

murdered, and our hope that those injured recover completely. We should also express our outrage that these acts continue—without adequate responses from Syria or the PLO. I am pleased to be joined by my colleagues in passing this expression of the Senate's views. I ask unanimous consent that a list of Israelis killed in terrorist attacks since September 13, 1993, be printed in the RECORD.

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

*Israeli deaths from terrorism since September 13, 1993*

|   |     |
|---|-----|
| Deaths since September 13, 1993 (as of Jan. 24, 1995) ..... | 110 |
| Civilian deaths .....                                       | 70  |
| IDF deaths .....  | 40  |
| 1995 Deaths (as of Jan. 23) .....                           | 20  |
| Civilian .....  | 2   |
| IDF deaths .....  | 18  |
| 1994 Deaths .....   | 70  |
| Civilian .....  | 35  |
| IDF deaths .....  | 35  |
| Deaths between Sept. 13 and Dec. 31, 1993 .....             | 20  |
| Civilian .....  | 15  |
| IDF deaths .....  | 5   |
| Deaths Since May 4, 1994 .....                              | 64  |
| Civilian .....  | 32  |
| IDF deaths .....  | 32  |
| Deaths between Jan. 1 and May 4, 1994 .....                 | 26  |
| Civilian .....  | 23  |
| IDF deaths .....  | 3   |
| Deaths between Sept. 13 and Dec. 31, 1993 .....             | 20  |
| Civilian .....  | 15  |
| IDF deaths .....  | 5   |
| Deaths between Sept. 13, 1993 and May 4, 1994 .....         | 46  |
| Civilian .....  | 38  |
| IDF deaths .....  | 8   |

Mr. PELL. Mr. President, I watched with utter revulsion and horror the news accounts of the terrorist attack in Netanya, Israel. The casualties now stand at 19 dead and more than 60 injured, all apparently at the hands of the radical Islamic Jihad organization.

Once again, Israelis are reminded of the human costs of pursuing peace with the Palestinians. Once again, the Islamic radicals have demonstrated their capacity to seize the initiative with their craven acts of terror. Once again, Israel is forced to seal off the territories and reexamine its willingness to participate in the Palestinian experiment with self-rule. And once again, in a perverse twist of logic, the enemies of peace become the beneficiaries of a horrible tragedy.

The Israeli Government, to its enormous credit, has concluded that it will not allow the terrorists to dictate Israel's decision to implement its peace agreement with the Palestinians. Prime Minister Rabin has, in my opinion, made the right and courageous decision to stand by his pledge.

What concerns me most, Mr. President, and what I wish to highlight today, is the price to be paid for that decision. All of us who follow events in Israel know that Prime Minister Rabin has a limited mandate to reach peace with the Palestinians and Israel's other neighbors. With each act of terror,

with each addition to the list of casualties, the Prime Minister's political standing, and his ability to take risks for peace, are eroded.

Even more important, there is a real danger that the Israeli public will change its fundamental view of the peace process. In Israeli minds, last year's moving images of White House signing ceremonies and hopeful talk of peace and understanding have been replaced by the bloody carnage of the bombing site and the mournful cries of the victims' families.

Although opposition to the peace process—even violent opposition—is to be expected, my fear is that is that we are fast approaching a point of no return, a point where Israeli government calls to continue the peace talks will fall on deaf ears. In order to maintain their support for the peace process, Israelis have to know that they will be secure, and that the Palestinians are making a good faith effort to ensure that is the case. Otherwise the Israeli public will see no reason to make other difficult concessions for peace.

If the Palestinians do not take dramatic steps to reign in Hamas and the Islamic Jihad, then the simple fact is that more terrorist acts will occur. At some point in the not too distant future, Israelis—and even the Israeli government—could decide that adherence to the process is no longer worth the effort. It is up to all interested parties—the Israelis, the United States, the Syrians who provide support and safe haven to the terrorists, and, more to the point, to the Palestinians themselves, to see that does not happen.

Mr. President, I am pleased to co-sponsor a resolution condemning the acts of terrorism, which will be offered shortly by Senators DOLE, DASCHLE, and others.

SENATE RESOLUTION 70—ELECTING CHAPLAIN OF THE U.S. SENATE

Mr. KEMPTHORNE (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 70

*Resolved*, That Doctor Lloyd John Ogilvie, of California, be, and he is hereby, elected Chaplain of the Senate as of March 11, 1995.

SENATE RESOLUTION 71—RELATING TO THE DESIGNATION OF COMMITTEE CHAIRMEN FOR THE 104TH CONGRESS

Mr. KEMPTHORNE (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 71

*Resolved*, That the following Senators are designated as the Chair of the following committees for the 104th Congress, or until their successors are chosen: Committee on the Budget: Mr. Domenici, Chairman; Committee on Veterans' Affairs: Mr. Simpson, Chairman; Committee on Indian Affairs: Mr. McCain, Chairman; Select Committee on Intelligence: Mr. Specter, Chairman.

AMENDMENTS SUBMITTED

UNFUNDED MANDATE REFORM ACT OF 1995

BYRD AMENDMENT NO. 200

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

On page 23, strike beginning with line 24 through line 6 on page 25 and insert the following:

“(IV)(aa) provides that if for any fiscal year the responsible Federal agency determines that an appropriation Act does not provide for the estimated direct costs of the mandate as set forth in subclause (III), the Federal agency shall (not later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit legislative recommendations for either implementing a less costly mandate or suspending the mandate for the fiscal year; and

“(bb) provides expedited procedures for the consideration of the legislative recommendations referred to in item (aa) by Congress not later than 30 days after the recommendations are submitted to Congress.

BOXER AMENDMENTS NOS. 201–202

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

AMENDMENT No. 201

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.

AMENDMENT No. 202

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 (AND DODD) AMENDMENT NO. 203

Mrs. BOXER (for herself and Mr. DODD) proposed an amendment to the bill, S. 1, supra; as follows:

On page 13, line 5, strike "or".

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

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

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

# WELLSTONE AMENDMENTS NOS. 204-205

Mr. WELLSTONE proposed two amendments to the bill, S. 1, supra; as follows:

## AMENDMENT NO. 204

Insert at the appropriate place the following:

"( ) The term 'direct savings'—

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

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

"( ) shall be interpreted no less broadly than the terms 'Federal mandate direct costs' and 'direct costs.'"

## AMENDMENT NO. 205

Insert at the appropriate place, the following:

"( ) Notwithstanding any other provision of this Act, no point of order under paragraph (1)(A) of Section 408(c) shall be raised where the appropriation of funds to the Congressional Budget Office, in the estimation of the Senate Committee on the Budget, is insufficient to allow the Director reasonably to carry out the Director's responsibilities under this Act."

# FORD AMENDMENT NO. 206

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

On page 26, strike beginning with line 11 through line 8 on page 27.

# GRASSLEY AMENDMENTS NOS. 207- 208

Mr. GRASSLEY proposed two amendments to the bill, S. 1, supra; as follows:

## AMENDMENT NO. 207

On page 32, between lines 5 and 6, 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 a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act; and

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

(c) COOPERATION OF OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall provide to the Director of the Congressional Budget Office data and cost estimates for regulations implementing each Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act.

## AMENDMENT NO. 208

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 as amended by inserting "408(c)(1)(A)," after "313,"

# KEMPTHORNE AMENDMENTS NOS. 209-210

Mr. KEMPTHORNE proposed two amendments to the bill S. 1, supra; as follows:

## AMENDMENT NO. 209

On page 26, after line 5, insert the following new subsection:

"( ) LIMITATION ON APPLICATION.—This section shall not apply to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute if adoption of the bill, joint resolution, amendment, motion, 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 authorization 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 as corresponding amount."

## AMENDMENT NO. 210

Strike out all after the first word and insert the following:

### 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 State, local, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, 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 State, local, and 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 State, local, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of State, local, 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 State, local, 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, color, religion, sex, national origin, age, handicap, or disability;

(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 including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.

"(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 and usable for activities of State, local, 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; 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.

"(C) If the Director determines that it is not 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. If such determination is made by the Director, a point of order shall lie only under subsection (c)(1)(A) and as if the requirement of subsection (c)(1)(A) had not been met.

"(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, speci-

fy 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 (5) 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.

"(4) **DETERMINATIONS OF APPLICABILITY TO PENDING LEGISLATION.**—For purposes of this subsection, in the Senate, the presiding officer of the Senate shall consult with the Committee on Governmental Affairs, to the extent practicable, on questions concerning the applicability of this section to a pending bill, joint resolution, amendment, motion, or conference report.

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

"(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, color, religion, sex, national origin, age, handicap, or disability;

"(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 State, local, 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 State, local, 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 State, local, and tribal governments under entitlement authority, if the provision—

"(i)(I) would increase the stringency of conditions of assistance to State, local, or tribal governments under the program; or

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

"(ii) the State, local, 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 State, local, 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 State, local, 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 State, local, and tribal govern-

ments, 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 'amount' means the amount of budget authority for any Federal grant assistance program or any Federal program providing loan guarantees or direct loans.

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

"(8) 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.

"(9) The term 'small government' means any small governmental jurisdictions defined in section 601(5) of title 5, United States Code, and any tribal government.

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

"(11) 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.

"(12) 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. 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 introduced 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.

(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 inter-

governmental 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) AGENCY STATEMENT; PRIVATE SECTOR MANDATES.—Notwithstanding any other provision of this Act, an agency statement prepared pursuant to subsection (a) shall also be prepared for a Federal private sector mandate that may result in the expenditure by State, local, tribal governments, or 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.

(c) 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.

(d) 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. BASELINE STUDY OF COSTS AND BENEFITS.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the "Advisory Commission"), in consultation with the Director, shall begin a study to examine the measurement and definition issues involved in calculating the total costs and benefits to State, local, and tribal governments of compliance with Federal law.

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

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

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

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

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

(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 dif-

ferent 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. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.**

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

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

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

**SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Advisory Commission to carry out section 301 and section 302, \$1,250,000 for each of fiscal years 1995 and 1996.

**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.

**DOLE AMENDMENT NO. 211**

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

Strike out all after the first word and insert the following:

**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 State, local, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, 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 State, local, and 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 State, local, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of State, local, 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 State, local, 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, color, religion, sex, national origin, age, handicap, or disability;

(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 including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.

"(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 and usable for activities of State, local, 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; 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 ef-

fective 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.

"(C) If the Director determines that it is not 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. If such determination is made by the Director, a point of order shall lie only under subsection (c)(1)(A) and as if the requirement of subsection (c)(1)(A) had not been met.

"(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 (5) 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.

“(4) **DETERMINATIONS OF APPLICABILITY TO PENDING LEGISLATION.**—For purposes of this subsection, in the Senate, the presiding offi-

cer of the Senate shall consult with the committee on Governmental Affairs, to the extent practicable, on questions concerning the applicability of this section to a pending bill, joint resolution, amendment, motion, or conference report.

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

“(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, color, religion, sex, national origin, age, handicap, or disability;

“(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 State, local, 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 State, local, 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 State, local, and tribal governments under entitlement authority, if the provision—

“(i)(I) would increase the stringency of conditions of assistance to State, local, or tribal governments under the program; or

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

“(ii) the State, local, 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 State, local, 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 State, local, 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 State, local, 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 ‘amount’ means the amount of budget authority for any Federal grant assistance program or any Federal program providing loan guarantees or direct loans.

“(6) 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) The term ‘local government’ has the same meaning as in section 6501(6) of title 31, United States Code.

“(8) 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.

“(9) The term ‘small government’ means any small governmental jurisdictions defined in section 601(5) of title 5, United States Code, and any tribal government.

“(10) The term ‘State’ has the same meaning as in section 6501(9) of title 31, United States Code.

“(11) 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.

“(12) 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. 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.

(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) AGENCY STATEMENT; PRIVATE SECTOR MANDATES.—Notwithstanding any other provision of this Act, an agency statement prepared pursuant to subsection (a) shall also be prepared for a Federal private sector mandate that may result in the expenditure by State, local, tribal governments, or 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.

(c) 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.

(d) 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. BASELINE STUDY OF COSTS AND BENEFITS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the "Advisory Commission"), in consultation with the Director, shall begin a study to examine the measurement and definition issues involved in calculating the total costs and benefits to State, local, and tribal governments of compliance with Federal law.

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

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

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

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

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

(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. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

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

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

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

#### SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Advisory Commission to carry out section 301 and section 302, \$1,250,000 for each of fiscal years 1995 and 1996.

### 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.

#### GLENN AMENDMENT NO. 212

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

On page 5, line 19, strike "impose" and insert "establish".

On page 7, line 11, strike "impose" and insert "established".

On page 8, line 5, before "amounts" insert "new or additional".

On page 8, line 15, before "amounts" insert "new or additional".

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 the terms and requirements of any Federal law or regulation (whether expired or still in effect) that is to be reauthorized reenacted replaced or revised by the same bill or joint resolution or proposed or final Federal regulation

containing the relevant mandate, calculated as though such terms and requirements were retained and extended without change; or.

On page 9, line 8, strike "(II)" and insert "(III)".

On page 9, line 22, strike "or".

On page 10, line 4, strike "and" and insert "or".

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 that would be required under the terms and requirements of any Federal law or regulation (whether expired or still in effect) that is to be reauthorized, reenacted, replaced, or revised by the same bill or joint resolution or proposed or final Federal regulation containing the relevant mandate, calculated as through such terms and requirements were retained and extended without change; and

On page 10, between lines 14 and 15, insert the following:

"For purposes of determining amounts not included in direct costs pursuant to subparagraph (C)(i) and amounts of direct savings pursuant to subparagraph (C)(ii), the amounts that would be needed to comply with or carry out the terms and requirements established by Federal legislation introduced before January 1, 1996, or by Federal regulations adopted before such date shall be calculated without regard to any sunset, expiration, or need for reauthorization applicable to such terms and requirements. Notwithstanding the provisions of subparagraphs (C)(i)(II) and (C)(ii)(III), the amounts that would be needed to comply with or carry out the terms and requirements established by Federal legislation introduced on or after January 1, 1996, or by Federal regulations adopted on or after such date shall be calculated with regard to any sunset, expiration, or need for reauthorization applicable to such terms and requirements.

#### BYRD AMENDMENT NO. 213

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

On page 23, line 17, strike "(IV)(aa);" and insert "(III)(aa); and".

On page 23, strike line 18 through line 6 on page 25 and insert the following:

"(III)(aa) provides that if for any fiscal year the responsible Federal agency determines that there are insufficient appropriations to provide for the estimated direct costs of the mandate, the Federal agency shall (not later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit legislative recommendations for either implementing a less costly mandate or making the mandate ineffective for the fiscal year;

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

"(cc) provides that such mandate shall be ineffective until such time as Congress has completed action on the recommendations of the responsible Federal agency.

#### D'AMATO (AND SARBANES) AMENDMENT NO. 214

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

On page 12, line 3, strike the period after "Code" and insert "; or the Office of the Comptroller of the Currency or the Office of Thrift Supervision."

#### GRAMM AMENDMENT NO. 215

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

"(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."

#### GRAMM AMENDMENT NO. 216

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

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."

#### BYRD AMENDMENT NO. 217

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

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 employees in both the public and private sectors with respect to their employment; or

#### LEVIN AMENDMENT NO. 218

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

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

##### SECTION 1. SHORT TITLE.

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

##### SEC. 2. PURPOSES.

The purposes of this Act are—

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

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

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

(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, age, 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 by the Director annually for inflation using the Consumer Price Index to the nearest \$10,000,000) 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 by the Director annually for inflation using the Consumer Price Index to the nearest \$10,000,000) 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 Fed-

eral 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) direct costs of Federal intergovernmental mandates up to 10 years beyond the effective date to the extent that they significantly differ from 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 by the Director annually for inflation using the Consumer Price Index to the nearest \$10,000,000) 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 by the Director annually for inflation using the Consumer Price Index to the nearest \$10,000,000) 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) costs of Federal private sector mandates up to 10 years beyond the effective day to the extent that they differ significantly from 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 this section with respect to Federal intergovernmental or 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 \$4,500,000, 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 by the Director annually for inflation using the Consumer Price Index to the nearest \$10,000,000) 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 January 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.

### **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 Advisory Commission on Intergovernmental Relations, 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 Advisory Commission on Intergovernmental Relations 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.

#### **LEVIN AMENDMENT NO. 219**

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

On page 18, line 25, insert before "and" the following: "but no more than ten years beyond the effective date of the mandate".

#### **BROWN AMENDMENT NO. 220**

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

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.

#### **BROWN (AND HATCH) AMENDMENT NO. 221**

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

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 titles I or III of this Act or amendments made by titles I or III of this Act shall be considered by any court in determining the intent of Congress.

#### ROTH AMENDMENT NO. 222

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

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

This title shall take effect on January 1, 1996, and shall apply to—

(1) bills and joint resolutions reported, and to amendments and motions offered, on and after such date, and

(2) conference reports on such legislation.

#### NOTICE OF MEETING

##### COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, January 31, 1995, at 9:30 a.m., to receive testimony on S. 91 and S. 218.

For further information concerning this business meeting, please contact Mark C. Mackie of the Rules Committee staff on 224-3448.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 24, 1995, at 9:30 a.m. in open session to discuss the requirements for ballistic missile defenses.

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

##### COMMITTEE ON FINANCE

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, January 24, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the methods of estimating the impact of Federal fiscal policies on Federal revenues.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be author-

ized to meet during the session of the Senate on Tuesday, January 24, 1995, at 10 a.m. to hold a hearing on the North Korea Nuclear Agreement.

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

##### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the National Endowment for the Arts, during the session of the Senate on Tuesday, January 24, 1995, at 9:30 a.m.

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

##### SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Federalism, and Property Rights of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Tuesday, January 24, 1995, at 9 a.m., in Senate Dirksen Room 226, on The Line-Item Veto: A Constitutional Approach.

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

#### ADDITIONAL STATEMENTS

##### NATCHEZ BLUFFS STABILIZATION—S. 255

• Mr. LOTT. Mr. President, I ask unanimous consent that S. 255 be printed in the CONGRESSIONAL RECORD. S. 255, a bill to authorize the Corps of Engineers to stabilize the bluffs at Natchez, MS, was introduced on January 20, 1995, along with accompanying statements from myself and Senator COCHRAN. Due to an inadvertent omission at the time, the bill was not printed in the RECORD.

S. 255

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

##### SECTION 1. STABILIZATION OF NATCHEZ BLUFFS.

(a) IN GENERAL.—In accordance with the recommendations of the reports prepared by the Army Corps of Engineers entitled "The Natchez Bluff Study", "The Natchez Bluff Study: Supplement I", and "The Natchez Bluff Study: Supplement II", dated September 1985, June 1990, and December 1993, respectively, the Secretary of the Army shall carry out such activities as are necessary to stabilize the portions of the bluffs along the Mississippi River in the vicinity of Natchez, Mississippi, designated in figure 4 of the December 1993 report as—

- (1) Clifton Avenue, area 3;
- (2) the bluff above Natchez Under-the-Hill, area 7;
- (3) the bluff above Silver Street, area 6; and

- (4) Madison Street to State Street, area 4.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army such sums as are necessary to carry out this section. •

#### VETERANS' HEALTH ADMINISTRATION ACT

• Mr. INOUE. Mr. President, I am introducing legislation today to amend chapter 74 of title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration [VHA].

The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served their country in the Armed Forces. It is certainly fitting that this should be done.

Recently a quite distressing situation regarding the care of our veterans has come to my attention. In particular, the recruitment and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions from which a significant portion of our veterans suffer. For example, programs related to homelessness, substance abuse, and post traumatic stress disorder [PTSD] have received funding from the Congress in recent years.

Certainly, psychologists, as behavioral science experts, are essential to the successful implementation of these programs. However, the high vacancy and turnover rates for psychologists in the VHA—over 11 and 18 percent, respectively, as reported in one recent survey—might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates of pay as well as by the low number of clinical and counseling psychologists appearing on the register of the Office of Personnel Management [OPM]. Most new hires have no postdoctoral experience and are hired immediately after a VA internship. Recruitment, when successful, takes up to 6 months or more.

Retention of psychologists in the VA system poses an even more significant problem. I have been informed that almost 40 percent of VHA psychologists had 5 years or less of postdoctoral experience. Without doubt, our veterans would benefit from a higher percentage of senior staff who are more experienced in working with veterans and their particular concerns. My bill provides incentives for psychologists to continue their work with the VHA and seek additional education and training.

Several factors are associated with the difficulties in retention of VHA psychologists including low salaries and lack of career advancement opportunities. It seems that psychologists are apt to leave the VA system after 5 years because they have almost reached peak levels for salary and professional development in the VHA. Furthermore, under the present system