

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 man-

dates. 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 policies," 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.

A number of things that the President had to say I thought hard to achieve. I believe it will be very difficult when he talks about a tax cut which is obviously, very, very popular, to do so in the context of still cutting the deficit and in the context of increasing other governmental expenditures, as, for example, the defense budget. I believe that the defense budget is now too lean. I would like to see a tax cut. But I am not prepared to enter into the competitive bidding on a tax cut if it will mean adding to the deficit. The way we are looking at this budget, realistically when we talk about a middle-income tax cut and we figure how much it is on a per person basis, that it is more important to avoid increasing the deficit in the United States today.

I was a little more than surprised when the President talked about the North Korean agreement and talked about continuous inspections. That is not the agreement that I have read. The agreement that I have read puts a 5-year moratorium on inspections on spent fuel rods, which is the best way for determining whether there is the development of nuclear weapons by North Korea. I have grave reservations about that agreement as to its substance, and that line particularly, and also the way it has been adopted.

As I read that agreement it has all the indications of a treaty, and under the Constitution the treaty has to be ratified by the U.S. Senate. There have been a number of concerns raised in a number of quarters but so far it is an executive agreement and it has very, very profound implications for the United States. Now only \$4 billion is involved and the United States is the guarantor of that, but the moratorium on inspections, I think, poses very, very substantial risks.

When we had hearings in the Intelligence Committee, the Senate Intelligence Committee, a committee which I Chair, I was very concerned when the intelligence officials could not give any assurances or any real ideas as to how long it might be before North Korea would have sufficient ballistic capability to reach the continent of the United States. In the course of that hearing, it was disclosed that North Korea could now reach Alaska. It was disclosed further that North Korea and Iran are working jointly on testing ballistic missiles.

I was very much concerned, Mr. President, about the very limited attention given in the President's very long speech, very limited attention given to foreign policy. He spoke for 1 hour and 21 minutes, which some may have considered a little long. A little easier when you are watching C-SPAN 2 or watching the national networks. You have greater control over the length of speakers. You have the "off" button. Perhaps many people are using it now on C-SPAN 2 as I make these few comments. The paucity, the scarcity of comments about foreign policy

I thought was revealing and rather indicative of the lack of experience, lack of capability, and, perhaps, lack of interest that is coming out of the administration on this very important issue.

I think in toto, Mr. President, the most telling aspect of the speech last night was the partisanship in the Chamber. That was the 15th State of the Union speech that I ever heard. I have not seen so much partisanship with one side clapping virtually at every sentence and the other side in stony silence on so many of the ideas which were advanced. When I sense that kind of partisanship, it looks to me like we are going to be in for a very tough year. I am hopeful that we will be able to put aside partisanship and really move toward centralism with both parties in addressing the really tremendous problems which confront the people of this country: crime control, nuclear proliferation, health care reform, just some of the problems which we have to address in the national interest.

I thank the Chair and I yield the floor.

#### UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 198

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that when the Senate considers amendment numbered 198, that there be 20 minutes for debate to be equally divided in the usual form, that there be no second-degree amendments in order, and that following the conclusion or yielding back of time, the Senate vote on the McCain amendment.

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

Mr. KEMPTHORNE. I yield the floor.

Mr. MCCAIN. Mr. President, I thank both my friend from Idaho and the Senator from Michigan for their cooperation on this amendment. I believe it is an important amendment. I talked about it at length yesterday, Mr. President, and I know there is significant pending business before the Senate. I believe we now still have about 30 more amendments to consider, so I would be more than happy to yield back the balance of my time if that is acceptable to both managers of the bill.

Mr. President, I ask unanimous consent to request if the Senator from Michigan or the Senator from Idaho have any further discussion on this amendment?

Mr. LEVIN. Mr. President, I wonder if my friend from Arizona would yield for a question.

Mr. MCCAIN. I would be glad to yield.

Mr. LEVIN. A question has arisen as to whether the words "any legislative provision" on line 7 of his amendment are intended to mean, in effect, authorizing language.

Mr. MCCAIN. It clearly means any authorizing language.

Mr. LEVIN. I thank the Senator from Arizona. My understanding is that the manager on this side supports the amendment. I understand that Senator BYRD is supportive of the amendment, and I would be happy to yield back any time that I might control.

Mr. MCCAIN. I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back. The question is agreeing to the amendment.

So the amendment, No. 198, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I want to thank the Senator from Arizona for his efforts and his diligence in that. I think it is a particularly important amendment that he has offered. I appreciate the manager on the other side of the aisle and his support on this.

Mr. LEVIN. Mr. President, on Monday night I had a lengthy colloquy with the managers, the principal sponsors of the bill, the Senators from Idaho and Ohio. A number of important questions were left unanswered. In some cases, the answers were conflicted. Those questions concern issues that are central to the way this bill will work. They need to be answered, I believe, before we conclude our work on this legislation.

These are the questions which I have, and I have given a copy of these questions to my friend from Idaho. I want to read them, put them in the RECORD, in effect, and ask they be answered by tomorrow at some point. I am not seeking an answer, one-by-one at this point, because they take some time, I would think, to attempt to answer, if, in fact, they can be answered.

Here are the ones that we had left outstanding. First, the effective date of the mandates. When is a mandate effective? That is an absolutely critical issue because that date sets off a 5-year time period and if during any one of those 5 years there is an estimate that the cost of the mandate is over \$50 million, certain very significant things are triggered.

So it is critical to know when is a mandate effective, and we had a long discussion on that on Monday night with a chart.

If that is determined on a case-by-case basis, then who makes that decision and when is that decision made?

The second group of questions relates to the question of whether an estimate can be given in the form of a range; could an estimate be that that will cost from \$20 million to \$80 million a year, or any other range? And here the questions are as follows:

Can the CBO estimate be in the form of a range?