

One is a contention which is advanced by some, and has been used as a possible legal defense, that violence and murder is justifiable homicide. There is absolutely, positively no basis whatsoever in criminal law for such an assertion that anybody who murders or assaults or maims at a clinic where the clinic may be performing abortions has any conceivable legal justification under the doctrine of justifiable homicide.

That is a legal principle that I worked with to a considerable extent during my 12 years in the Philadelphia district attorney's office, and the doctrine of justifiable homicide has been worked out in a very careful way; for example, when a police officer may seek to defend an innocent victim, citizen, during the course of a robbery and may shoot a robber in order to stop the murder of an innocent citizen in the course of a felony. And for someone to seize upon the term of "justifiable homicide," picking it out of the thin air to say that that is any reason for committing violence at a clinic where abortions may be performed is just absolutely preposterous.

One of the problems which has arisen, Mr. President, has been really insufficient condemnation of violence at these clinics.

I was very pleased to see the statement made by Cardinal Law of Boston asking for a cessation of any picketing, where the situation may be permitted to cool. But it seems to me that we need to speak out on levels to condemn that kind of conduct and to state as unequivocally as possible that there is no conceivable justification as "justifiable homicide."

The other point that I want to comment on briefly, Mr. President, is that at these clinics where women secure medical care, abortion is a relatively small percentage of what is done; that most of the women who go there—I heard the percentage is as high as 90 percent—are there for medical purposes. They are there for mammograms to guard against breast cancer. They are there for Pap smears to guard against cervical cancer. They are there for a whole range of medical procedures.

When there has been an epidemic of violence at these clinics, the women stay away in droves because there is terror that in being there, they may be in the midst of violence.

So I wanted to take a few moments in the interlude of the proceedings, Mr. President, to make those two points and to speak out as forcefully as I can, and with the background I have had as a district attorney dealing with the concept of justifiable homicide, to make it as unequivocal and forceful as I can that there is no conceivable justification for that violence and to say, at the same time, that it is driving many women urgently in need of medical care away from those facilities.

I thank the Chair, and I thank my colleague from Kentucky for securing

the time. I suggest the absence of a quorum.

Mr. EXON. Will the Senator withhold?

The PRESIDING OFFICER. Does the Senator from Pennsylvania withhold the quorum call?

Mr. SPECTER. I do.

Mr. EXON addressed the Chair.

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

#### UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, I rise in support of S. 1, which the Budget Committee unanimously ordered reported on Monday, and since that time, we have come forth with a report that has been suggested and I believe that is being reviewed at the present time.

I am an original cosponsor of S. 1. I want to take this opportunity to commend my distinguished colleagues and friends, Senator GLENN, Senator DOMENICI, and Senator KEMPTHORNE, for the yeomans' work that they have put into this bill. We would not be where we are today if it were not for their dedication.

Mr. President, unfunded mandates are not merely a thorn in the side of the Nation's Governors and State and local officials. They have burrowed deep into the Nation's landscape and present a problem of the utmost gravity.

Washington passes mandates and regulations and then drops them like an orphan on the doorstep of the States, forcing officials to dig deep into their own pockets to pay for compliance, to pay for mandates, at a time when they are confronting their own fiscal shortfalls and the public's demand for greater services.

Speak to any State or local official from Nebraska to Nevada, from a mayor to a town manager or a Governor, and they will tell you that this cost shifting from the Federal level to the State level is wreaking havoc with their budgets. As my good friend and colleague, Senator GLENN, rightly observed, we are passing the buck without the bucks.

In spite of the cry of "enough" from the States, Washington keeps heaping unfunded mandates upon unfunded mandates and regulations upon regulations, and there is no end point to the mandates effect. Like an entitlement, they go on and on and on, to an endless life of their own. Unfunded mandates are relentless in their demands upon State and local treasuries and, unfortunately, the sky seems to be the limit.

According to the Congressional Budget Office, compliance with Federal legislative and regulatory mandates rose from \$225 million in 1986 to \$2.8 billion in 1991. CBO readily admits that its estimates are highly conservative.

We really do not know the full extent and magnitude of the situation. Mr. President, it is time we brought these unfunded mandates back to Earth and back to the realm of reason and responsible budgeting. It is high time that we not only rethink the relationship between the Federal and State Governments, it is time that we did something about it. And that is what this bill does.

The legislation before us today would create a point of order against unfunded mandates. Under the bill, the Federal Government must provide direct spending for these mandates. If it cannot, the mandate requirements must be scaled back to the amount of money appropriated.

That is fair, and that is reasonable. And above everything else, Mr. President, that is right.

Mr. President, this is a bill that takes in the very broad picture. It already enjoys great bipartisan support. My last count indicates that it has 57 cosponsors and probably a few more today that I do not know about. I predict that it will pass overwhelmingly and in a very reasonable period of time. But I wish to be clear that there are no half measures in the legislation. It meets the problem head on.

Of course, there are those who advocate a radical approach to the issue, what they call a no money, no mandates backstop.

While I commend my colleagues' enthusiasm and dogged persistence in righting the unfunded mandates inequities, this is a classic case of correctly diagnosing the problem but applying the wrong treatment, a treatment which I suggest could have disastrous side effects.

The alternative backstop strategy that some are referencing would take us down a road which could not only swell the size of an already bloated Federal bureaucracy, but it could further fan the flames of the litigation inferno that is raging throughout the Nation.

This draconian approach would require that the CBO reestimate each year—and I stress "each year"—the cost of mandates. I do not believe that we can fathom how much we would have to expand the CBO staff to meet this formidable and I think unnecessarily forbidding task.

Mr. President, over the past 2 years, we have made excellent headway in meeting the American people's rightful demands to reduce the size of Government. We have much further to go. We will have the smallest government, though, I would point out, since President KENNEDY sat in the Oval Office. This is not the time to undue the good and the hard work that has been done in many areas. We must be cautious but we must be effective.

Second, we would be doing, I suggest, a terrible disservice to our fellow citizens if we inadvertently fueled further litigation. That is exactly what would

happen if we chose the simplistic measure. The lawyers would be lining up a hundred deep in the court, challenging at every turn the CBO reestimates. And I hope that this concern will be understood by all Members of the body.

The columnist David Broder wrote a very effective piece touching on this subject that appeared in the newspaper a few days ago. Mr. Broder endorsed the bill before us today as "a worthy effort." Mr. Broder further notes that the no-money, no-mandate alternative would "split the bipartisan coalition." We must not split the bipartisan coalition that is moving aggressively forward and if followed will pass S. 1 in a very short period of time. If we proceed through any other course, we endanger the longstanding civil rights and environmental policy and perhaps draw a Presidential veto.

Mr. President, I ask unanimous consent that the full text of this perceptive column be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EXON. In a similar vein, Mr. President, the proposal of some to raise the requirement for waiving the new point of order from a majority vote to 60 votes would also split the bipartisan coalition. Another 60-vote point of order in this context would tie the Senate in knots. If we have seen gridlock over the last decade, this kind of a 60-vote point of order would lead to a glacial gridlock.

Mr. President, I was involved in the negotiations that led to the unfunded mandates bill currently before the Senate. There were a few items of the bill that merit further clarification.

#### RETROACTIVITY

There has been a great deal of confusion surrounding the question of retroactivity in S. 1. Namely, to what mandates does S. 1 apply? And, will mandates already enacted into law be affected by S. 1?

The drafters of S. 1 intended that reauthorization of existing laws not be subject to the requirements of S. 1 where the net costs of the legislation do not exceed existing costs of the mandate plus the thresholds established in the legislation.

The no-retroactivity clause would apply to laws for which authorizations of appropriations may have expired, such as the 1987 Water Quality Act.

I would add that this same principle would apply equally to regulations that are issued pursuant to existing laws, but which have not yet been proposed or finalized. However, let me stress that the existing law must be in effect at the time S. 1 became effective regardless of whether an authorization of appropriations has expired.

#### EXCLUSIONS

The bill contains a broad exclusion for legislation that establishes or enforces any statutory rights that prohibit discrimination.

The drafters of S. 1 believe this language to mean provisions in bills and joint resolutions that prohibit or are designed to prevent discrimination from occurring through civil or criminal sanctions or prohibitions.

#### POINTS OF ORDER

The legislation ensures that a simple majority in the House or Senate will be required to waive a point of order, if raised, for an unfunded intergovernmental mandate, or where a CBO statement does not accompany a bill or joint resolution.

#### PROCEDURES

The situation may arise where a mandate—already in effect for a year—is declared ineffective and enforcement or judicial action has already commenced. In such a case, the drafters of S. 1 intend that where enforcement actions have begun, the mandate in question would continue to consider applicable law preceding the declaration of ineffectiveness.

For example, in a case where a mandate is fully funded in the first 2 years, but not in the third, the mandate is effective for the first 2 years, but not in the third.

#### ADMINISTRATIVE PROCESSES AND PROCEDURES

When an intergovernmental mandate is either declared ineffective or scaled back because of lack of funding, these changes in the mandate will be effectuated consistent with the requirements of the Administrative Procedures Act.

This will ensure that all affected parties including, the private sector, State, local and tribal governments and the intended beneficiaries of the mandate will have adequate opportunity to address their concerns.

In closing, Mr. President, I would like to say that after much thought and analysis we have found in the legislation before us today the solution to the problem of unfunded mandates. It might not be a perfect one. Certainly we all can say that we have passed few perfect pieces of legislation. It does not mean that we may not have to revisit this from time to time. But I think it is time we move aggressively ahead to solve the problem of unfunded mandates.

On January 5, the Budget Committee, of which I am the ranking minority member, and the Governmental Affairs Committee held a joint hearing on S. 1. Both of our respective committees favorably reported out the measure earlier this week. We have heard loud and clear the call from the States. It is now time that we acted and passed this critical legislation.

#### [EXHIBIT 1]

#### MONEY AND MANDATES

(By David S. Broder)

Before George Voinovich became governor of Ohio four years ago, he was a member of the Ohio legislature, a Cuyahoga County commissioner and the mayor of Cleveland. That may condemn him as a career politician in some people's eyes, but it also placed him in a unique position to help move what may become the first law passed by this new Congress—the unfunded mandates bill.

Voinovich, a Republican, last year used his friendships in both parties to construct an unusually broad and solid coalition of state and local government groups to press for enactment of a long-overdue measure that will require Congress to look twice before saddling states, counties and cities with the costs of carrying out policies the federal government finds desirable.

The measure was stymied in the last Congress by Rep. Henry Waxman (D-Calif.) and some of the other veteran mandate-writers, but this year it has high priority in the Senate and House, with their new Republican majorities. For reasons I will explain in a moment, this measure may not provide all the relief the states and localities expect. But it is an effort to address a real problem: the increasing tendency of a federal government which has spent itself into \$4 trillion of debt to make its partners in state and local government pay for Washington's good deeds.

The governors, legislators, mayors, and county officials have griped about this for a long time. But it was not until they put aside their internal differences and came together last year as the State and Local Coalition that Congress began to take notice. As Voinovich commented over coffee last week in Washington, "It is rare that an idea that was on no one's screen in Washington one year becomes the top priority in Congress the next year." Members of Congress "can ignore any one of our groups, but they can't ignore all of us."

Voinovich's political acumen also was important in keeping the legislation within bounds of reason. Some conservatives want to enact a "no money, no mandate" law that would stop the federal government from requiring any cost-sharing by state and local governments on programs of national importance.

Voinovich recognizes that would split his bipartisan coalition, which includes many liberal Democrats, endanger long-standing national civil rights and environmental policies, and perhaps draw a presidential veto. So he has worked diligently to persuade conservatives, including Speaker Newt Gingrich, to back bills by Sen. Dirk Kempthorne (R-Idaho) and Reps. William Clinger (Pa.) and Rob Portman (R-Ohio) that take a more measured approach.

The bills do not repeal existing mandates, leaving an examination of their financing to a bipartisan commission. They exempt measures necessary to enforce constitutional or statutory rights prohibiting discrimination of any kind—including disability.

They allow future Congresses to pass unfunded mandates—but only if, on a separate roll-call vote, before final passage, a majority of the House and Senate say, deliberately and explicitly, that the purpose is so compelling they believe they should waive the rule against unfunded mandates. In other words, senators and representatives would have to tell their constituents, in effect, "We're voting to raise your state or local taxes."

The difficulty I mentioned earlier arises from the enforcement mechanism. Somebody has to decide how much an unfunded mandate would cost and whether it exceeds the threshold set in the proposed law—\$50 million in costs for state and local governments, \$200 million for private business. That agency is the Congressional Budget Office (CBO), a nonpartisan arm of Congress.

That is a huge power to give to a group of unelected bureaucrats, even if they are required by law to consult with local and state officials and are supervised by the House and Senate Budget committees. Robert D. Reischauer, the director of CBO, has written

members of Congress a letter warning that "in some of the situations that will matter most . . . [it] will be very difficult if not impossible to determine" the costs the proposed mandate will impose.

Local officials, as Reischauer delicately put it, "are likely to have a strong interest in having the costs of a proposed mandate appear as high as possible"; congressional sponsors, the opposite motivation. In truth, the added costs will vary enormously, depending on the severity of the problems in the locality and the degree of effort already being made.

Voinovich is right in arguing that the bill will force Congress to consider future mandates with care. It will provide a forum where the states and cites can argue their case. But this law is altogether too likely to have unintended consequences. I can see the same local officials who are enraged now by Congress's caprice in passing unfunded mandates being equally enraged—and frustrated—by future CBO cost estimates.

The unfunded mandate bill is a worthy effort. But in the end, the real solution lies in sorting out more clearly what responsibilities should be financed and run by each level of government. Voinovich and other governors are ready for that kind of dialogue to begin. President Clinton should take the lead in seeing that it happens.

Mr. EXON. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the remaining committee amendments be temporarily laid aside in order to consider the Dorgan amendment; that no second-degree amendments be in order, and that at 2:30 a vote will occur on the amendment.

Mr. BYRD. Mr. President, reserving the right to object. Will the Senator kindly restate the request?

Mr. KEMPTHORNE. Yes. The unanimous-consent request is that the remaining committee amendments be temporarily laid aside in order to consider the Dorgan amendment; that no second-degree amendments be in order, and that at 2:30 a vote will occur on the Dorgan amendment.

Mr. LEVIN. I wonder if the Senator who reserved the right to object will yield for a question to the manager.

Mr. BYRD. Yes.

Mr. LEVIN. The Dorgan amendment that the Senator is referring to, as I understand it, is an amendment which would substitute the ACIR, in lieu of the new commission which the bill would create, the ACIR being an existing commission on intergovernmental relations. As I understand Senator Dorgan's amendment, it would utilize the ACIR in lieu of creating a new commission, as the bill currently provides; is that just the nature of the amendment, so the folks know what it is the unanimous consent refers to?

Mr. KEMPTHORNE. In response to the Senator from Michigan, that is correct.

Mr. BYRD. Reserving the right to object, Mr. President, this seems to me to be a positive amendment, one that has considerable merit, as I understand it. I do not plan to object to setting the amendments aside to take up this amendment. But before I complete my reservation, I started out saying I wanted a committee report, so that our minority people on both committees—not just the Budget Committee, but on the Governmental Affairs Committee—who had been denied the committee report with individual views or minority views, knowing full well nothing about the content of the bill, but knowing that there is a steamroller coming down the road, to put all these wonderful things. I have seen the number 10 used, 10 plans in the Contract With America—maybe 12. All these wonderful things are in the Contract With America. And realizing that this bill, being No. 1, must be a very important bill, not just a simple sense-of-the-Senate resolution, but a very important bill. No. 2, S. 2 was passed earlier, and I voted against S. 2. But in this case, I said I want, on behalf of the Senate, on behalf of the minority, and on behalf of myself, and on behalf of all other Senators who do not know any more about this bill than I do, I want to see a committee report. I want to see the minority view. I want to see the votes that were taken inside the committee. I want all those things in the committee report that we are instructed to have in the committee reports by the Senate rules. Senators and listeners who do not know what I am talking about, read the Senate rules and find out. I wanted those, and I wanted an opportunity not just to have it given to me in my hand but an opportunity to study it. I have the reports now, but I want this weekend to study this bill.

In the meantime, I do not want to appear to be filibustering, although I do not mind being a filibusterer when the right time comes. Senators will know when I am filibustering. I have been called worse names than a filibusterer. But I have no interest in killing the bill. I may be for it. I probably will be, but I am not sure. I probably will be for the bill. But I resist the temptation to roll over and play dead. I resist that temptation. I am not going to be cowed like a whipped dog because of threats or charges that I may be obstructing or filibustering. I am not doing that. I want to know what is in these bills. We have plenty of time. We do not have to ram them through. Let us take the time. This is an important bill. I hear a lot of whispering and murmuring about problems with this bill from my colleagues. I want to know what is in it. So I want to study that bill this weekend, after I do the mopping of the kitchen. I always mop the kitchen. Every Saturday that is my job and I mop the washroom where she does the washing, where the washer and dryer

are. I mop, yes. I clean all the commodes. I clean all the bathroom structures. I clean out the bathtubs.

Mr. BIDEN. Will the Senator yield?

Mr. BYRD. Not yet. I will shortly. I do all the vacuuming. I do the dusting. I dust the furniture in the family room and dust the furniture in the living room, and so on. My wife does the buying and the cooking and the washing and the ironing and the pressing of suits and taking care of my little dog, Billy. But over this weekend, whenever I get through with doing my chores, which I have sworn on to for a number of years, then I want to study this bill. That is a legitimate reason not to rush pell-mell at this point.

I want to be a reasonable man. Here is an opportunity to vote on something that is positive. I will listen to the Senator's explanation of the amendment. It is my understanding, in talking with the distinguished Senator from North Dakota and the distinguished Senator from Michigan, that this is a good amendment. So I am not going to interpose an objection to setting these committee amendments aside. I have no objection to setting those amendments aside and letting the Senate go forward and dispose of the amendment by Mr. DORGAN. There may be another amendment that would fit into that. All I am asking is that I want this weekend, after I get through with mopping the kitchen and mopping the washroom, and all those things, I want the opportunity to study this bill. That is a reasonable request. I am saving my strength for a filibuster on another day, on another bill. I am not filibustering this bill. Give me a break here.

So I have no objection to that if the leader wants to do that.

Mr. DOLE. Will the Senator yield?

Mr. BYRD. I am merely reserving the right to object.

Mr. DOLE. Last night we talked about your dog, Billy, and my dog, Leader. So I have had Leader inscribe a picture for Billy, and here is the picture.

Mr. BYRD. Will wonders never cease? Sweet smoke of rhetoric, my, what a handsome dog that is. I wish someone would call my office downstairs and have a picture of Billy brought up here. That is a pedigree. That is a blue ribbon dog.

I will read the inscription: "To Billy:"

There is only one Billy, and that is Billy Byrd.

"To Billy, with best wishes." The signature, "Leader." Leader; that is a beautiful dog. It really is.

I thank the distinguished leader.

But I do want to bring a picture of Billy up.

So I have no objection to setting the amendments aside for that purpose.

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

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 18

(Purpose: To provide for certain studies and reports to be performed by the Advisory Commission on Intergovernmental Relations, and for other purposes)

Mr. DORGAN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. GRAHAM, Mr. LEVIN, and Mr. KEMPTHORNE, proposes an amendment numbered 18.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 39, strike out lines 4 through 11 and insert in lieu thereof the following:

**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 government.

**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—

On page 43, beginning with line 1, strike out all through line 17 on page 49 and insert in lieu thereof the following:

**SEC. 303. MONITORING IMPLEMENTATION.**

(a) IN GENERAL.—The Advisory Commission shall monitor and evaluate the implementation of this Act, including by conducting such hearings, and consulting with such Federal, State, local, and tribal governments, as the Advisory Commission considers appropriate for obtaining information and views about the purpose, implementation, and results of this Act.

(b) BIENNIAL REPORT.—The Advisory Commission shall submit a report to the President and the Congress every 2 years which—

(1) presents the findings of the Advisory Commission under subsection (a); and

(2) presents recommendations for improving the implementation of this Act, including regarding any need for amending this Act.

**SEC. 304. 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. 305. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Advisory Commission—

(1) to carry out section 301, \$1,000,000 for each of fiscal years 1995 and 1996;

(2) to carry out section 302, \$500,000; and

(3) to carry out section 303, \$200,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

Mr. DORGAN. Mr. President, I am offering this amendment along with the Senator from Florida [Mr. GRAHAM]; the Senator from Michigan [Mr. LEVIN]; and the Senator from Idaho [Mr. KEMPTHORNE].

Mr. President, it says on page 39 of S. 1, which the Senate is now considering, at the top of the page, under:

Title III—Review of Unfunded Federal Mandates

**SEC. 301. ESTABLISHMENT.**

There is established a commission which shall be known as the "Commission on Unfunded Federal Mandates" (in this title referred to as the "Commission").

And then it goes on in subsequent pages to describe the duties and responsibilities of this commission.

My amendment would substitute the Advisory Commission on Intergovernmental Relations for this new commission.

I offer this amendment because, prior to a week or so ago, all of the drafts of this legislation, going back to last year, written by the Governmental Affairs Committee under the chairmanship of Senator GLENN, and more recently negotiated in bipartisan discussions, all of those drafts included in this section a commission to study unfunded mandates and that commission was going to be the Advisory Commission on Intergovernmental Relations. It is called ACIR. ACIR is an organization that has been in existence a long, long time, one with which I have a great deal of familiarity from the time when I was a statewide elected official.

ACIR has done a substantial amount of research in many, many areas dealing with intergovernmental relations. Its membership includes members from virtually all levels of government, members appointed by the President, members appointed by the Presiding Officer of the Senate, the House; we have mayors and Governors and we have private citizens.

The fact is, it is an outstanding commission that has done outstanding work for a long, long while. And it has especially done an enormous amount of work on the subject of unfunded mandates. It has for over 10 years done credible and thoughtful studies on this subject of unfunded mandates.

If this organization, the ACIR, one with such a distinguished reputation, one which I have worked with personally for over 20 years on many intergovernmental issues, if this organization has been the one that has done over a decade's worth of research and work on unfunded mandates, the question for me was: Why would we pass legislation that creates a new commission to give us some studies and some answers on unfunded mandates? That does not make any sense. In fact, it did not make any sense over recent months to all of those Republicans and Democrats who were constructing this. Only in the last week or so was a new commission put in here in substitute for ACIR.

My amendment says, let us replace it with the Advisory Commission on Intergovernmental Relations. It makes little sense to create a new commission. We are in Government these days talking about reinventing, about downsizing, about trying to be more efficient, trying to avoid duplication and overlapping of duties.

And this amendment simply moves us in that direction, to say a commission already exists, a commission that has expertise in this very matter, and that is the commission that ought to appear on page 39.

So my amendment is relatively simple. It simply substitutes the ACIR for the new commission that otherwise would be created.

The advantages to this are obvious. First of all, the Advisory Commission on Intergovernmental Relations is ready to do this work. No new commission has to be created. No new members have to be appointed. No new staff has to be hired. No new space to house a staff need be created. No new rules. No new relationships. It already exists. It can, because of that, realistically, in my judgment, meet all of the time-tables. So it is a perfect fit.

I indicated that the ACIR has done studies going back 10 years on this very issue. In fact, they have done five major studies and have been the major resource used by most of us in the Congress who have been concerned about unfunded mandates. The mission of the Advisory Commission on Intergovernmental Relations is to strengthen the Federal system, strengthen the cooperation between levels of government. And so, again, it is uniquely situated, in my judgment, to perform this task.

I have watched with interest the discussion on the floor of the Senate recently about unfunded mandates. As I conclude and prepare to allow my distinguished friend from Florida and others, hopefully, to support this amendment, I just want to say that it is not without merit, in my judgment, for us to proceed with deliberation and proceed in a manner that allows all Members of this body to have some comfort that they understand exactly what is

in this legislation. This will be a better bill if we proceed in a manner that allows everyone to understand it, ask all of the questions, improve it, modify it, change it, accept it and then finally vote on it and move this along so that it becomes law.

I expect, in the end, to cast a "yes" vote on a piece of legislation that I think has great merit. But there are questions that will be asked. I have two additional amendments I will offer next week. But I believe that this bill moves us in the right direction of being more responsible on a subject where we have acted in the past without, in my judgment, full information.

And so I appreciate very much the discussion that has gone on among the principal sponsors of the legislation and Senator BYRD and many others on this floor in recent hours and recent days. I thank him for his willingness to allow this amendment to be offered and allow the other amendments to be set aside. It demonstrates, I think, that we want to make some progress on this legislation. And this amendment itself is one with merit and one that I think will demonstrate progress.

I know Senator GRAHAM and Senator KEMPTHORNE and others wish to speak in support of it. With that, Mr. President, I yield the floor.

Mr. BYRD. Would the Senator allow me to compliment him, and also I would ask that he add my name as a cosponsor of this amendment.

As I understand, the pending bill authorizes more Federal staff at CBO and more Federal spending, \$4.5 million per year, to hire additional CBO personnel to carry out their new, largely unachievable, responsibilities under the bill. In addition, the bill would set up yet another Federal commission.

And we have in the bill that was passed earlier this week—which I was against, the so-called coverage bill—we have in that bill a new bureaucracy under the auspices of a so-called bicameral commission that will spend almost unlimited funds. That was one of the reasons why I voted against the bill. Is this what the Senators mean by Government reform, continuing to establish commissions?

A bill which passed earlier this week, as I say, S. 2, created a whole new board and authorized that board to employ such staff and consultants as were considered appropriate. I voted against that bill for a number of reasons, one of which, I opposed the creation of that new board.

Mr. President, I want to commend the Senator from North Dakota on his amendment, and I hope he will allow me to be a cosponsor.

Mr. DORGAN. Mr. President, I thank the Senator very much for his generous remarks. I ask unanimous consent that the Senator from West Virginia [Mr. BYRD] be added as a cosponsor.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, thank you.

First of all, let me congratulate Senator DORGAN on this amendment. I think he has experience in intergovernmental relationships. I believe he has actually served on that commission, although I may be mistaken. I know I have served on that commission.

There is no reason for Members to be creating another commission. It is the last thing we ought to be doing when we are reinventing Government.

This bill, I believe, was deficient in that regard by creating another commission. Unlike last year's bill 993, which used the Advisory Commission on Intergovernmental Relations, an existing commission, this bill before Members created a new commission. It was unneeded. It will lead to delay and expense.

I congratulate Senator DORGAN on going back to what was in last year's Senate bill 993, which was utilizing the ACIR for this purpose. I am pleased to cosponsor his amendment.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

I want to first express my support for the objectives of S. 1, and I look forward to voting for it on final passage. I believe that there has been a tendency, particularly during a time of restrained Federal resources, to look to the imposition of obligations on State and local government as a means of accomplishing national objectives which we at the National Government are either unable or unwilling to pay for. This will not preclude such behavior in the future, but it will require the Congress to understand what it is doing and make a discreet judgment that that is the course of action that it is willing to undertake.

Having said that, I think there is going to be a surprise and disappointment, however, upon the final passage of the bill if it is in basically the form that is currently before Members. That is that many feel it is going to undo existing mandates.

I have seen news accounts of Governors and other executives at the local level who have talked about the amount of savings that will be derived as a result of passage of this bill. As I read the bill and understand its processes, it is all prospective in operation. That is, it will make it more difficult to impose new unfunded mandates, but it in no way deals directly with those mandates that are already in place. That is what makes this amendment so important.

What title III does is it sets up a parallel process that gives us a greater capacity to look at current unfunded mandates and, on a case-by-case basis, particularly through the reauthorization process, to begin to deal with those unfunded mandates.

I recognize that the bill provides that in a reauthorization, whatever the current status of unfunded mandates is does not trigger the mechanisms of this bill. It is only if we elevate further an additional \$50 million of imposition on State and local governments, will the mechanisms of this specific bill relate to existing, enhanced, enlarged, engorged, unfunded mandates.

But what title III—which is what we are amending—provides is there will be a systematic look back at all of the unfunded mandates. That will provide Members the opportunity to receive a thoughtful, quantitative analysis of the unfunded mandates which are in the current law, present those to the appropriate authorization committees so that when bills are being considered at the committee level in hearings and then later considered on the floor to final adoption, we will be in a position to offer amendments that relate to those current levels of unfunded mandates. And if successful, if we believe it is appropriate and wise, to eliminate, reduce, or redirect the nature of the current unfunded mandates.

The reason it is so important we pass this amendment and place that responsibility for doing that analysis of existing unfunded mandates in the Advisory Commission on Intergovernmental Relations is because it is competent to do that job; it has a high level of confidence by persons at the local, State, and Federal level. It has been in business since 1959.

It is not an entity which is going to be new to this issue, as Senator DORGAN said. In fact, the ACIR has conducted some five major studies of unfunded mandates within the last 10 years. So it will bring a tremendous amount of expertise to this issue, and the ability to apply that expertise on an expedited basis.

There are some very important reauthorizations which contain some of the most egregious examples of unfunded mandates that are going to be coming before this 104th Congress. It is very much in our interest that we have an entity which can quickly move to do that analysis and make that information available to Members so that during the course of the next 2 years, we will be in a position to make some thoughtful judgments in existing legislation as to whether we wish to continue existing unfunded mandates.

Mr. President, for those reasons, I want to commend Senator DORGAN for having offered this amendment and I am very pleased to join with Senator DORGAN and his colleagues in its support.

I urge to my colleagues its adoption.

Mr. KEMPTHORNE. Mr. President, I, too, appreciate what the Senator from North Dakota has carried out. It just makes a great deal of sense to use an existing commission where we already have different representatives from the impacted organizations serving as opposed to creating a new commission. I think that makes very good sense.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I send a modification to the desk.

Mr. LEAHY. Mr. President, parliamentary inquiry. What is the regular order?

The PRESIDING OFFICER. Does the Senator yield for inquiry?

Mr. DORGAN. I would be happy to yield.

Mr. LEAHY. What is the regular order?

The PRESIDING OFFICER. The regular order will be to vote on the Dorgan amendment.

Mr. LEAHY. A further parliamentary inquiry. And I appreciate my friend from North Dakota yielding for this purpose. Further parliamentary inquiry. Does that mean absent unanimous consent we would have the vote that originally had been scheduled at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Unmodified.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Further reserving the right to object—I probably will not, but further reserving the right to object, if it would be in order for me to ask the distinguished majority leader, might he tell me, if this modification occurred, how many more votes we would have and when we would finish voting?

Mr. DOLE. I would like to accommodate the Senator from Vermont and others by having back-to-back votes and have the Senator out of here by 5 after 3 or 6 or 7 after 3. I do not know whether that accommodates the Senator or not. So if we work it out, if we have back-to-back votes, that will be it for today.

Mr. LEAHY. I will not object. I would only note, not that it affects it, if we had had the vote at 2:30, I would have been able to make my 3 o'clock flight to Vermont to be with my family today. This way I will not.

On things that we know we can work out, I would hope, for those of us who do have families and do have homes in our home States and do prefer to be there on weekends, that we might be able to have some more exactness when some of these votes will occur. I know the leaders on both sides were working hard on it, but it is unfortunate something is happening now that could easily have happened 1½ hours ago.

I will not object.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

AMENDMENT NO. 18, AS MODIFIED

Mr. DORGAN. I ask unanimous consent to modify my amendment. I have sent the modification to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 39, strike out lines 4 through 11 and insert in lieu thereof the following:

**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—

On page 43, beginning with line 1, strike out all through line 17 on page 49 and insert in lieu thereof the following:

**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—

(1) to carry out section 301, and section 302 \$1,250,000 for each of fiscal years 1995 and 1996.

Mr. DORGAN. Mr. President, if I might just in brief seconds explain the modification. The modification is one that we have discussed with the sponsors of the amendment, and it would make a change with respect to the number of years and the number of dollars and the duties of this commission. It would eliminate something called section 303, and it would provide funding for the exercise of duties under section 301 and 302 for \$1.25 million each of the years 1995 and 1996. This new ver-

sion still comports with this bill's original thinking of what the commission would do. It accomplishes the result of the amendment. And I appreciate the indulgence of my colleagues to explain the modification.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. KEMPTHORNE. Does the Senator request the yeas and nays?

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KEMPTHORNE. Mr. President, also we have another amendment. I am going to ask unanimous consent that it follow immediately after the vote that is going to occur on the amendment of Senator DORGAN. This simply deals with that issue, to further clarify that S. 1 will be able to, in a report, define if there is any area of competitive disadvantage to the private sector.

So I ask unanimous consent a rollcall vote on the Kempthorne-Cochran-Levin amendment regarding committee reports on competitive balance immediately follow the vote on the Dorgan amendment.

Mr. BYRD. Mr. President, reserving the right to object, we cannot order rollcall votes by unanimous consent.

I have no objection to setting the amendment aside for this amendment. I think it improves the bill and that is what I have been advised by Senator LEVIN and others. But we cannot get that consent.

Mr. DOLE. Set it aside, offer it, and then have a rollcall vote.

Mr. BYRD. I have no objection, if the Senator makes the request to set the amendment aside and that a vote occur immediately on the second. I have no problem with that but we have to order the yeas and nays by a show of hands.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Then my unanimous consent would embody what the Senator from West Virginia has so stated, and following that, so we would have a recorded vote, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there an objection that it be in order to order the yeas and nays at this time? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Will the Senator from Idaho please send the second amendment to the desk.

AMENDMENT NO. 19

Mr. KEMPTHORNE. Mr. President, I now send the second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for himself, Mr. COCHRAN and Mr. LEVIN, proposes an amendment numbered 19.

The amendment is as follows:

On page 15, line 12, after "nesses" insert the following: "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."

VOTE ON AMENDMENT NO. 18

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 18, offered by the Senator from North Dakota.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from California [Mrs. BOXER], the Senator from Hawaii [Mr. INOUE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], the Senator from Utah [Mr. JEFFORDS], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—88

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

NOT VOTING—12

Baucus	Helms	Pryor
Boxer	Inouye	Reid
Gramm	Jeffords	Rockefeller
Hatch	Johnston	Warner

So, the amendment (No. 18), as modified, was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 19

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 19, offered by the Senator from Idaho [Mr. KEMPTHORNE]. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Virginia [Mr. WARNER] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from California [Mrs. BOXER], the Senator from Hawaii [Mr. INOUE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

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

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—88

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

NOT VOTING—12

Baucus	Helms	Pryor
Boxer	Inouye	Reid
Gramm	Jeffords	Rockefeller
Hatch	Johnston	Warner

So the amendment (No. 19) was agreed to.

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

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

The motion to lay on the table was agreed to.

CRISIS OF CURRENCY AND FOREIGN EXCHANGE

Mr. MOYNIHAN. Mr. President, I rise at the end of our day to speak to the subject with which the House and Senate began the day, which is the crisis of currency and foreign exchange in Mexico and the prospect that, unless there is a quite extraordinary and urgent action in the United States, the Government of Mexico might default on its foreign obligations, a matter which would have repercussions not just throughout the Western Hemisphere, not just in our own economy and that of Canada and the rest of Latin America as already has been the case in Argentina and Brazil, but, indeed, repercussions throughout the world. A world of previously rigidly controlled, usually government-controlled economies that have been moving toward free markets in the general shift of attitudes that have come with the end of the cold war, and with the appearance of wholly new and quite revolutionary currency market systems.

Mr. President, we have to act. We have to act now, immediately. And every day that goes by is a day in which the difficulty of acting effectively becomes more problematic.

ORDER OF PROCEDURE

Mr. KEMPTHORNE. Mr. President, it would be our intent that next Tuesday, at 9:30 a.m. we would again take up S. 1. At that time I would be asking for a unanimous-consent agreement that we would lay aside the next two committee amendments and that we would then have before the Senate the pending business of the amendment found on page 25.

I would not make that unanimous consent request until Tuesday morning. And on behalf of the leader I announce that it is possible that there could be votes prior to the 12:30 recess on Tuesday.

Mr. MOYNIHAN. I was saying that we are in the midst of a regional crisis which could become a global crisis in very short order. Such are the speeds with which currency markets move at this time, such is the enormous amount of capital not controlled by governments. Such is the capacity already in evidence in our region to reconsider the whole degree of risk involved in these new economies. This week's "The Economist" speaks of this matter in no fewer than three separate pieces.

I speak, sir, in support of the general outlines as they are understood presently of the agreements reached on a bipartisan basis between the Members of the Senate, the leadership in the House, the administration, and, of course, the Federal Reserve Board in the person of our distinguished chairman, Alan Greenspan.