

open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government offices and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under the provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

#### TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum

is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

#### TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of rule XXVI of the Standing Rules.)

#### TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

#### TITLE V—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

The chairman and ranking minority member, acting jointly, are authorized to approve on behalf of the committee any rule or regulation for which the committee's approval is required, provided advance notice of their intention to do so is given to members of the committee.

#### IN HONOR OF JAMES FLEMING

Mr. FORD. Mr. President, I think it is appropriate for me to say a few words about James Fleming, a man whose knowledge of and respect for this Chamber was matched by few. When he died last week, I lost my most trusted political adviser, my confidant, my dear friend.

He was historian, constitutional scholar, purveyor of Kentucky politics, and the unsung hero behind every major legislative initiative in the Kentucky legislature of the 1960's and 1970's. Years later, Kentucky Governors and U.S. Senators alike would seek Jim out, whether he was holding court in Frankfort or his office at 167 Russell. I might add, that it was his habit to being holding court at 7 a.m., much

to the dismay of many a late-sleeping lobbyist.

But most important, Jim was always the boy from the small town of Ludlow, who fell in love with Edith Murrell Gaines and married her against her father's best judgment. The one who became a mentor to so many legislators and staff assistants; who was so proud of his children, grandchild, and the baby on its way; and who, long before polls and focus groups came into fashion, used the neighborhood bridge club as his political barometer. Those traits never failed him.

The papers will tell of Jim's remarkable mind that could recount the vote tally in any county 20 years later and made redistricting an art form. They will tell of the parliamentary wizard who left the opposition hopelessly muddled when they had been duped. And they will tell of the visionary who worked to revise the State's constitution, succeeded at streamlining the workings of the General Assembly and reorganized Kentucky's executive branch.

But the people who knew him best will tell of the man who was just as likely to draw analogies from baseball and mystery stories as he was Shakespeare and Aristotle. They'll tell of the man whose love of a good drink was replaced by his love of a good donut, of the devout Catholic who confessed to me last year that he'd run out of things to give up for Lent, and who would always return your books with chocolate smears and notes in the margin with his famous, illegible red scrawl.

The Old Testament tells us that "The price of wisdom is above rubies." Surely Jim was a rich man. But if he was rich, we were richer still, because "The storyteller is the person who creates an atmosphere in which wisdom can reveal itself." And Jim had so much wisdom to reveal.

Rest assured that Jim's loved ones, his good friends, and his not-so-good friends, will be retelling his stories. It might be the one about his impersonating me up at the Lieutenant Governor's conference in Rhode Island. Others will tell of the time when the television cameras, and Edith Murrell, caught Jim when he snuck out from work to catch an afternoon of racing at Churchill Downs. And perhaps, a few will tell what really went on during those redistricting sessions with the maps spread out on the LRC office floor, or how he was always being mistaken for the "Senator" up in Washington.

Well, the last one was fine with me, even if it did get him seated for dinner before me once too often. We were always a team.

I can't say goodbye before expressing my sincerest thanks to his children Barbara Clair and Mike, along with his granddaughter Laura, and all the family members for sharing a large part of Jim with us. I know there were times when Jim felt he should be with them, but wouldn't leave me. I cherish them

and Jim for standing by me and want everyone to know how much I treasured and will miss this friendship.

Mr. President, I also ask unanimous consent that the Louisville Courier-Journal editorial of January 5, 1995 be printed in the CONGRESSIONAL RECORD following my remarks.

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

#### JAMES FLEMING'S EXAMPLE

The death of James Fleming leaves an empty place in our civic life. He was, in a state where politics has more than usual significance, a consummate politician. His work in the public arena was a repudiation of those who like to use the word "political" as a pejorative.

This is a particularly poignant moment for the departure of Mr. Fleming, a long-time aide to U.S. Sen. Wendell Ford and one of the people most responsible for the current forms of Kentucky governance.

In Washington, a battalion of newly empowered Republicans are conducting an obtuse, overbroad assault on the whole notion of activist government.

They're billing the attack as some sort of noble revolution. Others say it's just a self-indulgent revenge against those who've tried, in recent decades, to make representative democracy work for the disadvantaged.

Mr. Fleming didn't take much time to argue such points. He knew the value of a properly functioning government, in Frankfort or Washington. He understood the mechanics of democracy. He knew how to overhaul the machinery of government, to make it click and hum. He read voraciously, asked questions relentlessly, informed himself fully. He digested the Federal Register as avidly as the daily weather report. He shared his information and insight with those he mentored.

What he did not do is posture. Which made him unusual around here and virtually unique in the nation's capital.

Most important, he had a moral compass that belied his image as a gruff operative.

His directional indicator was not held in place by the kind of genteel insensitivity that points the way for Newt and Newt's followers.

Mr. Fleming's legacy is what he did, not what he undid.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### UNFUNDED MANDATE REFORM ACT

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

The legislative clerk read as follows:

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

tain requirements under Federal statutes and regulations, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Budget and the Committee on Governmental Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

#### S. 1

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Unfunded Mandate Reform Act of 1995".

#### SEC. 2. PURPOSES.

The purposes of this Act are—

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

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

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

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

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

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

(5) to require that Congress consider whether to provide funding to assist State, local, and tribal governments in complying with Federal mandates, to require analyses of the impact of private sector mandates, and through the dissemination of that information provide informed and deliberate decisions by Congress and Federal agencies and retain competitive balance between the public and private sectors;

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

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

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

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

#### SEC. 3. DEFINITIONS.

(a) IN GENERAL.—For purposes of this Act—

(1) the terms defined under paragraphs (11) through (21) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (as added by subsection (b) of this section) shall have the meanings as so defined; and

(2) the term "Director" means the Director of the Congressional Budget Office.

(b) CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(11) The term 'Federal intergovernmental mandate' means—

"(A) any provision in legislation, statute, or regulation that—

"(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

"(I) a condition of Federal assistance or

"(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

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

"(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if the provision—

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

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

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

"(12) 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.

"(13) The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (11) and (12).

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

"(A)(i) in the case of a Federal intergovernmental mandate, mean the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend in order to comply with the Federal intergovernmental mandate; or

"(ii) in the case of a provision referred to in paragraph (11)(A)(ii), mean the amount of Federal financial assistance eliminated or reduced.

"(B) in the case of a Federal private sector mandate, mean the aggregate estimated amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate;

"(C) shall not include—

"(i) estimated amounts that the States, local governments, and tribal governments