labor departments vigorously opposed this paperwork burden. School teachers want to teach, not fill out forms. State labor officials want to focus on real problems, rather than hiring clerical employees to analyze data to report to the Federal Government. If every farm kid in Kansas had to file these working papers, my State's labor department would be overwhelmed.

Thankfully, S. 600 never made it to the Senate floor during the 102d Congress. But in the future, if we consider this type of legislation, then the Senate should debate whether the benefit of the unfunded mandate outweighs the burden.

Mr. President, I will yield the remainder of the time I have to the Senator from Utah.

The PRESIDING OFFICER (Ms. SNOWE). The Chair recognizes the Senator from Utah.

Mr. HATCH. Madam President, I rise in support of Senator KASSEBAUM's amendment to Senator BOXER's amendment. This amendment will bolster enforcement of our Nation's laws against child pornography, child abuse, and child labor.

What we need even more than new laws against child pornography, child abuse and child labor, is full enforcement of the good laws that are already on the books by the President and by the Justice Department. In this regard, sense-of-the-Senate and sense-of-the-House resolutions urging the President to enforce existing laws, I think, can prove to be invaluable.

Take, for example, the case of Knox versus United States. As all of my colleagues will remember, in that case the Clinton Justice Department adopted a bizarre interpretation of a Federal child pornography law in which they supported the pornographer over the child. That interpretation, which was not faithful to the intent of Congress, would have undermined that important child pornography law and would have left many victims of child pornography without protection.

On November 4, 1993, by a vote of 100 to zip, 100 to nothing, the Senate condemned the Clinton Justice Department's efforts to weaken that child pornography law. On April 20, 1994, the House, by a vote of 425 to 3, also condemned the Clinton Justice Department's misreading of the law and their interpretation of the law.

Having gotten the message from Congress, the Clinton Justice Department ultimately reversed field and corrected its reading of the child pornography law. Within the last week or so, the Supreme Court denied Knox's petition for review, therefore making his conviction final. That is what should have been done from the beginning.

What this series of events shows us is that the resolutions by the Senate and the House can prevent Presidents from failing to enforce existing laws against child pornography, child abuse, and child labor. And that is the way to do it. Senator KASSEBAUM's amendment would exempt these resolutions from the scope of S. 1 and would ensure that enforcement of these important laws remain vigorous.

It is the way to do it. I commend the distinguished Senator from Kansas for making the effort to do this the right way.

I would like to see her amendment pass overwhelmingly. I hope that we can then vote against the amendment of my good friend, the distinguished Senator from California.

I reserve the remainder of the time to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator. Mr. President, I appreciate the comments of the Senator from Utah.

Madam President, how much time is left?

The PRESIDING OFFICER. The Senator has 4 minutes and 20 seconds remaining.

Mrs. KASSEBAUM. I reserve the remainder of my time for a few moments, if the Senator from California would like to use some of her time.

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

Mrs. BOXER. Thank you, Madam President.

AMENDMENT NO. 227 TO AMENDMENT NO. 203

(Purpose: To ensure that nothing in this Act threatens child pornography, child abuse, and child labor laws)

Mrs. BOXER. Madam President, in accordance with the unanimous-consent agreement, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. DODD, proposes an amendment numbered 227 to amendment numbered 203.

Mrs. BOXER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, add the following:

''( ) is intended to study, control, deter, prevent, prohibit or otherwise mitigate child pornography, child abuse and illegal child labor.''.

Mrs. BOXER. Madam President, I would appreciate it if you would tell me when I have about 4 minutes left of my time. This is not going to be a prolonged debate.

I am very fortunate to have had a chance to express myself on this matter, and I will do so once again.

First, I want to make the point that I am fully supportive of the amendment offered by my friend from Kansas, Senator KASSEBAUM. I think there is nothing in that amendment that conflicts with my underlying amendment. I am going to proudly support both. I hope that the Members of the U.S. Senate will do the same and I will explain why.

I also want to tell the Senator from Kansas how much I appreciate her working with me so that we can each have a vote on our respective amendments, or at least on the motion to table. I think it is very important that the Senate have a chance to express itself on both of these concepts.

The amendment from the Senator from Kansas says that it is the sense of the Senate that the President should fully enforce existing laws against child pornography, child abuse, or child labor. I could not agree more with that. We have laws on the books, and they should in fact be fully and completely enforced. And as you know, Madam President, together we called on the Attorney General to fully enforce the laws to protect health clinics as well.

But I think we need to go beyond existing laws because we are talking about S. 1. S. 1 is about future law, Madam President. The reason I have kept this chart here throughout the debate on S. 1 is to make sure Senators understand the kind of legislative hurdles that we are going to be putting many of our bills through. There are reasons for this. There are many in the U.S. Senate who want to slow up the process; they do not want to see us pass bills that have to be enforced by the States and locals without adequate funding. I share that view. I liked last year's bill better because I thought it was less bureaucratic. I thought it treated us more like legislators. It did not take us into a situation where we may have our hands tied.

That is why the exceptions clause of this bill is so important. The authors of the bill say there are certain things that are so important—and they named

bills to secure civil rights, prevent discrimination, and to implement international treaties—those things are so important they said, that these would be exceptions to S. 1, that those bills would not have to go through the legislative hurdles which I have described over and over again on the Senate floor.

I guess I need to ask my friends who may be considering voting against the Boxer amendment, do you think that our children are as important as our international treaties? International treaties will be exempted from S. 1's point of order, but not our children. I say, further, that as we look around the country, and we look at the issues of child abuse, illegal child labor, and child pornography, we have serious problems in these areas.

In 1992, 2.9 million children were reported abused or neglected, about triple the number reported in 1980. Among substantiated and indicated victims of child maltreatment, 49 percent suffered neglect, 23 percent physical abuse, 14 percent sexual abuse, 5 percent emotional abuse, and 3 percent endured medical neglect.

We also have problems in the workplace. By law businesses are prohibited from hiring children younger than 14 and teens between the ages of 14 and 16 may work after school only in nonhazardous jobs. This is a mandate, I say to my colleagues, to protect our children. That is why I support the Kassebaum amendment.

Yes. We should fully enforce the law. But what if we feel the laws are not going far enough? Do we want to capture these future amendments and bills in this bureaucratic maze? Again, as I have said before, the CBO are fine people. They are represented here on the chart in red. They can stop an amendment or a bill if they tell us that it is over $50 million. The green here on the chart applies to the role of the Parliamentarians. We love our Parliamentarians. But they were not elected. They can stop, Madam President, a bill that you have written or an amendment that you have written. And I think it is time for us to stand up for the children, and say, if that bill involves child pornography, sexual abuse, or child labor laws, it should be added to the exceptions in S. 1 which include international treaties.

I know a lot of people who think GATT is important. I was one of them. It is very important. NAFTA is very important. But, my goodness, our children are important too.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mrs. BOXER. I retain the remainder of my time.

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

Mrs. KASSEBAUM. Thank you, Madam President.

I would like to respond for a moment to the Senator from California. In fact, I think comparing international treaty exemptions with that of child pornography, child abuse, and child labor laws is a little bit like comparing apples and oranges. International treaties involve other countries. There are some very complicated legal reasons why there should be and has to be an exemption for those international laws. I think we would all agree that the areas which the Senator from California would like to exempt are very special areas. My sense-of-the-Senate second-degree amendment does not diminish the seriousness of the areas that have been addressed by the Senator from California.

Clearly, child abuse and child pornography are serious matters to all of us. It leaves scars that last a lifetime. We have passed legislation to address these concerns to try to end child abuse. Nevertheless, in many instances, what we need to do is to make sure that those laws that are already on the books are strictly enforced. The Senator from California has agreed with that. But I think when we pass new legislation, all I am saying is that we need to carefully evaluate the costs and the benefits.

Every one of us could find areas which we think should be exempted because they are special. We have already voted on a number of those in the last couple of days. Some of us have voted against issues that we care about deeply because creating special categories in this unfunded mandates legislation bill will only place other important issues at risk.

I think that it is very important for us as we vote to separate our own concerns about the seriousness of the issue which the Senator from California raised, and our own concern that those issues be addressed in a thoughtful way. And the fact that the Senator's amendment carves out yet another exemption, which would in many ways put other important things at risk, leads to the question, if we do this, what is the next area that we would wish to exempt?

I think we have to look at our obligations, and as we look at legislation, we must weigh the costs and benefits. That is why it seems to me the better alternative is the second degree amendment, which we could all agree addresses very important and serious concerns. Yet, at the same time, there are other things that should not be carved out as special exemptions at a time when we are trying to address a serious concern regarding unfunded mandates.

Madam President, I yield the floor.

Mrs. BOXER addressed the Chair.

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

Mrs. BOXER. Madam President, how much time is left on the other side?

The PRESIDING OFFICER. There is 46 seconds remaining on the other side.

Mrs. BOXER. I ask that I may retain 1 minute, and I will take 3 at this time.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Madam President, I say to the Senator from Kansas thank you for offering your amendment. It is a terrific amendment. But it absolutely, positively has nothing to do with my amendment. My amendment recognizes that there is, in fact, already an exception clause in this bill. I am not adding it, I say to the Senator from Kansas; it is there. Yes, there is an exception for international treaties, but there is also one for civil rights.

Now, let us talk about that. Who is protected under the civil rights laws? Women, against sex discrimination; the elderly, against age discrimination; and, of course, there are laws to prevent racial discrimination. We want to make sure that any law that deals with racial discrimination, discrimination based on age, and sex discrimination, are in fact not going to get trapped in the hurdles of S. 1. I am not adding a new exemption clause in the bill. Civil rights is already exempted. I support that, and I am certain that my friend from Kansas does, as well.

What I am saying simply is, if protections for women are very important to this society, if protections for the elderly are very important to this society, if protections for ethnic minorities are very important to this society, if we are all important to this society as human beings, then my goodness, let us add laws that protect our children to this list.

According to the National Center for Missing and Exploited Children, Kansas, Florida, and Georgia have no laws criminalizing the distribution of child pornography. Mississippi and Michigan have no laws making it a crime to possess child pornography. Congress might well find that not a lot of States have enacted child pornography laws and require States to do so. I think we ought to be able to act fast in that case.

There is a new form of child pornography: the computer bulletin board. My friend from Kansas says the President should enforce all of the existing laws. She is right. We should vote 100 to zero on her amendment. But technologies are changing. There are some new laws that may well need to be placed on the books. On the computer bulletin board, pornographic images are transmitted by computers, and some adults have used on-line communications to lure young children and abuse them.

The following incident was reported in the April 18, 1994, issue of Newsweek: A 27-year-old computer engineer in California used his computer to prey upon a 14-year-old boy. After many on-line conversations, he persuaded the boy to meet him in person. I do not want to go into the horrible experience this child had. But this is an area we have not legislated upon.

If you listen to my friends from Utah and Kansas, you would think, well, we have all the laws we are going to have; let us enforce them. I am saying that this is a serious problem to the children of our Nation and we, as parents, should do something about it. I hope

we will support both of these amendments. They are both important.

I will reserve my time.

Mrs. KASSEBAUM. Madam President, I will briefly say that pointing out that Kansas does not have laws against child pornography is the very reason we need to enforce the Federal laws.

I yield the remaining time I have to the Senator from Utah.

Mr. HATCH. Madam President, let me bring it down to a simple statement. The Boxer amendment—our colleague from California—would create special exemptions from S. 1 for child pornography, child labor, and child abuse laws.

Her approach is strongly opposed, as I understand it, by the Governors, State legislators, and mayors. The Kassebaum approach would encourage the President to fully enforce the laws that already exist on the books against child porn, child abuse, and child labor. That is the difference. I think we should vote for the Kassebaum amendment.

The PRESIDING OFFICER. The Senator from California has 33 seconds remaining.

Mrs. BOXER. Madam President, this feels a little bit like the House of Representatives, because we have to speak so fast. But I am going to conclude.

I think this has been a good debate. I think we can all agree that this is a horrible problem. The question is: are children special? And that, in fact, if there is a bill we want to bring up here that deals with stopping child pornography in Kansas, or California, or anywhere else, it does not get trapped by the parliamentary or CBO requirements in S.1.

I think it is worth a ''yes'' vote. I hope we will come together, Republicans and Democrats, and vote for both the Kassebaum amendment and the Boxer amendment.

I thank my colleagues. I have enjoyed having this chance to discuss this amendment. Thank you, Madam President.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 184

Mr. KEMPTHORNE. Madam President, I ask unanimous consent that the Senate now turn to the consideration of Graham amendment No. 184; that Senator GRAHAM be recognized to modify his amendment and there be 10 minutes equally divided in the usual form, with no second-degree amendments in order; and that, following the conclusion or yielding back of time, the vote be postponed to occur following the last stacked rollcall vote occurring at 8 p.m. tonight.

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

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

Mr. GRAHAM addressed the Chair.

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

AMENDMENT NO. 184, AS MODIFIED

Mr. GRAHAM. Madam President, pursuant to the unanimous consent agreement, I send to the desk a modification of amendment No. 184.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 184), as modified, is as follows:

On page 6, strike line 3 and all that follows through line 10, and insert the following:

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

(I) Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

(II) the control of borders by the Federal Government; or reimbursement to states, local governments, or tribal governments for the net cost associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education or criminal justice; when such a reduction or elimination would result in increased net costs to States, local governments, or tribal governments in providing education or emergency health care to, or incarceration of, illegal aliens; provided that this subparagraph shall not be in effect with respect to a State government, local government, or tribal government, to the extent that such government has not fully cooperated in the efforts of the Federal government to locate, apprehend, and deport illegal aliens;

Mr. GRAHAM. Madam President, as I outlined in a statement which accompanied amendment No. 184 when it was originally proposed, the purpose of this amendment is to deal in a fair and equitable manner with another form of unfunded mandate. That form of unfunded mandate occurs when the Federal Government has the sole, singular constitutional responsibility to carry out a function of Government and where its failure to carry out that function of Government inevitably leads to significant costs to State, local, or tribal governments.

The specific function to which this amendment goes is the issue of immigration and specifically illegal immigration. The amendment utilizes the same procedures that we have been discussing for the past several days relative to other forms of unfunded mandates. It provides that that procedure will be available in basically two categories.

The first is where there is a proposal to reduce or eliminate the amount of authorization of appropriations for the control of borders by the Federal Government; that is, where there is a proposal to reduce the capacity of the Federal Government to carry out its constitutional responsibility to enforce our national borders through immigration and other border control responsibilities. Or, second, where there is a proposal to reduce or eliminate the amount of authorization for reimbursement to States, local governments, or tribal governments for the net cost associated with three categories of illegal aliens: first, criminal justice activity; second, emergency health care; and, third, education of the children of illegal aliens.

There is a provision also in this amendment which states that, in order for a State, local government, or tribal government to be eligible for this, they must demonstrate that they have cooperated with the Federal Government to locate, apprehend, and deport illegal aliens. That is to say, a unit of government at the State, local, or tribal level must indicate that it has cooperated in the national effort to arrest or control this problem as a condition of being able to meet the test necessary to activate this procedure.

Madam President, I recognize that this sounds somewhat complex, but I believe that it is straightforward.

I offer this amendment, Madam President, with the cosponsorship of my colleague Senator MACK. And I want to express my appreciation to Senator KYL and to Senator SIMPSON and their staffs for their assistance.

Having stated the amendment just briefly, what is the nature of the problem?

There are in the United States today an estimated 3.5 million illegal aliens. These are people who are in the country because of some failure of our capacity to control our borders. Those 3.5 million illegal aliens pose very serious financial burdens on States, local governments, and tribal governments.

In the case of the State of Florida, for instance, it is estimated that illegal aliens within our State prison system cost the taxpayers of the State of Florida each year approximately $55 million to $60 million. That is the 1-year cost of incarcerating the illegal aliens who are in our State prison system.

A year ago, under leadership of Senator HUTCHISON, of Texas, Congress adopted a bill in which the Federal Government will begin to provide some share of the cost of incarcerating illegal aliens.

This legislation would, for instance, come into play if there were an effort made to reduce the level of authorization of that legislation or similar legislation that relates to control of the borders, emergency health, or education of the children of illegal aliens.

Madam President, that is the thrust of this amendment.

I believe it is totally consistent with the objective of this bill. That is, to have the Federal Government accept its responsibility when it mandates—in this case, mandates—by inaction or failure, a cost on State, local governments or tribal governments.

Madam President, I reserve the balance of my time.

Mr. KEMPTHORNE. Madam President, I want to commend the Senator from Florida, who certainly has raised a critically important issue to this and certainly to States that have experienced this. He has been thoughtful and diligent in his pursuit of this. I think, also, the long history of the Senator from Wyoming, Senator SIMPSON, who has worked with this issue for so many years. Senator MACK was also very helpful in crafting the language of this amendment.

At this point, I yield time to the Senator from Wyoming but would acknowledge that we certainly and strongly support this amendment as modified.

The PRESIDING OFFICER. The Senator has four minutes.

Mr. SIMPSON. Madam President, I thank the Chair. I just want to acknowledge the work of Senator GRAHAM, Senator MACK, Senator KYL, and Senator KEMPTHORNE, who have been very helpful.

Let me just be sure that we all understand that we are going to do a great deal on immigration in this session of Congress. We have a good committee, good subcommittee. We will do it in a bipartisan fashion. Members will be working diligently to assure that this amendment really never comes into effect.

I hope we can do that. It makes clear that the State and local jurisdictions must cooperate with the Immigration Service in efforts to control illegal immigration if they expect the Federal Government to assist them with the costs they incurred due to illegal immigration. I think that is imminently fair.

This amendment will certainly encourage the Government to carry out our sovereign duty, which is to control our borders. I recommend Senators to the sweeping legislative bill I presented the other day, the Immigration Control and Financial Responsibility Act. Take a good look at that. I seek your cosponsorship as we proceed in this very important field. I thank the Chair.

Mr. GRAHAM. Madam President, I ask unanimous consent to indicate those who are cosponsors of this amendment. The amendment as originally submitted, number 184, has cosponsors Senators MACK, BOXER, BRYAN, and REID. In addition to those, I would also add Senators MCCAIN, KYL, and HUTCHISON.

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

Mr. KEMPTHORNE. Madam President, I ask unanimous consent that my name also be added as a cosponsor.

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

Mr. KEMPTHORNE. Also, Madam President, this morning we had a good discussion about this issue of immigration. The Senator from California, who provided an amendment, and also the Senator from Arizona, Senator KYL, who, again, articulated many of the concerns that he, too, was instrumental in forging this agreement. So a number of people in a bipartisan effort have accomplished this.

If there are no others wishing to speak on this, I reserve the balance of my time.

Mr. GLENN. Madam President, I, too, want to congratulate the Senator from Florida for working this out. We started out quite a ways apart on this and by a lot of negotiation, with Senator SIMPSON's help, I think we have resolved this in a fine way. We are happy to accept it on this side.

Madam President, parliamentary inquiry. I believe under the current unanimous-consent agreement there would be a rollcall vote on this amendment unless it was vitiated; is that correct?

The PRESIDING OFFICER. The rollcall vote would have to occur unless vitiated.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. KEMPTHORNE. Madam 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. I ask unanimous consent that the Senator from California, Senator FEINSTEIN, be added as a cosponsor to amendment numbered 184.

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

Mr. KEMPTHORNE. Madam President, I yield back any remaining time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. GRAMM. Madam President, we are waiting for amendments to go through the distillation process, hopefully to complete this bill. And as a result, I would like to say a few words about action that just occurred in the House of Representatives. The House has yet to cast final passage on the balanced budget amendment to the Constitution. But in the vote that determined which version of the balanced budget amendment to the Constitution would be put before the full House for adoption, the House of Representatives just cast enough votes to assure the passage of a balanced budget amendment to the Constitution of the United States.

I think this is a historic vote. I served in the House in 1982, when the U.S. Senate adopted a balanced budget amendment in August of that year and sent it to the House. As some who now serve in this Chamber will remember, we spent from August to October trying to get the requisite number of House Members to sign a discharge petition because the balanced budget amendment to the Constitution was being held off the floor by the Democratic majority leader and by the Democratic Speaker.

I remember vividly that every time we would get close to getting 218 people to sign the discharge petition, the Speaker and the majority leader would get Members to go down and take their names off.

I remember vividly the day that we got Vice President Bush to come down, we got roughly 20 Members of the House together and we all marched in and, at the same time, had them sign the discharge petition. At that point, names could not be taken off, and we had a vote on the balanced budget amendment to the Constitution.

I am disappointed to say that in 1982, the House of Representatives did not have the votes to adopt the balanced budget amendment to the Constitution. I think the history of our country would be different if we had had those votes. I think long-term interest rates would be in the range of 3 to 4 percent. I think the economy would be growing more rapidly. I think serving in Government would be part of the real world because, like every family and every business in America, we would have to say no and we would have to say it often. The difference is, in families people are saying no to those they love. In business, people are making hard decisions. But we do not make those decisions here in Congress because we are not forced to.

Thomas Jefferson, when he came back from France and saw the Constitution for the first time—he had been Minister to France when the Constitution was written—he said that if he could make one change in the Constitution, it would be a change that would limit the ability of the Federal Government to borrow money.

I am obviously proud tonight, as I know many of our colleagues are, that the House of Representatives, at long last and for the first time ever, has adopted a balanced budget amendment to the Constitution to fix a problem with the Constitution that no less authority than Thomas Jefferson recognized over 200 years ago.

We will have an opportunity next week to have a vote on the balanced budget amendment to the Constitution in the Senate. If we adopt it, it does not go to the President. He has no voice in a constitutional amendment. If we can adopt it, it will take 67 votes of the Senate. If we get 67 votes on that amendment, it will go to the States

and, when ratified by the States, it will become the law of the land. It will then force us to make hard decisions. It will force us to say no. It will change our country.

For those who came to Washington, in the House or the Senate, to change America, in the 15 years that I have had the pleasure of serving in the House and the Senate, this will be the first real vote that I will have ever cast that I believe will permanently change American history.

So I look forward to casting that vote. I think the House has now defined what the language should be. We have had a long debate over what should be included in the amendment.

I personally favored a three-fifths vote to raise taxes. I thought setting out a clear preference to control spending versus raising taxes to deal with the deficit was preferable. But the House of Representatives set out an amendment that does not have that provision. I think our chances of adopting this amendment now come down to our ability to get 67 votes for the amendment that passed the House.

I am very much for that amendment. I intend to vigorously support it. And if every Member of the Senate votes on that amendment the way they have voted in the past, and if our new Members who were Members of the House or who have taken a public position on it vote the same way they have in the House, that amendment will be adopted and it will be sent to the States.

I think there is always a question as to how people are going to vote now that we are shooting with real bullets, now that our individual votes might be the difference between having a balanced budget amendment to the Constitution and not having it.

I think, obviously, we as Members of the Senate have a right to be proud of our colleagues in the House. I think it does show that elections have consequences. Our House colleagues wrote a Contract With America, and in that contract, they said they would bring up a balanced budget amendment to the Constitution. They not only did it, but tonight they passed it. I am proud of them, and I long for next week when we will get an opportunity to join them in changing America and changing it for the better.

I yield the floor and suggest the absence of a quorum.

Mr. BRYAN addressed the Chair.

Mr. GRAMM. Madam President, I withdraw my request in suggesting the absence of a quorum.

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

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 184

Mr. BRYAN. I thank the Chair. Madam President, I want to speak for just a moment in support of the amendment offered by the distinguished senior Senator from Florida, Senator GRAHAM, dealing with the issue of immigration. I am proud to be a cosponsor of that amendment. I am proud to have worked with him on a number of immigration issues in the previous Congress.

As a former Governor and attorney general, I have long had deep concerns for the excessive Federal mandates that have placed a terrible strain on State and local resources.

I have felt firsthand the frustration that State and local government officials feel when Federal mandates require compliance, without regard to their own needs or financial priorities. The passage of both the immigration amendment and the unfunded mandate legislation will be an important step in restoring some of the confidence and trust in Congress that has been lost by State and local officials over the years.

I feel strongly that the relationship between the Federal, State, and local governments must be improved by limiting the level of financial and administrative burdens that Federal mandates impose. My colleagues, Senators GLENN of Ohio and KEMPTHORNE of Idaho, both members of the Senate Government Affairs Committee, worked long and hard with State and local officials to fashion a bill that would gain a broad base of support in the Senate.

One area, however, that has not been taken into account in the legislation before us is the impact upon our State and local governments of the Federal Government's immigration policy, or should I say lack of policy and enforcement. Senator GRAHAM's immigration amendment ensures that when the Senate is considering legislation containing a potential unfunded mandate in the area of immigration policy, that a budget point of order will be raised.

Although immigration policy is solely a Federal concern, States are required to provide emergency health care and education to undocumented immigrants who reside in our States, and pay for the costs of incarcerating undocumented alien criminals.

Last July I joined with Senator GRAHAM and others in approving funds to reimburse States for the costs associated with incarcerating illegal immigrants.

Without more responsible action from the Federal Government on this issue, the States are fighting a losing battle and the lives of all our citizens are directly impacted.

Our amendment last July and our amendment today should be sending a strong message to the Administration, to the INS, to the Justice Department and to the Congress: State and local governments will no longer pay for a failed Immigration Policy and Enforcement Program.

A reformed immigration policy and greatly improved enforcement effort are long overdue. This is not an issue that will quietly go away. Not when the problem grows bigger every day. Not when State governments are going broke because of failed Federal policies. I look forward to working more with Senator GRAHAM and Senator SIMPSON to push the needed reforms through this Congress.

VOTE ON AMENDMENT NO. 226

Mr. KEMPTHORNE addressed the Chair.

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

Mr. KEMPTHORNE. Madam President, I ask for the yeas and nays on the vote that is about to occur.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 226 offered by the Senator from Kansas [Mrs. KASSEBAUM] to amendment numbered 203. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

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

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

[Rollcall Vote No. 53 Leg.]

YEAS—99

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

NOT VOTING—1

Helms

So the amendment (No. 226) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Madam President, I move to table the Boxer amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from California. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—53

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

NAYS—46

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

NOT VOTING—1

Helms

So, the motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Madam President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE addressed the Chair.

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

VOTE ON AMENDMENT NO. 203, AS AMENDED

Mr. KEMPTHORNE. Madam President, would the next order be voting on the amendment as amended?

The PRESIDING OFFICER. That is correct.

The question now occurs on the Boxer amendment No. 203, as amended.

The amendment (No. 203), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 194, AS MODIFIED

Mr. KEMPTHORNE. Madam President, I move to table the next amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. KEMPTHORNE. I also ask unanimous consent that the next two votes be a 10-minute vote each.

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

The question now occurs on the motion of the Senator from Idaho [Mr. KEMPTHORNE] to table amendment No. 194, as modified, offered by the Senator from New Mexico [Mr. BINGAMAN]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

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

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—62

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

NAYS—37

Akaka	Dorgan	Levin
Biden	Exon	Lieberman
Bingaman	Ford	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Lautenberg	
Dodd	Leahy	

NOT VOTING—1

Helms

So the motion to lay on the table the amendment (No. 194), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Madam President, I ask unanimous consent that we vitiate the next rollcall vote.

Mr. GRAMM. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VOTE ON AMENDMENT NO. 184

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 184, as modified, offered by the Senator from Florida [Mr. GRAHAM].

An attempt was made to vitiate the yeas and nays, but an objection was made.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

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

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—93

Abraham	Dodd	Kennedy
Akaka	Dole	Kerrey
Ashcroft	Domenici	Kerry
Baucus	Dorgan	Kohl
Bennett	Exon	Kyl
Bingaman	Faircloth	Lautenberg
Bond	Feingold	Leahy
Boxer	Feinstein	Lieberman
Bradley	Ford	Lott
Breaux	Frist	Lugar
Brown	Glenn	Mack
Bryan	Graham	McCain
Bumpers	Gramm	McConnell
Burns	Grams	Mikulski
Byrd	Grassley	Moseley-Braun
Campbell	Gregg	Moynihan
Chafee	Harkin	Murkowski
Coats	Hatch	Murray
Cochran	Hatfield	Nickles
Cohen	Hollings	Packwood
Conrad	Hutchison	Pell
Coverdell	Inhofe	Pressler
Craig	Inouye	Pryor
D'Amato	Johnston	Reid
Daschle	Kassebaum	Robb
DeWine	Kempthorne	Rockefeller

Roth	Simpson	Thomas
Santorum	Smith	Thompson
Sarbanes	Snowe	Thurmond
Shelby	Specter	Warner
Simon	Stevens	Wellstone

NAYS—6

Biden	Heflin	Levin
Gorton	Jeffords	Nunn

NOT VOTING—1

Helms

So the amendment (No. 184), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I have a question to pose to the managers of the unfunded mandates bill. From my reading of the bill, a voluntary Federal program that is not under entitlement authority cannot fall within the definition of what is a Federal mandate under the pending bill. Am I correct in my reading?

Mr. KEMPTHORNE. That is correct.

Mr. ROTH. That is correct.

Mr. BIDEN. Let me pose an example, just to make sure I understand. Last year, the Congress passed the Violent Crime Control and Law Enforcement Act of 1994.

I was the principal author of the crime legislation and I included in the law a number of grant programs under which Federal funds would become available to those States and localities who choose to participate in the programs.

For example, title 1 of the crime law provides $8.8 billion to the States for the hiring of new police officers. The program requires those States and localities that voluntarily choose to participate, to provide matching funds as a requirement of obtaining Federal dollars.

Were this program offered in legislative form after the unfunded mandates bill becomes effective, it would not fall within the definition of a Federal mandate under the unfunded mandate bill's definition, because the police title is a voluntary program, is that correct?

Mr. KEMPTHORNE. As the Senator has described the program that is correct.

Mr. ROTH. That is correct.

Mr. BIDEN. Let me pose another example. Title 2 of the crime law provides $7.9 billion to the States to build and operate new boot camps for traditional prisons.

The program requires those States that voluntarily choose to participate to provide matching funds as a requirement of obtaining the Federal dollars.

It also requires those States that choose to participate to meet certain standards with regard to the length of time they keep violent prisoners behind bars.

Were this program offered in legislative form after the pending unfunded mandates bill becomes effective, it would not fall within the definition of a Federal mandate under the bill's definition, because the prison grant title is a voluntary program, is that correct?

Mr. KEMPTHORNE. If it is a voluntary Federal program that is correct.

Mr. ROTH. I concur.

Mr. BIDEN. Let me pose a third example.

Title 4 of the bill provides $1.62 billion to States and localities, for a variety of programs to combat rape, family violence, and the terrible effects they have primarily on the women of our Nation.

Most of these programs require those States or localities that choose to participate to provide matching funds as a requirement of obtaining the Federal dollars.

Some of these programs also require those States that choose to participate to meet certain standards with regard to the criminal justice policies relating to rape and family violence.

Were these programs offered in legislative form after the pending bill becomes effective, it would not fall within the definition of a Federal mandate under the bill's definition, because the violence against women grants are voluntary programs, is that correct?

Mr. KEMPTHORNE. As the Senator has described the program, that is correct.

Mr. ROTH. I concur.

Mr. BIDEN. Let me pose a fourth example. In titles 3 and 5, and in several other titles, the crime law provides Federal funds to States and localities for a variety of programs to prevent crime.

Many of these programs require those States or localities that choose to participate to provide matching funds as a requirement for obtaining the Federal dollars.

Some of these programs also require those States that choose to participate to meet certain standards with regard to the criminal justice policies relating to rape and family violence.

Were these programs offered in legislative form after the pending bill becomes effective—it would not fall within the definition of a Federal mandate under the bill's definition, because the prevention grants are voluntary programs, is that correct?

Mr. KEMPTHORNE. As the Senator has described the programs, that is correct.

Mr. ROTH. I concur.

Mr. BIDEN. Let me pose a final example. The crime law contains other grant programs in titles 18, 20, 21, 22, 23, 24, and 25, the crime law provides Federal funds to States and localities for a variety of law enforcement programs.

Some of these programs require those States or localities that choose to participate to provide matching funds as a requirement for obtaining the Federal dollars.

Some of these programs also require those States that choose to participate to meet certain conditions in carrying out the program.

Were these programs offered in legislative form after the unfunded mandates bill becomes effective, it would not fall within the definition of a Federal mandate under the bill's definition, because these are voluntary programs, is that correct?

Mr. KEMPTHORNE. That is correct. S. 1 is quite clear that a duty arising from participation in a voluntary Federal program, except under certain conditions in entitlement programs that exceed $500,000,000 or more provided annually to States, local governments and tribal governments, are not defined as mandates.

Mr. ROTH. I concur in the explanation made by the Senator from Idaho.

Mr. KEMPTHORNE. I ask unanimous consent that my responses to the questions from Senator LEVIN of yesterday be made a part of the RECORD.

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

RESPONSES TO SENATOR LEVIN'S QUESTIONS

Many of the questions raised by Senator Levin will depend on how the Senate applies the new point of order established in S. 1. This new point of order, like all rules of the Senate, will be interpreted and applied based on the precedents of the Senate.

EFFECTIVE DATE

1. When is a mandate effective?

This is best answered in the proposed new section 408(1)(B) of the bill regarding CBO's duties in making cost estimates. Clause (i) of this subparagraph addresses the issue of the effective date by stating:

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

This language indicates that the effective date is based on whatever is stated in a mandate bill. If a mandate bill is unclear on the effective date, then the parenthetical regarding implementing regulations suggests that the effective date would be based on when the implementing regulations would take effect. In the case of spending estimates, CBO often makes a determination on when a bill would cause spending, generally, assuming an October 1 enactment. We expect that CBO would make a similar determination in the case of Federal mandates in order to produce a cost estimate.

2. If that is determined on a case by case basis, then who makes the decision and when is that decision made?

The first decision-maker would be the authorizing committee. That committee could, in the legislative language, determine the effective date. Where the effective date is unclear, CBO, based on the legislation and information from the responsible agency or department, will make a determination on the effective date and so state that in their estimate. CBO currently makes such determinations in relation to spending bills.

In cases where there is no formal cost estimate, the language will be the first indicator. We expect the Presiding Officer to determine the application of the Act, based on the determination of the Federal mandate levels by the Budget Committee after consulting with CBO, and after consultation with the Governmental Affairs Committee. That determination will, by implication, include assumptions about the effective date. Ultimately, the full Senate will decide.

RANGE

1. Can the CBO estimate be a range? For purposes of the threshold? For purposes of the total cost estimate?

As discussed by the managers the other day, the intent of the authors is that CBO provide a point estimate on the direct costs of any Federal intergovernmental mandate. While nothing prevents CBO from giving a range on such estimated, we expect a range that straddles the threshold will be unlikely. First, CBO is aware that the threshold has procedural consequences and, second, CBO has several years of experience in estimating State and local costs.

2. If CBO reports a range, what is the ''specific dollar amount'' for purposes of the point of order? Who makes that decision?

The determination of mandate levels are based on estimates made by the Budget Committee, based on estimates from CBO. We expect CBO to provide point estimates. However, the report accompanying S. 1 expressed our intent that a presumption would arise that a point of order would apply to a measure if CBO estimates the direct costs as covering a range that straddles the threshold. Ultimately the Senate will decide.

AMENDMENTS

1. Are the direct costs of an amendment, added to a bill in committee, to be included in the estimate of direct costs of the bill as reported?

Yes. If the committee originated a bill, then any committee amendments would be incorporated as part of the original bill as reported. Therefore, the cost estimate would reflect the direct costs of the bill, as reported, including amendments adopted in committee.

Where the committee reports the bill with committee amendments, CBO produces cost estimates on the bill as reported including the amendments proposed by the committee. This is current practice.

2. What if the Senate rejects the committee amendment?

This question cannot be answered unless an assumption is made about the cost of the underlying bill and the effect of the committee amendment on the cost of the bill.

If the committee amendment would cause the threshold to be exceeded, then the defeat of the amendment would make the bill in order.

If the committee amendment would cause the bill to fall below the threshold, then the defeat of the amendment would cause the bill to be subject to a point of order.

3. Is an amendment offered on the floor subject to a point of order based on the estimate of direct costs of the amendment, alone, or the amendment if added to the bill?

The point of order is applicable against an amendment, if adoption of that amendment would cause the bill to exceed the threshold.

EXCLUSIONS

1. Who will decide whether a bill is subject to one of the exclusions?

Based on the compromise worked out between the Budget and Governmental Affairs Committees, the Presiding Officer is required to consult with the Governmental Affairs Committee, to the extent practicable, regarding the application of the point of order. This would include the determinations of whether legislation met one of the exclusions. As has already been stated ultimately the Senate decides the application of the rules.

2. What will specifically be required to meet the terms of the bill with respect to a finding of emergency?

The exclusion for emergencies (section 4(6)) is similar to provisions in the Budget Enforcement Act. In practice, in order for legislation to be exempt from a Budget Act point of order, the President must designate the funding as an emergency. This takes the form of a letter to the Congress. Next, Congress must include a provision in the bill designating the legislation as an emergency.

LENGTH OF ESTIMATE

1. Is the estimate for purposes of the threshold limited to direct costs in the first five years?

Yes, the first fiscal year the mandate takes effect and the subsequent four years.

2. Is the estimate for purposes of the point of order required to include direct costs over the entire life of the mandate?

Under the duties of CBO, the cost estimate is limited to the five year time-frame. Since determinations will be made based on CBO estimates, then the point of order will be based on the cost of the mandate for the first fiscal year the mandate takes effect and the subsequent four fiscal years.

EXPLANATION OF VOTE ON ROLL CALL VOTE NUMBER 24

Mrs. HUTCHISON. Mr. President, on Thursday, January 18, I voted against the Bradley/Chafee amendment expressing the sense of the Senate that mandates not funded by the Federal Government should not be passed on to local governments by the States in the form of higher property taxes.

I was one of five Senators to vote against the amendment, so it passed overwhelmingly, but I feel very strongly that the Federal Government has no right to tell the States what they should or should not do. It is one of the reasons we're trying to pass S. 1, legislation to curb Federal interference in the spending priorities of State and local governments.

Local governments were created by State governments and as such, States are uniquely charged with the responsibility for setting the terms of the existence of local governments.

A sense-of-the-Senate resolution, even though it is not binding, sends the wrong signal to States, and therefore I opposed the amendment.

AMENDMENT NO. 215, AS MODIFIED

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to send to the desk a modification to amendment No. 215, and I ask for its immediate consideration.

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

The amendment, as modified, is as follows:

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

''(2) AMENDED BILLS AND JOINT RESOLUTIONS: CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains a federal mandate not previously considered by either House or which contains an increase in the direct cost of previously considered federal mandate, then the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in paragraph (1) or a supplemental statement for the bill or joint resolution in that amended form.''

Mr. KEMPTHORNE. Mr. President, I do not know that there is further debate on this issue. I believe that both sides have agreed to accept this amendment.

Mr. GLENN. Mr. President, that is correct. We are prepared to accept it on our side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 215), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, it is our intent that this evening we will have a debate concerning an amendment between Senator GLENN and Senator DOMENICI, and other Senators who may wish to participate.

Prior to that, I ask unanimous consent that we yield 6 minutes to the Senator from Texas so that she may introduce an issue.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas is recognized for 6 minutes.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 287 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the Senator from New York [Mr. D'AMATO] to serve as cochairman of the Commission on Security and Cooperation in Europe.

MORNING BUSINESS

TRIBUTE TO JUDGE JAMES HARDIN FAULKNER

Mr. HEFLIN. Mr. President, a fine friend of mine, Judge James Hardin Faulkner, passed away last December.

I had the opportunity to get to know Judge Faulkner well during the 4 years we served together on the Alabama Supreme Court. He was a distinguished jurist with a wonderful outlook on life.

James was originally from Louisville, MS. Upon graduation from high school, he enlisted in the U.S. Marine Corps out of love for his country. His

patriotism can be seen through the various medals he earned while in the service. These medals include the Silver Star, the Distinguished Flying Cross, the Soldiers Medal, the Air Medal with oak leaf clusters, and the Greek Military Cross and Presidential Citation.

Upon discharge from the service, James attended San Diego State College and the University of Alabama, from which he received his law degree. He went on to get his master's in law in 1983.

His career includes an appointment to the U.S. Treasury Department where he was a trust officer with the Birmingham Trust National Bank. Additionally, he served as a recorder's court judge and Montevallo city attorney. He then served in the Alabama Supreme Court until his retirement in 1986.

Judge Faulkner was known by many through his affiliations with the Episcopal Church of the Advent, the Masonic Order, Phi Alpha Delta Law Fraternity, and the Bar Association of Alabama.

My deepest condolences are extended to Judge Faulkner's wife, Eleanor Jane Wyatt Faulkner; his daughter Kate Margaret Brown; and his son, James Christopher Faulkner.

TRIBUTE TO RICHARD B. ''DICK'' BIDDLE

BE A GOOD AMERICAN; BE AN INFORMED AMERICAN

Mr. HEFLIN. Mr. President, this was the distinctive TV editorial sign-off used in every commentary by a leading Alabamian, Richard B. (Dick) Biddle on WOWL–TV of Florence, AL. Dick took every opportunity to encourage others to stay abreast of current events and become solid, responsible citizens. In this area, he was a man who actively practiced what he preached. I am therefore saddened to notify you that Dick Biddle, civic leader and television broadcasting pioneer, died during the Congressional recess, at his home in Florence, AL, at the age of 76.

He is remembered for his tremendous work and creativity in broadcasting and for his years of dedication to uniting and promoting the Shoals. Over the years, he served as president of the Alabama Broadcasters Association, chairman and founder of the Alabama Citizen of the Year Committee, and chairman of the Northwest Alabama Film Commission. Dick played a large part in organizing Junior Achievement in the area and was a charter member in the Regional Environmental Quality Council. He was named Alabama Broadcaster of the Year in 1982, Kappa Sigma Alumnus Advisor of the Year in 1984, and Shoals Citizen of the Year in 1992. As impressive as this resume is, it is only a brief listing of his many activities and honors.

Professionally, Mr. Biddle leaves behind a legacy in WOWL–TV, which he founded in 1957. However, he is remembered just as well for being one to help those in need in the community and for giving many people their start in broadcasting.

Dick Biddle will be missed greatly by the broadcasting community and by all who knew him, myself included.

My sincerest condolences are extended to his family, the Shoals community and the citizens of Alabama, who will miss the charity and commitment of this fine man.

MRS. ROSE KENNEDY

Mr. HATCH. Mr. President, when we think of national treasures, we usually consider marble monuments, history-altering documents, or profound words inscribed on walls or safeguarded in archives.

I rise today to pay tribute to another national treasure—the life of Rose Fitzgerald Kennedy. Although her death diminishes us all a little, her life and the profound legacy she leaves will outshine that loss and continue to act as an inspiration for millions.

Mrs. Kennedy built her life on the twin pillars of family and faith. She considered the abundance she was born into a responsibility and an obligation. Accordingly, she turned affluence into influence, carefully teaching her posterity the virtues of public service. She used her position not to elevate herself, but rather as a platform from which to reach out to millions in compassion. She ennobled and enriched lives that otherwise may not have been thus blessed.

When crushing tragedy came into her own life, she triumphed; and she did so through service. She overcame by reaching out. She lived her faith. She embodied her ideals. She worked tirelessly to bring comfort to others, whose problems were often less grievous than her own.

Mrs. Kennedy's legacy lives on. More enduring than words inscribed in stone or public monuments, Mrs. Kennedy's memory will continue to thrive because it will be reborn innumerable times in the ongoing contributions of her children, grandchildren and great grandchildren and in the enhanced lives of countless other beneficiaries of her good works.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS SAID YES

Mr. HELMS. Mr. President, I doubt that there have been many, if any, candidates for the Senate who have not pledged to do something about the enormous Federal debt run up by the Congress during the past half-century or more. But Congress, both House and Senate, have never up to now even toned down the deficit spending that sent the Federal debt into the stratosphere and beyond.

We must pray that this year will be different, that Federal spending will at long last be reduced drastically. Indeed, if we care about America's future, there must be some changes.

You see, Mr. President, as of the close of business yesterday, January 25, the Federal debt stood (down to the penny) at exactly $4,800,103,843,645.88. This means that on a per capita basis, every man, woman and child in America owes $18,211.28 as his or her share of the Federal debt.

Compare this, Mr. President, to the total debt about 2 years ago—January 5, 1993—when the debt stood at exactly $4,167,872,986,583.67—or averaged out, $15,986.56 for every American. During the past 2 years—that is, during the 103rd Congress—the Federal debt increased over $6 billion.

This illustrates, Mr. President, the point that so many politicians talk a good game—at home—about bringing the Federal debt under control, but vote in support of bloated spending bills when they get back to Washington. If the Republicans do not do a better job of getting a handle on this enormous debt, their constituents are not likely to overlook it 2 years hence.

APPOINTMENT OF CONGRESSIONAL TRADE ADVISERS

Mr. THURMOND. Mr. President, I rise to announce that pursuant to section 161(a) of the Trade Act of 1974 (Public Law 93–618), as amended by the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418), and upon the recommendation of the chairman of the Senate Committee on Finance, the following members of the Committee on Finance have been designated by the President pro tempore of the Senate as congressional advisers on trade policy and negotiations: Senator BOB PACKWOOD of Oregon, Senator ROBERT DOLE of Kansas, Senator WILLIAM ROTH of Delaware, Senator DANIEL MOYNIHAN of New York, and Senator MAX BAUCUS of Montana.

The Senators designated shall provide advice on the development of trade policy and priorities for the implementation thereof.

The United States Trade Representative has been notified of this action. Under the governing statute, the designated Senators shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the U.S. delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

IN HONOR OF SUE WAGNER

Mr. REID. Mr. President, I would like to take this time to pay tribute to an exceptional Nevadan. On Tuesday, January 31st, Sue Wagner, of Reno, will receive the Women Executives in State Government's ''Breaking the Glass Ceiling'' award. There is no one more deserving than Sue Wagner, for she has never allowed a gender barrier to limit her.

Sue Wagner followed her passion for helping people to the political arena in 1973 when she began a successful career in the Nevada Legislature culminating in the job of Lieutenant Governor in 1990. She is the first woman to hold this position in Nevada.

More important than her exceptional accomplishments is the manner in which they were achieved. Sue has exemplified statesmanship, always acting with common sense, compassion, and competence. In this generation, when the public is often justifiably skeptical of public officials, it is important to recognize and emulate the honest and enthusiastic ways Sue has served the public. She has unselfishly championed issues that transcend partisanship like ethics in politics and human rights.

Sue Wagner's devotion to Nevada and her family has never waned despite the tragedies that have plagued her over the last decade. Fourteen years ago, Sue lost her husband to a plane crash. Four years ago, while campaigning for Lieutenant Governor, Sue was also in a plane crash. This time the crash claimed the life of her friend, Judy Seale, and caused serious injury to herself requiring her spine to be fused. Even today, Sue suffers from severe pain and fatigue.

Despite these hardships, she has continued to vigorously serve Nevada and be a loving parent. Her son Kirk will soon receive a law degree from the University of Arizona and her daughter Kristina recently finished her graduate degree from Thunderbird.

I have great respect for Sue Wagner, and admire her courage and perseverance. I am pleased the Women Executives in State Government is honoring her with the ''Breaking the Glass Ceiling'' award.

RULES OF THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND. Mr. President, today I am reporting to the Senate the rules of the Armed Services Committee as provided for in Rule 26.2 of the Standing Rules of the Senate. These rules were unanimously adopted by the committee in open session on January 10, 1995, and I ask that they be printed in the RECORD.

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

ARMED SERVICES COMMITTEE RULES OF PROCEDURE

1. Regular Meeting Day and Times. In accordance with Senate rules, the Committee shall meet at least once a month. Regular meeting day of the committee shall be Tuesday and Thursday at 9:30 a.m., unless the chairman directs otherwise.

2. Additional Meetings. The chairman may call such additional meetings as he deems necessary.

3. Special Meetings. Special meetings of the committee may be called by a majority of the members of the committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

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

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

(b) will relate solely to matters of committee staff personnel or internal staff management or procedure;

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

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

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

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

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

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

5. Presiding Officer. The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member present at the meeting or hearing shall preside unless by majority vote the committee provides otherwise.

6. Quorum. (a) A majority of the members of the committee are required to be actually present to report a matter or measure from the committee. (See Standing Rules of the Senate 26.7(a)(1).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, seven members of the committee shall constitute a quorum for the transaction of such business as may be considered by the committee.

(c) Three members of the committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. Proxy Voting. Proxy voting shall be allowed on all measures and matters before the committee. The vote by proxy of any member of the committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. Proxy must be given in writing.

8. Announcement of Votes. The results of all roll call votes taken in any meeting of the committee on any measure, or amendment thereto, shall be announced in the committee report, unless previously announced by the committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the committee who was present at such meeting. The chairman may hold open a roll call vote on any measure or matter which is before the committee until no later than midnight of the day on which the committee votes on such measure or matter.

9. Subpoenas. Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued by the chairman or any other member designated by him, but only when authorized by a majority of the members of the committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. Hearings. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the committee or subcommittee conducting such hearings.

(d) Witnesses appearing before the committee shall file with the clerk of the committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the chairman and the ranking minority member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(e) Confidential testimony taken or confidential material presented in a closed hearing of the committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the committee or subcommittee.

(f) Any witness summoned to give testimony or evidence at a public or closed hearing of the committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(g) Witnesses providing unsworn testimony to the committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the chairman.

11. Nominations. Unless otherwise ordered by the committee, nominations referred to the committee shall be held for at least seven (7) days before being voted on by the committee. Each member of the committee shall be furnished a copy of all nominations referred to the committee.

12. Real Property Transactions. Each member of the committee shall be furnished with

a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the chairman of the committee within thirty (30) days from the date of submission.

13. Legislative Calendar. (a) The clerk of the committee shall keep a printed calendar for the information of each committee member showing the bills introduced and referred to the committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the committee. A copy of each new revision shall be furnished to each member of the committee.

(b) Unless otherwise ordered, measures referred to the committee shall be referred by the clerk of the committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the committee. Each subcommittee of the committee is part of the committee, and is therefore subject to the committee's rules so far as applicable.

15. Powers and Duties of Subcommittees. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the chairman and other subcommittee chairmen, with a view toward avoiding simultaneous scheduling of full committee and subcommittee meetings or hearings whenever possible.

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–263. A communication from the Chairman of the Commission on the Social Security ''Notch'' Issue, transmitting, pursuant to law, the final report of the Commission; to the Committee on Finance.

EC–264. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the memorandum of justification relative to Serbia and Montenegro; to the Committee on Foreign Relations.

EC–265. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the Presidential Determination relative to Peru; to the Committee on Foreign Relations.

EC–266. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the Presidential Determination relative to the U.S. Emergency Refugee and Migration Assistance Fund; to the Committee on Foreign Relations.

EC–267. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the Presidential Determination relative to the Newly Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC–268. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–269. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the Presidential Determination relative to the New Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC–270. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, the report of the Secretarial Plan for the Grand Coulee Dam Settlement Agreement; to the Committee on Indian Affairs.

EC–271. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, the report of a recommendation relative to the Community Enterprise Board; to the Committee on Indian Affairs.

EC–272. A communication from the Chief Administrative Officer of the Postal Rate Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–273. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–274. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on progress in achieving the performance goals relative to the Prescription Drug User Fee Act; to the Committee on Labor and Human Resources.

EC–275. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the implementation of the Voluntary National Child Abuse and Neglect Data System for calendar year 1993; to the Committee on Labor and Human Resources.

EC–276. A communication from the Chairman of the Barry M. Goldwater Scholarship and Excellence In Education Foundation, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Labor and Human Resources.

EC–277. A communication from the Secretary of Labor, transmitting, pursuant to law, notice of an intention to award a sole-source contract; to the Committee on Labor and Human Resources.

EC–278. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92-04; to the Committee on Appropriations.

EC–279. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93-12; to the Committee on Appropriations.

EC–280. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-04; to the Committee on Appropriations.

EC–281. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of the certification of the Board for International Broadcasting; to the Committee on Appropriations.

EC–282. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–283. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of the National Space Grant College and Fellowship Program for calendar year 1993; to the Committee on Commerce, Science, and Transportation.

EC–284. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Commerce, Science, and Transportation.

EC–285. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the application of Tiltrotor technology to U.S. Coast Guard missions; to the Committee on Commerce, Science, and Transportion.

EC–286. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled ''Information Superhighway: An Overview of Technology Challenges''; to the Committee on Commerce, Science, and Transportation.

EC–287. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report entitled ''Annual Energy Outlook 1995''; to the Committee on Energy and Natural Resources.

EC–288. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of progress on Superfund implementation in fiscal year 1994; to the Committee on Environment and Public Works.

EC–289. A communication from the Chairman of the National Mediation 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–290. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Governmental Affairs.

EC–291. A communication from the Director of the Office of Congressional Affairs, U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–292. A communication from the National Women's Business Council, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Small Business.

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. HOLLINGS:

S. 278. A bill to authorize a certificate of documentation for the vessel *Serenity;* to the Committee on Commerce, Science, and Transportation.

S. 279. A bill to authorize a certificate of documentation for the vessel *Why Knot;* to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 280. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide that the definition of ''local government'' includes certain nonprofit camp meeting associations that maintain public facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 281. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961; to the Committee on Veterans Affairs.

By Mr. BRADLEY (for himself, Mr. HATFIELD, and Mr. WELLSTONE):

S. 282. A bill to authorize the Secretary of Health and Human Services to award grants and contracts to establish domestic violence community response teams and a technical assistance center to address the development and support of such community response teams, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 283. A bill to extend the deadlines under the Federal Power Act applicable to two hydroelectric projects in Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself and Mr. INHOFE):

S. 284. A bill to restore the term of patents, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. SIMON, and Mr. THOMAS):

S. 285. A bill to grant authority to provide social services block grants directly to Indian tribes, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. THOMAS, and Mrs. KASSEBAUM):

S. 286. A bill to amend the Solid Waste Disposal Act to grant State status to Indian tribes for purposes of the enforcement of such Act, and for other purposes; to the Committee on Indian Affairs.

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BENNETT, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOLE, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. INHOFE, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KYL, Mr. JEFFORDS, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PRESSLER, Mr. ROTH, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. BREAUX, Mrs. FEINSTEIN, Mr. JOHNSTON, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REID, Ms. MOSELEY-BRAUN, and Mr. SIMON):

S. 287. A bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. WARNER, and Mr. ROBB):

S. 288. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs. FEINSTEIN, Mr. CAMPBELL, and Mrs. KASSEBAUM):

S. 289. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. KEMPTHORNE (for Mr. DOLE (for himself, Mr. THOMPSON, and Mr. INHOFE)):

S. 290. A bill relating to the treatment of Social Security under any constitutional amendment requiring a balanced budget; read the first time.

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Ms. SNOWE, Mr. SPECTER, and Mr. WELLSTONE):

S.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; 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. BRADLEY (for himself, Mr. D'AMATO, Mr. DOLE, Mr. DASCHLE, Mr. PELL, Mr. HELMS, Mr. SPECTER, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. HARKIN, Mr. BAUCUS, and Ms. MIKULSKI):

S. Res. 74. A resolution commemorating the fiftieth anniversary of the liberation of the Auschwitz death camp in Poland; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 278. A bill to authorize a certificate of documentation for the vessel *Serenity;* to the Committee on Commerce, Science, and Transportation.

TRADING PRIVILEGES LEGISLATION

● Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Serenity*, official number 1021393, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, United States Code.

The *Serenity* was constructed in Taiwan in 1981 as a recreational vessel. It is 31 feet in length, 10.3 feet in breadth, has a depth of 6.3 feet, and is self-propelled.

The vessel was purchased in 1994 by John McGlynn of Mount Pleasant, SC, who purchased it with the intention of chartering the vessel for short sailing tours of the Charleston harbor. Due to the fact that the vessel was foreign built, it did not meet the requirements for coastwise trading privileges in the United States.

The owner of the *Serenity* is seeking a waiver of the existing law because he wishes to use the vessel for charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Serenity* to engage in the coastwise trade and the fisheries of the United States.●

By Mr. HOLLINGS:

S. 279. A bill to authorize a certificate of documentation for the vessel *Why Knot*; to the Committee on Commerce, Science, and Transportation.

TRADING PRIVILEGES LEGISLATION

● Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Why Knot*, official number 688570, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, U.S. Code.

The *Why Knot* was constructed in Taiwan in 1985 as a recreational vessel. It is 44 feet in length, 13.5 feet in breadth, has a depth of 7.8 feet, and is self-propelled.

The vessel was purchased by Keith Rogerson of Isle of Palms, South Carolina, who purchased it with the intention of chartering the vessel for short sailing tours of the Charleston harbor. Due to the fact that the vessel was foreign built, it did not meet the requirements for coastwise trading privileges in the United States.

The owner of the *Why Knot* is seeking a waiver of the existing law because he wishes to use the vessel for charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Why Knot* to engage in the coastwise trade and the fisheries of the United States.●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 280. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide that the definition of ''local government'' includes certain nonprofit camp meeting associations that maintain public facilities, and for other purposes; to the Committee on Environment and Public Works.

THE STAFFORD ACT AMENDMENT ACT OF 1995

● Mr. LAUTENBERG. Mr. President, I am pleased to introduce legislation that would ensure eligibility for disaster assistance for a New Jersey

beachfront community that, because of a loophole in current law, cannot receive Federal funding should a storm destroy its beach. I am delighted that my friend and colleague from New Jersey, Senator BILL BRADLEY, joins me as a cosponsor.

The Ocean Grove Camp Meeting Association, located in Neptune, NJ, is a private nonprofit association with a rich history of community involvement. Its beach is open to the public and is operated as a separate utility, like all other municipalities along the New Jersey shore.

Mr. President, if a storm were to hit New Jersey tomorrow and destroy the Ocean Grove community, FEMA would be able to assist the communities to the north and to the south of its beach, but not Ocean Grove, merely because the title to the beach is owned by a private nonprofit. If a municipality owned title, the beach would be operated in exactly the same manner, and would be eligible for Federal funding—therein lies the dilemma.

Mr. President, Ocean Grove is a unique situation. I have crafted the language to ensure that this dilemma is fairly resolved. My bill does not expand the eligibility for a whole class of facilities. It allows a private nonprofit in name only to be afforded the same protection from storms as every other beach/front community.

The Ocean Grove Camp Meeting Association boasts a rich history that was recognized by the Federal Government when it granted it a national historic district. Founded in 1869 to provide a respite from the urban and industrial growth that, even then, was threatening New Jersey's remaining open spaces, the camp was originally established as a meeting ground for members of the Methodist Episcopal Church.

Today, Ocean Grove is one of the few camp meeting sites left that remains true to its original goals, and still holds camp meetings every summer. The association hosts speakers and town meetings, and is an integral part of the surrounding community. The camp, and its beach, is certainly not operated as a private beach—it is open and embraced by the public.

Mr. President, this bill establishes fairness to this small New Jersey community, by ensuring eligibility for disaster assistance. Without this eligibility, Ocean Grove alone would be required to foot the entire bill to rebuild the community's facilities, should disaster strike.

Ocean Grove suffered severe damage to its facilities during the 1992 nor'easter. FEMA provided 75 percent of the funding for repair. Due to recent changes in the statute, Ocean Grove would no longer be eligible. Should another storm strike, Ocean Grove would not be able to rebuild its facilities on its own.

Mr. President, the Ocean Grove Camp Meeting Association operates its beach as if it were a municipality—it's open, it's public, it's part of the community. It is no different from any other Jersey shore community, and should be afforded the same protection.

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

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

S. 280

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

SECTION 1. DEFINITION OF LOCAL GOVERNMENT.

Section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(6)) is amended—

(1) by striking ''government' means (A) any'' and inserting the following: ''government'—

''(A) means any'';

(2) by striking ''organization, and (B) includes any'' and inserting the following: ''organization; and

''(B) includes—

''(i) any'';

(3) by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(ii) any nonprofit camp meeting association, in existence on the date of enactment of this clause, that maintains 1 or more public facilities.''.●

● Mr. BRADLEY. Mr. President, I am pleased today to join my friend and colleague Senator FRANK LAUTENBERG in introducing legislation to protect a unique community along the shore of New Jersey. Under current law, the community is being punished for the very attributes we should be striving to preserve.

The Ocean Grove Camp Meeting Association was founded in the late 1800's, as a meeting ground for members of the Methodist Episcopal Church. It was an escape from the pressures of urban life then, and it remains so today for the hundreds of tourists who visit its beach and its historic sites every summer.

But if a storm were to hit the coast of New Jersey, Mr. President, there would be no more visitors to the boardwalk and no more vacationers on the beach. While the Federal Emergency Management Agency would be able to assist every municipality along the coast in rebuilding its recreational facilities, Ocean Grove would be excluded. It would not be excluded because the beach isn't public—Ocean Grove's beach is as indiscriminately open to the public as any other beach along the shore. It would be excluded, Mr. President, because Ocean Grove's proud history means that they are a private, non-profit organization.

Under new FEMA regulations, recreational services of such organizations are no longer eligible for disaster assistance. If a storm were to hit the coast of New Jersey, Ocean Grove—and only Ocean Grove—would not be able to turn to the Federal Government for help.

We have already recognized the importance of Ocean Grove by declaring it a national historic district, and anyone who visits the community and walks its streets will see why. Structures like the Great Auditorium, built in 1894, and the Continental Cottage, restored by the Historical Society of Ocean Grove to its original gothic style of 1874, contribute to what is the largest aggregate of Victoriana in the country. The government now needs to recognize that the facilities of such a unique community deserve to be protected, should disaster strike.

During the storm that hit the coast of New Jersey in 1992, Ocean Grove suffered severe damage. it was able to repair its facilities only due to the assistance of FEMA. Now the rules have been changed, and Ocean Grove is to be excluded from this assistance. We need to recognize this as an unfair punishment for a community's unique history, and change that rule. That is what this legislation will do.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 281. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961; to the Committee on Veterans' Affairs.

VIETNAM VETERANS' LEGISLATION

● Mr. D'AMATO. Mr. President, you do not have to be a history major to wonder at how Congress settled on August 5, 1964, as the date of the beginning of the Vietnam war for the purposes of veterans benefits. August 5, 1964, is the day after the wrapup of the Tonkin Gulf incident, and 2 days before the passage of the Tonkin Gulf resolution. It has an arbitrariness about it that could only have been driven by the political sensitivities of the time.

For a variety of reasons, few in government during the early 1960's wanted to admit the depth and breadth of American involvement in the war in Vietnam. Thirty years later, the practical result of that reticence is that hundreds of members of the Armed Forces continue not to have their service in Vietnam recognized.

To put an end to this injustice, the senior Senator from New York [Mr. MOYNIHAN] and I have introduced legislation changing the date of the Vietnam war for the purposes of veterans benefits from August 5, 1964, to December 22, 1961. The significance of December 22, 1961, is as follows.

Prior to late 1961, the United States had kept South Vietnam at arm's length, providing assistance and training personnel, but avoiding combat. In November 1961, responding to the recommendations of a fact-finding mission to Saigon led by Gen. Maxwell Taylor, Secretary of State Dean Rusk, and Secretary of Defense Robert McNamara provided President Kennedy with a joint memorandum urging that ''[t]he United States should commit itself to the clear objective of preventing the fall of South Viet-Nam to Communism.''

That memorandum, incorporated into NSAM 111, changed the character of American involvement in the war from a purely advisory role to one of ''limited partnership,'' as General Taylor put it. American military personnel became direct participants in the conflict. On December 22, 1961, Spec. 4 James T. Davis was killed in a firefight, the first U.S. ground combat casualty of the war.

It is in recognition of Specialist 4 Davis' sacrifice, and the sacrifice of the many who followed, living and dead, between December 22, 1961, and August 5, 1964, that we offer our legislation.

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. 281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(29) of title 38, United States Code, is amended by striking out ''August 5, 1964'' and inserting in lieu thereof ''December 22, 1961.''●

By Mr. BRADLEY (for himself, Mr. HATFIELD, and Mr. WELLSTONE):

S. 282. A bill to authorize the Secretary of Health and Human Services to award grants and contracts to establish domestic violence community response teams and a technical assistance center to address the development and support of such community response teams, and for other purposes; to the Committee on Labor and Human Resources.

THE DOMESTIC VIOLENCE COMMUNITY RESPONSE TEAM ACT OF 1995

Mr. BRADLEY. Mr. President, I rise today, with my distinguished colleagues, Senator HATFIELD and Senator WELLSTONE, to introduce the Domestic Violence Community Response Team Act of 1995. It is a bill designed to fortify America's front lines in the fight against spousal abuse and domestic violence in America. Those front lines are not found here in Washington, but in community-based organizations throughout the country.

Domestic violence is a social sickness, and women and children are its most common casualties. Violence against women in the home is a heinous crime being committed behind locked doors and pulled shades in cities and towns across America. America's dark little secret, however, is slowly coming out into the open.

Mr. President, the physical abuse suffered by Nicole Brown Simpson in Los Angeles, as detailed in the infamous 911 call that was broadcast on television, will forever remind us of the fear many women live with day to day. In many ways, this case has prompted an entire nation to come to terms with our crisis of domestic violence.

Mr. President, a policeman recently said, ''The most dangerous place to be is in one's home between Saturday night at 6 p.m. and Sunday at 6 p.m.'' He forgot to add, ''Especially if you're a woman.'' a 10-year study found that in cases where the identity of the killer is known, over one-half of all women murdered in America were killed by a current or former male partner or by a male family member. Studies have also shown that violence against women in the home causes more total injuries to women than rape, muggings, and car accidents combined.

In my home State of New Jersey, there were 66,248 domestic violence offenses reported by the police in 1993. Overall, women were the victims in 83 percent of all domestic violence offenses. Mr. President, 41 women lost their lives as a result of domestic violence disputes in my home State in 1993. These are not nameless, faceless statistics, Mr. President, these are women who endured torture and abuse during their marriages and were violently murdered.

Mr. President, these are women like Denise Alaouie, who was axed to death in her New Jersey home while her two daughters slept. Her husband surrendered to police shortly after he allegedly took a 14-inch ax and committed the murder. Four months before Denise Alaouie's death, her husband put a knife to her neck and threatened to kill her if she went through with a divorce. He then threatened to commit suicide. Denise Alaouie decided not to leave her husband because he threatened to withhold money for rent and child support. She is now dead—another tragic victim of domestic violence.

These are women like Kathleen Quagliani, whose husband smashed her skull with a baseball bat because she planned to divorce him. Six weeks before her death, she wrote to her attorney that during her 18-year marriage, the abuse was so devastating that it drove her to attempt suicide. The Catholic-school teacher had vowed to end her marriage to save her two sons from a devastating cycle of violence. However, her 12-year-old son watched her mother's body being smashed by the brutal blows on the kitchen floor. Her husband is currently serving a life sentence for the murder.

Mr. President, these are women like Valerie Van Dunk, Virginia Burghardt, Katherine Gallagher, Pamela Dare, Carmen Sanchez, and Joan Oppenheimer. These are women that could possibly have been saved if resources were available to assist them in getting out of violent domestic situations.

Mr. President, I know that it is hard to listen to these tragic stories; indeed, it is difficult for me to stand here and tell these tales of horror. However, if we continue to turn our heads, avert our eyes, and pretend that this problem does not exist, the brutality will continue and there will be more Kathleen Quagliani's, more Denise Alaouie's, and more children who will be motherless.

Mr. President, to counter domestic violence, we need to get it out of the closet and then help women find a way out of a brutal environment. When a women is a victim of domestic violence, she needs to have a place to go. She needs someone who knows what her legal rights are, and how to prevent future beatings from occurring. She needs counseling and protection for herself and her children, and she needs support.

I have said again and again that much of what must be done to counter the rising tide of violence in America lies beyond the reach of the Federal Government. The responsibility is shared and the fight must be won by individuals and communities across this country. Mr. President, nothing provides a better example of this than the community-based organizations that work with local law enforcement agencies every day to protect the rights—and the lives—of battered women.

Mr. President, our police do an outstanding job of fighting crime in our communities, but often they don't have the resources or the time to provide domestic violence victims with the special attention they need. Community response teams work in tandem with police to help victims of domestic violence right when a crisis occurs. By working together, community response teams and police can provide victims with the services so essential to them after they have been battered or beaten in their home. The bill I am introducing today will increase the ability of communities to coordinate all the resources available to citizens who are victims of domestic abuse.

The cooperation between volunteers and law enforcement groups is essential to providing services to victims of domestic violence. Such programs exist today, and they work. They are working in towns like South River, N.J. There, the community has come together with the local police, led by Chief Frank Eib, to form a community response team that has made a tremendous difference to the well-being of families in the community. With the help of people like Paula Bollentin, a police dispatcher who also volunteers her time to help with a community response team, South River is winning its fight against domestic violence.

Mr. President, an increasing number of jurisdictions in the State of New Jersey are employing community response teams. For example, in Middlesex County, which includes South River, there are currently five jurisdictions with community response teams. South River, with a population of approximately 15,000, has a community response team employing 7 community volunteers. In Woodbridge, a community response team of approximately 30 volunteers is serving a population of 100,000. These community response teams, serving both large and small communities, are effectively assisting

women who are suffering physical and mental abuse.

Mr. President, it is through partnerships such as the ones that exist in New Jersey between police and community response teams that communities can best combat the scourge of violence in the home. Women in my State are increasingly able to find shelter, obtain medical treatment, receive counseling, and protect their children from the violent rage of spouses—all due to the efforts of strong community-based programs. Through them, women can see that they are not alone.

Mr. President, the legislation I am introducing today will increase the ability of communities to pool their resources in the fight against violence in the home. The Domestic Violence Community Response Team Act of 1995 will provide funding to establish new partnerships between community response teams and police, and will enable existing ones to grow. An effective partnership will provides police action to enforce the law and hold batterers criminally liable, and CRT community advocates to provide information and support to victims. Through this legislating, law enforcement officials will be able to help more women in more big cities and small towns across America.

This bill enables the Secretary of the Department of Health and Human Services to award grants and contracts to organizations whose primary purpose involves working with police to intervene in cases of domestic violence. These teams will have the ability to respond to the specific needs of different racial and ethnic communities across the country. Most importantly, they will work closely with police to provide services to victims of domestic violence.

This bill will also establish a national technical assistance center to provide community-based organizations with information, training, and materials on the development and support of community response teams. This national facility will provide much-needed support to community programs, including help to local groups in starting new programs.

Mr. President, this bill does not require a massive outlay of Federal dollars or the creation of an extensive Federal bureaucracy. This bill simply requires an appropriation of seed money which will assist community residents in creating and strengthening local community response teams. This bill empowers local communities to take the initiative and become involved in solving a problem of tragic proportions.

Mr. President, if domestic violence is to be obliterated in our society, we need to provide communities with the resources they need to prevent instances of violence and protect victims from further abuse. The Domestic Violence Community Response Team Act of 1995, by strengthening the partnerships that exist between community response teams and local police, will help to provide those resources. By doing so, it will strengthen the lines of defense that already exist within our communities.

Mr. President, I ask unanimous consent that the full 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. 282

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Domestic Violence Community Response Team Act of 1995''.

SEC. 2. PURPOSE.

The purposes of the Act are to—

(1) establish and strengthen the partnership between law enforcement and community groups in order to assist victims of domestic violence;

(2) provide early intervention and followup services in order to prevent future incidents of domestic violence; and

(3) establish a central technical assistance center for the collection and provision of programmatic information and technical assistance.

SEC. 3. GRANTS AUTHORIZED FOR COMMUNITY RESPONSE TEAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary''), is authorized to award grants to encourage eligible entities to serve as community response teams to assist in the prevention of domestic violence. Grants awarded under this section shall be awarded in a manner that ensures geographic and demographic diversity.

(b) MAXIMUM AMOUNT.—The Secretary shall not award a grant under this section in an amount that exceeds $500,000.

(c) DURATION.—The Secretary shall award grants under this section for periods of not to exceed 3 years.

(d) ELIGIBILITY ENTITY.—

(1) IN GENERAL.—For purposes of this section, the term ''eligible entity'' means a nonprofit, community-based organization whose primary purpose involves domestic violence prevention, and who has demonstrated expertise in providing services to victims of domestic violence and collaborating with service providers and support agencies in the community.

(2) ADDITIONAL REQUIREMENTS.—In order to be considered an eligible entity for purposes of this section, an entity shall—

(A) have an understanding of the racial, ethnic, and lingual diversity of the community in which such entity serves as a community response team;

(B) be able to respond adequately to such community; and

(C) to the extent practicable, include personnel that reflect the racial ethnic, and lingual diversity of such community.

(e) ROLE OF COMMUNITY RESPONSE TEAMS.—Community response teams established pursuant to this section shall—

(1) provide community advocates to work (in conjunction with local police) with victims, immediately after incidents of domestic violence;

(2) educate victims of domestic violence about the legal process with respect to restraining orders and civil and criminal charges;

(3) discuss with such victims immediate safety arrangements and child care needs, and educate victims about resources provided by local agencies;

(4) provide for followup services and counseling with local support agencies;

(5) educate victims regarding abuse tactics, including increased incidence of violence that occurs after repeated episodes of violence; and

(6) act in partnership with local law enforcement agencies to carry out the purposes of this Act.

(f) APPLICATIONS.—

(1) IN GENERAL.—Applications for grants under this section shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) include a complete description of the eligible entity's plan for operating a community-based partnership between law enforcement officials and community organizations;

(B) demonstrate effective community leadership, commitment to community action, and commitment to working with affected populations;

(C) provide for periodic project evaluation through written reports and analysis in order to assist in applying successful programs to other communities; and

(D) demonstrate an understanding of the population to be served, including an understanding of the racial, ethnic, and socioeconomic characteristics that influence the roles of women and affect treatment.

(g) ADMINISTRATIVE EXPENSES.—Of the amount made available under section 5 for a grant under this section for a community response team, not more than 5 percent of such amount may be expended to cover the administrative expenses of the community response team.

SEC. 4. TECHNICAL ASSISTANCE CENTER.

(a) IN GENERAL.—The Secretary is authorized to award a contract to an eligible entity to serve as a technical assistance center under this Act. The technical assistance center shall—

(1) serve as a national information, training, and material development source for the development and support of community response teams nationwide; and

(2) provide technical support and input to community programs, including assisting local groups in the establishment of programs and providing training to community volunteer staff persons.

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' means a nonprofit organization with a primary focus on domestic violence prevention and demonstrated expertise in providing technical assistance, information, training, and resource development on some aspect of domestic violence service provision or prevention. An eligible entity shall be selected by the Secretary under this section based on competence, experience, and a proven ability to conduct national-level organization and program development. In order to be considered an eligible entity for purposes of this section, an entity shall provide the Secretary with evidence of support from community-based domestic violence organizations for the designation of the entity as the technical assistance center.

(c) ADMINISTRATIVE EXPENSES.—Of the amount made available under section 5 for a contract under this section for a technical assistance center, not more than 5 percent of such amount may be expended to cover the administrative expenses of the technical assistance center.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal years 1996, 1997, and 1998 to carry out the provisions of this Act, of which $300,000 shall be made available for a contract under section 4.

Mr. HATFIELD. Mr President, I am pleased to join my colleague from New Jersey in cosponsoring the Domestic Violence Community Response Team Act, and commend him for his work on this issue. Violence in the home is an insidious blight on our society. In Oregon, crisis hotlines receive over 50,000 phone calls each year. The vast pain caused by this problem cries out for creative approaches such as this.

Over the years, I have had occasion to view various proposals to reduce crime and violence, and have noticed that most of the truly successful ideas are rooted in the local communities where crimes occur. Government entities will never be able to stop crime by themselves, and certainly can not come into the millions of American homes where violence has ripped apart the fabric of family security.

I believe that the bill we introduce today can build upon a proposal that I introduced last year called the Domestic Violence Community Initiative Act, which passed as part of the crime bill. That new law will encourage cooperation among the education community, health care providers, the justice system, the religious community, business and civic leaders, State children's services divisions, and domestic violence program advocates. The idea for this approach came out of meetings I had on the topic of domestic violence with various community groups who needed more coordination in their attack on this pervasive problem.

The bill introduced today would allow the Secretary of HHS to make small grants for pilot projects for communities to link with local police to provide early intervention and follow-up services to victims of domestic violence by trained volunteers. The idea is to form a partnership with the police who perform the law enforcement and the advocates who do the victim counseling in these cases. This could be an excellent model for other communities, and is an example of making a little bit of money go a long way by forming alliances within communities.

Guarding against violence in our communities is a responsibility we all share. Without promoting widespread individual involvement, any attempts by government to stem the tide of domestic violence will fail. The Domestic Violence Community Response Team Act of 1995 deserves quick action in the Senate because it provides an innovative way to promote individual assistance to victims who badly need this help.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 283. A bill to extend the deadlines under the Federal Power Act applicable to two hydroelectric projects in Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL POWER ACT AMENDMENT ACT OF 1995

● Mr. SPECTER. Mr. President, I am pleased to introduce this legislation, which would extend the deadline for construction of two Pennsylvania hydroelectric power projects. These extensions are necessary because the Allegheny North Council of Governments and the borough of Cheswick (Project No. 4474) and the Potter Township Power Authority (Project No. 7041) received licenses from the Federal Energy Regulatory Commission and must commence construction prior to April 15, 1995, or face the loss of their licenses under section 13 of the Federal Power Act. On many occasions, Congress has granted similar noncontroversial extensions to licensees for projects in other States. I would further note that on October 5, 1994, the Senate adopted by voice vote an amendment extending the license for the Allegheny North Project No. 4474. That legislation passed the Senate, but failed to clear both houses prior to adjournment last year.

I am advised that the licensees for these two projects have been negotiating on power sales agreements, but have not yet been able to finalize these arrangements. This legislation would provide additional time for the municipal licensees to conclude their negotiations with potential power purchasers. In introducing this legislation, I am attempting to ensure that an arbitrary statutory deadline will not be the ultimate factor deciding the future of these projects. I am not expressing any personal views on whether the projects should go forward or on how the projects should be funded; that is clearly the responsibility of the municipal licensees and the residents of the boroughs and townships involved.

The Allegheny River project and the Ohio River project are two of several projects licensed for development in western Pennsylvania. Construction of these licensed power plants could permit Pennsylvania to use previously untapped hydroelectric energy, creating substantial environmental benefits and jobs for local residents.

I urge my colleagues to support this legislation and ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 283

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

SECTION 1. EXTENSION OF DEADLINE FOR PROJECT NUMBER 4474.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission (referred to in this Act as the 'Commission'), upon the request of the licensees for Commission Project No. 4474, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act and the Commission's procedures under such section, to extend until April 15, 2001, the time required for the licensees to commence construction of such project.

SEC. 2. EXTENSION OF DEADLINE FOR PROJECT NUMBER 7041.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission (referred to in this Act as the 'Commission'), upon the request of the licensee for Commission Project No. 7041, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act and the Commission's procedures under such section, to extend until April 15, 2001, the time required for the licensees to commence construction of such project.●

By Mr. DOLE (for himself and Mr. INHOFE):

S. 284. A bill to restore the term of patents, and for other purposes; to the Committee on the Judiciary.

THE TERM OF PATENTS ACT OF 1995

Mr. DOLE. Mr. President, I rise today to introduce, with my distinguished colleague Senator INHOFE, legislation that will remedy one of the problems created by the implementing bill for the GATT, which passed this body on December 1, 1994.

The implementing bill changed the length of time that a patent is protected under U.S. law. Prior to the change, the period of protection ran 17 years from the date of the grant of the patent. The new period of protection under the GATT bill runs 20 years from date of filing.

My legislation gives patent applicants the best of both worlds: Protection will run from the longer of 17 years from grant or 20 years from filing.

The change in patent term under the GATT bill threatens to actually shorten the period of protection. This is due to the sometimes inordinate amount of time a patent application can languish during the approval process. For example, if a patent is delayed 5 years from filing until final disposition, an applicant would effectively be denied 2 years of protection under the new rule.

My legislation also addresses the problem of submarine patents. Continuing patent applications on the same invention will result in publication of the original patent application after 5 years.

Mr. President, I have heard from inventor groups, from biotechnology groups and pharmaceutical groups—all in support of this change. Five former Commissioners of Patents and Trademarks of the United States have written to me in support of this change. What is more, this change does not conflict with the obligations the United States undertook as part of the Uruguay round of the GATT.

I know the administration has a different view of the appropriate length of a patent term. Nevertheless, during the weeks leading up to the GATT vote, I discussed this issue with Ambassador Kantor and others and I obtained a commitment that the administration would not oppose legislation to achieve

a change if the 104th Congress pursues the matter.

Mr. President, I would simply say in conclusion that our inventors and creative Americans all over the country deserve the maximum protection of their intellectual property. We should not jeopardize their investment in ideas. The new rule recently passed threatens that investment, and I urge my colleagues to consider the change I am proposing today, to restore the most important aspect of an inventor's livelihood: the period of time he owns his invention.

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

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

S. 284

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

SECTION 1. PATENT TERMS.

(a) AMENDMENT.—Section 154 of title 35, United States Code (as added by the Uruguay round Agreements Act), is amended—

(1) in paragraph (2) of subsection (a), by striking ''and ending'' and all that follows through the end of the paragraph and inserting ''and ending on the later of—

''(A) 17 years from the date of the grant of the patent; or

''(B) 20 years from the date on which the application for the patent was filed in the United States, except that if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, 20 years from the date on which the earliest such patent application was filed.'';

(2) by amending subsection (b) to read as follows:

''(b) PATENT DISCLOSURE.—In the event that a continuing patent application is filed that claims the benefit of the filing date of a prior application that was filed more than 60 months earlier, notices of the original patent application and of the continuing patent application shall be published and the public shall be permitted to inspect and copy the original patent application and the continuing patent application.''; and

(3) in paragraph (1) of subsection (c), by striking ''shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant'' and inserting ''shall be the term provided in subsection (a)''.

(b) TECHNICAL AMENDMENT.—Section 534(b) of the Uruguay Round Agreements Act is amended by striking paragraph (3).

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. SIMON, and Mr. THOMAS):

S. 285. A bill to grant authority to provide social services block grants directly to Indian tribes, and for other purposes; to the Committee on Finance.

SOCIAL SERVICES BLOCK GRANTS LEGISLATION

● Mr. MCCAIN. Mr. President, today I am introducing a bill that would make title XX social services block grant programs directly available to Indian tribal governments and organizations. I am pleased that my colleagues on the Indian Affairs Committee, Senators DANIEL K. INOUYE, BEN NIGHTHORSE CAMPBELL, CRAIG THOMAS, and PAUL SIMON, have joined me as original cosponsors of this bill. The legislation we are introducing today authorizes the Secretary of Health and Human Services to make contracts or grants with Indian tribal governments to design and administer tribal social services programs. The legislation requires that 3 percent of title XX funds are to be made available to fund contracts or grants to Indian tribes or tribal organizations. The Secretary is also required to establish a base funding formula similar to that required by the Child Care and Development Block Grant Act.

In its current form, the title XX social services block grant is an entitlement program that is available only to State and Territorial governments. This program provides State and Territorial governments with flexible resources to establish locally tailored and administered social services programs. Unfortunately, Indian tribal governments have not been provided with the opportunity to share in these resources. I believe this legislation will provide a new sense of hope to the highly dedicated individual social service personnel, both Indian and non-Indian, who must confront a panoply of health and social problems affecting American Indians with extremely limited resources.

A report issued last August by the office of the inspector general revealed that although States may share title XX funding with tribal child welfare agencies, 15 of the 24 States with the largest Native American populations did not provide title XX funds to Indian tribes from 1989 to 1993. The inspector general's report indicated that the principal reason that Indian tribes were not receiving title XX funds was that Congress, during its initial consideration of the title XX Social Service Block Program, provided no authority to award title XX funds directly to tribes. Under the current program States are neither required nor encouraged to share funds with Indian tribes. I can only believe that this was a grave oversight on the part of the legislators at the time the title XX Social Block Grants Program was considered.

Mr. President, one half of all Indian children under the age of 6 live in poverty, approximately 50 percent of the Indian families headed by females live in poverty compared to a national rate of 31.1 percent, reports of Indian child abuse continue to increase, and Indians suffer among the highest unemployment rates. I realize that time and time again I have provided this body with these sad statistics, and I will continue to recite these grim statistics because I believe there is a great misconception about the services provided to Indians by the Federal Government. Recent news articles and documentaries are replete with evidence of the day-to-day realities faced by Indian people and the failure of the Federal Government to live up to its trust, treaty, and legal obligations to the American Indian. Clearly, the Indian policy statements of former Presidents Nixon, Reagan, and Bush which called for Indian self-determination, self-governance, and the fulfillment of the Federal Government's trust responsibility to the Nation's Indian population can no longer be ignored. More specifically, we should heed the advice of President Reagan who stated in his Indian policy statement of January 24, 1993, that the Title XX Social Services Block Grants Program should be amended to provide direct funding to Indian tribal governments. I believe it is time that we move Indian people and the Federal Government into the 20th century with real change, and I believe that this legislation will help to accomplish this.

Mr. President, I ask unanimous consent that the full test of the bill and the accompanying section-by-section appear in the RECORD.

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

S. 285

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

SECTION 1. AUTHORITY TO PROVIDE SOCIAL SERVICES BLOCK GRANTS DIRECTLY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 2003 of the Social Security Act (42 U.S.C. 1397b) is amended—

(1) in subsection (a), by striking ''and the Northern Mariana Islands'' the first place it appears and inserting ''the Northern Mariana Islands, and any participating Indian tribe or tribal organization, as defined in subsection (e)(3),'';

(2) in subsection (b), by striking ''and the Northern Mariana Islands'' each place it appears and inserting ''the Northern Mariana Islands, and any participating Indian tribe or tribal organization, as defined in subsection (e)(3),''; and

(3) by adding at the end the following new subsections:

''(d)(1) Of the amounts specified in subsection (c), 3 percent shall be available for grants made or contracts entered into with Indian tribes or tribal organizations in accordance with this subsection.

''(2) The Secretary shall make grants to or enter into contracts with Indian tribes or tribal organizations for planning and carrying out programs and activities under this title.

''(3) The Secretary shall establish criteria for the review and approval of applications for grants or contracts under this subsection.

''(4)(A) Not later than 180 days after the date of enactment of this subsection, the Secretary, with the full participation of Indian tribes and tribal organizations, shall establish and promulgate by regulation, a base funding formula similar to the formula established under section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858M).

''(B) In developing the funding formula, the Secretary may consider such additional factors as the Secretary determines appropriate, including unique geographic and demographic conditions of the tribal reservation and service area.

''(5) Funds that are not distributed to Indian tribes and tribal organizations during a fiscal year shall be available in subsequent fiscal years for reallocation to eligible tribes and tribal organizations.

''(6) In any case in which a contract is entered into or grant made to a tribal organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

''(7) Nothing in this subsection shall be construed to—

''(A) serve as an authorization to limit the eligibility of any individual to participate in any program offered by a State or subdivision thereof;

''(B) modify any requirement imposed upon a State by any provision in this title; or

''(C) preclude or discourage an agreement between any Indian tribe and any State that facilitates the provision of services by the Indian tribe to the service population of the Indian tribe.

''(e) For purposes of this section—

''(1) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

''(2) the term 'tribal organization' means—

''(A) the recognized governing body of any Indian tribe; and

''(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; and

''(3) the term 'participating Indian tribe or tribal organization' means an Indian tribe or tribal organization that receives a grant or enters into a contract under subsection (d).''.

(b) CONFORMING AMENDMENT.—The fifth sentence of section 1101(a)(1) of such Act (42 U.S.C. 1301(a)(1)) is amended by striking ''and the Northern Mariana Islands'' and inserting ''the Northern Mariana Islands, and any participating Indian tribe or tribal organization, as such term is defined in section 2003(e)(3)''.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. AUTHORITY TO PROVIDE SOCIAL SERVICES BLOCK GRANTS DIRECTLY TO INDIAN TRIBES

Subsection (a)(1) amends Section 2003 of the Social Security Act to include ''Indian tribe or tribal organization''.

Subsection (a)(3) amends Section 2003 by adding subsections (d)(1) through (d)(7) as follows:

Subsection (d)(1) provides that 3 percent of Title XX Social Services Block Grant funds shall be available to fund grants or contracts entered into by an Indian tribe or Indian organization for planning and carrying out social services programs and activities.

Subsection (d)(4) states that no later than 180 days after the date of enactment of this subsection, the Secretary, with the participation of Indian tribes and tribal organizations shall establish and promulgate regulations for a base funding formula similar to section 6580 of the Child Care and Development Block Grant. Subsection (d)(4) further provides the Secretary with discretion to consider other factors including the unique geographic and demographic conditions of tribal reservations and service areas in developing the regulations required by this subsection.

Subsection (d)(5) provides that funds that are not distributed to Indian tribes and tribal organizations during a fiscal year shall be available for reallocation to eligible tribes and tribal organizations in subsequent fiscal years.

Subsection (d)(6) provides that the approval of each Indian tribe shall be a prerequisite to entering into a contract entered into or grant made to a tribal organization to perform services benefiting more than one Indian tribe.

Subsection (d)(7) provides that nothing in this subsection shall be construed to serve as an authorization to limit the eligibility of any individual to participate in any program offered by a State or subdivision thereof; modify any requirement imposed upon a State by any provision of this title; or preclude or discourage an agreement between any Indian tribe and any State that facilitates the provision of services by the Indian tribe to the service population of the Indian tribe.

Subsection (e)(1) defines the terms ''Indian tribe,'' ''tribal organization'' and ''participating Indian tribe or tribal organization'' for purposes of this section.

SECTION 2. EFFECTIVE DATE

Section 2 provides that the amendments made by section 1 shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.●

● Mr. INOUYE. Mr. President, I join Chairman JOHN MCCAIN of the Senate Committee on Indian Affairs in introducing a long-awaited and necessary bill which would provide direct title XX social services block grant funding to Indian tribal governments.

Over the past 5 years, our committee has worked diligently to ensure that a direct allocation be made available to tribal governments for the provision of the same federally funded social services programs which are available to the States.

The Administration for Children and Families [ACF] within the U.S. Department of Health and Human Services provides funding to States but only a very few tribal child welfare programs under three titles of the Social Security Act. Title XX supports State social services, including child welfare services. While States may share these moneys with tribal child welfare agencies, very few do and only to a very limited degree. Title IV–E supports State Foster Care and Adoption Assistance Programs. Title IV–B supports States' and some tribes' child welfare programs and family preservation and support services.

In spring 1993, the committee called upon the Department of Health and Human Services, Office of Inspector General to conduct a study to identify opportunities for the administration for children and families to strengthen the provision of child welfare services and protections to American Indian and Alaska Native children.

A survey was conducted of those 24 States with the largest native American populations as to the level of funding which is shared between the States and tribal governments for social services programs. The Inspector General's office also reviewed data on ACF funding made available directly to State and tribal governments. They conducted a review of relevant Federal legislation and conducted interviews and discussions with child welfare experts and administrators in the ACF, the Bureau of Indian Affairs, State and tribal child welfare agencies, and Native American child welfare organizations.

The Inspector General's report entitled ''Opportunities for ACF to Improve Child Welfare Services and Protections for Native American Children'' was released in August 1994. The report reveals that most tribal governments have received little title XX, title IV–E, and title IV–B child welfare funding. In addition, while the ACF has monitored the tribal provision of child welfare protections required by the Adoption Assistance and Child Welfare Act, few tribal records have been reviewed. Furthermore, neither the ACF nor any other Federal agency has ensured State compliance with the child welfare protections required by the Indian Child Welfare Act.

More specifically, in 15 of the 24 States with the largest Native American populations, eligible tribes received neither title XX nor title IV–E funds from 1989 to 1993. Among the factors which limit access by tribes to title XX and title IV–E funds are several Federal requirements. Current law provides no authority for the ACF to award title XX and title IV–E funding directly to the tribes, nor does existing legislation either require or encourage States to share funding with tribal governments.

In the remaining nine States that made funding available to tribal governments for title XX and title IV–E purposes, it is important to keep in mind the proportion of funding made available for Indian people as compared to their percentage of the population in their respective States as a whole.

In 1993, in the States of Arizona, Colorado, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, and South Dakota, Indian people made up 4.36 percent of the population. But in 1993, only 1.38 percent—$2,800,000—of the $203,462,000 made available to these States was made available to tribal governments to carry out social services programs.

Since the scope of the Inspector General's study did not analyze the entire $2.9 billion in Title XX funding provided for all 50 States, it can be assumed that proportionately, even less money is making its way to tribal governments to carry out vitally needed child welfare and other social services programs. This is particularly troubling because Native American communities experience higher unemployment rates and suffer extensive poverty-related conditions including unequalled high rates of hunger, alcoholism, suicide, abuse, and family disruption.

The Inspector General also found that in 1993, 471 of the 542 federally recognized tribes received no title IV–B funds from the ACF. Once again several Federal regulations constrain the tribal access to title IV–B funding.

On a positive note, the Inspector General's report identifies options that can be taken by the administration for children and families to facilitate tribal governmental access to child welfare and social services funding and to better ensure the provision of federally mandated child welfare protections for Native American children. I look forward to joining Chairman MCCAIN in analyzing this study and learning from Indian country of the solutions they believe would be effective in improving services available to Indian children and their families.

I am hopeful that my colleagues on the Senate Finance Committee will work closely with the Senate Committee on Indian Affairs in ensuring that equity in social services funding is provided to tribal governments. I am also hopeful that agencies who are associated with the coalition of public nonprofit organizations, Generations United, will work with both committees in addressing the profound needs of tribal governments in providing social services to their communities. I believe this bill which provides direct funding to tribal governments can meet these needs and will work to ensure that even greater title XX funding is available to accommodate both tribal and State governments.●

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. THOMAS, and Mrs. KASSEBAUM):

S. 286. A bill to amend the Solid Waste Disposal Act to grant State status to Indian tribes for purposes of the enforcement of such Act, and for other purposes; to the Committee on Indian Affairs.

THE SOLID WASTE DISPOSAL ACT OF 1995

● Mr. MCCAIN. Mr. President, I am pleased to introduce legislation to amend the Solid Waste Disposal Act to authorize the Environmental Protection Agency to treat Indian tribes as States. I am very pleased to be joined by my good friend, the distinguished vice-chairman of the Committee on Indian Affairs, Senator INOUYE and Senators CAMPBELL, KASSEBAUM, and THOMAS as original cosponsors of this legislation. This legislation is similar to provisions which have already been included in the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act. These Federal environmental laws were all amended in the 1980's to provide for the treatment of Indian tribes as States.

Unfortunately, when we first began enacting our national environmental laws we either neglected to include Indian tribal governments or included them as municipalities. This latter practice is completely inconsistent with our usual practice of maintaining a direct government-to-government relationship between the Federal and tribal governments. By the mid-1980's it was clear that tribal environmental concerns were being almost completely ignored by State and Federal officials. The States had demonstrated an unwillingness or inability to assist Indian tribes and the Environmental Protection Agency claimed that it lacked legal authority to deal directly with Indian tribal governments. Since that time, considerable progress has been made toward assisting Indian tribal governments to develop and implement environmental regulatory programs. Under the Clean Water Act over 40 Indian tribes have been certified by EPA as eligible for treatment as States.

The Solid Waste Disposal Act is the only remaining major environmental law which fails to provide for the treatment of Indian tribal governments as States. This has made it difficult for EPA and the Indian tribal governments to address a variety of solid and hazardous waste problems on Indian lands, including the problem of leaking underground storage tanks. The bill we are introducing today is intended to correct this situation. The provisions of this legislation will allow Indian tribal governments the same opportunities that are available to States to build program capacity and fully develop tribal environmental protection programs under the authority of the Solid Waste Disposal Act. The bill will enable Indian tribal governments to effectively plan and develop a reservation specific approach to environmental protection in the same manner that State environmental programs have been encouraged to develop and plan. The Environmental Protection Agency must provide consistent treatment to Indian tribal governments across all environmental media areas. This legislation will provide Indian tribal governments with the tools necessary to plan and develop sound environmental policies and programs. I urge all our colleagues to join with us to ensure prompt enactment of this legislation.

Mr. President, I ask unanimous consent that the full text of the bill and the accompanying section-by-section analysis appear in the RECORD.

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

S. 286

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

SECTION 1. AUTHORITY TO GRANT STATE STATUS TO INDIAN TRIBES FOR ENFORCEMENT OF SOLID WASTE DISPOSAL ACT.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended—

(1) in paragraph (13)(A), by striking ''or authorized tribal organization or Alaska Native village or organization,'';

(2) in paragraph (15), by inserting after ''State,'' the following: ''Indian tribe,''; and

(3) by adding at the end the following new paragraphs:

''(42) The term 'Indian country' means—

''(A) all land within the limits of any Indian reservation under the jurisdiction of the Federal Government (including any right-of-way running through the reservation), notwithstanding the issuance of any patent;

''(B) all dependent Indian communities within the borders of the United States, including dependent Indian communities—

''(i) within the original territory or territory that is subsequently acquired; and

''(ii) within or without the limits of a State; and

''(C) all Indian allotments with respect to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

''(43) The term 'Indian tribe' means any Indian tribe, band, group, or community, including any Alaska Native village, organization, or regional corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that—

''(A) is recognized by the Secretary of the Interior; and

''(B) exercises governmental authority within Indian country.''.

(b) TREATMENT OF INDIAN TRIBES AS STATES.—Subtitle A of such Act (42 U.S.C. 6901 et seq.) is amended by adding at the end the following new section:

''SEC. 1009. INDIAN TRIBES.

''(a) IN GENERAL.—Subject to subsection (b), the Administrator may—

''(1) treat an Indian tribe as a State for the purposes of this Act;

''(2) delegate to an Indian tribe primary enforcement responsibility for programs and projects established under this Act; and

''(3) provide Indian tribes grant and contract assistance to carry out functions of a State pursuant to this Act.

''(b) ENVIRONMENTAL PROTECTION AGENCY REGULATIONS.—

''(1) IN GENERAL.—

''(A) TREATMENT.—Not later than 18 months after the date of the enactment of this section, the Administrator shall issue final regulations that specify the manner in which Indian tribes shall be treated as States for the purposes of this Act.

''(B) AUTHORIZATION.—Under the regulations issued by the Administrator, the treatment of an Indian tribe as a State shall be authorized only if—

''(i) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

''(ii) the functions that the Indian tribe will exercise pertain to land and resources that are—

''(I) held by the Indian tribe, the United States in trust for the Indian tribe, or a member of the Indian tribe (if the property interest is subject to a trust restriction on alienation); or

''(II) are otherwise within Indian country; and

''(iii) in the judgment of the Administrator, the Indian tribe is reasonably expected to be capable of carrying out the functions to be exercised in a manner consistent with the requirements of this Act (including all applicable regulations).

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—If, with respect to a provision of this Act, the Administrator determines that the treatment of an Indian tribe in the same manner as a State is inappropriate, administratively infeasible, or otherwise inconsistent with the purposes of this Act, the Administrator may include in the regulations issued under this section a mechanism by which the Administrator directly implements and carries out the provision in lieu of the Indian tribe.

''(B) STATUTORY CONSTRUCTION.—Subject to subparagraph (C), nothing in this section is

intended to permit an Indian tribe to assume or maintain primary enforcement responsibility for programs established under this Act in a manner that is less protective of human health and the environment than the manner in which a State may assume or maintain the responsibility.

''(C) CRIMINAL ENFORCEMENT.—An Indian tribe shall not be required to exercise jurisdiction over the enforcement of criminal penalties.

''(c) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and each State in which the lands of the Indian tribe are located may, subject to review and approval by the Administrator, enter into a cooperative agreement to cooperatively plan and carry out the requirements of this Act.

''(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator, in cooperation with the Secretary of the Interior, the Director of the Indian Health Service, and Indian tribes, shall submit to Congress a report that includes—

''(1) recommendations for addressing hazardous and solid wastes and underground storage tanks within Indian country;

''(2) methods to maximize the participation in, and administration of, programs established under this Act by Indian tribes;

''(3) an estimate of the amount of Federal assistance that will be required to carry out this section; and

''(4) a discussion of proposals by the Administrator concerning the provision of assistance to Indian tribes for the administration of programs and projects pursuant to this Act.

''(e) TRIBAL HAZARDOUS WASTE SITE INVENTORY.—

''(1) INVENTORY.—Not later than 2 years after the date of enactment of this section, the Administrator shall undertake a continuing program to establish an inventory of sites within Indian country at which hazardous waste has been stored or disposed of.

''(2) CONTENTS OF INVENTORY.—The inventory shall include—

''(A) the information required to be collected by States pursuant to section 3012; and

''(B) sites located at Federal facilities within Indian country.''.

(c) TECHNICAL AMENDMENT.—The table of contents for subtitle A of such Act (contained in section 1001 of such Act (42 U.S.C. prec. 6901)) is amended by adding at the end the following new item:

''Sec. 1009. Indian tribes.''.

SEC. 2. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

Section 9508(c)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Except as provided'' and inserting the following:

''(A) PURPOSES.—Except as provided''; and

(2) by adding at the end the following new subparagraph:

''(B) SET ASIDE FOR INDIAN TRIBES.—Notwithstanding any other provision of law, for each of fiscal years 1996 through 2000, the Secretary shall reserve an amount equal to not less than 3 percent of the amounts made available to States pursuant to subparagraph (A). Such amount shall be used only by Indian tribes (as defined in section 1004(43) of the Solid Waste Disposal Act) to carry out the purposes referred to in subparagraph (A).''.

SECTION-BY-SECTION ANALYSIS

SECTION ONE

Section 1 amends section 1004 of the Solid Waste Disposal Act to include definitions for the terms ''Indian Country'' and ''Indian tribe''. It also inserts the term ''Indian tribe'' after ''State'' in paragraph (15) of section 1004 of the Act and deletes the phrase ''or authorized tribal organization or Alaska Native village or organization,'' from paragraph (13)(A) of the Act.

Subsection (b) amends subtitle A of the Solid Waste Disposal Act by adding the following new section 1009 to the Act:

''Section 1009 provides that the Administrator may treat an Indian tribe as a State for purposes of the Act and may delegate primary enforcement authority to an Indian tribe for any programs and projects established under this Act. It also provides that the Administrator may provide grants and contract assistance to an Indian tribe to carry out their responsibilities under the Act.

Subsection (b) of Section 1009 requires the Administrator to issue final regulations for the treatment of Indian tribes as States under the Act within 18 months from the date of enactment of this section. These regulations shall provide that an Indian tribe may be treated as a State under the Act if the Indian tribe has a governing body carrying out substantial governmental duties and powers, the functions to be carried out by the tribe pertain to trust lands or lands which are subject to a restriction on alienation, or are otherwise within Indian country, and in the judgment of the Administrator, the tribe is reasonably expected to be capable of carrying out functions in a manner consistent with the requirements of the Act.

Subsection (b) also provides that if the Administrator determines that the treatment of an Indian tribe as a State is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this Act, then the Administrator may promulgate regulations to enable the Administrator to directly implement and carry out the Act in lieu of the Indian tribe. It also provides that nothing in this section is intended to permit an Indian tribe to maintain primary enforcement responsibility in a manner less protective of human health and the environment than a State. An Indian tribe shall not be required to exercise jurisdiction over the enforcement of criminal penalties.

Subsection (c) of Section 1009 authorizes Indian tribes and States to enter into cooperative agreements subject to the review and approval of the Administrator.

Subsection (d) of Section 1009 authorizes the Administrator, in cooperation with the Secretary of the Interior, the Director of the Indian Health Service, and Indian tribes, to submit a report to Congress not later than 2 years after the date of enactment. The report shall include recommendations addressing underground storage tanks and the disposal of hazardous and solid waste within Indian country.

Subsection (e) of Section 1009 requires the Administrator to conduct an inventory of hazardous waste sites within Indian country not later than 2 years after the date of enactment. The inventory shall include information required pursuant to section 3012 of the Act and sites located at Federal facilities within Indian country.''

SECTION TWO

Section 2 amends Section 9508(c)(1) of the Internal Revenue Code of 1986 to include a three (3) percent set aside in the Leaking Underground Storage Tank Trust Fund for Indian tribes to carry out the purposes referred to in subparagraph (A) of the Act.●

● Mr. INOUYE. Mr. President, I am pleased to join the new chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN, as a cosponsor of legislation that would recognize the important role that tribal governments must play in the enforcement of the Solid Waste Disposal Act on Indian lands.

In the 103d Congress, I introduced similar legislation which would have amended the Solid Waste Disposal Act to grant a status equal to that of State governments to Indian tribal governments. I am pleased that Chairman MCCAIN has seized the initiative to again introduce this important legislation and thereby continue the committee's efforts to address an earlier oversight by the Congress in failing to include Indian tribal governments in the only remaining major environmental law which does not provide for the treatment of Indian tribes as States.

The Congress has attempted to improve the environmental quality of lands within Indian country by enacting provisions authorizing tribal governments to assume primary responsibility in certain circumstances for implementing the full array of environmental laws, including the Clean Air Act, Safe Drinking Water Act and the Clean Water Act.

This bill would simply extend the same status to tribal governments as that which is recognized under these other laws, by authorizing tribal governments to assume primary responsibility for programs under the Resource Conservation and Recovery Act.

This bill would also acknowledge and affirm the inherent authority of Indian tribes to regulate the development, operation and maintenance of solid waste and other waste facilities on Indian lands consistent with the Environmental Protection Agency's Indian policy and the overall Federal policy of Indian self-determination that arises out of the United States' Government-to-Government relationship with the Indian nations.

Further, this bill will eliminate any confusion as to the authority of tribal governments to regulate environmental quality on Indian lands by clarifying that tribal governments are to be treated as States under the Resource Conservation and Recovery Act in the same manner as they currently are treated under all other major environmental acts.

Mr. President, this is an important bill. Indian tribal governments have made it clear to the Committee on Indian Affairs that this legislation is of critical importance and concern. I call upon my fellow colleagues to give this measure their careful review and favorable consideration. I look forward to working with Chairman MCCAIN to ensure passage of this measure in the 104th Congress.●

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BENNETT, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr.

DOLE, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. INHOFE, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KYL, Mr. JEFFORDS, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PRESSLER, Mr. ROTH, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. CRAIG THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. BREAUX, Mrs. FEINSTEIN, Mr. JOHNSTON, Mr. MOYNIHAN, Mrs. MURRAY, Mr. REID, Ms. MOSELEY-BRAUN, and Mr. SIMON):

S. 287. A bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction; to the Committee on Finance.

IRA EQUITY LEGISLATION

Mrs. HUTCHISON.

Mrs. HUTCHISON. Mr. President, I rise today along with Senator MIKULSKI and 55 other cosponsors to introduce a bill, S. 287, that will allow the homemakers of this country to make fair, fully deductible individual retirement account contributions. This bill will allow equal IRA contributions by Americans who work at home—women and a growing number of men who have suffered unfairly under our out-of-date section of the Tax Code.

Under the current IRA rules, single-income married couples are limited to deductible IRA contributions of $2,250 a year—$2,000 for the working spouse and $250 for the homemaker. But if both spouses in a household work outside the home, each is permitted to contribute up to $2,000 annually to an IRA. That is a combined contribution of $4,000.

Under current law, a single-income married couple saving $2,250 each year for 30 years will have $188,000 for retirement at 6 percent interest. If that couple, Mr. President, is permitted to save $4,000 a year, after 30 years they will have $335,000, an increase in savings of $150,000.

Now, Mr. President, I think it is obvious that work inside the home is every bit as important to our society as the work done outside the home. I do not think the homemakers who choose to stay home and raise children should have the added disadvantage of retiring with less retirement security.

I do not think that this is fair. That is why 57 Members of the U.S. Senate have signed on to a bill that will correct this inequity. It is very important that we say to every working American, whether your work is inside the home or outside the home, that we want you to have an incentive to save. Not only is it the right thing to do, it is also going to help build capital formation. It will help us give incentives for savings. Of all the industrialized countries, we have the lowest savings rate. If we would save more, we would have more capital investments, which would create more jobs.

I do not see how anyone could oppose this bill. But it is very important that we push for its enactment. S. 287 will give more retirement security to as many as 16 million Americans who are treated unfairly, and it will not really cost the Government anything.

There is a $267 million price tag over a 5-year period, which is a little bit over $50 million a year. But don't think the bill will actually reduce revenues. I think it is going to increase revenues because if we have more capital formation and create more jobs, revenue will increase.

Mr. President, I hope we will have swift action on S. 287 because I do not want one more year to pass in this country without the right of our homemakers to start the retirement savings that will accrue to their benefit and to the benefit of their families.

Mr. President, I ask unanimous consent that letters from the Family Research Council, the Christian Coalition, the American Association of University Women, and the National Women's Political Caucus in support of IRA equity be printed in the RECORD.

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

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
January 26, 1995

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

Dear SENATOR HUTCHISON: On behalf of the 1.5 million members and supporters of the Christian Coalition, we wish to express our strong support for the Individual Retirement Account Equity Bill that you and Senator Mikulski have introduced.

This legislation corrects the tax code's inequitable treatment of retirement income of women and men who work inside the home. Currently, the tax code allows two spouses who work outside the home to put more money into an Individual Retirement Account than is allowed for a couple where one spouse is a homemaker. The IRA Equity Bill will permit deductible IRA contributions of up to $2,000 by spouses who work inside the home. If enacted, single-income couples would have the opportunity to save $4,000 a year towards retirement.

Today, America suffers from a ''family time famine' because parents are unable to spend time with their children. We should work to make tax policy more ''family friendly'' to enable parents to attend to the needs of their children. The IRA Equity Bill is an important step in the direction of this objective. Furthermore, this would be an important deletion of just *one* of the many marriage penalties found throughout our tax code. We applaud your leadership on behalf of tax fairness for America's families.

Sincerely,

MARSHALL WITTMANN,
Director, Legislative Affairs.
HEIDI SCANLON,
Director, Governmental Affairs.

FAMILY RESEARCH COUNCIL,
Washington, DC, January 26, 1995.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

Dear SENATOR HUTCHISON: Thank you for your leadership in sponsoring legislation to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

American families today face a multitude of challenges and pressures as they struggle to keep their family life protected and intact. ''Family time'' is a precious commodity and many parents are opting for one spouse to stay at home, realizing that time with their children is short and children are adults before they realize it. We think it is important to ensure these parents are not penalized by the tax code. Your bill is a major step in the right direction.

One area of concern is the issue of the present income ceiling of $50,000 which allows IRA deductions to benefit one-income or two-income families within this category. FRC believes that this ceiling should be lifted or increased because it encourages savings among some families, but discourages others who desire to save for the future.

FRC supports a ''level playing field'' of equity between those women who work in the marketplace and those who work at home. By eliminating the existing inequity and by raising or lifting the income threshold, lawmakers would establish support for family savings, increase the pool of women who will benefit from IRA savings and deductions and end the existing discrimination.

We support your efforts and look forward to working with you and your colleagues on this important issue.

Sincerely,

GARY L. BAUER,
President.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Washington, DC, December 15, 1994.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

DEAR SENATOR HUTCHISON: On behalf of the 150,000 members of the American Association of University Women, we support your effort to economically empower non-working women. AAUW supports the Hutchison/Mikulski legislation, S. 1669.

AAUW believes that women must have the same opportunities as men to protect their personal finances. The current law governing IRAs discriminates against women by limiting an unsalaried married woman's deductible IRA contribution to $250, while allowing her husband a deductible contribution of $2,000. Current law specifically penalizes unsalaried women who may work in family businesses or who have chosen to stay at home. It also assumes that unsalaried women will remain married and will continue to have access to their husbands' finances. Current law does not account for the 500,000 marriages that end in divorce each year, leaving men with their accumulated deductible IRA contribution and women with a possible loss of $500,000 or more in retirement income. Permitting a $2,000 deductible IRA contribution for all women will give women the means to protect their futures.

We appreciate your concern for women's financial independence and we look forward to working with you in the 104th Congress. Should you or your staff have any questions, please contact Nancy Zirkin, director of government relations in the Program and Policy Department at (202) 785–7720.

Sincerely,

JACKIE DEFAZIO,
President.

NATIONAL WOMEN'S POLITICAL CAUCUS,
December 2, 1994.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the National Women's Political Caucus, I'm pleased to commit our support for IRA Equity legislation.

As you know, NWPC joined this effort early on because our grassroots members recognize the cost to society when we fail to properly value the contribution of women at home.

Too many women have been left impoverished in their older years. One reason is their inability to make use of a retirement account like IRA that is available to those who are considered salaried.

We appreciate your leadership in the effort to correct this situation and will alert our membership to support the legislation.

Sincerely,

HARRIETT WOODS,
President.

● Ms. MIKULSKI. Mr. President, I am delighted to work on a bipartisan basis with Senator HUTCHISON again to pass IRA equity legislation.

Work is work, whether it is done inside the home or outside the home. And we should reward work. With this legislation we do.

I like this legislation because it reflects our values; it gives help to those who practice self-help.

It acknowledges the value of motherhood and it acknowledges that work done in the home is important to American society. Not all work is done in the marketplace. A substantial amount of the most important work of America goes on in the home.

This legislation will provide the same IRA tax deduction to stay-at-home moms and dads as is available now to those who earn an income.

Current law allows workers to set aside up to $2,000 a year in an IRA—but only if they get an income. So two-income couples can contribute $4,000.

But one-earner couples, where one spouse stays home to raise the kids, well, the best they can contribute to their IRA each year is $2,250.

Our IRA equity bill says every couple gets the full $4,000 contribution. Period.

Motherhood has always been important. Today we're seeing it's absolutely important.

I believe that when we say honor your father and your mother it should not only be a commandment, but a public policy. The law should be clear that mom and dad will not only be rewarded now, but in the future, in their retirement years.

For someone whose work is as a full-time mom, it is not only an occupation, it is a preoccupation.

When we are talking about productivity in the workplace we need to remember that the work of mothers today is preparing America's workers and leaders of tomorrow.

Often in our society we do not count what counts. We look at the gross domestic product, we look at what is done in the marketplace, but what is not counted is what is done in the home or what is done as volunteer work.

I happen to believe that one of the most important areas of productivity is the work that goes on in the home.

The current rules of government do not support this. We see this in the rules governing pension plans. And we continue to see inequity for women in the workplace in many ways, like bringing home smaller paychecks.

This is important pro-family legislation. It truly acknowledges the value of the family. It gives help to those who practice self-help. And it builds strong communities.

It also acknowledges the pattern of women as they work in and out of the marketplace. Many women do not have linear careers, with glittering resumes, tickets being punched and revolving rolodexes that take them on the path to glory.

Most women do the ordinary with enthusiasm, whether its raising their family or raising the productivity of the private sector in the marketplace. But because they work, and have their children, and return to the marketplace, often their pension plans are spotty, erratic, and most often, skimpy.

That is not a recipe for a relaxing retirement, but a plan for poverty.

Passing this legislation not only offers a measure of fairness and hope, it just makes good sense. It boosts our national savings, helps women have the opportunity for a comfortable retirement, and strengthens our commitment to family values.

I support this legislation because I want to put our values into pragmatic public policy, and I am pleased to join with my colleagues on a bipartisan basis to reward hard-working Americans.

I will continue to fight for passage of IRA equity because it's time Congress puts the law where our values are.●

By Mr. MCCAIN (for himself, Mr. WARNER, and Mr. ROBB):

S. 288. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY LEGISLATION

● Mr. MCCAIN. Mr. President, I introduce legislation on National and Dulles Airports which will abolish several of the most egregious examples of Congressional interference in the highly competitive, deregulated airline industry. This legislation, which I am introducing with my colleagues Senator JOHN WARNER and Senator CHUCK ROBB, would: abolish the Metropolitan Washington Airports Authority [MWAA] Board of Review; eliminate the perimeter rule at National Airport—this law imposes a 1,250-mile limitation on air travelers from which no nonstop flight between National and another airport is allowed—and, eliminate reserved parking spaces for Members of Congress and other top Government officials.

On Monday, the Supreme Court, for the second time in less than 4 years, ruled that Congress had exceeded its authority by exercising veto power over key decisions at National and Dulles airports. In fact, National and Dulles airports are the only two airports out of nearly 600 with commercial service that are under Federal supervision.

On June 7, 1987, Washington Dulles International and Washington National Airports were transferred from the Federal Aviation Administration [FAA] to the Airports Authority under a 50-year lease authorized by the Metropolitan Washington Airports Act of 1986. All property was transferred to the Airports Authority and the Federal Government holds title to the lease. Prior to the transfer, the airports were owned and operated by the Federal Aviation Administration in the U.S. Department of Transportation. Pursuant to its lease with the Federal Government, the Board of Review as established.

Congress created the Board and gave it the power to operate ''outside the ordinary legislative process,'' to both make the laws and control how those laws are implemented in regard to National and Dulles Airports, in effect, eliminating the powers of the Executive office. Congress also created a mechanism for thumbing its nose at the courts, rendering the Airport Authority impotent if the Board were ever declared unconstitutional, effectively, eliminating the powers of the judiciary.

The D.C. Circuit Court also recognized the potential for abuse of the Board of Review. The court said this statutory scheme provides Congress with ''a blueprint for expanding legislative power beyond its constitutionally-confined role in virtually every aspect of our national policy.''

In the past, Congress tried to get around the court's objections by fiddling with the details of the act. Those half measures have failed to resolve the constitutional questions. Eliminating the Board will eliminate this unconstitutional problem completely.

The Supreme Court's ruling supported three previous rulings that such oversight violates the constitutional separation of powers doctrine. The fact that Congress has continued its direct oversight in this matter, with only minor changes, displays again the lack of regard that the Congress continues to hold for the people who have sent them to Washington to represent them.

As it stands now, due to the Supreme Court's ruling, the Airports Authority can take no actions which require Board of Review submittal. Not only is the Airports Authority unconstitutional because it violates the separation of powers principles, it also violates the appointments clause of the U.S. Constitution.

Under the appointments clause, only the President is authorized to appoint

principal officers of the United States, with the advice and consent of the Senate. The power to appoint non-principal officers is vested solely in the President. The Board of Review violates this clause, where the Airports Authority selects the members from lists provided by the Speaker of the House of Representatives and the President pro tempore of the Senate.

This legislation would also prohibit the Airports Authority from providing reserved parking spaces free-of-charge to Members of Congress and other government officials at National Airport and Dulles Airport. This amendment states that a new parking policy should be established at National and Dulles Airports that provides equal access to the public, and does not accord preferential parking privileges to Members of Congress and other government officials.

The time has come ending our exclusive use of prime parking spaces at Washington's two airports. This exclusive parking privilege for Members of Congress is unfair and unjustified.

Providing exclusive parking spaces to members of Congress completely free of charge carries with it a considerable cost to the Airports Authority itself. At National and Dulles, the parking spaces that are reserved for Members of Congress are located very close to the terminals. These spaces are equivalent to the short term spaces that cost our constituents up to $26 per day to use. There are approximately 124 parking spaces reserved for Members of Congress and other top government officials at National Airport, and 51 reserved congressional spaces at Dulles.

If the 124 spaces at National were opened to the public and fully utilized at the current rates charged to our constituents, they would garner over $1,175,000 a year in revenues. If the congressional lot at Dulles was opened to the public and utilized to capacity, it would generate $484,000 a year in new revenues. This means that over $1.6 million in potential parking revenues to the Airports Authority is being lost each year because choice lots are being unjustly cordoned off to the public.

Just today, Mr. Charles Barclay, president of the American Association of Airport Executives met with me. For those of you who may not remember, Chuck Barclay was one of the members on President Clinton's National Airline Commission—a Commission charged with making recommendations to ensure a better more competitive aviation industry. Chuck Barclay expressed to me his strong concern regarding the future of Airport grant funding in the appropriations process this fiscal year and his equally strong concern for the future of airport modernization in an atmosphere of dwindling resources.

Mr. President, the loss of revenues caused by the Congressional parking park is occurring at a time when the Airports Authority is receiving millions of dollars of taxpayer funds each year. Instead of raising the substantial amounts of revenue that could alleviate some of the need for more taxpayer dollars, the Airports Authority is apparently content to preserve the unsatisfactory status quo.

Finally, Mr. President this legislation strikes the provision in law which imposes on National Airport the only federally enforced perimeter rule which restricts the public's right to travel. In 1986, when discussions were underway to transfer National and Dulles Airports from the Federal Government to the Airports Authority, the Congress overstepped its authority by prohibiting non-stop flights between Washington National Airport and any other airport that is more than 1,250 miles away. Congress wrote the legislation so that Dulles Airport would become a successful air transportation hub for longer-range air traffic and not have to compete for air carrier service at National.

Such a construct is at odds with the fundamental principals of airline deregulations. The guiding principles of the Deregulation Act were that the market place would decide demand. This is yet another example of wrongful Federal Government interference in the marketplace. No airport should have service restrictions imposed on it. With airline deregulation and a market-based economy, service patterns should be dictated by demand within the confines of technology. No Government should interfere with the marketplace on pure economic matters. Artificial limits imposed by the Congress on an airport which are anticompetitive in nature have no place in a deregulated industry.

Mr. President, this legislation is a clear step to abolishing unnecessary perks and ending nearly 10 years of unconstitutional congressional review and oversight. I intend to examine the Airports Authority's policies at National and Dulles Airports in Aviation Subcommittee hearings. For those people who do not understand my motivation let me make my intentions perfectly clear, National and Dulles Airports are not congressional airports, nor should they be.●

● Mr. WARNER. Mr. President, I join my colleagues Senators MCCAIN and ROBB in introducing legislation to abolish the Board of Review of the Metropolitan Washington Airports Authority.

On June 7, 1987, Washington Dulles International Airport and Washington National Airport were transferred to the Airports Authority under a 50-year lease authorized by the Metropolitan Washington Airports Act of 1986, title VI of Public Law 99–500. All property was transferred to the Airports Authority and the Federal Government holds title to the lease. Prior to the transfer, the airports were owned and operated by the Federal Aviation Administration in the U.S. Department of Transportation. Pursuant to its lease with the Federal Government, the Board of Review was established.

This past Monday, the United States Supreme Court ruled for the second time in less than four years that the Congress has exceeded its authority by exercising veto power over key decisions at Washington National and Dulles International Airports.

Mr. President, prompt enactment of this legislation is critical to prevent the improvements underway at Washington National and Dulles from coming to an abrupt halt.

In 1985, I served on a Commission appointed by Secretary of Transportation Elizabeth Dole to make recommendations of how to manage the modernization of the airports of the National Capital. The Commission was known as the Holton Commission after the Chairman Linwood Holton, former Governor of Virginia. Upon my recommendation, the Holton Commission adopted the so-called Warner plan for a review board to oversee the activities of the airport authority. Under the Warner plan, no Member of Congress would have served on the Review Board.

The recommendations of the Holton Commission resulted in the enactment of legislation to lease Washington National and Washington Dulles International Airports to a newly created agency, the Metropolitan Washington Airports Authority. The Authority was jointly created by the Commonwealth of Virginia and the District of Columbia to finance the reconstruction of National and the expansion of Dulles.

Unfortunately, the Congress refused to go along with the Warner plan for the Review Board. If it had, we would not be back here today introducing this legislation.

At the time the 1986 legislation was debated some in Congress opposed the airport transfer on the basis that a local airport authority—particularly a brandnew one—might unduly favor local interests over the interests of airport users. The Act, therefore, required a Board of Review, made up of Senators and Members of Congress, that could veto decisions of the new Authority's Board of Directors.

Mr. President, if this legislation is promptly approved by the Congress, the Washington Metropolitan Airports Authority will be allowed to move forward with its projects to improve the facilities of both airports.

Mr. President, I am confidant that passage of this legislation will result in two modern airports that will serve the Nation's Capital efficiently.●

● Mr. ROBB. Mr. President, I am pleased to join Senator MCCAIN in introducing legislation removing congressional oversight from the operations at Washington National and Dulles Airports.

The Metropolitan Washington Airports Authority has consistently shown the skill and expertise necessary to run

Dulles and National Airports. The Airports Authority has been able to handle the increased volume of passengers at both facilities with a minimum of inconvenience to passengers and to residents of the area.

Currently, the Airports Authority is supervising the expansion of facilities at National Airport, and the work is progressing well. However, if this legislation is not enacted soon, work will have to cease on the expansion due to a recent Supreme Court holding. The Supreme Court has upheld a lower court ruling that the Congressional oversight panel violates the Constitutional separation of legislative and executive powers. The decision indicated that either the Airports Authority or Congress must have sole jurisdiction over operations at the airports.

This legislation removes the Federal Government from what should be a local decisionmaking process, and I urge quick consideration and passage of this measure.●

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Ms. SNOWE, Mr. SPECTER, and Mr. WELLSTONE):

S.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

EQUAL RIGHTS AMENDMENT

Mr. KENNEDY. Mr. President, it is an honor to introduce the Equal Rights Amendment in the new Congress, on behalf of myself and thirty-eight other Senators. In doing so, we reaffirm our strong commitment to making the ERA part of the Constitution of the United States.

Ratification of the ERA is essential to ensure equality for women in the law and the life of our land. Existing statutory prohibitions against sex discrimination have failed to give women basic educational and employment opportunities equal to those available to men in our society. The need for a Constitutional guarantee of equal rights for all citizens thus remains compelling.

In the absence of the ERA, too little change has occurred on women's rights, especially in the area of economic opportunity. An unconscionable gap between the earnings of men and women persists in the workforce. In 1993, women earned 71 cents for every dollar earned by a man. While this wage gap has narrowed over the past 10 years, it remains unacceptable.

Sex discrimination continues to permeate many areas of the economy. Although women with college degrees have made significant advances in many professional and managerial occupations in recent years, most women are still clustered in a narrow range of traditionally female, traditionally low-paying occupations, such as clerical jobs, waitressing, retail sales, nursing, child care, and elementary school teaching.

Female-headed households continue to dominate the bottom rungs of the economic ladder. Poverty rates are higher at every age for women who live alone or with non-relatives than for their male counterparts. And when a family with children is headed by a woman, the likelihood is high that the family is living in poverty; in 1991, 47% of all families headed by single mothers lived below the poverty line. This dismal situation is getting worse instead of better.

Plainly, much remains to be done to secure equal opportunity for women. Enactment of the equal rights amendment alone will not undo generations of economic injustice, but it will encourage women in all parts of the country in their efforts to obtain redress under the nation's laws and in the courts.

We know from the ratification experience of the 1970's and early 1980's that the road to adoption of the ERA will not be easy. But the extraordinary importance of the effort requires us to persevere.

Mr. President, I ask unanimous consent that the text of the joint resolution may be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

S.J. RES. 25

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE —

''SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

''SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

''SEC. 3. This amendment shall take effect two years after the date of ratification.''.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. DASCHLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 8, a bill to amend title IV of the Social Security Act to reduce teenage pregnancy, to encourage parental responsibility, and for other purposes.

S. 12

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 111

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 111, a bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs.

S. 170

At the request of Mr. DASCHLE, the names of the Senator from Washington [Mrs. MURRAY] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 170, a bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes.

S. 171

At the request of Mr. DASCHLE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 171, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 205

At the request of Mrs. BOXER, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 205, a bill to amend title 37, United States Code, to revise and expand the prohibition on accrual of pay and allowances by members of the Armed Forces who are confined pending dishonorable discharge.

S. 219

At the request of Mr. NICKLES, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 239

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 239, a bill to require certain Federal agencies to protect the right of private property owners, and for other purposes.

S. 275

At the request of Mr. GRASSLEY, the names of the Senator from Utah [Mr. HATCH], the Senator from Utah [Mr. BENNETT], the Senator from Wyoming [Mr. THOMAS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 17, a joint resolution naming the CVN–76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE JOINT RESOLUTION 23

At the request of Mr. MCCONNELL, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 23, a joint resolution proposing an amendment to the Constitution of the United States to repeal the twenty-second amendment relating to Presidential term limitations.

SENATE RESOLUTION 37

At the request of Mr. PACKWOOD, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Colorado [Mr. CAMPBELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mrs. BOXER], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Delaware [Mr. ROTH], the Senator from Washington [Mr. GORTON], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Wyoming Mr. [THOMAS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Tennessee [Mr. FRIST], the Senator from Vermont [Mr. JEFFORDS], the Senator from Missouri [Mr. ASHCROFT], the Senator from Michigan [Mr. ABRAHAM], the Senator from Kentucky [Mr. FORD], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Louisiana [Mr. BREAUX], the Senator from South Dakota [Mr. PRESSLER], the Senator from Oklahoma [Mr. INHOFE], the Senator from Georgia [Mr. COVERDELL], the Senator from Montana [Mr. BURNS], the Senator from Nebraska [Mr. EXON], the Senator from Maine [Ms. SNOWE], the Senator from Connecticut [Mr. DODD], the Senator from New Hampshire [Mr. GREGG], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. INOUYE], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Colorado [Mr. BROWN], the Senator from Utah [Mr. HATCH], the Senator from Idaho [Mr. CRAIG], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Virginia [Mr. ROBB], the Senator from North Dakota [Mr. CONRAD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Illinois [Mr. SIMON], the Senator from New York [Mr. D'AMATO], the Senator from Michigan [Mr. LEVIN], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Texas [Mrs. HUTCHISON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Alaska [Mr. STEVENS], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 37, a resolution designating February 2, 1995, and February 1, 1996, as ''National Women and Girls in Sports Day.''

AMENDMENT NO. 184

At the request of Mr. GRAHAM the names of the Senator from Florida [Mr. MACK], the Senator from California [Mrs. BOXER], the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Arizona [Mr. MCCAIN], the Senator from Arizona [Mr. KYL], the Senator from Texas [Mrs. HUTCHISON], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from New York [Mr. D'AMATO], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of amendment No. 184 proposed to S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

AMENDMENT NO. 204

At the request of Mr. WELLSTONE the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of amendment No. 204 proposed to S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

SENATE RESOLUTION 74—COMMEMORATING THE FIFTIETH ANNIVERSARY OF THE LIBERATION OF THE AUSCHWITZ DEATH CAMP IN POLAND

Mr. BRADLEY (for himself, Mr. D'AMATO, Mr. DOLE, Mr. DASCHLE, Mr. PELL, Mr. HELMS, Mr. SPECTER, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. HARKIN, Mr. BAUCUS, and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to.

S. RES. 74

Whereas on January 27, 1945, the Auschwitz extermination camp in Poland was liberated by Allied Forces after almost five years of murder, rape, and torture;

Whereas more than one million innocent civilians were murdered at Auschwitz alone;

Whereas Auschwitz symbolizes the brutality of the Holocaust;

Whereas Americans must ''never forget'' this terrible crime against humanity and must educate the generations to come so as to promote the understanding of the dangers of intolerance in order to prevent similar injustices from happening ever again; and

Whereas commemoration of the liberation of Auschwitz will instill in all Americans a greater awareness of the Holocaust; Now, therefore, be it

Resolved, That the Senate hereby—

(1) commemorates January 27, 1995, as the fiftieth anniversary of the liberation of the Auschwitz death camp by Allied Forces in the Second World War; and

(2) calls upon all Americans to remember the more than one million innocent victims who were murdered at Auschwitz as part of the Holocaust.

AMENDMENTS SUBMITTED

THE UNFUNDED MANDATE REFORM ACT OF 1995

BOXER AMENDMENT NO. 223

Mrs. BOXER proposed an amendment to amendment No. 201 proposed by her to the bill (S. 1) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes; as follows:

In the amendment strike all after ''(e) IMMIGRATION'' and insert the following:

REPORT.—Not later than 3 months after the date of enactment of this act, the Advisory Commission shall develop a plan for reimbursing State, local and tribal governments for costs associated with providing

services to illegal immigrants based on the best available cost and revenue estimates, including—

(1) education;

(2) incarceration; and

(3) health care.

(f) The appropriate federal agencies shall be authorized to expend such sums as are necessary to fulfill the plan for reimbursement described in section 302(e).

HARKIN AMENDMENT NO. 224

Mr. HARKIN proposed an amendment to amendment No. 224 proposed by him to the bill S. 1, supra; as follows:

At the end of the amendment add the following:

(a) FINDINGS.—The Senate finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GLENN AMENDMENT NO. 225

Mr. GLENN proposed an amendment to the amendment No. 209, proposed by Mr. KEMPTHORNE, to the bill, S. 1, supra; as follows:

Strike page 1, line 2, through page 2, line 4, and insert the following:

''( ) CLARIFICATION OF APPLICATION.—(1) This section applies to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute, or that otherwise amends any statute, only if enactment of the bill, joint resolution, amendment, motion, or conference report—

''(A) would result in a net reduction in or elimination of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use for the purpose of complying with any Federal intergovernmental mandate, or to the private sector for use to comply with any Federal private sector mandate, and would not eliminate or reduce duties established by the Federal mandate by a corresponding amount; or

''(B) would result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates or Federal private sector mandates otherwise than as described in paragraph (1).

''(2) For purposes of this section, the direct cost of the Federal mandates in a bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out a statute, or that otherwise, amends any statute, means the net increase—

''(A) in the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted,

''(B) over the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted.''

KASSEBAUM AMENDMENT NO. 226

Mrs. KASSEBAUM proposed an amendment to the amendment No. 203, proposed by Mrs. BOXER, to the bill, S. 1 supra; as follows:

In the pending amendment, strike the language after ''(7)'' and insert the following: ''expresses the Sense of the Senate or the Sense of the House that the President should fully enforce existing laws against child pornography, child abuse, or child labor.''.

BOXER (AND OTHERS) AMENDMENT NO. 227

Mrs. BOXER (for herself, Mr. DODD, and Mr. WELLSTONE) proposed an amendment to the amendment No. 203, proposed by her, to the bill S. 1, supra; as follows:

At the end of the amendment, add the following:

''( ) is intended to study, control, deter, prevent, prohibit or otherwise mitigate child pornography, child abuse and illegal child labor.''.

NOTICES OF HEARINGS

SUBCOMMITTEEON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Tuesday, January 31, 1995, at 2 p.m., in room 342 of the Dirksen Senate Office Building. The subject of the hearing is oversight of the FDIC and the RTC's use of D'Oench Duhme.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. COHEN. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing to discuss ''What Tax Policy Reforms will Help Strengthen American Agriculture and Agribusiness?'' The hearing will be held on Tuesday, February 7, 1995, at 9:30 in SR–332.

For further information, please contact Chuck Conner at 224–0005.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. COHEN. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing to discuss ''How Do We Best Reduce Excessive Government Regulation of Agriculture and Agribusiness?'' The hearing will be held on Tuesday, February 14, 1995, at 9:30 a.m. in SR–332.

For Further information, please contact Chuck Conner at 224–0005.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, January 26, 1995, at 9:30 a.m.,in SR–332, to address the reauthorization of the Commodity Futures Trading Commission.

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

COMMITTEE ON ARMED SERVICES

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, January 26, 1995, at 9:30 a.m. in open session, to receive testimony on the security implications of the Nuclear Non-Proliferation Agreement with North Korea.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on January 26, 1995, at 2 p.m. on Amtrak Oversight.

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

COMMITTEE ON FINANCE

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, January 26, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the Federal budget outlook.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, January 26, 1995, at 10 a.m. to hold a hearing on Mexico's economic situation and the United States efforts to stabilize the peso.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, January 26, 1995, at 2 p.m. to hold a hearing on Mexico's economic situation and the United States efforts to stabilize the peso.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the National Endowment for the Arts, during the session of the Senate on Thursday, January 26, 1995, at 9:30 a.m.

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

ADDITIONAL STATEMENTS

NINETY-FIVE PERCENT TURNED AWAY FOR DRUG REHAB

• Mr. SIMON. Mr. President, I conducted a survey of prison wardens on what we should do about crime in our country; 157 wardens responded, from Illinois, California, Florida, Texas, Delaware, Michigan, Ohio, and Pennsylvania.

By large margins, the wardens warned that our overwhelming emphasis on building prisons in response to crime just isn't working. The wardens urged a more balanced approach, one that mixes punishment, prevention, and treatment.

To give a few specific examples, 92 percent of the wardens said we should make greater use of alternatives to incarceration, such as home detention, halfway houses, and residential drug treatment programs. Fifty-eight percent said they opposed the politically popular mandatory minimum sentences. And 65 percent said that we should use prison space more efficiently by imposing shorter sentences on nonviolent offenders and longer sentences on violent ones.

All told, 85 percent of the wardens said that elected officials are simply not offering effective solutions to America's crime problem. These results suggest that Congress should be cautious before it embarks on another round of mandatory sentences and prison building.

I ask unanimous consent that a summary of the survey results be inserted at the end of my remarks.

In addition, I would like to insert into the RECORD after that an article that simply underscores what the prison wardens had to say.

The heading on the story in the Chicago Sun-Times, an article written by Mary A. Johnson, is "95% Turned Away for Drug Rehab." The stub-head is "Chicago Area's Treatment Sites Overwhelmed."

The story buttresses the fact that we ought to be doing more in the way of prevention.

Underscoring what the Mary Johnson article says, not too long ago, I visited the Cook County Jail and learned that they have great need for an expanded drug rehabilitation program.

The day I was there, there were about 9,000 prisoners. Among the places I visited was a minimum security area where about 45 prisoners were in a barracks-like situation with cots. I went around talking to them and asked one of the prisoners what he would like. He said he would like to get into a drug rehabilitation program at the prison. The assistant warden told me that there were only places for 120 in the drug rehabilitation program there.

I turned to the other prisoners who were there, and I said, "How many of you would like to get into a drug rehabilitation program?" About 25 or 30 raised their hands. Obviously, we save money when we don't provide drug rehabilitation, but we save money like we save money when we build a house and don't put a roof on it.

This Nation has to be realistic about the problems of crime and stop the demagoguery.

I ask that at the end of the survey of prison wardens and the press release from my office, the Mary Johnson article be inserted into the RECORD.

[From the Chicago Sun-Times, Dec. 29, 1994]

NINETY-FIVE PERCENT TURNED AWAY FOR DRUG REHAB: CHICAGO AREA'S TREATMENT SITES OVERWHELMED

(By Mary A. Johnson)

There is no shortage of suppliers for people demanding heroin or crack cocaine in the Chicago metropolitan area.

But when drug users—especially pregnant women and the unemployed—hit rock bottom and run for treatment, they quickly find that the demand for help is far greater than the supply.

Most drug abusers wait up to six months for services at publicly funded treatment centers. On any given day, nearly 95 percent of those seeking help will be turned away from the 118 treatment centers in the area.

"I may get 100 calls a week and have only 10 beds," said Florence Mason, director of clinical services for the Women's Treatment Program. "I've got people that are continuously calling that I cannot get into treatment."

Even inmates ordered to receive drug treatment as part of their sentences have to wait their turn—in jail.

Meanwhile, drugs are readily available. In a random survey of Illinois residents, nearly half said illegal drugs were "very easy" to obtain in their areas, according to the City of Chicago's 1991 Citywide Needs Assessment Report on alcohol and substance abuse. The same report found that Chicago's drug treatment system had the capacity for less than 5 percent of the people in need.

"Clearly, if we are not able to provide treatment to people who need it, obviously we are going to have a different time making headway in the entire problem," said Susan Weed, the recently appointed director of the city's office of substance abuse policy.

Not all people are successfully treated, nor are all programs successful. Still, many state and local officials agree that there should be more programs for people seeking treatment.

Suburban drug treatment centers also are struggling to meet the needs of those seeking help. At a Lutheran Social Services program in Elgin, there usually is a waiting list for people on Medicaid or who don't have insurance, said Jackie Galvin, an administrative assistant.

"We know of about 10 people here at the front desk, and we don't know how many people are on waiting lists at the intake center," Galvin said.

100,000 WAITING

Nationwide, an estimated 100,000 people are on waiting lists for publicly funded drug treatment, said Sarah Kayson, director of public policy for the Washington based National Council on Alcoholism and Drug Dependence.

The problem, while crossing racial and suburban boundaries, hits the black population harder because of the higher unemployment rates and related lack of health insurance for African Americans.

With the explosion of heroin on Chicago streets, substance-abuse treatment providers are finding that more and more women are hooked. Pregnant women addicted to heroin have an even tougher time getting help because such treatment includes methadone, an alternative drug that few clinics are licensed to dispense.

Also, many female drug-abusers are heads of households. That raises the question of child care. Only a couple of agencies in the city provide such service, substance abuse care providers said.

Dr. Janet Chandler, who runs the New Start Treatment Program at Cook County Hospital, said she turns away 20 pregnant women a month from the program.

In 1988, there were 129 babies from Cook County born with illegal drugs detected in their systems. Last year, the number was 3,146.

"I don't know anybody who wouldn't agree that the single most pervasive problem in child welfare—at least in Cook County and other urban areas—is drug abuse," said John Goad, Cook County child protection administrator. "The source of the largest category of children coming into state care are those abandoned because their parents are out getting high and doing drugs."

ONLY 892 BEDS

The Illinois Department of Alcohol and Substance Abuse estimates that the potential drug treatment population in Cook County is as low as 350,000 or as high as 600,000.

Yet, only 892 publicly funded beds are available in Chicago for drug treatment. There are also nearly 6,000 spots in programs for nonresidential treatment.

''There just isn't enough money to go around,'' said Becky Enrietto, a spokesman for Gov. Edgar. ''It is not only a political problem, it is a societal problem.''

However, recent studies have shown that drug prevention and treatment are cost-effective over the long haul. Treatment saves on publicly funded health care, reduces criminal activity and helps fight the spread of AIDS.

''When a quarter of your patients come in with chemical dependency, it's a major health problem,'' said Dr. Tom Scaletta, associate director of adult emergency services at Cook County Hospital.

''A lot of the patients with chemical dependency come to the emergency department many, many times.''

Dr. Ed Senay, a University of Chicago professor of psychiatry, said that given the political climate, it is not likely that government funding for substance abuse treatment will increase.

''There hasn't been a substantial incremental increase in funding for drug treatment since the Nixon administration,'' Senay said.

The wide gap between demand and supply has drug treatment providers fighting to make services available, said Ray Soucek, executive director of Haymarket House, a pioneer organization in alcohol and substance abuse treatment.

''The problem is not getting smaller, and there is no doubt that people want treatment,'' Soucek said.●

A $40 BILLION FINANCIAL BAILOUT FOR THE GOVERNMENT OF MEXICO

● Mr. DORGAN. Mr. President, I regret that I cannot support the proposal that the President, together with some Republican and Democratic leaders in Congress, has offered calling for a $40 billion financial bailout for the Government of Mexico.

I just cannot support a course that will commit the American taxpayers to a risk of paying a $40 billion bill for the mistakes of the Mexican Government and some Wall Street financiers.

That makes no sense to me.

I do not think we have an international crisis. We do have the Mexican Government that, apparently, does not have the funds to redeem its bonds. And we have some bondholders—notably banks and investors—who risk some losses if that occurs.

But that is not a crisis.

I think it is important to review what has happened in Mexico. In recent years, a huge flow of speculative investment flowed into Mexico. That capital flow accelerated during the time that the United States and Mexico began negotiating a free-trade agreement.

Investors—including banks and mutual funds—were receiving big interest rate premiums because of the high risk of those investments. Investors and banks knew the risks. In exchange for the prospect of big profits, they were willing to take the risks.

In fact, some of the investors from the United States and elsewhere who invested in Mexican bonds had a field day when these high-risk investments were the fad.

For example, in 1993, one large mutual fund reported profits on its largest investment account for Mexican securities at 62 percent.

The profits of another emerging market fund, heavily invested in Mexico, reached 82 percent for the same year.

The deluge of foreign investments that the Mexicans were able to attract in recent years allowed the Mexican Government to become more than a little careless about that nation's trade balance.

So careless, in fact, that the total transactions in and out of Mexico, called the current account balance, ran more than a $50 billion deficit in the years 1993 and 1994 combined.

None of that deficit, according to U.S. figures, was attributable to the United States.

As long as the foreign investments continued to flow into Mexico, the trade deficits did not come home to roost.

But the party ended when the Federal Reserve Board began to increase interest rates in the United States and when investors began to get nervous about the value of the Mexican peso.

Now the over-heated investment bubble in Mexico has burst. The Mexican Government has been forced to devalue its currency. The peso has fallen in value by 40 percent.

And those same investors and financiers who made money hand over fist in 1993 and throughout most of 1994 have taken a drubbing on their Mexican bonds.

That is bad luck. But it is also the way the market works.

Risk works both ways. The risk of gain is offset by the risk of loss.

But now we are told that the United States taxpayer should offer a $40 billion guarantee to bailout those who risked losses on the Mexican bonds.

Well, count me out. That is not an obligation for the American taxpayer to assume.

The soothing voices of financial gurus tell us that there is not much risk for the American taxpayers here. If that is the case—if this is a low-risk situation—then why will not the private sector step in and assume the risk?

If it involves significant risk—and I believe it does—it underscores why this is a real mistake for our taxpayers.

Another matter that convinces me that the taxpayers should not be saddled with this is an evaluation of who is causing the trade deficit that Mexico is experiencing.

The trade deficit represents most of Mexico's current account imbalance.

If this is a crisis and a bailout is in order, should those countries who are sporting handsome trade surpluses with Mexico not be responsible to underwrite the bonds that Mexico must float to finance that trade? I think so.

So, how much of the Mexico trade debt is with the United States?

The United States commerce Department reported that Mexico had a merchandise trade deficit with the United States of about $1 billion for 1993. That figure is even lower for 1994.

In 1995 and beyond, Mexico is certain to have a trade surplus with the United States.

Mexico, however, is running a massive deficit with the rest of the world.

It does not seem to me like we should ask American taxpayers to underwrite the risk on bonds that are issued to finance a Mexican trade deficit with Japan or Europe or other countries.

If those are the responsibilities that some think America must assume in the new world order, then we need to redefine the rules.

Mexico is a friend, neighbor, and ally of the United States. And we do have common interests and common concerns.

But nothing that I have seen or heard or evaluated persuades me that we serve either Mexico's interest or the American taxpayer by the bailout which has been proposed.

In his State of the Union Address Tuesday night, President Clinton urged Americans to take more responsibility for their own lives. That is all well and good and I support him in that effort.

But I think it is time the big banks and giant investors do the same.

They knew the rules of the marketplace. They knew the risks were high. They accepted high interest rate premiums—and collected billions of dollars in quick profits—precisely because the risks were high. Now that the worm has turned, they want taxpayers to bail them out.

The big banks and giant investors need to do precisely what the President has asked the American people to do: take more responsibility for their own lives. Stop looking to the Government to assume responsibilities that are rightfully their own.

I will oppose the bailout which has been proposed for Mexico.

The world will not stop. Mexico will not collapse. The debt that Mexico owes will be restructured, and the market will work the way it is designed to work.●

NEW APPROACHES: LESSONS FOR THE MANUFACTURING REVOLUTION

● Mr. LOTT. My colleague from Connecticut, Senator LIEBERMAN, and I have been working with the National Association of Manufacturers on organizing a conference on the future of manufacturing on February 1, that we want to bring to our colleagues' attention. It will highlight our concern about the critical role manufacturing plays in our national economy. I join my friend from Connecticut in requesting that an excerpt from our invitation letter appear in the RECORD for the information of our colleagues.

Mr. LIEBERMAN. I am pleased to join my colleague from Mississippi, Senator LOTT, in inviting our colleagues to attend the conference on issues in manufacturing. This conference will provide a forum for discussion of topics that are so important for the future economic health of our Nation, and I encourage our colleagues to attend. I request that an excerpt from our letter to our Senate colleagues appear following our remarks:

We would like to invite you to attend the ''New Approaches: Lessons from the Manufacturing Revolution'' on Capitol Hill, on February 1, 1995, in the Senate Caucus Room, room SR–325 in the Russell Building from 8:30 to 10:30 am. This important conference, sponsored by the National Association of Manufacturers (NAM) will focus on the future of U.S. manufacturing and technology. It will feature, Tom Peters, noted speaker and author of ''The Pursuit of Wow!, Crazy Times Call for Crazy Organizations,'' and ''In Search of Excellence,'' and include remarks from NAM's new Chairman, Tracy O'Rourke of Varian Associates and its President of NAM, Jerry Jasinowski, author of a significant new book on this subject.

In the highly-competitive world economic climate, our manufacturing industry is more critical than ever to the economic well-being of our nation. American manufacturing and technology firms have been in the process of renewal over the past decade, and are now attempting to reassert and maintain U.S. economic leadership. The conference will discuss these developments, and also start to look at ways we in the government can better support our producers as they search for a new edge in the global marketplace in introducing new products and technologies, in improving productivity, in expanding exports, and in better educating our workforce.

Our hope is that there will be sufficient interest in the U.S. manufacturing agenda, and that this conference will lead to a Senate Manufacturing Task Force to examine issues in detail from a strictly bipartisan perspective, and result in legislative ideas that we, together, can translate into action. The House last year began a similar effort, and we believe we can cooperate across the chambers toward a common goal. We invite you to join in this effort.●

POVERTY IN AMERICA: CAUSES, CURES . . .

● Mr. SIMON. Mr. President, Prof. Warren Copeland of Wittenberg University is a professor of religion and social ethics and, recently, had an op-ed piece in the Chicago Tribune that talks about poverty in our country and the lack of understanding on the part of those who are looking for simplistic answers to achieve welfare reform.

What he says makes great sense, and I urge my colleagues to read it.

I ask to insert it into the RECORD at this point.

The article follows:

[From the Chicago Tribune]

POVERTY IN AMERICA: CAUSES, CURES . . .

(By Warren R. Copeland)

Politicians of both parties say they are about to reform our welfare system. If that is true, it will help to first come to terms with the reality of poverty in the United States.

Three basic facts must be recognized. First, poverty is increasing. The percentage of Americans who are poor by official government standards reached its low point in 1972 (11.1 percent) and has been slowly rising. Second, poverty is getting younger. The U.S. Census Bureau reported last year that more than 15 million children under the age of 18 (22.7 percent) lived in poverty. Third, poverty is becoming inherited. People born into poverty are more likely to become poor adults than earlier in our history.

Four trends in American society lie behind these troubling facts. First, poverty generally declines when the economy grows and increases when the economy slows down. Overall our economy has grown more slowly in recent decades. Second, our job market has changed significantly. Well-paying blue-collar jobs, which require little education, are disappearing. Increasingly, education is the key to getting a job that pays enough to support a family. Those without education and specialized job skills find themselves caught in low-paying jobs. Third, we are becoming more separated geographically. Increasingly the poor are stuck in poor neighborhoods in cities surrounded by more affluent suburbs. The better schools, the safer neighborhoods and the jobs are in the suburbs and the poor people are stuck in the cities. Fourth, programs which support the poor have been cut. For instance, the buying power of Aid to Families with Dependent Children has declined significantly in the past two decades.

Of these four trends, welfare policy is probably the least important factor in the rise of poverty, and yet it is the one we are told we shall reform. Welfare policy is a mess. However, the primary reason is not in Washington; it is in our own hearts and minds. Virtually all Americans believe we should help poor children because they are not to blame for their poverty and deserve our help. Yet most Americans do not want to provide assistance for poor adults. They are considered lazy and unmotivated and to blame for their own poverty. The problem, however, is that the overwhelming majority of poor children live with poor adults. We simply cannot figure out how to help the blameless children without helping their worthless parents.

We would do better to focus on the other three trends as ways of dealing with poverty. Jobs, education and housing patterns are better places to begin than welfare policy. For most poor persons, a good job is the best assistance they can get. Programs of basic education and job training and of placement in jobs that pay a living wage hold out much more hope than does a welfare grant. For most welfare recipients, and these are single women with children, day care for their children and health care for the family is more valuable than a bigger welfare check.

The education of our children, all of them, promises even greater long-term rewards in the effort to reduce poverty. It is clear that it takes more resources to educate poor children who come to school with fewer of the advantages and supports that we take for granted for other children. Yet our school system is organized and financed so that we spend less time and money on the children whose needs are greatest. The results are easy to see. Test scores vary by the income level of our schools. Children who do not get a good education will not be able to support their own children in the new job market.

Finally, and this is the hardest for us to face, we literally must learn to live together again. If we continue to spread apart geographically according to income, we will find it extremely difficult to provide real opportunity for our poor citizens. Left behind in deteriorating neighborhoods by those who are able to leave and take good schools and jobs with them, the poor may never get back into the mainstream of the American economy and society. But most Americans living in affluent neighborhoods probably are not ready to deal with dispersal of the poor.

Congress will seek to reform welfare in the vain hope that to do so will reduce poverty. What they are most likely to do is to make some children's lives even more desperate. Sadly, we probably lack the moral insight or political will to face the real needs for jobs, education and housing patterns which hold out greater promise for success than any welfare reform that will be seriously considered in the months ahead.●

TRIBUTE TO AUDIE MURPHY

● Mr. SMITH. Mr. President, I rise today to remind my colleagues that on this date in 1945, a 20-year-old soldier named Audie Murphy had the courage to call in artillery on his own position as part of his successful effort to repel an enemy advance of 6 tanks and over 200 infantrymen. He was wounded during that firefight in France, and ultimately earned the Medal of Honor among his 33 medals and citations.

As most of my colleagues know, he was the most decorated soldier in World War II. Furthermore, he achieved most of his accomplishments before his 21st birthday. Many Americans are familiar with his book, or have seen the movie that he starred in, ''To Hell and Back.''

The Postal Service has been asked time and time again by veterans organizations to issue an Audie Murphy stamp. But, again, this year, the vets have been disappointed. We have Popeye, Little Orphan Annie, and Marilyn Monroe, but, no Audie Murphy. It is my sincere hope that the Postal Service will take another look at this brave young soldier's outstanding career, and reconsider issuing a commemorative stamp in honor of his service to his country.●

ADDITIONAL COSPONSOR S. 111 AND S. 262

● Mr. BRYAN. Mr. President, today, I am pleased to join as a cosponsor of both Senator TOM DASCHLE's bill to make permanent the deduction for health insurance costs of self-employed individuals, and to increase it to 100 percent [S. 111], and Senator CHARLES GRASSLEY's bill also to make the deduction permanent, and to phase in the increase to 100 percent over 3 years [S. 262].

The 25-percent health insurance tax deduction for the self-employed expired at the end of 1993. It was assumed the tax break would be restored, and possibly even expanded to a 100-percent tax deduction as part of comprehensive health care legislation. As we were unable to reach any consensus on health care reform in 1994, the 25-percent tax deduction was not restored.

Last October, I initiated a letter to the former Senate Majority Leader George Mitchell cosigned by 25 of my colleagues encouraging the consideration of legislation to restore the 25-percent tax deduction for the costs of

health insurance for the self-employed to the floor when the Senate reconvened in November. Unfortunately, we were unable to consider such legislation.

More than 12 million Americans are self-employed for part or all of their livelihood, and almost 3 million of these Americans have no heath insurance, according to the Employee Benefit Research Institute. A study conducted in 1993 by the National Association for the Self-Employed predicted that 400,000 more self-employed would go without insurance, if they lost the 25-percent tax deduction.

These bills are particularly beneficial for the self-employed for not only do they provide for retroactive renewal of the 25-percent tax deduction for 1994, it increases that deduction to a full 100 percent. The Grassley bill phases in this deduction; in 1995 deductibility would be 50 percent, in 1996 deductibility would be 75 percent, and in 1997 deductibility would be 100 percent.

If we do not reinstate this important tax provision, self-employed people will lose an important incentive to purchase health insurance. Instead of taking an important step forward toward achieving universal health care coverage, Congress will actually be moving away from this goal.

Our delay has already harmed many self-employed who simply cannot afford essential health care coverage without the tax incentive. I have joined with many of my colleagues to also request Majority Leader ROBERT DOLE immediately bring to the floor a bill to extend the 25-percent deduction for 1994, so self-employed taxpayers can take the deduction on their 1994 tax returns this year. I hope my colleagues will join in this effort to restore this important incentive for 1994, and permanently establish the 100-percent deduction level to enable the self-employed to afford health care insurance coverage.●

RACISM, PARANOIA CREATING A CRISIS

● Mr. SIMON. Mr. President, one of the columnists with a social conscience in our country today is Carl Rowan, who speaks bluntly but with a wisdom that some years of observing public life has provided him.

Recently, he had a column, ''Racism, Paranoia Creating A Crisis,'' that appeared in the Chicago Sun-Times.

We have, nationally, about 23 percent of our children living in poverty. No other Western industrialized nation has anything like that. As I pointed out on the floor of the Senate the other day, this is not an act of God but the result of flawed political policies.

As he points out in his column, 46 percent of black children under the age of 18 live in poverty.

These are figures that ought to be on the moral conscience of every American citizen.

I ask to insert the Carl Rowan column into the RECORD at this point.

RACISM, PARANOIA CREATING A CRISIS

Since it has become disturbingly obvious that some Americans want to fight another Civil War over ''affirmative action,'' I must have a few more words about the subject.

My mail about ''reverse discrimination'' tells me that I must make one more attempt to tell white America what is ugly paranoia, and what is fact, about the recent efforts of political leaders and corporation leaders to do justice.

It seems that I get a zillion letters a month from whites saying generally: ''Through reverse discrimination, our government, colleges and businesses have given so many goodies to blacks and Hispanics that a white man, or family, doesn't have a chance anymore.''

I know that white people have read so much fiction about reverse discrimination, so much provocative propaganda about the ''angry white male,'' that they really believe non-whites have become top dogs in this society. I only wish someone would force the affirmative action race-baiters to explain why:

In 1993, the median income of white households was $32,960, but for black households, only $19,533.

In 1992, 46.6 percent of black children under age 18 lived in poverty, compared with 16.9 percent of white children.

Black babies in America are twice as likely to die within the first year of life as white babies—and black women are more than twice as likely to die within five years of a breast cancer diagnosis as are white women.

In November—yes, this November—the unemployment rate for black adults was 9.2 percent, more than double the 4.3 percent for whites. Or why 31.7 percent of black teenagers in the labor force could not find work, while only 12.9 percent of white youths faced that plight.

Why? Why? Why?

Those statistics, released by the U.S. government, sure put the lie to claims that reverse discrimination has made blacks a privileged race in America.

More than white ignorance, or paranoia, lies behind the incendiary cries against affirmative action, which means nothing more than giving women, Hispanics, blacks and others a chance to get jobs, scholarships, and other opportunities according to their abilities. Today we are beleaguered by craven politicians who know that they can dredge votes out of white jealousies and fears.

Social and political predators know that ordinary white Americans have been indoctrinated up to their gullets by propaganda that blacks are inferior to Caucasians. So it becomes natural in every work or study session for the dumbest white person to assume that any black person landing a spot above him or her is inferior, and just the beneficiary of reverse discrimination.

Do I believe that this column, or a thousand like it, will improve the mindset of any advocate of racial superiority, or any angry white man who is steeped in paranoia? No. But it sure improves my mindset to write it.●

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

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. DOMENICI. 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. DOMENICI. Mr. President, I rise just for 2 minutes and ask consent I be permitted to speak for 2 minutes as in morning business while Senators are negotiating. I do not intend to distract anybody.

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

A LOAN GUARANTEE TO MEXICO

Mr. DOMENICI. Mr. President, I noticed the occupant of the chair, who has been very much involved in adding some common sense and some solid business practices to the discussion on the so-called loan guarantee to Mexico. As I saw him there, I thought maybe I would just take a minute to discuss with the Senate, and for those who work for the White House and thus for the people of the United States in this regard, that perhaps we ought to apply another dimension of common sense to what is going on.

It is pretty obvious there are some things the Mexican Government does not want the American Government to tell them to do. It seems to me the Mexican Government ought to take this whole issue on and say what things can we do ourselves so the Americans will not have to tell us what to do? Because we are obviously going to pass—if we ever do—a loan guarantee that is conditional. Conditional means we are going to ask them to do something and we are also going to say, regarding what we asked them to do, we reserve the right to see if they did it or not.

With reference to their money supply and a really independent approach to money supply and printing money, would it not be better for Mexico to get its leadership together and do that? Confer with us if they would like. Confer with those who know something about it. They obviously did it wrong. So whatever they have going did not work as an independent entity as we perceive it. We have a Federal Reserve with a lot of longevity. The fact that we are two parties puts some pressure on, but it is an institution that is truly independent.

We have not had a President truly try with any degree of success to work his political will, or Congress to work its will, on or against that Federal Reserve Board. Many people talk about it—both sides. When things are not going right we talk about loosening the money. When that side was in charge and something was happening that the money was being tightened, they were saying loosen it. But the Federal Reserve seemed to have walked a pretty independent path. So it is doable. And at least it could be produced and made the law of the land in a way that some of our experts could say that is good,

that is right. And we can take it to Congress and say it is done.

So I urge the White House heed this. Why do we have to tell them what to do in some of the very patent things that they know they have to do anyway and that they know we are going to say without which we will not do this? Why wait around for us? Why do they not do it? Why do they not create a more independent commission?

There are models for it besides ours, with reference to their money supply and their monetary policy. There may be other conditions that are close to being cleared here that they could do themselves and say, ''We have done them.'' That will get us away from a long litany of things that are obviously going to be debated up here that have little to do with the situation, and those who might want to support the bailout can say Mexico has done some of these.

I thank the Chair for its attention and I thank the Senator for yielding time.

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.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. KEMPTHORNE. Mr. President, may I also note that the Presiding Officer of the Senate has been in that chair now for well over 2 hours. We appreciate your patience and your indulgence. And may I also thank all of the staff who have remained here with us for all their hard work.

UNANIMOUS-CONSENT AGREEMENT

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that at 9:30 a.m. Friday, Senator LEVIN be recognized to offer his amendment No. 175; that there be no second-degree amendments in order and that there be 45 minutes for debate prior to a motion to table in the following fashion: 30 minutes under the control of Senator LEVIN, 15 minutes under the control of Senator KEMPTHORNE.

I further ask that following the conclusion or yielding back of time, Senator KEMPTHORNE or his designee be recognized to make a motion to table and that vote be postponed to occur at 11:30 a.m.

I further ask unanimous consent that following the debate on Levin No. 175, Senator GLENN be recognized to offer his amendment No. 197, and no second-degree amendments be in order, and debate prior to a motion to table be as follows: 30 minutes under the control of Senator GLENN, 15 minutes under the control of Senator KEMPTHORNE.

I further ask unanimous consent that following the conclusion or yielding back of time on the Glenn amendment, Senator KEMPTHORNE or his designee be recognized to make a motion to table, and that vote occur immediately following the Levin No. 175 vote.

I further ask unanimous consent that Senator LEVIN then be recognized to offer his amendment No. 174 and no second-degree amendments be in order, and there be 30 minutes for debate to be equally divided, and following the debate the Senate vote on or in relation to the Levin amendment No. 174, following the Glenn vote No. 197, and the Senate then turn to Levin amendment No. 219, and that no second-degree amendments be in order, and there be 10 minutes for debate to be equally divided, and that the vote occur following the sequenced votes listed above.

Following the stacked votes, Senator LEVIN be recognized to offer his amendment No. 218 regarding S. 993, and no second-degree amendments be in order and time prior to a motion to table as follows: 45 minutes under the control of Senator LEVIN, 15 minutes under the control of Senator KEMPTHORNE.

Following the conclusion and yielding back of time, Senator KEMPTHORNE be recognized to make a motion to table, and that vote be postponed to occur following 20 minutes of debate under the control of Senator BYRD.

Following the conclusion of the Levin amendment No. 218, Senator KEMPTHORNE be recognized for up to 20 minutes to offer an amendment to his manager's amendment No. 210, and that amendment be agreed to and the motion to reconsider be laid upon the table, to be followed by Senator ROTH's amendment No. 222, to be modified to reflect technical changes, and following the conclusion of those two amendments there be 20 minutes for debate under the control of Senator GLENN, and following the conclusion of that debate the bill be read for a third time.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I have had the opportunity to discuss this with a number of Members on our side. Let me commend the managers of the bill. Their comity and their cooperation have been exemplary throughout the entire process here. We have come to a point where I think we can successfully conclude the debate on this bill, thanks to their leadership and their remarkable efforts.

I also join the Republican manager of the bill in commending the staff on both sides for the cooperative effort and work they have done in the last several hours to reach this agreement. I think this accommodates the concerns and interests of many of our Members who want the opportunity to debate several remaining amendments that we view to be very important.

So I have no objection.

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

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I would like to ask my distinguished colleague from Idaho if the managers' amendment will include all of the things that have been passed on the floor? We want to make sure everything will be included in that amendment, is that correct?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, to my friend from Ohio, I would say the managers' amendment will contain all freestanding amendments adopted by the Senate, and other matters which have been submitted to Senator GLENN and his staff for review this evening.

Mr. GLENN. It is my understanding that everything that has had positive action taken upon it would be included in that managers' amendment, is that correct?

Mr. KEMPTHORNE. Mr. President, in response to that, perhaps we need to just have a clarification of ''positive action'' which the Senator is speaking to. These are all the freestanding issues where we have had jurisdiction and they have been submitted to the Senator's staff so they will have the opportunity to have full review before we actually get to this point.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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, clarification for the question just asked by my distinguished colleague: I would define that as saying we would want to make certain that everything has been included on which the Senate took final positive action.

Mr. KEMPTHORNE. Mr. President, I agree with that.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. No objection.

The PRESIDING OFFICER. Without objection, the unanimous consent agreement is so ordered.

Mr. KEMPTHORNE. Mr. President, I thank my colleague from Ohio, who has been a fine partner through this. I think now we all realize that in the some 12 days we have been debating S. 1, that everyone, I think, has been accommodated to have full opportunity to debate this. Tomorrow we will have those remaining amendments that we will deal with, moving toward that final passage tomorrow so this legislation can move forward from this body to the House of Representatives.

ORDER FOR STAR PRINT

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that report 104–

6, a report to accompany Senate Resolution 73, be star printed in order to make technical corrections.

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

MEASURE READ FOR THE FIRST TIME—S. 290

Mr. KEMPTHORNE. Mr. President, I send a bill to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 290) relating to the treatment of Social Security under any constitutional amendment requiring a balanced budget.

Mr. KEMPTHORNE. Mr. President, I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR TOMORROW

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. on Friday, January 27. I further ask unanimous consent that on Friday the Journal of proceedings be approved to date, and the two leaders' time be reserved for their use later in the day, and that the Senate immediately resume S. 1, the unfunded mandates bill.

I further ask that the cloture vote scheduled for tomorrow be postponed to occur at 3 p.m., with the mandatory quorum under rule XXII being waived.

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

PROGRAM

Mr. KEMPTHORNE. Mr. President, for the information of all Senators, the Senate will complete action on this bill tomorrow, hopefully prior to the 3 p.m. cloture vote. However, if passage has not occurred by 3 p.m., a cloture vote will occur. Also, additional votes are expected throughout the day on amendments and hopefully final passage of the unfunded mandates bill.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. KEMPTHORNE. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 11:47 p.m, recessed until Friday, January 27, 1995 at 9:30 a.m.