

programs whereby the Congress provides grants for use in housing programs, programs that provide social services for the homeless, child immunization, Federal aid to States and localities for education, or even transportation grants.

Mr. President, I ask unanimous consent that I may be permitted, although I have the floor, to ask a question of the distinguished Senator from Michigan [Mr. LEVIN].

Is Federal aid to education a Federal mandate or is that simply a grant to the States? Is that a mandate?

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

Mr. LEVIN. I thank the Chair.

To the best of my knowledge, that is not a mandate. That is just a grant to the States.

Mr. BYRD. Very well. Then, if in this budget-cutting fever that is so infectious, Federal aid to education is cut—and I might be one who would support such a cut. Here we are pouring billions of dollars into Federal aid to education for our poorer students on the whole, more than the other industrialized countries. So I have some second thoughts about the way we handle Federal aid to education.

But that is, according to Mr. LEVIN, not a mandate. So the cost of replacing Federal dollars which may be cut by the Congress in the future will be dumped directly on the States by cuts in grants to the States. This bill does not cure that. If any of the dollars that go to the States to help those areas are reduced, the States will still be stuck with the problem and, most importantly, the expense of the homelessness or poor transportation system. This legislation does nothing to protect the States from increased costs which are caused by future actions of the Federal Government; in other words, cuts in grants and other Federal programs.

Think about that possible scenario, Mr. President. I hope that the proponents of the bill will stop the mad rush to pass this legislation now and go back to the drawing board and come up with a workable and practicable piece of legislation.

Mr. President, I hope the Chair will momentarily indulge me as I have the right to the floor.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. President, as I stated earlier, it is not my desire to hold the floor inordinately today. I have accomplished most of what I had hoped to do; namely, have a report by the Committee on the Budget and an opportunity to understand what is in the report. The report is available. I have not had an opportunity to study it, but it is not my desire to hold the floor. Senators know if I wanted to filibuster the bill—and the Senator from Arizona knows full well—I could talk for the rest of the day. That is not my intention. So I intend to yield the floor shortly.

Let me say, again, that the distinguished Senator from Idaho has ex-

tended every act of cooperation and courtesy to me, and I appreciate his decency and his spirit of good will. I did not want to give up the floor until he returned.

Mr. President, I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. KEMPTHORNE] is recognized.

Mr. KEMPTHORNE. Mr. President, I appreciate the comments that the Senator from West Virginia has made and, of course, I have great respect for him and for his understanding of legislation. I know that he will be an integral part of the overall discussion of this Senate bill No. 1. I know, also, Mr. President, that it will be my intention that on final passage—I have full intentions of having the Senator from West Virginia vote for this bill because—I think he used the terms he was “not sure how it could hurt his State.” I think he will learn that it will not hurt the States. This is what States are asking us to do in reestablishing and reaffirming the federalism that is intended.

Also, Mr. President, this issue is tied with the Contract With America that the Senator from West Virginia pointed out. I would like to just comment about that. When I took the oath of office here 2 years ago, the day that I took the oath of office as a Senator was the day that I resigned as mayor in Boise, ID. One of the items that I was very intent on doing was to somehow deal with these unfunded Federal mandates. So the first bill that I ever introduced in my Senate career was a bill dealing with these unfunded Federal mandates. Ultimately, that bill, Senate bill No. 993, which gained bipartisan support and which went through the Governmental Affairs Committee last session on a vote of 16 to 0—much of what is in today's bill, S. 1, was derived from Senate bill No. 993. The definitions are the same and, again, much of it is the same, but there are changes to it. I say that so that you see a bit of a history here.

The Contract With America, which happened a few months ago, took place after we had been moving this legislation. And so while the issue of unfunded mandates—dealing with that is part of the Contract With America in the House of Representatives, and while I am delighted and proud that they have included that issue to be part of the things discussed and dealt with in the Contract With America, really this issue in the Senate, this legislation, precedes that.

Also, the Speaker of the House agreed to take that element of the Contract With America dealing with unfunded mandates and to pull it out of the Contract With America so that it could be freestanding and so that we could deal with this issue and have this sort of discussion.

So I assure the Senator from West Virginia that this is not part of just some large package that we have to

hurriedly get through. It is a critically important issue, the impact of which has been taking years, and our cities and States and the private sector has heard about it.

The Senator also referenced the Congressional Budget Office. I wish to assure the Senator from West Virginia that through the Budget Committee we have stayed in close contact with the Congressional Budget Office, so that as modifications from S. 993 were made to S. 1 they were able to tell us every step of the way what their needs would be in order to accomplish the responsibilities that this legislation would assign to them, including the funds to carry that out. So we have dealt with that issue.

I believe that, at some point later, we are going to be coming up with possible amendments dealing in this area, and so I will withhold further comment on that. By the fact that there has been objection to that unanimous-consent request, it would be my understanding that we have before us the next committee amendment; is that correct?

The PRESIDING OFFICER. The pending question is the ninth reported committee amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COVERDELL). Is there objection?

Mr. FORD. There is an objection. I apologize to the Senator, but I have been asked to protect the rollcall and, if the Senator will allow me, I will see if I can give him the time.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, if I might amplify.

The PRESIDING OFFICER. The clerk will continue the call of the roll.

The bill clerk continued to call the roll.

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

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

Mr. SPECTER. I ask unanimous consent that I may proceed as in morning business for 5 minutes.

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

#### VIOLENCE AT HEALTH CLINICS

Mr. SPECTER. Mr. President, in the absence of any other pending business in the Senate, I have sought recognition to comment briefly about violence at clinics, with respect to two principle issues.

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