if we look at it from that vantage point in the years to come, it seems to me that we will be living with a lot of very, very important things. We will have had a stable economy during this time; we will have had a new relationship in trade that we can expand; the crime bill—I did not mention that; that is one that affects us everywhere we live—family leave, Head Start, national service. These are programs that are good. They are programs that I have been glad to be a part of helping put through here in the Congress.

Mr. President, I believe we are ready to move on some other items here. I yield the floor.

Mr. President, I had asked that we go into morning business. I ask that we return to regular order.

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

## UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. LEVIN. Mr. President, I was going to call up amendment No. 173. It was my understanding that the managers of the bill were prepared to accept this amendment, and now I am not certain if that is true. Since that uncertainty exists, I will withhold asking to move to consideration of this amendment, and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Ohio, Mr. GLENN, has been making some comments with reference to the President's State of the Union Message, I believe.

Mr. President, has Pastore rule run its course?

The PRESIDING OFFICER. The Chair advises the Pastore rule will expire at 1:30, beginning at 10:30 this morning.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order.

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

## CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. BYRD. Mr. President, I listened to a goodly number of our colleagues earlier today as they came to the floor to speak about the constitutional amendment on the balanced budget. I was glad to see the President last night give some time to that subject matter. I was glad that he stated that the proponents of a constitutional amendment to balance the budget have a responsibility to let the American people know up front the details as to just how the proponents propose to achieve that balanced budget over the next 7 years.

I listened to my friends with a great deal of interest this morning on the floor, and I just have a few comments to make in regard to this subject. Many colleagues who support such a constitutional amendment are sincere in their belief that such an amendment is the answer to our budget deficits and is necessary to impose discipline on ourselves. I do not quarrel with their sincerity. They have a right to their viewpoints just as I have a right to mine.

I heard it said earlier today that Members of the House and Senate should show courage by voting for a constitutional amendment. Mr. President, courage is not needed to vote for a constitutional amendment to balance the budget. Courage is needed to oppose the constitutional amendment to balance the budget. We read public polls that 80 percent of the American people support a constitutional amendment to balance the budget. Courage is not needed to vote for something that the polls say 80 percent of the people want. Courage is needed to take the time to try to convince the American people that they are being misled. So those of us who vote against a constitutional amendment to balance the budget are swimming upstream, and going against the grain.

I believe it was Talleyrand who said, ''There is more wisdom in public opinion than is to be found in Napoleon, Voltaire, or all the ministers of state present and to come.''

I subscribe to that view. There is more wisdom in the people, but the people have to be informed in order to reach considered and wise judgments. The people have to be correctly informed if they are to form wise opinions. They also have a responsibility to do what they can to inform themselves.

It does not take courage, Mr. President, to vote for this constitutional amendment on the balanced budget. It just takes a politician's view of what is best for him or her politically at the moment. I urge Senators to show courage in taking the time to debate this matter fully and voting against a constitutional amendment on the balanced budget, at least until the proponents show Senators what is involved here—what is in this poke, along with the pig.

I hear it repeated over and over again that we need a constitutional amendment to balance the budget, so that we will be forced to discipline ourselves. Mr. President, no constitutional amendment can give us the political spine to make the hard choices necessary to balance the budget. Constitutional amendments cannot impose spine or courage or principle where those things may be lacking to begin with.

We do not need a constitutional amendment. If the proponents of a constitutional amendment have two-thirds of the votes in the House and Senate, and I would say they are very close to that, I would say they would need 67 votes in the Senate and 290 votes in the House. If they have 67 votes in the Senate and 290 votes in the House for a constitutional amendment, they can pass any bill, now. It only takes a majority to pass a bill. If all Senators are here, it only takes 51 Senators to pass a bill, and only a majority of the House to pass a bill. So if the votes are in both Houses to adopt a constitutional amendment to balance the budget, the votes are here to produce simple majorities to pass bills and resolutions that will get the job done now. We do not have to wait 7 years.

In the final analysis, the discipline that is needed now will still be needed 7 years from now if this amendment goes into effect. That constitutional amendment will not cut one program nor will it raise taxes by one copper penny. In my judgment it will have to be a combination of both in order to deal with the extremely serious problem of balancing the budget.

The responsibility of balancing the budget 7 years from now will rest where it rests now: With the President of the United States and with the Members of the House and the Senate. If we lack the discipline now we are not likely to have much more spine, if any, 7 years from now. It will come right back here. Of course, many of those who vote for a constitutional amendment to balance theMr. Chairman, budget today probably will not be around, some of us, in the House and Senate, 7 years from now.

Mr. President, an immense hoax—that is what this is, in my judgment, a colossal hoax. It is supported by a lot of well-intentioned, well-meaning people. But in the final analysis, that is what it will prove to have been—a hoax. It is about to be perpetrated on the public at large.

It is this Senator's hope that the people will get quickly about the business of informing themselves of the ramifications of the so-called balanced budget amendment before it is too late. In my opinion, the American people could do themselves no better favor than to become very intimately involved as fast as they can with the details. And they should insist on their representatives in these two bodies to give them the details, and the probable impact of this proposal.

For almost every benefit being claimed by the proponents of this ill-conceived idea, the exact opposite of the bogus claim is, in fact, the truth. For example, the proponents claim that the balanced budget amendment will remove the burdening of debt from our children and leave them with a brighter future. This balanced budget amendment will do nothing of itself. The amendment would do nothing of the kind that is being stated. Even if we were somehow able instantly to be able to bring the current budget into balance, our children, our grandchildren, and their children would still be in debt and they would still be paying interest on that debt. Bringing the budget into balance so that there is no deficit this year or next year, or the

next year, is child's play compared with wiping out this Nation's $4.6 trillion national debt.

What we pay interest on is our debt. The people should be made aware that the deficit is not the debt. The debt is an accumulation of the deficits built up over a period of years. A constitutional amendment does absolutely nothing about retiring the national debt.

The American people are being told that by passing a constitutional amendment, we will somehow be relieving generations to come of the obligations to pay for the debt of past generations. Well, until the day that the national debt is completely retired, there will still be interest that has to be paid, and then there will be the principal, which future generations will have to eliminate.

That is not to say that getting our deficits down is not important. It is. And we went down that track in 1990 when, under President Bush, we met at the so-called budget summit and a Republican President, President Bush, and the Democratic Congress, made up of both Houses, not just one, enacted legislation to reduce the deficit over a period of 5 years.

The same thing happened again in 1993. President Clinton and a Democratic Congress passed a reconciliation measure which laid out a 5-year glidepath to bring down the deficits, and the deficits are coming down.

That was a tough bill to vote for. Not one of our Republican friends on the Senate side—not one—not one of those who are proposing today that we have a balanced budget amendment to the Constitution, not one voted for that bill in 1993, and I believe I am correct in saying that not a single Republican in the House voted for that package. I could be wrong in that. But not one vote came for that bill from the other side of the aisle. There was an opportunity for courage. Why was it not demonstrated then by the proponents on the other side of the aisle?

There was some pain in that package—some increased taxes, some cuts in programs. We are operating right today with a freeze on discretionary spending. We are operating below a freeze in our discretionary spending, because we passed that package and because, subsequently, we have passed measures that are in keeping with the promise that we made when we passed that budget reduction measure. That is the course we ought to continue on: Bring the budget deficits down but do not tamper with that fundamental organic document, the fundamental law of our country which trumps any other law of the land.

So let us not buy the claim that the balanced budget amendment will somehow take your grandchildren off the hook. These deficits and that debt can never be wished away, nor can they willy-nilly, over a period of any number of years, be erased through a simple provision that is inscribed into the fundamental law of the land: The Constitution.

That balanced budget amendment will not take our grandchildren off the hook. It cannot and will not.

As for leaving future generations with a brighter future, this balanced budget amendment is more likely to snuff out any possibility for a brighter future for many of America's children than to brighten such future.

Getting the details about how the proponents would actually get to a balance by the year 2002 is like extracting blood from a turnip. The President said we ought to have that. But if the broad outlines of such a plan to get to balance are to be believed, America's future may be dim, indeed.

According to reports, some proponents of the balanced budget amendment want to exempt Social Security and exempt defense spending from any cuts. Regardless of whether one agrees with those exemptions or not, let us just look at the arithmetic.

If one adds to that list the interest on the national debt, which cannot be cut and which must be paid, then more than half of the Federal Government's budget will have been excluded from any effort to balance the budget by constitutional amendment, if those items, defense and Social Security and interest on the debt, are taken off the table.

When we take those items off the menu, slide them off the table and totally insulate them from any review or analysis as to whether or where they should be cut, what have we done to the remainder of the Federal budget? The prime candidate then left to feel the budget ax becomes the domestic discretionary budget.

Discretionary spending is made up of both domestic and defense spending. If we eliminate defense from the equation, then the prime candidate to feel the budget ax becomes the domestic discretionary budget. That portion of the budget is the portion left to fund education, veterans' medical care, pensions, protect our people's health and safety, fund research and development projects, build roads and bridges, fund crime-fighting efforts, foster U.S. economic competitiveness in global markets, and generally invest in our people, their talents, and their future.

Obviously, if we take most of the Federal budget off limits for cuts, then the portion that is still eligible for cuts is going to be pretty badly devastated. One-point-three trillion dollars is not change for the streetcar or the bus.

What then happens to the quality of life in America that we are going to bequeath to our children? That ought to be a prime consideration in our debate here on the floor, and it ought to be a prime consideration on the minds of the people.

Are we really doing our children and our grandchildren a favor by embracing this amendment to balance the budget? We are all for a balanced budget. Those Senators who spoke in support of a balanced budget amendment this morning said we are all in favor of balancing the budget, and we are. If we devastate the part of the budget that keeps our kids educated, protects our health, advances our research, helps to keep our Nation competitive in the world, keeps our infrastructure in good repair—in other words, minds the basic needs of the Nation—what are we actually doing?

Mr. President, is there an order that at 1:30 we go back——

The PRESIDING OFFICER. Yes, the Chair will state to the Senator from West Virginia, under a previous order, we will be considering an amendment at the hour of 1:30.

Mr. BYRD. I thank the Chair. I ask unanimous consent that I may proceed out of order for not to exceed 10 minutes.

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

Mr. BYRD. Mr. President, so what we are actually doing is walking away from these responsibilities at the Federal level and relegating them to the States and counties and municipal governments. Some would say, ''Yahoo, get the Federal Government off our backs.'' That is the standard talk show answer. But let us give that a little more thought.

With the passage of this balanced budget amendment, we will actually be shifting traditional Federal responsibilities, many of them, to the States and to the State houses. We will be creating a patchwork quilt of a nation with some States able to meet the increased responsibilities dumped on them by the Federal Government's withdrawal of funds due to steep budget cuts and other States not being able to do so.

We will have some States with enormous unemployment, some States with extremely dilapidated and deplorable transportation systems, some States booming, maybe, and others busting. Do we want that result?

I hear the Governors boasting of having cut taxes. I heard some of that last night. They are cutting taxes at the State level. And they have further tax cuts planned. Just wait until this constitutional amendment goes into effect. Those Governors will not cut taxes anymore. They will have to increase taxes because much of the burden is going to be dumped on them from the Federal Government. We will have trickle-down mandates. The Federal Government will offload the problems on the State governments. State governments will offload those problems on the county governments and municipal governments, and in the final analysis the same people who pay the taxes now are going to continue to pay the taxes.

Do we want to have parts of America looking like a Third World country? I have not heard those concerns addressed by anyone. The American people are not being told about the very dark and dismal side of this balanced

budget amendment. Why is not anyone talking about these probable results of enacting such a proposal? In the opinion of at least one leader of the other body, the answer is, because if we talk about these things, the proposal will not pass. The knees of Members will buckle.

Now, think of that. Are we going to hide these things from the people in order to pass this ill-conceived idea?

There are other aspects of this proposal that are being hidden from the American people as well. All the while we are slashing away at the funds we have used to invest in our own people, some of the proponents of this amendment are busily signing on to some of the biggest tax cuts in our history. The U.S. Treasury Department indicates that Congress will have to come up with another $300 billion in cuts over the next 7 years to pay for the tax cuts reported to be embraced by the so-called Contract With America.

Now that, my friends, is not small change, either. Well, some would say, what is wrong with that? I want a tax cut.

Now we have the leaders of both parties advocating tax cuts.

Well, with a constitutional amendment to balance the budget, we need to reduce our deficit. We do not want any cuts in defense. We say no cuts in Social Security. We want to balance our budget, but we also want to cut taxes.

I said to Mr. Reagan, when he was President, you cannot do all these things and balance the budget. You cannot cut taxes in the situation we are in; you cannot have a massive buildup in defense spending; you cannot do all those things at the same time you cut taxes and still balance the budget. And we saw an accumulation of $3.5 trillion added to the nearly $1 trillion national debt which was in existence when President Reagan was elected—an almost $1 trillion national debt—and now we have a $4.5 trillion debt.

Look again at those tax cuts in the context of the budget cuts. It does not make sense. All that additional chopping at the budget to pay for tax cuts puts even more pressure on the States to fill in the gaps left by the cuts in the Federal budget.

There is some very clever sleight of hand going on here, Mr. and Mrs. Taxpayer. You may get the Federal tax cuts, but your State taxes are going to go through the roof as a result of this constitutional amendment on the balanced budget. And that ought to infuriate every thinking American taxpayer and inflame every Governor of the Nation. But many of the Governors are saying: No, give us a constitutional amendment to balance the budget. We are cutting taxes in the States. Why do we not have a balanced budget amendment? Get the Federal Government off our back.

Once that constitutional amendment takes effect, the Governors of the States will not be cutting taxes. The load is going to shift to them. They are going to be increasing taxes. Federal taxes will be cut and paid for with cuts in Federal programs, but that means the States will be left holding the bag, and the States' taxes will likely climb through the ceiling. The poor, unwitting believer in the balanced budget will be given the double whammy of increased taxes and reduced services.

When one takes more than half the Federal budget off the table—makes it off limits for cuts under the balanced budget amendment—then fully one-third of the remaining Federal programs are composed of grants to State and local governments and those are obviously going to be brutalized under this balanced budget amendment regardless of our passing this unfunded mandates bill that is presently before the Senate.

I hope the Governors will listen. I hope the Governors are eager to raise taxes to pay for essential needs, because the Federal Government is going to have to take a powder under this balanced budget amendment.

Nobody is leveling with the American people about these matters. I say to the American people, if there is ever a time to utilize your well-honed distrust for politicians, utilize it now. Demand to know what balancing the budget really means and how the proponents plan to balance it. Do not let the politicians get away with this rabbit in a hat, with this sleight of hand.

What is going on here is simply politicians falling all over each other to embrace something that is momentarily popular. Sloganeering has taken the place of serious legislating and only you, the American people, can turn that around. I urge the American people to look beneath the slogans before it is too late. Demand to understand what will really happen to your taxes, to your quality of life, to your local economy, to your children and grandchildren if we constitutionalize this slogan. Demand to know the details. Understand that when Federal taxes are slashed in this instance, State taxes are likely to soar, likely to go up. Understand that when necessary Federal programs are slashed, services decline.

I am not saying that there should not be some programs slashed—that is what we did in 1993; it is what we ought to do—or services decline. Each State then has to try to pick up the slack.

Understand that reducing the deficit is not the same as reducing the debt, and do not be disappointed to learn that even after we devastate the only pot of money we have from which to invest in ourselves, in our Nation, and in our children by way of infrastructure and investment in the Nation's infrastructure, those children and their children will still be paying interest annually on the national debt.

Also understand that the unfunded mandates legislation does nothing to protect States from Federal mandates already in place.

Understand that the balanced budget amendment straitjackets the Nation when it comes to dealing with the economy. In a recession when economic activity falls and revenues fall, unless the Congress can get a three-fifths vote to agree to run a deficit, then the Government will be forced to aggravate the problem by cutting public expenditures, which is the easiest way I know to turn a recession into a depression.

Fiscal policy needs to be flexible because we cannot accurately predict economic fluctuations. Engraving fiscal policy and political ideology on the marvelously flexible United States Constitution is like putting an ugly tattoo on the forehead of a beautiful child. It is inappropriate, will mar the child forever, and it serves no purpose whatever except to destroy something inherently fine and to deface it.

I implore the American people to make the powers-that-be tell the American public how—exactly how—they intend to get the budget into balance by 2002. What are the proponents hiding? What about this sleight of hand on the subject of tax reduction? What else is there that we do not want the American people to know?

I also hope to remind the American people that television and radio talk shows are entertainment, not hard news and not hard facts. Do not let the colorful talk show hosts obscure real issues by exploiting public anger. If you are really angry about public policy, demand to know the details of the so-called cures for the ills of public policy from the proponents. Do not buy three-line formulas as a blueprint for some so-called American revolution, some Contract With America.

Here in my hand is my ''Contract With America,'' the Constitution of the United States of America. If revolutions are contemplated, let us remember Lenin's words:

''We shall destroy everything, and on its ruins we shall build our temple.'' Does that sound like some of the talk that is making the rounds lately?

It might be well to remember Lenin's words in these days of talk about revolution.

If revolutions are contemplated, let the public clearly understand what the final results may be before we so wound the Constitution and the Republic that they may never recover.

We are only just now recovering from the fiscal hangover left the Nation by the Reagan revolution. As I recall balanced budgets, tax cuts, budget cuts, and sacrosanct defense budgets were all prime features of that last revolution and we are still paying the tab for that one. Let us not overdose on a frenzy of dimly understood procedural reform to the point where we take the insane step of writing fiscal policy into the U.S. Constitution.

We are on the road to balancing the budget, and it is an important and laudable goal to do so and we cannot let up. We have passed important and significant deficit reduction measures

in 1990 and in 1993, the latter without a single vote, as I say, from the Republican majority in either House. What does that tell the people about the reality of expecting to get votes on measures that will be required to reduce the budget, measures that inflict pain?

What does that tell the people?

An informed and active citizenry is essential for the workings of a representative democracy. It is up to the people to exercise their right to know by demanding explanations to the many unanswered questions about this proposal, and it is my hope that they will be relentless and ruthless in their pursuit of knowledge in this particular case.

Mr. President, I call attention to a poll. Mr. President, the poll shows that 86 percent of the people think that the balanced budget amendment's backers should be required to specify what cuts they would make before the amendment is adopted.

I ask unanimous consent that the poll released by the Los Angeles Times on Monday be printed in the RECORD.

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

[From the Los Angeles Times Poll, Jan. 23, 1995]

SELECTED RESULTS FROM THE TIMES NATIONAL POLL, RESPONSES ARE AMONG ALL ADULTS

A full results summary with question wording and full question text will be available through the Los Angeles Times Poll at a later date.

Note: Not all numbers add to 100% because in some cases the ''Don't know'' answer category is not displayed.

AMBIVALENCE ABOUT REPUBLICAN PROPOSALS

Do you think the Republican ''Contract with America'' is a realistic or unrealistic set of proposals?

[In percent]

| | 1/95 | 10/94 |
|---|---|---|
| Realistic set of proposals | 31 | 30 |
| Unrealistic set of proposals | 54 | 55 |
| Some are realistic, some are unrealistic | 4 | 3 |
| Don't know | 11 | 13 |

As you may know, Congress is considering a proposal for a constitutional amendment to require that the federal budget be balanced by the year 2002. Those in favor say this is the only way to force the government to bring the federal budget deficit under control. Those opposed say it would require increased taxes and cuts in Social Security, Medicare, and Medicaid programs. Do you favor or oppose the proposal for a constitutional amendments to require a balanced federal budget?

| | Percent |
|---|---|
| Favor | 40 |
| Oppose | 53 |

Do you think the balanced budget amendment's backers should be required to specify what cuts they would make before the measure can be passed, or should the amendment be passed first, leaving the details until later?

| | Percent |
|---|---|
| Specify cuts first | 86 |
| Leave until later | 10 |

Right now, the Constitution allows Congress to pass tax increases by a simple majority vote, that is, by just over half of the members voting. Do you favor or oppose a proposal for a constitutional amendment that would require income tax increases to be passed by a larger, three-fifths majority of the members voting.

| | Percent |
|---|---|
| Favor | 69 |
| Oppose | 24 |

Do you favor or oppose giving the President a line-item veto, which would allow him to reject individual parts of a spending bill, rather than having to accept or reject the entire bill as current law requires?

| | Percent |
|---|---|
| Favor | 73 |
| Oppose | 20 |

As you may know, under the current income tax system, high-income people are taxed at a greater rate than low-income people. There is a proposal to replace that system with a ''flat tax,'' under which everyone, rich and poor, would pay 17% of their income in taxes. Under this plan, income from capital gains and interest on savings would be tax exempt, but the current deduction for interest paid on home mortgages would be abolished. Do you favor or oppose this proposal for a flat tax?

| | Percent |
|---|---|
| Favor | 40 |
| Oppose | 48 |
| Don't know | 12 |

As you may know, in 1993 Congress raised the percentage of Social Security benefits that are subject to income tax, from 60% to 85% for elderly couples with annual incomes of 44,000 dollars or more. There is a proposal to repeal that increase and restore the rate to 50%. Do you think the percentage of Social Security benefits subject to income tax should remain at the current 85% for these couples or should it be cut to 50%.

| | Percent |
|---|---|
| Remain at 85% | 43 |
| Cut to 50% | 49 |
| Neither/Other | 2 |

Do you think the federal government should spend a great deal more money on national defense, or somewhat more, or somewhat less, or do you think the federal government should spend a great deal less money on national defense?

| | Percent |
|---|---|
| Great deal/Somewhat more | 32 |
| Somewhat/Great deal less | 60 |

Do you approve or disapprove of a constitutional amendment which would limit to 12 years the time any member of the U.S. Senate or House of Representatives could serve?

| | Percent |
|---|---|
| Approve | 75 |
| Disapprove | 21 |

Do you think the term limits amendment should apply only to those elected after its approval or should it also apply to lawmakers who are in office now?

| | Percent |
|---|---|
| Apply to new members | 17 |
| Apply to current members | 74 |
| Oppose term limits | 3 |

On another subject, do you favor or oppose allowing U.S. troops to serve under United Nations commanders in some circumstances?

| | Percent |
|---|---|
| Favor | 66 |
| Oppose | 35 |

CRIME/WELFARE/TAX CUTS

On crime:

Which version of the crime bill do you prefer?

| | Percent |
|---|---|
| The original bill which had money for crime prevention programs | 72 |
| A revised bill with no crime prevention funds | 20 |
| Neither/Other | 4 |

On welfare:

There are two proposals being considered in Washington for reforming welfare. One proposal would require welfare recipients to find work after 2 years on the rolls, and would guarantee them a public sector job if they couldn't find one in the private sector. The other proposal would simply allow states to cut off a recipients' benefits after two years with no guarantee of a job. Which of these proposals do you prefer: the one that guarantees recipients a job or the one that includes no guarantee of a job?

| | Percent |
|---|---|
| Version that guarantees job | 66 |
| Version that does not guarantee job | 29 |
| Neither/Other | 2 |

There are two other welfare reform proposals being considered in Washington. One proposal would require welfare recipients under the age of 18 who have children out of wedlock to live at home in order to receive benefits. The other proposal would cut off all benefits to recipients under 18 who have children out of wedlock. Which of these proposals do you prefer: the one that requires recipients to live at home in order to get benefits, or the one that cuts off their benefits altogether?

| | Percent |
|---|---|
| Version that requires living at home | 58 |
| Version that would cut off all benefits | 28 |
| Neither/Other | 9 |

On tax cuts:

There are two proposals for cutting taxes being considered in Washington. One proposal would provide families with annual incomes of up to 75,000 dollars with a tax credit for children under 13, and families with incomes of up to 100,000 dollars with a tax deduction for their children's college tuition. The other proposal would provide families with an income of up to 200,000 dollars with a tax credit for all children, as well as a 50 percent cut in the capital gains tax. Which of these proposals do you prefer, and I can repeat them if you wish.

| | Percent |
|---|---|
| Version for families with incomes under 75,000/$100,000 | 55 |
| Version for families with incomes under $200,000 | 23 |
| Neither/Other | 10 |
| Don't know | 12 |

VARIOUS POLICY PROPOSALS

Do you approve or disapprove of President Clinton's national service program called ''AmeriCorps'' which provides students grant money for college it they agree to perform two years of national service?

| | Percent |
|---|---|
| Approve | 72 |
| Disapprove | 19 |

In order to reduce the federal budget deficit, some have proposed that higher-income people over the age of 65 pay extra for Medicare, the government health insurance program for the elderly. Do you favor or oppose this proposal?

| | |
|---|---|
| Favor | 48 |
| Oppose | 46 |

As things stand now, the age when people become eligible for Social Security benefits will be raised from 65 to 70 in the year 2034. In order to reduce the federal budget deficit, some have proposed raising the eligibility age earlier than 2034. Do you favor or oppose this proposal?

| | Percent |
|---|---|
| Favor | 27 |
| Oppose | 67 |

In order to reduce the federal budget deficit, some have proposed a reduction in the annual cost of living increases given on the pensions of retiree's from the military and federal government. Do you favor or oppose this proposal?

| | Percent |
|---|---|
| Favor | 42 |
| Oppose | 49 |

UNFUNDED MANDATES

As you may know, the federal government often requires state and local governments to adopt regulations and programs without providing funding to pay for them. There is a proposal in Congress which would bar the federal government from imposing these unfunded mandates on states and localities unless the federal government provided the money to pay for them. Do you favor or oppose this proposal?

| | Percent |
|---|---|
| Favor | 64 |
| Oppose | 23 |
| Don't know | 13 |

As you may know, currently the federal government requires states governments to build sewage treatment plants so that water used by residents meets federal cleanliness standards. Do you approve or disapprove of the federal government requiring state governments to do this, even if the state must pick up the costs?

| | Percent |
|---|---|
| Approve | 68 |
| Disapprove | 25 |

As you may know the federal government requires local school districts to provide special education for mentally challenged students. Do you approve or disapprove of the federal government requiring local school districts to do this, even if the localities must pick up the costs?

| | Percent |
|---|---|
| Approve | 68 |
| Disapprove | 28 |

Do you approve or disapprove of the federal government requiring state governments to provide citizens an opportunity for registering to vote when they get a driver's license or apply for some form of public assistance, even if the state must pick up the costs?

| | Percent |
|---|---|
| Approve | 49 |
| Disapprove | 42 |

MINIMUM WAGE

As you may know, the federal minimum wage is currently $4.25 an hour. Do you favor increasing the minimum wage, or decreasing it, or keeping it the same?

| | Percent |
|---|---|
| Increase | 72 |
| Keep the same | 24 |
| Decrease | 1 |
| Eliminate | 1 |

AFFIRMATIVE ACTION

Do you think affirmative action programs designed to help minorities to get better jobs and education go too far these days, or don't they go far enough or are they just about adequate now?

[In percent]

| | 1/95 | 9/91 |
|---|---|---|
| Go too far | 39 | 24 |
| Don't go far enough | 23 | 27 |
| Adequate now | 32 | 38 |
| Don't know | 6 | 11 |

As you may know, a measure has been proposed in Congress that would make it unlawful for any employer to grant preferential treatment in hiring to any person or group on the bases of race, color, religion, sex or national origin. Do you favor or oppose this proposal?

| | Percent |
|---|---|
| Favor | 73 |
| Oppose | 23 |

MEXICO LOAN GUARANTEES

As you may know, Mexico faces an economic crisis which has forced it to sharply devalue its currency. In response, private American banks plan to loan that country up to 40 billion dollars, and the U.S. government has agreed to pay back those loans in the event Mexico doesn't repay them. Do you favor or oppose the U.S. government guaranteeing those loans made to Mexico by private banks?

| | Percent |
|---|---|
| Favor | 15 |
| Oppose | 81 |

SPENDING CUTS

As you may know, there is much discussion in Washington about which programs should be cut back in order to reduce the federal budget deficit.

Do you think the government should cut back spending:

| | Yes | No |
|---|---|---|
| On the arts? | 69 | 25 |
| On Amtrak, the federally subsidized passenger railroad? | 65 | 26 |
| For public television and public radio? | 63 | 32 |
| On food stamps for the poor? | 48 | 45 |
| On subsidies for farmers? | 39 | 63 |
| On Aid to Families with Dependent Children, which is the government's principal assistance program for poor families? | 38 | 64 |
| On unemployment insurance programs? | 30 | 64 |
| On the environment? | 27 | 67 |
| For Medicaid, which is the government health insurance program for the poor? | 20 | 73 |
| On Social Security? | 12 | 86 |
| For Medicare, the health insurance program for the elderly? | 9 | 88 |

MOOD OF THE COUNTRY

Do you think things in this country are generally going in the right direction or are they seriously off on the wrong track?

[In percent]

| | 1/95 | 10/94 |
|---|---|---|
| Right direction | 35% | 26% |
| Wrong track | 66 | 66 |
| Don't know | 10 | 8 |

Do you think we are in an economic recession or not?

[In percent]

| | 1/95 | 9/91 |
|---|---|---|
| No recession | 49% | 41% |
| Mild recession | 16 | 17 |
| Moderate recession | 18 | 23 |
| Serious recession | 11 | 13 |

CLINTON VS. REPUBLICANS

Do you approve or disapprove of the way Bill Clinton is handling:

| | His job | | The economy | | Foreign affairs | |
|---|---|---|---|---|---|---|
| | 1/95 | 10/94 | 1/95 | 10/94 | 1/95 | 10/94 |
| Approve | 54% | 44% | 51% | 43% | 46% | 48% |
| Disapprove | 40 | 50 | 38 | 50 | 44 | 46 |
| Don't know | 6 | 6 | 11 | 7 | 10 | 6 |

Who do you think has the better ideas for how to solve the problems this country currently faces

| | Percent |
|---|---|
| President Clinton | 31 |
| The Republicans in Congress | 36 |
| Both equally | 7 |
| Neither | 14 |
| Don't know | 13 |

Do you think (Clinton/the GOP Congress) is working hard to bring fundamental change to the way government is run or is (he/it) governing in a ''business as usual'' manner?

[In percent]

| | Bill Clinton | Republicans in Congress |
|---|---|---|
| Bring change | 49 | 41 |
| Business as usual | 45 | 47 |
| Don't know | 6 | 12 |

As you may know, the Republicans now control both houses of Congress for the first time in 40 years. Because of that, do you expect the country to be better off, or worse off, or don't you expect Republican control of Congress to change things very much either way?

| | Percent |
|---|---|
| Better off | 32 |
| Worse off | 18 |
| No change either way | 39 |
| Too early to tell | 6 |

When dealing with the Republican Congress, do you think President Clinton should compromise to get things done even if he has to sacrifice some of his beliefs, or should Clinton stand up for his beliefs even if that means less might be accomplished?

| | Percent |
|---|---|
| Compromise | 56 |
| Stand up for beliefs | 38 |

What is your impression of:

[In percent]

| | Bill Clinton | Hillary Clinton | Bob Dole | Newt Gingrich |
|---|---|---|---|---|
| Favorable | 64 | 47 | 41 | 26 |
| Unfavorable | 38 | 36 | 28 | 39 |
| Don't know | 8 | 17 | 31 | 36 |

ASSAULT WEAPONS BAN

Congress has passed legislation banning the future manufacture, sale or possession of rapid-fire assault weapons. The measure does not affect those weapons already in existence and exempts many types of guns used by hunters and other sports enthusiasts. Some people in Congress would like to repeal this assault weapons ban. Do you favor or oppose maintaining a ban on the future manufacture, sale and possession of rapid-fire assault weapons?

| | Percent |
|---|---|
| Favor | 67 |
| Oppose | 16 |

HOW THE POLL WAS CONDUCTED

The Times Poll interviewed 1,353 adults nationwide by telephone, Jan. 19 through 22. Telephone numbers were chosen from a list of all exchanges in the nation. Random-digit dialing techniques were used so that listed and non-listed numbers could be contacted. Interviewing was conducted in English and Spanish. The sample was weighted slightly to conform with census figures for sex, race, age and education. The margin of sampling error for the total sample is plus or minus 3 percentage points. Selected questions were asked of a half sample of approximately 675; these carry a sampling error margin of 4 points. For certain other sub-groups the error margin may be somewhat higher. Poll results can also be affected by other factors such as question wording and the order in which questions are presented.

Mr. BYRD. Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now resume consideration of amendment No. 173, and that the amendment that was scheduled to be debated at 1:30 be set aside for 5 minutes so we can

proceed to the consideration of amendment No. 173.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object, and I will not object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I just want to make it clear we will not lose 5 minutes from our side because we have many Senators who wish to debate my amendment. I have no objection if the unanimous consent request includes the fact that we will not lose 5 minutes from the 90 minutes that we have been promised on our amendment.

The PRESIDING OFFICER. The Chair will observe to the Senator from California that under the previous rule that has been adopted the time would not be deducted from her time.

Mrs. BOXER. I thank the Chair and thank the Senator from Michigan.

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

AMENDMENT NO. 173

Mr. LEVIN. Mr. President, amendment No. 173 corrects a problem in this bill. The bill does not provide that individual Members can seek an estimate from the CBO that is so critical to the survival of their amendments and bills. This is a different bill from last year. This bill creates a new point of order which was not in last year's bill. It basically keeps the points of order that were in last year's bill, but it adds a new, critical point of order that makes a bill out of order if the estimate of the CBO is not in the bill, if there is not an authorization estimated for what it will cost local governments. But the new point of order has severe ramifications relative to the appropriations process.

Because there are such severe ramifications in this year's point of order, it is critical that individual Members have the power to seek an estimate from the Congressional Budget Office because if that estimate is not there—if certain other things are not there—there is going to be a point of order against our amendments and our bills. And even though it is a point of order and a procedural matter, that stands for something. Points of order mean things, they are not just little procedural hurdles. They can make the difference whether or not an amendment is considered or not considered, and whether or not a bill is considered or not considered.

On page 14 and on page 18 there are references to committees of authorization obtaining the estimates from the CBO in two different provisions. And there is also a provision on page 29 for the chairman or the ranking member of the minority of a committee of the Senate or the House, to the extent practicable, to obtain a study of a Federal mandate. There is no provision in here for an individual Member to obtain that estimate from the CBO, which is so critical for that Member's amendment or bill to survive a point of order.

So the amendment which I have asked unanimous consent now be considered, amendment No. 173, would correct that problem with the bill. I hope this will be adopted by the Senate.

At this point, with the understanding of the managers, I ask unanimous consent that it be in order to seek a rollcall on this amendment at this time, and that the rollcall occur prior to a rollcall, if ordered, on the Boxer amendment, which will come immediately after this amendment.

I am not sure if the manager heard my unanimous consent—whether either manager heard that. I am seeking unanimous consent that it be in order to seek a rollcall on this amendment at this time, but that the rollcall be delayed until immediately preceding the rollcall on the Boxer amendment if one is ordered.

I will modify the unanimous-consent request so that it read immediately after the vote on the Boxer amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to very strongly support the amendment proposed by my colleague from Michigan. I do not think any Senator here wants to give up his or her rights to request the same information that anybody else has—whether a committee chairman or not. I think this is a key amendment here. I do not see this as any small amendment.

To say that only chairmen of committees or only ranking minority members are the only ones who could ask CBO for a budget estimate gives up a right for a Senator to represent his or her State. And I do not think that is right. I think this was more of an oversight in the bill. It was not intended that Senators' rights be trampled on, but that would be the effect of this. So I see this as a very, very important amendment.

Every Senator representing his or her State has a full right to ask for whatever information may be required to get an amendment through or to propose legislation. In this case, that means that Senator has to go to the Congressional Budget Office and get an estimate. Otherwise, when they try to bring something up in committee and it is brought up and someone says what is the estimate on this, that Senator would not be able to have an estimate. So they would be precluded, in effect—they would be precluded from putting in amendments that other Senators could put in, if the other Senators were committee chairmen or ranking minority Members.

I do not think there was any intention to take away the rights of individual Senators. But lest there be any doubt about it I think we should pass this amendment. I hope it will be unanimous, if we pass it. To me it makes such common sense. So I rise in strong support of this and hope it could be accepted. If it cannot be accepted on the other side I hope the leadership on the other side could support this. We will have an overwhelming vote of support for this particular amendment because this really does correct something that needs to be corrected, something we should have done in committee but we did not have that opportunity. So here we are on the floor doing it, and I think this is a very important amendment. I yield the floor.

Mr. KEMPTHORNE. Mr. President, I appreciate the amendment of the Senator from Michigan. I am supportive of that amendment. I will encourage my colleagues on this side of the aisle to support that amendment.

Mr. President, I ask unanimous consent that no second-degree amendment be in order to the Levin amendment prior to its disposition.

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

Mr. KEMPTHORNE. Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair. I want to thank the managers of the bill for their support of the amendment.

I yield the floor.

AMENDMENT NO. 202

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of amendment No. 202 offered by the Senator from California. Pursuant to that order, there will be 2 hours of debate; 90 minutes of debate will be controlled by the Senator from California, and 30 minutes of debate will be controlled by the Senator from Idaho.

The Senator from California.

Mr. BYRD. Mr. President, will the Senator from California yield for a unanimous-consent request?

Mrs. BOXER. I am happy to yield.

AMENDMENT NO. 217, AS MODIFIED

Mr. BYRD. Mr. President, I ask unanimous consent to modify my amendment which has already been entered and is qualified, amendment No. 217. I send the modification to the desk.

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

The amendment (No. 217), as modified, is as follows:

On page 5, beginning with line 22, strike out all through line 2 on page 6 and insert in lieu thereof:

''(I) a condition of Federal assistance;

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

''(III) for purposes of section 408 (c)(1)(B) and (d) only, a duty required under section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206); or

AMENDMENT NO. 202

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I want to again thank the managers of the bill for agreeing to a time limit which I believe will be sufficient so that Senators who wish to be heard on my amendment can come to the floor and be heard.

My amendment will ensure that this unfunded mandates bill will not threaten the health of children, of pregnant women and of the frail elderly. If we stand for anything in this Chamber, I hope it would be to stand up and be proud to defend the health of our most vulnerable populations.

I want the U.S. Senators to know that I support the thrust of this bill. I thought last year's bill did exactly what it should do. It was an important move forward. I myself, coming out of local government, had experiences which I had detailed on this floor which basically said to me that local and State officials certainly have brains, certainly know what their priorities are and certainly should not be treated in a way that is unfair to them or to their budgets.

Having said that, I think it is important that we not go too far in this bill, that we have a bill that makes sense, that essentially says we will not put unfunded mandates on the States but, in fact, we will let them know the cost and, to the greatest extent possible, we will provide the dollars.

Having said that, I think it is important to note that many of the things we do around here are for the good of the people. I will bring that out as I put forward my arguments.

I feel I must at this point speak to something the majority leader said, the distinguished majority leader, the Republican leader. He said today that Democrats were trying to block a bill they support. I personally feel that is a very unfair statement. I am on one of the committees of jurisdiction, Mr. President. I am on the Budget Committee. And my committee chairman, Senator DOMENICI, for whom I have the highest regard, and the ranking member, Senator EXON, for whom I have the highest regard, asked me if I would withhold most of my amendments until I came to the floor. I agreed to do that, with the exception of a sunset provision which we debated very swiftly in committee, and on a party-line vote the Republicans voted not to sunset this legislation. But I agreed to hold off.

What I came up with were four amendments that I thought were important. I had a call from my good friend, the majority whip. He said, ''Senator, can't you try to cut down your four amendments to two amendments?'' I said, Look. I think all four of my amendments are important. They protect the children, the elderly, they deal with benefits, and they deal with illegal immigration. But, I said, let me see if I can do it. I am happy to say that I was able to cut back on one of the amendments because Senator WELLSTONE had a similar amendment, although really the amendment that he had, in my opinion, does not go as far as I wanted to in terms of weighing the benefits of some of our laws. But I agreed in the spirit of bipartisanship to cut back.

Today, I have agreed to time limits on two of my amendments, and the third one I think we can dispose of very, very quickly.

So I want to make the point to the majority leader, if he happens to be listening, or to those who are perhaps monitoring the floor so that he can know what is being said, that truly I know of no Democrat who is trying to stall this bill. We want it to be a good bill. We want to be able to vote for this bill.

I also think it is important to note that my Republican friends have voted lockstep against every single amendment the Democrats have offered. I have gone back through the record book to the last Congress and I could not come up with more than one or two occasions when that has happened.

So we have our Republican friends voting lockstep against amendments that could make this bill a better bill, in my opinion. The Senator from Idaho authored the bill in the last Congress. I supported that bill. But I very briefly want to tell you what this bill does because I have gone through this once before on the floor. I will not take a lot of time going over this chart. But I think, if you just look at this chart, you can see the kind of hurdles that we are putting our legislation through should this bill pass as it is without amendment.

In the initial bill, we asked for a Congressional Budget Office statement on cost, and a point of order would lie against any bill that did not detail that cost. That made sense. We are adults here in this Chamber, and we should know what we are doing. And when we have the facts to know what the numbers are we ought to determine if the benefits are worth the cost. That makes sense.

If that bill had been before us, this chart would have ended, Mr. President, essentially right here. All of this would not have been added. All of this green deals with the legislative process and the power of the Parliamentarian here in the Senate. No matter how fine and wonderful the Parliamentarians are—and, by the way, I think they are fine and wonderful—the people of California who I represent, 31 million of them, did not send me here to abdicate my responsibility to unelected Parliamentarians and to unelected bureaucrats at the CBO, faceless, nameless people who, if they are politicized—and that has happened in the past—one way or the other may come up with a number that is questionable. And there is not much we can do about it. In any event, we set up a huge hurdle. That does not even get into this chart, which is what our Federal agencies must do regarding this issue of unfunded mandates.

So the reason I have these charts here is to make my argument, Mr. President, that there are certain priorities that we will not want to send through this incredible maze. By the way, this chart looks like it is describing a one-shot process. It is not. This process may be repeated 10 times for one bill. Let me explain what I mean.

The bill starts here. It goes through all of this rigamarole through CBO, it goes through the committee, it passes to the Parliamentarian, all kinds of points of order may be heard, may be waived, and then it goes to a vote. But guess what? If anyone offers an amendment, you start all over again. Thank God for CARL LEVIN pointing out that not one U.S. Senator had a right to find out what his or her amendment would cost, to come to the floor with a CBO estimate and try to compete to get an amendment. Only the authorizing committees have that right under the bill.

So this is a nightmare. I have to smile because I remember when my Republican friends had charts like this on some of the Democratic proposals.

(Mr. COATS assumed the chair.)

Mrs. BOXER. I have to smile. This makes that look like a birthday party, because if I was really being totally straightforward, I would have 10 of these charts, because every time you have an amendment, you have to start all over again. By the way, every time you have a conference report, you have to start all over again. And by the way, every time the House takes up a bill, they have to start all over again. So this does not even really reflect the bureaucratic maze we are putting legislation through. That is why the exceptions clause in this bill is so very important. That is why I am so pleased that the bill, as it now stands, makes certain exceptions for national security, for emergencies, for international agreements. But since we have set up this maze, it seems to me that we better be darn sure that we are not stopping legislation that protects the health and the safety of our most vulnerable populations, and that is what my amendment is about.

I am very proud to tell colleagues that we have today received a letter from Carol Browner, who heads the U.S. Environmental Protection Agency. I would like to read it into the RECORD.

DEAR SENATOR BOXER: I applaud your efforts to ensure that sensitive subpopulations such as the elderly, infants, and pregnant women are protected in statutory and regulatory decisionmaking.

A growing body of scientific evidence indicates that some subpopulations may be disproportionately affected by some contaminants. For example, it is well documented that high levels of lead exposure contribute

to learning disabilities in children. The National Academy of Sciences has published two reports confirming the need to consider differing effects in subpopulations when performing risk assessment and in regulatory decisionmaking.

Your amendment to S. 1 will ensure that Congress is free to act to protect the health of our children, pregnant women and the elderly and it has my full support.

Sincerely,

CAROL M. BROWNER.

Mrs. BOXER. Carol Browner comes out of State government. She is very sensitive to the need not to put burdensome regulations on our States. In fact, she is very well supported by people in State government. But she agrees that my amendment is necessary. Why? Because she knows that if in fact S. 1 passes as it is, without amendment, and we do not fix it up, bills that deal with the health and safety of the frail elderly, children under 5, and pregnant women, will go through this maze. I think we owe it to our children and their children, and the children after them, to stand up and be proud and vote for this amendment.

I want to tell you that we are in a time when we keep trying to simplify issues. Somebody said, ''Oh, the President's speech was long.'' It was long last night, but do you know what? There are a lot of issues that need discussion, intelligent discussion. The American people are a lot smarter than 30-second sound bites and they deserve to hear more. Do you know what is happening in this country? They are hearing it. They are hearing it. Yes, there is a contract—a Republican contract—that somebody said they are going to get through in 100 days. Well, I am going to tell you that where I agree with that contract, I will walk hand-in-hand with my Republican friends. But if it hurts the children, if it hurts the frail elderly, if it hurts pregnant women, if it hurts the economy, if it hurts job creation, if it hurts deficit reduction, I am going to be on this floor and this is one of those times I personally, as one individual Member of the Senate in my 90 minutes that I have, and I will be joined by others, we are going to stand here and say ''no'', because this legislation sets up unbelievable hurdles to legislation.

This chart is just a hint of it because every amendment goes through it again and every conference report goes through it again. And it happens in two legislative bodies. I think the least we can do is exempt from that, in addition to the other things that are exempted in this bill, the most vulnerable people in our society.

Mr. President, there was a recent poll in the Wall Street Journal that I would like to share, a national poll that asked: ''Which do you think should have more responsibility for achieving the following goal, Federal or State government?'' Protecting the environment. Fifty percent of the people say it ought to be our responsibility; 38 percent say the State. Protecting civil rights? Sixty-seven percent say Federal Government; 26 percent say the State. Strengthening the economy? Sixty-four percent say the Federal Government; 24 percent say the State. When I ran for this office, I was very honest with the people in my State and I said, ''I am going to fight for you, and I am going to fight for what you believe is right and what is best for you and your children.'' They trust me to do that. There are many other Senators who did the same. So I am very proud to offer this amendment.

I would like to retain the remainder of my time. I know there is opposition on the other side of the aisle. I would like now to yield the floor and retain the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, on behalf of the bill manager, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. LOTT. Mr. President, this is good legislation—trying to have a process to get some control on the incredible burden of Federal unfunded mandates. It has broad support at the local level—the mayors, county commissioners, Governors, and the private sector. All across America people are saying this needs to be done and asking, ''Will you not at least have a process to look at the burden that is being created by Federal unfunded mandates, the burdens you are passing to individuals and to county and city governments, the taxes you are putting on people?'' This is good legislation. It has had broad support, building over a period of months—in fact, years.

I understand there are 62 or more cosponsors of this legislation. Republicans and Democrats have joined together in drafting this legislation. We had the bill last year. The bill that got to the final hours of the session last year has been improved on. Changes have been made that make it better. It has been brought to the floor with this broad base of support across the country and in this Chamber.

Even the President, last night in his remarks, singled this out and said we may have some disagreements and maybe some improvements can be made, but this is something that we can have and he supports it. Great. We are going to find things we can work together on, such as congressional accountability, line-item veto, unfunded mandates. We are making progress. The American people are going to be the beneficiaries. We are working together. And then what happened?

A funny thing happened on the way to passage, on the way to the President's desk. Every amendment conceived by the minds of men has been pulled up and has been offered or is pending to be offered to this legislation.

This is the ninth day on this noncontroversial, bipartisan bill. This is delay. This is not just finding ways to improve it. It has a purpose. Now, I am not real sure what the purpose is. I presume it is to try to delay the taking up of the constitutional amendment on the balanced budget. That is the only thing I can figure. Maybe it is just to try to score points along the way.

When the President says, ''Let's work together,'' he gets applause on both sides. But he needs to convey to his agents in the Congress that we need a little help. We cannot make progress if we are going to have these amendments that are unrelated, nongermane, that are not going to be accepted. Let us get to the end of this process and pass this legislation.

The ninth day already, and it looks to me like it is going to be all day today and into the night and all day tomorrow and into the night, perhaps Friday, Saturday. But I think we need to get used to it. The leader said we are going to vote this week. The only way we are going to get to a vote is if we begin to dispose of these amendments.

Now, what kind of amendments are we talking about here over the past 9 days? We have had amendments on both sides of the aisle, I admit that, that have dealt with history standards, abortion clinic violence, one on Social Security, I understand one on pornography, now this one on elderly and children.

And, again, as has been said on this floor, I am not diminishing the importance of any of those, but on most of them I ask, why here? Why now? They do not relate to this bill.

This is just making points, Mr. President. And I think it is damaging the image of this institution, and it is certainly, at a very minimum, delaying this bill.

Now, there are those who say, ''Wait a minute. I'm not talking about damaging this bill. Even if it is unrelated or nongermane, or maybe if it is germane, I just want to try to improve it. Could we exempt this little thing? Could we add this or that to the little list of exemptions?''

Well, after a while, if you exempt this, you exempt that, what are you going to have left? If it is going to in any way affect anybody or any group of individuals, then we want to exempt them.

And this bill has exemptions, carefully selected exemptions drafted by the committee, by the Members most intimately involved and knowledgeable in this legislation, that have already been worked out and put in the bill.

In fact, there are at least six categories of exemptions in the bill. In addition to the ones that came to the floor originally in this bill, a couple have been added—age, color. But we have the exemption if it involves enforcing the constitutional rights of individuals; we have an exemption if it establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicap or disability status—and now we have added age and

color. We have an exemption of any provision in the Federal laws that requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the U.S. Government; that provides for emergency assistance or relief at the request of any State, local or tribal government or any official of a State, local or tribal government; that is necessary for the national security or the ratification of or implementation of international treaty obligations; or the President designates as emergency legislation and the Congress so designates in statute.

This has been worked out. It has been carefully crafted in the committee. The exemptions that really need to be in the bill are in here. We cannot keep adding to it and adding to it and adding to it. We can all come up with some category that maybe we would like to say, ''Oh, exempt that.'' I can certainly think of some I would like to have in my State of Mississippi.

But I think the committee has done a good job. I think the managers of the bill have done a good job. They have been willing to accept a couple of additions, a couple of changes.

I think we have to stop that process where we keep adding to it. And remember this: This is a process. It has been said over and over again, but I repeat it again. This is not saying that it must be this way or that way. It sets up a process for Congress to be able to think about what we are doing with these mandates, to know what the impact is, so that we can raise a point of order. What is the cost analysis? Who would be affected? And it allows us to have a process or forces us to consider what the impact is and deal with it. And if it unfairly deals with the frail elderly, there will be a way to deal with that.

You know, when the American people realize that we pass all these bills and all these mandates and that we do not know what the costs are, we do not know what the impact is on individuals and cities and counties and States, they are horrified. They cannot believe it.

But at least now we will have a process to analyze what the impact would be, what the cost would be. We can make a decision that this is in the national interest and we are going to go forward with it. And that decision could include providing the money or not providing the money if that decision is made by the Congress. But it forces us to deal with this issue.

So you do not need to add every possible, conceivable exemption that you can possibly dream up because they are not being cut out. We would still have a process to review it and think about it.

It will help all of the people, including people of all races and colors and age and children, if we pass this legislation. This legislation will begin, hopefully, to get a grip on stopping some of the burdens we have dumped off on individuals, on cities, that leads to tax increases, causes the loss of jobs.

What about the people that want a job that cannot get one because of Federal unfunded mandates? We are going to at least force ourselves to think about those things.

There are a lot of groups and individuals that have written us in favor of this legislation as it was drafted in the committee—business groups, industrial groups, groups of private individuals, governmental associations, the National Federation of Independent Businesses. I have a long list of supporters.

Mr. President, if my time has expired, I yield myself 2 more minutes to wrap this up.

The PRESIDING OFFICER. The Senator from Mississippi yields himself 2 more minutes.

Mr. LOTT. There are groups that are on record as supporting this.

But, also, to again clarify the depth of the support and that there is a lot of Democrat and Republican support for this, I have letters in my hand here. I ask unanimous consent, Mr. President, to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE MAYOR,
*Chicago, IL, January 18, 1995.*

Hon. TOM DASCHLE,
*Minority Leader, U.S. Senate, Hart Office Building, Washington, DC.*

DEAR SENATOR DASCHLE: I am writing to urge your support for the Mandate Relief Legislation (S. 1) currently being debated on the floor of the Senate and I encourage you to work with your Democratic colleagues to oppose any weakening amendments. I am pleased that the new Congress is acting quickly, with bipartisan support, to move this legislation.

My support for effective mandates legislation goes back several years. Along with countless other mayors, governors and county officials, I have long tried to make clear to the Congress and the Administration the adverse impacts unfunded mandates have on our ability to conduct the people's business and be accountable to our taxpayers. Chicago's 1992 study, Putting Federalism to Work for America, one of the first comprehensive studies of this issue, conservatively estimated that mandates cost the City of Chicago over $160 million per year—a figure that has only increased since then.

The legislation being considered in Congress will begin to address this problem by setting up a strong process to discourage the enactment of new mandates, and to require that new mandates be funded if they are to be enforced. I recognize that it does not cover existing mandates, an issue which I believe Congress also needs to address.

Fundamentally, this issue is all about giving local governments the flexibility to make the best use of local and federal dollars. The importance given the mandates issue gives me hope that the new Congress—Democrats and Republicans alike—will be paying close attention to the real issues that face our communities and our citizens. Please work to expeditiously enact a strong, effective version of S. 1.

Sincerely,

RICHARD M. DALEY,
*Mayor.*

NATIONAL LEAGUE OF CITIES,
*Washington, DC, January 11, 1995.*

Hon. DIRK KEMPTHORNE,
*U.S. Senate, Dirksen Building, Washington, DC.*

DEAR SENATOR KEMPTHORNE: On behalf of the elected officials of the nation's cities and towns, I thank you for sponsoring the Unfunded Mandate Reform Act and for working against amendments that threaten the effectiveness and bipartisan spirit of this legislation. Local governments and the taxpayers we serve have borne the federal government's fiscal burden for a long time. We will not have such an important relief opportunity again if this measure is thwarted in the final hour by special interests or partisan politics.

We urge you to oppose amendments that would provide blanket exemptions of certain types of mandates from the points-of-order contained in S. 1. We believe that exemptions for labor mandates and/or environmental mandates (sometimes termed as legislation relating to ''protecting public health and safety'') would undercut the fundamental purposes of S. 1, as well as reduce the capacity and flexibility of the nation's cities to focus our resources to protect public safety. Historically the most onerous unfunded mandates to local governments have fallen into the two categories of environment and labor.

We also strongly oppose amendments that would exempt mandates related to services which both the public and private sectors provide. The argument that S. 1, as it is currently written, gives the public sector a ''competitive advantage'' over competing private sector entities is an unfounded fear, as the private sector entities and the U.S. Chamber of commerce, who support S. 1, would likely confirm. Furthermore, we would note that the ''Motor-Voter'' bill is one of the very few bills we are aware of which imposes mandates upon the public but not the private sector. Therefore, we are apprehensive that any so-called ''competitive advantage'' amendment would largely eviscerate your NLC-supported legislation.

Our strongest objection to such ''competitive disadvantage'' amendments is that they contradict the purpose of S. 1—to provide relief to state and local governments from unfunded mandates. The legislation and its sponsors recognize that the public sector is distinctly different from the private sector, both in the services each provide and how they are affected by unfunded mandates. Local governments have the responsibility to provide services such as clean water, drinking water, public safety and garbage disposal. In contrast, providing these same services are an option for the private sector—which can provide such services, for a profit, to those who can afford to pay. Local governments act, not as a matter of choice or motivated by profits, but as a duty to all citizens. In the case of private entities, the motivation is to gain a profit.

It is one issue to set certain standards so that any private corporation can understand the rules before it chooses to ply a trade. It is a different issue when the federal government requires a local government to provide a service in a one-size-fits-all manner to every citizen. This distinct difference between the two sectors means that the federal government must be sensitive to mandates it imposes on state and local governments.

Thank you for your continued efforts to maintain the integrity and bipartisan spirit of S. 1.

Sincerely,

CAROLYN LONG BANKS,
*President, Councilwoman-at-Large, Atlanta, GA.*

THE UNITED STATES
CONFERENCE OF MAYORS,
*Washington, DC, December 30, 1994.*

Hon. DIRK KEMPTHORNE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR KEMPTHORNE: On behalf of The United States Conference of Mayors, I want to thank you for your continued leadership in our fight against unfunded federal mandates and to express strong support for the new bill, S. 1.

S. 1 is serious and tough mandate reform which will do more than simply stop the flood of trickle-down taxes and irresponsible, ill-defined federal mandates which have come from Washington over the past two decades. S. 1 will begin to restore the partnership which the founders of this nation intended to exist between the federal government, and state and local governments.

S. 1 which was developed in bipartisan cooperation with the state and local organizations, including the Conference of Mayors, is even stronger than what was before the Senate last year in that it requires Congress to either fund a mandate at the time of passage or provide that the mandate cannot be enforced by the federal government if not fully funded. However, the bill is still based upon the carefully crafted package which was agreed to in S. 993 and which garnered 67 Senate cosponsors in the 103rd Congress. The ill would not in any way repeal, weaken or affect any existing statute, be it an existing unfunded mandate or not. This legislation only seeks to address *new* unfunded mandate legislation. In addition, S. 1 would not infringe upon or limit the ability of the Congress or the federal judicial system to enforce any new or existing constitutional protection or civil rights statute.

The mayors are extremely pleased that our legislation, which was blocked from final passage in the 103rd Congress, has been designated as S. 1 by incoming Majority Leader Bob Dole. We also understand and appreciate the significance of the Governmental Affairs and Budget Committees holding a joint hearing on our bill on the second day of the 104th Congress at which our organization will be represented.

I remember the early days in our campaign when many questioned our resolve. How could a freshman Republican Senator from the State of Idaho move the Washington establishment to reform its beloved practice of imposing federal mandates without funding? We responded to these doubters by focusing the national grass-roots resentment of unfunded mandates into a well orchestrated political machine, and by joining with our state and local partners in taking our message to Washington.

The United States Conference of Mayors will continue in its efforts to enact S. 1 until we are successful. We will not let up on the political and public pressure. And we will actively oppose efforts to weaken our bill.

The time to pass our bill is now. Those who would seek to delay action will be held accountable, and those who stand with state and local government will know that they have our support and appreciation.

Thank you again for all of your hard work and commitment, and rest assured that we will continue to stand with you.

Sincerely yours,

VICTOR ASHE,
*Mayor of Knoxville,*
*President.*

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
*Washington, DC, December 30, 1994.*

Hon. DIRK KEMPTHORNE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR KEMPTHORNE: The National Conference of State Legislatures enthusiastically supports S. 1, the Unfunded Mandate Reform Act of 1995. We join you in urging your colleagues to cosponsor this bill and approve this legislation in Committee and on the floor of the Senate. The National Conference of State Legislatures commends your efforts, along with those of Senator Bill Roth, incoming Chairman of the Senate Governmental Affairs Committee, and Senator John Glenn, the outgoing Chairman of the Senate Governmental Affairs Committee, in forging the bipartisan mandate relief bill that is to be presented to the Senate next week as S. 1. We deeply appreciate your leadership in developing legislation that takes significant steps toward correcting the problem of unfunded federal mandates and for your openness to listen to our concerns during the negotiation process.

Your bill is a fitting first step in restoring the balance to our federal system by recognizing that the partnership with state and local governments has been significantly weakened by the growing federal practice of imposing unfunded mandates. No government has the luxury of unlimited resources, and the taxpayers of this country, our shared constituents, recognize that having the federal government pass its obligations down to the state and local governments does nothing to reduce their overall tax burden.

This bill is about information and accountability. The cost estimate, points of order, rules changes and other provisions contained in this legislation are absolutely necessary to get us back on track and have the federal government take responsibility for its actions. To make responsible decisions, members of Congress need to be fully aware of the financial burdens that federal legislation often places on state and local governments, and to understand the implications of those burdens.

As has been said often over the past year, the level of cooperation among state and local governments and members of the United States Senate during the negotiation process is unprecedented. Again, we appreciate your efforts, and those of the other Senators who helped forge this compromise, and wholeheartedly support passage of S. 1, the Unfunded Mandate Reform Act of 1995.

Sincerely,

JANE L. CAMPBELL,
*President, NCSL, Assistant House*
*Minority Leader, Ohio.*

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NATIONAL LEAGUE OF CITIES,
*Washington, DC, December 30, 1994.*

Hon. DIRK KEMPTHORNE,
*U.S. Senate, Dirksen Building, Washington, DC.*

DEAR SENATOR KEMPTHORNE: I am writing on behalf of the elected officials of the nation's cities and towns to commend you for sponsoring the Unfunded Mandate Reform Act of 1995. Of all the measures introduced to date, this legislation is undoubtedly the strongest, best crafted, and most comprehensive approach to provide relief for state and local governments from the burden of unfunded federal mandates.

The National League of Cities commits its strongest support for the Unfunded Mandate Reform Act. We will fight any attempts to weaken the bill with the full force of the 150,000 local elected officials we represent. Local governments and the taxpayers we serve have borne the federal government's fiscal burden for too long. We will not have such an important relief measure thwarted in the final hour by special interests.

We commend you for continuing to foster the bipartisan support which your original mandate relief bill so successfully garnered in the last Congress. We will work hard to gain bipartisan support for mandates relief in the 104th Congress, because, as you are well aware, this bill will benefit all states, all counties, all municipalities, and all taxpayers, regardless of their political allegiance.

Again, please accept our sincere gratitude for your efforts.

Sincerely,

CAROLYN LONG BANKS,
*President, Councilwoman-at-*
*Large, Atlanta, GA.*

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NATIONAL SCHOOL BOARDS ASSOCIATION,
*Alexandria, VA, December 30, 1994.*

Hon. DIRK KEMPTHORNE,
*Dirksen Senate Office Building, U.S. Senate,*
*Washington, DC.*

DEAR SENATOR KEMPTHORNE: The National School Boards Association (NSBA), on behalf of the more than 95,000 locally elected school board members nationwide, would like to offer its strong support for the ''Unfunded Mandate Reform Act of 1995'' (S. 1). This legislation would establish a general rule that Congress shall not impose federal mandates without adequate funding. This legislation would stop the flow of requirements on school districts which must spend billions of local tax dollars every year to comply with unfunded federal mandates. We commend you and your unending leadership on this critical issue.

Today, school children throughout the country are facing the prospect of reduced classroom instruction because the federal government requires, but does not fund, services or programs that local school boards are directed to implement. School boards are not opposed to the goals of many of these mandates, but we believe that Congress should be responsible for funding the programs it imposes on school districts. Our nation's public school children must not be made to pay the price for unfunded federal mandates.

S. 1 would prohibit a law from being implemented without necessary federal government funding. S. 1 would allow school districts to execute the future programs which are required by the federal government without placing an unfair financial burden on the schools.

Again, we applaud your leadership in negotiating and sponsoring this bill which would allow schools to provide a quality education to their students. We offer any assistance you need as you quickly move this bill to the Senate floor.

If you have questions regarding this issue, please contact Laurie A. Westley, Chief Legislative Counsel at (703) 838–6703.

Yours very truly,

BOYD W. BOEHLJE,
*President.*
THOMAS A. SHANNON,
*Executive Director.*

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NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, December 29, 1994.*

Hon. DIRK KEMPTHORNE,
*U.S. Senate, Dirksen Senate Office Building,*
*Washington, DC.*

DEAR SENATOR KEMPTHORNE: On behalf of the National Association of Counties, I am writing to express our strong support for S. 1, the Unfunded Mandate Reform Act of 1995. We sincerely appreciate the leadership you have provided in crafting this new, strong bipartisan bill to relieve state and local governments from the growing burdens of unfunded federal mandates. Our NACo staff has

reviewed the latest draft and they are convinced it is much stronger than S. 993, the bill approved in committee last summer.

While this legislation retained many of the basic principles from the previous bill, there were many improvements. Most significant among them is the provision that requires any new mandate to be funded by new entitlement spending or new taxes or new appropriations. If not, the mandate will not take effect unless the majority of members in both houses vote to impose the cost on state and local governments. Although the new bill will not prevent Congress from imposing the cost of new mandates on state and local taxpayers by holding members accountable we believe it will discourage and curtail the number of mandates imposed on them.

Again, thank you for your leadership on this important legislation. County officials across our great nation stand ready to assist you in anyway we can to ensure the swift passage to S. 1. If you have any questions, please contact Larry Naake or Larry Jones of the NACo staff.

Sincerely,

RANDALL FRANKE,
*Commissioner, Marion County, OR,*
*NACo President.*

Mr. LOTT. I have a letter from Mayor Richard Daley of Chicago; another one from the National League of Cities. They support the legislation. But there are some key words in here. They support the legislation without weakening amendments. And that is what this is. It is a weakening amendment.

I will just read the first sentence in the letter from Mayor Daley.

I am writing to urge your support for the Mandate Relief Legislation (S. 1) currently being debated on the floor of the Senate and I encourage you to work with your Democratic colleagues to oppose any weakening amendments.

That letter was to the minority leader, TOM DASCHLE.

In a letter to the manager of the bill, the Senator from Idaho, Senator KEMPTHORNE, from Carolyn Long Banks, president, and councilwoman-at-large, Atlanta, GA, on behalf of the National League of Cities, the first sentence of the second paragraph:

We urge you to oppose amendments that would provide blanket exemptions of certain types of mandates from the points-of-order contained in S. 1.

Right on point with this amendment—''oppose amendments that would provide blanket exemptions of certain types of mandates.''

And this is from a city officeholder in Atlanta on behalf of the National League of Cities, not your basic, you know, Republican organization. Mr. President, I really think that we should defeat this amendment, all other similar amendments. Let Senators bring this thing to closure. Let Senators pass this bill tomorrow night and celebrate, having done the right thing for all Americans with this unfunded mandates legislation.

I reserve the time.

Mrs. BOXER. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from California has 74 minutes and 30 seconds.

Mrs. BOXER. Thank you, Mr. President. I will speak for about 1 minute in response to the Senator from Mississippi, and I plan to yield 10 to 20 minutes to the Senator from Connecticut, whatever time he might wish to consume.

Mr. President, I want to say to my friend from Mississippi, and he is my friend, that I am rather distressed at his comments. But I am not surprised. It is the intent of the Republicans to make it look as if the amendments we are offering are so-called frivolous amendments. They are not important amendments. They are only meant to slow things up.

I understand he has a Contract With America that he likes. Hey, I like some of the things in the contract. I will help him when I agree with him. But I will not be railroaded so that he can make his 100-day deadline, when the people of California sent me here to protect the children, protect the frail elderly, to make sure that I stand up and fight for my State to get reimbursement for illegal immigration, the biggest unfunded mandate of them all that is not even addressed in this bill.

I liked the bill as it came out last year. As a matter of fact, it did exactly what the Senator from Mississippi, the distinguished whip, says this bill does. Today he said, ''We want a process to look at the burden we are putting on the other levels of government.'' I agree. That is exactly what the bill did last year. It stopped right there. CBO came in with the estimate. If we did not have an estimate there was a point of order against the bill. This whole green area here was added this year. It is a bureaucratic nightmare.

I believe we should think very carefully before we pass a law that will impact local and State government. I served on local government. I come out of local government. I had some mandates that were ludicrous that came down from the Reagan administration. Ludicrous. But I do not want to go too far because we can take a good bill with a good concept, which is what this bill is, and we can destroy it if the real agenda is to stop this U.S. Senate from acting in behalf of the people.

I am very clear in my mind that the people sent Senators here to do something. They did not send us here to walk away from our responsibility. Now, every day I hear of letters from mayors of cities, small cities and big cities, and members of boards of supervisors, and that is great. But I do not represent mayors and Governors and city councils and boards of supervisors. I like them a lot. I have a responsibility to the people that elected me. There were, as I remember, 6 million of them. And the others who voted for my opponent, they want me to work, too.

I find it interesting, because the majority leader last week said, ''What is wrong with the Democrats? You do not want to work. We are ready to work.'' First he says we do not want to work in January; then he criticizes us for having 100 amendments. It is work to put together an amendment that we believe in and fight for it as I am doing and others are doing. It is not fun and games, especially since the Republicans are voting lockstep against us on every single amendment.

I urge the American people to look at that. On the Congressional Accountability Act, they even voted in lockstep—lockstep—to allow lobbyists to continue to take them out to dinner and pay for their weekends. They voted in lockstep against the Lautenberg amendment that said if there is an across-the-board cut, we should take a cut in pay. They voted against that. They are voting in lockstep. There is a contract, and I am not here to help them get a contract through which, in part, I think will hurt Americans.

I think this bill is a good one, but we have to make it better. I am very glad to see that the managers of the bill support Senator LEVIN's amendment, which will allow an individual Senator to get an idea of what his or her amendment will cost so that they can participate in what is now becoming a nightmarish scenario of how to get a bill into law.

When I was a kid I read how a bill becomes a law. It was complicated enough then. Wait until the kids have to learn about this. They will wonder what are we up to. So, I could say to the mayors who are listening and the city councils, I do not intend to vote on anything that will lay an unfair burden on you. But I say to the mayor of Milwaukee, and I don't know if anyone has heard from him, but when cryptosporidium killed 100 people in his city and caused 400,000 serious illnesses because a parasite got into the water, he would have been glad if we had passed a law here that told them they had to get rid of cryptosporidium which killed his constituents.

So, I will yield time to the Senator. I will reserve my time to continue to debate this very important amendment. I am proud that the EPA, the person in charge of the environment in this great Nation has sent a letter to every Senator, asking for this amendment. I am very proud that the Senator from Connecticut is here now. He will talk not only about this amendment on protecting the frail elderly, children under 5, and pregnant women from this bureaucratic maze, but also on my amendment on child pornography that he supports. I yield to him at this time, 15 minutes.

Mr. DODD. Thank you, Mr. President. Let me thank my colleague from California. I may not need all 10 minutes, and I will reserve the balance of time if I do not use it.

Let me first of all commend the Senator from California for offering the amendment that is before the Senate, and, as I understand it, a second amendment which she will offer later this afternoon involving vulnerable constituencies.

The first amendment, the one which is before the Senate now, would provide protection for the health of children under 5, pregnant women, or the frail elderly. They would not be subjected to the procedural hurdles imposed by S. 1. The second amendment, which the distinguished Senator from California will be offering, would exempt laws that protect our children from pornography, sexual assault, and exploitive labor practices. And I think both are very sound and responsible amendments.

Let me just echo the comments of my colleague from California. First of all, I am a supporter of this bill, the unfunded mandates bill. I was a supporter of the bill that we could have passed last September, had it not been stopped through the gridlock and filibusters that took place here.

I do not know if there is much debate, there may be some who are opposed to the idea of amending the present situation which allows unfunded mandates to foist incredible burdens on our State and local governments. As the Presiding Officer knows, and others, a year ago I offered an amendment on this floor with the support, I might point out, of my distinguished colleague from Mississippi, on the Budget Committee and again on the floor.

We tried to do something about the cause of special education, which today the Federal Government contributes about 7 percent of the cost of educating a child with special needs, despite we made a commitment some 20 years ago that we would make up to 30 or 40 percent of the cost. I tried a year ago to get this body to support an amendment that would have raised our commitment to the costs of special education to 30 percent. That failed at the time. But that was again an unfunded mandate, in a sense, by saying special needs children must be educated. We said that should be the case, and yet we are not willing to back up that mandate with the kind of resources to support the States deferring those costs. That is one example.

Here we are talking about a generic law dealing with a lot of issues. I do not take a back seat to anybody in my support for the concept of trying to be more of a partner in meeting the desirable goals of our Nation. That, I do not think, is in debate. The question is, are there certain areas that we ought to exempt from those procedures?

Now, when we are sitting here debating a situation where there are absolutely no exemptions. We were taking the position, or there was a position of the majority here, that there should be no exemptions. Discrimination laws, national security issues, we are going to subject every mandate to the same standard and test. Then I think the argument that we should not be accepting or supporting the Boxer amendment would have value because we are applying the same standard to every single constituency and every single issue that comes before this body where a mandate is involved.

Mr. President, that is not the case. We have already decided to exempt some areas. And I agree with them, by the way. I am not disagreeing with the exemptions that have been made. We said, for instance, on the basis of sex or race or national origin, that you cannot require a procedural process dealing with the funding or the mandates in those areas.

We have already taken categories of people based on their gender, their national origin, and their race, and we have said, ''If there is a mandate here to the States that involves those issues, then you are exempt from the procedures.'' I think that is wise. I think that is right.

We have also done that in the area of national security and international agreements, again I think for good cause. We said, ''Look, this is a very sound idea. Unfunded mandates, we ought to be funding them, helping our States or not requiring them. But there are areas in which we think that these procedures should not apply for certain constituencies. Certain people, certain circumstances ought to be exempt from that process.''

What the Senator from California has said is we agree. We also think there are some other people here, in addition to the ones mentioned, that we think also fall into that category, and circumstances that fall into that category. Not every State has laws which prohibit the mailing or communication of pornography. I know which States they are. I will not bother listing them here today, but there are States that have no laws in this area whatsoever.

So if we do not fund these things, it is conceivable through the computer practices today—and all of us have read the stories about Internet, and so forth, how you can cross State lines very quickly. The days of just only affecting your neighborhood in these areas is long since behind us. In fact, there are some horrid stories involving the use of computers, on-line computers, Internet, and what happens to young children who get caught up in this.

What the Senator from California is saying, when it comes to pornography and to child abuse and neglect, is that we ought to also carve out an exception, as we have carved it out for the others. Now that we are no longer being pure on the issue, we are carving out exemptions, this is one we think also ought to be carved out.

In addition to the question of children under 5 and frail elderly, I do not think any of us want to be in the position of having some huge procedural hurdles put in front of us despite our commitment to dealing with the unfunded mandates issue. This idea that we have to be so pure when it comes to the process, the process becomes more important, far more important than the constituencies we are trying to serve.

I think we have to get some balance here. Try to have an intelligent, thoughtful process, but let us not lose sight of what happens. The process becomes, in a sense, the Holy Grail, rather than the people who are supposed to be served by the process. I think we lose sight of that. It is possible to have a sense of equilibrium here, where you move forward in the process, you try to make it work better, far more efficiently, far more effectively. But when you turn to certain constituencies, as we have done in this bill—we have said on the basis of race, gender, or national origin, you are different; we are not going to apply the process to you because we honestly believe we should not be turning the clock back in certain of these areas.

What the Senator from California is saying, when it comes to the frail elderly and children under 5, and pregnant women, that we ought to, as well, say ''Look, this is not a matter, folks, that we can argue about how much we want to do,'' and so forth, but in these areas, it would be a major setback to become so distracted, so embracing of the process, that we are willing to walk away from constituencies in these particular cases.

I would certainly not stand up here and support constituency group after constituency group after constituency group that seek to avoid the process. This has been carefully crafted by the Senator from California—carefully crafted. She talks about a series of constituencies and circumstances in which some of those vulnerable citizens in our society could be affected.

Protecting children from pornography, that is a very important issue. This body has debated and discussed this issue over the years, and we have taken strong positions on the issue. I do not know of anyone here who wants to be on the side of coming out and saying, ''I'm sorry, but the process of unfunded mandates is more important than what happens to a child through the use of pornography through the mails and computers.''

We have to make a choice here: Is the process more important than the issue? I suspect if the American public had an opportunity to vote on that issue, they would say, ''Do not make the mistake of becoming so wedded to your process around here that you have neglected or failed to deal properly and forcefully with the issue of child pornography.''

The same could be said with sexual assault and exploitative labor practices included in this piece of legislation. Children under 5, pregnant women, frail elderly—those are the constituents. If we cannot find a way to have an intelligent bill on unfunded mandates—and I am confident we will—as well as intelligently carving out certain areas of constituencies that need our national protection, then I think we have lost sight of what our role is here to be a body that does try to be far more efficient and effective, make Government smaller, make it work

better. All of us, I think, are wedded and determined to do that and also, as I said a moment ago, to maintain that sense of equilibrium, which is critically important, in my view.

Mr. President, I will just mention here, because someone may say, ''How bad is this problem in certain areas,'' let me just point out—I know the Presiding Officer knows these numbers, as the chairman of the Subcommittee on Children and Families, on which I have the pleasure of serving with him—but reports of child abuse and neglect have risen 40 percent between 1985 and 1991. Too many cases of child neglect and abuse are reported annually now. One in three victims of physical abuse is a baby less than 1 year of age, and almost 90 percent of the children who died of abuse and neglect in 1990 were under the age of 5.

Unfortunately, these numbers seem to be getting worse. I do not know if anybody has simple answers to it, but I think as we try to deal with these questions, we ought to try to get to the heart of it as quickly as we can and not set up, as I say, an arbitrary set of hurdles here in our desire to intelligently do something about a process that needs reforming.

So, again, I emphasize, Mr. President, the fact that we have already carved out constituencies because we feel and have felt that they were important and essential and should not be subject to the whim of a simple majority here, a 51–49 vote that could roll back our support in these areas.

I suggest in the areas the Senator from California has outlined, we should do likewise. This will not do great violence to the underlying bill on unfunded mandates. Quite the contrary. I think it says that this is a body that has dealt with an issue that needed dealing with and dealt with it effectively, and had a sense of balance and equilibrium about the constituencies out there that deserve to be singled out because of their vulnerabilities. I think we ought to be able to do both.

If we do, I think we strengthen the legislation and build a stronger base of support, because we have shown a heightened degree of sensitivity about these people, these children, particularly, because most of the categories we are talking about are the youngest children, the ones who have little or no protection at all but look to us and look to others to make sure that at least there are laws on the books which allow those who are responsible for enforcing them to have some tools in their hands and not watch some endless debate down here that gets caught up in filibusters as to whether or not we are willing to come up with the money in these areas and watch the issue die.

I urge the adoption of these amendments. I hope we will get away from this notion that any suggestion—any suggestion—to try to improve this bill is rejected because of some drag-race mentality. We are not involved in the business of a goldfish-swallowing contest around here, to see how many we can put down our throats in what period of time. This is the Senate of the United States in the business of trying to legislate. I think these are good ideas.

Under normal circumstances, were we not sitting around here trying to meet some date that has been set out in front of us, I think these amendments would be debated, modified a bit, and I think they would be accepted. In the normal course of amending a bill, these amendments would be accepted.

But because there might be a conference with the House working out some of the differences, it might delay the calendar on adopting this legislation, no one can support it on the other side. I think that is a huge mistake. I do not think we are being well served by that mentality.

As I say, this is not a drag race to see who can beat the clock. We are dealing with a very important bill, a good bill—I will say, a good bill, a good bill—that will change the process in this country and provide assistance to States and localities. It is a good bill. I think it can be made a better bill, and that is our business through the amendment process.

Let us get rid of this calendar/clock idea. Let us get our business done quickly, but let us also engage in the kind of discourse that the Senate requires when good ideas are raised; Members can support or object. But to go through a process, no matter how good your idea is, no matter how many people may agree with you, we say, ''Sorry, we cannot accept it because, you see, it is far more important we have a clean bill without a conference to get it done than it is what we write and what we ask the American people to support.''

So, again, I commend the Senator from California. These are good amendments. I think I can predict what is going to happen. They are going to be defeated mindlessly because it does not fit the drag race to get the bill done.

My view and hope would be that some might begin to at least say look, I think these are pretty good ideas. I think the House might accept them.

Let us not get bogged down in rejecting every idea that comes along here merely because it is going to upset the 100-day calendar, whatever else it is we are dealing with.

That is not what the American people are interested in. They could care less about the politics of what kind of timeframe you are going to build on. They want us to do a good job here—not a fast job, a slow job but a good job. I think we have a wonderful opportunity to do a good job. It can be a better job with the adoption of these amendments.

Mr. President, I reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Connecticut yields back his remaining time.

The Chair advises the Senator from California the time under her control is 53 minutes and 30 seconds.

Mrs. BOXER. I thank you very much, Mr. President.

Is there a desire on the other side to take some time?

Mr. LOTT. Mr. President, I inquire of the time remaining on this side.

The PRESIDING OFFICER. The Chair advises the Senator from Mississippi there are 17 minutes remaining.

Mr. LOTT. Since there are 50 minutes on the other side and only 17 on this side, I will reserve the remainder of our time at this time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before the Senator from Connecticut leaves the floor, I want to thank him for taking time to speak. It is very difficult for Senators to come and talk on another Senator's amendment. That is why I am so pleased I have a number who will be doing that.

I could not be more pleased than to have the Senator who has really stood for protecting the children of this country to be here on these amendments. I think it is clear that he has been the leader in this regard. I think he makes the points very clearly. We are setting up hurdles in this bill, many more hurdles than in last year's bill. Some of us may still decide it is a bill worth voting for, but we do have a chance to make it easier.

I say to my friend, under last year's bill, the hurdles stopped about at this point, because at that time we just said CBO had to let us know how much our amendments or bills would cost State and local governments. And then we would make intelligent decisions because hopefully we have the ability to do that.

What has happened in this year's bill, S. 1, which some say goes too far, is that we added all this part here which deals with giving power to the Parliamentarian to decide whether or not the amendment or bill as it comes to us is fully funded, and there are points of order and all kinds of confusion.

I might say to my friend, after we even get a bill down here to the floor, every amendment has to start all over again with this procedure. That is why the exceptions clause is so critical to us. It is not as important as it was under last year's bill, but because of these hurdles, we have to be careful that we do not tie our hands behind our back, blindfold ourselves, and put earplugs in so we can really do nothing.

I am very fearful, if we do not get these amendments through, then the children of our country, who do not put on pinstriped suits or come up here and treat Senators to dinners and breakfasts, will not be heard.

So I thank the Senator for adding his important voice to this amendment. I repeat that Carol Browner of the EPA supports us on this, of which I am very, very proud.

At this time, I would like to yield 7 minutes to my colleague from Minnesota, Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair, and I thank the Senator from California. I am pleased to be an original cosponsor of this amendment.

Mr. President, to me, the operative language in the amendment says that any bill which ''provides for protection of the health of children under 5, pregnant women, or frail elderly would not be subject to S. 1's point of order and other requirements.''

I had a meeting back in Minnesota before the beginning of this session. It was really a very powerful meeting. It was with a large number of people from the disabilities community in Minnesota—Justin Dark came out—and people were really both terrified and I think indignant about what this unfunded mandates bill would mean to them.

I think it was very, very important it be made clear that there would be an exemption as it applied to the Americans With Disabilities Act.

I really view this amendment in the same framework, and I would say to my colleague from California and the Senator from Washington, with whom I have worked closely as well, that actually, as I have had discussions with people in my office about this piece of legislation, some have been surprised at really what is, by and large, with my strong support, the premise of this bill, but my view is that we should be accountable.

I think that when we vote legislation and we are requiring State or local governments to follow through and implement certain policy and there is an expense, and we might decide that we cover the expense or we might decide that it is appropriate for State or county or city government to also be providing some of the funding, we should go on record.

In many ways, that is what we do now. Someone can challenge a particular through an amendment and call for 51 votes right now. I like the idea of our being accountable, and in that sense I think the premise of this piece of legislation is extremely important. I have said that to Senator KEMPTHORNE. But I also worry about what Senator BOXER has so ably pointed out on the chart.

What I worry about is that we get into a kind of morass where there is the complexity and the multiple veto points which end up leading to a process where we literally cannot move forward with important legislation where there are needs that cry out to us. I would say that those needs cry out from children and from frail elderly and from women expecting children.

I know one of the most poignant gatherings I have been involved with here in Washington was when a group of citizens, to make a connection to the environment, came from around the country. They were mainly poor and they came to talk about environmental justice. Their point was that all too often the environmental degradation has a disparate impact on their communities. And they are right.

So when it comes to situations where women really cannot eat fish out of lakes or rivers close to where they live, nor can their small children, or when you go into a classroom—this happened to me in Minneapolis—and meet with students—I think there is no alternative to meeting with elementary school kids; it is wonderful how eager they are. It is sort of like the world all of a sudden of magic is before you. But to leave this meeting and then have a teacher say to you afterwards: You know, Senator, these kids are wonderful, but I really worry about the lead they have in their bloodstream—environmental degradation, whether it be in the paint or whether it be in the soil—there are needs that cry out in this country.

I cannot think of an amendment that does more to really strengthen this piece of legislation because by passing this amendment I think what we say in one stroke of public policy is we are committed to being accountable; we are committed to making sure that we do not impose legislation on State and local governments without making an effort to either provide the funding or be clear that they should provide the funding, but we go on record, we are explicit about what we do, but at the same time in the framework of the Americans With Disabilities Act, we understand that there are some compelling needs in this country, there are important populations that, unfortunately, are not so important here, not as important as they should be, that really do need support and protection.

We do not want to see some legislative process we have designed that has become so convoluted, so complex, so full of opportunities for people to block to prevent us from moving forward where we really need to take action.

I think that is what this amendment does. I think it strengthens the bill, and I am very pleased to support it.

I yield the remainder of my time. I thank the Senator from California for her leadership.

Mrs. BOXER. Mr. President, I thank the good Senator for coming over and joining in this debate. Again, it is an honor for me to have so many of my colleagues make the time. He has consistently worked since this bill began to try to strengthen the ability of this Senate to respond to the needs of populations that simply cannot get on a plane, come over here, take us to dinner, and plead their case eloquently. And many times these populations are in fact little kids, pregnant women, and the frail elderly.

What we are saying in this amendment is very clear. This bill has turned into somewhat of a bureaucratic nightmare. Maybe it is worth it all, to make the Governors happy. But we better stand up and look out for regular people. Is that not why we are here?

At this time I am going to yield to the Senator from Washington who I think, more than anyone in this place, stands up in the most direct way to protect those people, average Americans. I yield 7 minutes to my friend from Washington, Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from California, Senator BOXER, for bringing this very important piece of legislation, this amendment, in front of us today, because I think it points out who some of the critical citizens we are representing in this debate are and what attention we need to bring to them. Certainly I, like all of my colleagues, have received letters from mayors and city councilmen and women who are saying you have to pass this unfunded mandates bill.

As a former State Senator I certainly was the recipient of mandates from the Federal Government, and I said, ''Who are they to pass this along to me?'' However, I think in the process we have forgotten the people whom we are here to represent. My constituents in the State of Washington sent me back here to represent their interests at the Federal level. Certainly some of the most important people I represent are the people who are spoken to in this amendment: Children, pregnant women, and the elderly. I look at this bill very critically. How will that affect those, the most frail in our society, people who do not have much of a voice here in the U.S. Senate?

There certainly are no children here, no pregnant women, and very few elderly. I think it is important we speak out for them and I thank the Senator from California for bringing this to our attention.

As we look at this bill in front of us, I look at the charts of the Senator from California that say what we will have to go through in order to pass a bill or amendment in the future, once the unfunded mandates bill comes before us. I have to say, as a mother I have a great concern about what this may do in case of a national crisis in the future. I want to point out an example of an issue I think might be severely impacted by this legislation as it is now in front of us without Senator BOXER's amendment.

Last year in my State there was an outbreak of E. coli. E. coli is a bacteria that is in meat, and if the meat is not cooked properly it can cause severe illness and in some cases death. In my State of Washington, some children had hamburgers from a restaurant where the meat was not cooked sufficiently. Several children died, many were ill, several of them still ill, and

the outbreak of that has very much affected me as a mother thinking about buying meat and purchasing things.

We responded very quickly, putting out new regulations about how long meat should be cooked. Certainly public awareness has become greater on the issue. But I say to all my colleagues, and to people listening, that E. coli is an emerging bacteria. It was not here several decades ago. It is now something we are seeing more and more of, and there may be a time in this country where it is not just isolated to my region. Where we see more of it, we will need to respond quickly and directly with national legislation to ensure that we deal with this crisis.

I look back at the charts of my colleague from California that show us the legislative process we have to go through and I ask what would happen if we had to bring an amendment forward to deal with an issue like E. coli. What strikes me very much is it will no longer be our decision about whether or not this is a critical issue to the country and one we will be able to fight for. It will end up at CBO, and CBO will decide whether or not, if they have the manpower or the womanpower to decide how much this is going to cost, how long it will take them to put together the impacts, if they can, of the passage of the legislation. We will have some nonelected bureaucrat sitting in a back room, looking at a stack of paper on his or her desk deciding whether or not they have the time to decide the impacts of my E. coli amendment that is before the U.S. Senate.

I have a serious concern with that. I was elected by the people in my State to come back here and to bring to the attention of this Government important issues that we have to address. To know that I would be stymied by somebody who is not elected, who is a CBO bureaucrat in the maze of the Senator from California back there—that I could not react quickly really concerns me. It especially concerns me when the issue affects children or pregnant women or the elderly.

I think the amendment of the Senator from California is very important for several reasons. It points out very specifically how this can have a dramatic impact on some of our populations, some of our amendments—the process. Kids are small. Their tolerance level is very low. They cannot take a lot. We cannot wait for a bureaucrat to decide whether or not this is an important issue. Maybe they are not a mom and they do not have the kind of feeling I have about it. We need to be able, as elected officials—the people we have—to be able to move legislation quickly.

I commend again the Senator from California for bringing this very important amendment before us that will simply say when the issue affects children, pregnant women and elderly, that we can move it through this body quickly and effectively. I believe, as the Senator from Connecticut said, this strengthens the bill. This touches the concern I have, and says we can act as who we were elected be, to be legislators, to make legislation. We can do it responsibly. And it is an important amendment for this body to consider and to move forward.

I again thank my colleague, the Senator from California, for bringing this amendment before us and I yield back my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. We do not have much time remaining on our side but I will just try to give a little balance to the debate. I would like to take 4 minutes of our time to make a couple points.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 4 minutes.

Mr. LOTT. Mr. President, after the last three statements we have heard I want to emphasize this point. This bill hurts no one. This is a positive bill. The results of this bill will be to help people, all people, including—and I believe especially—the elderly who now have to bear the burden of so many of the Federal regulations through additional taxes and in many cases property taxes. This is a way to begin to help the American people by getting the onerous mandates of the Federal Government and all the problems it creates and all the taxes off the backs of people.

We should not be trying to anticipate, in this legislation, S. 1, any and all of the types of circumstances that would justify a waiver in future legislation. This legislation fully anticipates that such circumstances will exist, probably, and allows the full Senate to judge those cases on a case-by-case basis.

Several amendments have been offered. I guess others will be offered that would remove additional categories from coverage by the bill. I have a lot of questions about this.

How do you define frail elderly as distinguished from sick elderly or just elderly? My mother, heaven help her, is 82 years old. She has a bum knee. She does not get around too well. The bill already has an exemption for age. Would that not take care of this problem?

There is this other little exemption in the bill that I read earlier. If there is a real problem the President of the United States can designate this is an emergency and can take care of the problem also.

There is no end to the list of groups or categories of individuals or circumstances we might conjure up that might come forward. The bill will take care of that. There are at least three problems with adding all these exemptions.

First, it is a slippery slope and there is no limit to the interests that arguably ought to be protected through an exclusion.

Second, creating entire categories of blanket exclusions invites real problems of interpretation. Would a mandate that deals with infants and pregnant women, but also includes many nonexcluded circumstances or categories, be exempt from the requirements of S. 1? That is a question we really would have to think about.

Third, the more categories that are excluded, the more loopholes in the bill that will invite creative construction of mandates, in order to avoid the intent of the law.

The real answer to these pleas for additional exclusions lies in the waiver provision. Remember, S. 1 does not decide which mandates will be funded by the Federal Government and which ones not. Instead it establishes a process. Is it a magical process? Are we wedded to that? Can we make changes? Yes, we can. But this is not a mandate. This is a process by which we can virtually look at all Federal mandates. They will be judged on their individual merits as to whether or not the Federal Government ought to fund them or not.

S. 1 fully anticipates the concerns of Senators like the distinguished Senator from California, Senator BOXER, by allowing the Senate to make a case-by-case judgment on which mandates are so compelling that they ought to be imposed even without Federal funding.

A big advantage of such case-by-case determinations is that it allows Congress to prevent creative uses of exemptions from turning into unintended loopholes. It also allows us to still require that the cost of a mandate be scored by CBO, under the provisions of S. 1, while then having the option of waiving the requirement that the Federal Government fully fund it. Remember, exclusions from this act are exempt from both requirements. That is the way they should be considered.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. FRIST). All time which has been yielded has expired.

The Chair reminds the Senator from Mississippi that he has 13 minutes 43 seconds left under his time, and the Senator from California has 38 minutes 2 seconds.

Who yields time?

Mrs. BOXER. Thank you very much, Mr. President.

Mr. President, I thank my colleague from Mississippi. I want to respond to some of his points.

The Senator says, ''What do you mean by frail elderly? It is confusing to me.'' Let me tell you why we decided to go with frail elderly. We wanted to make this a narrow exception. We did not want to make this an exception that will hurt this bill. We said children under 5, because those are the ages recognized by the World Health Organization as the years when children are particularly vulnerable to environmental pollution. We did not want to say ''elderly.'' That would mean everyone over 65 or 62 or 70, because I

have many friends of that age group who are in better shape than some of us who are younger. We are trying to make an exception for the most vulnerable in our society.

It is really extraordinary to me that my good colleague would send out one of the members of the leadership to fight this amendment. I am very flattered that the majority whip himself is here with all of his experience in debate. But I think it speaks to the fact that this is an important amendment.

I hope that my Republican friends will not march lockstep to some 100-day plan to pass a contract and say we have to vote against every amendment because if this bill is different than the House bill we will have to go to conference, and, God forbid, it will slow it down and take time.

I hope the American people are listening to this debate. I hope they get involved in it because we are going to vote on this issue pretty soon. I think anyone who has followed this debate, who has seen how bureaucratic this law is, will well understand why we need to exempt some of our priorities from the maze it creates. If children are not our priority, where are we as a nation? Every Senator from every party, Republican, Democrat, independent, I do not know of one who has not made a great speech and gotten great applause for our wanting to protect our children or our future. Well, let us show that we mean what we say.

We are setting up a new procedure that is very confusing. I daresay I listened to this debate. The two managers could not agree on some of the provisions. There is no explanation of one of the key points in the bill, the term ''direct savings.'' There is no definition. The Senator from Mississippi says, well, the Senator from California does not define what frail elderly means. In this bill there is no definition of direct savings. If we pass an environmental law and kids do not get poisoned from lead and they can concentrate in school and they can get into high school and college and earn a living, was it worth it that we said to the States get the lead out of the water? You bet.

I ask you, my friends, my Republican friends who voted in lockstep against every one of these amendments, to ask the people in Milwaukee if they would have wished we would have acted to take the cryptosporidium out of the water, or my friend from Washington, my good friend, who said she had to deal with the effects of E. coli in the meat supply.

This bill sets up a bureaucracy. Make no mistake about it, it is here. No one disputes it because this is it. This picture, I say to my friends, does not even show the whole nightmare that it is because this is just what the Senate does to get the bill. Every amendment goes right around and through all of these steps again at every single conference report that may come to us. It goes right through it again. You can hear the arguments on this amendment. They have accused us of slowing things up. I have news for them. They are on a 100-day course. My people did not send me here to march in tune to a contract that some politician wrote. They sent me here to fight for the people of California, to stand up for what I believe in, and especially for those without a voice because kids do not come here in pin-striped suits and treat us to dinner. They expect, and they should expect, of their elders that we will look out for them.

I have made this amendment very narrow. I have made this amendment so narrow that the exception is the frail elderly, children under 5, and pregnant women, because I do not believe it is right, I do not believe the American people want us to tie that kind of legislation into knots and later on be offering an amendment that says if it is a law that deals with child pornography, child sexual abuse, child labor law infraction, that we do not subject those kinds of laws to this bureaucratic nightmare.

If that is what this contract is all about, fine. I have to say that my friend from Mississippi, and he is my friend, says this bill hurts no one, that this helps all people. Let me tell you something. I will be unequivocal about this. I used to be in local government. I did not like it when the Reagan administration told me what to do, and they did it time after time. So I want to support a bill that takes the mandates off our backs. I supported the original bill. This one goes too far. It sets up a maze. I am here to tell you. What good is it for the people of California to send me here and I cannot even offer an amendment to save the children—to save the children from chemicals that go into the water, from bacteria that goes into the food, from dirty air?

Do you know that the children in Los Angeles today have a 15 percent lower lung capacity than children born in clean air areas? The San Francisco Chronicle, which in the past has supported many Republicans, says as follows about this bill:

Clearly none of the major environmental protections passed over the past 25 years could have withstood this bill.

So let us be careful. Let us vote for the Boxer amendment, supported by the head of the Environmental Protection Agency, and in a new poll the vast majority of people believe we should have an Environmental Protection Agency. And Carol Browner has sent to every Senator a letter today saying vote for this amendment. This is smart. She says:

Your amendment, Senator BOXER, will ensure that Congress is free to act to protect the health of our children, pregnant women, and the elderly, and it has my full support.

This bill sets up a process. This is not about helping anybody. It is about a process. It is not about helping anybody. I hope that we will add an exception. That is an exception for the frail elderly, the children, and the pregnant women. I ask my friend from New Jersey if he is prepared at this time to make a few remarks on this amendment, or would he rather the Senator from Texas take her time now? I have the right to the floor, and I am glad to yield if he wishes.

Mr. LAUTENBERG. I thank the Senator from California. I hope the Senator from Texas will excuse my taking advantage of the time offered now. I will not be long.

Mrs. BOXER. Would the Senator like 10 minutes?

Mr. LAUTENBERG. That would be the most that I would need.

Mrs. BOXER. I yield 10 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to make sure that as we pursue the objective of S. 1, one that I think almost all share here, which is to get rid of assigning States tasks that cost them lots of money without having a good and sufficient reason, that we take important national matters into consideration. One issue that I have mentioned in previous statements is interstate pollution. I am concerned about my ability to persuade the citizens of New York to take on an extra tax so that beaches in my State could remain free of pollution. Yet that is exactly what may happen, because under S. 1, States would not have to comply with Federal mandates unless we pay them to—or unless I am able to persuade a majority of my colleagues to help my State.

As I examined this bill, I came to the conclusion that, while in concept and principle it is an excellent idea, there are certain national interests that are so important that they ought not to be subject to the S. 1 point of order. I commend the Senator from California, whose always thoughtful review of legislation enables her to have a certain uniqueness about finding that one spot or a place in a bill that really calls out for unique or special attention.

In this case she is absolutely right. These exemptions, such as the one that is being proposed by the Senator from California, include Federal mandates relating to national security, discrimination, and international agreements.

So today, I am trying to help secure support for the amendment of the Senator from California, to add the protections of children, pregnant women, and the frail elderly to the list of vital national interests.

Mr. President, I cannot believe that any of my colleagues would act in a way to endanger the welfare of already vulnerable Americans. Yet, this bill, as it now stands, would do just that.

Mr. President, if we leave Federal environmental laws to the States, we risk a situation where some States will enact much stricter legislation than others and in that situation, by way of example, our Nation's children could be placed at terrible risk. Scientific studies have shown that children, pregnant

women, and the elderly are all particularly vulnerable to environmental threats. The overall incidence of childhood cancer, which induced, frankly, the review of the Superfund statutes that are on our books, has increased 10.8 percent over the last decade. Noting that, the incidence of childhood cancer has increased 10.8 percent over the last decade. Cancer now is the No. 1 disease killer of children from late infancy through early adulthood.

Unlike legislators and regulators, the disease of cancer does not know State lines. If just one State were to loosen its environmental laws, the fallout could lead to even higher rates of childhood cancer, both in that State and throughout the region.

In his State of the Union Address, the President cautioned that we must maintain our sense of responsibility and compassion as we move to trim the Federal Government.

As it now stands, S. 1 would allow States to decide whether or not, on their own, to protect citizens from serious environmental threats. I am concerned that passing this bill in its current form might be neither compassionate nor responsible.

The Federal Government has a moral responsibility to protect American citizens—especially our most sensitive populations—from grave dangers to their health and well-being. We have a moral responsibility to tackle national problems with national solutions. And we have a moral responsibility to make sure that our national environment is habitable and safe.

Later this afternoon, I plan to offer another amendment that addresses concerns not dissimilar to those raised by the Senator from California. My amendment would exempt from the requirements of this bill, legislation seeking to limit exposure to group A carcinogens. In other words, very simply, if a mandate was issued that one State had to rid itself of the emission of carcinogens to protect another State's interest as well as its own, I do not think it is unreasonable to ask that polluting State to pay for it, particularly if the effects, like the wind blowing or currents flowing, would be in another State.

Mr. President, I am particularly sensitized now to the well-being of children, as I expect a phone call any minute from my youngest daughter, who is ready to deliver my second grandchild. It is an exciting time, as all know. Also, it is a daunting one. I want to make sure that my children and your grandchildren, Mr. President—you are young and do not have them yet, but you will get them, God willing—and all the children in this land grow up in a safe healthy environment.

I want to make sure that they can breathe in the air without also breathing in toxins of death, that they can drink the water without imbibing lead, and that they can grow up as healthy, productive adults, free from scars of serious birth defects and childhood diseases. That is why I am here and joining the Senator from California to support this amendment.

It is thoughtful, purposeful, and it belongs in this piece of legislation as an exemption. Otherwise, Mr. President, we are going to be putting the children of America and the elderly at dangerous risk. There is nothing more beautiful, in my mind, than my pregnant daughter. We ought to be concerned about pregnant daughters across the face of this Nation. We all instinctively want to protect and admire that cycle of life.

So, Mr. President, I hope this is an amendment that is going to carry by weight of its value and by the persuasive presentation from the Senator from California.

I yield the floor.

Mrs. BOXER. Mr. President, I understand that the Senator from Texas is prepared. I will only take 1 minute of my time. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes 33 seconds.

Mrs. BOXER. I will take, at maximum, 2 minutes to say to my friend how much I appreciate his coming over here. He has been a stalwart in terms of protecting the environment of the State of New Jersey and the health and safety of all Americans. He just faced the voters in a very tough race, where he stood on that record of environmental strength. And I think the fact that he is out here today supporting this very important amendment—which, I tell my friend from New Jersey, Carol Browner, the head of EPA, supports and has sent us a letter which is on everyone's desk—and the fact that he took the time out of his busy schedule says to me he meant what he said to the people of New Jersey and he is very magnanimous to the Senator from California for helping her.

I want to share a personal note with my friend. I, too, have a daughter who is going to give me, if all goes well, my first grandchild in June. And it is quite an experience to those people who have not had it yet. Your feelings for life and children and future come right to the forefront. What we do here now is going to affect those grandchildren of yours and mine, because if we set up such hurdles that makes it impossible for the Senator from New Jersey to fulfill the pledge he made to his people in his election and impossible for the people to look to me and say, ''Please, BARBARA, you said you want to act to help the young people and elderly in our environment.'' Children who live in Los Angeles have on average 15 percent lower lung capacity than children living in clean air areas. That is wrong.

This bill is a good idea that may well go too far. We are trying to fix this and make it better. I am stunned at my colleagues, that they did not say to me, this is reasonable, let us work it out, let us change two or three words, and let us make your idea part of this bill.

No. No. I have never seen anything like it; vote after vote along partisan lines against amendments that are going to make this bill better. The majority leader said, ''They like this bill. Why are they offering these amendments?''

Because we want to make it better. We did not come here to roll over and play dead because there was an election and somebody has a 100-day contract. You know, my contract with my people goes far past 100 days. It goes to the next generation.

I really believe that the Senator from New Jersey spoke eloquently to that point. I am so proud to have his support, and also have the support of the Senator from Connecticut and the Senators from Washington and Minnesota. I thank them all.

I retain the remainder of my time to close debate at a later point.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I certainly appreciate the concern of the Senator from California about pregnant women and children and the elderly, and the Senator from New Jersey talking about carcinogens.

A vote today against this amendment or against the Senator from New Jersey's amendment does not mean that we are for carcinogens in the water. It does not mean that we do not want to take care of the young children and the elderly. We all want to make sure that our young children and our elderly people who need help have it.

In fact, that is the purpose of the bill. The purpose of the bill is to bring the issue down not to whether we take care of people or not but how do we take care of them? What is the best way to make sure that our children have a future, that our elderly are able to be taken care of, that we do not have carcinogens in the water?

The question is who makes the decision and who pays for it?

What we are saying today is that the Government that is closest to the people should be making those decisions and they should pay for it after they make the decisions.

The whole concept of our Government is that we do not have taxation without representation; that if we are going to have a program whoever decides that we are going to have that program should pay for it. That is the issue today. It is not whether or not we are going to take care of the people in this country who need help.

I am a former State treasurer. I have been a State officeholder. My colleague from Idaho has been the mayor of his city in Idaho, Boise. So I think we have to look at the issue of who can best do this job.

We know the impact of these mandates. We know the tough choices unfunded mandates force States and cities and counties to make. And the issue is, are they going to raise taxes or are they going to cut services, services to the elderly and children? That is the question.

Passage of this bill sends a clear message to our State and local government leaders that have cried to us time after time after time. We want to work with them to reduce the pressures on the taxpayers of America. It will also send a message to them that we intend to return to the proper role of Federal Government.

In my own State, almost one-third of the increase in the State budget over the last 3 years has been the result of unfunded Federal mandates—one-third. It is a stealth tax. The taxpayers of Texas and California and Ohio and Idaho are paying taxes but we do not get the blame for those taxes because it is a stealth tax. It comes from unfunded Federal mandates through the States and local governments. We just cannot afford it anymore. The taxpayers of this country cannot afford it anymore.

Yesterday, I spoke about an amendment and I said these unfunded mandates mean that we may have to increase and have increased the light bill or the water bill or the sewer bill for the very elderly people that the Senator is trying to protect. I think you have to look at the overall picture to determine what the effects are going to be on the people that we are going to try to protect.

Gov. George Bush of Texas, who just got sworn in last week, in his inaugural address said, ''Texans can govern Texas. Thank you very much, Federal Government. We can do it ourselves.''

Well, I am sure Tennesseans can govern Tennessee. I am sure Californians can govern California. They are quite competent to do it. In fact, they are better able to make the decisions, because they would not put a mandate on the local governments to test the water supply for proposed carcinogens that that water supply has never had and will never have because they know what the potential carcinogens are in Boise, ID, or Amarillo, TX, or Memphis, TN. They know better than the Federal Government and they do not need to send their money to Washington to have them launder it through their bureaucracy and send 80 cents on the dollar back. They have figured that out.

So the issue is not are we going to protect the elderly and the children and the working people and the jobs in this country. The issue is how is the best way to do it. And the best way to do it is to pass this bill without amendments that are going to gut it as this amendment will, pass this bill to say to the State and local governments: We are not going to tell you what is best for your locality because we know you can make that decision. We know that you are the best source to determine what the quality of air is and what the priority programs to clean up the air is for your area. And it is different in Los Angeles than it is in El Paso. It is different in Houston than it is in Memphis.

That is why we want to pass this bill, so that the local governments can more efficiently protect the people that we are here to protect, because they can do it best at the government level that is closest to the people and they can determine what the priorities are and they will do it in a much better way than the Federal Government, the bureaucrats that may or may not have ever visited Los Angeles or Memphis. They can do it better.

So that is why I am supporting this bill. And that is why I am very concerned about an amendment that would essentially start to take out segments of the potential mandates because when you do that you are saying, ''We will be able to continue telling you how you will do your business, State government and local governments.''

And I think the people of America understand that. And I think they understand that this is a bill that will fulfill a commitment that we have made to downsize the Federal Government, to go back to our roots, which is State and local governments have all of the responsibilities in the Constitution except those specifically reserved to the Federal Government. Not the opposite. It is not the Federal Government saying we are going to do everything and we will let the States and local governments do a few things that we decide they might be competent to do. The Federal Government did not create the States in this country. The States created the Federal Government. That is the way our Founding Fathers decided to do it because they knew, they knew, that States and local governments were best able to deal with our problems. They knew that we should have a very limited Federal Government. That is what we are trying to return to with this bill.

Thank you, Mr. President. I yield back the remaining time.

Mrs. BOXER. Mr. President, may I inquire as to what the timeframe is on both sides?

The PRESIDING OFFICER. It is 17 minutes and 10 seconds, and 5 minutes and 13 seconds.

Mrs. BOXER. I would be glad to ask the manager if he wishes to retain his time.

Mr. KEMPTHORNE. Mr. President, to the Senator from California, I believe I will use the remaining 5 minutes to make closing comments.

Mrs. BOXER. I say to the Chair, it is my plan to close the debate since it is my amendment, so at this time I would like to take 10 minutes of time. I would like the President to inform me when I have reached that 10-minute timeframe.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mrs. BOXER. Mr. President, I am really glad that the Senator from Texas came over here to talk about her philosophy of government because, really, it goes to my amendment in many ways.

The Senator comes over here and talks about her philosophy of government. I am talking about people, people who are going to be impacted by a bill that is based on an excellent idea. The Senator from Texas talked about how she was in State government. I was in local government. I come out of the grassroots. In my first campaign, I knocked on every door in my county. I lost that one. But I won the second one, 4 years later. And I have won every one since.

The reason I think I won these elections, sometimes unexpectedly, is because I said to the people of my State, ''I will go and fight for you. I will walk hand in hand with the Republicans when I agree with them, but when they go too far, I will fight for you.'' So the Senator from Texas talks about her philosophy of government. I want to talk about the people. I like the idea of looking at costs when we write laws.

I loved S. 993, which the Senator from Idaho wrote in the last Congress. It had very strong bipartisan support. It forces Members to look at the costs. On this chart, it ended over here. It was very doable and workable. And now it has been changed. We have hurdles set up, not only for the bills but for every single amendment. Maybe there are some here who think that everything we do here is bad. I do not think that everything we do here is bad. Some of the things maybe, but there is a lot we do that is good.

I found it interesting that the Senator from Texas says, ''Texans can take care of Texas.'' That was not the case when they had a flood, as I remember it. And I was happy to help her constituents. I say to my colleagues, be careful in your rhetoric. There may be times when you will have floods in the Midwest, tornadoes, storms. There was a horrible one in Tennessee, I remember, after my friend who is in the chair was elected. It was a terrible problem.

I believe that all levels of government should work together. We are not enemies of each other; we are not enemies of each other. We are all in it for the same purpose. Sometimes, it will make sense for the local government to be in complete control of everything that goes on. Sometimes it should be a partnership.

My friend from Texas talked about the founders. If the founders took a look at these charts, they would roll over in their graves. They were very clear thinkers; they were very clear thinkers. Why we want to set up these hurdles on every single U.S. Senator is something I find hard to understand.

That is why I am offering my amendments. I would not have offered the amendments to the former bill because

that bill made sense. This bill goes too far. If there is an outbreak of E-coli in the meat supply, as Senator MURRAY said, she wants to act. If there is cryptosporidium in the water supply, it kills people. Who does it kill? The frail elderly, the children, and it harms the pregnant women and the children they are carrying. All we are saying is: Make another exception. You have made other exceptions in this bill. If we mean that our children are important, make an exception for those children.

Let me read for my friends here from a very important paper, ''Health Effects of Ambient Air Pollution.'' As I understand it, my friend from Texas has a bill that would postpone implementation of the Clean Air Act. What does that mean to one part of my State? It would, in fact, reverse the progress we are making and we would see a continuation of the costs of dirty air approach $9 billion, just in Los Angeles. If we clean up the air, we will save $9 billion. Does that go into this formula? No, it does not. We do not believe that savings is in this.

I also have to say to my friend, she says Texans can govern Texas and Californians can govern California. Of course, we can. There is a role for State government, and there is a role for local government and a role for Federal Government. But I have news for her. We had a Civil War. We decided we were one Nation under God. We are not enemies of one another. I love to work with Governors and State-elected officials and local officials, of which I was one. We are not enemies.

The American people, in a recent poll in the Wall Street Journal, a couple of days old, said it is up to this Government to act to protect the health of the people, the environment; only 9 percent of the people think there is no use for the Environmental Protection Agency. Let me repeat that: Only 9 percent of the people think there is no use for the EPA, the Environmental Protection Agency, and the Environmental Protection Agency supports my amendment. It is unusual for them to send a letter. They sent it on this amendment, because Carol Browner, who comes from the State of Florida, who understands the role of State government, who supports deregulating, says this is an important amendment.

Listen to what the American Lung Association says:

> The young, the old and the chronically ill are usually assumed to be at high risk for many forms of air pollution. Much experience leads us to expect that immature, growing bodies will be highly vulnerable to all sorts of environmental stresses in comparison to healthy adult bodies. A more specific concern is that children breathe more air for a given volume of lung tissue than do adults; likewise, much experience leads us to expect that bodies debilitated by disease (that is the frail elderly) or by the inevitable loss of function with advanced age will be highly vulnerable.

My friend from Mississippi says, ''What do you mean by the frail elderly?'' I tell you, read the American Lung Association. ''* * * bodies debilitated by disease or by the inevitable loss of function with advanced age will be highly vulnerable.''

They cannot put on a pinstriped suit and come in here and take me to lunch and tell me why it is so important to protect them. They just want to be grandmas and grandpas and great grandmas and great grandpas, and live in peace and drink the water, breathe the air, and kiss their great grandchildren, and pass on the family values that are so important to everyone in this Senate. I have yet to hear a Member who did not talk about family values. We better value the family of humanity here in America because if we cannot act with speed, deliberate speed, when there is an outbreak of some poison in the water, some chemical in the water, we are putting those people at risk.

Maybe you will change your mind if it happens to be your mother or your father or your pregnant daughter. I hope we are never in that situation where I have Members coming to the U.S. Senate floor saying: Senator BOXER, you were right; we should have done this. We cannot act. We are tied up in knots. I cannot even offer an amendment.

Why are we here? We are not here to please Governors. We are not here to just deal with the process.

That is why I like last year's bill. It was sensible, it was sound. It treated us like grownups. Let us get a cost estimate. If we do not have it, there is a point of order against the bill and we have to stand up and be counted if we, in fact, pass a law that costs some money.

By the way, I am very willing to put the money behind anything I believe in. I think that is the right way to be. I think we should move in that direction, but to tie us up in knots?

By the way, I also have to make a point here. In the committee, I say to my friends, I offered a sunset amendment. I said, ''Look, this may be a great bill, but let's analyze it in a few years.'' They said, ''Oh, no, no, no, we do not want to do that.''

I said, ''OK, I'll offer an amendment for 3 years,'' and then I sunsetted it at 5 years, then I sunsetted it out in 2002. No, Republican party-line straight vote, no sunset.

So when I hear my friend say, ''If this doesn't work, we'll change it,'' I think it is a little disingenuous because we offered a sunset provision out as far as 7 years and could not get a Republican vote.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I yield the floor and reserve the remainder of my time.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, will you please notify me when I have spoken for 4 minutes?

I just came from a press conference. That is why I had to leave for a few minutes. At that press conference, we had mayors from around the country. We had Victor Ashe, from Knoxville, TN. We had Greg Lashutka, who is Senator GLENN's mayor, from Columbus, OH; Rich Daley, the mayor of Chicago—all of them in strong support.

The press conference was to announce strong support for S. 1 and the fact they appreciated S. 1 has as its core S. 993. But that we have taken a good step forward. That is what S. 1 is.

At any point during this process, if you truly have an emergency situation, you can seek a waiver. These points of order are not self-executing either, Mr. President. Someone will have to raise that point of order, and if you truly have some true national emergency, I really do not perceive someone is going to try to stop the process of dealing with it.

I do not want the Senator to feel that those who may oppose the language of her amendment are against in any way the elderly and children. I appreciate the sensitivity by which she has addressed the issue of the elderly and the children.

I have said many times that S. 1 is a carefully balanced bill. It is a bill that has bipartisan support because we have addressed these issues. A number of Senators have expressed concern that exemptions need to be added to the limited few that are in S. 1. But I do not share that view and for a number of reasons.

First, remember this is a bill that is prospective in nature. It only applies to new mandates contained in legislation considered in Congress after next year. So it is impossible that this bill would harm the current environment, public health, and safety.

S. 1 is a process bill. It reforms the process by which Congress considers legislation imposing mandates. It is a process bill for making better decisions in the future about issues that affect State and local governments and the private sector. So nothing in this bill affects in any way the current health, job safety, or the environment of any citizen.

Let me emphasize a provision in this bill that directs committees to report on the costs and benefits on health and safety and protection of the natural environment. We will have more information to make better decisions. S. 1 is not a ban on mandates. As the sponsor of this bill, I may well vote to waive this point of order sometime in the future.

With respect to the issue of the elderly and children, let me mention what I think is quite straightforward. State and local officials, more than Congress, work on these issues hands on. These are the real world day-to-day facts of life that State and local officials care about. They want clean water, clean

air, safe working conditions just as we do. They want to care for their neighbors, their elderly and those who need help.

Unfunded mandates, unfortunately, keep State and local officials from taking meaningful action to improve public health and safety. Examples of that are boundless and have often been cited on the Senate floor.

The reason why unfunded mandates are counterproductive is simple: States and cities have to use discretionary dollars that would have been spent on other programs to pay for mandates. States and cities have fixed costs that they must pay. They have to pay for sewers and roads and police and fire.

I noted with keen interest the comments made by the other distinguished Senator from California, Senator FEINSTEIN, when we began debate on this bill. And she said, and I quote:

> Let us take Los Angeles County. To meet Federal mandates and still balance its budget, the County of Los Angeles has to curtail significantly other programs. For example, this year—

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. KEMPTHORNE. Thank you, Mr. President.

> For example, this year, Los Angeles County employees would have to forgo cost-of-living and other wage adjustments, and aid to indigents will be substantially reduced. Several libraries are being closed * * *. Recipients of welfare and public health services will face longer waits due to minimal county staff.

Let me read a quote from the National School Board Association, President Boyd Boehlge:

> The very children Congress is trying to protect are the ones who are hurt most often by proliferation of unfunded mandates.

To accept further some unfunded mandates to the process or exemptions in S. 1 seems it could lead to the imposition of more unfunded mandates in the future. It is a process so that we can have these discussions. This is where those discussions should take place, recognizing that we do have State and local officials who realize their responsibility and are looking for a partnership instead of just dictates from their Federal Government.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five seconds. The Senator's time has expired.

Mr. KEMPTHORNE. Mr. President, I yield back the remainder of my time.

Mrs. BOXER. Mr. President, how much time do I have to close?

The PRESIDING OFFICER. You have 6 minutes 14 seconds.

Mrs. BOXER. Thank you, Mr. President. I am going to close debate at this point. I want to thank my colleagues on both sides of the aisle who participated in this debate. I think this was a very important debate, and I think the vote is very important as well.

I want to say to my friend from Idaho that, again, he talks about how the mayors want this. My mayors like the impact of this as well, but when I met with them and I explained the amendment that I had offered, they did not object to what I am trying to do. They understand that we have to be reasonable people.

My friend says, ''Oh, its real easy, you come to the floor and you just get everything waived and everything works fine.'' I say to my friend from Idaho, the author of this bill, that if it is so easy, why does he have any exemptions whatsoever? I think it is a very important point that he address in his own mind. If this is such a straightforward bill, if any Senator can get on this floor and say, ''Look, this is so important, I want a waiver,'' why does he have any exemptions in this bill? And he does have exemptions in this bill. It currently shields constitutional rights, discrimination, national security, and implementation of international agreements such as NAFTA.

Now let me say something. It shields international agreements, such as NAFTA.

What about children? Are our American children as important as an international agreement such as NAFTA? Are our pregnant women as important as an international agreement such as NAFTA? I think so. If there were no exemptions in this bill, I think that the manager of the bill would be intellectually correct when he says it is easy; any Senator can get a waiver. Then why did he put exceptions in the bill? And why does he oppose our adding a very narrow group of people who cannot come here and lobby, of people who do not have a powerful voice but are the most vulnerable of populations?

Now, I read to you before that the lung association feels very strongly that children are very vulnerable to chemicals, to pesticides, and to other things in the environment that harm them more than they harm adults.

Right now, when our agencies set limits on chemicals and pesticides, they use a healthy 170-pound man as their model. But now we know that children are more vulnerable than a 170-pound man, that the frail elderly are more vulnerable than a 170-pound man, and certainly a child who is 5 years old or less is vulnerable and they are getting cancers in greater numbers. And we are setting up hurdles here that my friend from Idaho says is just a process. It is just a process.

Well, we know what process means around here. We had enough filibusters from the other side last year. We know what happens to bills when there is a process. The bills die. So therefore when we have a process bill that sets up all this bureaucracy, we have to say to ourselves, well, wait a minute, there are some people in our society that really should not be impacted by this process, by endless chitchat, by unelected officials in the CBO and the parliamentarians.

I say to them, I think you are great, but the people of California did not elect you to decide whether my amendment would get to the floor without a point of order. They want me to be able to offer my amendment. If I can persuade the people here, fine. If I lose the fight, at least I waged it. They do not want me stopped by process. If I am stopped by substance, that is fine. That is why we want to add to the exceptions this very narrow group.

Now, listen to what is stated in this book. I told you before, I lost one of my constituents to cancer, a little girl, Colette Chuda, and her parents are working very hard so that other little babies, our children, our grandchildren, do not have the same fate, and they funded an environmental study. I wish to quote from it in part.

> An estimated 8,000 children under the age of 15 are diagnosed with cancer in the United States each year. Brain cancer and leukemia are the most common childhood cancers.

My friends, I want to tell you right now as we speak I have two friends in the House of Representatives, one who has a little tiny baby with brain cancer and the other who has a youngster about 19, or in his 20's, with leukemia; perfectly beautiful children.

> Incidence rates have increased for the majority of these malignancies with the greatest reported increases occurring for acute lymphatic leukemia and brain cancer.

These are the biggest increases. You can talk about mayors; you can talk about Governors; you can talk about a contract. I admire you. I am talking about kids. I do not want to get them caught up in this maze. You did not have it last year, but you have it this year.

The PRESIDING OFFICER. All time on the amendment has expired.

Mrs. BOXER. I hope you will join with me and vote for this amendment.

I yield back the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I appreciate the arguments made by the Senator from California.

I move to table her amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KEMPTHORNE. Also, Mr. President, I ask unanimous consent that when the Senate turns to amendment No. 187, it be considered and debated along with No. 188; that there be 30 minutes total equally divided in the usual form for debate on both amendments; that no amendments be in order to either amendment; and that following the conclusion or yielding back of time the majority manager or his designee be recognized to move to table amendment No. 187.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. No objection.

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

Mr. KEMPTHORNE. Also, Mr. President, I ask unanimous consent that following the disposition of amendment No. 188, the Senate resume consideration of the Graham amendment No. 183; that there be 10 minutes for debate to be equally divided in the usual form, and that no second degree amendments be in order to amendment No. 183, and that following the conclusion or yielding back of time the Senate proceed to vote on the Graham amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. No objection.

Mr. GRAHAM. Mr. President, reserving the right to object, and I shall not, I just wanted to clarify, there will be agreed-upon substitute language offered for No. 183, and I wanted to clarify that the managers understand that and that will not be inconsistent with the prohibition on second-degree amendments.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I say to the Senator from Florida, I am not sure I have seen the modified language.

Mr. GRAHAM. I think the Senator's staff has seen the modification.

Mr. KEMPTHORNE. All right. Mr. President, then I would vitiate my unanimous-consent request with regard to the Graham amendment until I am sure I have seen the language.

The PRESIDING OFFICER. The request is withdrawn.

VOTE ON MOTION TO TABLE AMENDMENT NO. 202

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote ''yea.''

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—55

| | | |
|---|---|---|
| Abraham | Frist | McCain |
| Ashcroft | Gorton | McConnell |
| Baucus | Gramm | Murkowski |
| Bennett | Grams | Nickles |
| Bond | Grassley | Nunn |
| Brown | Gregg | Packwood |
| Burns | Hatch | Pressler |
| Chafee | Hatfield | Roth |
| Coats | Helms | Santorum |
| Cochran | Hutchison | Shelby |
| Cohen | Inhofe | Smith |
| Coverdell | Jeffords | Snowe |
| Craig | Kassebaum | Stevens |
| D'Amato | Kempthorne | Thomas |
| DeWine | Kerrey | Thompson |
| Dole | Kyl | Thurmond |
| Domenici | Lott | Warner |
| Exon | Lugar | |
| Faircloth | Mack | |

NAYS—44

| | | |
|---|---|---|
| Akaka | Feinstein | Lieberman |
| Biden | Ford | Mikulski |
| Bingaman | Glenn | Moseley-Braun |
| Boxer | Graham | Moynihan |
| Bradley | Harkin | Murray |
| Breaux | Heflin | Pell |
| Bryan | Hollings | Pryor |
| Bumpers | Inouye | Reid |
| Byrd | Johnston | Robb |
| Campbell | Kennedy | Rockefeller |
| Conrad | Kerry | Sarbanes |
| Daschle | Kohl | Simon |
| Dodd | Lautenberg | Specter |
| Dorgan | Leahy | Wellstone |
| Feingold | Levin | |

NOT VOTING—1

Simpson

So the motion to table the amendment (No. 202) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 173

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that we vitiate the yeas and nays on the next Levin amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, and I will not object. I just want to be certain about this. I do support vitiating the yeas and nays and then we would proceed to the consideration of the amendment, is the Senator correct?

The PRESIDING OFFICER. That is the order.

Without objection, the yeas and nays are vitiated.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 173) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 183, AS MODIFIED

Mr. GRAHAM. Mr. President, I send a modification to the desk on my amendment No. 183.

The PRESIDING OFFICER. The Senator has that right.

The amendment will be so modified.

The amendment (No. 183), as modified, is as follows:

On page 16, between lines 7 and 8, insert the following:

''(iii) if funded in whole or in part, a statement of whether and how the committee has created a mechanism to allocate the funding in a manner that is reasonably consistent with the expected direct costs among and between the respective levels of state, local, and tribal government.

Mr. GRAHAM. I ask unanimous consent that there be 10 minutes of debate, equally divided, on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, as modified, the amendment has been reviewed by both managers, and I believe it will be accepted. I will not ask for a rollcall vote on this amendment.

Mr. President, this amendment, I believe, closes the loop to the extent possible on an issue within this bill. A fundamental purpose of this bill is to identify mandates which the Federal Government might, at a future date, be proposing to impose upon States, local governments, or tribal governments, and then as the preferred option, to have the Federal Government pay the cost of those mandates.

This amendment goes to the issue of how that appropriation to fund the mandate will then be allocated back to the States, local governments, or tribal governments, which had created the need for that funding in the first instance because they were the object of the mandate. There are at least two issues which I believe this amendment will deal with. One is the issue of where the mandate is imposed on a particular level of government. For instance, a mandate is imposed on school districts because of requirements made to them that relate to the educational or noneducational activities that are conducted by schools. If school districts are the level of government upon which the mandate falls, then school districts should be the level of government that receives the funds which we appropriate for the purpose of alleviating the financial impact on that unit of government of the mandate which we have imposed. A commonsense approach.

Second is the distribution among units of government. We know that from time to time we will impose mandates that are not uniform across the country. They may be mandates that relate, peculiarly, for instance, to border States that have immigration problems, northern States that have heating problems, States that have specialized geological problems, such as those that would relate to earthquakes. There should be a connection between the distribution of funds and where the mandate falls.

So this amendment states that if a mandate is funded in whole or in part, then the committee which has the responsibility for that particular legislation will contain in its final report a statement of whether the committee chose to allocate the money in a relationship to where the need was. They might indicate that they did not do so because of a deficiency of data upon which to make that judgment, or because they felt that the Congressional Budget Office's assessment of the locus of the need was irrational and, therefore, for good and sufficient reasons, adopted a different approach. Or should they have adopted the approach which the Congressional Budget Office utilized, how the committee has created a mechanism to allocate the funding in a

manner which is reasonably consistent with the expected direct cost among and between the respective levels of State, local, and tribal government.

So, in summary, Mr. President, the purpose of this amendment is to link the mandate and the cost of that mandate to the method by which Federal funds will be allocated. I fear that if we do not have that linkage, we are going to end up with a school district—to use my first analogy—which had a mandate that costs that school district a million dollars, but because funds were not distributed in a manner consistent with how the need was assessed, they might only receive a fraction of that million dollars. So while we can say we funded the mandate on a global basis, as it relates to that school district, they are still carrying a heavy burden of an unfunded mandate.

I yield the remainder of my time.

Mr. KEMPTHORNE. Mr. President, I commend the Senator from Florida for his comments and for his diligence in working through the amendment which he has offered. I think his experience both as a former Governor and as a Senator has been very helpful in getting to this point.

On behalf of our side, I certainly will accept this amendment.

Mr. GLENN. Mr. President, I, too, want to accept on behalf of our side this amendment. I think the Senator from Florida has made a very good point here. He is fleshing out some of the things that needed to be spelled out better in this language. I compliment him on that. One of the things we want to make certain is that this is a workable document when it passes. He is addressing that problem. So we are happy to accept this on our side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 183), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I am pleased to rise as an original cosponsor of S. 1, the Unfunded Mandate Reform Act of 1995. As a long-time supporter and cosponsor of related legislation in the previous session of Congress, I welcome the leadership of the majority leader, Senator DOLE, and the bill's very able manager, Senator KEMPTHORNE, for bringing S. 1 before the Senate so expeditiously.

In addition to unduly burdening our local governments, Congress, in its Big Brother role, often ignores States' rights in determining what is best for the States. It also demands that the States figure out how to pay for those unwanted mandates.

In the last Congress, officials in my own State of Virginia made a clear case concerning the enormous burden of unfunded mandates. Virginia's finance committee staff conducted a review on Federal mandates and the burdens they exact. I would like to share some of those findings with my colleagues today.

While Federal mandates are in general the result of well-intentioned congressional action, State governments are all too often left holding the bag. Virginia views the pervasive Federal influence on its budget as a two-edged sword: Federal restrictions on the use of funds hamstring the Commonwealth's ability to determine spending priorities or respond to changing economic conditions.

In the Commonwealth of Virginia, at least 20 percent of the State budget is either driven, defined, or constrained by Federal laws, regulations, or Federal agency decisions. And, bear in mind, this is a conservative estimate—it does not take into account the impact of laws for which no systematic survey has been done.

Let's take a look at the ways in which the Federal Government impacts the Commonwealth of Virginia's ability to set budget priorities.

Recently, the Virginia Department of Environmental Quality estimated that it will cost local governments at least $1.8 billion over the next 20 years to build the waste management facilities that comply with Federal requirements. In addition to solid waste, the department has estimated that local governments will need at least $4.2 billion over the same period to construct new facilities or upgrade existing ones to satisfy the requirements of the Clean Water Act. And that's not the end of the crunch. The Safe Drinking Water Act will cost localities some $2 billion by the year 2000. Together, those mandates will demand approximately $700 million per year from local governments.

In Virginia, the greater Lynchburg area has a population of 165,000. Studies conducted by the Virginia Department of Environmental Quality indicated that the combined sewer overflow requirements of the Clean Water Act for this area will cost an estimated $200 million. The city of Richmond is similarly impacted.

According to a recent survey conducted by the Virginia Municipal League of Cities, the city of Danville, population 55,000, will be required to spend an estimated $1,058,000 to comply with the Safe Drinking Water Act for fiscal year 1995. Included in that estimate are monitoring costs, capital costs, and operation and maintenance costs for surface water treatment, lead and copper regulation, the total coliform rule, the fluoride rule, and standards under the national primary drinking water regulations.

ISTEA, section 1038 imposes a mandate to use waste tires—crumb rubber—in hot mix asphalt [HMA] and it will require Virginia to use approximately 4 million pounds of crumb rubber in 1997 and beyond. The average cost of hot mix asphalt in Virginia is about $27 per ton; the mandate to use crumb rubber will elevate the cost to approximately $55 per ton. And, while the requirement will use only 4 percent of the waste tires generated in Virginia, it will impose an annual cost of $6 million.

In addition to must do, no Federal funds, the infamous unfunded mandates, there are may do, must match and may do, must maintain programs, including education and health-related programs such vocational training, substance abuse and mental health block grants. These problems are largely voluntary, but Virginia participates wherever it can.

Finally we have may do, no match, which are largely grants—but Federal funds used for these programs may not supplant general funds provided for similar purposes.

And it is important to note that, unlike the Federal Government, Virginia has no choice but to balance its budget. Congressional good will and benevolence often translates into unexpected and unfunded burdens.

Two areas in which Virginia is constantly challenged are education and health care.

The Education for All Handicapped Children Act, passed in 1974 to mainstream special education students in public schools, was a vastly ambitious undertaking. Congress committed itself to providing 40 percent of total program cost. In reality, during fiscal year 1993, the Federal Government provided less than 8 percent of the funding necessary to fully meet the mandate.

The jointly funded Medicaid Program presents a particular dilemma for my State. Because of the relative affluence of Virginia, the Commonwealth must provide 50 percent of program costs. But Congress determines minimum eligibility standards for Medicaid recipients, as well as the level of required service. While certainly well intentioned, congressional expansion of Medicaid is projected to cost Virginia more than $300 million over the next 2 years alone.

Virginia must also foot 50 percent of the bill for Aid to Families with Dependent Children [AFDC], and State costs should be close to $115 million per year over the 1994–96 biennium.

Unfortunately, the Federal Government continually uses its own fiscal problems to impose additional mandates on the States. There seem to be few, if any, incentives for Congress to halt the trend: mandates are almost magical, allowing Congress to fund costly programs without raising taxes or cutting other services.

Federal mandates continue to proliferate. In the 102d Congress, 15 bills were passed with mandates; the 103d had over 100 bills which include such edicts.

Several new mandates loom. For example, the Motor-Voter Act, which is expected to cost over $100 million in the next 5 years nationwide. I opposed

the National Registration Act of 1993 and have cosponsored S. 91, to delay its implementation and put the brakes on a project for which there is no money in the pot.

Recognizing the unbearable burdens imposed by unfunded mandates is not enough. We must take steps to require the Federal Government to either shoulder its share of the burden or relieve the States from theirs. The measure before us seeks to accomplish this by requiring either full funding for costly new mandates or scaling them down commensurate with the level of available resources.

This is reasonable, rational policy which will not only be welcomed by the State and local governments—it will also provide Congress with a better, more structured framework in which to design new laws.

Mr. President, I urge my colleagues to give S. 1 the broadest possible support and move the bill towards final passage.

AMENDMENTS NOS. 187 AND 188

Mrs. MURRAY. Mr. President, I ask unanimous consent to proceed en bloc to amendments numbered 187 and 188.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes amendments en bloc numbered 187 and 188.

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

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

(The text of the amendments are printed in the RECORD of January 24, 1995, under ''Amendments Submitted.'')

Mrs. MURRAY. Mr. President, I rise this afternoon to discuss amendments I have filed on S. 1. I came to the floor last week to raise questions about the possible unintended consequences of this bill. I am not certain all my concerns have been addressed, so I want to talk about them a little more today.

My first amendment proposes that nuclear waste cleanup by the Department of Energy be exempted from S. 1. I filed this amendment because I am very concerned about the implications of this bill for cleanup of former weapons facilities that now pose environmental cleanup challenges.

Mr. President, Hanford Nuclear Reservation is in my State. It has nine shut-down reactors on the Columbia River. It has four processing plants. It has 177 nuclear waste tanks, 45 of which may be leaking. It has numerous waste dumps scattered around the facility. Of all our pollution problems, nuclear weapons plants like Hanford pose the greatest dangers to the environment. They have the greatest potential threats to human health and safety.

Mr. President, we won the cold war at this site. Now the bill is due; cleaning up Hanford is serious business. For the community; for the region; and for the country.

As many of our colleagues know, there is a process underway at Hanford—and many other DOE facilities—that governs the cleanup schedule. In Washington State, that process is embodied in the tri-party agreement between DOE, the State, and EPA. As a coordinating tool, this agreement works pretty well. It ensures everyone has a seat at the table. It sets cleanup goals. It emphasizes economic transition for the community. It gives people in my State access to DOE decisionmakers.

In reality, there are no unfunded mandates at Hanford. It is safe to say my State issues—and enforces—the largest hazardous waste permit in the world using voluntary authority under RCRA. For these activities, the State levies a tax on low-level waste producers. For its responsibilities under the Superfund law, Washington receives direct funding from DOE.

But these laws—RCRA, CERCLA, Federal Facilities Compliance Act, and others—do contain some mandates. And some day, Congress must act to reauthorize them. What happens if we reauthorize RCRA? If S. 1 is enacted, even the most modest changes in current law could unravel the triparty agreement. As I understand it, this would be possible because the occupant of the chair—or some bureaucrat at CBO—would have the power to:

Bring Senate action to a halt over a point of order; and

Force all kinds of studies and delay that would only confuse the cleanup situation.

What would happen if CBO intervention stalled consideration of the reauthorization, and the law lapsed? Would the Hanford permit expire, and the cleanup stall?

The people of Washington State do not want some unelected CBO bureaucrat arbitrarily deciding the pace of Hanford cleanup in the context of a budget point-of-order on the Senate floor.

My amendment is simple. It exempts nuclear waste cleanup from the procedures in S. 1, from points-of-order, from CBO review, and from any procedural wrangling that might jeopardize the orderly process of cleanup—for any reason. When we act to reauthorize RCRA, I want to be able to tell people in Washington State that we will have a law on the books to support cleanup. When we push through a reconciliation, or an appropriations bill, I want my constituents to know their interests will not fall victim to vagaries in new Senate debating procedures.

I offered this amendment for one simple reason: Some things are too important to subject to a new set of debating rules that we do not know will function as ordered. The bill acknowledges this in section 4, where it excludes a series of critically important areas of Federal law. It exempts civil rights and nondiscrimination laws. It exempts national security. It exempts emergency relief. These things are critical to the national well-being, and therefore kept out of S. 1.

Why not add to this list our most serious environmental challenges? It would seem to me a sensible precaution.

Mr. President, yesterday, the Senator from New Mexico [Senator BINGAMAN] offered an amendment very similar to mine. I want to thank him and commend him for bringing this very important issue to our colleagues' attention. He knows a tremendous amount about these issues.

Unfortunately, the Senate defeated his amendment, in spite of the very strong arguments he made. It is clear, therefore, my amendment will probably meet a similar fate.

I was disappointed to see the result of last night's vote on Senator BINGAMAN's amendment. He was raising very real questions about important, sensitive, high-risk areas of Federal law. Both his amendment and mine point out the potential uncertainties in imposing an arbitrary new set of debating rules on the U.S. Senate.

At the very least, I am hoping the managers of this bill can provide some clarification of their intentions vis-a-vis defense waste cleanup. I will pose these questions, and then yield the floor in hopes of getting some answers that will allay the concerns of people in my State.

First, do the managers intend that S. 1 have any adverse effects on DOE waste cleanup efforts, and the ability of affected States and communities to participate therein?

Second, do the managers contemplate that S. 1 will lead to the change, repeal, or substantive alteration of any current law that enables DOE cleanup to move forward?

Finally, do the managers believe that consideration of current or prospective mandates pending on the Senate floor should delay consideration provisions in the same bills affecting DOE waste cleanup programs?

I assume no such onerous consequences are intended by the managers. But I do not see it written anywhere, and I would like to have verbal clarification of those issues.

Mr. President, I will conclude by saying the basic idea of S. 1 is good: That the Federal Government ought to help make Federal laws easier and less costly to implement. I support this basic idea, and I want to work with the managers to pass a good bill. But, like so many other broad-brush solutions we are hearing about these days, it is not as simple as it sounds. I look forward to hearing the answer to those questions and I reserve the remainder of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will not speak for the managers in response to the questions the Senator asks, but

I might ask her to clarify a little further for me why anything has to be exempted here. We have an agreement, is that not right, that exists now?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I think the manager yielded me time. I apologize.

Mr. KEMPTHORNE. Mr. President, I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Maybe the Senator could explain to me, if you have an agreement out there now, how do you see this bill affecting that agreement? There is nothing in this bill that says this bill calls the agreement to be vitiated, canceled, or changed.

Mrs. MURRAY. I thank the Senator for his question. My question to the managers on this bill is if they see anything in this bill that would cause consideration for us and we do have to reauthorize RCRA, CERCLA, other bills coming up in the future, if at that time a bill has both mandates in it and nonmandates in it and the mandates cause the bill to be stalled in any way because we are waiting for something back from CBO, how will this affect cleanup efforts such as exist in my State and others?

Mr. DOMENICI. Well, they exist in my State also at a different level.

But I would just say to the managers of the bill and in particular the manager on our side of the bill, but I have spoken with Senator GLENN also, it seems to me we cannot say that any agreement predicated upon the laws of RCRA or any other environmental laws, that if those are changed in the future, we will hold anything exempt from it. That is future activities, to future agreements and understandings, but if RCRA is deemed to need reauthorization, we surely could not predict for the State of Washington, the State of Oregon, the State of New Mexico, many States that have DOD and DOE cleanup based on standards, we cannot say it will not have any effect on those. That is my position.

I hope the managers would say we are not exempting anything yet under this agreement or this bill. I do not think we should exempt things we do not even understand. I leave that up to the managers. I would surely recommend we not accept the amendment, and if the Senator desires that we have a clear exception for her State, that she work with the managers in some other way, but not exempt entire situations such as this, that we do not understand. We do not know the consequences of changing RCRA on your State or any other State. I yield back the remaining time.

Mr. KEMPTHORNE. Mr. President, I yield myself 4 minutes.

Mr. President, I would like to respond to the questions that were posed. Do the managers intend that Senate bill 1 have adverse effects on DOE waste cleanup efforts and the ability of affected States to participate therein?

No, I have no intention, whatever, that this would have any adverse affects on DOE waste cleanup.

I say that, Mr. President, as a resolution of the State of Idaho, which also has significant DOE waste cleanup problems. So I would not be an advocate that in any way would adversely affect DOE getting on with the cleanup of Hanford, for example, or projects in the State of Idaho.

The second question that was asked, do you contemplate that Senate bill 1 will lead to the change, repeal or substantial alteration of current law that enables DOE cleanup to move forward? No, Senate bill 1 will not lead to that. Senate bill 1 is simply a process. It would be a different motivation. Senate bill 1 also is prospective so that those mandates that are on the books now, even under reauthorization, those that are currently on the books would not come under the process of Senate bill 1. Any changes to that, to those mandates, yes, they potentially would be subject to Senate bill 1 and then we would have to go through the process. But, no, S. 1 would not be the impetus to cause that to happen.

On the third point, I am not sure that I understand it so I would be more than happy to have our respective staffs get together and discuss that. Again, I understand your concerns with the Hanford facility. I have concerns with similar situations in the State of Idaho.

I yield to my colleague from Ohio 2 minutes.

Mr. GLENN. Mr. President, I would respond in much the same way. There was this in here, nothing in S. 1, that gives anyone any authority to go change any agreement that is in affect. It could not be interpreted that way to the best of my knowledge.

In the amendment that was proposed by the Senator, the provisions of this act and the provisions made in this act shall not apply to any agreement between the Federal Government, State and local tribal for the environment restoration and waste management.

Nothing in here could change, nothing does change, nor could it change any agreement that is in effect right now. I hope that takes care of concerns.

The cleanup efforts which the Senator from Idaho mentioned just a moment ago, that it would not affect cleanup efforts, is a little bit different than the agreements that were specifically addressed. Cleanup efforts are something that are going on under those agreements, slightly different. But this would not change either the level of cleanup efforts that are provided for by other budgeting and other laws, nor would it change any agreements between the Federal Government, State, local, or tribal governments which the Senator is addressing.

I want to compliment the Senator for looking at this. I know the problems in the State of Washington. Hanford is one of if not the very largest problem areas we have in the way of nuclear cleanup. I have been involved with that ever since 1985 when we started some of the studies at Fernald in Ohio, some of the difficulties in the nuclear weapons plants all over the country and wound up with some 17 different sites in 11 different States of which Hanford is one of the most important sites. It has more problems there for environmental restoration than almost any other site in the country. Many, many, billions of dollars.

I would only add since the cleanup effort was mentioned here, when we first started this back in 1985 and had the first surveys run of all the 17 sites all over the country, it was indicated by the Department of Energy that they thought we could probably clean these up at an expenditure of $8 billion to $12 billion.

Unfortunately, we have taken a new look at this whole thing. It has gone up and up and up, and the current estimate is right around $300 billion over a 20- to 30-year period to do the cleanup that is necessary. And the major place that will need cleanup is in the State of Washington at Hanford. I compliment the Senator for looking out for this and would not want to do anything that would mean we would have lesser expenditures or anything in that legislation would change the agreements that are in existence now between the Federal Government, State, and local governments in that area.

I think, that we have addressed in this colloquy the concerns that the Senator from Washington had. I yield the floor.

Mrs. MURRAY. Mr. President, I thank the managers of the bill for their responses to these questions and for their obvious concern for continuing cleanup at the Hanford site in my State. It is, indeed, a deep concern to the people of the State of Washington that we do this. We built this facility, used it for a national purpose, and we want to be assured that it is going to continue to be cleaned up and share your concerns about the costs. But we want to know that we are not going to be at some point unable to continue that cleanup. I appreciate your concerns.

I understand the managers are willing to prepare a colloquy for the record to respond to my questions, to protect cleanup at Hanford. I will be prepared to withdraw this amendment after I speak to my other amendment.

Mr. KEMPTHORNE. Mr. President, I would yield myself 1 minute. In responding to my friend from Washington, not only are we neighboring States, but the concerns that the Senator just expressed, again, echo many of the concerns that we in Idaho have.

I think on this nuclear issue in the future, nuclear waste, et cetera, there ought to be an opportunity for these Senators to begin to forge a partnership to deal with this issue. So I would

look forward to that opportunity because I think we understand one another.

Mrs. MURRAY. Mr. President, I thank the Senator from Idaho, and I look forward to working with the Senator on this very important issue.

Mr. President, I will continue speaking to my second amendment, I want to be assured as we go through this debate that we will not be creating a big, new, powerful bureaucracy at the Congressional Budget Office. Mr. President, I believe that most of my concerns were addressed through the adoption of the Levin amendment and through the defeat of the committee amendment that would have severely curtailed the Budget Committee's role in this process.

In order to make sure that all my concerns have been thoroughly understood, I do want to make a statement now about what those concerns are. Mr. President, I am troubled by the fact that S. 1 might give CBO tremendous new powers to dictate the Senate's legislative agenda. I have listened very carefully to the debate on this bill and I think it is fair to say that we all agree it is our responsibility, our responsibility as legislators, to act carefully as we set policy for the people we represent.

I would like to support a bill on unfunded mandates that is reasonable and reflects common sense. Mr. President, before the adoption of the Levin amendment and several others, this bill went too far. The people of this country should understand exactly what this bill does. Everyone of us here in this Chamber, everyone of the people in the galleries, everyone watching us on C-Span, and everyone in this country has to realize that this bill will create a new bureaucracy at the Congressional Budget Office. It will have wide-ranging powers.

The staff of that huge new bureaucracy will not be elected by anyone. They will not be accountable to the American taxpayers but they will have enormous power to control this legislative process. They can bring Senate debate to a halt on amendments or a bill or even dictate legislative schedule.

This vast new power should give everyone of us pause. That is why I asked outgoing CBO Director Robert Reischauer about this this morning at the hearing in the Budget Committee. Dr. Reischauer is a fair man, a fine public servant. So I asked him how this bill will affect the operations of CBO. I asked him how the CBO would prioritize requests for cost estimates that will come from the Senate and from the other body. Dr. Reischauer responded that the Congressional Budget Office staff was working ''flat out''—those are his words, not mine—trying to fulfill their obligations to the Congress at this point.

Dr. Reischauer said that the CBO would need more resources if we enact this bill. Then, Mr. President, I repeated my question about prioritizing requests. I asked the Director how he would decide which mandate to estimate first. His reply, frankly, troubled me. He said the CBO would rely on the guidance of the bipartisan leadership of the Congress to decide which one to do first. And then he added that the CBO has tried that approach with the health care debate last year, and it was a failure. That should concern every one of us in this country.

Dr. Reischauer's response has raised even more questions in my mind, questions like: If I offer an amendment that does not have a CBO cost statement, what happens?

If a point of order is raised against my amendment, is my understanding correct that the procedure is for the Parliamentarian immediately to seek the advice of the Budget Committee on the cost statement?

Am I further correct that the Budget Committee will turn to CBO for its advice on the cost estimate?

Of particular importance to me is what sort of timeframe is provided for these cost statements?

Does the bill provide for any time limits on the Budget Committee and CBO's preparation of cost statements?

If the bill does not impose any time limits on the Budget Committee and, more importantly, CBO, what does the manager envision as reasonable time limits for this work?

How long does the manager envision the process taking?

How long, for example, does the Budget Committee have to get a reply from CBO?

How long does CBO have to reply?

More importantly, what happens while the Budget Committee and CBO are trying to prepare a cost statement? Is my amendment laid aside? For how long? Does the Senate keep working on underlying bills? If so, for how long?

Mr. President, I want to be able to assure my friends and neighbors that this bill will not take away their voice in setting priorities of the issues this body considers. They do not want unelected bureaucrats to determine which bills or which amendments will be brought up on this floor.

For example, the people of my State may feel that education reform should be Congress' top priority. But if the CBO analysts over in the office do not work on that bill, if they do not score it, Congress cannot consider it. The people of my State or your State, Mr. President, might want Congress to consider safeguards for school buses so they know their kids are safe riding on those buses to school everyday. But the bureaucrats at CBO might say, ''Tough, I'm too busy; I don't want to score the bill for''—this Senator or that Senator. I have not gotten any guidance on that one.

The people of my State want to know that no matter where they go in this country, they do not have to worry about E. coli, but the budget bureaucrats can say, ''Sorry, Senator MURRAY, we don't have time to score that amendment of yours which deals with a public health emergency.''

I do believe we need reform. I believe Congress should be honest and up front with the American taxpayers about the cost of the laws it passes. But I do not believe that we should be creating new bureaucracies or putting American families in jeopardy.

Mr. President, it is my hope that the Levin amendment will go far in addressing some of the concerns I have raised, but I also hope that we are all taking into account this new bureaucracy that will emerge as a result of this legislation.

I thank the Chair, and I reserve the remainder of my time.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes remaining.

Mr. KEMPTHORNE. Mr. President, I would like to respond to some of the points raised by the Senator from Washington.

In this bill, we provide for additional funds to the Congressional Budget Office, knowing that we are giving them more assignments in the future to carry out.

Also, I will point out that the Commission that dealt with the staffing levels of the different committees that was headed by Senator DOMENICI and Senator MACK, at the very outset, we made sure that they knew there would be these new requirements on the Congressional Budget Office and, therefore, when they considered cuts across the board, that that is one area we had flagged for them.

Also, in determining the amount of money that we included in this legislation, that was done through the Budget Committee in continual consultation with the Congressional Budget Office, so they provided us the funds. That dollar amount came from the Congressional Budget Office as to what they felt was necessary in order to accomplish the requests and the requirements that we would put on them.

I appreciate the concern and the aspect about trying to bring about great efficiency for Congress, but I am afraid that the amendment offered may improve the efficiency, but it would make it much easier for Congress to go ahead and inadvertently impose mandates on States and cities.

The amendment says that if cost estimates are not available within 1 week for committee bills, the point of order does not lie against the bill. In other words, delay for whatever reason by CBO will moot the relief States and cities need from unfunded Federal mandates. If CBO needs time to do a good estimate, then there would be no estimate at all.

I think in this case it is better to inconvenience Congress than to impose

mandates on States and cities that taxpayers must pay.

Mr. President, I reserve the remainder of my time, because the chairman of the Budget Committee was here and was going to respond to some of the specifics that the Senator had. He is not here at the moment. So, again, we reserve the remainder of our time.

Mr. LEVIN. Mr. President, I am wondering if the manager will yield for a question. I am afraid it will have to be on his time because I do not know if I can use the time of the Senator from Ohio, relative to this amendment. If the Senator will yield.

Mr. KEMPTHORNE. Yes, I yield.

Mr. LEVIN. Is it the intention, first of all, that the point of order apply to amendments that are on the floor that do not have the estimate?

Mr. KEMPTHORNE. I am sorry; will you repeat the question?

Mr. LEVIN. Is it the intention that this bill's point of order apply to amendments that do not contain the estimates?

Mr. KEMPTHORNE. With regard to mandates?

Mr. LEVIN. Yes.

Mr. KEMPTHORNE. Yes.

Mr. LEVIN. And is it the intention then, for instance, if somebody offers an amendment and it has an estimate in it but nobody knew that amendment was going to be offered, and then somebody wants to come and offer a second-degree amendment and then asks the CBO to score that or estimate the second-degree amendment, is it the intention of the manager that the Congress, as he put it, be inconvenienced, hold up consideration of the bill until the estimate can be obtained from CBO? Is that the intention, that we hold up consideration of the bill until an estimate can be obtained from CBO?

Mr. KEMPTHORNE. Mr. President, in response to that, the burden of proof in this case would be upon the Senator raising the point of order. The originator of the amendment is not required to get the CBO estimate. I think that it would be good government for anyone bringing an amendment that potentially could exceed the $50 million threshold in the public sector and $200 million threshold in the private sector, again, through the budget process. I know that has been the normal practice.

Mr. LEVIN. I say, if the Senator will yield, there has never been a point of order based on this kind of an estimate, costs on 87,000 jurisdictions, local governments. There is nothing like this in existence. That is why I phrased my question the way I did.

Somebody could offer a first-degree amendment and have an estimate because he or she knew they were going to offer a first-degree amendment, but nobody else in the body knew, and now with a first-degree amendment with an estimate being offered, somebody may say, ''Well, wait a minute; I want to offer a second-degree amendment, and I better go get an estimate or my second-degree amendment is out of order.''

I am just wondering whether or not, if a point of order is raised with that second-degree amendment, is it the intention of the managers then that the body hold up consideration of that second-degree amendment until an estimate could be obtained from the CBO?

Mr. KEMPTHORNE. Mr. President, again—

The PRESIDING OFFICER. The time for the Senator from Idaho has expired.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent for 2 minutes so I can complete the thought.

Mrs. MURRAY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes.

Mrs. MURRAY. May I suggest we add 10 minutes for debate, 5 on each side, in order to clarify this question?

Mr. KEMPTHORNE. Mr. President, what I would prefer—and first let me ask unanimous consent for 2 minutes so we can resolve this.

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

Mr. KEMPTHORNE. What I will suggest, because I would like to confer with the chairman of the Budget Committee, if the Senator will provide me those questions that she raised, I will be happy to then have a colloquy so we can go into those and deal with it.

But what we are doing in S. 1 is not anything new from what we do with appropriations where, if you have a second-degree amendment, you have the Budget Committee staff that is here make a telephone call to try to get an estimate by phone from the Congressional Budget Office.

So again the process itself is not new that we are suggesting.

Mr. LEVIN. I have no time to yield to myself and comment on that other than to simply say that this is a new estimate, the likes of which has not been made before, involving costs indefinitely into the future on 87,000 local governments. That is very different from any kind of a scoring that the Budget Office has done for a Federal expenditure up to now. I think my friend from Idaho would agree this is a different kind of estimate than has ever been done by the Budget Committee.

Mrs. MURRAY addressed the Chair.

Mr. LEVIN. I thank my friend.

The PRESIDING OFFICER. The Senator from Washington has 2 minutes remaining.

Mrs. MURRAY. I thank the Chair.

I have very serious concerns because I heard my colleague from Idaho, the manager of the bill, say that CBO had, indeed, requested, I believe, $4.5 million additional to take care of this bill.

It is my understanding—I see the chairman of the Appropriations Committee is in the Chamber; perhaps he can respond—that the legislative branch is going to have to reduce its budget by $200 million, and here we are telling everybody up front that we are going to ask for $4.5 million more for CBO just under a guess estimate of what this might have in the way of an impact on CBO, and I do think that is an important consideration we need to look at.

I appreciate the Senator's response that you would go into a colloquy with me and answer some of the questions raised both by myself and Senator LEVIN. I had intended to withdraw this amendment, but I would like to instead ask the manager—I intend to withdraw my first amendment—if he would agree to let me lay aside this amendment until we have the responses for my questions.

Mr. KEMPTHORNE. Mr. President, I have no problem with that.

Mrs. MURRAY. Mr. President, I ask unanimous consent then to lay aside amendment No. 188 and unanimous consent to withdraw amendment No. 187.

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

The amendment (No. 187) was withdrawn.

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

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. EXON. Mr. President, as we move forward on the mandates legislation, I would like to read a portion of a newspaper article that appeared in the Omaha World Herald on January 24. The headline reads: ''States Fear Mandates, Expert Says; Balanced Budget Could Mean More,'' by David C. Beeder, of the Omaha World Herald Bureau in Washington, DC.

The story reads:

> States will not support a constitutional amendment to balance the Federal budget unless it includes a guarantee they won't have to assume more Federal programs, a former assistant attorney general said on Monday.

Charles Cooper, who practices consitutional law in Washington, said: ''The States are already groaning under the cost of implementing Federal policies.''

It goes on to say:

> Cooper, who served in the Justice Department during the Reagan administration, said he supports a balanced budget amendment.

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

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

(See exhibit 1.)

Mr. EXON. Mr. President, I would simply point out that I am not sure that the States, the Governors or, for that matter, maybe some of the people

in the United States recognize and realize the difficult financial circumstances that the Federal Government—that they are a part of—is in.

I am an original cosponsor and am strongly for passing the mandates bill. I have been one of the floor leaders on this piece of legislation. I predict that we will pass this legislation. I will protect the rights of those who wish to offer amendments. I think they have that right under the rules of the Senate, and I will do everything I can to protect that.

But I would simply say, on a very important bill like this, every Senator, regardless of which side of the aisle, should have the right to get up and offer amendments as they see fit. Then the body as a whole has to vote as to whether or not that is a good concept.

The mandates bill is going to be followed, I suspect, in reasonably short order by some kind of a discussion on the balanced budget amendment. And they are somewhat tied in. While the States are now moaning and groaning—and I think justifiably so—with regard to so-called unfunded mandates, unfunded mandates, unfortunately, have taken on a very big life of their own.

The facts of the matter are that many of the States of the Union, including my State of Nebraska, get more money back from the Federal Government than the State of Nebraska pays in. The last figures I saw are that Nebraska gets back about $1.17 for every $1 that Nebraska citizens pay into the Federal Government in the form of Federal taxes.

Now, one could argue, and probably justifiably so, that the total amount of taxes could be reduced if the Federal Government would go back and reduce some of their spending. And I would agree with that. That is what we are about with the constitutional amendment to balance the budget, when and if that becomes a part of our Constitution.

I simply am rising, Mr. President, to send a signal very loud and very clear that this is not a one-way street. If we are going to exempt the States and hold them harmless, if we are going to start down the list and begin to exempt a whole lot of other people, then it will make it totally ''Mission Impossible'' to ever balance the Federal budget, let alone by the year 2002.

Everyone should recognize and realize that, when we get spelled out in considerable detail a 7-year budget plan that I think can and should be developed by the Budget Committee and presented to the Senate floor, it will be very evident there is going to be a lot of pain and suffering, a lot of disappointments. And I would simply say that, by and large, I am not interested in starting down this road of exempting this and exempting that, because I think this is going to be a painful enough process.

Therefore, I salute those who are bringing up questions about the mandates. Those of us who have long supported a constitutional amendment on the Federal budget recognize and realize that there are two legitimate points of view. There are those who strongly oppose the mandate legislation and there will be even more that will strongly oppose the follow-on piece of legislation known as the constitutional amendment to balance the budget.

I think those who do not agree with this Senator perform a very worthwhile service, because, as is usual with most discussion and most propositions, there are two sides. All is not white and all is not black or vice versa.

With that, Mr. President, I just want to say that there are some people, including Mr. Cooper who I have quoted from this story, who simply do not understand the situation. And when he says he is for a balanced budget amendment so long as the States are protected, then that is a caveat that I think we cannot accept.

I still am a strong supporter of the bill before us, but I am pleased to see there are some who do not agree with this piece of legislation and have pointed out some shortcomings with this legislation. They are providing a great public service. I suspect that there have been few, if any, bills that we have ever passed in the U.S. Senate, regardless of how well-sounding they are, that are perfect legislation. The mandate legislation is not perfect legislation. It will not cure all of our ills.

When and if we pass a constitutional amendment to balance the budget by the year 2002, and if that is ratified by 75 percent of the States, that is not going to cure all of our problems. The devil is definitely going to be in the details when we get down to such matters as a constitutional amendment to balance the budget.

I thank the Chair and I yield the floor.

[EXHIBIT NO. 1]

[From the Omaha World Herald, Jan. 24, 1995]

STATES FEAR MANDATES, EXPERT SAYS

(By David C. Beeder)

WASHINGTON.—States will not support a constitutional amendment to balance the federal budget unless it includes a guarantee they won't have to assume more federal programs, a former assistant attorney general said Monday.

''The states are already groaning under the costs of implementing federal polices,'' said Charles Cooper, who practices constitutional law in Washington.

Cooper, testifying before the Joint Economic Committee, said approval by three-fourths of the states will require a constitutional guarantee against giving state and local governments programs without the money of pay for them.

He said passing a law barring unfunded mandates would be inadequate protection for the states.

''The requirements of a balanced budget amendment would increase exponentially the incentives for shifting federal financial burdens to the states,'' Cooper said.

Cooper, who served in the Justice Department during the Reagan administration, said he supports a balanced budget amendment.

Cooper's testimony was followed by a warning from Assistant Attorney General Walter Dellinger, who said a constitutional amendment to balance the budget could not be forced.

''It would be wonderful if we could simply declare by constitutional amendment that from this day forward the air would be clean, the streets would be free of drugs and the budget forever in balance,'' Dellinger said.

''In the absence of enforcement mechanisms such as presidential impoundment of funds or judicial involvement in the budgeting process, a balanced budget amendment is unlikely to bring about a balanced budget,'' Dellinger said.

Sen. Connie Mack, R-Fla, said Dellinger's arguments were not ''of such magnitude that we should not move forward'' with an amendment that would require a balanced budget by 2002 and a three-fifths vote to increase taxes.

Mack said he would recommend enforcement of the balanced budget amendment by a spending-reduction commission resembling a presidential commission that decided on military base closing two years ago.

If Congress did not balance the federal budget by 2002, as required by the amendment, the commission would recommend spending reductions to meet the requirement. Congress would accept or reject the recommendations without debate, Mack said.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak for up to 5 minutes as if in morning business.

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

## THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. SPECTER. Mr. President, I note that there is no other Senator seeking recognition at the moment. I would like to comment briefly about the President's State of the Union speech last night.

I thought that the President received the most applause of the evening when he talked about reducing the size of Government. And I think if there is one message which has come out of last November's election it is that the people of the United States want to reduce the size of the Federal Government. That is right in line with the pending legislation which refers to eliminating unfunded mandates so that if the Federal Government has legislation which the Congress wants to pass and that it represents a worthy Federal objective, let the Federal Government pay for it. Let us not keep putting one after another requirements on the States for the States to pay for what we decide what we want them to do. That, of course, is in accordance with the basic principle of federalism that we should have a central Government of limited powers.

When the President read that line in his speech last night about smaller Government there seemed to be the greatest unanimity in the Chamber than there was on any other point.