S. 111

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] 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. 137

At the request of Mr. BRADLEY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 137, a bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills.

S. 145

At the request of Mr. GRAMM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 145, a bill to provide appropriate protection for the constitutional guarantee of private property rights, and for other purposes.

S. 153

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 153, a bill to reduce Federal spending and enhance military satellite communications by reducing funds for the MILSTAR II satellite program and accelerating plans for deployment of the Advanced EHF Satellite/MILSTAR III.

S. 155

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 155, a bill to reduce Federal spending by prohibiting the backfit of Trident I ballistic missile submarines to carry D–5 Trident II submarine-launched ballistic missiles.

S. 157

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 157, a bill to reduce Federal spending by prohibiting the expenditure of appropriated funds on the United States International Space Station Program.

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the Act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 194

At the request of Mr. MCCAIN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 194, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 205

At the request of Mrs. BOXER, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Virginia [Mr. ROBB], the Senator from Montana [Mr. BAUCUS], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors 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. 210

At the request of Mr. THOMAS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 210, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of emergency care and related services furnished by rural emergency access care hospitals.

SENATE JOINT RESOLUTION 19

At the request of Mr. BROWN, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Tennessee [Mr. FRIST], the Senator from Minnesota [Mr. GRAMS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Texas [Mrs. HUTCHISON], the Senator from Oklahoma [Mr. INHOFE], the Senator from Arizona [Mr. KYL], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 19, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms.

AMENDMENTS SUBMITTED

UNFUNDED MANDATES ACT

FORD AMENDMENTS NOS. 20–29

(Ordered to lie on the table.)

Mr. FORD submitted 10 amendments intended to be proposed by him to the bill, S.1, to curb the practice on 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:

AMENDMENT NO. 20

On page 17, line 4, strike ''or the House of Representatives''.

AMENDMENT NO. 21

On page 17, lines 12 and 13, strike ''or the House of Representatives''.

AMENDMENT NO. 22

On page 26, strike lines 1 through 5 and insert end quotation marks.

AMENDMENT NO. 23

On page 26, strike beginning with line 11 through line 2 on page 28.

AMENDMENT NO. 24

On page 31, line 19, strike ''House of Representatives or the''.

AMENDMENT NO. 25

On page 14, line 8, strike ''or the House of Representatives''.

AMENDMENT NO. 26

On page 16, line 15, strike ''or the House of Representatives''.

AMENDMENT NO. 27

On page 13, line 25, and page 14, line 1, strike ''or the House of Representatives''.

AMENDMENT NO. 28

On page 3, line 17, strike ''and the House of Representatives''.

On page 4, lines 7 and 8, strike ''and the House of Representatives''.

On page 13, line 25 and page 14, line 1, strike ''or the House of Representatives''.

On page 14, line 8, strike ''or the House of Representatives''.

On page 16, line 15, strike ''or the House of Representatives''.

On page 17, line 4, strike ''or the House of Representatives''.

On page 17, lines 12 and 13, strike ''or the House of Representatives''.

On page 18, lines 1 and 2, strike ''or the House of Representatives''.

On page 19, lines 15 and 16, strike ''or the House of Representatives''.

On page 26, strike lines 1 through 5 and insert end quotation marks.

On page 26, strike beginning with line 11 through line 2 on page 28.

On page 28, line 13, strike ''or the House of Representatives''.

On page 29, line 8, strike ''or the House of Representatives''.

On page 31, line 19, strike ''or the House of Representatives''.

On page 32, strike lines 12 through 24 and insert the following:

The provisions of sections 101, 102, 103, 104, and 107 are enacted by the Senate—

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

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

On page 42, lines 20 and 21, strike ''the Committee on Government Reform and Oversight of the House of Representatives and''.

On page 43, strike lines 9 through 12, and insert the following:

''(A) ''.

AMENDMENT NO. 29

On page 32, strike lines 12 through 24, and insert the following:

''The provisions of sections 101, 102, 103, 104, and 107 are enacted by the Senate—

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

''(2) with full recognition of the constitutional right of the Senate to change such rules (so far as relating to the Senate) at any

time, in the same manner, and to the same extent as in the case of any other rule of the Senate.''

DODD (AND OTHERS) AMENDMENT NO. 30

(Ordered to lie on the table.)

Mr. DODD (for himself, Mr. DASCHLE, and Mr. LAUTENBERG) submitted the following amendment intended to be proposed by them to the bill S. 1, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.

(a) PURPOSE.—The Congress declares it essential that the Congress prior to adopting in the 1st session of the 104th Congress a joint resolution proposing an amendment to the Constitution requiring a balanced Federal budget—

(1) set forth with specificity the policies that achieving such a balanced Federal budget would require; and

(2) enforce through the congressional budget process the requirement to achieve a balanced Federal budget.

(b) POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A GLIDE PATH TO A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(j) CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.—It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that—

''(1) fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002;

''(2) sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of revenues for that fiscal year; or

''(3) relies on the assumption of either—

''(A) reductions in direct spending; or

''(B) increases in revenues, without including specific reconciliation instructions under section 310 to carry out those assumptions.''.

(c) REQUIREMENT FOR 60 VOTES TO WAIVE OR APPEAL IN THE SENATE.—Section 904 of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),'' in both places that it appears.

(d) SUSPENSION IN THE EVENT OF WAR OR CONGRESSIONALLY DECLARED LOW GROWTH.—Section 258(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting ''301(j),'' after ''sections''.

(e) EFFECTIVE DATE.—The amendments made by subsections (b), (c), and (d) shall take effect on the date that a joint resolution proposing a balanced budget amendment to the Constitution is adopted by the Congress.

GORTON (AND OTHERS) AMENDMENT NO. 31

Mr. GORTON (for himself, Mr. LIEBERMAN, and Mr. GRAMM) proposed an amendment to the bill S. 1, supra; as follows:

At the end of the language proposed to be stricken by the amendment, add the following:

SEC. . NATIONAL HISTORY STANDARDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the National Education Goals Panel shall disapprove, and the National Education Standards and Improvement Council shall not certify, any voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of world and United States history, developed prior to the date of enactment of this Act.

(b) PROHIBITION.—No Federal funds shall be awarded to, or expended by, the National Center for History in the Schools, after the date of enactment of this Act, for the development of voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of such history.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, on the subject of world and United States history, established under title II of the Goals 2000: Educate America Act should not be based on standards developed by the National Center for History in the Schools; and

(2) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (1), the recipient of such funds should have a decent respect for the contributions of western civilization, and United States history, ideas, and institutions, to the increase of freedom and prosperity around the world.

BINGAMAN AMENDMENTS NOS. 32–36

(Ordered to lie on the table.)

Mr. BINGAMAN submitted five amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 32

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

''(4) DETERMINATION BY REPORTING COMMITTEE OF APPLICABILITY TO PENDING LEGISLATION.—Notwithstanding any provision of paragraph (1)(B), it shall always be in order to consider a bill, resolution, or conference report if such report includes a determination by the reporting committee that the pending measure is needed to serve a compelling national interest that furthers the public health, safety, or welfare.''

AMENDMENT NO. 33

On page 5, line 23, strike out ''or'' and insert in lieu thereof a semicolon.

On page 6, insert between lines 2 and 3 the following new subclause:

''(III) a law enforcement provision relating to organized crime; or

On page 7, line 14, strike out ''or''.

On page 7, insert between lines 16 and 17 the following new clause:

''(iii) a law enforcement provision relating to organized crime; or''

AMENDMENT NO. 34

On page 21, line 24, strike out ''amendment,''.

On page 22, lines 5 and 6, strike out ''amendment,''.

On page 22, line 10, strike out ''amendment,''.

On page 22, lines 14 and 15, strike out ''amendment,''.

On page 22, line 20, strike out ''amendment,''.

On page 22, lines 24 and 25, strike out ''amendment,''.

On page 23, line 9, strike out ''amendment,''.

On page 27, line 15, strike out ''amendment,''.

AMENDMENT NO. 35

On page 5, line 23, after ''or'' insert ''a condition of receipt of a Federal license; or''.

On page 7, line 13, after ''assistance'' insert ''or a condition of receipt of a Federal license''.

AMENDMENT NO. 36

On page 5, line 23, strike out ''or'' and insert in lieu thereof a semicolon.

On page 6, insert between lines 2 and 3 the following new subclause:

''(III) any requirement for a license or permit for the treatment and disposal of nuclear and hazardous waste; or

On page 7, line 14, strike out ''or''.

On page 7, insert between lines 16 and 17 the following new clause:

''(iii) any requirement for a license or permit for the treatment and disposal of nuclear and hazardous waste; or''.

KOHL AMENDMENT NO. 37

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1, supra; as follows:

On page 24, line 21, strike the period and insert the following: ''; and

''(v) the bill, joint resolution, amendment, motion, or conference report provides that any State, local, or tribal government that already complies with the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report shall be eligible to receive funds for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the new mandate.''.

MURRAY AMENDMENTS NOS. 38–40

(Ordered to lie on the table.)

Mrs. MURRAY submitted three amendments intended to be proposed by her to the bill S. 1, supra; as follows:

AMENDMENT NO. 38

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

''(2) TIME LIMITATIONS FOR ESTIMATES.—The Director of the Congressional Budget Office shall provide an estimate as required by this section—

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

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

AMENDMENT NO. 39

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

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

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

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

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

AMENDMENT NO. 40

On page 12, line 11, insert ''(a)'' before ''The provisions''.

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

(b) The provisions of this Act and the amendments made by this Act also shall not apply to any agreement between the Federal Government and a State, local, or tribal government, or the private sector for the purpose of carrying out environmental restoration or waste management activities of the Department of Defense or the Department of Energy.

GRASSLEY AMENDMENTS NOS. 41–44

(Ordered to lie on the table.)

Mr. GRASSLEY submitted four amendments, intended to be proposed by him, to the bill S. 1, supra; as follows:

AMENDMENT NO. 41

On page 26, line 6, redesignate subsection (b) as subsection (c), and insert the following:

(b) WAIVER.—Subsections (c) and (d) of section 904 of the Congressional Budget and Impoundment Control Act of 1974 are amended by inserting ''408(c)(1)(A),'' after ''313,''.

AMENDMENT NO. 42

On page 12, insert ''age,'' after ''race,''.

AMENDMENT NO. 43

On page 32, between lines 5 and 6, insert the following:

SEC. 103A. PROJECTED COSTS OF EXISTING FEDERAL MANDATES.

Not later than 6 months after the date of enactment of this Act, the Congressional Budget Office shall conduct a study of the projected 5-year costs to State and local governments and the private sector of unfunded mandates in existence on the date of enactment of this Act. The study shall estimate such costs based on the assumption that expiring programs and activities would be reauthorized by Congress.

AMENDMENT NO. 44

At the appropriate place, insert the following:

SEC. . COST OF REGULATIONS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that the costs of Federal regulations are within the cost estimates provided by the Congressional Budget Office.

(b) STATEMENT OF COST.—Not later than January 1, 1998, the Director shall submit a report to the Congress including—

(1) an estimate of the costs of regulations implementing each Act containing an unfunded Federal mandate (as that term is defined in section 3(13) of the Federal Budget and Impoundment Control Act of 1974, as added by section 3(b) of this Act); and

(2) a comparison of the costs of such regulations with cost estimate provided for such Act by the Congressional Budget Office.

BOXER AMENDMENT NO. 45

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment, intended to be proposed by her to the bill, S. 1, supra; as follows:

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

''(7) is intended to study, control, deter, prevent, prohibit or otherwise mitigate child pornography, child abuse and illegal child labor.''

HATFIELD AMENDMENTS NOS. 46–47

(Ordered to lie on the table.)

Mr. HATFIELD submitted two amendments, intended to be proposed by him to the bill, S. 1, supra; as follows:

AMENDMENT NO. 46

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

TITLE V—

LOCAL EMPOWERMENT AND FLEXIBILITY

SECTION 501. SHORT TITLE.

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

SEC. 502. FINDINGS.

The Congress finds that—

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

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

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

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

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

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

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

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

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

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

SEC. 503. PURPOSES.

The purposes of this title are to—

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

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

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

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

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

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

SEC. 504. DEFINITIONS.

For purposes of this title—

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

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

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

(A) Assistant to the President for Domestic Policy;

(B) Assistant to the President for Economic Policy;

(C) Secretary of the Treasury;

(D) Attorney General;

(E) Secretary of the Interior;

(F) Secretary of Agriculture;

(G) Secretary of Commerce;

(H) Secretary of Labor;

(I) Secretary of Health and Human Services;

(J) Secretary of Housing and Urban Development;

(K) Secretary of Transportation;

(L) Secretary of Education;

(M) Secretary of Energy;

(N) Secretary of Veterans Affairs;

(O) Secretary of Defense;

(P) Director of Federal Emergency Management Agency;

(Q) Administrator of the Environmental Protection Agency;

(R) Director of National Drug Control Policy;

(S) Administrator of the Small Business Administration;

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

(U) Chair of the Council of Economic Advisers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the services available;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) APPROVAL.—(1) The Flexibility Council may approve a local flexibility plan for which an application is submitted under this title, or any part of such a plan, if a majority of members of the Council determines that—

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

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

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

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

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

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

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

(H) the local government has—

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

(ii) sought any necessary waivers from the State.

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

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

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

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

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

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

(c) MEMORANDA OF UNDERSTANDING.—(1) The Flexibility Council may not approve a part of a local flexibility plan unless each local government and each qualified organization that would receive financial assistance under the plan enters into a memorandum of understanding under this subsection with the Flexibility Council.

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

flexibility plan that are the subject of the memorandum, including understandings with respect to—

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

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

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

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

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

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

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

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

(2) conflict with law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) individuals who receive benefits under the plan;

(ii) communities in which those individuals live; and

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

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

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

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

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

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

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

(2) The Flexibility Council may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under paragraph (1).

SEC. 509. COMMUNITY ADVISORY COMMITTEES.

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

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

(1) conducting public hearings; and

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

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

(1) consist of—

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

(B) local elected officials;

(C) representatives of participating qualified organizations; and

(D) the general public; and

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

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

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

SEC. 510. TECHNICAL AND OTHER ASSISTANCE.

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

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

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

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

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

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

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

(II) governmental agencies that administer those programs; and

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

(I) needs expressed by those individuals and families;

(II) community priorities; and

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

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

SEC. 511. FLEXIBILITY COUNCIL.

(a) FUNCTIONS.—The Flexibility Council shall—

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

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

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

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

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

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

SEC. 512. REPORT.

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

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

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

(3) includes recommendations with respect to local flexibility.

SEC. 513. CONDITIONAL TERMINATION.

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 47

At the end of the bill, and the following new title:

TITLE V—OREGON OPTION PROPOSAL

SEC. 501. OREGON OPTION PROPOSAL.

(a) FINDINGS.—The Senate finds that—

(1) Federal, State and local governments are dealing with increasingly complex problems which require the delivery of many kinds of social services at all levels of government;

(2) historically, Federal programs have addressed the Nation's problems by providing categorical assistance with detailed requirements relating to the use of funds which are often delivered by State and local governments;

(3) although the current approach is one method of service delivery, a number of problems exist in the current intergovernmental structure that impede effective delivery of vital services by State and local governments;

(4) it is more important than ever to provide programs that respond flexibly to the needs of the Nation's States and communities, reduce the barriers between programs that impede Federal, State and local governments' ability to effectively deliver services, encourage the Nation's Federal, State and local governments to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national goals, and improve the accountability of all levels of government by better measuring government performance and better meeting the needs of service recipients;

(5) the State and local governments of Oregon have begun a pilot project, called the Oregon Option, that will utilize strategic planning and performance-based management that may provide new models for intergovernmental social service delivery;

(6) the Oregon Option is a prototype of a new intergovernmental relations system, and it has the potential to completely transform the relationships among Federal, State and local governments by creating a system of intergovernmental service delivery and funding that is based on measurable performance, customer satisfaction, prevention, flexibility, and service integration; and

(7) the Oregon Option has the potential to dramatically improve the quality of Federal, State and local services to Oregonians.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Oregon Option project has the potential to improve intergovernmental service delivery by shifting accountability from compliance to performance results and that the Federal Government should continue in its partnership with the State and local governments of Oregon to fully implement the Oregon Option.

MCCAIN AMENDMENTS NOS. 48–50

(Ordered to lie on the table.)

Mr. MCCAIN submitted three amendments, intended to be proposed by him, to the bill S. 1, supra; as follows:

AMENDMENT NO. 48

On page 20, strike line 15 and insert the following: ''that determination in the statement.

''(iv) The Director shall, to the extent permitted in law, develop an effective process to permit elected officials (or their designated representatives) of State, local, and tribal governments to provide meaningful and timely input in the development of the cost estimates to be prepared by the Congressional Budget Office pursuant to this Act.''

AMENDMENT NO. 49

On page 32, strike line 9 through line 23, and insert in lieu thereof the following: ''permitted in Chapter 5 of Title 5, United States Code (Commonly referred to as the Administrative Procedures Act)—

''(1) assess the effects of Federal regulations on State, local, and tribal governments (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), and the private sector including specifically the availability of resources to carry out any Federal intergovernmental mandates in those regulations; and

''(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving statutory and regulatory objectives.

''(b) STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT.—Each agency shall, to the extent permitted in the Administrative Procedures Act, develop an effective process to permit elected officials.''

On page 25, strike lines 7 through 10, and insert the following: ''(3) COMMITTEE ON APPROPRIATIONS.—Paragraph (1)—

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

''(B) shall apply to—

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

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

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

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

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

MCCONNELL AMENDMENT NO. 51

(Ordered to lie on the table.)

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill, S. 1, supra, as follows:

On page 12, line 18, after ''national origin,'' insert ''age,''.

BUMPERS AMENDMENTS NOS. 52–53

(Ordered to lie on the table.)

Mr. BUMPERS submitted two amendments intended to be proposed by him to the bill, S. 1, supra, as follows:

AMENDMENT NO. 52

At the appropriate place, insert the following new title:

TITLE ____—COLLECTION OF STATE AND LOCAL SALES TAXES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Consumer and Main Street Business Protection Act of 1995''.

SEC. ___02. FINDINGS.

The Congress finds that—

(1) merchandise purchased from out-of-State firms is subject to State and local sales taxes in the same manner as merchandise purchased from in-State firms,

(2) State and local governments generally are unable to compel out-of-State firms to collect and remit such taxes, and consequently, many out-of-State firms choose not to collect State and local taxes on merchandise delivered across State lines,

(3) moreover, many out-of-State firms fail to inform their customers that such taxes exist, with some firms even falsely claim that merchandise purchased out-of-State is tax-free, and consequently, many consumers unknowingly incur tax liabilities, including interest and penalty charges,

(4) Congress has a duty to protect consumers from explicit or implicit misrepresentations of State and local sales tax obligations,

(5) small businesses, which are compelled to collect State and local sales taxes, are subject to unfair competition when out-of-State firms cannot be compelled to collect and remit such taxes on their sales to residents of the State,

(6) State and local governments provide a number of resources to out-of-State firms including government services relating to disposal of tons of catalogs, mail delivery, communications, and bank and court systems,

(7) the inability of State and local governments to require out-of-State firms to collect and remit sales taxes deprives State and local governments of needed revenue and forces such State and local governments to raise taxes on taxpayers, including consumers and small businesses, in such State,

(8) the Supreme Court ruled in Quill Corporation v. North Dakota, 112 S. Ct. 1904 (1992) that the due process clause of the Constitution does not prohibit a State government from imposing personal jurisdiction and tax obligations on out-of-State firms that purposefully solicit sales from residents therein, and that the Congress has the power to authorize State governments to require out-of-State firms to collect State and local sales taxes, and

(9) as a matter of federalism, the Federal Government has a duty to assist State and local governments in collecting sales taxes on sales from out-of-State firms.

SEC. ___03. AUTHORITY FOR COLLECTION OF SALES TAX.

(a) IN GENERAL.—A State is authorized to require a person who is subject to the personal jurisdiction of the State to collect and remit a State sales tax, a local sales tax, or both, with respect to tangible personal property if—

(1) the destination of the tangible personal property is in the State,

(2) during the 1-year period ending on September 30 of the calendar year preceding the calendar year in which the taxable event occurs, the person has gross receipts from sales of such tangible personal property—

(A) in the United States exceeding $3,000,000, or

(B) in the State exceeding $100,000, and

(3) the State, on behalf of its local jurisdictions, collects and administers all local sales taxes imposed pursuant to this title.

(b) STATES MUST COLLECT LOCAL SALES TAXES.— Except as provided in section ___04(d), a State in which both State and local sales taxes are imposed may not require State sales taxes to be collected and remitted under subsection (a) unless the State also requires the local sales taxes to be collected and remitted under subsection (a).

(c) AGGREGATION RULES.—All persons that would be treated as a single employer under section 52 (a) or (b) of the Internal Revenue Code of 1986 shall be treated as one person for purposes of subsection (a).

(d) DESTINATION.—For purposes of subsection (a), the destination of tangible personal property is the State or local jurisdiction which is the final location to which the seller ships or delivers the property, or to which the seller causes the property to be shipped or delivered, regardless of the means of shipment or delivery or the location of the buyer.

SEC.___04. TREATMENT OF LOCAL SALES TAXES.

(a) UNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Sales taxes imposed by local jurisdictions of a State shall be deemed to be uniform for purposes of this title and shall be collected under this title in the same manner as State sales taxes if—

(A) such local sales taxes are imposed at the same rate and on identical transactions in all geographic areas in the State, and

(B) such local sales taxes imposed on sales by out-of-State persons are collected and administered by the State.

(2) APPLICATION TO BORDER JURISDICTION TAX RATES.—A State shall not be treated as failing to meet the requirements of paragraph (1)(A) if, with respect to a local jurisdiction which borders on another State, such State or local jurisdiction—

(A) either reduces or increases the local sales tax in order to achieve a rate of tax equal to that imposed by the bordering State on identical transactions, or

(B) exempts from the tax transactions which are exempt from tax in the bordering State.

(b) NONUNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), nonuniform local sales taxes required to be collected pursuant to this title shall be collected under one of the options provided under paragraph (2).

(2) ELECTION.—For purposes of paragraph (1), any person required under authority of this title to collect nonuniform local sales taxes shall elect to collect either—

(A) all nonuniform local sales taxes applicable to transactions in the State, or

(B) a fee (at the rate determined under paragraph (3)) which shall be in lieu of the nonuniform local sales taxes described in subparagraph (A).

Such election shall require the person to use the method elected for all transactions in the State while the election is in effect.

(3) RATE OF IN-LIEU FEE.—For purposes of paragraph (2)(B), the rate of the in-lieu fee for any calendar year shall be an amount equal to the product of—

(A) the amount determined by dividing total nonuniform local sales tax revenues collected in the State for the most recently completed State fiscal year for which data is available by total State sales tax revenues for the same year, and

(B) the State sales tax rate.

Such amount shall be rounded to the nearest 0.25 percent.

(4) NONUNIFORM LOCAL SALES TAXES.—For purposes of this title, nonuniform local sales taxes are local sales taxes which do not meet the requirements of subsection (a).

(c) DISTRIBUTION OF LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), a State shall distribute to local jurisdictions a portion of the amounts collected pursuant to this title determined on the basis of—

(A) in the case of uniform local sales taxes, the proportion which each local jurisdiction receives of uniform local sales taxes not collected pursuant to this title,

(B) in the case of in-lieu fees described in subsection (b)(2)(B), the proportion which each local jurisdiction's nonuniform local sales tax receipts bears to the total nonuniform local sales tax receipts in the State, and

(C) in the case of any nonuniform local sales tax collected pursuant to this title, the geographical location of the transaction on which the tax was imposed.

The amounts determined under subparagraphs (A) and (B) shall be calculated on the basis of data for the most recently completed State fiscal year for which the data is available.

(2) TIMING.—Amounts described in paragraph (1) (B) or (C) shall be distributed by a State to its local jurisdictions in accordance with State timetables for distributing local sales taxes, but not less frequently than every calendar quarter. Amounts described in paragraph (1)(A) shall be distributed by a State as provided under State law.

(3) TRANSITION RULE.—If, upon the effective date of this title, a State has a State law in effect providing a method for distributing local sales taxes other than the method under this subsection, then this subsection shall not apply to that State until the 91st day following the adjournment sine die of that State's next regular legislative session which convenes after the effective date of this title (or such earlier date as State law may provide). Local sales taxes collected pursuant to this title prior to the application of this subsection shall be distributed as provided by State law.

(d) EXCEPTION WHERE STATE BOARD COLLECTS TAXES.—Notwithstanding section ___03(b) and subsections (b) and (c) of this section, if a State had in effect on January 1, 1995, a State law which provides that local sales taxes are collected and remitted by a board of elected States officers, then for any period during which such law continues in effect—

(1) the State may require the collection and remittance under this title of only the

State sales taxes and the uniform portion of local sales taxes, and

(2) the State may distribute any local sales taxes collected pursuant to this title in accordance with State law.

SEC.___05. RETURN AND REMITTANCE REQUIREMENTS.

(a) IN GENERAL.—A State may not require any person subject to this title—

(1) to file a return reporting the amount of any tax collected or required to be collected under this title, or to remit the receipts of such tax, more frequently than once with respect to sales in a calendar quarter, or

(2) to file the initial such return, or to make the initial such remittance, before the 90th day after the person's first taxable transaction under this Act.

(b) LOCAL TAXES.—The provisions of subsection (a) shall also apply to any person required by a State acting under authority of this title to collect a local sales tax or in-lieu fee.

SEC.___06. NONDISCRIMINATION AND EXEMPTIONS.

Any State which exercises any authority granted under this title shall allow to all persons subject to this title all exemptions or other exceptions to State and local sales taxes which are allowed to persons located within the State or local jurisdiction.

SEC.___07. APPLICATION OF STATE LAW.

(a) PERSONS REQUIRED TO COLLECT STATE OR LOCAL SALES TAX.—Any person required by section ____03 to collect a State or local sales tax shall be subject to the laws of such State relating to such sales tax to the extent that such laws are consistent with the limitations contained in this title.

(b) LIMITATIONS.—Except as provided in subsection (a), nothing in this title shall be construed to permit a State—

(1) to license or regulate any person,

(2) to require any person to qualify to transact intrastate business, or

(3) to subject any person to State taxes not related to the sales of tangible personnel property.

(c) PREEMPTION.—Except as otherwise provided in this title, this title shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.

SEC.___08. TOLL-FREE INFORMATION SERVICE.

A State shall not have power under this title to require any person to collect a State or local sales tax on any sale unless, at the time of such sale, such State has a toll-free telephone service available to provide such person information relating to collection of such State or local sales tax. Such information shall include, at a minimum, all applicable tax rates, return and remittance addresses and deadlines, and penalty and interest information. As part of the service, the State shall also provide all necessary forms and instructions at no cost to any person using the service. The State shall prominently display the toll-free telephone number on all correspondence with any person using the service. This service may be provided jointly with other States.

SEC.___09. DEFINITIONS.

For the purposes of this title—

(1) the term ''compensating use tax'' means a tax imposed on or incident to the use, storage, consumption, distribution, or other use within a State or local jurisdiction or other area of a State, of tangible personal property;

(2) the term ''local sales tax'' means a sales tax imposed in a local jurisdiction or area of a State and includes, but is not limited to—

(A) a sales tax or in-lieu fee imposed in a local jurisdiction or area of a State by the State on behalf of such jurisdiction or area, and

(B) a sales tax imposed by a local jurisdiction or other State-authorized entity pursuant to the authority of State law, local law, or both;

(3) the term ''person'' means an individual, a trust, estate, partnership, society, association, company (including a limited liability company) or corporation, whether or not acting in a fiduciary or representative capacity, and any combination of the foregoing;

(4) the term ''sales tax'' means a tax, including a compensating use tax, that is—

(A) imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property as may be defined or specified under the laws imposing such tax, and

(B) measured by the amount of the sales price, cost, charge or other value of or for such property; and

(5) the term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC.___ 10. EFFECTIVE DATE.

This title shall take effect 180 days after the date of the enactment of this Act. In no event shall this title apply to any sale occurring before such effective date.

AMENDMENT NO. 53

At the appropriate place, insert the following new title:

TITLE ___—CONSUMER PROTECTION TAX DISCLOSURE

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Direct Marketing Consumer Protection Act of 1995''.

SEC. ___02. FINDINGS.

The Congress finds that—

(1) merchandise purchased from out-of-State firms is subject to State and local sales taxes in the same manner as merchandise purchased from in-State firms,

(2) many out-of-State firms, however, choose not to collect State and local taxes on merchandise delivered across State lines,

(3) moreover, many out-of-State firms fail to inform their customers that such taxes exist, and some firms even falsely claim that merchandise purchased out-of-State is tax-free,

(4) consequently, many customers unknowingly incur tax liabilities, including interest and penalty charges, and

(5) Congress has a duty to protect consumers from explicit or implicit misrepresentations of State and local sales tax obligations.

SEC. ___03. DISCLOSURE REQUIREMENT.

(a) DISCLOSURE REQUIREMENT.—Any person selling tangible personal property who—

(1) delivers such property, or causes such property to be delivered, to a person in another State, and

(2) does not collect and remit all applicable State and local sales taxes pertaining to the sale and use of such property,

shall prominently display the notice described in subsection (b) on all applicable documents.

(b) DISCLOSURE NOTICE.—The notice described in this subsection is as follows:

''NOTICE REGARDING TAXES: You may be required by your State or local government to pay sales or use tax on these products. Such taxes are imposed in nearly all States. Failure to pay such taxes could result in civil or criminal penalties. For information on your tax obligations, contact your State taxation department.''

(c) APPLICABLE DOCUMENTS.—For purposes of subsection (a), the term ''applicable document'' means any written or telecommunicated solicitation, order form, invoice, or sales document which a person presents, telecommunicates, mails, delivers, or causes to be presented, telecommunicated, mailed, or delivered to a purchaser or prospective purchaser.

(d) REGULATORY AUTHORITY.—The Secretary of Commerce may issue such regulations as are necessary to ensure compliance with this section, including regulations as to what constitutes prominently displaying a notice.

SEC. ___04. PENALTIES.

Any person who willfully fails to include any notice under section __03 shall be fined not more than $100 for each such failure.

SEC. ___05. DEFINITIONS.

For purposes of this title—

(1) the term ''compensating use tax'' means a tax imposed on or incident to the use, storage, consumption, distribution, or other use within a State or local jurisdiction or other area of a State, of tangible personal property,

(2) the term ''local sales tax'' means a sales tax imposed in a local jurisdiction or area of a State and includes, but is not limited to—

(A) a sales tax or in-lieu fee imposed in a local jurisdiction or area of a State by the State on behalf of such jurisdiction or area, and

(B) a sales tax imposed by a local jurisdiction or other State-authorized entity pursuant to the authority of State law, local law, or both,

(3) the term ''person'' means an individual, a trust, estate, partnership, society, association, company (including a limited liability company), or corporation, whether or not acting in a fiduciary or representative capacity, and any combination of the foregoing,

(4) the term ''sales tax'' means a tax, including a compensating use tax, that is—

(A) imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property as may be defined or specified under the laws imposing such tax, and

(B) measured by the amount of the sales price, cost, charge, or other value of or for such property, and

(5) the term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC. ___06. EFFECTIVE DATE.

This title shall take effect 180 days after the date of the enactment of this Act. In no event shall this Act apply to any sale occurring before such effective date.

BRADLEY AMENDMENT NO. 54

(Ordered to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to the bill S. 1; supra; as follows:

On page 33, strike out line 9 and insert in lieu thereof the following:

SEC. 107. IMPACT ON LOCAL GOVERNMENTS.

(A) FINDINGS.—The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

SEC. 108. EFFECTIVE DATE.

LIEBERMAN AMENDMENTS NOS. 55–56

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted two amendments intended to be proposed by him to the bill S. 1; supra; as follows:

AMENDMENT NO. 55

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

''(6) EXCLUSION.—For purposes of paragraph (1)(B), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

AMENDMENT NO. 56

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

''(6) EXCLUSION.—For purposes of paragraph (1)(B), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.

HOLLINGS AMENDMENT NO. 57

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1; supra; as follows:

SEC. . Sense of the Senate concerning Congressional Enforcement of a Balanced Budget.

It is the Sense of the Senate that prior to adopting in the first session of the 104th Congress a joint resolution proposing an amendment to the Constitution requiring a balanced budget—

(1) the Congress set forth with specificity the policies that achieving such a balanced federal budget by the year 2002 would require; and

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

BOXER (AND MURRAY) AMENDMENT NO. 58

(Ordered to lie on the table.)

Mrs. BOXER (for herself and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 1; supra; as follows:

On page 13, line 5, strike ''or'' after the semicolon.

On page 13, line 8, strike the period and insert ''; or''.

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

(7) provides for the protection of the health of children under the age of 5, pregnant women, or the frail elderly.

BOXER AMENDMENT NO. 59

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1; supra; as follows:

On page 6, line 10, strike ''or''.

On page 7, line 7, strike the period at the end and insert ''; or''.

On page 7, between lines 7 and 8, insert the following:

''(C)(i) any provision in legislation, statute, or regulation that would impose costs upon State, local, or tribal governments to provide services to illegal immigrants; or

''(ii) any failure of the Federal government to meet a Federal responsibility that results in costs to State, local or tribal governments with respect to illegal immigrants on or after the date of enactment of the Unfunded Mandate Reform Act of 1995.

On page 42, after line 25, insert the following:

(e) IMMIGRATION 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.

BOXER (AND OTHERS) AMENDMENT NO. 60

(Ordered to lie on the table.)

Mrs. BOXER (for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 1, supra; as follows:

In lieu of the matter proposed to be inserted by Committee amendment number , insert the following ''considered on or after such date.

''SEC. 108. SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

''(a) FINDINGS.—Congress finds that—

''(1) there are approximately 900 clinics in the United States providing reproductive health services;

''(2) violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

''(3) organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

''(4) there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

''(5) the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services;

''(6) violence is not a mode of free speech and should not be condoned as a method of expressing an opinion;

''(7) persons exercising their constitutional rights and acting completely within the law are entitled to full protection from the Federal Government;

''(8) the Freedom of Access to Clinic Entrances Act of 1994 imposes a mandate on the Federal Government to protect individuals seeking to obtain or provide reproductive health services; and

''(9) the President has instructed the Attorney General to order—

''(A) the United States Attorneys to create task forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

''(B) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence.

''(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Attorney General should fully enforce the law and take any further necessary measures to protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violence attack.''.

● Mr. BAUCUS. Mr. President, I want to express my support for Senator BOXER's amendment to S.1, which asks the Attorney General to act immediately to protect womens' health care clinics.

The shootings last month at two clinics in Massachusetts and one in Virginia remind me of the problems we have experienced in my home State of Montana. In 1993, an arsonist burned and destroyed the Blue Mountain Women's Clinic in Missoula, the second clinic that closed in Montana due to arson in the span of a year and a half. And I recall Dr. Susan Wicklund from Bozeman, who was repeatedly harassed by life-threatening letters and calls. Prior to passage of the Freedom of Access to Clinic Entrances Act of 1994, the Federal Bureau of Investigations did not have the authority to protect Dr. Wicklund. Today, however, Federal law safeguards women who choose to exercise their constitutional right to have an abortion, and those who assist them in doing so.

Last year, Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994. I cosponsored this legislation, establishing new penalties for individuals threatening, obstructing, injuring, intimidating, or interfering with any person obtaining or providing abortion services. Moreover, it protects health care clinics by allowing the Attorney General to bring Federal criminal charges against any person who damages or attempts to damage a medical facility that provides abortion services.

This amendment, which I am cosponsoring, asks the Attorney General to fully enforce the Freedom of Access to

Clinic Entrances Act. In 1994, over 130 incidents of violence and intimidation were recorded by reproductive health care clinics. Furthermore, we cannot permit the recent shootings in Massachusetts and Virginia to pass us by without taking action.

I ask my colleagues to support this amendment and help curb the violence surrounding our reproductive health care clinics.●

BROWN AMENDMENTS NOS. 61–62

(Ordered to lie on the table.)

Mr. BROWN submitted two amendments intended to be proposed by him to the bill, S. 1, supra, as follows:

AMENDMENT NO. 61

Strike title IV of the bill and insert the following:

TITLE IV—JUDICIAL REVIEW

SEC. 401. JUDICIAL REVIEW.

(A) IN GENERAL.—Any statement or report prepared under titles I or III of this Act, and any compliance or noncompliance with the provisions of titles I or III of this Act, and any determination concerning the applicability of the provisions of titles I or III of this Act shall not be subject to judicial review.

(b) RULE OF CONSTRUCTION.—No provision of titles I or III of this Act or amendment made by titles I or III of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. No ruling or determination made under the provisions of this Act or amendments made by this Act shall be considered by any court in determining the intent of Congress or for any other purpose.

AMENDMENT NO. 62

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

SEC. 6. REVIEW OF IMPLEMENTATION.

It is the sense of the Senate that before the adjournment of the 106th Congress, the appropriate committees of the Senate should review the implementation of the provisions of this Act with respect to the conduct of the business of the Senate and report thereon to the Senate.

DORGAN (AND KASSEBAUM) AMENDMENT NO. 63

(Ordered to lie on the table.)

Mr. DORGAN (for himself and Mrs. KASSEBAUM) submitted an amendment intended to be proposed by him to the bill, S. 1, supra, as follows:

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

(A) TREATMENT.—For purposes of paragraphs (1) and (2), the Commission shall consider requirements for metric systems of measurement to be unfunded Federal mandates.

(B) DEFINTION.—In this paragraph, the term ''requirements for metric systems of measurement'' means requirements of the departments, agencies, and other entities of the Federal Government that State, local, and tribal governments utilize metric systems of measurement.

SEC. 205. TERMINATION OF REQUIREMENTS FOR METRIC SYSTEM OF MEASUREMENT.

(a) IN GENERAL.—Subject to subsections (b) and (c) and notwithstanding any other provision of law, no department, agency, or other entity of the Federal Government may require that any State, local, or tribal government utilize a metric system of measurement.

(b) EXCEPTION.—A department, agency, or other entity of the Federal Government may require the utilization of a metric system of measurement by a State, local, or tribal government in a particular activity, project, or transaction that is pending on the date of the enactment of this Act if the head of such department, agency, or other entity determines that the termination of such requirement with respect to such activity, project, or transaction will result in a substantial additional cost to the Federal Government in such activity, project, or transaction.

(c) SUNSET.—Subsection (a) cease to be effective on October 1, 1997.

On page , between lines and , insert the following:

(4) TREATMENT OF REQUIREMENTS FOR METRIC SYSTEMS OF MEASUREMENT.—

DORGAN (AND OTHERS) AMENDMENT NO. 64

(Ordered to lie on the table.)

Mr. DORGAN (for himself, Mrs. KASSEBAUM, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1; supra; as follows:

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

SEC. 205. TERMINATION OF REQUIREMENTS FOR METRIC SYSTEM OF MEASUREMENT.

(a) IN GENERAL.—Subject to subsections (b) and (c) and notwithstanding any other provision of law, no department, agency, or other entity of the Federal Government may require that any State, local, or tribal government utilize a metric system of measurement.

(b) EXCEPTION.—A department, agency, or other entity of the Federal Government may require the utilization of a metric system of measurement by a State, local, or tribal government in a particular activity, project, or transaction that is pending on the date of the enactment of this Act if the head of such department, agency, or other entity determines that the termination of such requirement with respect to such activity, project, or transaction will result in a substantial additional cost to the Federal Government in such activity, project, or transaction.

(c) SUNSET.—Subsection (a) shall cease to be effective on October 1, 1997.

DORGAN (AND OTHERS) AMENDMENT NO. 65

(Ordered to lie on the table.)

Mr. DORGAN (for himself, Mrs. KASSEBAUM, and Mr. REID) submitted an amendment intended to be proposed by them to the bill, S. 1, supra; as follows:

On page 4, between lines 2 and 3, insert the following:

(4) TREATMENT OF REQUIREMENTS FOR METRIC SYSTEMS OF MEASUREMENT.—

(A) TREATMENT.—For purposes of paragraphs (1) and (2), the Commission shall consider requirements for metric systems of measurement to be unfunded Federal mandates.

(B) DEFINITION.—In this paragraph, the term ''requirements for metric systems of measurement'' means requirements of the departments, agencies, and other entities of the Federal Government that State, local, and tribal governments utilize metric systems of measurement.

NICKLES (AND DOMENICI) AMENDMENT NO. 66

(Ordered to lie on the table.)

Mr. NICKLES (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 1, supra; as follows:

Page 35, line 11 strike the word ''intergovernmental''.

DOMENICI AMENDMENT NO. 67

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1, supra; as follows:

On page 12, lines 1 and 2, strike out ''but does not include independent regulatory agencies'' and insert in lieu thereof ''and shall include the Consumer Product Safety Commission, Federal Communications Commission, Federal Energy Regulatory Commission, Federal Trade Commission, and the Interstate Commerce Commission, but shall not include any other independent regulatory agency''.

BOXER AMENDMENTS NOS. 68–69

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to the bill, S. 1, supra; as follows:

AMENDMENT NO. 68

On page 12, between lines 6 and 7, insert the following:

(22) The term ''direct savings''—

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

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

(C) shall include, without being limited to, any reduction as a result of compliance with the Federal mandate in—

(i) the costs or burden of complying with any other law, regulation, or requirement imposed by the Federal government or any State, local or tribal government;

(ii) the cost or burden of attaining any goal identified in or established pursuant to any Federal, State, local or tribal government.

(D) shall include, without being limited to, benefits as referred to in paragraph (3)(B) of Section 408(a) of this Act.

AMENDMENT NO. 69

It is the sense of the Senate that the term ''direct savings'' as used in this Act—

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

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

(C) shall include, without being limited to, any reduction as a result of compliance with the Federal mandate in—

(i) the costs or burden of complying with any other law, regulation, or requirement

imposed by the Federal government or any State, local or tribal government;

(ii) the cost or burden of attaining any goal identified in or established pursuant to any Federal, State, local or tribal government.

(D) shall include, without being limited to, benefits as referred to in paragraph (3)(B) of Section 408(a) of this Act.

GORTON AMENDMENT NO. 70

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 1, supra; as follows:

At the end of the bill, add the following:

SEC. . NATIONAL HISTORY STANDARDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the National Education Goals Panel shall disapprove, and the National Education Standards and Improvement Council shall not certify, any voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of world and United States history, developed prior to the date of enactment of this Act.

(b) PROHIBITION.—No Federal funds shall be awarded to, or expended by, the National Center for History in the Schools, after February 1, 1995, for the development of voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of such history.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, on the subject of world and United States history, established under title II of the Goals 2000: Educate America Act should not be based on standards developed by the National Center for History in the Schools; and

(2) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (1), the recipient of such funds should have a decent respect for the contributions of western civilization, and United States history, ideas, and institutions, to the increase of freedom and prosperity around the world.

GRAMM AMENDMENTS NOS. 71–72

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 71

On page 21, between lines 13 and 15, 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, 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.''

AMENDMENT NO. 72

On page 26, line 6, redesignate subsection (b) as subsection (c), and insert the following:

(b) WAIVER.—Subsections (c) and (d) of section 904 of the Congressional Budget and Impoundment Control Act of 1974 are amended by inserting ''408(c),'' after ''313,''.

D'AMATO (AND SARBANES) AMENDMENT NO. 73

(Ordered to lie on the table.)

Mr. D'AMATO (for himself and Mr. SARBANES) submitted an amendment intended to be proposed to be proposed by himself to the bill S. 1, supra; as follows:

On page 13, lines 1–6, redesignate paragraphs (5) and (6) as paragraphs (6) and (7) and insert the following new paragraph:

''(5) ensures the safe and sound operation of an insured depository institution or insured credit union (as those terms are defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) or section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)), respectively) or protects the insurance funds that insure the deposits or member accounts in those depository institutions or credit unions;''.

WELLSTONE AMENDMENTS NOS. 74–81

(Ordered to lie on the table.)

Mr. WELLSTONE submitted eight amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 74

At the appropriate place, insert the following:

''( ) The terms 'Federal mandate direct costs' and 'direct costs'—

''( ) shall be determined on the assumption that State, local, and tribal governments, and the private sector are in compliance with all Federal laws in effect at the time of the adoption of the Federal mandate and have incurred all costs necessary to achieve such compliance; and

''( ) shall not include re-authorizations or renewals of existing mandates to the extent that such re-authorizations or renewals do not increase the cost of compliance on State, local, and tribal governments.''

AMENDMENT NO. 75

Insert at the appropriate place, the following:

''( ) Notwithstanding any other provision of this Act, this title shall expire on October 1 of the fiscal year for which the Senate Budget Committee determines that the fiscal appropriation to the Congressional Budget Office is not adequate to carry out the requirements of this title.''

AMENDMENT NO. 76

At the appropriate place, insert the following:

''( ) Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order.''

AMENDMENT NO. 77

At the end of the language proposed to be inserted, add the following:

''on and after such date. Consideration of any bill or joint resolution of a public character reported by any committee of the Senate or of the House of Representatives that is accompanied by a committee report that does not contain a detailed analysis of the probable impact of the bill or resolution on children, including whether such bill or joint resolution will increase the number of children who are hungry or homeless, shall not be in order''

AMENDMENT NO. 78

At the appropriate place, add the following new title:

TITLE —IMPACT OF LEGISLATION ON CHILDREN

SEC. 1. SENSE OF CONGRESS.

It is the sense of Congress that Congress should not enact or adopt any legislation that will increase the number of children who are hungry or homeless.

AMENDMENT NO. 79

At the end of the language proposed to be inserted, add the following:

''on and after such date. It is the sense of Congress that Congress should not enact or adopt any legislation that will increase the number of children who are hungry or homeless,''.

AMENDMENT NO. 80

Insert at the appropriate place the following:

''( ) The term 'direct savings' shall be interpreted both as narrowly and as broadly as the terms 'Federal mandate direct costs' and 'direct costs.'''

AMENDMENT NO. 81

Onpage 26, between lines 10 and 11, insert the following:

(c) ROLLCALL VOTE REQUIREMENT.—Secftion 904(b) of the Congressional Budget Act of 1974 is amended by—

(1) striking ''Any'' and inserting ''Except as provided in the second sentence of this subsection, any''; and

(2) adding at the end the following: ''Section 408(c) may only be waived or suspended by a rollcall vote.''.

GLENN AMENDMENTS NOS. 82–105

(Ordered to lie on the table.)

Mr. GLENN submitted 24 amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 82

On page 12, strike lines 17 through 19 and insert ''that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, or handicap or disability;''.

AMENDMENT NO. 83

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

''(1) IN GENERAL.—

''(A) STATEMENT REQUIRED FOR REPORTED BILL.—It shall not be in order in the Senate to consider any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with subsection (a)(6) before such consideration.

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

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

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

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

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

Redesignate the clauses following accordingly.

AMENDMENT NO. 84

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

''(1) IN GENERAL.—

''(A) STATEMENT REQUIRED FOR REPORTED BILL.—It shall not be in order in the Senate to consider any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with subsection (a)(6) before such consideration.

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

''(I) if the enactment of such bill or resolution as reported;

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

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

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

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

Redesignate the clauses following accordingly.

AMENDMENT NO. 85

On page 25, insert between lines 10 and 11 the following:

''(4) DETERMINATIONS OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of this subsection, the presiding officer of the Senate shall consult the Committee on Governmental Affairs on questions concerning the applicability of this section and the Unfunded Mandate Reform Act of 1995 to a pending bill, joint resolution, amendment, motion, or conference report.

''(5) DETERMINATIONS OF FEDERAL MANDATE LEVELS.—For purposes of this subsection, the levels of Federal mandates for a fiscal year shall be determined based on estimates made by the Committee on the Budget of the Senate on questions concerning the levels of Federal mandates for a fiscal year.''

AMENDMENT NO. 86

On page 25, insert between lines 10 and 11 the following:

''(4) DETERMIANTIONS OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of this subsection, the presiding officer of the Senate shall consult the Committee on Governmental Affairs on all questions concerning the applicability of this section and the Unfunded Mandate Reform Act of 1995 to a pending bill, joint resolution, amendment, motion, or conference report.

''(5) DEPARTMENT OF FEDERAL MANDATE LEVELS.—For purposes of this subsection, the presiding officer of the Senate shall consult the Committee on the Budget on questions concerning the estimates of the levels of Federal mandates for a fiscal year.''

AMENDMENT NO. 87

On page 33, lines 21 and 22, strike out ''and the private sector''.

On page 36, line 7, strike out ''and'' after the semi-colon.

On page 36, line 12, insert ''and'' after the semicolon.

On page 36, insert between lines 12 and 13 the following new subparagraph:

''(C) the effect of the Federal intergovernmental mandate on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services;''.

On page 36, line 17, insert ''and'' after the semicolon.

On page 36, strike out lines 18 through 22.

On page 36, line 23, strike out ''(5)'' and insert in lieu thereof ''(4)''.

AMENDMENT NO. 88

On page 36, insert between lines 12 and 13 the following new subparagraph:

''(C) the effect of the Federal intergovernmental mandate on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services;''.

AMENDMENT NO. 89

On page 36, line 17, insert ''and'' after the semicolon.

AMENDMENT NO. 90

On page 36, strike out liens 18 through 22.

AMENDMENT NO. 91

On page 36, line 23, strike out ''(5)'' and insert in lieu thereof ''(4)''.

AMENDMENT NO. 92

On page 33, lines 21 and 22, strike out ''and the private sector''.

AMENDMENT NO. 93

On page 36, line 7, strike out ''and'' after the semicolon.

AMENDMENT NO. 94

On page 36, line 12, insert ''and'' after the semicolon.

AMENDMENT NO. 95

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

SECTION 1. SHORT TITLE.

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

SEC. 2. PURPOSES.

The purposes of this Act are—

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

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

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

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

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

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

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

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

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

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

SEC. 3. DEFINITIONS.

For purposes of this Act—

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

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

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

(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty; or

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

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

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

(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program

to amend their financial or programmatic responsibilities to continue providing required services that are affected by the bill or joint resolution or regulation.

(2) FEDERAL PRIVATE SECTOR MANDATE.—The term ''Federal private sector mandate'' means any provision in a bill or joint resolution before Congress that—

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

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

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

(4) DIRECT COSTS.—

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

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

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

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

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

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

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

(I) their compliance with the Federal mandate; or

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

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

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

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

(B) the subsidy amount (as defined as ''cost'' in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(a))) of any Federal program providing loan guarantees or direct loans.

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

(7) OTHER DEFINITIONS.—

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

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

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

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

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

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

SEC. 4. EXCLUSIONS.

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

(1) enforces constitutional rights of individuals;

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

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

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

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

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

SEC. 5. AGENCY ASSISTANCE.

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

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 101. DUTIES OF CONGRESSIONAL COMMITTEES.

(a) COMMITTEE REPORT.—

(1) REGARDING FEDERAL MANDATES.—

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

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

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

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

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

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

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

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

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

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

(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

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

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

SEC. 102. DUTIES OF THE DIRECTOR.

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

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

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

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

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

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

(B) DIRECT COSTS ABOVE THRESHOLD.—

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

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

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

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

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

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

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

(B) DIRECT COSTS ABOVE THRESHOLD.—

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

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

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

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

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

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

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

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

(1) in subsection (a)—

(A) by striking paragraph (2);

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

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

(2) by striking ''(a)''; and

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

SEC. 103. POINT OF ORDER IN THE SENATE.

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

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

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

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

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

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

SEC. 104. EXERCISE OF RULEMAKING POWERS.

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

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

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

SEC. 105. EFFECTIVE DATE.

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

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

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

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

(c) AGENCY PLAN.—

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

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

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

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

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

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

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

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

or otherwise paid through Federal financial assistance;

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

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

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

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

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

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

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

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

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

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

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

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

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

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

(2) meet overall statutory goals and objectives.

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

TITLE IV—JUDICIAL REVIEW; SUNSET

SEC. 401. JUDICIAL REVIEW.

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

SEC. 402. SUNSET.

This Act shall expire December 31, 1998.

AMENDMENT NO. 96

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

SECTION 1. SHORT TITLE.

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

SEC. 2. PURPOSES.

The purposes of this Act are—

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

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

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

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

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

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

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

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

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

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

SEC. 3. DEFINITIONS.

For purposes of this Act—

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

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

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

(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty; or

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

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

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

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

(2) FEDERAL PRIVATE SECTOR MANDATE.—The term ''Federal private sector mandate'' means any provision in a bill or joint resolution before Congress that—

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

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

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

(4) DIRECT COSTS.—

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

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

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

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

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

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

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

(I) their compliance with the Federal mandate; or

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

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

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

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

(B) the subsidy amount (as defined as ''cost'' in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(a))) of any Federal program providing loan guarantees or direct loans.

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

(7) OTHER DEFINITIONS.—

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

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

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

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

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

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

SEC. 4. EXCLUSIONS.

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

(1) enforces constitutional rights of individuals;

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

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

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

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

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

SEC. 5. AGENCY ASSISTANCE.

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

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 101. DUTIES OF CONGRESSIONAL COMMITTEES.

(a) COMMITTEE REPORT.—

(1) REGARDING FEDERAL MANDATES.—

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

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

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

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

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

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

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

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

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

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

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

(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

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

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

SEC. 102. DUTIES OF THE DIRECTOR.

(a) STUDIES.—

(1) PROPOSED LEGISLATION.—As early as practicable in each new Congress, any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall request that the Director initiate a study of the proposed legislation in order to develop information that may be useful in analyzing the costs of any Federal mandates that may be included in the proposed legislation.

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

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

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

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

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

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

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

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

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

(A) DIRECT COSTS AT OR BELOW THRESHOLD.—If the Director estimates that the direct costs of all Federal intergovernmental mandates in the bill or joint resolution will

not equal or exceed $50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(B) DIRECT COSTS ABOVE THRESHOLD.—

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

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

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

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

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

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

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

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

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

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

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

(B) DIRECT COSTS ABOVE THRESHOLD.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) in subsection (a)—

(A) by striking paragraph (2);

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

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

(2) by striking ''(a)''; and

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

SEC. 103. POINT OF ORDER IN THE SENATE.

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

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

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

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

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

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

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

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

SEC. 104. EXERCISE OF RULEMAKING POWERS.

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

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

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

SEC. 105. EFFECTIVE DATE.

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

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted in law, assess the effects of

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

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

(c) AGENCY PLAN.—

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

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

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

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

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

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

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

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

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

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

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

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

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

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

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

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

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

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

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

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

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

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

(2) meet overall statutory goals and objectives.

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

TITLE III—BASELINE STUDY

SEC. 301. BASELINE STUDY OF COSTS AND BENEFITS.

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

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

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

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

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

TITLE IV—JUDICIAL REVIEW; SUNSET

SEC. 401. JUDICIAL REVIEW.

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

SEC. 402. SUNSET.

This Act shall expire December 31, 1998.

AMENDMENT NO. 97

On page 5, line 19, strike ''impose an'' and insert ''establish a new or increased''.

On page 7, line 11, strike ''impose an'' and insert ''establish a new or increased''.

On page 8, line 5, before ''amounts'' insert ''new or increased''.

On page 8, line 15, before ''amounts'' insert ''new or increased''.

On page 9, line 7, strike ''or''.

On page 9, between lines 7 and 8, insert the following:

''(II) to comply with or carry out any applicable federal law or regulation (whether expired or still in effect) that would be reauthorized, reenacted, readopted, replaced, or revised by the same bill or joint resolution or proposed or final Federal regulation containing the relevant mandate; or''.

On page 10, line 4, strike ''and''.

On page 10, between lines 4 and 5, insert the following:

''(III) any reduction in the duties or responsibilities of States, local governments, and tribal governments, or the private sector from levels previously required under any Federal law or regulation (whether expired or still in effect) that is reauthorized, reenacted, readopted, replaced, or revised by the same bill or joint resolution or proposed or final Federal regulation containing the relevant mandate; and''.

AMENDMENT NO. 98

On page 5, line 19, strike ''impose an'' and insert ''establish a new or increased''.

AMENDMENT NO. 99

On page 7, line 11, strike ''impose an'' and insert ''establish a new or increased''.

AMENDMENT NO. 100

On page 8, line 5, before ''amounts'' insert ''new or increased''.

AMENDMENT NO. 101

On page 8, line 15, before ''amounts'' insert ''new or increased''.

AMENDMENT NO. 102

On page 9, line 7, strike ''or''.

AMENDMENT NO. 103

On page 9, between lines 7 and 8, insert the following:

''(II) to comply with or carry out any applicable federal law or regulation (whether expired or still in effect) that would be reauthorized, reenacted, readopted, replaced, or revised by the same bill or joint resolution or proposed or final Federal regulation containing the relevant mandate; or''.

AMENDMENT NO. 104

On page 10, line 4, strike ''and''.

AMENDMENT NO. 105

On page 10, between lines 4 and 5, insert the following:

''(III) any reduction in the duties or responsibilities of States, local governments, and tribal governments, or the private sector

from levels previously required under any Federal law or regulation (whether expired or still in effect) that is reauthorized, reenacted, readopted, replaced, or revised by the same bill or joint resolution or proposed or final Federal regulation containing the relevant mandate; and''.

LEVIN AMENDMENTS NOS. 106–117

(Ordered to lie on the table.)

Mr. LEVIN submitted 12 amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 106

On page 12, line 18, insert ''age'' after ''gender,''.

AMENDMENT NO. 107

On page 33, strike out lines 9 through 12 and insert in lieu thereof the following:

SEC. 107. SENATE JOINT HEARINGS ON UNFUNDED FEDERAL MANDATES.

No later than December 31, 1998, the Senate Governmental Affairs Committee and the Senate Budget Committee shall hold joint hearings on the operations of the amendments made by this title and report to the full Senate on their findings and recommendations.

SEC. 108. EFFECTIVE DATE.

This title and the amendments made by this title shall—

(1) take effect on January 1, 1996;

(2) apply only to legislation considered on or after January 1, 1996; and

(3) have no force or effect on and after January 1, 2002.

AMENDMENT NO. 108

On page 5, beginning with line 22, strike out all through line 2 on page 6 and insert in lieu thereof:

''(I) a condition of Federal assistance;

''(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

''(III) for purposes of section 408 (c)(1)(B) and (d) only, a duty that establishes or enforces any statutory right of employee in both the public and private sectors with respect to their employment; or''.

AMENDMENT NO. 109

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 with respect to regulations proposed on or after January 1, 1996.''

AMENDMENT NO. 110

On page 17, insert between lines 17 and 18 the following new paragraph:

''(7) COMMITTEE DETERMINATION OF MANDATE DISADVANTAGEOUS TO PRIVATE SECTOR; WAIVER OF POINT OF ORDER.—If a committee of authorization of the Senate or the House of Representatives determines based on the statement required under paragraph (3)(C) that there would be a significant competitive disadvantage to the private sector if a Federal mandate contained in the legislation to which the statement applies were waived for State, local, and tribal governments or the costs of such mandate to the State, local, and tribal governments were paid by the Federal Government, then no point of order under subsection (c)(1)(B) will lie.''

AMENDMENT NO. 111

On page 24, line 18, strike out ''ineffective'' and insert in lieu thereof the following: ''ineffective as applied to State, local, and tribal governments''.

AMENDMENT NO. 112

On page 19, insert between lines 10 and 11 the following new clause:

''(iii) If the Director determines that it is not feasible to make a reasonable estimate that would be required under clauses (i) and (ii), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. For purposes of subsection (c), a point of order may be raised as though an estimate was reported that exceeded clause (i).''

AMENDMENT NO. 113

On page 14, line 19 strike ''expected''.

On page 22, line 12 strike ''estimated''.

On page 22, line 22 strike ''estimated''.

On page 23, line 2 strike ''estimated''.

On page 23, lines 4 and 5 strike ''a specific dollar amount estimate of the full'' and insert in lieu thereof ''the''.

On page 24, line 8 strike ''estimated''.

On page 24, line 15 strike ''estimated''.

AMENDMENT NO. 114

On page 24, line 21, insert the following before the period: ''as estimated in the authorization bill''.

AMENDMENT NO. 115

On page 25 after line 10 insert the following:

''(4) DETERMINATION OF APPLICABILITY.—For purposes of this subsection, the Committee on Governmental Affairs of the Senate, or the Committee on Government Reform and Oversight of the House of Representatives, as applicable, shall be consulted by the Presiding Officer of the Senate in determining whether a bill, joint resolution, amendment, motion or conference report contains a Federal intergovernmental mandate.''

''(5) DETERMINATION OF FEDERAL MANDATE LEVELS.—For purposes of this subsection, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget of the Senate or the House of Representatives, as the case may be.''

AMENDMENT NO. 116

On page 29, line 8, insert after the comma the following: ''or at the request of an individual Member of the Senate or the House of Representatives,''.

AMENDMENT NO. 117

On page 26, after line 5, add the following:

''(e) LIMITATION ON APPLICATION OF SUBSECTION (C).—Subsection (c) shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

''(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

''(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

''(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount.''

DORGAN (AND HARKIN) AMENDMENT NO. 118

(Ordered to lie on the table.)

Mr. DORGAN (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 1, supra; as follows:

At the end of the bill, add the following:

TITLE V—INTEREST RATE REPORTING REQUIREMENT

SEC. 501. REPORT BY BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) REPORT REQUIRED.—Not later than 30 days after the Board or the Committee takes any action to change the discount rate or the Federal funds rate, the Board shall submit a report to the Congress and to the President which shall include a detailed analysis of the projected costs of that action, and the projected costs of any associated changes in market interest rates, during the 5-year period following that action.

(b) CONTENTS.—The report required by subsection (a) shall include an analysis of the costs imposed by such action on—

(1) Federal, State, and local government borrowing, including costs associated with debt service payments; and

(2) private sector borrowing, including costs imposed on—

(A) consumers;

(B) small businesses;

(C) homeowners; and

(D) commercial lenders.

(c) DEFINITIONS.—for purposes of this section—

(1) the term ''Board'' means the Board of Governors of the Federal Reserve System; and

(2) the term ''Committee'' means the Federal Open Market Committee established under section 12A of the Federal Reserve Act.

DORGAN AMENDMENT NO. 119

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill, S. 1, supra, as follows:

At the appropriate place, insert the following:

SEC. . CALCULATIONS OF THE CONSUMER PRICE INDEX.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Chairman of the Board of Governors of the Federal Reserve System has maintained that the current Consumer Price Index overstates inflation by as much as 50 percent.

(2) Other expert opinions on the Consumer Price Index range from estimates of a modest overstatement to the possibility of an understatement of the rate of inflation.

(3) Some leaders in the Congress have called for an immediate change in the way in which the Consumer Price Index is calculated.

(4) Changing the Consumer Price Index in the manner recommended by the Board of Governors of the Federal Reserve System would result in both reductions in Social Security benefits and increases in income taxes.

(5) The Bureau of Labor Statistics, which has responsibility for the Consumer Price Index, has been working to identify and correct problems with the way in which the Consumer Price Index is now calculated.

(6) Calculation of the Consumer Price Index should be based on sound economic principles and not on political pressure.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) a precipitous change in the calculation of the Consumer Price Index that would result in an increase in income taxes and a decrease in Social Security benefits is not the appropriate way to resolve this issue; and

(2) any change in the calculation of the Consumer Price Index should result from thoughtful study and analysis and should be a result of a consensus reached by the experts, not pressure exerted by politicians.

GRAHAM AMENDMENTS NOS. 120–122

(Ordered to lie on the table.)

Mr. GRAHAM submitted three amendments intended to be proposed by him to the bill, S. 1, supra, as follows:

AMENDMENT NO. 120

On page 16, line 3, strike ''and''.

On page 16, line 12, strike ''mandates.'' and insert ''mandates; and''.

On page 16, between lines 12 and 13, insert the following:

''(iii) if funded in whole or in part, a statement of whether and how the committee has created a mechanism to allocate the funding in a manner that is reasonably consistent with the expected direct costs to each State, local, and tribal government.''

AMENDMENT NO. 121

At the appropriate place, insert the following:

SEC. . EFFECTIVE DATE.

Title shall take effect on July 1, 1995.

Purpose: 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.

AMENDMENT NO. 122

On page 6, strike line 3 and all that follows through line 10, and insert the following:

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

''(I) Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

''(II) the exercise of powers relating to immigration that are the responsibility or under the authority of the Federal Government and whose reduction or elimination would result in a shifting of the costs of addressing immigration expenses to the States, local governments, and tribal governments; or''.

ROTH AMENDMENT NO. 123

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill S. 1, supra; as follows:

On page 19, insert between lines 10 and 11 the following new clause:

''(iii) If the Director determines that it is not feasible to make a reasonable estimate that would be required under clauses (i) and (ii), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. However, for the purposes of subsection (c), such report shall not fulfill the requirements for an estimate under clauses (i) and (ii).''

BRADLEY AMENDMENT NO. 124

(Ordered to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to the bill S. 1, supra; as follows:

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

SEC. 6. FINDINGS ON THE IMPACT ON LOCAL GOVERNMENTS.

The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

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

''(2) ESTIMATE OF POSSIBLE LOCAL PROPERTY TAX RELIEF.—The Director shall include in each statement submitted to a committee of the Congress under this subsection an estimate of the amount by which additional Federal funding or alleviation of the applicable mandate could be used to lower property taxes of a local government, if—

''(A) such additional funding were first applied to relief of such taxes; or

''(B) such State or local government funds previously used to help pay for a mandate which is proposed to be alleviated were first applied to relief of such taxes.

LAUTENBERG AMENDMENT NO. 125

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1, supra; as follows:

On page 13, line 5, strike out ''or''.

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

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

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

HARKIN AMENDMENTS NOS. 126–127

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 126

At the appropriate place insert the following:

SEC. . DIRECTIVE TO THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY CONCERNING REGULATION OF FISHING LURES.

(a) FINDINGS.—Congress finds that—

(1) millions of Americans of all ages enjoy recreational fishing; fishing is one of the most popular sports;

(2) lead and other types of metal sinkers and fishing lures have been used by Americans in fishing for hundreds of years;

(3) the Administrator of the Environmental Protection Agency has proposed to issue a rule under section 6 of the Toxic Substances Control Act, to prohibit the manufacturing, processing, and distribution in commerce in the United States, of certain smaller size fishing sinkers containing lead and zinc, and mixed with other substances, including those made of brass;

(4) the Environmental Protection Agency has based its conclusions that lead fishing sinkers of a certain size present an unreasonable risk of injury to human health or the environment on less than definitive scientific data, conjecture and anecdotal information;

(5) alternative forms of sinkers and fishing lures are considerably more expensive than those made of lead; consequently, a ban on lead sinkers would impose additional costs on millions of Americans who fish;

(6) in the absence of more definitive evidence of harm to the environment, the Federal Government should not take steps to restrict the use of lead sinkers; and

(7) alternative measures to protect waterfowl from lead exposure should be carefully reviewed.

(b) FISHING SINKERS AND LURES.—

(1) DIRECTIVE.—The Administrator of the Environmental Protection Agency shall not, under purported authority of section 6 of the Toxic Substances Control Act (15 U.S.C. 2605), take action to prohibit or otherwise restrict the manufacturing, processing, distributing, or use of any fishing sinkers or lures containing lead, zinc, or brass.

(2) FURTHER ACTION.—If the Administrator obtains a substantially greater amount of evidence of risk of injury to health or the environment than that which was adduced in the rulemaking proceedings described in the proposed rule dated February 28, 1994 (59 Fed. Reg. 11122 (March 9, 1994)), the Administrator shall report those findings to Congress, with any recommendation that the Administrator may have for legislative action.

AMENDMENT NO. 127

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

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF THE SENATE REGARDING BALANCED BUDGET AMENDMENT.

(a) FINDINGS.—The Senate finds that—

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

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

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

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

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

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

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

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

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

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

all spending and receipts in calculating whether the budget is in balance;

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

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

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

(b) SENSE OF THE SENATE.—It is 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.

LEAHY AMENDMENT NO. 128

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill, S. 1, supra, as follows:

At the appropriate place, insert the following:

( ) A law or regulation which protects the citizens, businesses or property in a State from the actions of persons, businesses or governments in another State or States is excluded from the provisions of this Act.

BYRD AMENDMENT NO. 129

(Ordered to lie on the table.)

Mr. BYRD submitted an amendment intended to be proposed by him to the bill, S. 1, supra, as follows:

On page 23, strike beginning with line 24 through line 21 on page 24.

BINGAMAN AMENDMENT NOS. 130–132

(Ordered to lie on the table.)

Mr. BINGAMAN submitted three amendments intended to be proposed by him to the bill, S. 1, supra, as follows:

AMENDMENT NO. 130

On page 7, insert:

''(iii) any requirement for a license or permit for the treatment or disposal of hazardous waste''.

AMENDMENT NO. 131

On page 6, insert before lines 2 and 3 the following:

''iii any requirement for a license or permit for the treatment or disposal of nuclear and hazardous waste''.

AMENDMENT NO. 132

On page 5, line 23, after ''or'' insert ''a condition of receipt of a Federal license; or''.

KEMPTHORNE AMENDMENTS NOS. 133–134

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted two amendments intended to be proposed by him to the bill S. 1; supra; as follows:

AMENDMENT NO. 133

At the appropriate place in the bill insert the following new section:

LIMITATION ON APPLICATION.—This Act shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations to carry out, or that amend, any statute if enactment of the bill, joint resolution, amendment, or conference report—

(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount.

AMENDMENT NO. 134

On page 24, insert between lines 21 and 22 the following new section:

''(cc) If a bill, joint resolution, amendmet, motion, or conference report contains a Federal private sector mandate and a Federal intergovernmental mandate that would, if enacted, impose identical duties on both State and local governments and on the private sector, in such cases in which Federal private sector mandates apply to private sector entities which are competing directly or indirectly with State and local governments for the purpose of providing substantially similar goods or services to the public, then this part shall apply to the Federal private sector mandate in that measure or matter in the same manner and to the same extent as it does to the Federal intergovernmental mandate.''

DOMENICI AMENDMENT NOS. 135–136

(Ordered to lie on the table.)

Mr. KEMPTHORNE (for Mr. DOMENICI) submitted two amendments intended to be proposed by him to the bill S. 1; supra; as follows:

AMENDMENT NO. 135

On page 23, line 12, strike ''(3)'' and insert ''5''.

AMENDMENT NO. 136

On page 23, line 12, strike ''(3)'' and insert ''this section''.

KEMPTHORNE AMENDMENT NO. 137

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted an amendment intended to be proposed by him to the bill S. 1; supra; as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Unfunded Mandate Reform Act of 1995''.

SEC. 2. PURPOSES.

The purposes of this Act are—

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

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

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

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

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

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

(5) to require that Congress consider whether to provide funding to assist State, local, and tribal governments in complying with Federal mandates, to require analyses of the impact of private sector mandates, and through the dissemination of that information provide informed and deliberate decisions by Congress and Federal agencies and retain competitive balance between the public and private sectors;

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

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

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

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

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms defined under section 408(f) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 101 of this Act) shall have the meanings as so defined; and

(2) the term ''Director'' means the Director of the Congressional Budget Office.

SEC. 4. EXCLUSIONS.

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

(1) enforces constitutional rights of individuals;

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

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

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

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

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

SEC. 5. AGENCY ASSISTANCE.

Each agency shall provide to the Director of the Congressional Budget Office such information and assistance as the Director may reasonably request to assist the Director in carrying out this Act.

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 101. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM .

(a) IN GENERAL.—Title IV of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 408. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM .

''(a) DUTIES OF CONGRESSIONAL COMMITTEES.—

''(1) IN GENERAL.—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraphs (3) and (4).

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

''(3) REPORTS ON FEDERAL MANDATES.—Each report described under paragraph (1) shall contain—

''(A) an identification and description of any Federal mandates in the bill or joint resolution, including the expected direct costs to State, local, and tribal governments, and to the private sector, required to comply with the Federal mandates;

''(B) a qualitative, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the effects on health and safety and the protection of the natural environment); and

''(C) a statement of the degree to which a Federal mandate affects both the public and private sectors and the extent to which Federal payment of public sector costs or the modification or termination of the Federal mandate as provided under subsection (c)(1)(B)(iii)(IV) would affect the competitive balance between State, local, or tribal governments and privately owned businesses.

''(4) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required under paragraph (1) shall also contain—

''(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution to pay for the costs to State, local, and tribal governments of the Federal intergovernmental mandate; and

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

''(B) any existing sources of Federal assistance in addition to those identified in subparagraph (A) that may assist State, local, and tribal governments in meeting the direct costs of the Federal intergovernmental mandates.

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

''(6) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

''(A) Upon receiving a statement (including any supplemental statement) from the Director under subsection (b), a committee of the Senate or the House of Representatives shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available at the time the report is printed.

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

''(b) DUTIES OF THE DIRECTOR; STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

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

''(A) 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.

''(B) The estimate required under subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

''(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

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

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

''(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $200,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

''(B) Estimates required under this paragraph shall include estimates (and a brief explanation of the basis of the estimates) of—

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

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

''(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

''(3) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the thresholds specified in paragraphs (1) and (2), the Director shall so state and shall briefly explain the basis of the estimate.

''(c) LEGISLATION SUBJECT TO POINT OF ORDER IN THE SENATE.—

''(1) IN GENERAL.—It shall not be in order in the Senate to consider—

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

''(B) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in subsection (b)(1)(A) to be exceeded, unless—

''(i) the bill, joint resolution, amendment, motion, or conference report provides direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that is equal to the estimated direct costs of such mandate;

''(ii) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts and an increase in direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount equal to the estimated direct costs of such mandate; or

''(iii) the bill, joint resolution, amendment, motion, or conference report includes an authorization for appropriations in an amount equal to the estimated direct costs of such mandate, and—

''(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.

''(2) RULE OF CONSTRUCTION.—The provisions of paragraph (1)(B)(iii)(IV)(aa) shall not be construed to prohibit or otherwise restrict a State, local, or tribal government from voluntarily electing to remain subject to the original Federal intergovernmental mandate, complying with the programmatic or financial responsibilities of the original Federal intergovernmental mandate and providing the funding necessary consistent with the costs of Federal agency assistance, monitoring, and enforcement.

''(3) COMMITTEE ON APPROPRIATIONS.—Paragraph (1) shall not apply to matters that are within the jurisdiction of the Committee on Appropriations of the Senate or the House of Representatives.

''(d) ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider a rule or order that waives the application of subsection (c) to a bill or joint resolution reported by a committee of authorization.

''(e) EXCLUSIONS.—This section shall not apply to any provision in a bill or joint resolution before Congress and any provision in a proposed or final Federal regulation that—

''(1) enforces constitutional rights of individuals;

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

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

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

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

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

''(f) DEFINITIONS.—For purposes of this section:

''(1) The term 'Federal intergovernmental mandate' means—

''(A) any provision in legislation, statute, or regulation that—

''(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

''(I) a condition of Federal assistance; or

''(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

''(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

''(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if the provision—

''(i)(I) would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

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

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

''(2) The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

''(A) would impose an enforceable duty upon the private sector except—

''(i) a condition of Federal assistance; or

''(ii) a duty arising from participation in a voluntary Federal program; or

''(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purposes of ensuring compliance with such duty.

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

''(4) The terms 'Federal mandate direct costs' and 'direct costs'—

''(A)(i) in the case of a Federal intergovernmental mandate, mean the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend in order to comply with the Federal intergovernmental mandate; or

''(ii) in the case of a provision referred to in paragraph (1)(A)(ii), mean the amount of Federal financial assistance eliminated or reduced;

''(B) in the case of a Federal private sector mandate, mean the aggregate estimated amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate;

''(C) shall not include—

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

''(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that Federal mandate; or

''(II) to comply with or carry out State, local governmental, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that mandate; or

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

''(I) compliance with the Federal mandate; or

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

''(D) shall be determined on the assumption that State, local, and tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

''(5) The term 'private sector' means all persons or entities in the United States, except for State, local, or tribal governments, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

''(6) The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

''(7) The term 'tribal government' 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 (83 Stat. 688; 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 special status as Indians.

''(8) The term 'small government' means any small governmental jurisdictions defined in section 601(5) of title 5, United States Code, and any tribal government.

''(9) The term 'State' has the same meaning as in section 6501(9) of title 31, United State Code.

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

''(11) The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 407 the following new item:

''Sec. 408. Legislative mandate accountability and reform.''.

SEC. 102. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Clause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following:

''(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 408(c) of the Congressional Budget and Impoundment Control Act of 1974, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.''.

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

(c) DETERMINATIONS.—

(1) DETERMINATION OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of the application of this section in the House of Representatives, on questions regarding the

applicability of this Act to a pending bill, joint resolution, amendment, motion, or conference report, the Committee on Government Reform and Oversight of the House of Representatives shall have the authority to make the final determination.

(2) DETERMINATIONS OF FEDERAL MANDATE LEVELS.—For the purposes of the application of this section in the House of Representatives, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget of the House of Representatives.

SEC. 103. ASSISTANCE TO COMMITTEES AND STUDIES.

The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 202—

(A) in subsection (c)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

''(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

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

''(B) a significant financial impact on the private sector.'';

(B) by amending subsection (h) to read as follows:

''(h) STUDIES.—

''(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

''(2) FEDERAL MANDATE STUDIES.—

''(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a Federal mandate legislative proposal.

''(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

''(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

''(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

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

''(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

''(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

''(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

''(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (B)(iii)(I);

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

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

(2) in section 301(d) by adding at the end thereof the following new sentence: ''Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.''.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Congressional Budget Office $4,500,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to carry out the provisions of this Act.

SEC. 105. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 101, 102, 103, 104, and 107 are enacted by Congress—

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

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

SEC. 106. REPEAL OF CERTAIN ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.

(a) IN GENERAL.—Section 403 of the Congressional Budget Act of 1974 (2 U.S.C. 653) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out the item relating to section 403.

SEC. 107. EFFECTIVE DATE.

This title shall take effect on January 1, 1996 and shall apply only to legislation considered on and after such date.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted in law—

(1) assess the effects of Federal regulations on State, local, and tribal governments (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), and the private sector including specifically the availability of resources to carry out any Federal intergovernmental mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT.—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officials (or their designated representatives) of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. Such a process shall be consistent with all applicable laws, including the provisions of chapters 5, 6, and 7 of title 5, United States Code (commonly referred to as the Administrative Procedure Act).

(c) AGENCY PLAN.—

(1) EFFECTS ON STATE, LOCAL AND TRIBAL GOVERNMENTS.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

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

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

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

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

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

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

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

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

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

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

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

(4) the effect of the Federal private sector mandate on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services; and

(5)(A) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected State, local, and tribal governments;

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

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

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

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

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required under subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of such statements to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

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

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

(2) meet overall statutory goals and objectives.

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

TITLE III—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 301. ESTABLISHMENT.

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

SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY THE COMMISSION.

(a) IN GENERAL.—The Commission shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal government objectives and responsibilities;

(2) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates; and

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles; and

(3) identify in each recommendation made under paragraph (2), to the extent practicable, the specific unfunded Federal mandates to which the recommendation applies.

(b) CRITERIA.—

(1) IN GENERAL.—The Commission shall establish criteria for making recommendations under subsection (a).

(2) ISSUANCE OF PROPOSED CRITERIA.—The Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) FINAL CRITERIA.—Not later than 45 days after the date of issuance of proposed criteria, the Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Commission determines will aid the Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Commission shall—

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) PUBLIC HEARINGS.—The Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Commission under this subsection.

(d) FINAL REPORT.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Commission under this section.

SEC. 303. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members appointed from individuals who possess extensive leadership experience in and knowledge of State, local, and tribal governments and intergovernmental relations, including State and local elected officials, as follows:

(1) 3 members appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives.

(2) 3 members appointed by the majority leader of the Senate, in consultation with the minority leader of the Senate.

(3) 3 members appointed by the President.

(b) WAIVER OF LIMITATION ON EXECUTIVE SCHEDULE POSITIONS.—Appointments may be made under this section without regard to section 5311(b) of title 5, United States Code.

(c) TERMS.—

(1) IN GENERAL.—Each member of the Commission shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) BASIC PAY.—

(1) RATES OF PAY.—Members of the Commission shall serve without pay.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(e) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) CHAIRPERSON.—The President shall designate a member of the Commission as Chairperson at the time of the appointment of that member.

(g) MEETINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall meet at the call of the Chairperson or a majority of its members.

(2) FIRST MEETING.—The Commission shall convene its first meeting by not later than 45 days after the date of the completion of appointment of the members of the Commission.

(3) QUORUM.—A majority of members of the Commission shall constitute a quorum but a lesser number may hold hearings.

SEC. 304. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission. The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, and without regard to section 5311(b) of title 5, United States Code, the Director may appoint and fix the pay of such staff as is sufficient to enable the Commission to carry out its duties.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate payable under section 5376 of title 5, United States Code.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

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

SEC. 305. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title, except information—

(1) which is specifically exempted from disclosure by law; or

(2) which that department or agency determines will disclose—

(A) 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) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific 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

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this title.

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

SEC. 306. TERMINATION.

The Commission shall terminate 90 days after submitting its final report pursuant to section 302(d).

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission $1,000,000 to carry out this title.

SEC. 308. DEFINITION.

As used in this title, the term ''Federal mandate'' means any provision in statute or regulation that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

SEC. 309. EFFECTIVE DATE.

This title shall take effect 60 days after the date of the enactment of this Act.

TITLE IV—JUDICIAL REVIEW

SEC. 401. JUDICIAL REVIEW.

(a) IN GENERAL.—Any statement or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review.

(b) RULE OF CONSTRUCTION.—No provision of this Act or amendment made by this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. No ruling or determination made under the provisions of this Act or amendments made by this Act shall be considered by any court in determining the intent of Congress or for any other purpose.

BINGAMAN AMENDMENT NO. 138

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 1, supra, as follows:

On page 7, line 13, after ''assistance'' insert ''or a condition of receipt of a Federal license.''

DOLE (AND OTHERS) AMENDMENT NO. 139

Mr. DOLE (for himself, Mr. BYRD, and Mr. GORTON) proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill, S. 1, supra, as follows:

Strike all after ''SEC.'' and add the following:

''. . NATIONAL HISTORY STANDARDS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the National Education Goals Panel shall disapprove, and the National Education Standards and Improvement Council shall not certify, any voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, regarding the subject of history, that have been developed prior to February 1, 1995.

''(b) PROHIBITION.—No Federal funds shall be awarded to, or expended by, the National Center for History in the Schools, after the date of enactment of this Act, for the development of the voluntary national content standards, the voluntary national student performance standards, and the criteria for the certification of such content and student performance standards, regarding the subject of history.

''(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

''(1) the voluntary national content standards, the voluntary national student performance standards, and the criteria for the certification of such content and student performance standards, regarding the subject of history, that are established under title II of the Goals 2000: Educate America Act should not be based on standards developed by the National Center for History in the Schools; and

''(2) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (1), the recipient of such funds should have a decent respect for United States history's roots in western civilization.''

MURRAY AMENDMENT NO. 140

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1, supra; as follows:

At the appropriate place, add the following:

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

BRADLEY (AND OTHERS) AMENDMENT NO. 141

Mr. BRADLEY (for himself, Mr. CHAFEE, Mr. DORGAN, Mr. SIMPSON, Mr. ROBB, Mr. DOLE, Mr. NICKLES, Mr. LAUTENBERG, Mr. KEMPTHORNE, and Mr. WELLSTONE) proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill S. 1, supra; as follows:

At the end of the pending amendment insert the following:

SEC. 107. IMPACT ON LOCAL GOVERNMENTS.

(a) FINDINGS.—The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments:

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) SENSE OF THE SENATE.—it is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

SEC. 108. EFFECTIVE DATE.

BOXER (AND OTHERS) AMENDMENT NO. 142

Mrs. BOXER (for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. REID, Mr. WELLSTONE, Mr. ROBB, Mr. KOHL, Mr. BRYAN, and Mr. KERRY) proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill S. 1, supra; as follows:

At the end of the amendment add the following:

''SEC. 108. SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

''(a) FINDINGS.—Congress finds that—

''(1) there are approximately 900 clinics in the United States providing reproductive health services

''(2) violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

''(3) organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

''(4) there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

''(5) the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services;

''(6) violence is not a mode of free speech and should not be condoned as a method of expressing an opinion; and

''(7) the President has instructed the Attorney General to order—

''(A) the United States Attorneys to create task forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

''(B) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence.

''(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack.

''(c) Nothing in this resolution shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution.''.

LEVIN (AND OTHERS) AMENDMENT NO. 143

Mr. LEVIN (for himself, Mr. KEMPTHORNE, and Mr. GLENN) proposed an amendment to the bill S. 1, supra; as follows:

On page 19, insert between lines 10 and 11 the following new clause:

''(iii) If the Director determines that it is not required under clauses (i) and (ii), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. If such determination is made by the Director, a point of order shall lie only under (c)(1)(A) and as if the requirement of (c)(1)(A) had not been met.

BUMPERS AMENDMENT NO. 144

Mr. BUMPERS proposed an amendment to amendment No. 31 proposed by Mr. GORTON to the bill S. 1, supra; as follows:

In lieu of the matter proposed to be inserted by the pending amendment, insert the following new title:

TITLE ____—COLLECTION OF STATE AND LOCAL SALES TAXES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Consumer and Main Street Business Protection Act of 1995''.

SEC. ___02. FINDINGS.

The Congress finds that—

(1) merchandise purchased from out-of-State firms is subject to State and local sales taxes in the same manner as merchandise purchased from in-State firms,

(2) State and local governments generally are unable to compel out-of-State firms to collect and remit such taxes, and consequently, many out-of-State firms choose not to collect State and local taxes on merchandise delivered across State lines,

(3) moreover, many out-of-State firms fail to inform their customers that such taxes exist, with some firms even falsely claim that merchandise purchased out-of-State is tax-free, and consequently, many consumers unknowingly incur tax liabilities, including interest and penalty charges,

(4) Congress has a duty to protect consumers from explicit or implicit misrepresentations of State and local sales tax obligations,

(5) small businesses, which are compelled to collect State and local sales taxes, are subject to unfair competition when out-of-State firms cannot be compelled to collect and remit such taxes on their sales to residents of the State,

(6) State and local governments provide a number of resources to out-of-State firms including government services relating to disposal of tons of catalogs, mail delivery, communications, and bank and court systems,

(7) the inability of State and local governments to require out-of-State firms to collect and remit sales taxes deprives State and local governments of needed revenue and forces such State and local governments to raise taxes on taxpayers, including consumers and small businesses, in such State,

(8) the Supreme Court ruled in Quill Corporation v. North Dakota, 112 S. Ct. 1904 (1992) that the due process clause of the Constitution does not prohibit a State government from imposing personal jurisdiction and tax obligations on out-of-State firms that purposefully solicit sales from residents therein, and that the Congress has the power to authorize State governments to require out-of-State firms to collect State and local sales taxes, and

(9) as a matter of federalism, the Federal Government has a duty to assist State and local governments in collecting sales taxes on sales from out-of-State firms.

SEC. ___03. AUTHORITY FOR COLLECTION OF SALES TAX.

(a) IN GENERAL.—A State is authorized to require a person who is subject to the personal jurisdiction of the State to collect and remit a State sales tax, a local sales tax, or both, with respect to tangible personal property if—

(1) the destination of the tangible personal property is in the State,

(2) during the 1-year period ending on September 30 of the calendar year preceding the calendar year in which the taxable event occurs, the person has gross receipts from sales of such tangible personal property—

(A) in the United States exceeding $3,000,000, or

(B) in the State exceeding $100,000, and

(3) the State, on behalf of its local jurisdictions, collects and administers all local sales taxes imposed pursuant to this title.

(b) STATES MUST COLLECT LOCAL SALES TAXES.— Except as provided in section ___04(d), a State in which both State and local sales taxes are imposed may not require State sales taxes to be collected and remitted under subsection (a) unless the State also requires the local sales taxes to be collected and remitted under subsection (a).

(c) AGGREGATION RULES.—All persons that would be treated as a single employer under section 52 (a) or (b) of the Internal Revenue Code of 1986 shall be treated as one person for purposes of subsection (a).

(d) DESTINATION.—For purposes of subsection (a), the destination of tangible personal property is the State or local jurisdiction which is the final location to which the seller ships or delivers the property, or to which the seller causes the property to be shipped or delivered, regardless of the means of shipment or delivery or the location of the buyer.

SEC.___04. TREATMENT OF LOCAL SALES TAXES.

(a) UNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Sales taxes imposed by local jurisdictions of a State shall be deemed to be uniform for purposes of this title and shall be collected under this title in the same manner as State sales taxes if—

(A) such local sales taxes are imposed at the same rate and on identical transactions in all geographic areas in the State, and

(B) such local sales taxes imposed on sales by out-of-State persons are collected and administered by the State.

(2) APPLICATION TO BORDER JURISDICTION TAX RATES.—A State shall not be treated as failing to meet the requirements of paragraph (1)(A) if, with respect to a local jurisdiction which borders on another State, such State or local jurisdiction—

(A) either reduces or increases the local sales tax in order to achieve a rate of tax equal to that imposed by the bordering State on identical transactions, or

(B) exempts from the tax transactions which are exempt from tax in the bordering State.

(b) NONUNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), nonuniform local sales taxes required to be collected pursuant to this title shall be collected under one of the options provided under paragraph (2).

(2) ELECTION.—For purposes of paragraph (1), any person required under authority of this title to collect nonuniform local sales taxes shall elect to collect either—

(A) all nonuniform local sales taxes applicable to transactions in the State, or

(B) a fee (at the rate determined under paragraph (3)) which shall be in lieu of the nonuniform local sales taxes described in subparagraph (A).

Such election shall require the person to use the method elected for all transactions in the State while the election is in effect.

(3) RATE OF IN-LIEU FEE.—For purposes of paragraph (2)(B), the rate of the in-lieu fee for any calendar year shall be an amount equal to the product of—

(A) the amount determined by dividing total nonuniform local sales tax revenues collected in the State for the most recently completed State fiscal year for which data is available by total State sales tax revenues for the same year, and

(B) the State sales tax rate.

Such amount shall be rounded to the nearest 0.25 percent.

(4) NONUNIFORM LOCAL SALES TAXES.—For purposes of this title, nonuniform local sales taxes are local sales taxes which do not meet the requirements of subsection (a).

(c) DISTRIBUTION OF LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), a State shall distribute to local jurisdictions a portion of the amounts collected pursuant to this title determined on the basis of—

(A) in the case of uniform local sales taxes, the proportion which each local jurisdiction receives of uniform local sales taxes not collected pursuant to this title,

(B) in the case of in-lieu fees described in subsection (b)(2)(B), the proportion which each local jurisdiction's nonuniform local sales tax receipts bears to the total nonuniform local sales tax receipts in the State, and

(C) in the case of any nonuniform local sales tax collected pursuant to this title, the geographical location of the transaction on which the tax was imposed.

The amounts determined under subparagraphs (A) and (B) shall be calculated on the basis of data for the most recently completed

State fiscal year for which the data is available.

(2) TIMING.—Amounts described in paragraph (1) (B) or (C) shall be distributed by a State to its local jurisdictions in accordance with State timetables for distributing local sales taxes, but not less frequently than every calendar quarter. Amounts described in paragraph (1)(A) shall be distributed by a State as provided under State law.

(3) TRANSITION RULE.—If, upon the effective date of this title, a State has a State law in effect providing a method for distributing local sales taxes other than the method under this subsection, then this subsection shall not apply to that State until the 91st day following the adjournment sine die of that State's next regular legislative session which convenes after the effective date of this title (or such earlier date as State law may provide). Local sales taxes collected pursuant to this title prior to the application of this subsection shall be distributed as provided by State law.

(d) EXCEPTION WHERE STATE BOARD COLLECTS TAXES.—Notwithstanding section ___03(b) and subsections (b) and (c) of this section, if a State had in effect on January 1, 1995, a State law which provides that local sales taxes are collected and remitted by a board of elected States officers, then for any period during which such law continues in effect—

(1) the State may require the collection and remittance under this title of only the State sales taxes and the uniform portion of local sales taxes, and

(2) the State may distribute any local sales taxes collected pursuant to this title in accordance with State law.

SEC.___05. RETURN AND REMITTANCE REQUIREMENTS.

(a) IN GENERAL.—A State may not require any person subject to this title—

(1) to file a return reporting the amount of any tax collected or required to be collected under this title, or to remit the receipts of such tax, more frequently than once with respect to sales in a calendar quarter, or

(2) to file the initial such return, or to make the initial such remittance, before the 90th day after the person's first taxable transaction under this Act.

(b) LOCAL TAXES.—The provisions of subsection (a) shall also apply to any person required by a State acting under authority of this title to collect a local sales tax or in-lieu fee.

SEC.___06. NONDISCRIMINATION AND EXEMPTIONS.

Any State which exercises any authority granted under this title shall allow to all persons subject to this title all exemptions or other exceptions to State and local sales taxes which are allowed to persons located within the State or local jurisdiction.

SEC.___07. APPLICATION OF STATE LAW.

(a) PERSONS REQUIRED TO COLLECT STATE OR LOCAL SALES TAX.—Any person required by section ___03 to collect a State or local sales tax shall be subject to the laws of such State relating to such sales tax to the extent that such laws are consistent with the limitations contained in this title.

(b) LIMITATIONS.—Except as provided in subsection (a), nothing in this title shall be construed to permit a State—

(1) to license or regulate any person,

(2) to require any person to qualify to transact intrastate business, or

(3) to subject any person to State taxes not related to the sales of tangible personnel property.

(c) PREEMPTION.—Except as otherwise provided in this title, this title shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.

SEC.___08. TOLL-FREE INFORMATION SERVICE.

A State shall not have power under this title to require any person to collect a State or local sales tax on any sale unless, at the time of such sale, such State has a toll-free telephone service available to provide such person information relating to collection of such State or local sales tax. Such information shall include, at a minimum, all applicable tax rates, return and remittance addresses and deadlines, and penalty and interest information. As part of the service, the State shall also provide all necessary forms and instructions at no cost to any person using the service. The State shall prominently display the toll-free telephone number on all correspondence with any person using the service. This service may be provided jointly with other States.

SEC.___09. DEFINITIONS.

For the purposes of this title—

(1) the term ''compensating use tax'' means a tax imposed on or incident to the use, storage, consumption, distribution, or other use within a State or local jurisdiction or other area of a State, of tangible personal property;

(2) the term ''local sales tax'' means a sales tax imposed in a local jurisdiction or area of a State and includes, but is not limited to—

(A) a sales tax or in-lieu fee imposed in a local jurisdiction or area of a State by the State on behalf of such jurisdiction or area, and

(B) a sales tax imposed by a local jurisdiction or other State-authorized entity pursuant to the authority of State law, local law, or both;

(3) the term ''person'' means an individual, a trust, estate, partnership, society, association, company (including a limited liability company) or corporation, whether or not acting in a fiduciary or representative capacity, and any combination of the foregoing;

(4) the term ''sales tax'' means a tax, including a compensating use tax, that is—

(A) imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property as may be defined or specified under the laws imposing such tax, and

(B) measured by the amount of the sales price, cost, charge or other value of or for such property; and

(5) the term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC.___ 10. EFFECTIVE DATE.

This title shall take effect 180 days after the date of the enactment of this Act. In no event shall this title apply to any sale occurring before such effective date.

BINGAMAN AMENDMENTS NOS. 145–147

(Ordered to lie on the table.)

Mr. BINGAMAN submitted three amendments intended to be proposed by him to the bill S. 1, supra; as follows:

AMENDMENT NO. 145

Insert at an appropriate place:

''For purposes of this Act, a condition of receipt of a Federal license shall not be considered a Federal private sector mandate or a Federal intergovernmental mandate.''

AMENDMENT NO. 146

Insert at an appropriate place:

''For purposes of this Act, any law enforcement provision relating to organized crime shall not be considered a Federal private sector mandate or a Federal intergovernmental mandate.''

AMENDMENT NO. 147

Insert at an appropriate place:

''For purposes of this Act, any requirement for a license or permit for the treatment and disposal of nuclear and hazardous waste shall not be considered a Federal private sector mandate or a Federal intergovernmental mandate.''

KERRY AMENDMENT NO. 148

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, supra; as follows:

In the pending amendment, strike all after the first word and insert the following:

''(6) For purposes of paragraph (1)(B), the term 'Federal intergovernmental mandates' shall not include a provision in any bill, joint resolution, amendment, motion, or conference report that would apply in the same manner to the activities, facilities, or services of State, local, or tribal governments and the private sector.''

SENATE RESOLUTION 62—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 62

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1995, through February 28, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 28, 1996, under this resolution shall not exceed $4,018,405, of which amount not to exceed $22,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

b. For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $4,111,256, of which amount not to exceed $22,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the