

conditions in 1994, and 46.4 percent of local officials reported that local unemployment conditions improved in 1994.

At the same time, about one-fifth of other municipal officials reported that the economic conditions and unemployment had worsened in their locality (21.7 percent, and 18.8 percent respectively).

#### Local governance

Fifty three percent (53.3 percent) of local elected officials indicated that municipal service levels were maintained in 1994. Two-thirds (64.4 percent) of these officials reported that even if city tax rates and fees are not increased in 1995, they will be able to maintain service levels.

Seventy-one percent of mayors, city council members and other elected officials indicate that their cities and towns are involved in local education reform/improvements efforts.

Ten percent (9.5 percent) of responding officials indicated that their cities and towns have a formal telecommunications policy for participation on the "information superhighway." Seventy-eight percent of officials indicated that they are either working on or thinking about putting a telecommunication policy in place.

More than four-fifths (85.6 percent) of local elected officials believe that regional cooperation is important in helping local government achieve its goals.

#### MANDATES

"So we must keep saying over and over again until the members of the 104th congress heed our cry. 'No check, no mandate . . .' For we must accept the challenge our constituents have set before us; the challenge to balance our budgets without expected and uncontrolled costs; the challenge to be in charge of our destiny."—keynote address, Mayor Sharpe James, President, National League of Cities, Annual Congress of Cities Conference, Minneapolis, MN (December 2, 1994)

Forty two percent of local officials reported that the citizens in their community understood the issue of unfunded mandates either well or somewhat in 1994. Twenty seven percent of local officials reported that citizens in their communities understood the issue of unfunded mandates either well or somewhat in 1993. Fifty eight percent of officials reported that citizens in their community either understand little about the issue or they do not understand the issue.

#### OVERALL CONDITIONS AND MANDATES

Municipal elected officials (see Chapter 2) reported that overall conditions related to mandates worsened in 1994. Seventy four percent of local officials indicated that unfunded mandates worsened in 1994.

Unfunded mandates also topped city officials list of "most deteriorated conditions," over the last 5 years. When local officials were asked about the most deteriorated conditions in the last five years, 35.1 percent of them indicated that unfunded mandates was one of the most deteriorated conditions. From a list 26 "conditions" unfunded mandates was most often mentioned by city officials.

When local officials were asked about the most important conditions to address during the next two years, 28.7 percent picked unfunded mandates. Unfunded mandates and (violent crime at 28.4 percent) topped city officials list of the "most important conditions" to address in next two years.

Mr. KEMPTHORNE. Mr. President, this whole study reflects the reason the National League of Cities, the U.S. Conference of Mayors, the National Governors Association, the National School Board Association, and others

are so supportive of the efforts of Senate bill 1, as well as the variety of entities in the private sector.

With that, I know that we have Senators who are here to file amendments. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendments will be set aside.

The clerk will report.

#### AMENDMENT NO. 200

(Purpose: To provide a reporting and review procedure for agencies that receive insufficient funding to carry out a Federal mandate)

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 200.

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

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

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

Mr. BYRD. Mr. President, I ask unanimous consent that further consideration of the amendment be delayed until later at such time as I may wish to call up the amendment. I offer the amendment simply to qualify under the agreement.

I ask unanimous consent that my amendment be temporarily laid aside.

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

Mr. BYRD. I thank the Chair.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

#### AMENDMENTS NOS. 201, 202, AND 203, EN BLOC

Mrs. BOXER. Mr. President, I send to the desk three amendments en bloc for the purpose of complying with the unanimous-consent agreement of Friday, January 20, and ask that they be temporarily laid aside for debate at a later time.

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

The amendments (Nos. 201, 202 and 203) are as follows:

#### AMENDMENT NO. 201

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

(e) IMMIGRATION REPORT.—Not later than 3 months after the date of enactment of this

Act, the Advisory Commission shall develop a plan for reimbursing State, local, and tribal governments for costs associated with providing services to illegal immigrants based on the best available cost and revenue estimates, including—

- (1) education;
- (2) incarceration; and
- (3) health care.

#### AMENDMENT NO. 202

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

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

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

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

#### AMENDMENT NO. 203

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

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

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

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

Mrs. BOXER. Mr. President, I want to thank the managers of the bill. They have been cooperative with me. They know that I care a lot about these amendments.

I would like to make a couple of comments about issues that do not have to do with S. 1 and then return to that.

#### ROSE FITZGERALD KENNEDY

Mrs. BOXER. Mr. President, I send my condolences to the Kennedy family. The Kennedy family has given this country great men and women. They have been profiles in courage in so many ways, and Rose Kennedy certainly was one of those profiles in courage.

I just want to send my deepest sympathy to my friends in the Kennedy family. In behalf of the people of California, we send our condolences to the family.

#### UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mrs. BOXER. Mr. President, I was very pleased that last week the Senate took a little time out to pass a very important amendment regarding violence at health care clinics around this country. I know it was difficult for some of my Republican friends to stop other business and pending matters. They have a contract they want to get through. But as I pointed out, the world goes on, contract or no contract, and we need to respond.

I think the fact that we did respond before the anniversary of Roe versus Wade was very important in terms of timing. I went to a clinic in California in Riverside County. I want to tell my friends in the Senate on both sides of

the aisle that those doctors, those nurses, those patients that came out to commemorate Roe versus Wade were very grateful to the U.S. Senate, and very grateful to the Attorney General because marshals were sent there to ensure their safety.

As I said to those who came to the commemoration of Roe versus Wade, this is the greatest country on Earth because we settle our problems peacefully and we are not like Bosnia and other countries where we decide issues through the barrel of a gun. There are going to be very many issues that we face in our Nation that are going to divide us. The beauty of America is that we are tolerant, or should be tolerant, of each other's views, and we will decide these issues with the rule of law.

Unfortunately, yesterday we heard from some of the organizations that want to make abortion illegal in this country. We heard that they put out a hit list of a dozen physicians. They handed out the names of these physicians, their addresses, their photos, and the stalking continues. The stalking goes beyond the physicians, to their families, their children, their loved ones at their churches, synagogues, at their homes, places where one should be at peace.

So I will call on all sides in this very difficult debate to condemn violence. When we speak to each other, speak in terms that do not insight violence. We cannot on the one hand say this is murder and then take no responsibility when someone takes those words literally.

I again want to thank my colleagues in the U.S. Senate on both sides for that overwhelming vote on that resolution, which I understand has been ex- tricated from this bill and stands on its own as a sense of the Senate. I think it is very meaningful. I think we have to keep our eye on that issue.

Mr. President, violence seems to be so common in the world today. The tragedy that took place in Israel must be condemned as we have condemned such terrorism before. If peace talks are abandoned in the Middle East because of violence, then the terrorists will have won. That is another area where I hope we can perhaps take off our green eyeshades for a few minutes and let the world know that the U.S. Senate condemns that kind of international terrorism.

Mr. President, I have been waiting a long time to speak about S. 1. I am a member of one of the committees of jurisdiction, the Budget Committee. At the time that the Budget Committee took up S. 1, my chairman, Senator DOMENICI, and my ranking member, Senator EXON, asked if I would delay my amendments until we got to the Senate floor. I feel very strongly about these amendments, but I agreed to that because I like the thrust of S. 1. I was in local government myself. This is a good bill. I want to see this bill passed. I think it is a good bill. I believe the amendments that I offered will make

this bill a better bill. I believe many of the amendments offered by Senator LEVIN will also improve the bill, and I must praise him for his incredible work on this bill. I watched until the last moment last night as Senator LEVIN asked both managers for their views on certain important issues surrounding S. 1.

I think it is fair to say both managers were very articulate but in some cases did not exactly agree with each other on some provisions in S. 1. These are the things that we need to work out so that we have a good bill, so that we do not have a bill that is going to paralyze this U.S. Senate and hurt the people of this country. That is not anyone's intent. But I think we have to examine this bill and see what it does. I am going to go over these charts that explain exactly what happens under S. 1 and whether we feel it has not crossed the line and become paralysis by analysis.

Again, I want to say that I am in agreement with the thrust of this bill. I was a local government official for 6 very proud years, a member of the board of supervisors of Marin County, CA. I won my first seat in 1976, and I saw many laws that were passed down from the State, and Federal Governments that we had to deal with. By the way, some of them were excellent laws. Some of them were paid for. Some of them called for partnerships between Federal, State and local government. I, frankly, grew up in politics with the understanding that there should be a partnership here.

When someone comes to the U.S. Senate, it does not make them a bad person. I am the same person I was when I was a local elected official. I am just a little bit older and a little bit grayer and perhaps, hopefully, a little bit wiser.

But the bottom line is that I am that same person that wants to make life better for my constituency. I think it is important that we discuss who our constituency is. Every day I hear letters from Governors and so on, that they love this bill. I understand that. I was not sent here by the Governors, I was sent here by the people of my State. As much as I want to work with Governors and local officials—and I have an excellent relationship with them—I have to make sure that what we do is not to make life better for Governors, but rather to make life better for all Californians.

As I was on the local board of supervisors, we got a mandate that came down from the Federal Government that, in case of nuclear war, we had to have a plan to evacuate our citizens because we were very close to a targeted area; namely, San Francisco, and all of the ported ships there. San Francisco was on the Soviet Union's target list for a nuclear bomb. So, sitting as a member of the board of supervisors—and at the time, there were three Republicans and two Democrats on that board—we got a mandate down from

FEMA saying we had to figure out a way to get our people out of town in case there was a nuclear war. By the way, they were counting on a 24-hour notice for the bomb to drop. We were told that we had to evacuate to the county to the north of us, and they named that county, Sonoma County, the host county. We were the evacuees. We were supposed to go to the host county. FEMA said, "You better make sure your people bring cash because they are going to have to fill up their cars with gasoline, and the attendants at the gasoline stations are going to be too busy to take credit cards."

That was the most incredible mandate I had ever seen. That board of supervisors, on a 5-0 vote, said: We do not want this mandate and this money; this makes no sense at all. We never took the money and we never planned it, because we know the only way to survive a nuclear war is not to have one. That ought to be where the efforts went, not trying to figure out ways to get people out of town because you could not escape the range of the kind of nuclear bomb that we were talking about.

So, yes, I understand the problem with these mandates. I hear stories like that wherever I go. So there is no question about it that we must address the problem of unfunded mandates. We should step back and look at what we are proposing, make sure it serves the national purpose, and if it is appropriate for State and local government to be involved in this. And certainly if it is an expensive mandate, we should figure out how to pay for it.

I am disturbed by some aspects of this bill. This bill is not the same bill that was before us last year—a bill that I supported, a bill that was not bureaucratic, a bill that was simpler to understand. But I think we can fix this bill. I am extremely hopeful that my amendments will pass, and I am going to explain what they are and that many other amendments will pass with this bill, so that it is a good bill.

We have to be careful not to prescribe a cure that is going to hurt our people unintentionally. I want to make a point about what the American people want. There is always talk after an election about what they want. I think it is fair to discuss the ramifications of this election. But there is a Wall Street Journal-NBC News poll that shows in many areas, including protecting the environment, protecting civil rights, strengthening the economy, improving the health care system, and reforming welfare, the public believes the Federal Government should play a larger role than State or local governments. And those percentages in this poll were rather dramatic. So the people are not saying to us, "Do nothing"; the people are saying to us, "Get it right." They are saying, "We send you back there to care about the environment, to care about our jobs, to care about the economy, to care about crime, to care about welfare, but get it right." I do

not think they sent us here to create a bureaucracy and a system here that could well paralyze us as we try to meet those needs of the environment, health care, welfare reform, and all of the things people think we ought to address.

I also want to make a comment about the Democrats voting against the cloture motion so that we can continue debating this bill. I have listened very carefully to the debate, and having witnessed 2 years of Republican filibusters—and as BOB DOLE says, you are the experts, my Republican friends; the Republicans taught the Democrats how to do it. I know a filibuster when I see one and when I am in one, and we are not in one, and this is not a filibuster.

This bill needs amending. This Senator said in a very bipartisan spirit in the Budget Committee that I would withhold my amendments. I offered one amendment to sunset the bill, and it was voted down three times on party line votes. But as far as my amendments of substance, this Senator said she would put off her amendments until we got to the floor. And I voted for the bill, to move the bill forward, because I like the thrust of it and I want to fix it, and I hope I can vote for it.

The distinguished majority whip called me, and he said, "Senator can you drop some of your amendments." Mr. President, I did not want to drop any of my four amendments, but I agreed to drop one of the four amendments in a bipartisan spirit. I said, "All right, I think Senator WELLSTONE has a similar amendment to mine on the benefits of some of these mandates, and so I will work with him and I will drop my amendment." We have done that, and I will talk more about that later.

I agreed to drop one of my amendments in good spirit, because I knew that we want to move this process forward. So we are not seeking delay, we are seeking answers to questions—unanswered questions. I thank Senator BYRD, once again, for insisting on committee reports. It was very important that all views be known on this bill. I was rather stunned when on another party line vote the Budget Committee and the Governmental Affairs Committee voted not to issue committee reports. I do not ever remember that happening when the Democrats were in the majority. I could be wrong, but I have certainly no personal memory of that.

Mr. President, I would like to show the Senators and the public the kind of process that we are now dealing with currently under S. 1, a process that is quite different from where the bill was last year. I am going to go over this chart, not read everything on it, but try to make it clear as to why I have some concerns.

Mr. WELLSTONE. Will the Senator yield?

Mrs. BOXER. I am happy to yield.

Mr. WELLSTONE. Mr. President, I wonder if I could ask the Senator whether I could, in less than 20 seconds just offer two amendments, en bloc. That is all I need to do, given the unanimous consent agreement. Will the Senator consent to that?

Mrs. BOXER. Mr. President, I ask unanimous consent that I may yield for the Senator to put forward his amendments without losing my right to the floor.

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

AMENDMENTS NOS. 204 AND 205

Mr. WELLSTONE. Mr. President, I send two amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes amendments numbered 204 and 205.

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

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

The amendments are as follows:

AMENDMENT NO. 204

Insert at the appropriate place the following:

"( ) The term "direct savings"—

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

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

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

AMENDMENT NO. 205

Insert at the appropriate place, the following:

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

Mr. WELLSTONE. I thank the Chair, and I thank the Senator from California.

Mrs. BOXER. Mr. President, it was my pleasure to yield time to expedite the business of the U.S. Senate.

I want to now start explaining this chart, or I should say, these two charts. We could not fit all of these procedures onto one chart, so we actually had to make up two charts to show what goes on here with S. 1.

And, again, I am not going to go through every step, but I am going to try to take you through a little bit of it because here we are about to pass this bill, and I venture to say not too many people in the U.S. Senate are

aware of what we are about to do here unless there are some changes.

The legislative committee proposes the bill that will likely impact State and local governments or the private sector. It then goes to the committee which, if it approves the bill, now has to take two tracks. The committee sends the bill to the Congressional Budget Office with identification of any Federal mandate, and CBO, the Congressional Budget Office, sets its whole process in motion. That is the red. The committee is the yellow. This is the red for CBO, and I will get back to that in a minute.

While the CBO is making its analysis of the costs, the committee prepares its report. It has to wait, really, until CBO gives them the number but, hopefully, if all works right—and around here, in my memory, I do not know that all works right most of the time—but assuming we will give it every break, everything works right, and the CBO, after talking to, I assume, hundreds if not thousands of folks, because they do talk to and interview people all over to make their analysis, now comes in with the cost.

So the committee report comes in with the expected direct cost to State and local governments and the private sector, a qualitative and quantitative assessment of benefits expected, and how you get to the benefits is a whole other issue.

How will CBO quantify the benefit of immunizing a child? The benefit of cleaning up the air? What is the benefit if people do not get asthma and they can come to work more? That is a whole other question that this bill does not really answer. What is the benefit of cleaning up the water, taking the lead out, the mercury out, the bacteria out? Just ask the people in Milwaukee, where 400,000 of them got sick and 120 died because of cryptosporidium, a parasite which got into the water supply.

But those benefits, frankly, are not going to be calculated as part of the net costs under the bill currently before us.

CBO will also analyze the impact on the private and public sectors and report on the extent of change to competitive relationships between State and local government and private business, and add a statement of whether the bill preempts State and local law.

Now this could take a year. But it is going to be pushed through.

Under the best of circumstances, and if the mandate is less than \$50 million, the bill moves to the floor and it gets to the Parliamentarian. So that is where I am up to.

Now, first, if the bill is more than \$50 million, there are additional committee statements on an increase or decrease in Federal assistance or of authorization of appropriations; second, whether mandates are fully or partially funded and the rationale; and third, whether the bill preempts State, local, or tribal law.

And then those additional committee statements come here to the floor.

Now, this is where the Parliamentarian gets into it. Now, Mr. President, I think the Parliamentarians are terrific. I had the joy of sitting where you sit for 2 years when we were in the majority. These Parliamentarians are brilliant. There is not one question you ask them that they will not come up with the right answer. I never had an experience like that.

But these Parliamentarians are not elected by the people and they are not accountants. For all of their standing and the fact that their faces are on CNN and C-SPAN, people do not know these Parliamentarians. They do not, in California, vote for these Parliamentarians. And yet, the Parliamentarians have the life-or-death power over not only every bill that may impact State and local government, but every amendment that any Senator sends up.

So here is where we are. We now have the Parliamentarian having about as much power as the committee. If you look at the green, the Parliamentarian determines whether the point of order under S. 1 applies to the bill. The Governmental Affairs and the Budget Committee might be consulted at this point. But they do not have to be, and it goes and it moves. A point of order cannot be raised if the bill contains costs that are less than \$50 million; or if the bill contains costs that are greater than \$50 million to State and local governments but increases direct spending.

So, in other words, if we raised the taxes, a point of order cannot lie against it. A point of order cannot lie if the bill increases receipts to meet the full costs of the mandate. A point of order cannot be raised if the bill contains costs that are greater than \$50 million to State and local governments and increases appropriations to meet the direct costs of the mandate. The bill must, one, state the yearly total amount, state the source of the funds, and state the minimum amount necessary in each appropriation, and provided that the appropriations are not made available in the future, the mandate would expire or the mandate would be reduced by the corresponding drop in funding.

So there would be no point of order in that scenario. If there is no point of order, the bill continues on the floor, Mr. President. But then, the bill is open to amendment.

Now, the amendment process around here is greatly valued by every single Senator. It is our opportunity to bring our priorities for our people to the floor of the Senate.

So here we go. The bill manages to make it through all this, if it is still alive and on its feet. If it is amended, the whole process starts all over again.

Can you imagine that? Every floor amendment is subjected to this entire process, and you start all over again. Every single amendment.

I daresay, if you look at the amendments that have been offered to bills over the last year, Republican and Democratic amendments alike, they probably number into the thousands. Imagine this bureaucratic nightmare being repeated for every single amendment?

Now, when the bill was first written last year, it provided for a CBO cost estimate and if it did not have it, a point of order could be raised on the floor. That was sensible, because we wanted to make sure that our people were aware, if we were proposing laws, that there was going to be a cost.

But all these new layers were added. And, by the way, I hasten to add, Mr. President, this is all repeated on the House side. And if you have a House bill and a Senate bill that are not the same, guess what happens? It starts all over again with the conference report. We are back to square one. With the conference report, it starts all over again, and I have not even gone into all the steps CBO has to take.

They have to talk to everyone you can imagine to come up with their estimate because, after all, this is a great responsibility on unelected bureaucrats. We are putting so much power in this bill on unelected bureaucrats, CBO, Parliamentarians, these may be the best people in America, for all I know. But they were not elected by the people of California. And if we pass a bill that says we found out from the Kobe earthquake that we need to seismically upgrade our bridges and our highways, and we decide that it makes sense to make sure that the planners keep this in mind, and we want to pass such a law, but we cannot get the votes to waive the point of order, the bill dies. Yes, it may be a cost on State and local government. But do you know what the savings would be?

Know what the savings would be? Mr. President, when I was on that board of supervisors we were in a beautiful Frank Lloyd Wright building. It was his last building that was constructed before his death, the last public building. Unfortunately, it was very unsafe from earthquakes. When I found out about it, I went to my colleagues and said, "We sit in a beautiful, magnificent building that houses 1,200 people; in case of an earthquake they will be history."

Some of my colleagues said, "Do not talk about it, Barbara. Do not talk about it. We do not have the \$5 million to do this."

I said, "We have to do it because \$5 or \$10 million of investment to save 1,200 lives is a very important investment, and in the end if we save 1,200 lives we have saved countless millions of dollars, and we have saved heart-break and distress."

And we did it. So, yes, certain things have an up-front cost but they have a payoff, by the way, not adequately reflected in S. 1.

Mr. President, I hope I have shown what this bill would do. Now, that does

not even get into what Federal agencies have to do if this bill passes.

The orange shows all the things that agencies are required to do. Assessment of the effects on regulations, State and local governments and the private sector, minimizing the burden on governmental entities, continued regulatory functions, a pilot program to reduce compliance and reporting requirements on small government. All these things are good. I support them all. But all these are burdens on agencies, and seems to me, while we are doing this, now we are laying over this whole structure a legislative process which does not even wait for the outcome of these other, very expensive, analyses. Agency consideration of a proposed rule, agency determination of cost, cost to local, tribal, State governments of less than \$100 million aggregate cost. It moves on and on, all the things they have to do before they can go forward with a rule.

Then there is this Advisory Committee on Intergovernmental Relations, ACIR. They are reviewing existing mandates. This is all the work they have to do. Well, I am glad that they are looking at this. I think this is very useful.

But it seems to me when we put this all together into one bill, we are placing additional layers of complication on top of Government processes which are already unwieldy. We complain about it. At least many Senators do. We are laying on hundreds of steps, if not thousands of steps—hundreds of millions of dollars of work. Reports, paper, shuffling, unelected people having power. Therefore, I think since this bill has changed so dramatically from the very straightforward bill of last year, which I supported, I think we have to be very careful and consider these amendments which are going to make this bill better.

I would ask the Senator from Kentucky, is he interested in sending any amendments to the desk at this time? I would be happy to pause while he does that.

Mr. FORD. Mr. President, may I answer that question from the distinguished Senator from California without her losing the right to the floor. I have an amendment, I say to my friend from California, we are now attempting to work it out. It may be acceptable. So I thank the Senator for her courtesy, as always, but we may have to ask at some point, but not now.

Mrs. BOXER. Mr. President, I thank the Senator, and this Senator stands ready to yield at any point without losing her right to the floor so we can expedite the bill. It is not my purpose to slow down, but to get on the record my feelings about where we are and why I think these amendments are entitled to be heard and why they are so important.

There are so many unanswered questions and so many ambiguities. Again, I want to mention that Senator LEVIN

has really done this U.S. Senate a service. If Members watched his questioning of the managers, some of the questions he asked. How does the bill cover floor amendments? I have just explained to Members the way I believe it covers floor amendments, that when an amendment is presented to the bill, we have to go over the same ground again.

By the way, I think that Senator LEVIN raised a very good point, does a Member have a right to get a CBO estimate if a Member of the Senate believes that he or she wants to offer an amendment, is that Member entitled to get an estimate and not have to go through an authorizing committee? How can that Member come to the floor? There will be prejudice against that amendment if these things are not costed out. I was heartened to see that both managers, I believe I am correct, and I ask the Senator from Ohio, both managers agree this is a problem. The Senator is indicating yes. These are ways we can improve this bill.

We also have to make sure that we know if a reauthorization lapses and it is later taken up by Congress, would that reauthorization be considered a new mandate. How would the less money/less mandate drawdown provision work in the real world? How will the bill's exclusions work?

Let me bring one out. Would the Freedom of Access to Clinic Entrances Act that Congress passed last year have been exempted under the civil rights exclusion? No one has been able to answer that question. If it would not meet the exclusion, would we have to then have a vote on whether or not to provide the States with all the funds they might need?

Will the CBO analysis be an obstacle to efforts to protect the health and safety of our people? For example, will it put a dead stop to the Safe Drinking Water Act? To worker safety, earthquake safety? Will it put a dead stop to things that people need? The Governors may like it, but what about the people we represent?

The bill says direct savings to a State or local government from a mandate will offset the mandate cost amount. I applaud that. But the bill does not define "direct savings." What about the costs of not enacting health and safety protections? Do the savings that accrue to the American people from such protections offset direct costs from the bill? For example, if a child's lung capacity is lower because of air pollution and that child is chronically ill, what are the savings associated with cleaning up the air? I want Senators to know, my friends here in the Senate, that a child living in Los Angeles has a significantly lower lung capacity than a child born in a clean air area. That is wrong. We cannot put ourselves in a bureaucratic nightmare when we want to protect kids' health. Or retrofit bridges so they do not collapse in the next earthquake.

Now, I plan to offer an amendment to prevent the bill from weakening our

ability to protect the most vulnerable members of our society. There are many who say the measure of a society is the way it treats its most vulnerable. Not its powerful. Not the healthy. Not the vigorous. That is easy. Because those of us who are healthy, we do not need much help. We will make it through. But the most vulnerable, the children, pregnant women and the frail elderly—this amendment would add bills that protect children and others to the list of mandates not subjected to the procedural hurdles that are created by S. 1 right here. It would be a statement.

It would say when we say we are for the children, and we are for the elderly, and we want healthy pregnant women so they have healthy babies, that we mean it. And the Boxer amendment will give a chance to everyone, Republicans and Democrats, to go on the record in that regard.

Look, there are exceptions in this bill. And they are very important. I submit that if there were no exceptions put into this bill then I would take that as a signal that the bill really is easy to administer.

But the bill is difficult to administer. By the way, I think that is part of the idea, you make it tough, make it tough to spend money in the future. But it is so tough, this new version of this bill—very different from last year's version—that there is an exception section, and I am suggesting we add some things to it, among them the protection of our most vulnerable populations.

All it says is:

Any bill which provides for the protection of the health of children under the age of 5, pregnant women or the frail elderly would not be subject to S. 1's point of order and other requirements.

As I said, there are exceptions to S. 1, and I support them. S. 1 currently shields bills that help secure our constitutional rights, that prevent discrimination, that ensure national security and implement international agreements, such as NAFTA, from its requirements.

The bill makes exemptions, and let me quote:

To ensure Congress' and the executive branch's hands are not tied with procedural requirements in times of national emergencies.

That is a direct quote from the Governmental Affairs Committee chairman's report on S. 1. So there are exceptions "to ensure that Congress' and the executive branch's hands are not tied with procedural requirements in times of national emergencies."

I submit to my colleagues that there are other things that are worthy of not tying the hands of this U.S. Senate with this kind of procedural nightmare, and that ought to be protecting our most vulnerable citizens.

Why should we deny our children, pregnant women and the elderly protections? Our most vulnerable people should not be treated like guinea pigs.

We must ensure they will not be put at risk, and they should be exempted from S. 1.

Environmental science shows us that children, pregnant women and the elderly are uniquely vulnerable to environmental hazards. And by the way, one of the things that people are saying since this election, "environment" is a bad word, it is no longer in vogue, people do not care. I do not believe that. People continue to want clean water and clean air. People continue to want a clean and safe working environment and living environment for themselves and their families.

The overall incidence of childhood cancer has increased, and I want to say to my colleagues—listen to this—the overall incidence of childhood cancer increased 10.8 percent between 1973 and 1990. That is a huge increase. Cancer is now the No. 1 disease killer of children from late infancy through early adulthood.

Mr. FORD. Mr. President, will the distinguished Senator from California allow me to make a unanimous-consent request, that I might be recognized without the Senator losing her right to the floor?

Mrs. BOXER. I fully support that as long as I retain the right to the floor.

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

#### AMENDMENT NO. 206

(Purpose: To strike a provision relating to the House of Representatives)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 206.

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

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

The amendment is as follows:

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

Mr. FORD. Mr. President, S. 1 contains an entire section, section 102, on enforcement of this legislation under the House rules which create specific points of order under the House rules. This section directly amends also rule XXIII of House rules. Therefore, my amendment strikes the balance of section 102, and that relieves the Senate of the responsibility of directing the House as to what they should or should not do.

It is my understanding that the distinguished manager and ranking member have agreed to this amendment. I hope that it can be accepted.

I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, we are more than willing to accept this

amendment as offered by the Senator from Kentucky. Also, I have discussed this with the leaders in the House of Representatives. They understand the rationale for this. Again, we are ready to accept this.

Mr. GLENN. Mr. President, I accept it on our side, also.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 206) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. FORD. I thank the Chair, I thank the Senator from California. I am very pleased to have this amendment accepted.

The PRESIDING OFFICER (Mr. KYL). The Senator from California.

AMENDMENTS NOS. 201-203

Mrs. BOXER. Mr. President, I want to congratulate my colleague from Kentucky on getting his amendment adopted. I hope that my amendments will have the same fate; that they would, in fact, be adopted because I believe that every Member in this Senate, at one point or another, has said they believe that our children must be protected, our pregnant women, our frail elderly, and we are giving our Senators a chance to say, yes, that is an important priority and should not have to go through this kind of procedural hassle should there be an important law that affects their health.

I was saying, and I will repeat it, that the overall incidence of childhood cancer has increased 10.8 percent between 1973 and 1990, almost an 11-percent increase in America of childhood cancers. Cancer is the No. 1 disease killer of children from late infancy through early adulthood. In 1993, a National Academy of Sciences report found that children are uniquely vulnerable to the harmful effects, for example, of pesticides. Young children are more susceptible to environmental health threats because of their behavior. They often play at ground level where pollutants can concentrate. Their biology makes them more susceptible because young children drink more water, breathe more air and eat more food as a percentage of their body weight than do adults.

It is common sense. It is common sense. And a lot of the standards that today we have for water and for food are based on a healthy male adult, a 170-pound healthy male adult. Mr. President, you probably fit that category. I do not know for sure, but a 170-pound healthy male adult is where we set the standard. A little baby is not considered sometimes, and it is not that we have been purposely trying to harm our children. Of course not. We are trying to be intelligent about how we set standards. But we are now learn-

ing more that we did not know before; that children are different, just as children who get AIDS react differently than adults.

We have to look at children, the frail elderly and pregnant women in a different category than 170-pound healthy male adults. And if we find out that they are being harmed—and we have had colleagues on the other side, right now I know of two, whose children have cancer, one a little baby, one a young adult. I bet all of us can think in our own lives of people we know who are young who are getting cancers.

Pregnant women and the frail elderly are particularly vulnerable. A recent American Lung Association study cited their increased susceptibility to air pollution. Again, I will raise the issue of Milwaukee, WI, a 1993 drinking water disaster. *Cryptosporidium* found its way past the Milwaukee water treatment plant and went into the city's drinking water. The parasite wreaked havoc with the people of Milwaukee causing over 400,000 serious illnesses, over 100 deaths and \$54 million in damages.

So here we are talking about getting a bill to clean up the water from these parasites as having to go through this hurdle when, in fact, if we would just clean it up, we would save probably more than it costs to fix the problem. But it is unclear how those benefits would be accounted for under S. 1. Many benefits may not be counted at all.

I want to make a point about those deaths in Milwaukee, over 100 deaths. As I understand it, most of those deaths occurred in the most vulnerable populations: the children and the frail elderly.

Will the provisions of S. 1 give Congress the freedom to act with all needed speed to shield our most vulnerable populations? Obviously not, unless we add them to the exceptions, and I hope my Republican friends will agree to this amendment because there is new information that the standards that are set for drinking water, for air, for other safety issues have not been set for these populations.

My amendment will ensure that S. 1 does not hobble the ability of Congress to protect these populations.

Let me talk a little more about children because it gets to my second amendment, and I have three, so, Mr. President, mercifully, I am winding down.

The second amendment is one I think should have broad support. Senator DODD is my leading cosponsor, and I am very proud of that because he has been, in the Senate, a protector of children.

I plan to offer a second amendment that excludes this law from laws that protect our children from pornography, sexual assault and exploitative labor practices. My amendment says that any bill which is intended to study, control, deter, prevent, prohibit, or otherwise mitigate child pornography,

child abuse and illegal child labor would be exempt from S. 1's point of order and other requirements.

As I said before, S. 1 currently shields bills that help secure constitutional rights, prevent discrimination, ensure national security, and implement international agreements from its requirements. I support that section, but it is not enough because if there is a bill that deals with child pornography, child abuse, and child labor which is intended to protect our children, it will have to go through these unbelievable hurdles as will every amendment. Even if the bill goes through all the way to here, if there is an amendment, the amendment has to go back to square one. And I think it is time this Senate stood up—we have before—and said we think child pornography is a problem, we think child sexual abuse is a problem, and we intend to protect our children from sexual assault and from child labor policies that may harm them.

Now, let me put some facts on the table. People might say, well, is this really a problem in America? The answer is yes. In 1992, 2.9 million children were reported abused or neglected, about triple the number reported in 1980. That same year there were over 300,000 reports of abuse or neglect in California. Let me repeat, in my home State 300,000 reports of abuse or neglect, nationwide 2.9 million.

Now, of those children, of that universe of 2.9 million children in America, 49 percent suffered neglect, 23 percent physical abuse, 14 percent sexual abuse, 5 percent emotional abuse, and 3 percent medical neglect.

Under the National Child Protection Act signed into law by the President in 1993, States are required to place child abuse crime information in the FBI's criminal records system so that others can do background checks. This, my friends, is a mandate to protect our children, and I daresay every single Senator supports it. The crime bill passed last year requires States to register the current addresses of sexually violent offenders with a State law enforcement agency upon their release from prison or risk loss of Federal funding. I support that. I daresay everyone I know in this Senate and many over in the House do. As I remember, Congresswoman MOLINARI, who was very active in this issue, supported this.

This, too, is a mandate to protect our children. There are mandates that also protect our children from exploitation in the workplace. Now, let me tell you about that. We thought that fight was over. But in 1994, the Department of Labor found over 8,000 illegally employed minors and assessed over \$6 million in civil penalties to employers. By law, State and local government as well as private businesses are prohibited from hiring children younger than 14 years of age, and teens between 14 and 16 may work after school only in

nonhazardous jobs. This, too, is a mandate to protect our children, a mandate that I do not want to see taken away.

Now, will the provisions of S. 1 allow Congress to act quickly in the future to strengthen these mandates for the sake of our children? Let us look at some examples. According to studies conducted by the Institute of Occupational Safety and Health, over 64,000 teenagers sought treatment in hospital emergency rooms for job-related injuries in 1992.

Let me repeat that: In 1992, over 64,000 teenagers sought treatment in hospital emergency rooms for job-related injuries; 670 16- and 17-year-olds died from workplace injuries between 1980 to 1989. Let me repeat that to the mothers and fathers of this country and to the mothers and fathers in this Senate, of which I am one, soon to be a grandmother: 670 16- and 17-year-olds died from workplace injuries from 1980 to 1989.

Now, in response to these trends, Congress could decide to improve our child labor laws so that kids are not working in dangerous or life-threatening jobs. If so, we should be able to enact legislation quickly without going through this nightmare process that we have in this bill which we did not have in last year's bill.

Child labor violations are escalating. In 1990, the Department of Labor detected over 42,000 child labor violations, an increase of 340 percent since 1983. My friends, if we do not act, we are derelict. There is a 340-percent increase in child labor violations—38,000 illegally employed children. Congress could decide there needs to be more vigorous enforcement of this law, and we could not act fast unless we were in the exceptions clause.

That is why I am offering this amendment, to protect our children. We should not have to jump these hurdles. The crime bill passed last year contained a sense-of-the-Congress resolution suggesting that States which have not done so enact legislation "prohibiting the production, distribution, receipt, or possession" of child pornography. According to the National Center for Missing and Exploited Children, Kansas, Florida, and Georgia have no laws against child pornography. Mississippi and Michigan have no laws making it a crime to possess child pornography. Congress could well find that not enough States have enacted antichild pornography laws and require States to do so. If so, we should be able to act fast.

To make matters worse, those who traffic in child pornography have found a new method—the computer bulletin board. Pornographic images are transmitted by computer and some adults have used online communications to lure young children and abuse them. Let me explain. The following incident was reported in the April 18, 1994, issue of Newsweek.

A 27-year-old computer engineer in California used his computer to prey

upon a 14-year-old boy. After many on-line conversations, he persuaded the boy to meet him in person. The boy was handcuffed, shackled, blindfolded, and taken to the man's apartment.

I do not want to go into everything that happened to this child because of the sensitivity of those things, but they were despicable. They were despicable. And then that 27-year-old forced the 14-year-old to write about the abuse. The man was arrested when the boy's father discovered this.

In response to stories like this one, Congress could require State and local law enforcement agencies to spend more on tracking and preventing such abuse. Could we act fast on such a bill under S. 1? No, we could not. No, we could not unless we exempt laws that deal with child abuse, child pornography, and child labor laws from these hurdles and put them into the exceptions along with the one on vulnerable populations. Otherwise, they are going to be caught up in a bureaucratic nightmare which, I add, was not part of last year's bill.

So I want to put my colleagues on record. Do they think the fight against child pornography ought to be bogged down in the bureaucracy of S. 1? Do they think the fight against child sex abuse should be bogged down in this? Or the fight to make sure that our kids are healthy, that our newborns are healthy, that our frail elderly are not killed because we have not acted quickly enough—for example, to clean up a water supply. We have documentation of what happened in Milwaukee. These are not horror stories or scare tactics. Mr. President, 120 people died in Milwaukee—120 people died in Milwaukee because cryptosporidium got into the water supply.

There are other dangers lurking out there. We should not be bogged down in S. 1, a bill that has the right thrust. As a former county local official, I do not want people telling me what to do on an ad hoc basis whenever they get the urge. But let us not walk away from our responsibility to protect people and realize that what we do has benefits and that S. 1 fails to adequately account for those benefits.

We must vote on these amendments. Let us see where my colleagues come down on these issues. I think it is going to be very interesting, because I have listened to many great speeches by politicians who are Democrats and Republicans and independents. I do not think I ever heard one politician who was loved, or elected, who did not talk about the importance of our children and protecting their health and their safety and making sure they can grow up and get a shot at the American dream. We may differ on how to get there, but I do not know of anyone who wants to expose our kids to abuse of any sort.

So my amendments are very straightforward in this. I think this cost issue is important. Senator WELLSTONE has the amendment I am

supporting that will deal with that. How could you ever find out the benefits of making buildings and freeways and highways earthquake proof? Just ask the people of Los Angeles. The buildings that were strong withstood that earthquake. The freeways that were strong withstood that earthquake. Benefits? How can you put a number to the fact that we lost a law enforcement official because he was answering the call of the earthquake and he did not see that the freeway had collapsed, and he died? Can you measure what it would have been worth to his family, to society, if he had lived and provided guidance for his family, and paid taxes to the Government and all the things we do as good citizens?

This bill is deficient in that it fails to define direct savings. So there is an amendment offered by Senator WELLSTONE that will deal with that. The amendment would require CBO to take all such savings into account.

The last issue, and then I will yield the floor, that I deal with in my amendments which will be brought up at a later time is the issue of illegal immigration. I say to my friend in the chair, his State is beginning to feel a little of the problem. The border States right now are feeling a tremendous amount of the problem. I asked the GAO to do a study. It took Governor Wilson's numbers on the cost of serving illegal immigrants in our State, it looked at other cost estimates, and it subtracted the revenues that the illegal immigrants do in fact provide. We came up with a net cost of \$1.4 billion a year to the State of California.

I know it is awfully difficult for people from other States to understand this, but half the illegal immigrants in the country wind up in my State; \$1.4 billion is a conservative number of what it will cost. The Governor will tell you it is over \$2 billion. I tried to be as fair as I could and subtracted some of the revenues. It is at least \$1.4 billion.

We say this is the unfunded mandates bill. What could be a greater unfunded mandate than illegal immigration, where we in our State have to provide certain services because the Constitution says we must provide them. Of course we are going to provide health care to people if they are bleeding on the street or if they have a disease that could cause an epidemic.

Prop. 187 expressed the people's views on this subject. They are very upset. We have to control our border. I hope we will use this Mexico agreement to take steps in that regard. I have put it out there very strongly, that if Mexico is going to have us underwrite a \$40 billion line of credit, that Mexico has to take steps to equal our effort at the border. I have worked in a bipartisan fashion with Congressman STEPHEN HORN in the House and with the administration. I am hopeful we will make progress.

Be that as it may, we have a problem and it is costing my State and other

States. This is an unfunded mandates bill. If we ignore repaying States for this biggest unfunded mandate of them all, then I think this bill has lost its meaning. We have 300,000 illegal immigrants enter and take up residence in the United States every year. Our illegal immigrant population is about 1.7 million. We are getting half of the illegal immigrants.

So my amendment is very simple. It basically says we are powerless to reduce these costs and we want to make sure there is a section of the bill which sets up a mechanism whereby States can be reimbursed for these costs. By the way, we do not leave it open. We do not say: Whatever Governor Wilson says; or other Governors. We say there is a commission set up under the bill called the Advisory Committee on Intergovernmental Relations. That is in the bill—here it is. We are saying they should find out a way to reimburse the States and come in with the plan. I think it is a very reasonable amendment, and I am very hopeful it will pass.

So, in closing, I want to restate that I think this bill can be made into a good bill. But it cannot tie us in knots and still be a good bill. People do not want us to be tied up in knots. There are some who think they do. They want to make this United States irrelevant.

I read the Constitution, perhaps not as often as the Senator from West Virginia, who carries it in his breast pocket. I do carry it in my briefcase and I do read it. I know what our job is. We are supposed to provide for the common defense, promote the general welfare, ensure domestic tranquility, establish a system of justice. It does not say we are supposed to do one thing, provide for the common defense, and nothing else. Or one thing, establish a system of justice, and nothing else. It says we have to do it all, and we have to work with other levels of government.

According to the Wall Street Journal poll, a vast majority of citizens want us to act when it comes to the environment; they want us to act when it comes to crime; they want us to act when it comes to this economy. They do not want us to be tied up in knots. They want us to act, act wisely, act sensibly; do not waste money; do not put unfunded mandates on the States that really make no sense, that have no benefit. But they do not want to tie us in knots.

Last year's bill would not have tied us in knots. The reasons I am adding exceptions, and other Members are adding exceptions, is we want to make sure when this bill becomes law, there are enough exceptions so things that are really crucial to our people do not get tied up in knots. If we do not even need them and perhaps we will change our mind on them—that is fine. But if it is so important that the life and death of our children depends on it, or if our frail elderly depends on it, we ought to be able to move.

We ought to be able to reimburse States that have these terrible costs associated with the failure of Federal Government to enforce the laws at the border.

By the way, I have to say I have worked with the Bush administration and the Clinton administration on this. We are making some progress. We finally have some reimbursement for incarcerated illegals. I believe that President Clinton is going to announce, from what we see in the newspaper, a good initiative to get more Border Patrol. But we are so far from where we have to be to control the border and it is costing us so much money that we need to stop the promises and deliver to these States on that unfunded mandate.

So I like S. 993, which was authored by the Senator from Idaho last year. I think it was a better bill. With that bill we would not have had to amend so much. We would have just taken that bill. This bill creates a lot of hurdles, and, therefore, I think we need to get more exceptions. I do not think S. 993 went too far. This bill may go too far. If these amendments do not pass, we will just have another layer of gridlock on top of the gridlock we already face. There are legislative hurdles here that are worse than unnecessary. But we can fix them if we add some exceptions, if we move in these areas, if we listen to Senator LEVIN and to Senator GLENN and to others who have been, I think, so informed on this.

I do not want Congress paralyzed. I do not think that was the message of this election. It was to get on with our work and to do it right and to get it right.

If I am convinced, after we vote on these amendments, that this bill will be good for California and its people, I will be very proud to vote for it. I want to be able to vote for it. But if it really is not improved and it becomes a mask for another agenda, which is the dismantling of the protection and laws that help the people of my State or leads to paralysis in the U.S. Senate that already suffers from enough paralysis, I will not vote for it.

Again, I know the Governors love this. We do not work for the Governors. We work for the people. The Governors always hand down unfunded mandates to local government. As a matter of fact, it is one of the biggest complaints I get from boards of supervisors, that they are constantly being handed mandates from the State. So it is not as if the Governors have not done this themselves.

We all have to shape up. We all have to stop passing laws that cost so much money that do not have a benefit. But if they do have a benefit, we had better calculate that into our formula. We represent the people here, and I think, if we support some of these amendments, this is going to become a great bill, not just a good bill but a great bill. But if we vote lockstep against these amendments, I think history will

show—and history will unfold as soon as this bill takes over—that this was just a mask for stopping the protections that our people deserve, hurting environmental laws that protect our citizens, and tying us up in knots.

So I want to thank both managers. They have been extremely patient. I withheld all my debate and all my amendments until I got to the floor at the request of the Budget Committee. I feel very pleased that I had a chance to lay out these issues. When my amendments are called up, I will not need an hour to go into all of them because I will have laid this out on the record and I will be able to summarize my charts and my feelings on my amendments.

I again thank the managers. I wish them well.

I yield the floor.

Mr. KEMPTHORNE. Mr. President, I want to commend the Senator from California, who, as always, has a thoughtful discussion as to her points. I know that she indicated that it may be her view that this bill goes too far. I must note that I have a number of Senators who think this bill does not go far enough.

So I think maybe we have found something here which is a bill that can accomplish what we need to have done. That is why both the public and private sectors are so supportive. I think everyone would say, yes, we can make some changes, what have you, but also what we think about all of the concerns of what these unfunded mandates have done for years to our cities, to our counties, to our States, and many times I think they have exacerbated the very problems that you have pointed out this morning. I appreciate that.

I appreciate, too, that the Senator from California stated she felt she had the opportunity now to lay out her case. When we call her amendments up for debate—there are some Senators who would like to discuss them, and I have comments I would like to make specific to them—at that point would she be willing to enter into a time agreement?

Mrs. BOXER. I reserve my right to agree or disagree depending on how many people on this side wish to speak on my amendments. I assure the manager that I will attempt to find that out and be very reasonable. I think the Senator has been most reasonable. I greatly appreciate it.

I am not here to slow down this bill. I am here to make it a better bill. I have to say to my friend that this is a different bill from last year's bill. The Senator knows that. I would say that is why the exceptions are so crucial because we have made it much more difficult to get legislation through. As I pointed out on the charts, the red, the yellow, and the green, if someone has an amendment, it has to go back through the process and this all happens. There is a difference.

In the original bill it stopped right here with CBO. The exceptions part of

the bill, which I commend the Senator for, really has to be looked at because we do not represent the Governors, we do not represent local government or the private sector. We represent all the people, people of all walks of life and people in local government, people in the private sector. To me what is crucial is that we look at how this is going to affect the average citizen of our Nation.

I have to tell you, I say to the managers, if you ask one of the families that lost its member because of cryptosporidium in the water—and the Senator and I are working on safe drinking water, we are on the Environment Committee together—if you ask one of those people, should the Government have acted to prevent cryptosporidium from getting into the water supply that their grandma, grandpa, a child died from, they would have said it would have been a real benefit.

I want to make sure, as a Senator from California, that we do not get some of these laws bogged down in such a way that we have more of those tragedies. I know the Senator from Idaho has no interest in having that outcome; absolutely none. He and I have been working hand in hand to make sure it does not happen. I am just pointing out that when we do this legislation in the name of preventing unfunded mandates, let us get to the real issues of the people, which is, are they going to live or die by this. In some cases there may be some legislation that gets caught up in this, such as child pornography, sexual abuse, clean water standards, that we may not want to have to get caught up in this. That is why I offered my amendments today.

I assure you I took a long time just zeroing in on those two areas. I could have had 10 amendments for other issues. I just picked the issues that I feel are so crucial to the health and safety of our people that we do not want to get tied up in this process if we can avoid it.

Mr. KEMPTHORNE. Mr. President, as we talk about this process, it was at the urging of the mayors and Governors that we took S. 993, which was last year's bill and is the core of this introduced bill. It was a great first step. But we have taken it another step, again at the urging of the mayors, the county commissioners, the school boards, the Governors, and the private sector. So I think as we take these steps forward, they are all forward.

I would also note that when we look at the legislative process—and Senate bill 1 is a process—that at any point, if you feel you have a compelling argument—and the Senator from California has a good knack for making compelling arguments—you can come to the floor and just seek a waiver at that point or at any point during the process. If a majority of the Senators agree with you, then you have waived that point of order.

Yesterday, I read a letter from Inge Stickney, who is the mayor of Kooskia, ID—she is 68 years young—a community of just a few hundred people. In addition to being the mayor, she and her husband have a small trailer court where they have, as I recall, about 15 spaces. They rent them for \$50 per space. They are continually having problems with requirements of Government for further studies of the water which has served them for generations there. The water does not pose a health risk. They continue to have this escalating cost to the point that some bureaucrat has now suggested to them, "Well, you should just sell the trailer court." That is what Government is saying: "You ought to just sell." Well, if Inge and her husband sell, then new owners would have to increase the costs of the rental for those trailer spaces all because of the requirement to spend more on testing water that does not have a problem.

As she pointed out, a \$5 increase to many of these people, who are retired farmers and retired loggers who have lived there for their entire lives, would pose a real hardship to the point that if she were just to sell, wash her hands of it, it could really put in peril many of those people who live in that trailer court because the costs would go up. They will not have the funds to cover it.

They then might have to look to government to provide for their livelihood, for their well-being. Thank goodness we have people like Inge Stickney and her husband, who, while being good business people, also have a heart and determined that, while they can make a profit, they would just as soon retain that trailer court because that is good for those people who are relying on them.

But that is part of what the Senator from California is talking about, the elderly. And Inge Stickney is a strong supporter of S. 1, as is virtually every mayor in the country.

I appreciate the arguments of the Senator from California.

I see the Senator from Texas is here, and I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to speak on the amendment that Senator BOXER from California has put forward.

I, like the main sponsor of this bill, am a former State official. He was a former mayor. I know what it is like to have to make those decisions on a State budget when you are getting mandates from the Federal Government and you have to say, "Do I increase the elderly's light bill or the water bill of an elderly person because I have this mandate from the Federal Government?" It is very difficult for elderly people to make ends meet.

So when we are talking about eliminating a category of the elderly or children and their effects, I wonder if we have considered the effects of raising a water bill because of an environmental mandate that perhaps does not meet a cost-benefit analysis. All of these things that we are trying to prevent the Federal Government from passing to the States are going to have an impact for the good on children and the elderly. In fact, I think we have to say what this amendment really is. It is an amendment that will gut the bill.

Now, I know that the Senator from California is sincerely interested in the elderly and the welfare of children. She has expressed that many times, and I have no doubt of her sincerity. But I do think this amendment is going to have the opposite effect from what she wants.

The purpose of this bill is to set up a process. The process has really two results. One is to give us the information that we need so that we can judge how much a bill we are going to pass will cost. If it is going to be passed to State and local governments, that will then be passed on to their constituents in the form of new taxes or increased fees. That is one part of the bill.

And then the second part of the bill is to determine what is that impact and to say, this Congress has a policy we are not going to pass these bills without sending the money. If it is over \$50 million, we are just not going to do it because the State and local governments cannot absorb it. So it is finding out what the costs are and then saying we are not going to do this unless we pay for it.

Now, we have the option of paying for it. If we decide that something is very important and it fits within the budget priorities, I think the Federal Government should pay for it. I may vote against a point of order or vote to uphold a point of order and override the point of order later because it is important to me that we do what the bill before us would do that would be beneficial to the elderly or to children or to the working people of this country.

So we have the option of overriding the veto. We have the option of saying we think this is important and we are going to put a mandate on the States.

But the purpose of this bill is to say we are going to decide what the Federal priorities are within a budget and we are going to have the integrity to say, if we think something is important, that we will pay for it. Or we will not tell the States they have to do it; we will say to the States we suggest you do it but we will not mandate they do it. So we have a choice. If it is a good program, we can tell the States we are going to override all of the things we have said and require you to pay for it, or we can step up to the line, which is what we should do, and pay for it ourselves.

So I think it is very important that we not pass an amendment that will, in

effect, gut the bill. Because everything we do is going to affect the elderly and the children. And if we say anything that effects them is not going to be eligible for this bill, it means we can pass everything we have already passed which causes—let us take the clean drinking water bill. Let us just take that for an example.

We are talking about testing for certain carcinogens or certain elements that might be in water. Now, what we are saying in this bill is, we want to make sure that if we require the city of Plano to test for elements in their water, that it is something that is relevant to the water supply of the city of Plano. That is not the case today. The case today is that the city of Plano and the city of Columbus, OH, may be having to test for a solvent or something used to eradicate bugs in pineapples, and they do not have pineapple plants in Plano or Columbus, OH. So the people of Columbus, OH, and Plano, TX, are having to pay for a test that is not relevant to them.

Well, what happens? What happens when that occurs? It increases the water bill for that elderly person who is having a hard time making ends meet. That is what we are trying to prevent with this bill. That is what we are trying to change. The impact on the elderly is every bit as much, with a mandate on clean drinking water that does not make sense, as it is for a social program that would be a welfare check.

The bottom line is, we all want to make sure that we do the best for the people who cannot help themselves in this country; in many instances the elderly, in many instances the children. But I think we differ on the way to best come to the end of the line.

This amendment by the Senator from California will gut this bill, and it will allow the continuing increases of water bills and electricity bills, utility bills, rent, property taxes that hurt the elderly and hurt the children of this country, when what we are trying to do is say, "No, we are not going to tell the local governments that they have to raise property taxes and water bills and electricity bills. We are going to have the integrity of the process." If my colleagues agree that we must keep the integrity of the process and the integrity of this bill, it is very important that we defeat this amendment. Thank you, Mr. President. I yield the floor.

Mr. KEMPTHORNE. Mr. President, I certainly thank the Senator from Texas for her statements and for her strong support. She was one of the original cosponsors, both of Senate bill 1 and the effort last year. From her experiences as the former State treasurer of the State of Texas she has just demonstrated time and again her total understanding of this issue and the fact that we need to curb these unfunded mandates. I thank the Senator from Texas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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. Without objection, it is so ordered.

#### AMENDMENT NO. 207

(Purpose: To express the sense of the Congress that Federal agencies should evaluate planned regulations, to provide for the consideration of the costs of regulations implementing unfunded Federal mandates, and to direct the Director to conduct a study of the 5-year estimates of the costs of existing unfunded Federal mandates)

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. GRASSLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 207.

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

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

The amendment is as follows:

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

#### SEC. . COST OF REGULATIONS.

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

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

(1) an estimate of the costs of regulations implementing each Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act; and

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

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

Mr. GRASSLEY. Mr. President, my amendment just read expresses the sense of Congress that Federal agencies should issue regulations with costs that are in keeping with the Congressional Budget Office's estimated cost.

In addition, my amendment just read will require that the CBO submit a report 2 years after this bill by Senator KEMPTHORNE, S. 1, goes into effect. That report should detail whether agency regulations are in line with the

CBO's original estimates when the legislation is passed.

If I could engage in discussion with the Senator from Idaho, Mr. President, I would like to at this time also present another amendment that I would like to have before this body. It is my understanding that both of these amendments will be discussed after the midafternoon deadline.

Mr. KEMPTHORNE. Mr. President, I would yield, but that is correct.

#### AMENDMENT NO. 208

(Purpose: To require an affirmative vote of three-fifths of the Members to waive the requirement of a published statement on the direct costs of Federal mandates)

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment that I just presented be set aside so that I can offer another amendment.

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

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 208.

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

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

The amendment is as follows:

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

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

Mr. GRASSLEY. Mr. President, this amendment will require 60 votes to waive the requirement in S. 1 of a published statement on the direct costs of the Federal mandates.

I want to make something clear to my amendment so that it does not get confused with a much stronger amendment, what is my understanding will be offered by Senator GRAMM. Because my amendment does not require 60 votes to waive the requirement in S. 1 to pay for unfunded Federal mandates, that is the goal of other amendments, I am sure, we will be discussing. My amendment might be confused because it does have a 60-vote requirement in it. That requirement is to the simple waiving of the requirements in S. 1 to obligate what is a much more simple approach, the original estimate from the Congressional Budget Office of the costs of the Federal mandates.

In other words, let me make clear: it is one thing to have an amendment before this body that we would have to have majority to waive the requirement of a mandate; but it is quite another thing to have a 60-vote requirement just to waive the CBO doing the estimate of what might be the cost of a mandate.

My amendment does the latter, not the former. I do not oppose the former. I understand that there is lots of opposition to going to the 60 votes. I presume that there is even opposition to have a have majority to even waive having CBO even do some estimating.

It seems to me, Mr. President, that it is one thing to have a supermajority that we are going to go ahead even though we do not fund the mandate. But it seems to me that we cannot intellectually and honestly approach the subject of public policy without knowing what that cost is.

My amendment would simply make it more difficult for this body to avoid even finding out what a particular mandate is going to cost. I would like to have that be a supermajority because it seems to me that there is no way we can defend passing mandates or maybe even any other public policy without knowing what that cost is.

I will have, Mr. President, further to say on each of these amendments at a future time this afternoon and particularly on the first amendment that I have sent to the desk. Senator SNOWE, the new Senator from the State of Maine, has been very helpful to me on this amendment and she would like to speak a few minutes on that amendment. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WELLSTONE. Mr. President, if there is no other Senator on the floor to offer an amendment, I ask unanimous consent to speak no more than 5 minutes as in morning business.

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

#### CONVEYING SADNESS, SYMPATHY, AND OUTRAGE

Mr. WELLSTONE. I thank the Chair. Mr. President, sometimes we speak on the floor of the Senate—Democrats and Republicans—not because we have an amendment to offer, not because it is our legislative agenda, but because we just cannot be silent and we feel that it is important as Senators, given the honor of being Senators, to speak about those issues and those peoples that we feel very strongly about.

In today's New York Times, there is a picture that tells more than a thousand words:

A friend of Sgt. Maya Kopstein, a 19-year-old victim of a suicide bombing, mourned at her grave yesterday and held the flag from her coffin.

Mr. President, 19 Israelis were murdered in a Palestinian suicide bombing. All but one of these soldiers were barely old enough to vote.

This one young woman over here in this picture, as I talked with a very close friend of mine—we become close with the staff we work with—my legislative director, Mike Epstein, said: "Just look at her face, this young

woman, young girl. It looks as if she's saying, 'What kind of a world do I live in?'"

Israelis murdered, " \* \* \* all but one of them soldiers barely old enough to vote."

I have three children, and my youngest is now 22. These were children who were murdered. I do not know when all this violence will stop, but I want to speak on the floor of the Senate today—and I did have a chance to also talk to the Israeli Ambassador—to convey not only my sadness and sympathy but also my outrage. I believe that this is a sentiment that I express for all Senators, and I send this to the people of Israel. I want them to know that all of us care fiercely about what has happened, that all of us, on both sides of the aisle, condemn murder.

And, Mr. President, I today hope and pray—I use those words carefully but I think those words apply—I hope and pray that the Israelis, Palestinians, all of the peoples in the Middle East, find a way, first of all for security and protection, to stop this, and, second of all, a way to move forward—to move forward—with the peace process. There has to come a day when children are not murdering children. There has to come a day when this violence ends. There has to come a day of reconciliation.

The sad thing is that the extremists have figured out the most effective way of trying to destroy this process. The extremists have figured out perhaps the most effective way of trying to make sure that there never will be peace. But my hope and my prayer today is for all of the families of all of these young people that have been murdered. My hope and prayer today is for the Israelis and the Palestinians, and for all the people in the Middle East—that there will be reconciliation. And as an American Senator and as an American Jewish Senator, I want to speak on the floor to express these sentiments. I want my country to be as helpful as possible, our Government to be as helpful as possible at this time. I want us to extend our friendship and our support to Israel. I never want any of us to turn our gaze away from this kind of outrageous slaughter of young people, of children.

Murder, Mr. President, is never legitimate. Murder by anyone is never legitimate.

I yield the floor.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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. Without objection, it is so ordered.

#### UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NOS. 209 AND 210, EN BLOC

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may send to the desk two amendments, which I will send en bloc. Discussion on these will occur at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] proposes amendments numbered 209 and 210, en bloc.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 209

(Purpose: To provide an exemption for legislation that reauthorizes appropriations and does not cause a net increase in direct costs of mandates to State, local, and tribal governments)

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

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

"(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

"(2)(A) would not result in a net reduction or elimination of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

"(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount."

AMENDMENT NO. 210

(Purpose: To make technical corrections, and for other purposes)

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. KEMPTHORNE. Mr. President, we will discuss those two amendments or call them up at a later time.

AMENDMENT NO. 211

(Purpose: To make technical corrections, and for other purposes)

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to send to the desk an amendment by Mr. KEMPTHORNE for Mr. DOLE.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside and the clerk will report.

The assistant legislative clerk read as follows: