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Senate

(Legislative day of Monday, June 5, 1995)

The Senate met at 9:31 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord of this Senate, we firmly believe that it is by Your choice and providence that we are here, called to serve You and our Nation together.

Today, we thank You for the strategic role of the Secretary of the Senate. Our lives and the ongoing work of the Senate have been deeply enriched and immensely enabled by the effective leadership of Sheila Burke. Thank You for her commitment to excellence and her loyalty and faithfulness to Senator DOLE and the ongoing work of the Senate.

Now Lord, we ask Your blessing on Kelly Johnston as he is installed as the new Secretary. We thank You for his talents, experience, and gifts that prepare him for this challenging responsibility. We gratefully affirm his commitment to You, and the forward movement of the process of shaping the future of America through the deliberations of this Senate. As he is installed may he experience a fresh anointing of the strength of Your spirit and a renewed assurance of the esteem of the Senators, officers, and all the staffs that make up the Senate family. Thank You Lord for the privilege of working for You, working for our beloved Nation and working together in unity. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ELECTING KELLY D. JOHNSTON AS SECRETARY OF THE SENATE

Mr. NICKLES. Mr. President, I send a resolution to the desk electing Kelly Johnston Secretary of the Senate and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 129) to elect Kelly D. Johnston as Secretary of the Senate.

Resolved, That Kelly D. Johnston, of Oklahoma, be, and he hereby is, elected Secretary of the Senate beginning June 8, 1995.

The PRESIDENT pro tempore. Is there objection to proceeding to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

So the resolution (S. Res. 129) was agreed to.

ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE

The PRESIDENT pro tempore. The Secretary of the Senate will be escorted to the desk for the oath of office.

The Honorable Kelly D. Johnston, escorted by the Honorable Sheila Burke, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to him by the President pro tempore.

The PRESIDENT pro tempore. You are now Secretary of the Senate.

[Applause, Senators rising.]

Mr. NICKLES. Mr. President, one, I wish to congratulate Kelly Johnston for now being named and appointed Secretary of the Senate.

I have had the privilege of knowing Kelly Johnston for several years. He is an outstanding individual. I have had, indeed, the honor of having him be the executive director of the Republican Policy Committee for the last 3 years, where he did an outstanding job in serving all Republican Senators.

Now as Secretary of the Senate, I am confident he will do an outstanding job serving the entire family of the Senate.

It gives me a great deal of pleasure not only to recommend Kelly Johnston for this position, but to see that he is now Secretary of the Senate.

Mr. President, I also acknowledge that his family is here, most of whom are from Oklahoma. We are delighted to have them join us as well, his wife Adrienne and his parents. They, indeed, I know, are very, very proud of Kelly Johnston for his service and for his selection for this position.

I would also like to compliment Sheila Burke for her service as Secretary of the Senate and also as chief of staff to the majority leader. She had two very big jobs and she has carried them out exceptionally well, and I compliment her.

PROVIDING FOR NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF SECRETARY OF THE SENATE

Mr. NICKLES. Mr. President, I send a resolution to the desk notifying the President of the election of Kelly Johnston as Secretary of the Senate and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GREGG). The resolution will be stated by title.

The legislative clerk read as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

A resolution (S. Res. 130), providing for notification to the President of the United States of the election of Secretary of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution is considered and agreed to.

The resolution (S. Res. 130) was agreed to, as follows:

Resolved, That the President of the United States be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

PROVIDING FOR NOTIFICATION TO THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF SECRETARY OF THE SENATE

Mr. NICKLES. Mr. President, I send a resolution to the desk notifying the House of Representatives of the election of Kelly Johnston as Secretary of the Senate and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 131), providing for notification to the House of Representatives of the election of Secretary of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution is considered and agreed to.

The resolution (S. Res. 131) was agreed to, as follows:

Resolved, That the House of Representatives be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

Mr. NICKLES. I again thank my colleagues. I thank Senator DOLE for an outstanding selection. I know Senator INHOFE, Senator DOLE, myself, Senator LOTT, and Senator THURMOND are all very proud to have Kelly Johnston be the next Secretary of the Senate.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to take this opportunity to commend Sheila Burke for the great job she has done and the service she has rendered to this Senate and to this country. She is a lady of ability, integrity, and dedication. We have been very fortunate to have her to serve as she has done so faithfully.

I also would like to congratulate Kelly Johnston for assuming the secretaryship of this Senate. This is a very important position. It involves many activities that concern all of us, and I am sure, since he is going to run the service, it will be efficient, capable, and helpful to this country.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to join the others this morning in congratulating Kelly Johnston upon his selection to be the Secretary of the Senate. I, too, have known Kelly for several years. I have known him to be always very efficient and very effective in whatever he has done. His work with the Republican Party in the past, but particularly his work at the policy committee, has been exceptional.

The papers, the studies, the analyses, the statistics that we receive from the policy committee—under the chairmanship of DON NICKLES, but under the stewardship, also, of Kelly Johnston as executive director of the policy committee—has been outstanding. I always look forward to receiving those documents. In fact, I have one of their very good pieces right here before me this morning on the telecommunications bill.

He has done outstanding work. I think his ability to get along with people and his knowledge of the Senate will serve us all very well. I congratulate him and his family for the fine work he has done and look forward to working with him in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me also join in the welcoming of Kelly Johnston as our new Secretary of the Senate. He has done outstanding work for the Senator from Oklahoma, and we are pleased at his appointment.

I particularly wanted to emphasize the admiration that we have all had for the job done by Sheila Burke. I had the utmost confidence in the former Secretary, Joe Stewart. He had been around this body 40-some years. I will never forget, recently, as we talked, he was commenting on the outstanding job being done by Sheila Burke. He said she was the most efficient Secretary that we had ever had in there. I am sorry to see her not continue, but I understand that Kelly Johnston will be well able, after a short time, to perform equally well.

So I both welcome Mr. Johnston and I lament the loss of Sheila Burke, but she will be continuing to work with us, I am sure.

I yield the floor.

Mr. PRESSLER. Mr. President, may I just say a word about Sheila Burke and Kelly Johnston? I would like to join in praise. Sheila Burke has been absolutely amazing. She is somebody we can go to and get something done right away. She will always have the answer. I join in the congratulations to Kelly Johnston and I look forward to working with him.

TRIBUTE TO GEN. GORDON R. SULLIVAN, CHIEF OF STAFF, U.S. ARMY

Mr. THURMOND. Mr. President, I rise today to recognize one of our country's finest soldiers, Gen. Gordon R. Sullivan, the Chief of Staff of the Army, who is retiring after a distinguished 36-year career.

General Sullivan began his service in 1959 when he was commissioned a second lieutenant of armor upon graduation from Norwich University. He commanded troops at every level from platoon to division, including the 1st Infantry Division, and served two tours of duty in Vietnam. He also spent an extensive amount of time overseas, serving four tours in Euorpe and one in Korea.

General Sullivan held a number of increasingly important duty positions at the corps, NATO, and Department of the Army levels. He influenced a generation of leaders at the Command and General Staff College, where he served as the Deputy Commandant. Throughout his career he exemplified selfless devotion to duty and totally committed leadership.

I believe history will show that General Sullivan led the Army through one of its most challenging periods with exceptional skill, courage, and wisdom. Most importantly, he preserved the Army and its high standards of excellence during the turbulent post-cold-war drawdown, and positioned the Army for the future. He is widely and rightly acknowledged as a visionary thinker, both within military and private industry circles. The Army of the 21st century will regard General Sullivan as the bold, courageous architect of a preeminent military force which is able to apply technology to maximum advantage.

Mr. President, our Nation owes General Sullivan its deepest appreciation for his truly distinguished service. I wish him and his wife, Gay, continued success and happiness in all future endeavors.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 652, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

Pending:

Dole amendment No. 1255, to provide additional deregulation of telecommunications services, including rural and small cable TV systems.

Pressler-Hollings amendment No. 1258, to make certain technical corrections.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who seeks time?

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, we are resuming consideration of the telecommunications bill. We had opening

statements last night and we urged Senators to bring amendments to the floor. We eagerly are awaiting the many amendments because we only have a certain amount of time and we are urging all offices and all Senators who have amendments to bring them to the floor. We are ready to go, as we have emphasized in our opening speeches last night.

Let me just reiterate, I think the movement of this bill is very important to America. It will create an explosion of new jobs, of new devices, and of new activities. I know there are a variety of amendments. We have welcomed them. I am prepared to yield the floor to any other Senator who has statements at this time.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Nebraska.

Mr. KERREY. Mr. President, I restate at the beginning what I said last evening; that is, I believe the distinguished chairman, the Senator from South Dakota, and the distinguished ranking member, the Senator from South Carolina, have done an awful lot of work on this, a lot of good work. I appreciate the work they have done. They allowed me to be involved in many of these steps.

But I say for emphasis, I cannot support this bill. I do not believe it provides the kind of protection for consumers that needs to be provided. I believe many of the statements that have been made thus far overestimate the impact upon the economy and underestimate the disruption that will occur to households throughout this country.

No Member should doubt this. Any Member who doubts the impact of this legislation should go back and read clippings from 1984, when William Baxter and Judge Greene signed a consent decree, or when the U.S. Government and AT&T signed a consent decree in Judge Greene's court. Talk to consumers and talk to households and citizens in 1984 and 1985, and you will find an awful lot of those folks will say, ''Why don't you put the phone company back together?''

I believe that action was good. That action was taken by the Antitrust Division of the Department of Justice. I say that for emphasis. Justice is given a consultative role in this legislation. But they were the prime mover in breaking up the monopoly that many people cite as the reason for wanting to go even further today.

Second, you will hear people come to the floor and say and act as if somehow the regulations are really tying up American business. I intend to come to the floor and bring profit and loss statements and to bring economic analysis.

Where do you go in this world to find better phone service? Where do you go in this world to find better cable? Where do you go in this world to find businesses doing better than American businesses in telecommunications? It may be in fact it is true that our regulations need to be changed. But please let us not come down here and act as if we have these corporations all handcuffed as if they are not making any money, sort of hamstrung and cannot move and cannot reach the customers they want to reach to generate the revenue they are trying to generate.

This piece of legislation will touch roughly half of the U.S. companies in America and every single American household. Citizens who wonder how it is going to affect them need to pay careful attention to the 146 pages of legislation that is before this body today. The law matters. The law determines how people behave. This law governs the behavior of American corporations in nine basic communications industries. If you are a household or a citizen who is affected by the broadcast industry, this legislation affects you because this legislation affects the broadcast industry. If you are a home or a citizen who has cable coming into your household, this affects you. This legislation affects the regulations governing the cable industries of America and the telephone coming into your household.

This 146 pages in S. 652 affects you because this deregulates the telephone industries in America in a very dramatic and I believe generally constructive fashion. If you are a person who goes to the movies, or you are a person who buys CD–ROM's or buys records of any kind, this affects you because it affects Hollywood, and it affects the music recording business. It is written into this law.

If you have a newspaper coming into your household, or you subscribe to magazines or electronic publishing of any kind, it affects you because this legislation affects American publishers as well. If you buy a computer or use a computer in the workplace, it affects you again. If you purchase consumer electronics or are a consumer of wireless services or satellite services, all the nine basic communications industries, all growing relatively rapidly, all affect each and every single American citizen in their homes and in their workplace.

Let no Member of this Senate underestimate the impact of this legislation. We had a great debate over the budget resolution. I know from my own personal experience with that legislation that there was a great deal of concern. Gosh, what if you vote for it, is it going to be a problem? Are people going to get angry with you? There are changes in Medicare, and cuts in programs. Are people going to get unhappy because we finally are asking them to pay the bills of the Government? The answer is probably yes. Probably they are going to get a little bit upset.

This piece of legislation is more dramatic than the budget resolution. This piece of legislation affects Americans far more intimately than that budget resolution. There is not an American citizen that will not be affected by this piece of legislation.

Last night on the floor of the Senate the distinguished Senator from South Dakota said:

> The recent hearing process which informed the Commerce Committee and led to the development of S. 652 began in February 1994. In 1994 and 1995, the Commerce Committee held 14 days of hearings on telecommunications reform. The committee heard from 109 witnesses during this process. The overwhelming message we received was that Americans want urgent action to open up our Nation's telecommunications market.

Mr. President, I challenge that statement. I challenge the statement that we can conclude from the hearing process that ''Americans want urgent action to open up our Nation's telecommunications market.''

Tell me who it was that in a town hall meeting stood up and said, ''Senator GREGG, would you go to Congress and make sure you get down there and change the laws to help our telecommunications market?'' Where do we have polling data that shows what the people of South Dakota or Nebraska or South Dakota or New Hampshire or elsewhere say about this particular piece of legislation? Were they heard in the hearing procession?

If you look, in fact, at the hearings held on this bill, on January 9, 1995, the committee had their first hearing. They heard from the distinguished majority leader, the Senator from Kansas, Senator DOLE. They heard from the chairman of the House full Committee on Commerce, Congressman BLILEY. They heard from the chairman of the Subcommittee on Telecommunications, JACK FIELDS. That was panel No. 1.

Then on the 2d of March, the committee held another hearing. They heard from Anne Bingaman, who is the Chief of the Antitrust Division at the Department of Justice. They heard from Larry Irving, Assistant Secretary of the National Telecommuncations Information Administration in the Department of Commerce, which is being proposed to be abolished, an interesting witness; Kenneth Gordon, representing NARUC, a State regulatory agency. That is panel No. 2 on the 2d of March.

Also, on the 2d of March another panel, Peter Huber, senior fellow from the Manhattan Institute; George Gilder, senior fellow from the Discovery Institute; Clay Whitehead with Clay Whitehead & Associates; Henry Geller from the Markle Foundation; John Mayo, professor at the University of Tennessee; Lee Selwyn, professor of economics and technology.

Then on the 21st of March the committee met again. This is the third hearing on this particular piece of legislation. On that day there were three panels.

Panel No. 1: Decker Anstrom with the National Cable Association; Richard Cutler, Satellite Cable Services; Gerald Hassell, Bank of New York; Roy Neel, U.S. Telephone Association; Bradley Stillman, Consumer Federation of America.

Then the second panel: U. Bertram Ellis, Ellis Communications, Inc.; Edward Fritts, National Association of Broadcasters; Preston Padden, Fox Network; Jim Waterbury of NBC Affiliates.

Panel No. 3: Scott Harris from the FCC, not on behalf of the FCC but his own personal testimony; and Eli Noam, Communications Institute for Teleinformation. That was the third set of hearings.

On the 23d of March, the full committee had their markup, and the bill was reported out 17 to 2.

I would like to put on my glasses and read the small print of some of the things that were said in these hearings. Just again, the idea here is I am respectfully challenging what I think is a very important statement, a very important statement that lots of others are going to make as well; that is, that the overwhelming message we received was that Americans ''want urgent action to open up our Nation's telecommunications market.'' Keep that in mind.

What do the households in your State want? What do the citizens of your State want? What do the people who elected you and sent you here to the U.S. Congress want? What do they want?

Let us see what they wanted as we look at the hearings that were held. They said: First, there were the three Members of Congress.

Senator Dole advocated quick passage of telecommunications legislation. He noted that rural Americans are concerned about telecommunications legislation, as it offers tremendous opportunities for economic growth. He testified that legislation should underscore competition and deregulation, not reregulation.

Chairman Bliley stated that the goals of telecommunications legislation should be to: one, encourage a competitive marketplace; two, not grant special Government privileges; three, return telecommunications policy to Congress; four, create incentives for telecommunications infrastructure investment, including open competition for consumer hardware; and, five, remove regulatory barriers to competition.

Chairman Fields stated telecommunications reform is a key component of the legislative agenda of 104th Congress. He chastised those who speculated that Congress will be unable to pass telecommunications legislation this year. He asserted that the telecommunications industry is in a critical stage of development, and that Congress must provide guidance.

I did not hear any of those three witnesses come and say ''Americans want urgent action to open up the telecommunications market.'' They are talking about American corporations. They are talking about American industry and advising them that they want to do things that they are currently unable to do because the regulations say they are prohibited from doing it. That is what this bill is about, businesses that want to do something that they are currently not allowed to do. That is what it is all about—change in the law. All of these various businesses do something that they currently cannot do. In many cases, I support it. But I am not getting calls from people at home saying, ''Gee, Bob, I hope you are really getting there because we want to make sure that our Nation's telecommunications markets get opened, there is a very urgent need to do it.''

Listen to panel No. 1, second hearing:

Anne Bingaman testified that the administration favors legislation that is comprehensive and national in scope, opens the BOC local monopoly, and provides for interconnection at all points.

She claims that local loop competition will bring consumers the same benefits that long distance competition brought consumers when the Justice Department broke up AT&T.

I believe that Anne Bingaman is right, but I caution my colleagues it took 7 or 8 years before the consumers gave you a round of applause. There was a long period of time after 1984 when people, at least in my State, were saying what in the Lord's name is going on here? All of a sudden I cannot get a phone into my house; I have to go to a different provider; I have competition; I have choice. What the heck is going on? What was wrong with what they had? they were saying to me. I said, well, stay with this thing. It is going to work. We are going to open up the long distance market. We are going to have competition. It is going to be good. Trust me. I trust it is going to be good.

And it has worked. It was not coming from home, Mr. President. It was not coming from households and citizens who said, Gee, Governor, would you write a letter to the Justice Department, old Bill Baxter back there, and see if he can get together with AT&T and file a document down in Judge Greene's court because we would really like to see the RBOC's spun off, and all that sort of thing.

It has worked. Anne Bingaman is correct that it worked. But it took years before we understood that citizens began to see the benefits.

Larry Irving agreed that opening telecommunications markets will promote competition, lower prices, and increase consumer choice. He stated that the government must maintain its commitment to universal service. He stated the administration's concern that private negotiations may not be the best way to open the local loop to competition. He also asserted that a date certain for elimination of the MFJ restrictions will hurt efforts to negotiate interconnection agreements with Bell operating companies.

Kenneth Gordon stated the State regulators, including those in Massachusetts, were once a barrier to competition, but are now at the forefront of promoting competition. He said that States must also retain control of universal service.

And he goes on to make some other additional comments.

But these three witnesses are beginning to talk about the consumers. They are beginning to talk about the impact upon the American people. They are beginning to express, particularly the last witness, Larry Irving, they are beginning to express concern for what happens when deregulation and competition come in. But, again, no overwhelming testimony here. None of them comes in and says we have to do this because the American people are banging down our doors and urging us to do this; no statement that has the overwhelming support of the American people; merely saying that we think it is right to deregulate; we think it will be good to deregulate; we think this will be good for the people.

Now, how many of us understand the 1994 election? A lot of us here have heard people come down to the floor and say it was this, that, and the other thing. I agree with an awful lot of it. Most of us understand one of the things that was going on in 1994, people said we do not think you people in Congress understand. We do not have any power. We are disenfranchised. We do not feel a part of this process.

Mr. President, they have not been a part of this process, in my judgment. This is about power. Corporations should do things they currently cannot do. They are telling us it is going to be good for the American people. They are telling us it is going to be good for consumers. They are telling us it is going to be good for jobs. They are telling us it is going to be good for the people. It is not the people telling us it is going to be good for them, Mr. President.

Then on that same date, on the second panel, Peter Huber noted that a date certain for entry is necessary because the FCC and the Department of Justice are very slow to act. And this is a very important issue. We have to get the witnesses coming in and saying that the FCC is a terrible regulatory body and they are very slow. This is all language to give you the impression that somehow American communications businesses are burdened down by these nasty bureaucrats over at FCC. Peter Huber said he advocated swift enactment of legislation with a date certain for entry into restricted lines of business.

Then George Gilder, the greatest advocate of deregulation of all, also advocated swift congressional action, claiming that telecommunications deregulation could result in a $2 trillion increase in the net worth of U.S. companies.

He said the U.S. needs an integrated broadband network with no distinction between long haul, short haul, and local service.

Clay Whitehead comes in and says:

Congress should not try to come in and chart the future of the telecommunications industry but should try to enable it. He also advocated a time certain for entry into restricted lines of business.

Then Henry Geller comes in. He agrees with the previous speakers that Congress should act soon.

He said that a time certain approach would work for the ''letting in'' process, allowing competition in the local loop, as well as the ''letting out'' process.

Geller advocated that the FCC should allow users of spectrum the flexibility to

provide any service, as long as it does not interfere with other licensees.

John Mayo testified that the spread of competition in other markets over the last decade supports the opening of the local loop. He said that the interLATA telecommunications competition has been a success and Congress should follow the same model for local exchange competition.

Lee Selwyn asserted that there will be no true competition in the local loop unless all participants are required to take similar risks. Selwyn also testified that premature entry by the Bell operating companies into long distance could delay the growth of competition for local service.

I frankly do not know who all these individuals are. I do not know whether they are consultants for one company or another. I suspect that all of them have a fairly defined sense of view, defined either by the companies or encouraged by the companies as a result of previously reached conclusions.

Again, I do not hear individuals coming in and saying, do you know what it is like out in the households today trying to get cable service, trying to keep phone service? Do you know what consumers are saying out there today? Do you know what individuals are saying when all of these entities have downsized over the last 4 or 5 years? Any expression of concern for what technology does to families on the underside of that two-edged sword? Any expression of concern from any of these highfalutin individuals that are paid a lot of money to provide us with their advice about what is going on out there in America?

No, just swift action, by God. Let us get the laws out of the way, get rid of the regulations. Let these companies do whatever they see fit, whatever they decide is best for the bottom line. Whatever they decide is best for the shareowners will in the end be better for their customers.

Then on March 21, Mr. President, three panels come before the committee. This is getting a little lengthy. I do not think I will read every single one of these.

Decker Anstrom, from the cable industry, they support telecommunications legislation because the cable industry is ready to compete.

Roy Neel agreed with Anstrom. He is with the U.S. Telephone Association. He agrees that cable regulation repeal would allow for investments incentive.

Richard Cutler testified that the 1992 Cable Act had a devastating effect on small cable operators.

Bradley Stillman said that the 1992 Cable Act resulted in lower programming and equipment prices for consumers.

Weighing in that in fact the Cable Act of 1992 did work.

Gerald Hassell stated that true competition will only develop if both cable and telephone survive and flourish.

I happen to agree with that. I think if we are to have competition at the local loop, we have got to make sure we have two lines coming in.

One of my problems with this legislation is it allows acquisition of cable in the area by the telephone company. You folks out there right now in your households, you have a cable line coming in; you have a phone line coming in. You may not have both for long. You may have one line and only one opportunity to choose. That is not my idea of competition.

Panel No. 2.

Bertram Ellis testified that the local ownership restrictions no longer serve the public interest. He said that allowing local multiple ownership will permit new stations to get on the air that would not otherwise be able to survive. He also stated that local marketing agreements—joint venture between broadcasters—

Et cetera, et cetera. Open it all up. Let us get rid of the restrictions. I do not care if they own 50 percent of the market, 100 percent of the market. I do not care who controls. Just let the flow of the cap determine the public interest.

There is no public interest here involved any longer. We do not care who controls the information, who controls the stakes, who controls the radio, the newspaper.

Mr. President, again, as I said at the start, this is about information. It is about communication. And it does matter who controls it. It does matter if we have one single individual controlling a significant portion of the local market, controlling our access to information. It does matter. There is a consumer interest.

I am an advocate of deregulating the telecommunications industry. I do not know that I am, but I may be the only Member of Congress who can stand here and say that I signed a bill in 1986 that deregulated the telecommunications industry in Nebraska, that removed the requirement of them to go to the local public service commission for rate increases because I thought, and believe still, it would free up capital and they were in fact just spending a lot of money on lawyers and not really serving the public's interest requiring the companies to come forward. So I am an advocate of deregulation. But I also believe there are times when we need to declare and protect the public interest. And I do not believe in many cases this piece of legislation does that. I have already heard people come to the floor and say the best regulator is competition.

That is not true, Mr. President. If you want to get goods and services delivered in the most efficient fashion, competition does that. That is true. If you are trying to get goods and services at the highest quality and lowest price, competition is the best way to get the job done.

However, competition is not the best regulator. The only time we should be regulating is when we say we have the public interest in doing this. There is no other way of getting it done. The market is not going to be able to accomplish it. We agree there is going to be cost on businesses to do it. We believe it is a reasonable cost. We measure the cost. We assess the cost. We do not go blindly and say there is no cost to this deal. We understand the costs going in. But we say the public interest is so great that we believe it is necessary to do that. That is the purpose of regulation. Competition is not the best regulator. It is the best way to get goods and services delivered in a highly efficient fashion. But competition, unless you believe, unless you are prepared to come down to the floor and say American public corporations performing for their shareowners and American CEO's performing for their shareowners, worrying about what the analysts are going to say on Wall Street about the value of their stock, facing a decision of laying off 1,000 people that would improve the value of their stock—and make no mistake about it, analysts love cold blooded CEO's. You read it in the paper all the time.

Some CEO just takes over a company, reduces the force by 20 percent. What do the analysts say? ''Buy the stock; this guy is doing the right thing.'' So they are rewarding the downsizing, they are rewarding the cutting of the employee base.

Does it improve the productivity of the company? Absolutely. Does it make the company more competitive? Absolutely. Make no mistake, it has a devastating impact upon those families, upon those individuals who work for the company.

We do not find, I think, any evidence that CEO's are heartless, but when they are out there trying to perform for their share owners, they are not trying to satisfy some public interest, they are trying to satisfy the interest of people who own shares in their stock.

On that same day, Preston Padden advocated deregulation; Jim Waterbury said retain some ownership rules; on panel three they had Scott Harris testifying on behalf of himself, not the FCC, and Eli Noam, an expert in telecommunications. The two individuals debated a section of our telecommunications law called 310(b), which is foreign ownership. That is enough. That should give people some sense of what went on.

There were three hearings—three hearings, Mr. President. Three hearings that were held, four if you include the statements made by the majority leader, the chairman of the House Commerce Committee, and the chairman of the Subcommittee on Telecommunications. There were three total hearings, and I do not believe that the sum and substance of those hearings justifies the conclusion that the American people overwhelmingly back this particular piece of legislation.

Mr. President, I was on a trip this past week, a trip with the Intelligence Committee on narcotics. We went to Colombia, Peru, and Bolivia. One of the places I went was down in the Amazon River Basin on the Ucayali River. I went to church on Sunday, to mass actually, more appropriately, a Catholic

church in Pucallpa, Peru. It just happened that Sunday was celebration of Pentecost. Being a good Christian man, I go to church regularly, but I must confess, I did not remember all the details of what Pentecost meant. I listened carefully. Just by coincidence, the service, the Pentecost is about communication. The prayer of Pentecost is that we appeal to the Holy Spirit to come and fill our hearts with his love. That is the appeal.

The priest that Sunday said to the congregation that the tongue is the most powerful organ in the human body, that it delivers the word and a word can unite us, it can divide us, it can cause us to love one another, it can cause us to hate one another. The word coming from God can change our life. The word coming from human beings can inform us, change us and can cause us to reach all kinds of conclusions.

That is what this debate is about, Mr. President. You can turn on the news tonight, you can pick up the newspaper in the morning, and you watch and read what is going on. These people have the control over what they are going to put on the air, what they are going to put in the newspaper, what they are going to have in the form of serving up information to you and me. It is about power, Mr. President, power to do what they want to do.

Again, I am not against deregulation, I am not against changing the 1934 Communications Act, but this piece of legislation is being driven by a desire of corporations to do things that they currently are not allowed to do.

I also brought down here this morning some additional things. I do not know if the managers want to speak. I will be glad to yield or keep going and read some things that the press has said about this whole process.

I am not an apologist of the press. Sometimes they get it right, sometimes they get it wrong. Form your own impression. This is people observing this whole process, and this is what they say about it. Let us see if you hear anything about the American people coming here in airplanes and buses and demonstrating out front with placards, ''Deregulate the telecommunications industry.''

Here is one from Ken Auletta, ''Pay Per Views,'' in the New Yorker, June 5, 1995. Mr. Auletta says:

The hubris was visible at the House Commerce Committee briefings, on January 19th and 20th. Held in the Cannon Office Building, they were closed to the press and to the Democrats. At dinner the first night, Gingrich was the featured speaker, and he took the occasion to attack the media as too negative and too biased, and even unethical. After the speech, Time-Warner's CEO, Gerald Levin, rose and gently rebuked Gingrich for being too general in his remarks. Surely Gingrich did not mean to tar all journalists with the same brush—to lump, say, Time in with the more sensationalist tabloid press? ''I hope you don't mean all of us,'' Levin concluded. ''Yes, I do,'' Gingrich is reported to have replied. ''Time is killing us.'' And, according to several accounts, he went on to say that he had been particularly incensed by Time's account of his mother's interview with Connie Chung, of CBS . . .

[O]thers found it chilling that the Speaker would press the CEO's to have their journalistic troops hold their fire. ''We're at greater risk now of that kind of pressure having an impact.''

The interviewee went on to say:

''Traditionally, there has been a separation between news and corporate functions. Given the consolidation, you may have more instances where the top business executives, who have many corporate policy objectives, may find it tempting to impose control over their news divisions to advance corporate objectives.'' . . .

Another observation is from ''The Mass-Media Gold Rush,'' Christian Science Monitor, Jerry Landay, reporting June 2, 1995:

The players are limited to the cash-rich: The regional phone companies, networks and cable companies, and conglomerates such as Time-Warner. Smaller ownership groups, such as local television stations, are distressed. They expect the balance of power to swing to the cash-rich networks, which will gobble up many of them . . .

It goes on to say:

To influence the House legislation, legions of lobbyists swept across Capitol hill, with bags of campaign cash. Over the past 2 years the communications industry has handed out some $13 million. Republican lawmakers literally invited industry executives to tell them what they wanted. They're getting most of it.

The next one is from Congressional Quarterly Weekly. The headline is: ''GOP Dealing Wins the Votes for Deregulatory Bill.''

After doling out legislative plums to broadcasters, phone companies and carriers, top Republicans on the House Commerce Committee won bipartisan backing for a bill to promote competition and deregulation in the telecommunications industry. The committee's leaders—Chairman Thomas J. Bliley, Jr., R-VA, and Telecommunications and Finance Subcommittee Chairman Jack Fields, R-Texas—engaged in a lengthy give-and-take with committee members and telephone company lobbyists over the bill's rules for competition in local and long-distance phone markets. . . .

The intra-industry horse trading left consumer advocates feeling frustrated and ignored on the sidelines. . . . The biggest winners at the markup were broadcast networks, media conglomerates and cable companies.

The next one is from the New York Times, Edmund L. Andrews. Headline: ''House Panel Acts to Loosen Limits on Media Industry.'' Dateline, May 26, 1995:

Rolling over the protests of several Democrats, the House Commerce Committee voted today to kill most cable television price regulation and lift scores of restrictions on the number of television, radio and other media properties a single company may own. . . .

ABC, NBC and CBS and other large broadcasters like the Westinghouse Electric Company, the Tribune Company and Ronald O. Perelman's New World Communications Group all lobbied for sharply increasing the number of television and radio stations a company could own nationwide. . . .

But industry lobbyists have seldom met more receptive lawmakers. Committee Republicans have held numerous meetings with industry executives since January, some behind closed doors, at which they implored companies to offer as many suggestions as possible about the ways Congress could help them.

Next, an article that appeared in the Washington Post, a longer article that I will take pieces from, written by Mr. Mike Mills on the 23d of April, 1995:

The Bells—the folks who bring you local phone service—like to play political hardball, and they have been remarkably successful at it. This year, the Bells stand a very good chance of winning most of the prize they've sought for the last decade: Freedom from U.S. District Judge Harold H. Greene. . . . If they get what they want, the Bells can claim a place among history's most powerful Capitol Hill lobbyists, ranking them with the oil industries of the 1970's and the steel trusts of the turn of the century. . . .

All that lobbying costs money. According to the Federal Communications Commission, the Bells' individual phone companies spent $64 million on State and Federal lobbying expenses in 1993 and $41 million in 1992. Bell lobbyists themselves say their annual budget for influencing Congress has been $20 million a year in recent years, but has dropped to half of that this year. . . .

It goes on and on:

''Right now, the doors to the candy stores are wide open,'' said Brian Moir, who heads a coalition of business telephone users fighting the Bells.

These are the customers, Mr. President, make no mistake about it. These business users are the customers. These are not the companies providing the service. These are people using the service. This man says, ''. . . the doors to the candy store are wide open.''

It continues:.

The Bells figure, ''Why focus on one thing? Just go in with a frontloader.'' They're covering the waterfront. And why not? Moir estimates that if States' regulatory powers are limited, the Pressler bill will raise the typical Bell residential telephone bill by $3 to $6 a month. For the companies, that would raise it at least $24 billion over 4 years.

An editorial in the Baltimore Sun called ''Communicating Again,'' April 3, 1995:

Still, there are hundreds of billions of dollars at stake, and the lobbying is as fierce as Washington has seen in many years. Though the rivals like to make their cases in terms of what's best for the consumer, the quarrel is really over who gets a head start in capturing market share.

No one can deny that that is true.

Edmund L. Andrews, ''Big guns lobby for long-distance; insiders are trying to influence bill,'' Raleigh News & Observer, March 28, 1995:

With so much at stake, and so little to pin on labels of right and wrong, the various factions are seeking a personal edge by throwing into the fray as many people with friends in high places as possible. All of which made telecommunications as much of a bonanza for lobbyists this year as health care was last year. ''Everybody in this town who has a pulse has been hired by the long-distance coalition or the Bell operating companies,'' said Michael Oxley, R-Ohio, a member of the Commerce Committee. ''It's just amazing. . . .''

Michael Ross with the Pittsburgh Post-Gazette, January 20, 1995. Headline: ''Gingrich Defends Book Deal;

GOP Beats Murdoch.'' I am sorry I brought in all this. This article is talking about this bill:

Besides Murdoch, there were 10 other executives at the Capitol session, including Thomas Murphy of Capital Cities/ABC; Robert Wright, NBC; Howard Stringer, CBS; Bill Korn of Group W; and John Curley of Gannett. Gingrich was to address a private dinner last night for the communications firm chiefs in the Cannon House Office Building. . . .

Gingrich said the meeting yesterday was closed because ''we want their advice on how the United States can be the most competitive country in the world, and we would just as soon not have them give advice with the Japanese and Europeans listening.''

I do not believe it is the Japanese and the Europeans they were trying to keep out.

GOP organizers sought to keep the meeting secret, excluding notice of the events from the official daily calendar. But word leaked out from the executives, prompting protests from consumer advocates and from the committee's former Democratic chairman, Rep. John Dingell of Michigan, now the ranking minority member.

The last one is a piece that appeared in the Washington Post, again Mike Mills:

Consumer advocates yesterday protested plans by House Republicans to hold 2 days of private meetings with top communications executives that will feature a dinner with House Speaker Newt Gingrich. . . .

Media will not be present so Members and chief executive officers of various companies. . . . have honest and informative discussions.''

Boy, if that is not a keyword to telling you to hang on to your billfold I have not heard one.

''What policies can the Congress promote or repeal that would help your company to be more competitive and successful domestically?'' the letter asked. ''And, second, what obstacles does your company face when trying to do business abroad?''

I do not mind in general saying to any company in America, is there anything we are doing we should not be doing, anything we are doing with regulations or rules that do not make any sense at all? Lord knows, we have lots of things we do to small business and big business alike that add no value at all to the public interest, that you really cannot defend it all, have been around a long time, and you scratch your head trying to figure out why they are even there.

But that is not this invitation. This does not say after you established what the public interest is, is there anything here you would like to get out of the way that makes no sense at all; is there any nonsensical regulation? This did not add any qualifier in the public interest.

This merely says is there anything out there adding cost to your business that you would like to get rid of? It would be like me saying, ''I would like to drive about 90 miles an hour, would that be OK? Can you get the law of Nebraska to let me drive my automobile 90 miles an hour? I find that a major inconvenience. I like to drive fast. Why don't you have a meeting and ask people driving automobiles what they think about that? Maybe we can change the rules and regulations to accommodate them as well.''

Mr. President, I will wrap this up by quoting from an article, I believe it was David Sanger of the New York Times. The article describes the conflict between the United States of America and the Japanese over automobiles. It was assessing the impact of, I think, the correct decision by the Trade Representative to say to the Japanese, ''It is time to open up your market and let our parts, in particular, be sold and loosen the restrictions so we can begin to sell automobiles in Japan.'' It was trying to measure the impact. It interviewed a man who was the trade minister from Indonesia, I believe.

You know, we are worried about Japan and the United States. They are the big ones. They are the big elephants in this jungle. And they have a saying in Asia. They say that when the elephants fight, the grass gets trampled. But even worse, they said, is when the elephants make love. That is what we have here, Mr. President. We have a real lovefest going on.

Corporations have basically all signed off on this deal. They have had the opportunity to look at the language. They have had the opportunity to examine the details, and they are saying it looks pretty good to them. I say it is time for us to come to the floor to debate this. I hope we are, in fact, able to enact legislation. I intend and expect to support it. I cannot support it in its current form, but I want the American consumer to be heard on the floor of the Senate. I want the interests of American households to be considered and the interests of the average American citizen to be considered when this piece of legislation, which is important, is being debated.

I yield the floor.

Mr. DORGAN. What is the pending business?

The PRESIDING OFFICER. The pending measure is amendment No. 1258 offered by the managers of the bill.

Mr. DORGAN. This is the managers' amendment.

The PRESIDING OFFICER. Is there further debate on that amendment?

Mr. HOLLINGS. We can go right ahead with the Senator's amendment.

Mr. PRESSLER. If it has not been laid aside, and if it is proper at this point, we will lay that amendment aside so that the Senator from North Dakota can offer his amendment.

I ask unanimous consent that the managers' amendment be laid aside.

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

The Senator from North Dakota is recognized.

AMENDMENT NO. 1259

(Purpose: To require certain criteria upon the designation of an additional Essential Telecommunications Carrier)

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

The PRESIDING OFFICER (Mr. KYL). The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 1259.

The amendment is as follows:

On line 24 of page 44, strike the word ''may'' and insert in lieu thereof ''shall''.

Mr. DORGAN. Mr. President, in the telecommunications bill there is a provision with respect to universal service that describes certain conditions in which the State designates additional essential telecommunications carriers that may impose certain requirements. I think it is sufficiently important to say the State shall impose those requirements. I would like to explain why this is important to me and why I think it is important to rural America.

Before I do, let me comment on a couple of broader points about this legislation. Clearly, there would never be a circumstance where legislation affecting the telecommunications industry would be moving through the Congress without their being an intense interest by the telecommunications industry. The fact is that without congressional involvement in trying to set some new rules for competition, the industry itself is out creating the rules.

That is why universal service legislation is necessary. We must establish some guidelines about where we move in the future and what is in the public interest as we do that.

I come from a rural State. I know there are a lot of people in this Chamber who worship at the altar of competition and the free market. That is wonderful. But, I have seen deregulation. I have seen the mania for deregulation that does preserve for some people in this country wonderful new opportunities of choice and lower prices: Example: Airline deregulation. There was a move in this country and in these Chambers for airline deregulation, saying this will be the nirvana. If we get airline deregulation, Americans are going to be better served with more choices, more flights, lower prices, better service.

Well, that is fine. That has happened for some Americans but not for all Americans. Deregulation in the airline industry has had an enormously important impact if you live in Chicago or Los Angeles. If you want to fly from Chicago to Los Angeles you check the official airline guide and find out what flights are offered. You have a broad range of choices, a vast array of carriers competing in a market that is densely populated, where they have an opportunity to make big money. In this market, there is intense competition for the consumers dollar in both choice and price.

But I bet if you go to the rural regions of Nebraska, and I know if you go

to the rural regions of North Dakota and ask consumers, what has airline deregulation done to their lives, they will not give you a similar story. They will not tell you that airline deregulation has been good, providing more choices and lower fares. That has not been the case.

In fact, airline deregulation has largely, in my judgment, hurt consumers in rural America. We have fewer choices at higher prices as a result of deregulation.

For that reason, when we talk about deregulation and setting the forces of competition loose in order to better serve consumers, we need to understand how it works. Competition works in some cases to an advantage of certain consumers. In other cases, it does not.

That is why when the telecommunications legislation was crafted I was very concerned about something called the universal service fund. For those who don't know, I want to explain what the universal service fund is.

It probably stands to reason that it is presumably less expensive to put telephone service into New York City when you spread the fixed costs of the telephone service over millions of telephone instruments; less expensive to do it there than to go into a small town of 300 people that is 50 to 100 miles from the nearest population center. How will you decide how to spread the fixed costs of telephone service over 300 people? The fact is, you have a higher cost of telephone service in rural areas of our country.

We have always understood, however, that a telephone in Grenora, ND, is just as important as a telephone in New York City, because if you don't have the telephone in Grenora, the person in New York City cannot call them, and vice versa.

The universal service nature of communications is critical. The presence of one telephone instrument makes the other telephone instrument, no matter where it is in this country, more valuable.

That is why we have, as a country, decided that an objective of universal service makes good sense. We have generally tried to move in that direction to see that we use a universal service fund to even out the costs and the price to the consumer.

Therefore, even in the higher cost areas, the lower populated, more rural areas, we are able to bring the cost down to the consumer with a universal service fund by moving money into those areas to try to help keep prices down for the consumer. Therefore, consumers will be able to afford this service and we will have a more universal nature of that service.

Well, in this legislation, Mr. President, we understood that there will be substantial competition in many areas of telecommunications. Take my home county of Hettinger County, ND, a very small county, several thousand people, about three towns, the largest of which is 1,200 or 1,400 people, no one will be rushing in to provide local telephone service in Hettinger County.

This is not a case where you fire the gun and at the starting line you have eight contestants lined up to find out who can win the commercial battle to serve the telephone needs of that small rural county. You might, however, have someone decide to come in and serve one little town in that county, because maybe it would be worthwhile to serve that little town, but only that town.

If they bring telephone needs to that town and take the business away from the existing service carrier, the rest of the services would be far too expensive and the whole system collapses.

For that reason, in this legislation we described a condition in which, if someone comes in and decides to serve in one of those areas, one of the conditions is that they would have to serve the entire area. They would be required to serve the entire area as a condition of receiving these support payments from the universal service fund.

Then the bill also said that in designating an additional essential telecommunications carrier to come in and compete in a rural area, aside from requiring they have to serve the entire area, they cannot come in and cherry-pick and pick one little piece out.

Aside from that, the bill said that the States may require there be a designation; that the designation would be: First, in the public interest; second, encourage development of advanced telecommunications services, and third, protect public safety and welfare.

My universal service amendment very simply says that provision of law shall be changed from ''may'' to ''shall.'' In other words, the States shall require that there be a demonstration of those three approaches.

I think it is very important that those who live in rural America, who are not going to bear the benefit of the fruits of competition, are given protection.

That is the purpose of my offering a universal service amendment. This amendment is supported by the National Telephone Cooperative Association, National Rural Telecom Association, the USTA, Organization for Protection and Advancement of Small Telephone Companies.

They understand, like I understand, that the chant of competition is not a chant that will be heard in the rural reaches of our country. We are simply not going to see company after company line up to compete for local service in many rural areas.

If that does not happen, and it will not, we need to make certain that the kind of telephone service that exists in rural counties will be the kind of telephone service that brings them the same opportunity as others in the country will be provided.

We should make sure that we have a buildout of the infrastructure, so this information highway has on ramps and off ramps—yes, even in rural counties of our country.

If we, in the end of this process, finish the building out of an infrastructure in telecommunications by having a continued, incessant wave of mergers and consolidations into behemoth companies that are trying to fight to serve where the dollars are, big population centers, affluent neighborhoods, but decide to leave the rural areas of the country without the build-out of the infrastructure and without the opportunities that they should have, we will, in my judgment, have failed.

Mr. President, while I am on my feet I would like to comment on a couple of other points in this legislation. I supported the legislation coming out of the Commerce Committee and indicated then that I had some difficulties with several provisions in it.

One concern I have deals with the provision in the legislation on the subject of ownership restrictions.

It is interesting that we have in this bill the inertia to try to provide more competition, and then we, in this attempt to say to those who want to own more and more television stations, yes, we will lift the barrier here, we will change the rules so that you can come in and consolidate and buy and own more television stations.

That does not make sense to me. That is moving in the opposite direction. The telecommunications bill is about competition. I do not think we should say it is fine with us if one group or consortium decides to buy more and more television stations and we lift the ownership limit from 25 to 30 percent—some say to 50 percent—of the audience share. I think that flies exactly in the opposite direction of competition.

Consolidation is the opposite of competition. I intend to offer an amendment on this and hope we will preserve the opportunity to decide what is in the public interest with the Federal Communications Commission. Instead of having an artificial judgment in this bill that says let us lift the restrictions and allow people to come in and buy more and more television stations into some sort of ownership group. I do not think that comports at all with the notion of competition. I am going to offer an amendment on that at some point.

I would like to talk also about the issue of the role of the Justice Department. I know Senator STROM THURMOND and others are interested in this subject. I intend to offer an amendment on the subject of the role of the Justice Department in this bill. The question of when the regional Bell Companies are free to engage in competition for long distance relates to when there is competition in the local service area, in the local exchange. When will the Bell Service Companies open themselves to local competition? When they do, when there is true local competition, then they have a right

and ought to be able to compete in the long distance markets.

The problem is that in the telecommunications bill, the role of the Justice Department—which ought to be the location of where the judgments about whether or not there is competition in the local exchanges—is rendered a consultative role. The Justice Department is defanged here, and I do not think that ought to be the role of the Justice Department. Again, I think this flies in the face of all of the discussions I heard about the virtues of competition. If we are talking about competition being virtuous, then let us make sure competition exists before we release the Bell Companies to engage in competition with the long distance industry.

How do you best determine competition exists? With the mechanism we have always used to determine it. The antitrust judgments and evaluations by the Justice Department. It does no service, in my judgment, to the American people to decide to take out the traditional role of the Justice Department in preserving and protecting the interests of competition with respect to this issue when the Bell Companies will be set loose to engage in competition in the long distance business. So I also intend to offer an amendment on that issue. That is a critically important issue.

In conclusion, I think there is much in the telecommunications bill that is useful, valuable and will provide guidance to the direction of the telecommunications industry and its service to the American people, but this legislation is not perfect. This legislation has some problems. I pointed that out when I supported it out of the Commerce Committee.

I have a great friend on the floor, Senator HOLLINGS, the ranking member on the Commerce Committee, who I think is one of the best on telecommunications issues. I have been pleased to work with Senator PRESSLER, who I think has done a remarkable job in bringing this bill to the floor as well. But let us not say, ''Now, gee, this bill came from high on stone tablets and cannot be changed. We cannot accept any changes here.'' I think universal service is one amendment we can accept, but there are going to be some big changes proposed, some of which will have merit.

You can say, ''This bill is carefully balanced on the scale. We read the meter with expertise and just cannot make changes.'' It is like the argument of a loose thread on a $20 suit. You pull the thread and the arms fall off. We have people coming here and saying if this amendment is agreed to, the coalition breaks apart, the balance of the bill somehow is skewed, and the bill will fail.

We must, in the intervening days as we debate this legislation, take a hard look at a whole range of issues. The Justice Department role, yes. I have not mentioned the foreign ownership issue, but that is also of concern to me. The concentration of ownership in this country of television stations, as an example. Those are all issues I think are of great concern and we ought to weigh carefully.

I hope the Chair and the ranking member on this legislation will entertain constructive and useful proposals to strengthen and improve this legislation in the public interest of this country.

Mr. President, I have sent the amendment to the desk. I believe this amendment may be acceptable. In any event, at this point, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Right to the point, Mr. President, the distinguished Senator from North Dakota has a good amendment. I should make a couple of comments, though, with reference to his references and those of my friend, the distinguished Senator from Nebraska, who has been very participatory, and a cosponsor of the legislative reform in communications reform.

With respect to the general picture here on communications, the Senator from North Dakota is right. We do think this is balanced, that it cannot be balanced any more, that this bill did come down from on high and we are not going to accept any amendments.

That is out of the whole cloth. I learned long ago I could not pass a communications bill by itself, that the Democrats could not pass a communications bill by itself and the Republicans could not pass a communications bill by itself. We really have to work this out in a bipartisan fashion. Senator PRESSLER has given us the necessary leadership and I am committed to working with him in a bipartisan fashion. That maybe I have created an atmosphere where there will be no amendments and we know it, the opposite is the case. We are begging Senators to come, as we begged the Senator from North Dakota to hasten on and present that amendment.

A word should be said about the industry and the service that we have because comments have been made about all of these entities involved, and there are 30-some. People should understand. We have the long distance industry, the cable industry, the wireless cable, the regional Bell Operating Companies, the independent telephone companies, the rural telephone companies, newspaper industry, electronic publishing industry, the satellite industry, the disabled groups, the broadcast industry, electric utilities, computer industry, consumer groups, burglar alarm industry, telemessage industry, pay phone industry, directory publishing industry, software industry, manufacturers, retail manufacturers, direct broadcast satellite industry, cellular industry, PCS, States, public service committees, commissions, the cities, the Federal Communications Commission, the Clinton administration, the Department of Justice, the Secretary of Education—all the public entities.

Communications is a very splendid thing. With respect to not wanting to open up all the markets, I had a good friend who took a poll with what you call a peer review group, testing thing, what do they call that thing when they get them all together?

Mr. DORGAN. A focus group.

Mr. HOLLINGS. A focus group. Thank you, Senator.

They had a focus group in Maryland last week and 90 percent of them have never heard of the Contract With America. That is all I heard about since January. In fact, it started in November, I think. But they still had not heard of the contract. You can bet your boots the Senator from Nebraska is right; people are not storming the doors for a communications bill. In fact, with all of these entities calling on the Senators and having to make up their minds, yes or no, the Senators from the South say let that communications bill go, let us not call it up now, let us delay it, we did last year because there are so many tough decisions to be made. But on the information superhighway, Congress and Government are squatting right in the middle of the road and the technology is rushing past it.

The information superhighway is there. We have been a hindrance, obstacle to it, and what we are trying in this balanced approach and bipartisan approach is to remove the obstacle of Government, with the view of the Senator from North Dakota that universal service continue. He is right on target. I have been very much concerned having experienced the airline deregulation. So we want to make certain that they can come in and render this service. In that light, our communications system has been the best in the world. Yes. The Bell Operating Companies, because these parties are so competitive—I have not necessarily been in love with either side because it is hard—they are really individually competitive. But after all, AT&T, long distance, has to file tariffs. They are controlled by the public, and operate in the interest of the public convenience and necessity. Every one of the Bell Companies have to respond, not just to the FCC but to the individual public service commissions. They operate on the basis of public convenience and necessity. They have a monopoly, yes, but their profits are controlled, and everything else.

If there is anything operating as a large corporate entity in the interest of the public, it has been the Bell Operating Companies. They have been most responsive. We have as a result the finest communications system in the world. Let us maintain it. On universal service, let us extend it. Let us not be in any way doubtful about it because the lead-in word that goes into this particular requirement about another universal service carrier is ''shall.''

The language reads, ''If the commission with respect to interstate services designates more than one common carrier as an essential telecommunications carrier, such carrier shall meet''—''shall'' meet. That is the law as we now propose it. But later on we say the State ''may'' check off these things that are highly important. The truth is they ''shall.'' And I hope we can accept the amendment of the Senator from North Dakota and show that we did not think the bill came down from on high.

Let us hear from the chairman.

Mr. PRESSLER. Mr. President, we accept the amendment of the Senator from North Dakota on this side of the aisle. I want to commend him for his work on this subject. He is a friend of mine, and an outstanding leader in this area. Let me say that this subject of serving the smaller cities and rural areas is very important. I have spoken frequently on that in our committee.

We are prepared to accept this amendment. We urge other Senators with amendments to bring them to the floor. We are ready to go here on the floor.

Mr. STEVENS. Mr. President, will the Senator yield at that point?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I know that the Senator represents areas similar to mine, the author of the amendment. I know that he wants the States to have powers and to change the word ''may'' to ''shall,'' as a mandate to the State. What worries me about the Senator's amendment is not that it is saying that the States shall require a finding by the authorized agency, but that States may require additional considerations to be met. The word ''may'' in this bill right now gives the State the authority to determine what findings shall be made by its designated agency. By turning this to ''shall'' I wonder if we are limiting the States' discretion in terms of the findings that shall be made by a designated agency before it permits an additional carrier.

Mr. President, I do not want to argue it now. I agree with the manager of the bill to take the amendment. But I do want the Senator to know, my good friend, Senator DORGAN, that I want to look at this in conference. I believe this section is going to have to be revised in conference anyway. It is in a different form than the House bill, as I understand it. But I do think that we should not mandate States as to what their findings must be before they can deal with additional carriers. I believe that smaller States in particular would prefer to have more flexibility.

I am just wondering out loud if the Senator's amendment is fixing this so that the State has no alternative once it makes those findings to permit the additional carrier, and what the impact of the Federal law will have on the State should the State legislature attempt to state that its agency must make additional or alternative findings in this regard.

Again, I conferred with the managers of the bill. I think we understand where the Senator is coming from. We want the States to have authority. But I really think he is confining the authority by changing it to ''shall.'' But I do believe the States might want to—any State—might want to have other standards other than those stated in this bill. I wonder if the Senator might have us look at that.

Mr. DORGAN. If I might respond, I too respect the point raised by the Senator from Alaska. My intention would not be to prohibit States from adding additional requirements. My intention is that this would represent a set of requirements at a minimum that we should expect to be met. But to the extent a State would wish to add additional requirements, I do not believe that would be prohibited with this language. This language establishes the minimum requirements that must be met. That is the purpose of the universal service amendment.

Mr. STEVENS. Mr. President, as I stated, I am not going to ask for a rollcall vote. I am not going to object to the change. But I do think that when we get to conference we are going to have to figure out how we give States greater flexibility. I do not think we ought to have a mandate that indicates that the States must find Federal requirements are met before it can designate an additional essential telecommunications carrier, in that it cannot add any additional State requirements, or it cannot reduce these designated findings and substitute others that might be more applicable to its situation with regard to size and competition and whatever else that might be involved.

It does seem to me that we ought to be very careful about delineating to a State what findings it must make with regard to the designation of common carriers as essential telecommunications carriers. We are basically talking about the findings that are necessary to deal with universal service. The concept of that was really borrowed from the essential air service approach, and the way it is done actually, as I pointed out to the Senator from Nebraska last night, reduces the costs of universal service about $3 billion a year. Those services are provided by those who are users of this national system. This allows the States to designate additional carriers. I would not want the restrictions that are applied in this bill to lead to a lack of flexibility as far as the States are concerned to designate additional carriers in circumstances which might be unique.

I could go on at length about some of our unique situations. I do think we ought to have flexibility for the State to manage it, provided that we understand that the impact of the multiple essential carriers is going to be that there be a change in the concept of universal service.

The Senator's amendment deals with universal service concepts as modified in this bill, and I would like to see the States have as much flexibility as possible, keeping in mind that there is a built-in limitation in the Senator's amendment that will reduce the availability of universal service in rural States.

I hope that the Senator understands what I am trying to say. I agree to accept the amendment, but I do think we have to find some way as we go further to say that this does not prevent the State from modifying these findings in the event its legislature determines that other standards are more adaptable to its circumstances with regard to the providing of universal service within its boundaries.

Mr. DORGAN. If the Senator will yield for one additional point, Mr. President, I understand what the Senator is saying, and I do not want to prevent anything being done to respond to peculiar or unique circumstances or when a State determines that something else might be necessary with respect to these kinds of requirements. It is not my intention to interrupt or to prevent that.

I do think, however, when we are talking about the use of the universal service fund, the requirement that this result in the build-out of the telecommunications infrastructure even to rural areas, boy, I think that ought to be a national requirement.

Those of us who come from rural areas want to say if you are going to certify a new essential telecommunications area in an area that would be eligible for universal service funds, we want that certification to be based on a couple of themes that they think are important, one of which is this ought to result in the build-out of the infrastructure in rural areas. We know that build-out will occur in urban areas because that is where the money is, and we are just saying we want that same opportunity to exist in rural areas.

But I am not suggesting that these three tests be limited. I think that States may well find they have unique circumstances and want to add additional tests or additional requirements, and I do not in any way want to prevent that. So I will look forward to working with the Senator from Alaska as we go to conference on this legislation.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I tried to go into this a little bit last night, and I do not know whether this is the time now, but I just point out to my friend that the April issue of the bulletin known as Personal Communications contains an article that mentions Donald Cox, who is the former Bellcore wireless leader who is now at Stanford. He has calculated that digital-based station technologies will lower capital costs for wireless customers to $14 compared to the current cellular cost of $5,555.

What it really means is we have the possibility of moving into a new domain as far as digital radio is concerned that will deal with telecommunications competing with telephone companies. One of the things in this amendment is that we will now require that the State must find that there will not be a significant adverse impact on users of telecommunications services or on the provisions of universal service.

I question whether at the time of the transition into these new technologies a State should have to make findings that are based upon the use of the old technology. That is one of the problems. If you lock a State into findings, I think you may hamper the transition to less costly services and, of course, that is where I am coming from. That is why I support this bill. I think it will lower the cost ultimately of service to rural areas by bringing in additional providers of service. It should not be tied to the old wire services that we have relied upon in the past.

Mr. President, I do not have any opposition to the suggestion that we adopt the Senator's amendment, but I do want to serve notice that in conference, I may wish, because of the amendment, to modify the whole section.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Nebraska.

Mr. KERREY. Madam President, I have no objections to this amendment. I would like to point out, the distinguished Senator from North Dakota, as well as the chairman and ranking member and the distinguished Senator from Alaska and others, worked very hard to try to craft this particular title and this particular section of title I so as to make certain that areas that are not likely to benefit from competition will continue to be served with the same high quality service that they are currently receiving.

This particular provision is a recognition, and I think most do recognize, that competition all by itself will not work and that we do have to allow competition to determine many things. But this particular section I think has been very carefully put together, and it indicates how an essential carrier is designated. It describes the obligations of that particular carrier. It describes how we set up a multiple essential carrier. It describes resale enforcement and interchange of principles.

Madam President, earlier when I made a statement, my staff tells me that I made a mistake at the beginning. If I did, I apologize. I was pulling a quote from the chairman, and I do not know if I said Senator HOLLINGS or Senator PRESSLER, but it was the chairman's quote last night, and I do not again mean to be intentionally confrontational when I say that statement that says, ''The overwhelming message we received was that Americans want urgent action to open up our Nation's telecommunications markets,'' what we are doing, in fact, is what the distinguished Senator from North Dakota described and the Senator from South Carolina, Senator HOLLINGS, described as well. We are trying, with this law, to work our way into a competitive environment and create a structure that will enable competition to occur in a fashion that is minimally disruptive, but it will be disruptive.

Title I describes not just the transition to competition in the universal service, but it lays out all the various interconnection requirements. It describes separate subsidiary safeguard requirements. That is a structure that is offered as a protection. I believe the Senator from South Carolina in particular has been concerned about that. It describes foreign investment and ownership reform, and infrastructure sharing. Title I describes the removal of restrictions to competition, describes how that is going to occur, how we remove entry barriers.

There is limitation on local and State taxation of satellite services. I might point out that for those concerned about putting a mandate upon the State, indeed, we are intervening with the State regulatory mechanism. This legislation intervenes and says—and I know the Senator from Alaska understands that we are intervening, and we are saying you cannot do rate-based rate of return regulation; you are going to go to price caps. You have a range of motion under price caps.

But we all need to understand what price caps do. It essentially moves us in a direction where the market will determine what the price is going to be. It is a much different kind of regulatory scheme than we have right now. There are many States, I guess 10 or so, on a price cap system of regulation. This would take the other 40 along. I do not object to that. I think it is a fair and reasonable thing to do. But it is a relatively dramatic action to come to the State level and say that we are going to require you to regulate in this fashion, and we say there is a limitation on how you can tax your satellite services, and so forth.

Title I, as we remove the restrictions to competition, does lots of other things that I will look forward to describing at a later date.

Madam President, as I said, I do not object at all to the change asked for in this amendment.

Mr. PRESSLER. I urge adoption of the amendment, Madam President.

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

So the amendment (No. 1259) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DORGAN. Mr. President, today the Senate begins consideration of comprehensive telecommunications legislation, S. 652, the Telecommunications Competition and Deregulation Act of 1995. This legislation has been incubating in the Congress for a number of years and throughout the past few years, the Senate has appeared to be on the brink of passing this landmark legislation that would reform which is arguably the most dynamic and fast growing industry in our economy—telecommunications.

The underlying agenda of this legislation is to promote competition in all areas of telecommunications. We already have a competitive long distance industry and there is some competition in cellular service throughout the country. Clearly, telecommunications competition has had a positive impact. Since the AT&T breakup in 1982, competition in the long distance industry has lead a reduction in long distance prices and it has spawned the deployment of four nationwide fiber optic networks—the backbone of the information superhighway.

This legislation attempts to promote competition in other areas of telecommunications, such as in the local exchange and in cable. As a general proposition, I support this notion of promoting competition. I think competition will lead to lower prices and greater availability of telecommunications services. However, Congress must proceed in caution as we break down barriers and ease regulation.

First, a one-size-fits-all approach to competition in the local exchange may have destructive implications. In large, high-volume urban markets, competition will certainly be positive. However, in smaller, rural markets, competition may result in high prices and other problems. The fact is that some markets; namely, high-cost rural areas, competition may not serve the public interest. If left to market forces alone, many small rural markets would be left without service.

That is why the protection of universal service is the most important provision in this legislation. S. 652 contains provisions that make it clear that universal service must be maintained and that citizens in rural areas deserve the same benefits and access to high quality telecommunications services as everyone else. This legislation also contains provisions that will ensure that competition in rural areas will be deployed carefully and thoughtfully, ensuring that competition benefits consumers rather than hurts them. Under this legislation, States will retain the authority to control the introduction of competition in rural areas and, with the FCC, retain the responsibility to ensure that competition is promoted in a manner that will advance the availability of high quality telecommunications services in rural areas.

My second concern is that in our drive to deregulate and eliminate barriers, that competition may be impeded. Currently, there are over 500 long-distance carriers that offer service nationwide. Virtually every American has a competitive choice as to what carrier they want to use for long distance services. Long distance rates have reduced by over 40 percent in the past 10 years because of competition. The same choice does not avail itself to consumers with respect to local exchange service.

The second danger we confront in passing this legislation is that we could impede competition where it currently exists. Under S. 652, the regional Bell operating companies [RBOC's] would be permitted to reenter the long distance market. In the early 1980's, the old Bell system was divested because the monopoly in the local exchange seriously impeded competition for long distance services. After nearly 14 years of separation from the long distance market, the RBOC local networks want to compete for long distance services. This legislation will permit that.

The question is not whether or not the RBOC's should be permitted into long distance. The question is under what conditions. Unfortunately, this bill is flawed in that it does not provide for an adequate role for the Justice Department to determine that RBOC entry into long distance services will not harm what is already a successfully competitive market.

I intend to offer an amendment to this legislation that will provide for a role for the Justice Department. It seems to me that given the history of the AT&T breakup and the threat that the local exchange monopolies could use their power to impede competition, the Justice Department must ensure that the appropriate conditions are present before the RBOC's can be permitted to offer long distance services.

In addition, I will offer an amendment that will improve the universal service provisions in the bill. Under the bill as reported by the Senate Commerce Committee, only ''essential telecommunications carriers'' [ETC's] would be eligible to receive universal service support. The reason is that ETC's would be required to take on the same universal service obligations as the incumbent carriers. I believe that this condition is imperative to ensure that universal service is maintained in rural areas.

However, the bill falls short in ensuring that when a State designates an additional ETC for qualification for universal service support, that the best interests of rural consumers are paramount. Under my amendment, States would be required to ensure that the designation of an additional ETC in a market, that such designation: (a) protects the public interest; (b) promotes the deployment of advanced telecommunications infrastructure; and (c) protects public safety and welfare.

Finally, I have two other amendments that I intend to offer. I intend to offer an amendment that will strike the bill's provisions dealing with the liberalization of broadcast ownership rules and require, instead, the FCC to review and modify broadcast ownership rules on a case-by-case basis. Under my amendment, the FCC would review and modify broadcast ownership rules in such a way as to ensure that broadcasters can compete fairly with other media sources while at the same time protecting localism and diversity of voices in each local market.

Under the bill in its present form, the national television ownership limits would be increased from the current 25 percent viewership cap to 35 percent with permission to increase beyond that amount later. It seems to me that encouraging further concentration in the national media is not a desirable goal and it is my hope that we can correct this provision in this legislation.

Mr. President, the goals of this legislation are laudable. However, I believe that certain changes are necessary and I intend to work with my colleagues to improve the bill and move this important legislation forward.

The PRESIDING OFFICER. The question occurs on the managers' amendment.

Mr. PRESSLER. I move to lay the managers' amendment aside so our friend from Arizona may offer his amendment.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, may I inquire as to the parliamentary situation? The pending business is the managers' package of amendments?

The PRESIDING OFFICER. The managers' amendment has just been laid aside.

Mr. MCCAIN. I thank the Chair. Madam President, I will make some comments and remarks concerning this legislation, and then, if the parliamentary situation allows it, I will begin offering amendments.

I note the presence of my colleague from Alaska, who has agreed that we would take up one of my amendments as soon as possible, and I will be as brief as possible. But I am sure my friend from Alaska understands this is a very complex issue and one which probably, in my view, will have more impact on America than any other piece of legislation that we will consider not only this year but for several years.

Some estimates are that health care reform would have as little as one-third the impact financially on America as this legislation does.

There is no doubt that there are tens of billions of dollars at stake. I personally, Madam President, have never seen an issue in my now 9 years as a Member of this body have such intense and continued and high-priced lobbying. We have as head of one lobbying group a former majority leader of the Senate. We have names who are well known to all of us in Washington. I doubt if there is a single lobbying group inside the beltway that has not had a contract at one time or another to lobby on this issue. All of that is not by accident. In fact, Madam President, it is because the stakes are enormously high here. One phrase, one comma, one or two words in the appropriate place has enormous and significant impact.

So I think this issue should be well debated. I think that there are opposing views as to what this legislation does, but let us not have any doubt about the impact of this legislation on the very future of our Nation. This is all about information and how Americans will acquire that information and how Americans will pay for it and who will be eligible for it and who will not and to what degree we will regulate this industry or deregulate this industry.

I wanted to start out by applauding the efforts of the chairman of the committee, Senator PRESSLER, who has worked on this issue not only as chairman of the committee but for many years. I have had the privilege and opportunity of working with him. He has done an outstanding job. I know of no other committee chairman who has spent as much time on this issue as Chairman PRESSLER has. I am very appreciative of the work he and his staff have done. There are many aspects of this legislation which I think are not only excellent measures but very important ones and will contribute to the deregulation of this industry.

I also would like to recognize the efforts of the distinguished ranking minority member of the committee, Senator HOLLINGS, who also has been involved in this issue for many years. I respect his indepth knowledge of the issue. He and I have had disagreements about the philosophy of regulation or deregulation, but there are no personal differences that we have. I not only respect but admire his advocacy of what he feels is the best type of legislation for us to pursue.

I understand the disappointment that the Senator from South Carolina felt last year when he had worked so very hard for this legislation and had it stymied at the very end of the session.

Before I go into details, Madam President, let me just state my fundamental philosophy and why these amendments that I will be proposing today flow from them. We need to have a deregulated industry. In the past, we have deregulated the airline industry, the trucking industry, the railroad industry in America, and there is very little doubt in my mind that world events, as well as national events, indicate very clearly and very strongly that the free enterprise system, unfettered by Government interference and regulation, not only prospers best but provides the best services for the citizens of any nation, including this one.

The people will come to this floor and argue that the airline industry is

in bad shape, that they have lost billions of dollars, and some of the great names in the airlines industry, like Eastern Airlines and Pan Am, have disappeared from the scene. But the fact is my constituents can fly from one place to another in this country more easily and at a lower cost than they could in 1974 when the airline industry was deregulated.

I will freely admit that I do not ride in the comfort that I used to. In fact, when the four CEO's testified before the Aviation Subcommittee the week before last, I wanted to relate that two mornings previously I had flown from Phoenix, AZ. The airline, which will remain unnamed, advertised a breakfast. And that breakfast turned out to be a banana and a bagel. I think that something has to be changed at least in their description of what breakfast is.

At the same time, I paid far less than I would have in 1974, 21 years ago, for that airline ticket. If I had chosen to, although I would not have, and paid a significant additional amount of money and rode in first class, I probably would have gotten more than a banana and a bagel. But we have deregulated those industries, and we have found that the less regulation and interference that exists in those industries, the better off we are.

Madam President, there are those that will argue this is a deregulatory bill. It is advertised as that. I do not deny that. And I think some aspects are deregulatory in nature. Let me just quote from the report itself, which indicates that there is a $7 billion increase in revenues that will be required, and a $1.5 million per-State additional cost will be required to implement this law. And perhaps as compelling as anything else, $82 million will be required in additional funding for the Federal Communications Commission. ''CBO estimates the telecommunications firms would have to pay an additional $7 billion over the next 5 years to comply with universal service requirements of the bill and believes that these amounts should be included as revenues in the Federal budget.'' The managers have accounted for that with spectrum auction, is my understanding.

''CBO estimates that enacting S. 652 would increase the spending requirement for the FCC by about $81 million over the 1996–2000 period.''

Madam President, how can you have a bill that is deregulatory that is going to cost us an additional $81 million over a 5-year period in order to deregulate the industry? I do not think so. In fact, Madam President, there are additional—at least according to this morning's Wall Street Journal, there are 80 new regulatory functions for the FCC, all designed, of course, to ensure fairness and competition. Eighty new regulatory functions for the FCC. And, of course, the most egregious of which, in my view, is the so-called public interest aspect of the bill, which, frankly, places an enormous amount of power and authority in the hands of the FCC.

Let me make it clear for the RECORD that this legislation is a substantial improvement over S. 1822 from the 103d Congress. With all due respect, I have to say that any legislation that advertises itself as deregulatory and has a requirement for domestic content in it, which, according to the U.S. Trade Representative, was a direct violation of NAFTA and GATT, of course, it is an insult to one's intelligence to call it deregulatory. So at least we got rid of the so-called domestic content aspect of it. And we have made other substantial improvements in this bill.

Let me note that it is an improvement, but it does little in the way of fundamental deregulation. Why is it that every time I talk to someone in this industry—and there are many—they say, ''I am in favor of total deregulation, but * * *'' There is always a ''but.'' And guess what? They have to have some kind of special dispensation for their industry to make sure that they have a level playing field. Apparently, the only way you get a level playing field is to have some kind of special deal for this or that segment of the industry.

As the Heritage Foundation noted in its report card on S. 652,

> Unfortunately, while a modest improvement on current law misses the opportunity to benefit consumers by opening the industry to real competition, if this legislation becomes law, as structured today, consumers will not be able to look forward to serious telecommunications deregulation or competition in the short-term.

The Heritage Foundation graded S. 652, unfortunately, albeit accurately—the bill scored an overall grade of a C-minus. It is my understanding that the managers are offering amendments that will raise that grade somewhat. I applaud their efforts. Senator PACKWOOD and I are also offering amendments which will raise the grade of the bill and will result in substantially better, more deregulatory, more pro-consumer legislation.

As I said before, Madam President, we will have one opportunity this decade to substantially reform the telecommunications industry. I think we are all in agreement that if we do not pass this bill within a relatively short period of time the legislation will probably not be reconsidered until at least 2 years from now. And, of course, we do not want that to happen.

I urge my colleagues to remember that on November 8, the American people demanded a change—less Government and more freedom to innovate and compete. S. 652, like last year's bill, is based on the belief that all the woes of the communication industry could be solved by the glory of increased regulation. History tells us that regulation binds and restricts industry growth and innovation and transfers decisionmaking from entrepreneurs and thus customers to bureaucrats. These regulatory shackles do little to benefit the public.

Madam President, in free markets, less Government usually means more innovation, more entrepreneurial opportunities, more competition, and more benefits for consumers. This point was made exceedingly clear by the Wall Street Journal when it stated on April 8, 1994,

> It is truly humorous for politicians to think they can somehow fine-tune or stage-manage the rapidly developing world of advanced technologies that includes emerging financial and corporate structure, entire armies of engineers and software wizards. The people who will actually bring this exciting future to life are put in lead shoes when the FCC and the Congress micromanages.

Madam President, one of the arguments that will be made today by my friend from Alaska is that this is a interim bill, that this is one step on the path toward total deregulation. My response to that is that I would have to be convinced as to where that is needed and why. I note that my friend from South Carolina is smiling at me. I understand that, since we have a fundamental philosophical disagreement. The Senator from South Carolina, I believe, did not support airline deregulation or trucking deregulation, and does not probably support the kind of deregulation that I am in favor of. We have a fundamental philosophical difference in the role of Government and whether the Government should regulate the market or let the free market play. I have heard many times my friend from South Carolina talk and how he laments that there is no longer the direct flights to Charleston, SC. I lament that, too. There is not nearly the comfort or the convenience there used to be. But the fact is—and I have provided the facts many times—that the people of South Carolina can get back and forth from Charleston, and most any other part of South Carolina less expensively and more conveniently than they ever had in the past, under Government deregulation. We used to have, under airline regulation, a special flight that went from here to a certain destination because there was a certain Senator who was a chairman of a committee. That flight used to be mostly empty, but that flight stayed in existence at least as long as that was the case.

It is important to note that without any regulations the television manufacturing industry has managed to achieve a very high penetration rate for televisions in this country, even higher than that of telephones. We must ask the fundamental question: Why do more American homes have TV sets than have telephones? Whatever the answer, the facts demonstrate that an industry can achieve virtual universal penetration without Government-imposed regulation.

Madam President, I want to highlight some of the problems I see with this legislation. First and foremost, it is not deregulatory. According to estimates published by the FCC itself, this bill will require it to take over 60 new regulatory or administrative actions.

This bill also expands the current telecommunications service subsidies scheme. As the Heritage Foundation notes,

Instead of attempting to reform or eliminate this destructive subsidy system, the Pressler bill actually expands its scope. For example, the bill maintains current price controls, continues inefficient rate averaging, and expands the telecommunications entitlements.

The Heritage Foundation continues:

The continuation of the failed subsidy policies of the past, combined with an expanding definition of universal service, mandated under the bill, places at risk almost everything else the bill hopes to accomplish. Once personal computers, online service, set top boxes, and other future technologies become part of a package of mandated benefits, to which every American must have access, it is likely these technologies will be regulated and thus made less competitive. Further, according to CBO, enacting S. 652 would increase spending requirements for the FCC by about $81 million over the period from 1996 to the year 2000.

I wish the managers would explain to me, how do you deregulate and increase the cost to the enforcing agency of the enforcement of regulations? Is it to help them make a transition? Or is it, in reality, to enforce the additional 80 new regulations that are a part of this bill? I do not think any American would believe that a bill is truly deregulatory if it costs $81 million, payable to the regulators, to enforce.

On this point, I want to again quote the Heritage Foundation.

The bill does not contain any serious discussion of the future of the Federal Communications Commission. Policymakers appear unconcerned with the role the agency plays in the deregulatory process, and apparently do not realize it was part of the problem they hope to correct.

I am going to—I hope, before we finish this bill—look at what the Federal Communications Commission has done when we have given them a broad charter, such as determining what is in the public interest. I will tell you what the record shows—that is, that they have never really been able to determine what is in the public interest, and if they have, their conclusion has been more regulation.

That is not a criticism of the FCC. That is the nature of bureaucracies, the nature of regulatory bodies when you set them up. How should we expect anything else? That is their business.

The Congress should follow the model established by the congressional Democrats in the Carter administration in the late 1970's when they led the battle to deregulate the airlines. From the start, the future of the Civil Aeronautics Board, which regulated the airline industry, was on the table. It was well understood by most in Congress that deregulating the airlines would mean eliminating the CAB. A few years later, the CAB was abolished.

Just the opposite occurs in this bill. The bill actually expands the ability and policymaking ability of the FCC. As noted by the CBO, as I said, it will cost an additional $81 million over the next 5 years.

I want to enumerate some of the other problems in this bill. I mentioned it before, and I will mention it again, because it is really a very crucial item. The FCC administered public interest tests, which allowed the FCC to use subjective criteria in determining whether an RBOC can compete in other lines of business. The public interest test gives the FCC policymaking authority. The FCC's authority and power should be lessened, not enhanced. The public interest test allows the FCC to establish policy and control private companies and whole industries. Such ill-defined discretionary power would prevent full competition in the communications industry for years, if not decades. It should be eliminated, or at least amended so that compliance with the competitive checklist is deemed to be in compliance with the public interest test.

The Snowe-Rockefeller public users language in the bill should be stricken. The bill mandates at-cost telecommunication rates for schools, any medical facility, or libraries.

First, in my view, the Congress should not be establishing specific rates for specific groups. Such decisions should be made by the free market or, at a minimum, on the State level.

Second, many political causes that operate out of such entities, such as proabortion operations, would be given a federally mandated benefit that others in society would not be able to receive. The provision should be eliminated.

Mr. President, if we are interested in making sure that low-income individuals have access to a telephone, we have a proposal that simply is to provide vouchers for those who need it.

It seems to me that to provide vouchers to those who are low income, Americans who need a telephone service or anything else should be the recipients directly of the ability to purchase that service. When we go through other bureaucracies, other industries, what we do is increase the cost. Obviously, we distort the entire situation.

I intend to offer an amendment that would establish the voucher program in lieu of the urban rural subsidy scheme that currently exists. The current system and that envisioned under S. 652 seeks to ensure that Americans receive telecommunication services at similar rates, by giving the corporations that offer such services a subsidy. Instead of giving subsidies often to well-to-do people, we should be giving the funds directly to the needy consumer. I intend to discuss this issue more fully when I offer the amendment.

Last, we must closely examine the universal service fund mechanism in the bill. I have serious concerns about the potential of this legislation, as drafted, to create a new telecommunications entitlement program.

Furthermore, I am very concerned that the Budget Committee has not dealt sufficiently with the budgetary impact of this legislation. CBO has stated that the bill contains a Government mandate that will force telecommunications firms to have to pay an additional $7 billion over the next 5 years to comply with the universal service requirements of the bill. CBO believes that these accounts should be included as revenues in the Federal budget.

Mr. President, the budgetary ramifications of this bill cannot and should not be ignored. As CBO noted, the costs associated with S. 652 fall within the budget function 370. As such, they would increase direct budget authority in function 370 by $7 billion.

Additionally, proponents claim that the new Federal tax contained in this bill should not be counted on the budget but, instead, be considered off budget, since it is budgetarily neutral. That simply is not correct.

CBO states that receipts generated by this bill would be on budget, and I believe they are correct. Regardless of how the money is used, it should be counted in the budget.

There are those who argue that this bill saves consumers money. I wish that could be proven, but it cannot. In fact, the opposite appears to be true.

First, some have estimated that the current telecommunications subsidy scheme totals $10 billion, and since this bill streamlines and makes explicit some subsidies, that this bill results in $3 billion in savings. That is not an accurate statement.

How much money totals in the subsidy scheme is not accurately known. Some state $10 billion; others claim the number is much closer to $20 billion.

The reality is that the bulk of all this money is currently controlled by the States and is inherent in the rate scheme. In this bill, we are effectively federalizing $7 billion of the $20 billion. Is money saved by such action? I do not know.

I do know that CBO claims that it will cost $81 million to implement this bill on the Federal level and $1.25 million per year per State to implement this measure. I do know that the Federal Government does not have an outstanding reputation for efficiency and cost savings.

I also know that it is impossible to estimate the future costs of this legislation. The evolving definition of universal service contained in the bill will allow the FCC to expand service. Any such expansion of service will cost money.

The State of Colorado, for example, by the end of this year, will finally implement a single-party dialing scheme throughout the State. Doing so is good for the people of Colorado. But I will want to note that doing so costs money. It is not done for free.

Additionally, I am very concerned about the future costs of the public user section of this bill. When we subsidize telephone service for all schools, libraries, and medical facilities, there are costs in doing so. Those costs must be borne by someone.

The bill allows the FCC and a Federal-State joint board to determine what services qualify as universal service. These services are what this new Federal telecommunications tax will pay for.

I want to emphasize after this bill passes, the FCC, not the Congress, will be determining how high this new telecommunications tax will rise. Let me repeat this: After this bill is signed into law, the FCC will be determining how much is paid into the universal service fund. That is wrong, and the impacts are staggering.

Additionally, CBO estimates that the cost of the bill to State and local governments will be substantial. The CBO report states:

Implementing the provisions of S. 652 would result in increased costs to most States. The bill would require States to promulgate regulations, direct various audits of Bell companies, and to participate in various joint Federal-State boards.

CBO states, based on information from the National Association of Regulatory Utility Commissioners' estimates, that States will incur costs approaching $125 million over the next 5-year period.

Again, I ask the question: What kind of deregulatory bill costs the Federal Government extra to implement and the State governments extra money to implement? It does not make sense.

Mr. President, we are moving this bill forward without fully understanding its impact, in my view, on the industry and the economy as a whole, and most importantly, the consumer.

I have been assured, Mr. President, that we will fix many of the bill's problems in conference. I have seen too many things happen in conference behind closed doors. I think there is no time, when special interests have more impact in a conference behind closed doors. I have no confidence that this will be ''fixed'' in conference.

In closing, Mr. President, I hope we can improve the bill. Deregulation will result in winners and losers in the communications industry. That is the unfortunate reality. But consumers will be the biggest winners. They will have increased options and lower prices.

The bill we pass should result in that goal becoming a reality. If the bill cannot do that, then we should amend it. If that is not possible, we should start again.

Mr. President, this morning in the Wall Street Journal, there is an article called ''Locals' Access,'' and it begins with a quote that says ''It's an inside-the-beltway game, a wise guy's game,'' a quote from Larry Irving, of the Commerce Department.

Mr. President, the article goes on to say:

[From the Wall Street Journal, June 8, 1995]

LOCALS' ACCESS

It's a harsh verdict, but after watching the House Commerce Committee approve a misshapen telecommunications bill, we reluctantly have to agree with Mr. Irving's assessment. The once-grand enterprise of opening the Information Highway has become a wise guy's game.

The recent committee markup was packed with lobbyists, many of whom paid $1,000 for their seats by hiring a student to wait in line for three days to reserve a spot. The bill that emerged from this familiar Beltway bog was dripping with new restrictions on competition—all of course in the name of ''deregulation.'' This is what happens when Republicans forget the November election and start behaving like the locals.

The GOP decline on this issue was put in stark relief with the release of a study on telecom deregulation last week by the Progress & Freedom Foundation. The report, prepared by a distinguished group of scholars and welcomed by Speaker Newt Gingrich, sets a truly radical agenda: Abolish the FCC and replace it with a smaller executive branch agency. Get rid of the current regulatory hodgepodge, leaving in place only the Justice Department's antitrust functions. Get the government out of the spectrum business by creating ''property rights'' on the I-Way. Shrink subsidies for the officially protected groups down to the smallest possible level.

This vision, which combines Republican principles with the realities of the 21st century marketplace, is what the GOP should be doing—but isn't. Oh sure, Congressman Jack Fields and Senator Larry Pressler—the chief architects of the Republican approach—have promised that abolishing the FCC will be the next item on their agenda. But after a bruising, months-long battle over this telecom bill, Congress is hardly likely to revisit the subject anytime soon.

The Fields and Pressler legislation comes to the Senate floor this week, and far from phasing out the FCC, it gives the agency some 80 new regulatory functions—all designed, of course, to ensure ''competition'' and ''fairness.'' By taking this approach, Republicans have aligned themselves with the Clintonites' French Bureaucrat worldview and against the real entrepreneurs.

In fairness, it must be said that the Republicans' failure of political vision is matched and made possible by that of industry. Over and over, telecom CEOs have told us that all they want to do is compete without government interference. But when confronted with a wide-open legislative process, the temptation seems irresistible to seek provisions burdening competitors.

Mr. President, having been lobbied by representatives of the telecommunications industry, I can attest to that for a fact.

The problem here is a familiar one—the telecom companies lean too heavily on their ''insider'' Washington representatives, whose skill is chiseling arcane special provisions out of an arcane process. These people are part of the reason the public is cynical about Washington. The CEOs know what's right, but are given to believe it's never attainable. Consider ''universal service.''

Numerous telecom CEOs have told us how awful this entitlement is: It distorts market signals. It offers huge subsidies to recipients who aren't means-tested. It costs the economy billions. But every CEO hastily adds: Of course, we can't oppose universal service; remember the political realities.

In short, the imagination that builds such remarkable private networks and products stops at the Capitol steps. Nobody is making the case to the public against universal service. Where are the TV commercials pointing out that Harry & Louise would be forced to subsidize telephone service to their rich neighbor's summer home? Instead industry lobbyists and Republicans have quietly united behind a new universal service entitlement, whose cost, by CBO estimates, would be $7 billion.

It would be a tragedy if this approach becomes law—for all concerned. The telecom industry, which now represents one-seventh of the economy, wouldn't create the 2.1 million new jobs that real deregulation would bring by the year 2000. The Republican Party would see its mantle as the party of new ideas tarnished. And the American people would be delayed in receiving the benefits of full competition—everything from new cable channels to interactive television to services not yet imagined.

Newt Gingrich and Bob Dole have to get involved to prevent their political managers from blowing this chance to deregulate America's fastest growing industry. The leadership should declare: Enough compromises, already. Let's get back to first principles, with the Progress & Freedom Foundation report an excellent place to rediscover them.

I want to read a letter I received yesterday from the Citizens for a Sound Economy.

DEAR SENATOR MCCAIN: I am writing on behalf of Citizens for a Sound Economy (CSE) to express our support for the amendments you intend to offer during floor debate on S. 652, the Telecommunications Competition and Deregulation Act of 1995. We commend your efforts to improve the legislation by streamlining regulatory review processes and taking steps to rein in the current universal service system.

S. 652, as reported by the Commerce Committee, eliminates or reduces a number of regulatory hurdles to telecommunications competition, cable rate regulation, and broadcast ownership restrictions. It provides spectrum flexibility for broadcasters. It also eliminates some rate of return regulation, and provides transition mechanisms to competitive pricing, a periodic review of regulations, and authority for regulatory forbearance.

Given the outdated regulatory scheme currently used to regulate the telecommunications industry, this legislation is a step forward. While we strongly urge adoption of the amendments discussed below, which would strengthen the bill, CSE believes the Senate should pass S. 652 even if these amendments fail.

''Public interest'' review. S. 652 would condition a Bell's entry into the long-distance market upon a showing that the company had undertaken specified steps (a ''checklist'') to open its local network to competition. Even after the Bell company complies with the checklist, however, the FCC would have to determine whether Bell entry is consistent with the public interest.

CSE supports your amendment to deem the public interest standard to be met when a Bell company has met the requirements specified in the checklist. The requirement of an FCC ''public interest'' determination in addition to the checklist requirements is unnecessary and will result only in delay in bringing additional long distance competition to consumers. Moreover, this ''public interest'' requirement is ill-defined and thus invites virtually endless litigation over whether Bell entry is in the public interest. Unlike the public interest test, the checklist is objective, and conditioning long-distance entry solely on meeting its requirements provides some certainty in the process. Objective criteria also reduce the temptation of existing providers to use regulatory processes to protect their market.

Universal service amendments. S. 652 takes some steps toward making universal service subsidies explicit, which CSE strongly supports. We also support your amendments to

prevent potential unchecked expansion of the current flawed system.

First, S. 652 mandates cost-based rates for schools, libraries, and medical facilities. This provision should be stricken, as your amendment proposes. The federal government should not favor particular entities to receive preferential rates. If local or state ratepayers wish to subsidize these entities, that determination can be made at the local or state level. Moreover, the community-user provision raises difficult questions. For example, is a parochial school entitled to the discounts? Should Americans who oppose abortion be required to subsidize the telecommunications services provided to an abortion clinic? Giving such benefits to certain institutions in society raises questions of fairness and touches upon constitutional issues. Therefore, GSE supports elimination of this provision.

Second, S. 652 defines universal services as an ''evolving level'' of services that includes, at a minimum, services subscribed to by a substantial majority of residential customers. Your amendment would narrow this definition to exclude entertainment services and telecommunications equipment. There is simply no justification to require consumers to subsidize access to interactive video games or the purchase of computers.

Finally, CSE supports your amendment to require congressional notification of the amount of universal service contributions and of any increases. This is essential to foster congressional oversight of a potentially fast-growing entitlement. It also will facilitate accountability to consumers who are paying for universal service support in their telephone bills.

In conclusion, CSE supports your amendments to further streamline the regulatory structure governing the telecommunications industry. In addition, while we recognize that S. 652 is not perfect, we urge the Senate to act on the bill.

Mr. President, the Heritage Foundation also wrote a memorandum to me and to Senator PACKWOOD, and I ask unanimous consent their letter be printed in the RECORD.

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

THE HERITAGE FOUNDATION,
Washington, DC, June 6, 1995.

Re Improving S. 652

Hon. JOHN MCCAIN,
Hon. BOB PACKWOOD

I am writing on behalf of the Heritage Foundation concerning S. 652, The Telecommunications Competition and Deregulation Act of 1995, which the Senate is scheduled to begin debate on as early as Wednesday morning. While the bill makes considerable strides toward the liberalization of the telecommunications market, the legislation is also riddled with much unnecessary regulation and new mandates. Federal Communications Commission (FCC) Chairman Reed Hundt made this clear when he announced recently that the agency ''will need substantial resources'' to implement the legislation. ''We'll need economists, statisticians, and business school graduates,'' Hundt went on to say.

Although this may be the type of deregulation FCC bureaucrats like, it is falls well short of what most experts and consumers would view as true deregulation. I fact, a recent scoring of S. 652 by the Congressional Budget Office revealed the bill would require approximately $60 million in additional FCC spending over the 1996–2000 period.

Realizing the need for a more deregulatory approach, you plan to introduce a package of amendments on the Senate floor that will correct much of the bill's overly regulatory emphasis. Only by including amendments such as these can the Senate assure S. 652 will be deregulatory in both rhetoric and reality.

Cutting out the regulatory fat. Although S.652 makes some important improvements over current law, most experts agree too much regulatory fat has been added to the bones of the bill. Whether it was added to appease special industry interests or particular legislators makes little difference—the fact remains that the bill contains dozens of new rule-making powers and open-ended mandates for the FCC.

Your amendments would correct many of these flaws by offering language that would do the following.

Eliminate lengthy potential delays that would result from a ''public interest'' test on Baby Bell entry into new markets by demanding that the FCC allow such firms to enter new markets once they have satisfied a pre-determined checklist of requirements.

End numerous unnecessary common carrier regulations by requiring mandatory FCC forbearance when markets are deemed competitive.

Sunset transitional regulations to ensure rules do not become permanent fixtures.

Eliminate price controls and expensive mandates on carriers that serve rural health care providers, schools, and libraries.

Narrowly define universal service as basic phone service and create a more efficient, pro-competitive delivery mechanism.

Adopting these provisions would improve markedly the deregulatory scope of the bill. In fact, comparing a report card of the relevant section of S. 652 that your amendments focus on, illustrates the magnitude of this improvement. (See Table 1).

A REPORT CARD ON THE PRESSLER PLAN FOR TELECOM (S. 652) WITH AND WITHOUT PACKWOOD-McCAIN AMENDMENTS

Report card item	Grade without amendments	Grade with amendments
Elimination of barriers to entry and regulation (telephony).	B—	A—
Elimination of telecommunications bureaucracy.	D—	B
Elimination of telecommunications entitlements.	F	B+

Many of the amendments that Commerce Committee Chairman Larry Pressler (R-SD) plans to offer as part of a ''manager's'' package could also broaden the deregulatory nature of the bill. Specifically, if the Chairman offers amendments further scaling back cable rate regulation, adding more substantial broadcast deregulation, vacating the GTE consent decree, eliminating asymmetrical regulations on AT&T, as well as language broadening the scope of the spectrum auctioning authority of the FCC, then this bill overall would score a solid ''B''. But, again, this would be the case only if all the free-market oriented amendments being proposed are adopted.

Although the adoption of these amendments would clearly improve the scores S. 652 receives, to obtain perfect marks the Senate would need to include language that: unconditionally eliminated all barriers to entry in every segment of the market after one year; completely devolved all authority for the delivery of universal service to the states; repealed all cable regulations and created a clear and unconstrained legal environment for the delivery of video services; privatized completely the radio spectrum by creating property rights in wireless spectrum holdings; unconditionally repealed all protectionist foreign ownership barriers; eliminated entire bureaus and departments at the FCC; and made explicit mention of the preeminence of the 1st Amendment in the emerging telecommunications legal environment.

However, inevitable political trade-offs and compromises probably diminish the chances such comprehensive reform language could be inserted into the bill so late in the legislative process. In addition, certain issues such as continued downsizing of the FCC bureaucracy and the privatization of the radio spectrum could be handled in separate bills later this session.

Last chance till 1997. If the S. 652 fails to pass the Senate, in all likelihood there is little chance legislation would resurface until the next Congressional session in 1997. Such deregulatory delay would cost both the industry and consumers billions of dollars in lost economic output, higher prices, and foregone job opportunities.

However, the overly regulatory baggage attached to S. 652 would also impose significant costs on the industry and consumers and, therefore, should be removed if Congress desires a rapid and unfettered transition to free markets. The Packwood-McCain amendments would strip out such elements of the bill and facilitate such a beneficial transition. If coupled with deregulatory language found in Senator Pressler's amendment package, S. 652 could then be considered truly ''deregulatory'' in both rhetoric and reality.

Mr. MCCAIN. I will quote from the memorandum from the Heritage Foundation. It says:

While the bill makes considerable strides toward the liberalization of the telecommunications market, the legislation is also riddled with much unnecessary regulation and new mandates. Federal Communications Commission (FCC) Chairman Reed Hundt made this clear when he announced recently that the agency ''will need substantial resources'' to implement the legislation. ''We'll need economists, statisticians, and business school graduates,'' Hundt went on to say.

Although this may be the type of deregulation FCC bureaucrats like, it is falls well short of what most experts and consumers would view as true deregulation. In fact, a recent scoring of S. 652 by the Congressional Budget Office revealed the bill would require approximately $60 million in additional FCC spending over the 1996–2000 period.

Your amendments would correct many of these flaws by offering language that would do the following:

Eliminate lengthy potential delays that would result from a ''public interest'' test on Baby Bell entry into new markets by demanding that the FCC allow such firms to enter new markets once they have satisfied a pre-determined checklist of requirements.

End numerous unnecessary common carrier regulations by requiring mandatory FCC forbearance when markets are deemed competitive.

Sunset transitional regulations to ensure rules do not become permanent fixtures.

Eliminate price controls and expensive mandates on carriers that serve rural health care providers, schools, and libraries.

Narrowly define universal service as basic phone service and create a more efficient, procompetitive delivery mechanism. It shows increases in grade with this amendment.

The Heritage Foundation concludes by saying:

If the S. 652 fails to pass the Senate, in all likelihood there is little chance legislation would resurface until the next Congressional session in 1997. Such deregulatory delay

would cost both the industry and consumers billions of dollars in lost economic output, higher prices, and foregone job opportunities.

However, the overly regulatory baggage attached to S. 652 would also impose significant costs on the industry and consumers and, therefore, should be removed if Congress desires a rapid and unfettered transition to free markets. The Packwood-McCain amendments would strip out such elements of the bill and facilitate such a beneficial transition. If coupled with deregulatory language found in Senator Pressler's amendment package, S. 652 could then be considered truly ''deregulatory'' in both rhetoric and reality.

That is what I am hoping we can add here.

AMENDMENT NO. 1260

(Purpose: To require Congressional notification before the imposition or increase of universal service contributions)

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

The PRESIDING OFFICER (Mr. DEWINE). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1260.

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

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

The amendment is as follows:

On page 42, strike out line 23 and all that follows through page 43, line 2, and insert in lieu thereof the following:

''(j) CONGRESSIONAL NOTIFICATION OF UNIVERSAL SERVICE CONTRIBUTIONS.—The Commission may not take action to impose universal service contributions under subsection (c), or take action to increase the amount of such contributions, until—

''(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

''(2) a period of 120 days has elapsed after the date of the submittal of the report.

''(k) EFFECTIVE DATE.—This section takes effect on the date of the enactment of the Telecommunications Act of 1995, except for subsections (c), (e), (f), (g), and (j), which shall take effect one year after the date of the enactment of that Act.''.

Mr. MCCAIN. Mr. President, this amendment would mandate that the Congress be notified in advance of any action taken by the Federal Communications Commission that would result in increased receipts to the Government. In other words, increasing taxes. There is a substantial debate about whether this bill mandates taxes or not. I believe it does. I believe this bill should be blue slipped by the House of Representatives due to the fact that the Constitution mandates that all tax bills originate in the House.

According to CBO:

CBO estimates that telecommunications firms would have to pay an additional $7 billion over the next 5 years to comply with the universal service requirements of the bill and believes that these amounts should be included as revenues in the Federal budget.

What may be a receipt to many here is a tax to many in Arizona. We can debate semantics for some time, whether a receipt is a tax or not. I do not intend to do so. But to my constituents, Government-mandated collection of revenues, which we then spend, in my view and their view is a tax.

It is true many of the costs that CBO calculated in this bill currently exist. They are part of a large telecommunications subsidy scheme controlled by the States. That does not change the fact that we are now federalizing that money into some that constitutes a tax.

I am very concerned about this new tax. As I noted, the Constitution states that all revenue measures originate in the House. I have contacted the House Parliamentarian regarding this matter, and it is my understanding that they are very concerned about precisely this issue. After all the hard work of the chairman and ranking member of the Commerce Committee—and they have worked very hard on this matter—I fear it may be for very little due to the tax problem.

Further, under provisions of this bill, not the House nor the Senate but the FCC will have the ability to originate or increase taxes, federally mandated taxes to be paid by companies. Either way, I believe that is an abrogation of congressional duty.

Under the evolving definition of universal service contained in the bill, the FCC in conjunction with a Federal-State joint board can at any time change the definition of universal service. Although I applaud the committee for accepting the suggestion I made for tightening the bill's definition of universal service, I remain concerned. However, the definition is changed. The FCC in the future could mandate call waiting, three-way calling, and any other number of services that no one has yet thought of for all Americans. Such services do not come for free. They come with a substantial cost.

The bill allows the FCC to force all telecommunications companies to pay into the universal service fund an amount necessary to subsidize such services. And, yes, these costs, the costs of paying federally mandated access, will be passed on to the consumer. When American companies are taxed, when American consumers are taxed, when anyone is taxed in this country, the Congress—not an executive branch agency—should be making these decisions.

Because of the structure of the bill it is not possible to allow the Congress to veto FCC authority we give them. Such a legislative veto bill violates the Chadha decision. This amendment, however, does mandate that the FCC notify the Congress of its intent to raise the fees that it charges communications companies. The Congress could then act to stop the FCC. We could choose to do anything. But it is imperative that we know of such changes and have time to act.

I understand that some will state that any such changes promulgated by the FCC would appear in the Federal Register, and, therefore, the notification requirements mandated by this amendment are not needed. I disagree. We should not allow tax-for-fee increases to occur merely after notification in the Federal Register. Direct notification is appropriate. Congressional committees should concur. That is exactly what this amendment does.

I ask that it to be adopted.

Mr. President, I believe that the managers of the bill are receptive to this amendment. I would ask for the yeas and nays. But I am not sure it is necessary to do so.

Mr. PRESSLER. We will accept this amendment. We commend the Senator from Arizona for his support.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I join in recommending that it be accepted. But I want to point out some things to my friend from Arizona.

I, too, have no objection to this concept of notification of increased requirements for the requirement to report if there is going to be increased cost for universal service and if there is going to be an increase in the universal service contributions.

I point out in the first instance that I believe the House is operating under a misinterpretation of this bill. If we do not enact this bill, the cost of the universal service under existing law will be about $10 billion. If we do enact it, it will be more than $3 billion less. I do not understand why the House indicated it would have an objection to a bill that would reduce the existing cost of universal service. Because of the change in this system the Congressional Budget Office has indicated that even though private contributions do not come through the Treasury, and private expenses do not come through the Treasury, as I said before since it is a mandate, it would be included in the budget process. But I have every reason to believe, and I do believe, that the cost of these systems will decline dramatically in the period ahead, and it is because primarily of this bill opening the door to telecommunications competition.

Again, I want to quote my friend George Gilder who indicated that ''the computer industry will double its cost effectiveness every 18 months. The wireless conversions of digital electronics and spectronics will allow the industry to escape its copper cage and achieve at least a tenfold drop in the real price of telephonic service in the next 7 years.''

I believe, and everything I have read comes to the same conclusion, with more competition and the addition of the new technology, tumbling as it is, we should see an ever-decreasing cost of telecommunications services. We have modified this bill so that it reflects the approach of the essential air

service. It is not a universal service concept as exists under existing law. It is certainly not a tax. There is no way that this could be determined a tax. It is continuing the process that the industry itself started in the interstate rate pool. The interstate rate pool to my knowledge has never been included in the budget process. But because now we are limiting it, the Congressional Budget Office has decided that it ought to be referred to in the budget process.

Again, Mr. President, that is merely taking into account the money that customers pay and then having that money paid out pursuant to the provisions of the bill. But it is not paid to the Government. Surely it is stretching the Budget Act, as I have said before.

But I do want to say to my friend from Arizona, Mr. President, I made some comments about the long statement my friend made before. Let me say this at the very outset. The intention of this bill is to take the regulation of the telecommunications service away from the courts. What we have done is restored the States rights and we have reestablished oversight in the FCC. If you want to look at the cost of the courts over the last 10 years under the modified final judgement and add it to what we have put out for the Justice Department antitrust operation in that time, we are reducing the cost to the Government of the administration of the telecommunications law because the courts will not have jurisdiction over these cases that they have had before under the modified final judgment.

I do believe that we have a series of matters we ought to discuss. But I certainly want to compliment the Senator from Arizona in terms of his approach of pushing further and further for deregulation. But the deregulation comes about as we increase competition. If we just deregulate the monopolies in their own areas, we will not end up with a kind of telecommunications competition that will bring about this constant reduction in costs because of the entrance into this telecommunications area of these new technologies.

Above all, I urge Members of the Senate to look at the studies that have been made about what is going to happen as we do in fact bring in the new technologies and allow them to compete. We are really not going to be talking about telephones. My friend from Arizona said we ought to have telephone service for these people. Telephone service in the future is going to be like giving people vouchers to ride in an Edsel. We are not talking about telephone service anymore. We are talking about telecommunications connections which will enable people in rural America to have computer services just like everyone else. As George Gilder points out, the computer is going to be so pervasive that it will be the means of communication for most Americans by the turn of the century. It will not be telephones. There will be what amounts to phone connections in the computers.

By the way, the cost of the computers themselves is coming down at such a great rate. The cost of the base stations that will implement the interconnections are coming down. If we have the ability to use the broadband radio the way it has been described and use it for interconnections, I tell my friend from Arizona the report from the FCC, if anything I would modify it and say let us know the extent to which the costs are being reduced as well as increased because the progress is going to be in reduction, just as this bill reduces it by almost 30 percent just by the changes we have made. The communications industry itself in 7 years is going to reduce that tenfold.

I do not believe that we should oppose an amendment which would require a report from the FCC of increases in universal service contributions.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I do not know whether or not this might be the appropriate time for us to have a rollcall vote on the amendment of the Senator from Arizona.

Prior to making some comments about that amendment, I point out to my colleagues that many of the things that the Senator from Arizona said in his statement I said last night and again today. It might surprise some to hear me say this, but I, in fact, might embrace a lot of the things that the Senator from Arizona is trying to propose. I do think if you are going to move to a competitive environment the quicker you can get there the better off in many ways, and that to hold this thing back might make it difficult for us to get consumers to understand how it is we are going to adjust because there is going to be substantial adjustment to the changes we are proposing in a regulatory structure.

I must say again, as I have said a number of times, I am not getting a lot of complaints from citizens saying, ''Gee. I do not like the way this is thing is working.'' I do not get a lot of people coming to me talking about enhanced services and all of that. I do not hear people say the current regulation makes it difficult for technology to be deployed. And I happen to be a relatively high-end consumer. I must tell you I have not been struggling to get existing technology, and hearing the companies say that it is not cost-effective. We are not going to provide you the kind of services that existing technology allows under variety.

It really is not that the regulation prevents them from doing it. They just are not doing it. So in a competitive environment, if they do not provide it to me, I will go someplace else. I will get somebody else to provide the service for me.

As I see this legislation it is attempting to move us to a point where I at the local level—and I know competition, by the way. Let me stop here a little bit and define it. Competition for me means I choose. If I do not like what you are giving me, I will go someplace else. In my particular business, if my customers do not like what I put on the table in front of them, they have a lot of choices, lots of places they can go. To me, the idea of competition is not AT&T competing with MCI or Bell Atlantic competing with CTI and all that sort of stuff. Those are big companies coming into a competitive environment.

What I think of competition is potentially a whole generation of entrepreneurs who are not here lobbying, by the way, that are not talking to us, that are not asking for anything. In fact, if you look at the jobs created in the State of Nebraska in technology, they are created by businesses that have not even contacted my office. They are created by people who are not even aware of S. 652. When I am at home on the weekend, and I say what do you think about S. 652, is it going to help or hurt? They say what the heck is that? I have to ship it to them and show them what it is all about.

The new entrepreneurs that are coming in for services with the ones that are likely to have customers are saying, boy, this is working; this is terrific.

I say, as I envision competition, there are four big areas where people are going to be able to compete, if we transition this thing properly. One is people are going to come in and say to me as a consumer you do not have to buy dial tone separately; you do not have to buy video separately; you do not have to buy all your information separately.

I have about $70 or $80 for local and long-distance telephone service. I have about $40 or so for cable—I do not know the exact dollar amount—and about $30 for other sort of published accounts, published documents, newspapers, and magazines that are coming in. I have $150 a month. If we deregulate properly, entrepreneurs coming knocking on my door or contacting me through E-mail or however they want to get to me say, BOB, you are spending 150 bucks a month, we can do it for $89.95, and we can give it to you in a different form, faster, clearer, and better than what you are getting right now.

In that kind of an environment—instead of buying dial tone separately, cable separately, and all these other sorts of services separately, I buy them in a package—I believe the consumers will be excited about it, because I believe price will go down and quality will go up.

Second, we are going to have competition in switching. By that I mean people say, well, gee, the phone is the one that is doing all the switching. It is not true. There are a lot of entrepreneurs coming online today that are doing switching, that have the technology, that have the gear, that have

the hardware, the software in a remote location and they are switching long-distance calls, and they can do it cheaper and do it faster and better.

There is going to be competition in switching. You have this idea that you have somebody down in an office still sort of either doing it manually or digitally, moving these packets about. Well, that can be done in lots of different locations in lots of different ways and there is going to be competition, the second area of switching, of getting whatever information you got, whatever bundle of goods and services you want to move from point A to point B. They are going to get those bundles wherever you want and retrieve whatever you desire to retrieve in a most competitive fashion.

Third, there is going to be competition in content, if we do it right, if we do not yield to people who say, as the Senator from Arizona was saying, I really like competition but could you just kind of protect me a little while until I figure out how I am going to compete with somebody who has 2 people working in his office instead of 2,000. How do I compete against an entrepreneur that understands that he has to keep his salary down and his fringe benefits down and other sorts of things down in order to be able to compete.

The fourth area is there is going to be a tremendous amount of competition in a whole range of services. As I said, I consider myself relatively high in, but this stuff still confuses me an awful lot, and I am going to be paying people to tell me how to connect this hardware with that hardware and how to get on this network and that network, how to make it work inside my office or make it work inside my home—all kinds of questions that I am going to have on all kinds of new services. There will not be one company that comes when you have a problem in your home to call up and say, gee, I have a question here. And the company says, well, I can get to you next Thursday or next Friday or, gee, we do not really get into that kind of thing, BOB. We are not involved with that kind of thing.

That whole world, if we write the language of this law correctly, can create a competitive environment that I think will benefit consumers and I think prices will go down and quality will go up.

So I share many of the concerns the Senator from Arizona raised and I declare it right up front. It may be there is potential for compromise where it may not be so obvious that there is potential for compromise between myself and the Senator from Arizona and the Senator from Oregon, who have an amendment. Unfortunately, I have not seen that one. We are talking about this one smaller amendment that deals with the universal service fund, and I would like to talk about that now.

The universal service fund that we have right now is rather complicated. I will not even pretend to describe it to you because frankly I do not understand it. But I do understand one thing, and that is that we do have subsidies going on to people who are not using them quite right. Sometimes it is used to keep the price of residential service artificially low. You can go to some places in America today, they are paying $6, $7, $8 for basic residential service where you go to a city with no universal service fund where they are paying $14. The business rates are substantially lower and the technology has not been upgraded.

In many cases the universal service fund is not being used in a fashion that you think of when you hear it described. You say, well, gee, I need the universal service fund because I have people out there who cannot afford it. Well, that is terrific; if they cannot afford it, let us help them get it. The idea of a voucher may have merit. In fact, it may have merit to go in that direction rather than having this very, very difficult to administer thing and very difficult for us to understand from our vantage point. In fact, there are an awful lot of us who, up until the last 2 or 3 years, were not even aware that there was a universal fund being administered and checks written and redistributed out throughout the country, and they come and tell us such things as the entire State of Georgia as I understand it is a universal service fund. I do not know if that is true or not, but I was told recently that is the case.

Well, I mean that just indicates how difficult it is to sit here in Washington, DC, with a good idea in mind; little people cannot afford to buy the local or residential service, making sure they are able to buy the product. It is a terrifically good idea to help somebody be able to communicate out of their home that otherwise might not be able to communicate. But it is difficult for us with that good idea to put it in practice. And I think if we were to have a lengthy debate about how the current universal service fund operates it might inform an awful lot of us as to why this system needs to be changed. We are basically accepting the status quo, and I declare and disclose, I participated with the farm team as we tried to keep this universal service idea alive.

As the Senator from Arizona cited, some corporate entity that he discussed this issue with, they said, well, we do not like it, but you know the politics of it; we have to keep it in place, and we sort of presumed the same thing.

It may be there is the mobility of altering the way we operate that universal service fund, but let us presume for the moment that we are going to keep the universal service fund the way it is. As I said, I am open to suggestions of ways to do it differently. Presuming that is the case, if you look at the language of this bill, what it is attempting to do—and I now turn to my friend from Arizona because I really have a question as to how he sees this thing working. The idea that we have in subsection (c) on page 40 of the act, which is referenced in this amendment, is that if you are going to have a universal service fund, I mean if that is the idea that we are going to keep this universal service fund concept alive and use that method of funding, what is going to happen is you are going to get new telecommunications companies coming into the arena.

The idea is they should make a contribution as well; that it should not be just the phone companies or should not just be the existing entities that are making a contribution to the universal service fund; that, in fact, it should be everyone who is now providing these new information services should be making a contribution.

As I see this—maybe the Senator from Alaska, who understands this well, can comment—as I see what this does, it actually provides an opportunity for a reduction in the assessment that the established carriers are paying into a universal service fund because it broadens the base of contribution. That is the idea of subsection (c). I do not have strong feelings against this amendment. I do not mind having the FCC notify. I think it makes genuinely good sense. It was blank on my copy of the amendment. As I understand it, it is 120 days. The Senator from Arizona in his amendment is saying from the time notification of the committee occurs and the time the assessment can occur there will be a 120-day period lapse?

Mr. McCAIN. The Senator is correct.

Mr. KERREY. Will the Senator from Alaska comment? Am I right, are we not trying in subsection (c) to say we are broadening the contribution base? If I had new companies coming on-line providing service at the local level, they should make a fair share contribution to the universal service fund? As I say, I am not trying to oppose this amendment, I want to make sure we do not get something in here that ends up coming back to haunt us.

We are trying to actually broaden the base of the universal service fund contribution which should for telephone ratepayers result in a reduction of the levy that they currently have for a universal service fund payment.

Mr. STEVENS. Mr. President, if the Senator will yield to allow me to answer that question, that is the intent of the bill. When new providers of service enter into competition, they will contribute to the fund as those who are currently providing the service. So it will broaden the contribution to the fund.

The courts have held that the current universal service system is not a tax. I do not view this as a tax. I view it as one of the requirements to enter the system in a competitive spirit. I think CBO itself did not say it was a tax but said it had to be taken into account in the budget process.

What we are saying is those who provide the services will contribute to the fund. It will broaden the base, as the Senator indicated.

I accept the Senator's amendment. If nothing else, it will give Congress notice every year how the cost of this system is going down by virtue of what we have done.

Mr. KERREY. I would, in fact, love to have the FCC provide in notification some explanation of how this fund works. I would not mind that at all, if I could understand the thing once and for all.

The question I have is really the 120-day period. Notification is not a problem for me. The question is, does this delay? Would this have the impact, do you believe, of delaying an opportunity for reducing the levy on other carriers?

Mr. McCAIN. I say to my friend from Nebraska, if he will yield, it is only if there is an indication of an increase would the 120-day prior notification——

Mr. KERREY. The language of the amendment says ''may not take action to impose universal service contributions under subsection (c), or take action to increase the amount of such contributions, until—''.

Subsection (c) is an attempt to broaden the base of contributions, to get new providers of services who are currently not contributing to the universal service fund to make a contribution to the universal service fund.

My concern is that if that is what we are trying to do, we could delay the actual reduction that is currently being imposed on other carriers. I do not know if that is right or not. I just raise the question.

Mr. McCAIN. Mr. President, I will say to my friend from Nebraska, that is not the intent of the legislation. I can see how it would possibly be interpreted that way. But what we were trying to say is they may change the formula, which would not have an immediate impact, but then would have an impact later on.

That is why the first part of it says ''may not take action to impose universal service contributions.'' In other words, the immediate impact may not be an increase in rates but the long-term impact would be. As I say, I will glad to modify the amendment in such a fashion that if there is a rate reduction, which would be contemplated in any event, this would not apply.

I ask unanimous consent to modify the amendment to reflect the colloquy just discussed between myself and the Senator from Nebraska. We will write it up.

The PRESIDING OFFICER. The Chair advises the Senator he can modify his amendment, but the Chair will need the modification. The Chair does not have the modification.

Mr. McCAIN. With the indulgence of the Chair, we will have it in approximately 1 minute. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1260, AS MODIFIED

Mr. McCAIN. Mr. President, I send a modification to the desk and ask for the appropriate portion to be read by the clerk. It is a new paragraph.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 2, after line 6 of the amendment, add the following: (3) The provisions of this paragraph shall not apply to any action taken that would reduce costs to carriers or consumers.

The amendment, as modified, is as follows:

On page 42, strike out line 23 and all that follows through page 43, line 2, and insert in lieu thereof the following;

''(j) CONGRESSIONAL NOTIFICATION OF UNIVERSAL SERVICE CONTRIBUTIONS.—The Commission may not take action to impose universal service contributions under subsection (c), or take action to increase the amount of such contributions, until—

''(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

''(2) a period of 120 days has elapsed after the date of the submittal of the report.

''(3) The provisions of this paragraph shall not apply to any action taken that would reduce costs to carriers or consumers.

''(k) EFFECTIVE DATE.—This section takes effect on the date of the enactment of the Telecommunications Act of 1995, except for subsections (c), (e), (f), (g), and (j), which shall take effect one year after the date of the enactment of that Act.''.

Mr. McCAIN. Mr. President, I hope that will satisfy the Senator from Nebraska.

Mr. KERREY. It most assuredly does. I appreciate the change made, and I believe it is an improvement. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

So the amendment (No. 1260), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1261

(Purpose: To prevent excessive FCC regulatory activities)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. PACKWOOD, Mr. CRAIG, Mr. KYL, Mr. GRAMM, Mr. ABRAHAM, and Mr. BURNS, proposes an amendment numbered 1261.

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

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

The amendment is as follows:

On page 90, line 6, after ''necessity.'', insert: ''Full implementation of the checklist found in subsection (b)(2) shall be deemed in full satisfaction of the public interest, convenience, and necessity requirement of this subparagraph.''

Mr. McCAIN. Mr. President, I understand that my colleague from Alaska has a very important commitment. He wanted this amendment raised at this time. I am more than happy to do so. I understand that it is a very important one, in his view. As always, I look forward to vigorous discussion of this amendment.

Mr. President, this amendment would clarify the role of the FCC regarding public interest tests contained in the bill. It is supported by Senators PACKWOOD, CRAIG, ABRAHAM, KYL, and GRAMM and a letter supporting this amendment was signed by Senators PACKWOOD, MCCAIN, CRAIG, BURNS, KYL, GRAMM, HATCH, THOMAS, and BREAUX.

As S. 652 is currently drafted, it contains two substantial hurdles for a regional Bell operating company before the company can fully compete in any marketplace. I believe the consumer would be better off if such hurdles did not exist and companies were allowed to compete at a date certain.

I understand that some believe there is a need for a competitive checklist. Originally, the approach that others and myself favored allowed competition at a date certain. It was my understanding, in dealing with my colleagues on this issue, that the compromise would be a checklist that the regional Bell operating companies would have to comply with.

During the compromise, obviously, that changed. And so in addition to the checklist, we went back and placed judgment of this in the hands of the FCC in the form of public interest.

Entrepreneurs, not the Congress, nor the FCC, should make these kinds of decisions, in my view. Neither I nor anyone else in the Senate wants the FCC to act contrary to public interest. My concern is that different individuals will have different interpretations of what is in the public interest. I strongly believe that our interpretation and that of the commissioner of the FCC would be different.

A finding of public interest is an ill-defined, arbitrary standard which implies almost limitless policymaking authority to the FCC. The public interest test gives the FCC policymaking authority. The purpose of this bill should be to lessen the FCC's authority, not to enhance it. The public interest test allows the FCC to act to establish a policy and control private companies and whole industries. I believe that it can prevent full competition for a very long period of time.

The bill States that the FCC must find that allowing a Bell company into other areas of business is ''consistent with the public interest, convenience and necessity.''

Mr. President, this amendment would not radically change this bill. It preserves the competitive checklist that everybody agrees will ensure that local markets are open. Competition is in the public interest. I do not think we need the FCC to tell us that. The amendment will pare down the bureaucracy envisioned by the bill. As FCC Commissioner Hunt stated, ''The FCC will need substantial resources to implement this legislation. We will need economists, statisticians, and business school graduates.''

I do not know how much of the additional $81 million that will have to be spent by the FCC in order to implement this spending legislation would entail in determining what is in the public interest. But I would imagine that, given my knowledge of the nature of bureaucracies, it would consume a very large amount of money. And as the Commissioner of the FCC himself has stated, ''We will need economists, statisticians and business school graduates.''

I am sure business schools around the country are pleased to note that there will be new job openings. However, I would like to see that employment in the private sector rather than on the taxpayers' payroll.

Mr. President, I ask unanimous consent that Senator BURNS be added as an original cosponsor to the pending amendment.

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

Mr. McCAIN. Finally, I know that this issue is a contentious one. I also understand that there is substantial and significant opposition to this amendment. But the whole thrust of this amendment, in my view, is to accelerate what is the stated goal of the legislation, which is a deregulatory climate, and one which has less and less Government interference and regulation, rather than a continuum, where a somewhat amorphous definition of public interest which is defined not by those who are competing, not by consumers or the Members of this body, but an unelected bureaucracy.

I yield the floor.

Mr. STEVENS. First let me thank my friend from Arizona for his courtesy. I understand Senator PACKWOOD and others wish to speak on this matter. I have a long-standing appointment that I think is very important to the national defense. I do wish to make that appointment. I am pleased that we can take up this amendment now.

I would like to set the stage a little bit for the amendment, because I think Members may not understand the context of the Senator from Arizona's amendment.

This bill adds a new section, section 255, to the Communications Act of 1934. This will set forth the process for the entry of regional Bell companies into long-distance services. This is the provision that brings to a close the restrictions of the modification of final judgment.

This section has been the most controversial section in this bill. It has been the subject of intense negotiation between all segments of the industry. As the Senator from Arizona mentioned, there are some people that have been involved in it for a long, long time, that are coming back to talk to us about it. Members of the Senate have been involved now for well over 2 years in the whole negotiation of this section. It goes back to the days when the Senator from South Carolina was chairman.

By necessity, the language in this bill represents a compromise between a series of competing viewpoints.

Under the language of the bill, a regional Bell company may provide long-distance service when the FCC determines that the Bell company has fully implemented a specific checklist, which is found in the bill, which the Senator from Arizona mentioned; that the Bell company has complied with the separate subsidiary requirements; and the approval is consistent with the public interest, convenience and necessity. It is this last concept that the Senator from Arizona wishes to change.

This determination by the FCC must be made on the basis of the record as a whole, after a public hearing and consultation with the Attorney General, and is subject to the substantial evidence standard of review by the courts.

Let me point out that, although CBO has scored that this bill will cost, I think, $61 million over a 5-year period—more than the current FCC requirements—it does not score the decrease in costs of the involvement by the Attorney General or the involvement by the courts. So this is one of the penalties of the system that we operate under. But it is not a significant amount when one looks at the total amount of revenue being brought in now by the FCC under the spectrum auction concept that I authored, which will reach $10 billion in the near future. I think that the $61 million over a 5-year period, compared to the billions of dollars they will bring in—and more will come in under this bill than if the bill is not enacted. But we do not score that under the budget process, Mr. President. So it is a very difficult thing to handle.

Some argue that the three-pronged test is too difficult—that there should be no discretion left to the FCC to consider the public interest. Others argue—I am sure you are going to hear this—that it is too weak, and that an independent review and approval by the Department of Justice is necessary to protect the public interest.

In other words, I think you are going to have an amendment come in here that is the opposite of what Senator MCCAIN wishes—to delete the FCC's involvement—to one that says the FCC's requirement is not enough, that we must also have the Attorney General involved to protect the public interest.

In my judgment, this compromise we have worked out is just right. The FCC has a long history of considering public interest, convenience, and necessity. That was the bedrock principle of the 1934 Communications Act.

In order to transition to this new era and take the courts out—because under the modified final judgment, the courts have been determining communications policy through administrative hearings under court jurisdiction. In order to take them out, the parties involved wanted to be assured that, at least for this transition period, the oversight role of the FCC would be restored. And the determination by the FCC in this case is subject to a heightened standard of review.

Now, mind you, we have not just put it back to the way it was before the modified final judgment. It is no longer a case of the FCC not being arbitrary and capricious, which is the standard under a long series of precedence in the courts; the FCC must have substantial evidence on the record as a whole to support a decision to either grant or deny a request by a Bell company to enter a long-distance market.

In other words, in this compromise, the FCC comes back, the matter is taken from the courts, it comes back to the FCC, but under a standard that was stronger than it was before the FCC's jurisdiction was removed to the courts under the modified final judgment.

That evidence must support any determination by the FCC that the approval is not in the public interest, just as it must support any decision that the approval is in the public interest. To make any finding under this provision, the FCC must have substantial evidence. That means there will be an opportunity for all to be heard. That may be what has caused the $61 million over 5 years increase in costs to the FCC.

This is a heightened standard of review, and it is a double-edged sword that will accomplish one of the main goals of the bill, and that is to end the rule of the courts over telecommunications policy in this country.

I think that the substantial evidence standard will prevent abuse by the FCC of the public interest review, just as it will help protect the FCC decision in the grant of approval from a suit by competitors.

If the Senate takes out the public interest test and asks the FCC to base their decision only on the statutory checklist, I think that would invite abuse. Instead of considering the checklist on the merits and addressing any policy concerns in the public interest portion of the review, the FCC would have no alternative but to try to manipulate the checklist if they feel the application should be denied on policy grounds.

Likewise, I think the courts would have an incentive to question the fact-finding process used by the FCC in making the determination solely on the basis of a checklist.

Now, I do believe if the court wants to find the process inadequate, we would be right back where we are now with the courts taking jurisdiction once again over the decisions and affect the telecommunications policy of the country.

The checklist contains 14 technical requirements for interconnection and unbundling of the Bells' local exchange networks. However, the list is not self-explanatory or self-implementing. One of the requirements is there must be the capability to exchange telecommunications between customers of the Bell company and an interconnecting carrier.

Now, I believe the reading of the checklist itself shows where the FCC is going to be involved in discretion in some way. The Senator from Arizona argues that the checklist is all that is needed and it should be straightforward for the FCC to implement. Paragraph 4 of subsection (b) of this bill specifically prohibits the FCC from limiting or expanding the terms of the checklist.

But the trouble is, how will the FCC decide that the capability to exchange communications exists? If we have just the checklist and the FCC decides that the capability to exchange communications efficiently does not yet exist, then it would be off to the courts again, because obviously no person that seeks approval of the FCC is going to take that denial without going to court. As a matter of fact, no protester is going to take the denial without going to court. I say it should only go to court with the increased standard that exists under this bill.

If it goes to court, the court will decide if the broad terms of the checklist have been met. They will second-guess the FCC in endless arguments over what the FCC based its decision on.

Our provision is clear, and will prevent abuse by both the FCC and the courts.

One of the reasons the FCC must be involved is to ensure that there is a concept of understanding of what is the public convenience and necessity, whether or not anyone is going to be harmed by the availability of the new service, and under what conditions those people are going to be harmed.

Now, we are going into a whole new concept of how rates are computed. We are going into a whole new concept of how service is provided. I believe that the gatekeeper in this process, in this period we are in now, must be the FCC, but under the standards we have agreed to now, which are higher standards than the FCC has had before and certainly higher than even the courts have followed under the period of the modified final judgment.

In other words, I tell my friend, we do have the occasion of being opposed here on the floor quite often. I understand what the Senator wants to do, but again I am hopeful that we succeed in not making the changes that the Senator from Arizona wants at this time because I think without this bill the final step of the integration of Alaska and Hawaii with the rest of the United States will not come about. Without this bill we will not have the stimulus, the development of this competition between the regional Bells and the long distance carriers, between the Bells themselves, and even more than that, between providers of new communication, through new technological systems that I think will ultimately lower the cost for everybody.

Let me, in closing, say this to my friend from Arizona: One of the things that has gotten me involved in this over the years is that when I came to the Senate, on every advertisement concerning phone service was a little tag line at the bottom of the television or on the radio announcement saying ''Not applicable to Hawaii and Alaska.''

My friend Senator INOUYE and I, serving on the Commerce Committee, started what we called rate integration from the offshore States. That led, really, into a whole concept of what that meant, why we had higher costs to start with and how we could bring about a reduction in the costs of communications to our States and at the same time an increased amount of service.

Actually when I came to the Senate, the Army was running the telephone service for Alaska. Alaska communication service was an Army concept. We brought about the sale of that to a private carrier, and part of that sale was a commitment that telephone service would be expanded rapidly within the State of Alaska. That has been done—but not totally even yet.

One of the reasons I am deeply involved in this, I say to my friend from Arizona, is I still believe that the process we are going through is decreasing the cost. I think we can show that the whole process, even of rate integration that Senator INOUYE and I instituted, brought about a reexamination of the interstate rate pool, a determination that, yes, it could be expanded to Alaska and Hawaii. It was expanded to Hawaii first, and it is still being expanded to Alaska.

As that came about, the contributions from individual consumers rate pool has declined in the past. It will continue to decline now. It was a private mechanism, integration of the telephone service. It continues to be a private mechanism under this bill. But with the competition that this bill now will bring in to the providers of telephone service per se, communication service will come through satellite service, like DBS; it will come to us through radio service; through fiber optic cable, in one instance; through the old links that are there, the systems that have existed even before we became a State.

What I am saying is that the net impact of this bill will be the completion, really, of the process that Senator INOUYE and I started in trying to integrate Alaska and Hawaii totally into the telephone system of the United States.

When this bill passes, there will be no distinction between the service to any portion of the country. We will have the concepts of telecommunication and the freedom to enter and compete, to bring new telecommunication systems into the arena, and to have the ability to compete with existing carriers, existing carriers whose costs of installation may have been a magnitude of 10 for 100 times what the new service will be.

My request to the Senate is that the amendment of the Senator from Arizona be defeated. Again, I hope the time comes when we are both in the Senate when we can join together and say we passed through this interim period and it is time to totally deregulate telecommunications of this country.

I think we will live to see that day. I do not think it is here now. I do not think it will even come about without this bill, because without this bill we are still under the courts. This is the bill that takes back to the legislative process the regulation of the telecommunications industry in the United States.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Arizona allowed that he and I had different philosophies. He is right. But let me talk about different facts, which brings about a confidence in this particular Senator's philosophy.

As the Senator from Arizona was talking about the improvements of deregulation in the airlines we went out and doublechecked. If you want a round trip ticket on USAir, Charleston, SC, to Washington, it is $628. But if you want to go 500 miles further, right across Charleston to Miami and back to Washington, it is only $658. Miami is 1,000 miles away, Charleston is a halfway point at 500 miles. So what you have in essence—and this is the fact, not the philosophy, and it is a very understandable one—you go an additional 1,000 miles just for $30.

It is what you call economies of distance in the airline industry. Fearing this, listening to certain experts at the time—Senator Howard Cannon, of Nevada, was the chairman of the Commerce Committee. I was engaged then in a communications bill. I was chairman of the Subcommittee on Communications and I could not make all the hearings and check. I said, ''Be sure the small- and medium-size towns are protected.''

He said, ''Oh, yes, we have the protection. We have the protection. Do not worry. This is going to work in the public interest.''

And the opposite, of course, has been the fact. The fact is, yes, I had three airline routes coming up, three direct to Washington and three going back with National Airlines. I now have only one. For a time I had none. We worried about National Airlines continuing. They sold out to Pan Am. National is gone. We wondered about Pan Am's survival. Pan Am is gone. We wondered about Piedmont and Piedmont is gone. Air Florida crashed out here. And the very rights, the slots that the distinguished Senator from Arizona and I debate, were sold off by Air Florida, and we lost those landing rights that had been premised and founded on public convenience and necessity.

What has happened in the transportation industry, both by truck and airlines and otherwise, is the public convenience and necessity—the communities got the airports and facilities and developed them. They enticed an airline to come along with them to Washington. They had hearings before the old Civil Aeronautics Board. And on the basis of public convenience and necessity, proper service at an affordable price, they were awarded the routes and the carriage and everybody was making money, holding fire. The equipment was sound. They were competing. And everyone was happy until someone came to town with this virus to get rid of the Government, deregulate, deregulate, deregulate.

So what has happened is exactly what we feared. I voted for airline deregulation, so I am a born-again regulator. I learned anew there is no education in the second kick of a mule. I can tell you here and now, I have learned the hard way, trusting going with the amendment of the Senator from Arizona in doing away with convenience and necessity of the public. Because we go right immediately to what has occurred. What has occurred, the fact is that all of the American airlines are on the ropes. And who is taking over? The regulated ones. KLM is coming over and coming in and saving Northwest. British Air is saving USAir. Those are all the regulated airlines in Europe are taking over the so-called deregulated where we are running around like ninnies: Deregulate, deregulate, market forces, market forces.

It is just like this silly trade crowd running around hollers about free trade. Free trade, free trade—there is no such thing as free trade. The Japanese mercantilist, protectionist system is taking us over.

I was talking last night with the distinguished Senator from New Jersey. He was talking about Bellcore and the research. Do not worry about Bellcore. The Japanese are right next door, hiring the same research scientists from Bellcore like gangbusters. They do not have to move. They are in the same homes. Their children go to the same schools. And they are taking it over.

We are against industrial policy. We run around saying we cannot have industrial policy. We have the Japanese industrial policy here. That is what we have. How much do you think it costs for that Lexus? $55,000. How much does it cost back in Tokyo? It costs $85,000. And that is why I oppose the amendment of the Senator from Arizona, because the size, the financial size can take over here.

How are you going to regulate? We are not against size in the Bell Companies, but they built themselves up into the largest financially-wealthy-sized company that you can find in this country. On cash flow, the average, for example, AT&T, is 19 percent cash flow margin. The cash flow margin of a Bell Company is 46 percent. Why do you think the Bell companies are not all in with zeal for a communications bill? Who wants to get out of a cash flow margin of 46 percent to get into a business that is 19 percent? Come on. So, if one is going to occur, they want to make darned sure that it occurs very, very gradually.

The amendment of the Senator from Arizona is that if you take off this convenience and necessity, then they can get down this checklist they have about the unbundling, interconnection, dial parity—go right on down the checklist. But using their size they come like Japan. They will have loss leaders, as we call it.

I practiced law in the antitrust courts for a large grocery chain, the Piggly-Wiggly, in South Carolina. We got up to 120-some stores. They said we had a loss leader for a half-gallon of milk. We proved otherwise, but I had to go all the way to the Supreme Court to prove it. So we know about Robinson-Patman. We know about Sherman. We know about the Clayton Act.

But the public convenience and necessity goes to the philosophy and difference. The distinguished Senator from Arizona, when he says politics and politicians take over—I think it was Elihu Root—I hate to quote a Republican—but Elihu Root, the Republican Secretary of State for Teddy Roosevelt, who said that politics was the practical art of self government, and someone has to attend to it if we are going to have it. And going along talking he concluded with a very cogent observation: ''The principal ground for reproach against any American citizen should be that he is not a politician.'' In representative America we all count. In this particular body that is what we are here for. We are representing the public convenience and necessity.

I know one way we can agree. The Senator from Arizona and I will agree we have the best communications system in the world. He nods.

''Let the record show, if your Honor please, that the witness nodded.''

Now, Mr. President, I have the Communications Act of 1934 in my hand and I can read from it, I understand the Senator from Alaska has other commitments.

But I have it documented. Reading here again, as the Senator from Arizona was speaking, it appears 73 times— the ''public interest'' and ''convenience.'' In title I of the 1934 act it appears five times; in title II of the act, eight times; in title III of the 1934 act, 43 times; in title IV, one time; in title V, zero times, but in title VI, 12 times; in title VII four times. Seventy-three times back in 1934 when they believed in Government, when the Government at that time was taking this ''market forces, market forces,'' throwing us into the depths of the Depression. The Government saved us, and got us out of the Depression and saved this great United States of America. The minds of the representatives of the people here in this Congress were thinking right. They were thinking the public interest, public convenience and necessity—73 times.

So it is that as we come here the networks all came to Washington—ABC, NBC, CBS, and the rest. And on the basis of public convenience and necessity were licensed to use the public spectrum. The public convenience and necessity has gone along all the way, and we cannot do away with it. We are never going to pass a communications bill in this Congress, I am convinced, with these kind of market forces—''deregulate, deregulate, market forces controlling.'' On the contrary, we want to get out of the way of the technology. A new technology could come in that we do not know about.

The Senator from Alaska is reading very interesting articles which are being written in these various magazines, and communications editorials. Yes. There could be a takeover by computerization from telephones. What will happen there about the public convenience and necessity? It will not be a checklist down there for computers. We have the unbundling and all the checklists. But there still has to be that FCC, the public airwaves, the public being protected and particularly for universal service.

So we are very supportive, very strongly of the philosophy that the market forces are best. We have found that there are many instances, particularly in public transportation, public health, public safety, and public communications that, as I said on yesterday or last evening when we opened up, the one industry, the communications industry, was the one that came and begged for regulation. They were not begging for market forces. They tried it on for size.

I will go back two sentences. Our friend David Sarnoff was on top of that Wanamaker Building at the sinking of the Titanic. He picked up the actual radio signal, directed some of the rescues, picked up the names of survivors, stayed on station there for some 72 hours. And everyone got themselves a wireless. By 1924, everybody had a wireless. So nobody had a wireless because they just jammed the airwaves. So they came to Herbert Hoover, Secretary of Commerce. And they said,

''Mr. Secretary, for Heaven's sake, regulate us.'' The market force of the people's spectrum up here is jammed. No one can get no one. As a result, we passed the 1927 act, and then the formative act, of course, in 1934.

So we wanted to take hold of our senses here in the National Government as we try to get ourselves out as a roadblock to the information superhighway, because the technology is on course, and the superhighway is already being developed. We in Congress can go home and adjourn for 10 years. They are going to get it. But whether they are going to get it in a monopolistic fashion, and whether concerned about the rural areas, about the less-populated areas, concerned about the general public convenience and necessity against monopolistic practices and prices, they can come in.

I can tell you right now. If I ran one of those Bell companies, you would just deregulate everything. I would go down the checklist, and if you did not have this public convenience and necessity provision in here, I lost leave of you. I would price it below cost. Just go like they are pricing this Lexus. I got a Toyota Cressida. I just checked the price of that—$21,800 in downtown Washington; $31,800 in Tokyo. Look at Business Week at the end of the year. Last year, they took over—in spite of Detroit's comeback, having a quality product, and making big profits—the Japanese took over 1.2 percent additional of U.S. market at a loss of $2.5 billion.

You give me one of these Bell companies and the checklist, and I got it. I can comply with it. But I can put you out of business unless you have public convenience and necessity. This is what the Bell companies want so they can run amuck.

The other one is going to come with the Department of Justice. My senior colleague is going to come with it. That is the long-distance crowd. So they can muck it up over there at the Justice Department.

So you have the Bell companies wanting a little. And we have the long-distance crowd wanting a little favor over here. We have not tried to fight them. For what? The public convenience and necessity.

Several Senators addressed the Chair.

Mr. PRESSLER. Mr. President, I ask unanimous consent that a time be set for a vote on this at 2:15 and that the time from now until then be equally divided between the Senator from Arizona and myself. I would like to vote at 1:30. There is a Senator at the White House, another Senator wants to speak at 2 and cannot; no amendments, and an up-and-down vote, at 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Mr. President, very briefly, I always appreciate the educational experience of listening to the Senator from South Carolina on a broad variety of issues, including the airlines.

The PRESIDING OFFICER. Does the Senator reserve the right to object?

Mr. McCAIN. No.

Mr. PRESSLER. I would like to lay aside my request until we hear from the leader. And then the Senator will yield to me to ask unanimous consent.

The PRESIDING OFFICER. Is the request withdrawn?

Mr. PRESSLER. Yes, temporarily.

Mr. McCAIN. If there is anyone who would ever be interested, I would enjoy a long, extended public debate on the issue of airline deregulation, although that is not the issue before the Senate today. I felt compelled to call the travel organization here in the Senate. And the Senator from South Carolina might be interested in knowing that there are six USAir flights between Dulles and Charleston, and three United Airlines flights between Dulles and Charleston, and many of those seats are available for $249. I will find out and submit for the RECORD what exactly that cost was in 1974 before the deregulation of the airlines.

Mr. PRESSLER. Mr. President, I ask unanimous consent that a vote occur on this amendment, and no further amendments, up or down, at 2:15, and that the time between now and then be equally divided between the Senator from Arizona and myself, and that all Senators be on notice that the vote will occur at 2:15. I think we have accommodated everybody. We have to move this bill forward.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I have to momentarily object, Mr. President.

Mr. McCAIN. I informed the Senator from Alaska that one of the Senators requested that we hold it until 2:15.

The PRESIDING OFFICER. Objection is heard.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am pleased to join my colleagues, Senators MCCAIN and PACKWOOD, in offering this amendment to define the public interest test.

As currently written, S. 652 gives the Federal Communications Commission in my opinion exceptionally broad discretion in defining a Bell company's fitness to provide interLATA long distance services.

The bill authorizes the FCC to block, if you will, the Bell companies from offering interLATA services if it deems that their entry into the long-distance business is not ''in the public interest''—even after full compliance with a comprehensive interconnection and unbundling checklist, which is now included in S. 652.

The current language in the bill gives the FCC an open field to interpret the public interest standard any way it wishes. The FCC could, for example, decide that a market share test is required before Bell company entry into long distance on the grounds that the test is in the public interest.

A market share test in my opinion is anticompetitive and will only serve to prolong long-distance competition. It would put the fate of the Bell companies' long-distance plans in the hands of their competitors. And in a market environment, it is always amazing to me that somehow Federal regulations would allow that kind of thing to happen. Potential competitors could choose to delay their own entry into the local phone market in order to prolong the entry of one of the Bell companies into the interLATA market.

In order to avoid the potential abuse of the public interest standard, it should at a minimum state that any kind of market share test be barred from the FCC's consideration of this standard.

Mr. President, of particular concern is the extraordinary time and resources it takes for the FCC to make a public interest determination. The FCC's typical review process includes hearings and rulemakings and comments and replies and painstaking analyses. The committee report on S. 652 states that the public interest test for all Bell company provisions of long distance service must be based on substantial evidence on the record as a whole.

The report goes even further than the current FCC public interest standard by requiring the applications of heightened judicial scrutiny of the substantial evidence standard as opposed to the lesser arbitrary and capricious standard. In other words, in a bill that is deregulatory in some areas, Mr. President, this appears to be a bill that in this area is even more regulatory. And that is, of course, exactly why this amendment is now in this Chamber.

In an industry where new technologies are evolving at a record pace, this regulatory bureaucracy is counterproductive and it unnecessarily, in my opinion, delays delivery of beneficial services to the customers. And I would suggest, Mr. President, we are in the Chamber today debating a new world for the consuming public and not a new world for the companies involved, if that, of course, is the intent of S. 652.

A case in point is the history of cellular phone technology. Back in the 1970's, AT&T asked the FCC to allocate spectrum for the development of cellular services. Because of all of the encompassing nature of the public interest test, it took a decade—let me repeat, it took a decade—for the FCC to determine how best to allocate the spectrum.

Now, that is a 10-year delay in the ability of a communications technology that has become one of the fastest growing consumer products in America's history. Of course, we know, since the day we entered the cellular world, we have seen more growth in 10 years and more productivity and more jobs than the bureaucratic nightmare of the 10 years it took to open up the marketplace.

Another example of how time consuming and labor intensive the public

interest test can be is to look at video, the concern over video dial tone. The Commission first addressed the idea of additional cable TV competition from television companies in early 1991. It has taken more than 4 years for the FCC to create a general framework for video dial tone, and with each successive ruling more and more constraints have been placed on telephone companies wishing to offer cable TV services.

That is not the way to foster competition. And it is not giving consumers the additional cable choices they have all asked for and they think in a free market they ought to be able to receive. In effect, the FCC 4-year delay has prevented robust competition in the cable industry. I would argue that this is hardly in the public interest and yet, in this legislation, that kind of bureaucracy would largely still exist and might even be enhanced over current law.

Cable industry competition would have been far preferable to the stifling regulations that have been imposed under the 1992 Cable Act. My last example concerns the Commission ruling in the mid-1980's allowing telephone companies to provide new services like voice mail that enhanced basic telephone service. In other words, some people would ask you today: What did we do before voice mail? Well, I will tell you what we did. We had a great, complicated process in many of our offices just to get communications through to the individual, and where you did not have the ability to hire the person to take the phone call, often your phone went unanswered or a call went unreturned. Today, we know voice mail works marvelously well.

Boise, my State capital, was among the first US West cities to offer voice mail service, and the service is now available from telephone companies across the Nation. It is clear to me that services like voice mail provide real benefits to consumers and to businesses yet, even after a decade, the public interest issue is still unresolved.

The Ninth Circuit Court of Appeals has twice questioned the FCC's public interest determination when it allowed telephone companies to offer new services to consumers. Because of the legal situation surrounding these FCC orders issued nearly a decade ago, phone companies are currently offering voice mail and other services under, believe it or not, a special waiver—not a standard rule of the marketplace, but a special exception or a special waiver.

Mr. President, with the heightened public interest standard included in S. 652, a decade-long wait for cellular service or resolution of voice mail issues, believe it or not, could take even longer while the consuming public believes that now to be a standard of the industry.

Before closing, Mr. President, I would like to share a few quotes from a March 8, 1995, paper on S. 652 entitled ''Deregulating Telecommunications,'' written by Thomas Hazlett from the University of California, Davis.

In this article, he reviews the public interest standard.

While he praises the deregulatory provisions included in the bill, and there are some and they deserve to be recognized, he qualifies that praise by stating that the bill, through the inclusion of the public interest test, ''fails to move us beyond the highly regulatory paradigm under which we live today.'' Hazlett argues that S. 652 retains the source of all anticonsumer policies since the 1934 act that we are now changing under this legislation, the public interest test. He states this:

> This is not a proconsumer standard. This fundamental defect is further revealed in the bill's [four] announced objectives: Nowhere is consumer protection listed as a goal of this legislation.

Mr. President, let me repeat that. In a bill that is argued to be positive for consumers, nowhere in this bill is consumer protection listed as a goal of the legislation. I think this is wrong, and Mr. Hazlett says he believes it is wrong, also.

> Indeed, the very first aim of this or any telecommunications policy should be: ''Lower prices, improved choice, and better, more innovative services for consumers.'' The glaring omission of this goal is far more than a systemic problem.

Mr. President, Mr. Hazlett goes on to discuss the origins and purpose of the public interest standard at its inception in the 1927 Radio Act, and the subsequent 1934 Cable Act, which we are now amending today. This standard was included at the behest of incumbent radio broadcasters:

> The industry liked it because it would allow Government a legal basis for denying licenses to newcomers. Senator C.C. Dill, the author of both the 1927 and the 1934 acts, liked it because it would not only allow the industry what it wanted, it would give policymakers such as himself political discretion to shape the marketplace.

Let me repeat that. It would allow public policymakers political discretion to shape a marketplace; in other words, a political free marketplace and not the marketplace that creates the kind of competition that is self-regulating at best.

> This was terribly important to the Senator at the time, Dill wrote later, because established principles of law were already shaping spectrum access rights as private property.

In other words, Mr. President, the public interest test was the regulatory means by which the policymaker—that is us—not the marketplace and certainly not the consumers, could control the development of technology in the market. And we know that has never worked. The explosion of service and the quality of service that the American consumer now expects in telecommunications has only been created in the last decade as we move toward a more deregulated environment.

This was hardly a competitive criteria, and let me suggest that in this legislation, that test will stifle the kind of competitive environment that we want to create.

One last point I would like to share from this article brings us to our current situation. Mr. Hazlett argues, and I would agree, that even after years of use of public-interest standard, we still do not know what it means.

In 1993, FCC Commissioner Duggan lashed out at Commission critics who claimed this, saying it was not impossible to define public interest, and that the Commission would proceed to do so. That was 1993.

William Mayton wrote an interesting article in the Emory Law Journal in 1989 which pointed out how curious a standard the public-interest standard is by defining whatever a Government agency does in the public interest is the public-interest standard.

I find that fascinating, and yet the FCC today still struggles in its ability to define and to appropriately announce to the policymaker and to the consuming public. In short, Mr. President, anything could be deemed either in or against the public interest, and unless you treat it in the marketplace where the public ultimately makes the decision, then the public interest is in the eye and in the mind of the Commissioner or the policymaker, and that is not necessarily, and in almost all instances has never been, in the public interest.

Therefore, it is a standard that has no standard. This is the most subjective test possible, and I would argue that it will not, in effect, serve the interests of the American people.

Congress should clearly define the parameters of the public-interest standard and outline the factors that should be weighed in the making of the determination.

I submit that the competitive interconnection and unbundling checklist is in the public interest and fully meets the standard, and that should be the only provision in this law as an amendment to the 1934 act that frees the marketplace and determines the public interest. That is why I am in strong support of this legislation.

Mr. PRESSLER. Will my friend yield for a unanimous-consent request?

Mr. CRAIG. I yield back the remainder of my time.

Mr. PRESSLER. The Senator need not do that.

Mr. CRAIG. I am through.

Mr. PRESSLER. We finally, after much negotiation, arrived at the time of 2:10 for the vote on this amendment. I shall move to table at that time. I ask unanimous consent that we vote at 2:10 this afternoon.

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

Mr. CRAIG. Mr. President, I reserve the right to object.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. Is there an objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BURNS. Mr. President, if the Senator from Idaho does not have the floor at this time——

Mr. CRAIG. I do not.

The PRESIDING OFFICER. The Senator from Idaho has yielded the floor. The Senator from Montana.

Mr. BURNS. I thank the Chair. I will not be long, but I want to agree with my friend from Idaho in one respect. Public interest is kind of like art or beauty: It is in the eye of the beholder.

When we talk about putting up different barriers, we are really saying that it is going to be a select few who will decide who gets in the business and who does not, where I think most of us believe that the marketplace should dictate that, because from that comes perfection, and from that comes a very competitive medicine: Lower rates for everybody who wants to use that service.

There are those who serve in this body and those who will serve without this body that can take a public service interest before the FCC and completely delay the advancement of any kind of technology or any kind of deployment of any kind of services in the telecommunications industry by just a delaying tactic that would prevent any kind of progress to be made in that area.

Whenever we start talking about this industry, what are we referring to? The Senator from Nebraska [Mr. KERREY] was saying there is no public clamor for change in this area, but there is a clamor to allow new technologies to be introduced, to do more things with the tools that we have now. That is what it is all about. We talk about great distances, and we talk about remote areas and new services that will be provided to our rural areas and our remote areas. We are trying to dictate technology such as digital, digital compression, and all of those kinds of new technologies, trying to deploy it under an act that was written some 60 years ago and that has served this industry very well, by the way. But we are talking about the nineties-and-beyond technology. In other words, we are trying to do something in the nineties with a horse-and-buggy kind of regulatory environment that does not serve either one very well.

Unnecessary delay will hinder job creation because it will prevent openings of communications markets to competition simultaneously. One has to have incentives in order to progress in this industry or in any other industry. If there is no competition at home, there is no competition internationally because this is where we hone our skills.

This amendment only helps to clarify and define the public interest. It is like I said, there are many definitions of public interest. That is why I support this amendment. It will do things not only in this industry but other industries and send a strong signal that we are a strong country within and without in the competitive marketplace, especially in new technologies and the deployment of those new technologies.

This bill already removes all legal barriers, as well as mandates the Bell companies fully comply with the requirements concerning interconnection, unbundling, resale, portability, and dialing parity. In other words, we have already gone through this business of interoperability of competition on the same lines. And that, too, has to be confronted in this bill.

So I rise in support of this amendment and just believe that it has to be done in order to make this bill in final passage truly a procompetitive and proconsumer piece of legislation.

Mr. President, I thank you, and I yield the floor.

Mr. PRESSLER. Mr. President, the public interest, convenience, and necessity standard is the bedrock of the Communications Act of 1934 and the foundation of all common carrier regulation. I am surprised that this standard has come under attack.

WHERE ''PUBLIC INTEREST'' ORIGINATED

The public-interest standard has been part of English common law since the 17th century. In a treatise on seaports by Lord Hale, this fundamental concept was stated: When private property ''is affected with a public interest, it ceases to be subject only to private control.''

This public-interest concept is the basis for the government's authority to regulate commerce, in general, and common carriers, in particular. The public-interest standard has been a cornerstone of U.S. common carrier law for more than a century.

The U.S. Supreme Court applied the public-interest concept to American commerce for the first time in 1876. In Munn versus Illinois, the Supreme Court considered the possible constitutional limits upon government regulation of business. In Munn, the Court relied on Lord Hale's statement regarding public interest. The Supreme Court added that this principle ''has been accepted without objection as an essential element in the law of private property ever since.'' Two hundred years of English common law supported this precedent.

The 19th century U.S. Supreme Court summarized the common law public interest test as follows:

> Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created.

The public interest is fundamental to the law of common carriage. The Supreme Court in Munn noted that this common-law principle was the source of ''the power to regulate the charges of common carriers'' because ''common carriers exercise a sort of public office, and have duties to perform in which the public is interested.''

The Communication Act's public interest, convenience, and necessity standard grew out of this common-law notion of property that is ''clothed with a public interest'' and therefore subject to control ''by the public for the common good.''

The public-interest standard was first codified in the Transportation Act of 1920, which extended Federal regulation of railroads. The public-interest standard governed the grant of licenses under the Radio Act of 1927, the forerunner of the Communications Act's broadcast and spectrum licensing provisions.

The phrases ''public interest'' and ''public interest, convenience and necessity'' appear throughout the Communications Act of 1934 as the ultimate yardstick by which all of the FCC's different regulatory functions and responsibilities are to be guided. For example, the public-interest standard specifically applies to the physical connections between carriers (section 201(b)); the acquisition or construction of new lines (section 214); the imposition of accounting rules on telephone companies (section 220(h)); the review of consolidations and transactions concerning telephone companies (section 222(b)(1)); and the grant, renewal, and transfer of licenses to use the electromagnetic spectrum.

Thirty-two States and the District of Columbia have public-interest standards in their communications statutes similar to the standard in the Communications Act.

PUBLIC INTEREST AND S. 652

Despite the fundamental nature of the public-interest standard to communications regulation, questions have been raised about the inclusion of the public-interest standard in relation to the competitive checklist in S. 652. Critics say the public-interest standard will frustrate the Bell companies' ability to enter the interLATA market. The fear appears to be that the FCC will use the public-interest standard to keep the Bell companies out of the interLATA market even though they have, in fact, opened their markets to competition by complying with the checklist.

PUBLIC INTEREST HAS LIMITS

These critics assume the FCC's discretion is unrestrained. This is not the case. The FCC's functions and powers are not open-ended. The Communications Act specifies in some detail the kinds of regulatory tasks authorized or required under the act. In addition, the act specifies procedures to be followed in performing these functions. Such delineations of authority and responsibility define the context in which the public-interest standard shall be applied. By specifying procedures, the act sets further boundaries on the FCC's regulatory authority.

S. 652 is no different. The bill would require the FCC to make two findings before granting a Bell company's application to provide interLATA telecommunications service: First, that the Bell operating company has fully implemented the competitive checklist in new section 255(b)(2); second, that

the interLATA services will be provided through a separate affiliate that meets the requirements of new section 252. In addition, the Commission must determine that the requested authority is consistent with the public interest convenience, and necessity.

Opponents of the public-interest standard in section 255 argue that a Bell company could fully implement the checklist, meet the separate affiliate standards, and be arbitrarily denied authority to provide interLATA service by the FCC. This simply is not the case.

The FCC's public-interest review is constrained by the statute providing the agency's authority. For example, the FCC is specifically prohibited from limiting or extending the terms used in the competitive checklist. In addition, the procedures established in S. 652 ensure that the FCC cannot arbitrarily deny Bell company entry into new markets.

THE TRUTH OF PUBLIC INTEREST IN S. 652.

In S. 652, Congress directs the FCC to look at three things: the implementation of the checklist, separate affiliate compliance, and consistency with the public interest. The FCC's written determination of whether to grant the Bell company's request must be based on substantial evidence on the record as a whole. A reviewing court would look at the entire hearing record. If the FCC would find that a Bell company meets the checklist and separate affiliate requirements, but denies entry based on the public interest, the agency's reasoning must withstand this heightened judicial scrutiny. Those who oppose public-interest review would ask us to sanction action that the FCC affirmatively finds to be inconsistent with the public interest. How could this be good public policy?

Mr. President, on earlier points, I will point out that the Citizens for a Sound Economy has endorsed the bill that is before us. It has endorsed some of the amendments, but also the entire bill.

This bill is much more deregulatory than any we have had before us. It is not a perfect bill. But it will be a great step toward deregulation and a pro-market competition.

Let me also say that we will be reducing the costs of the Justice Department administration. It seems for some reason the Justice Department wants to stay in the regulation business. The Justice Department is to enforce certain antitrust standards and to carry out certain other functions.

In our bill, the FCC refers their decision to the Attorney General and the Attorney General can make a recommendation as to whether to use the 8(c) test or whether to use the Clayton standard test, or indeed whether to use the public interest standard, or any other standard that he deems necessary. So we still have involved consultation with the Justice Department in our bill.

There are many other points to be made here regarding this bill. But I believe we have completed debate on this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. President, I ask unanimous consent that the McCain amendment vote occur at 2:10, and the time between now and 2:10 be equally divided in the usual form, and no amendments be in order. I further ask unanimous consent to table the McCain amendment at 2:10.

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

Mr. THOMAS. Mr. President, I strongly support the amendment offered by my colleagues—Senators MCCAIN, PACKWOOD, CRAIG, and others—to clarify the public interest standard in the bill.

This public interest test will certainly cause unnecessary delays in the deregulation of the telecommunications industry. The public interest is a vague and subjective standard. A deregulatory bill, as this bill is supposed to be, should establish clear and objective criteria to open the industry to competition. This bill does not. Instead it dictates that a few folks at the Federal Communications Commission [FCC] will decide when true competition begins on the information superhighway.

The FCC's regulatory track record is horrendous. In addition, allowing the FCC to interpret what is in the public interest introduces a perverse incentive for FCC officials to slow down deregulation. Increased competition decreases the agency's workload and diminishes its need for existence. At a time when we are downsizing Government, we ought not to be expanding the role of the FCC. The bottomline is that FCC officials cannot create competition with bureaucratic entry tests.

By delaying true competition, this bill hurts consumers. According to several studies, this delay could result in billions in lost economic output and millions of new jobs. With such severe economic costs, it makes little sense to delay competition with this public interest standard. Quick deregulation will ensure that all companies face the most ruthless regulator of all—the American consumer.

This amendment puts all parties on equal footing—the Bells can offer long distance services when long distance companies can offer local telephone service—no sooner, no later.

Mr. President, the bottomline is that competition is in the public interest. It expands consumer options, lowers prices, creates new jobs and increases our international competitiveness. I urge my colleagues to join me in supporting this proconsumer amendment.

Mr. CRAIG. Mr. President, after many years of failed attempts, this Congress will have the overdue opportunity to reform the 1934 Communications Act. Senator PRESSLER, the chairman of the Commerce, Science, and Transportation Committee, is to be commended for his efforts to get legislation passed out of the committee and onto the floor of the Senate.

Mr. President, the Telecommunications Competition and Deregulation Act of 1995, S. 652, is a very comprehensive bill covering all areas of the telecommunications industry. S. 652 is a vast improvement over the status quo.

However, it could be made more deregulatory, better enhancing competition in the marketplace. Therefore, I hope that the final bill passed by the Senate will incorporate a number of deregulatory amendments.

As I mentioned, this is a very comprehensive bill, so I will limit my remarks at this time, to more general issues of concern and interest. First, and foremost, it is important that we do not lose sight of the ultimate goal of reforming the 1934 act, which should be to establish a national policy framework that will accelerate the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

In addition, working toward that goal should spur economic growth, create jobs, increase productivity, and provide better services at a lower cost to consumers.

Passing legislation that will open competition in this $250 billion industry will have broad-reaching effects.

It is important that we seize this opportunity to limit the Government's role in this vibrant sector of our economy.

Last year we debated health care—that is, impact. It is not often that the Congress has an opportunity to write telecommunications legislation. Therefore, it is important that we pass legislation that is clear, forward-looking, and does not perpetuate regulations that outlive their usefulness or create monopolies.

It is my position that the best way to achieve this is to move toward a competitive system by removing barriers to access in the various sectors of industry. Let me emphasize this point, because I think it reflects some of the differences of opinion on how to get to competition, competition will exist when all barriers to market access have been removed.

To deregulate through regulation reminds me a little of the term widely referred to in last year's health care debate, ''Managed Competition.'' I am very concerned that efforts to control deregulation through regulation will put the Government in the position of determining the winners and losers in the marketplace.

This is not a role for the Government to play. As a conservative, and one who

strongly believes in limited Government, I am very concerned about the powers delegated to the FCC in S. 652, which could allow unnecessary delays in fully opening the telecommunications market.

In short, S. 652, as I read it, deregulates through regulation. It gives an inch with new competitive freedoms—then takes a mile with new layers of regulatory conditions and market entry barriers. It is my hope that we can preserve the pro-competitive aspects of S. 652 and clarify those sections that unnecessarily restrict competition.

With that in mind, there are several amendments that I will be supporting during debate on this bill, which will promote deregulation and competition.

First and foremost, we must ensure that the bill provides for the elimination of obsolete regulations, once certain competitive conditions are met. In order to achieve those competitive conditions, there should be clear, reasonable and objective requirements or conditions that will remove access barriers that currently protect monopolies.

Having said that, once those barriers protecting monopolies are removed, a competitive marketplace is established and there should be open competition. More specifically, if a market is contestable, regulators should not interfere with natural competitive forces.

Competition will provide the lowest price, the best delivery of new services, and infrastructure investment—not regulators.

Mr. President, I think it is important to emphasize that this is not just an industry bill. This legislation has the potential of creating thousands of new jobs and enhancing access to a wide array of communication and information services to all Americans, but especially folks who live in rural or remote communities.

According to a recent study by the WEFA group, which is an econometric forecasting agency, competition in the telecommunications industry will dramatically benefit the American economy.

The WEFA study concluded that delaying competition just 3 years will result in a loss of 1.5 million new U.S. jobs, and $137 billion in real gross domestic product by the year 2000.

Conversely, the study found that the immediate and simultaneous opening of all telecommunications markets would create 2.1 million new jobs by the turn of the century, and about 3.4 million over the next 10 years.

The study also shows that during the next decade, full competition in telecommunications would increase GDP by $298 billion; save consumers nearly $550 billion through lower rates and fees for services; and increase the average household's annual disposable income by $850.

In Idaho alone, thousands of jobs would be created with simultaneous and immediate competition. According to the WEFA study, Idahoans would benefit from the creation of 7,400 new jobs by the year 2000.

In addition to the issue of job creation, rural States have a great deal at risk if we do not pass legislation to deregulate telecommunications.

There are many examples in my home State of Idaho that demonstrate how current regulations reduce customer choice, restrict growth and access to new technologies.

In March 1994, U.S. West Communications was forced to cancel two new information services in Idaho, NeverBusy fax and Broadcast fax, due to the MFJ requirement that equipment providing the services must be located in each LATA. Because of population density, there were not enough customers to support the cost of maintaining the necessary equipment in the Boise LATA.

Technically, one piece of equipment can serve several States, but the law requires the extra expense of replicating equipment in each LATA just to meet outdated regulations that are not consistent with market demands.

In addition, Boise was selected by U.S. West to be one of the first areas in the company to be wired for broadband service, giving residential and business customers access to voice, video, and data over a single line. Due to the long timeframe associated with the FCC approval process and limitations of current MFJ regulations, the project has been delayed indefinitely.

In 1988, the Idaho Legislature approved one of the first modified regulation structures in the country.

All services except local exchange services with five or fewer lines were completely deregulated. As a result of opening the marketplace, over 150 companies now provide long-distance calling within the State.

The total volume of calling has increased by 60 percent and the long-distance market share of U.S. West has declined by over 15 percent. The end result has been a reduction in both the prices paid by the long-distance carriers to gain access to the network and the price paid by the consumer for services. This, in spite of the fact that local exchange services were still perceived to be what some would term as a ''monopoly'' service. Opening Idaho's market has enhanced competition and improved prices for consumers.

In both an article and an editorial, the Idaho Statesman outline how businesses in Idaho were able to save millions of dollars through increased productivity and improved services because of the infrastructure and services offered by the local telephone company as a result of the modified regulation made possible by legislation I have described.

The Statesman recognizes the value of a competitive communications marketplace, and has been proactive in its editorials in encouraging an open telecommunications industry.

Mr. President, I would like to take a few moments to discuss some concerns on the need for deregulation on the cable industry. Let me begin by saying that I opposed the Cable Act of 1992, and voted against passage of the bill.

Since the enactment of S. 12, I have received numerous complaints from fellow Idahoans who felt that the changes resulting from S. 12 worsened rather than improved their cable service and cost. In addition, a number of very small independent cable systems in Idaho have been in jeopardy of closure because of the astronomical costs associated with implementing the act.

A rural community hardly benefits, if it loses access to cable services because the local small business that provides the service cannot handle the burden of Federal regulations. Quite the opposite is true.

Competition, not regulation, will encourage growth and innovation in the cable industry, as well as other areas of telecommunications, while giving the consumers the benefit of competitive prices.

As I mentioned before, Mr. President a central goal of S. 652 is to create a competitive market for telecommunications services. Cable companies are one of the most likely competitors to local telephone monopolies. Cable companies will require billions of dollars in investment to develop their infrastructures in order to be competitive providers.

The Federal regulation of cable television has restricted the cable industry's access to capital, made investors concerned about future investments in the cable industry, and reduced the ability of cable companies to invest in technology and programming.

Mr. President, rate regulation will not maintain low rates and quality services in the cable industry. Competition will.

New entrants in the marketplace such as direct broadcast satellite [DBS] and telco-delivered video programming will provide competitive pressures to keep rates down.

In short, Mr. President, deregulation of the cable industry is essential for a competitive telecommunications market—and it is necessary as an element of S. 652, and the competitive model envisioned in the bill.

It is my preferred position that S. 652 should completely repeal the Cable Act. However, I am very supportive of efforts to repeal rate regulation for premium tiers, and complete relief of rate regulation for small cable companies, who have been hit so severely by the 1992 Cable Act.

Before closing, Mr. President, I would like to take a moment to share some interesting letters I have received from various groups outside the telecommunications industry. First and foremost, I was very interested as a member of the Senate Veterans affairs Committee to see the great interest veterans service organizations have in seeing a deregulatory bill passed.

In a letter form James J. Kenney, the national executive director of AMVETS, he states the following:

America's veterans and their families have a real stake in the debate in Congress over competition in telecommunications.

We know that full competition—now—means millions of new jobs spread throughout every section of our economy. A recent study by the WEFA group calculated that 3.4 million new jobs would be produced over the next ten years if all telecommunications companies were allowed to compete right away. These jobs are desperately needed for the estimated 250,000 men and women who are being discharged every year due to downsizing of the military . . . .

Veterans want Congress to be on our side in this fight—to stand up for us—for new jobs and lower prices. We don't want to have to wait for the benefits of new competition. . . .

On behalf of AMVETS and all of America's veterans, I urge you to move forward quickly in assuring that S. 652 will be a telecommunications reform bill that will allow immediate and simultaneous competition in the marketplace.

Mr. President, I intend to stand up for our veterans, and other of our citizens. I think this letter shows just how important this bill is to all Americans and the benefits that we can all enjoy from a robust and competitive telecommunications market.

Another interesting letter on this legislation, written by former Surgeon General C. Everett Koop, M.D. and Jane Preston, M.D., and president of the American Telemedicine Association, also urges the Congress to ''Pass telecommunications reform legislation that opens up full competition in both local and long distance communications without delay.''

Their interest in S. 652 is the potential advances it can bring to the medical field through greater access to telemedicine.

As a member of the Senate/House ad hoc Committee on Telemedicine and Informatics, I agree with the interests outlined in this letter.

One of the single largest obstacles to the Deployment of Telemedical services LATA boundaries. Many of those involved in the field of telemedicine see LATA boundaries as ''toll booths on the information highway.'' The existence of LATA boundaries, (and accompanying high rates for long distance services) was not a problem in the early stages of telemedicine research and demonstration projects. . . . However, with the development of telemedicine projects as ongoing, financially viable operations and with the steady increase in telemedical interactions, the cost of long distance services has become a major program. Therefore, we ask you to eliminate this barrier by lifting existing restrictions and allowing all companies to compete immediately for local and long distance services.

The letter goes on to describe the many health care uses of the telecommunications infrastructure such as the training and education of health care professionals, consultation, and diagnostics, in addition to all the administrative functions that use the system. This is especially important to the future of the delivery of health care in remote and rural communities.

Mr. President, I don't support the unnecessary Government regulation of private industry. Some will argue that the regulations incorporated in S. 652 are not only necessary, but they are the only way we can reach a competitive marketplace. I disagree. There will be a number of amendments offered to curb the regulations that remain in this bill. With these clarifications and improvements, I am confident that S. 652 will positively change the telecommunications landscape for the betterment of American consumers and the national economy. I hope my colleagues will join me in support of those amendments.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time will be charged equally against both sides.

The Senator from Idaho.

Mr. GRAIG. Mr. President, I suggest the absence of a quorum. I ask that no time elapse equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Mr. President, may I inquire about the time arrangement at this point?

The PRESIDING OFFICER. At this point we have a vote on the McCain amendment set for 2:10. At this point, there are remaining 2 minutes 3 seconds on Senator PRESSLER's time for discussion on that amendment, and 20 minutes remaining on Senator McCain's amendment.

Mr. LOTT. Let me ask it this way. Is there time in here that I may use that is not designated on one side or the other?

The PRESIDING OFFICER. It would take unanimous consent to proceed in that fashion. But the effect would be potentially delaying the vote if the advocates and proponents of the amendment were to withhold this time.

Mr. LOTT. Mr. President, I ask unanimous consent that I be allowed to speak against the amendment for the next 5 minutes.

Mr. STEVENS. Reserving the right to object, I shall not object, so long as it comes off both sides. I understand that is agreeable to Senator MCCAIN. We still want the vote at 2:10.

The PRESIDING OFFICER. There are only 2 minutes left of Senator MCCAIN's time. If that were to be equally divided, it would exhaust all the time he has left plus additional time.

Mr. STEVENS. Senator PRESSLER has 2 minutes.

The PRESIDING OFFICER. I believe Senator MCCAIN has 2 minutes because the last speaker spoke, I thought, in support of the amendment.

Mr. STEVENS. Mr. President, as I understand it, consistent with Senator MCCAIN's desire, just take the time and allow the Senator to speak.

Mr. LOTT. Mr. President, I think we all understand that. I will be brief. I want to be recognized briefly to speak against this amendment. I think what we have here is a classic case of the defeat of the good in pursuit of the perfect. Perhaps this legislation is not perfect, but it has been worked out very laboriously in a bipartisan way. It may not be totally perfectly deregulatory. I am sure it would be wonderful if we could eliminate the FCC. A lot of us would like to see no need for the FCC. But we are going from what has been a monopolistic system, an antiquated system, to a new, dynamic, open, more competitive, and much less regulatory system. This language, the public interest standard, that is included in the bill is a very important part of the core. It was a part, an important part, of putting together the agreement on the entry test. In my opinion, it is sort of part of the checklist. Once the Bell companies meet the checklist, there is this one additional thing, the public interest question. I think it is important to make sure that we have a fair and level playing field. This is part of that effort to make sure that we have done it right.

Our purpose here is to have more competition and less regulation. But I do not believe it is going to be constructive at this point if we take that public interest language out of there.

So I urge my colleagues, if we are going to keep this compromise agreement together, we need to leave this language in there.

I urge the defeat of the McCain amendment.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time remains?

The PRESIDING OFFICER. Eighteen minutes forty seconds.

Mr. MCCAIN. Mr. President, I yield myself such time as I may consume.

I really am struck by the comments of the Senator from Mississippi because it is exactly what is in this editorial of the Wall Street Journal. It is not a good idea to have the public interest provision in the bill, but let us do it because we have a compromise here. Let us make a bad deal, but it is a deal. I cannot tell my colleague from Mississippi how deeply I am disappointed in his position on this issue.

I had many conversations with him when we were talking about a checklist and how a checklist would satisfy the concerns of those who were in opposition to this legislation. Now, obviously, that was not enough. But we are going to make a deal. Let us change the debate around here. Instead of debating a piece of legislation, let us make a deal. The fact is the public interest aspect being added onto a checklist negates the entire checklist. What in the world is the need to have a checklist to say we comply with the checklist and then send it over to the

FCC to decide what the amorphous position of the public interest is? The reason we will not do away with the checklist is we went down this road of concession after concession. We decided first that we will not have a checklist, then whether we needed a checklist. Then that was not sufficient to get enough support, so we added the public interest clause. So we end up with a meaningless checklist.

What in the world is the sense of having a checklist then after the checklist has been complied with? OK, it has been complied with, but it is up to you, FCC. What relevance does a checklist have?

Mr. President, I continue to be disappointed at what the Wall Street Journal describes as the ''problem here is a familiar one.'' Companies lean too heavily on their insider Washington representatives whose skill is chiseling arcane special provisions out of an arcane process. These people are part of the reason the public is cynical about Washington. The CEO's know what is right, but they are given to believe it is never attainable considering universal service.

Mr. President, I am aware that this amendment will probably not be passed. But this is a clear example of what is wrong with the way we do business here in Washington. In the face of principle, we now compromise, and instead of doing so, let us have a bad deal, but it is better than no deal at all. I do not agree with that. I believe that we do a great disservice to the people whom we represent in the name of deregulation to add 80, according to the Wall Street Journal, 80 new regulatory functions, all designed, of course, to ensure competition and fairness.

Part 1 of those 80 new regulatory functions—part of the $81 million that the FCC is going to need to enforce this deregulation, and, of course, in the words of the Commissioner of the Federal Communications Commission, they will need accountants, statisticians and business school graduates. So let us call this what it is—a plus to some special interests and perhaps some improvement in the status quo but certainly not deregulatory legislation.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield such time as is remaining to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I thank the Senator from Alaska.

I rise in opposition to the amendment. The most difficult thing to have happen in the law that we are deliberating here is the competition at the local level. That is the most perplexing and most difficult part of all. By competition, I do not mean competition for phone service. I do not mean competition for cable service. I do not mean competition for information businesses that want to preserve this kind of line of business distinction. I mean competition to package information services, not coming from the big guys that we talk to all the time in this town, but from that new entrepreneur that hires their lawyers at $50 an hour, not by the dump truck load, who need to make certain they will have an opportunity to compete.

This checklist, such as it is, I do not know if the checklist is going to work. There are 14 things on the checklist. Take a look at it. You tell me. One of the problems that I have in this whole mechanism is that it says the FCC is supposed to determine whether or not we have competition. How do I determine? Well, I have a checklist.

Then I have one final test that, by the way, has been litigated many, many times over the course of time. The Supreme Court has spoken many times on this issue. They understand the intent with a lot more clarity than meets the eye in this area. This is an effort to make certain that in fact we do get competition at the local level. I assure my colleagues, if we do not get competition at the local level, our consumers, our citizens, households are not going to be happy because their rates will not come down for overall information services. Their quality will not go up. Only in the competitive environment will that happen. Only if the provider of services knows that the customer can walk and go someplace else is there going to be a competitive environment, and only if the law encourages and allows new entrepreneurs and startup companies, as I believe the language in this bill allows, and that the amendment will strike.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Mr. President, I yield my remaining time to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank my good friend from Arizona. I apologize for being late. The Finance Committee met from 9:30 until about quarter of 1. I have just gotten here now.

I realize the time constraints we are under, and I am not going to make a lot of long opening comments. This amendment is a simple amendment. No matter how anybody cuts it and attempts to parcel the bill, there are two competitive tests in this. I am going to refer to them as section A and section B, and they are genuinely competitive, objective tests. But then there is a conjunction at the end of the second section. We get into this public interest. It reads, ''And if the Commission determines that requested authorization is consistent with the public interest, convenience and necessity,'' and what not.

What that means is that if any applicant meets the first two, which are objective and measurable, they still have to get over the hurdle of the third test, which is the public interest test. That is amorphous. That is anything the Federal Communication wants it to be. It is an unneeded test. It is going to be a test that is going to tie up every applicant not for weeks, not for months, but for years as we go through not some kind of an objective what is the public interest but on every single application to extend service to consumers, every single application to get more competition into the communications field, every one of those is going to have to pass a subjective public interest test, because I can assure the Presiding Officer and I can assure this Chamber that anybody who opposes one of your competitors getting into your business is going to say it is not in the public interest and you are going to have to prove that it is in the public interest.

And here is where I wish to complain about established bureaucracy generally, and I do not mean it critically, but I do mean it in the sense that there is a great tendency of any regulatory body to like what is. And there is a triangle between applicants and regulators and employees who used to be with the regulators, who now represent the applicants and who will also be representing the opponents of the applicants. And there will be a cozy tendency not to want to expand.

I am just going to give 3 minutes of history here on deregulation efforts I have seen since I have been on the Commerce Committee. I have been on it now since 1977, and I have been through every single deregulatory phase that we have had. Airlines in 1978—no one in the airline industry except United Airlines, to their credit, favored deregulating the airlines, nor did any of the unions that worked for the airlines want deregulation. In 1980, truck deregulation was opposed by the American Trucking Association and the Teamsters Union and not very enthusiastically looked at by the Interstate Commerce Commission, which then regulated trucking. We deregulated trucking by and large in 1980, and the Interstate Commerce Commission has shrunk from about, as I recall, 2,200 employees in 1981 down to around 500 or 600 now. My hunch is that the life of the Interstate Commerce Commission is not long in being. But because we deregulated, they shrunk down.

Now, what is the one thing that we left unregulated—I should not say we—that was left unregulated. When AT&T agreed with the antitrust division for the modified final judgment in 1982, the one thing that is not part of that judgment was cellular phones. Why? Because nobody cared. In 1982, you had 100,000 cellular phone customers. Do you know what the historical analogy is?

It is England and France after World War I, when they decided to divide up the Turkish territories, Turkey being an ally with Germany in World War I, and they lost. Turkey had control of the entire Middle East. England and

France divided it up. England took Israel, Jordan, and Iraq; France took what became Lebanon and Syria. Nobody wanted Saudi Arabia—nothing but a desert. So it was left to drift on its own. No one knew there was any oil. I am sure Britain and France would have carved it up also if they thought they wanted it.

Nobody cared about cellular phones in 1982, so with 100,000 then, 25 million now, and 28,000 new customers a day, we will be at about 120 million cellular phone users by the year 2002. There are only 150 million telephone subscribers now. The reason this service is growing—and is it competitive? Read the advertisements. Hear the television. Listen to the radio. Competitive? Are the prices coming down? Is it big competitor after big competitor about some interesting small-niche competitors that understand this business, and because they are small and often personally held, they can beat AT&T or MCI or Bell Atlantic? That never would have happened had they been included in the modified final judgment.

I can see exactly what is to happen if we do not get rid of this public interest part of this bill. In is going to come a smart young engineer who worked for AT&T until he or she was 38 and decided to leave and form a little niche company of their own, and they are going to want to get into Bell Atlantic's territory. We think this is Bell versus AT&T. They are going to want to get into that territory, and they are going to make an application. And they are going to be kept out, or Bell Atlantic is going to be kept out if they want to get into AT&T's territory because they do not meet the public interest test.

Mr. President, of all of the areas of business in this country that no longer need regulation, communications is it. The argument is made that we are operating under an act that was passed in 1934. That is true. If we pass this act today, this takes us up to about 1964, 1974 at most.

Mr. President, we are not 5 to 10 years from the day that wired systems are going to be irrelevant. We are going to go back to broadband broadcasting where your computers are going to be hooked up by radio waves or the equivalent rather than wires, and we are going to have more spectrum than we know what to do with. And we are going to be hobbled because this bill will not give the freedom to competitors that is necessary, and the public interest test will do more to stop that freedom of competition than any other single thing.

I hope very much the Senate will adopt this amendment. This amendment by itself will do more to make sure that we have the equivalent of the kind of competition we have seen in cellular in the last 10 years than any other single thing this Senate will consider.

I thank the Chair.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent that Senator THOMAS be added as a cosponsor.

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

Mr. PRESSLER. Mr. President, I move to table.

Mr. HOLLINGS. I move to table.

The PRESIDING OFFICER. Does the Senator from Arizona yield back his time?

The Senator yields back his time.

Mr. PRESSLER. 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 question now is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

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

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—68

Akaka	Glenn	Moseley-Braun
Ashcroft	Gorton	Moynihan
Bennett	Grams	Murkowski
Biden	Grassley	Murray
Bingaman	Harkin	Nickles
Bond	Hatfield	Nunn
Boxer	Hollings	Pell
Bradley	Hutchison	Pressler
Bryan	Inhofe	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Campbell	Kassebaum	Rockefeller
Chafee	Kennedy	Roth
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
D'Amato	Kohl	Snowe
Daschle	Lautenberg	Specter
Dodd	Leahy	Stevens
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Feingold	Lott	Warner
Feinstein	Lugar	Wellstone
Ford	Mikulski	

NAYS—31

Abraham	Faircloth	Mack
Baucus	Frist	McCain
Breaux	Graham	McConnell
Brown	Gramm	Packwood
Burns	Gregg	Santorum
Coats	Hatch	Shelby
Coverdell	Heflin	Simpson
Craig	Helms	Smith
DeWine	Johnston	Thomas
Dole	Kempthorne	
Domenici	Kyl	

NOT VOTING—1

Cochran

So the motion to table the amendment (No. 1261) was agreed to.

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

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. PRESSLER. Mr. President, I ask unanimous consent that Rosanne Beckerle be permitted privilege of the floor.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that Erica Gum, an intern in my office, be permitted privilege of the floor during the remaining debate of this issue.

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

AMENDMENT NO. 1262

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1262.

The amendment is as follows:

Strike Section 310 of the Act and renumber the subsequent Sections as appropriate.

Mr. MCCAIN. Mr. President, this amendment would strike the provisions in the bill that force private companies to give preferential rates to certain other entities.

Specifically, the bill mandates that any health care facility, library, or school receive telephone service at cost. In other words, the telephone company must offer such service at reduced rates.

We all support helping education, furthering the ability of all individuals to have access to libraries, and helping people get medical help.

Mr. President, I am very concerned that the provisions of this bill go too far. Rural health providers will be provided with these low, preferential rates. I question whether such action will help low income rural Americans receive health care or will it help wealthy doctors become even wealthier when their telephone bills are reduced.

I question whether such an across-the-board mandate for schools to receive preferential rates is really necessary for wealthy suburban schools?

And for all of these provisions, I must question does anyone truly know the cost involved here?

For the following reasons, the public users section of this bill should be struck.

First, these provisions amount to an unfunded mandate. Earlier this year we passed legislation to discourage us from passing unfunded mandates on to companies. Make no mistake, this is an unfunded mandate.

Second, many States are already giving some entities preferential rates. There is no reason we should federalize a legitimate function of the States.

Third, if we are to pass such a provision, at a minimum, it must be means tested. There is no reason to give preferential rates to individuals who do not need them.

Fourth, we do not have an accurate assessment of how much this entitlement will cost.

Last, these provisions contain huge loopholes that many will exploit. Will abortion clinics apply for preferential rates as medical facilities? Will law firms with legal libraries seek preferential rates? These terms are not precisely defined in the bill and are open to exploitation.

Mr. President, as an example of what would be provided, it says in the bill on page 134, paragraph 3:

Health Care Provider. The term ''health care provider'' means post-secondary educational institutions, teaching hospitals, and medical schools.

After reading through the bill language and also after consultation with staff, I am told that the term ''elementary school'' means a nonprofit institutional day or residential school that provides elementary education as determined under State law.

Does that mean a nonprofit private school falls under this? Does it mean, as I said before, that clinics that perform abortions are a medical facility? Does it, under the term ''secondary school,'' mean a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12?

Does this mean private schools? I know that some private schools such as private parochial schools are not very wealthy. I also know that we all know there are certain private schools that are extremely well off.

Mr. President, I just think this is a wrong idea. It passed by a vote of 10 to 8 in the committee without a large amount of debate.

I hope we can strike this from the bill. I have no idea how much this would cost. I believe that we have spoken very loudly and clearly that unfunded mandates are something that we are rejecting. I urge the adoption of this amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that we might return to morning business for 3 minutes.

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

Mr. BRYAN. Mr. President, I thank the Chair and the distinguished managers of the bill.

TRIBUTE TO CAPTAIN O'GRADY

Mr. BRYAN. Mr. President, the nation sighed with relief this morning as we heard reports that Air Force Capt. Scott F. O'Grady, the United States pilot downed by a Serbian surface-to-air missile, had been found in good health, and was resting comfortably on a United States aircraft carrier.

Yesterday, in the Senate Armed Services Committee, Secretary of Defense Perry and Chairman of the Joint Chiefs of Staff, General Shalikashvili, gave a presentation on United States policy towards Bosnia. As was clear from this hearing, there is little agreement on what United States policy should be towards this war-torn region, and many deeply troubling questions continue to surface regarding the depth of United States involvement in Bosnia, and the need for a strong and coherent United States and NATO policy.

But today, I would like to focus on a good news story, and extend commendations to Captain O'Grady and the American military personnel who were involved in his remarkable recovery.

Although details of the rescue effort are still being released, it is clear that many American military personnel put themselves at great risk in the all-out attempt to locate Captain O'Grady and safely bring him out of Bosnia.

The ability of Captain O'Grady to evade capture by the Bosnian Serbs for nearly 6 days in heavily wooded areas is a great tribute not only to the courage and survival skills of Captain O'Grady, but also to the outstanding training he has received as a U.S. Air Force pilot.

Equally outstanding was the courage and competence of the marines who went into Bosnia under extremely dangerous conditions. Early reports indicate two CH–53 Sea Stallion helicopters under attack by both Serbian surface-to-air missiles and small arms fire were able to land within 50 meters of where Captain O'Grady was concealed. The commander of these marines, Col. Martin Berndt, reached out, grabbed the young pilot, and took off in a matter of seconds.

Finally, many American pilots risked their lives during the past 6 days, flying through a highly sophisticated Serb integrated air defense system in an attempt to pinpoint the location of Captain O'Grady. Many of these flights were extremely hazardous routes in and out of thunderstorms. During the actual rescue mission, additional American pilots covered the Marine helicopters with fighter and electronic monitoring aircraft.

Mr. President, the training, competence and experience that led to the spectacular success of this rescue mission gives credit to the outstanding job done by Secretary of Defense Perry and General Shalikashvili, as well as Adm. Leighton Smith, the NATO commander for Southern Europe. But our highest tribute should go to the courageous young men who were on the ground in Bosnia or flying low overhead. They have demonstrated the best of our U.S. Armed Forces, and the quality of the young men and women we have defending our national security. And a special tribute must go to the remarkable young man, Captain O'Grady, whose actions and courage serve as an example for us all.

Mr. President, I yield the floor.

AIR FORCE CAPT. SCOTT O'GRADY

Mrs. MURRAY. Mr. President, I want to join the President, my House and Senate colleagues, and the American people in expressing my deep relief at the safe return of Air Force Capt. Scott O'Grady, who was shot down over Bosnia 6 days ago while on a NATO mission.

It is a tribute to Captain O'Grady and the Air Force that trained him that he was able to survive for so long under such difficult circumstances. And certainly we must all loudly applaud the brave marines who put their own lives on the line and rescued him under the most treacherous circumstances, braving both missile and small-arms fire during their 5-hour rescue mission, to pull one of their own to safety.

Captain O'Grady's family has no doubt had a week of anguish and hope, and I celebrate with them this wonderful news and the remarkable strength and courage of Captain O'Grady and the marines who come to his rescue.

Scott O'Grady, who is from Spokane, WA, is an inspiration to citizens across my State and this nation, and I am proud to join the many many voices today that are celebrating his safe return.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1262

The PRESIDING OFFICER. Is there further debate on amendment No. 1262?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, as we know, the distinguished Senator from West Virginia, Senator ROCKEFELLER, on the Commerce Committee, has been the lead Senator on our side, and the distinguished Senator from Maine, Senator SNOWE, on the majority side of the Commerce Committee with respect to the public entities. They did not realize this amendment was coming up and they are on their way to the floor.

My friend from Arizona got some quick figures and questioned the figures I had given relative to the air fares. So let me once again state that the USAir fare from National to Charleston round trip is $628. United from Dulles round trip to Charleston is $628. There is a Continental flight at $608 round trip from National.

With respect to USAir going down to Miami, we talked about flying 500 miles further and of course the 500 miles coming back, 1,000-mile difference. There is a USAir $658 round trip to National, and if you walk up to the counter, there is a special of $478 for the 10 seats available that the clerk at the counter can give at that reduced rate.

Perhaps that is what was the case with respect to the quoted figure of going from Dulles to Charleston, D.C. to Charleston, the $249 fare round

trip—that was the 21-day advance, nonrefundable fare under USAir.

In my investigation, though, it did prove salutary that I found out the Government fare to fly out from Washington to Charleston is $192, but the Government fare all the way out to Phoenix is $135. So we found out, in the airline industry, who the chairman is of the subcommittee on air travel.

I am going to get my office to call and see if I cannot persuade the Senator from Arizona to get me a little bit better consideration on this Government rate. They go 1,000 miles further, I say to the senior Senator, the President pro tempore of the Senate, 1,000 miles further and they get it $47 cheaper than you and me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from South Carolina for his additional information. The fact is, there are still one-way tickets available for $249. And the fact is, the number of departures from Washington, D.C., to South Carolina since deregulation has gone up 16 percent. The number of available seats since deregulation from Washington, D.C., to South Carolina has gone up 50 percent since deregulation. The President's Council of Economic Advisers has said that consumers have saved $100 billion since the airline industry deregulated.

I would also point out to the Senator from South Carolina, who is so enamored of the trip from Washington, D.C., to Phoenix, if I choose to leave from National Airport there is no direct flight. It has to stop someplace in between because of the arbitrary barrier to the markets imposed by the so-called perimeter rule, which was imposed by the former Speaker of the other body, Mr. Wright, which happens to reach the western edge of the tarmac at Dallas-Fort Worth Airport.

So, as one who commutes back and forth every weekend and has done so, now—this is the 13th year—I can assure the Senator from South Carolina I am in favor of far more deregulation. What the Senator from South Carolina calls distance market is what is called the free market. It is called supply and demand. When there are enough people who utilize a service the price of that service goes down.

It is a strange thing we find out when the free market works. If enough people want to use a certain service, and the cost of that service is divided up amongst more people, then the cost goes down. I am sure the Senator from South Carolina can appreciate that phenomenon. It has happened in the airline industry and the trucking industry and every other industry that we have deregulated. I am very sorry we are not going to see that in the telecommunications industry, because we have basically a bill that is more reregulatory than deregulatory.

But as I said earlier, I look forward to the opportunity of extended debate on the issue of airline deregulation with my friend from South Carolina, who obviously feels very strongly on the issue and has a lot of knowledge and experience. But I would remind him, the issue before us today is telecommunications deregulation, although I always enjoy a spirited exchange with my dear friend from South Carolina.

I thank him and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, quickly because the Senator from West Virginia is here, the number of flights has gone up in the context of the population and travel. It certainly has not gone up in the context of service and price.

With respect to the service, now, those direct flights that I had are gone. I know it. I know it severely. I spend more time in Charlotte, NC, than I do in my hometown of Charleston.

I told Harvey Gantt, when he was mayor, I was going to run against him and run for mayor of Charlotte because I am beginning to know more people in Charlotte than I do in Charleston. With respect to price, obviously some time back, it was a round trip, $64. That is what I used to pay. It is now up to $628. Inflation could quadruple the price but not go all the way up to $628.

The price has gone up and I am subsidizing those long hauls. Eighty-five percent of the medium- and small-size towns in West Virginia and in South Carolina are subsidizing the long hauls out to the west coast and Phoenix, Los Angeles and the rest, because the airlines make money on those things. Because that is where, under the economy of distance and the airline fuel costs and the crew and everything else, nonstop, they can make the money. And we have to subsidize it.

The service has gone down, and the airlines are broke, and the Europeans are taking them over and we are thanking them for taking them over.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are times when I wish I had never offered an amendment in the Commerce Committee having to do with perimeters for flights, 1,250 miles, because the doing of that and the winning of that in the Commerce Committee has, I think, fundamentally angered my very good friend, the distinguished Senator from Arizona. I think it has caused a whole series of things to happen as a result. The hearing with respect to United Airlines, a hearing with respect to—well, no other hearings, but then I think this amendment. I think he was very deeply disturbed by that.

I just want to say one thing. As I walked in the door over there I heard him mention that $100 billion had been saved in terms of cost of deregulation of airlines. I want to inform the Senator from Arizona that—sure, a lot of that must have been saved in West Virginia. Because you do not get to West Virginia now by jet airplane. Yes, there are one or two. Corporations have theirs. But when I go it is by propeller. I remember when we had American and Eastern and United, and they came in regularly into our airports. That was years and years ago.

Within two or three months of deregulation it was gone. I am talking about this amendment when I am talking about airlines; that is what happens when the free market is allowed to entirely set what the rules of the game will be.

West Virginia has suffered substantially. West Virginia has suffered profoundly because of deregulation of airlines which is glorified by the Senator from Arizona and which is very deeply hurtful to the livelihoods of the people of the State of West Virginia who have to move to other States, often, because there is not enough work because businesses have to be able to count on reliable air service and they do not want it to be some small propeller plane where your chin is resting on your knees—as is the case in the seated position of the junior Senator from West Virginia.

It is incredibly important, not just to West Virginia but to every single State that has any part of it which is rural, that the amendment of the Senator from Arizona be defeated and be defeated soundly. We are dealing with some very, very fundamental principles here.

For example, as we build on this information superhighway we must include an on-ramp for students and adults to ensure that every American has the opportunity to plug in and be part of this technology.

The bill before us, ably shepherded through by Senator HOLLINGS and Senator PRESSLER, includes this amendment. I think this amendment—I said this a couple of times in the last few days—I think it is so important that this language stay that schools, elementary schools, secondary schools, no matter where they are, be included as part of the information process, that they be wired up, that public libraries be included as part of this process, which in many cases in rural areas and other areas they may not be and will not be, because, like airline deregulation, you go where the population is.

And, terribly important particularly for rural areas, that the telemedicine be available through rural health centers and through rural hospitals. And they will not be if the amendment of the Senator from Arizona prevails. They will not be because the market will not allocate the resources to make that available. I am as certain of that as I am of having to take a propeller airplane whenever I go to West Virginia. In fact, the only time that I do not take a propeller airplane when I go to West Virginia is if I go to Pittsburgh first. And the principle is exactly the same. The market will seek out where it is profitable to go as they are deregulated, as we will do and we will do

with my full support in this bill, but where it is not profitable for them to go they will not go.

I want every Senator from every one of the 50 States—I do not care if it is New York State, which is thought of as being urban but has an enormous rural section, that people who live in Binghamton, NY, or Oneida or other places outside of that, they are not going to get service. Their elementary and secondary schools, their rural hospitals, their rural health clinics are not going to get service. They are not going to be wired up. They are not going to be part of this information highway. It is not going to happen because the market will make other choices.

As a result of that, I have said what I think is probably a hyperbole in listening to myself say it, but I find believing myself saying it so compelling that I need to say it on the floor of the Senate, that if this language is allowed to stay in the bill and, thus, if the amendment of the Senator from Arizona is defeated, this Senator as an individual junior Senator from West Virginia will probably have done more in one series of paragraphs of sentences in a bill to help his State than anything he has done in his public career.

I feel so strongly about that amendment. The amendment to strike this language is so wrong. It is so wrong for rural America. It is so wrong for places that cannot defend themselves. It is so wrong for choices that will be made by the marketplace to avoid elementary schools, secondary schools, libraries, rural health clinics, and rural hospitals. If you are not there with the technology, you might as well not be there.

If you are a kid, if we want to create in this country a first-tier and a second-tier society—and I am not talking about rich and poor in financial terms. I am talking about even more important terms; that is, having a future. If you want to have a two-class society in this country, those who know and those who do not, then you vote with the Senator from Arizona because that is what you will have. You will have people that go on-line, with America-On-Line, that can search and have their home pager and do all kinds of things, and they will make 15 percent more in salaries than people that do not have those abilities; probably 30 percent more.

I remind you that in the computer business, the productivity, the technology, has been doubling for the last 30 years every 18 months.

So what are these rural schools, what are these rural hospitals to do when they are not wired up? I cannot imagine anything that affects the future of this Senator's State, of the State of the Senator from North Dakota or the Senator from Nebraska in a more fundamental way in terms of its young people finding a chance to take their place in America as citizens with possibilities and pride and confidence than how this amendment is disposed of.

Senator PRESSLER and Senator HOLLINGS have worked together and have kept this as a part of the bill. They deserve praise for that.

I want to share one story. Then I will sit down and yield to the others. I will have more to say about my home State of West Virginia and this amendment, which I feel is just—I feel so strongly that it has to be defeated for the sake not just of my State, but of every State, the rural and the out-of-the-way parts of every State. Let me share one story about West Virginia. It has to do with the West Virginia Library Commission, which is a very aggressive group. They have very aggressively worked for years to develop the network, and they recently won a Federal grant to provide computers for over 150 libraries in our State.

Our State commission is currently investing in that equipment and training for every library to be linked to the internet. But each library must pay for its own telecommunication link, and they cannot. My wife Sharon and I have our farm in Pocahontas County. That is one of those little public libraries—when I was a Governor I was there—a little octagonal building that uses solar ray because they cannot afford the fuel. And it is interesting to use solar panels in that part of the State because the sun does not shine that often. It rains 45 inches every of year. There is no way they can possibly match.

So that is taking the students of Pocahontas County, WV, and condemning them to second-class citizenship in terms of going into a library or the adults who want to improve themselves through library services. They are struggling financially. They cannot match. They cannot pay what they would be required to pay.

We have something in this law called ''public interest.'' If there is ever a case of public interest, it is that people who are born in poor circumstances, in rich circumstances, in rural areas, in urban areas, or somewhere in between on either of those fronts have an equal chance in terms of the education system and the computer system and the health system of this country.

No, we did not pass health care last year. Maybe we bit off too much. But here is something we can bite off which will really help. It is called telemedicine. It will only affect those parts of the State which are rural, and they will never get it unless the amendment of the Senator from Arizona is defeated and defeated soundly.

Our part of the bill on this is not intended to give something away for nothing. It merely assures financially strapped public institutions like libraries and schools will get affordable rates for access.

There are many others who want to speak. I will speak more on this subject. But I say again that the defeat of this amendment, I think, is central to the bill. I think it is central to the future of the young people and adults of my State. I have rarely felt so strongly about anything in my public life.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I rise in support of the amendment.

Some provisions of the legislation I believe are not necessary would promote bureaucratic intervention and intermeddling in the system. I believe the provisions of the legislation which will provide for subsidies and will provide for special privileges for certain entities is unnecessary.

I believe that the suggestion that this is similar to the airline industry is misleading and counterproductive. The truth of the matter is that technology is going to change dramatically the impact of distances as it relates to the transmission of data and information. If you are bouncing information off the satellite, it does not matter whether you are in a rural area or in an urban area. It does not matter whether you are in a remote area or an approximate area. They are all equally accessible in that respect.

So to speak about the airline industry and the amount of traffic that is generated to one area, and that that traffic somehow does not justify a lower cost to that area like it does another area ignores the fact that the transmission of data, especially the wireless transmission of data, simply really does not have costs related to the location of the receiver of the data.

The data can be transmitted or received via satellite regardless of the location. So I do not think it is particularly instructive to try to get bogged down in the debate over airline deregulation here. We are talking about a different technology. And arguments which are locked into the technology of the past are based on ideas like the airline technology and what it takes to transmit a passenger instead of transmitting data, those are misleading arguments.

The provision which is, I think, noble in its objective to try to help us have educational institutions with good access and health institutions with good access would require a costly accounting procedure and intermeddling by governmental entities to try to determine what would be ''reasonable rates'' or what would be ''incremental costs.''

If we say that elementary schools, secondary schools, libraries—and, incidentally, that is not public libraries in the legislation. The word ''libraries'' is used without reference to whether it is public or private—if we say that they are entitled to special rates for the transmission of data or communications which they would choose to transmit or provide, it seems to me that we have set up a provision which requires governmental rate setting, governmental cost accounting, and massive and significant intervention of the Government in this process. And if those rates are established by the Government at less than the full cost of

the proceeding, that means everyone else who uses the system is going to be subsidizing the overall cost of these institutions and these entities.

Much has been made of the rural setting and the fact that it might be a lot more expensive according to some that in order to have provision of telecommunications to rural settings——

Mr. PRESSLER. If my friend will yield for a unanimous-consent request, it will take 30 seconds.

Mr. ASHCROFT. I will be happy to yield.

Mr. PRESSLER. Mr. President, there has been agreement on both sides for a vote on the McCain amendment at 3:30 today and that the time between now and then be equally divided—I do not intend to use mine; I will give it to anyone who wants it—in the usual form with no amendments in order to the amendment.

Mr. KERREY. Reserving the right to object.

Ms. SNOWE. Reserving the right to object.

The PRESIDING OFFICER. There was no unanimous-consent request made at this point. There was an explanation.

Mr. PRESSLER. I ask unanimous consent that the vote occur on the McCain amendment at 3:30 today.

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I thank the Chair.

In order for some groups to have a specially reduced rate of services, other groups will have to pay and subsidize that rate for service. Now, whether those services are laudable or important or necessary or would not otherwise be available is debatable. There seems to be the thought that a lot of rural hospitals exist now without telecommunications access. I have been to many rural hospitals during the last year. I actually worked in several rural hospitals. They all have a number of the kinds of transmission devices that were very important to transmitting and receiving the kinds of things that would be involved in telecommunications. All of them had cable television, coaxial access, and the like.

The point I would make here is that on page 132 of the bill, at lines 19 through 22, it provides that the rates would be affordable and not higher than incremental costs.

This places the Government in a position of having to try to ascertain what affordable rates are, having arguments about what incremental costs are, and injects the Government back in the process of regulation at the micro level. I think it is counterproductive. I pointed out that it not only applies to schools, elementary and secondary, but it applies to libraries, and it does not mean that it is only public libraries. The statute just says ''libraries.''

I wonder if you might literally have a library that became an electronic library. It could be commercial in nature but it could provide information on the telecommunications highways but demand the right to do so at subsidized rates merely because it is mentioned in this section.

It occurs to me that the promise of telecommunications deregulation means that access to new service, both digital and wireless, is going to be available to individuals around the country and institutions around the country. It also occurs to me that as that access is available and becomes cheaper as a result of the proliferation of services—and it is estimated that our costs in telecommunications will go down very substantially—a bureaucracy to start setting rates and to regulate the rates and to provide special subsidies for one part of our society as opposed to another is not only unnecessary but is counterproductive.

So I stand in support of the fact that the marketplace will do a good job of providing service. And I just elevate for your consideration something of what has happened in terms of cellular phones. Some have indicated that because there are rural areas there would not be cellular phones. My State, which has substantial rural area, is covered with cellular phones. Virtually every part of the State is accessible to them. And I was charmed the other day, when meeting with some cellular phone operators, to find that one of the rural cellular operators includes in the package that is offered free long-distance phones so that if you pay for time on your cellular telephone, you can call anywhere you want to in the United States of America at the same rate you can call the next phone.

This is sort of the prejudice that they are alleging, I suppose, is going to ruin us if we do not have this micromanagement in the telecommunications industry.

That is not prejudice at all. That is just the fact that entrepreneurs are at work in rural America as well as they are in urban America, and as a matter of fact in rural America sometimes telecommunications services are substantially enhanced and can even be at a competitive advantage, comparably stronger, offered with a more attractive array of advantages and features, than they would in the urban setting.

It is with that in mind I think this amendment is well taken, that I think it is unnecessary to set rates and to have micromanagement and special privileges and subsidies built into this bill at a time when telecommunications is going to be more and more available as a result of technology, when the rates will be going down as a result of a proliferation of providers and services. And for us to single out a few groups, some of them inordinately narrow, perhaps providing additional advantages to public schools as opposed to private schools, some of them inordinately broad, providing this subsidy to all libraries, however they may be defined or constituted, it seems to me this section would be a section without which we could do well. And for that reason I support the amendment as proposed by the Senator from Arizona.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I grew up in North Dakota, in a town of about 300 people. I graduated in a high school class of 9. It is always interesting to come to the Senate floor and listen to folks who talk to us about the marketplace and competition and the advantages of this free market system as the allocator of goods and services. Frankly, in my hometown, a small town 50 to 60 miles from the nearest big town, which was 12,000 people, we did not receive a lot of the marketplace advantages that big cities have. And we did not complain a lot about it. We had a lot of other advantages living in a small town. We did not have a theater in Regent, ND. I guess you have a theater in big towns.

I do not come to the floor of the Senate suggesting somehow from a public policy standpoint we need to have theaters in my hometown or in small towns in order to enjoy the arts. We missed out on a lot of the advantages that the market system brings to big communities because the market system works in search of revenue and income and profits.

The market system works when competition is developed around a circumstance where competitors can provide a service or sell a product and make money. Where are they going to do that? They are going to do that where people live because the more people, the bigger the market, the more potential for profit.

That is the way the market system works. We understand that. All of us have likely studied Adam Smith, who talked about the cloak of the invisible hand in the market place. Adam Smith would be rolling over in his grave these days because he preached these things before there was the modern convenience of the corporation —the artificial person that is born, lives, and never dies. Adam Smith actually talked about the marketplace and the cloak of the invisible hand when we had people who participated in the marketplace who lived and then died.

But, in today's marketplace, the corporations dominate and they do not die.

It is a different life and a different time. So Adam Smith, I suppose, would adapt.

It is useful, I think, to talk about this issue of deregulation and the issue of airlines, even on this amendment. The Senator from South Carolina was,

I think, still addressing the core subject when he talked about deregulation of airlines on this amendment, because this amendment really provides an opportunity for people to see competing visions of what we ought to be doing.

Some stand up and say, ''It doesn't matter what it is.'' It does not matter if it is communications, health care, transportation. It does not matter what it is, let the market system decide who gets served, when they get served, and how they get served.

I am glad we had folks in Congress who did not believe that back in the thirties when they decided how to move some electricity around to provide advantages in this country and nobody in the world wanted to serve the farms in rural America because it was too expensive. If you had one customer for every 2 miles, you are not going to run a line out there and try to serve a farm because it is not profitable. The result, if you lived out in the country, is you did not turn on a light switch because you did not have electricity.

Congress said there are some things universal in nature, some things everybody ought to enjoy the advantage of in this country. Electricity was one. So enough people in Congress felt differently than those who propose this amendment, and said, ''Well, we understand the marketplace, we understand competition, but we understand also there are some universal needs one of which is electricity.'' Therefore, they constructed an REA Program and brought electricity to farms, electrified rural America, and unleashed productivity never dreamed of before.

That would never have happened if we worshiped at the altar of the marketplace and said rural America will get electricity as soon as the utility companies decide to run a line out there. When will that be? Never.

The Senator from South Carolina, as he stood and spoke about this amendment, talked about airline deregulation. Airline deregulation had at its roots the notion of let the marketplace decide who gets air service, at what price, and what convenience in this country.

We know what has happened with airline deregulation despite all the little statistics and charts people keep bringing to my attention. If you live in rural America and you access airline service, you have less choice and higher prices. It is a plain fact. If you live in Chicago, God bless you, then you have more choice and lower prices. That is just the way it works. There is no denying it. All the data in the world demonstrate that is the case.

''Oh,'' some will say, ''gee, there are more little flights here and there.'' Yes, there are little propeller airplanes running around. The fact is the minute a regional jet carrier tries to start out, one of the large carriers tries to squash them like a bug and do it successfully. I think it is interesting what is happening in the airline industry is the big have gotten bigger, the big carriers have gotten much, much bigger by merging and absorbing little carriers.

Those on the other side of the aisle who preach competition and who talk about the virtues of the marketplace never stand up and say, ''Wait a second, when the big get bigger and you concentrate more power in the hands of the few, you have less competition.'' In other words, those who bring these amendments to the Senate floor talk about the virtues of the marketplace, preach about competition but they do not practice it. If they practiced competition, they would care about ending up with only four or five very large airlines who have absorbed all the regional carriers. You do not hear that. You never hear from the folks who talk about competition, what we need to do to keep competitive and what we need to do to fight monopolistic tendencies.

In the airline deregulation issue, it was decided that the Department of Transportation shall make judgments about whether a merger is in the public interest or not, and the Justice Department shall be consulted.

Mr. President, do you know what has happened? What has happened is a merger is proposed by a large carrier buying up a smaller carrier and it goes to the Department of Transportation. The Department of Transportation raises its hands and says, ''Hosanna, this is just fine, we have no problem.'' The Department of Justice says, ''No, this is not in the public interest,'' but the Department of Transportation approves it anyway.

That brings me to the telecommunications bill. We have the same problem. They say, ''Let's defang the Department of Justice and let the Federal Communications Commission decide when the regional Bells should be allowed to enter into long distance. What is the competitive test, when does competition exist and when does it not, regarding local and long distance services.''

Same old thing. We apparently have not learned with respect to airline deregulation and giving the Department of Transportation the authority and rendering the Department of Justice to a consultative role.

Some of us will offer amendments on the role of the Justice Department, which I hope the Senate will accept. If we are going to stand here preaching competition on the floor of the Senate, let us all practice the virtues of competition. Let us nurture the benefits of competition by deciding that we want competition in a real way to exist in this country.

I do not understand sometimes those who say there is no other interest we have except having the marketplace and the potential profits dictate who gets what in this country. There are apparently no other influences or interests they have in terms of what advantages Americans should enjoy, what kind of things are universal in nature—transportation, communications, and others.

I recall a book written by Upton Sinclair as a result of research he did at the turn of the century. I do not want to ruin anybody's dinner, but Upton Sinclair is the person who toured the meat packing plants and discovered the scandal of the rats in the meat packing plants. Producers put arsenic on slices of bread and placed them around the meat packing plant so the rats would eat the arsenic and die. The rats died and they shove the bread and the rats in the hole with the meat, and they produce the mystery sausage. That is what America was eating.

Upton Sinclair said this is what is going on. Then America rose up and said, ''We don't want to eat that.'' The barons of industry producing meat laced with rat poisons and rats apparently going down the same chutes were pursuing profits but not very interested in the health of our country.

So Congress said maybe we ought to inspect meat. Maybe those folks who say the free-market system should not be interrupted are prepared at this point to say, ''Let's not inspect meat because we are inconveniencing the folks who run the meat packing plants.'' Maybe we should not inspect airlines for safety because we inconvenience the airlines.

I have heard some disciples—not anybody in the Congress—but I have heard the free market advocates and some of the theorists suggest if people are putting out bad infant formula, babies will die and people will realize that the company is selling bad infant formula. Pretty soon, consumers will not buy any more infant formula and the company will go bankrupt. So the penalty for killing babies is bankruptcy.

Maybe the same theory is on airline safety. You do not have a Government role on airline safety. If the airline is not safe, if they do not have their own internal safety mechanism, planes crash and people will say, ''We won't fly that airline anymore, and, therefore, the market system is a self-regulatory system, so we do not want to worry about airline safety,'' they would say. ''We don't have to worry about meat inspection,'' they would say. ''Those are all inconveniences to the market system. Let's let the income stream of the market system and competitive forces determine who does what in this country.''

I have taken a long tour to get back to the central point. I recognize that. This is a perfect place for us to talk about the differences between us and them, and by them I am talking about those who stand and say there is not a public good that is involved here when you single out libraries or hospitals in rural areas with respect to rates charged and the buildup of infrastructure of the actual communications industry. They say, ''No, that's meddling, that's tinkering.'' We have heard all these voices before. They say the market system will work, and if the market system does not get these services to those rural areas, to those hospitals,

to those schools, those libraries, then tough luck, it was not meant to be.

I would appreciate it, if anybody is keeping score, if they would put me down as a meddler, at least a tinkerer. Maybe someone who believes that it is worthy as we build up the infrastructure of telecommunications to have some on-ramps and some off-ramps, yes, even in the smallest portions of this country, even in rural towns, even at small libraries, even in rural hospitals. If we do not believe that, as far as I am concerned, I do not want to participate in building it. Is that selfish? Probably. But I come from a part of the country where they crossed with wagon trains, years and years ago, to get where they were going, and they understood back then the concept of moving together. You did not move wagon trains ahead unless all the wagons were ready. You do not move ahead by leaving some behind. That is part of the focus of this debate, I believe.

This can be a remarkable opportunity for our country by seeing the explosion, the breathtaking new technology in telecommunications that improves our lives. But it can also be the development of a system of communications, producing services and products that leaves out a significant portion of our population if it is not done properly.

I hope that as we go through this debate, we will expose over and over again the basic conflict between the two theories expressed on this floor—one by some who say let the market system allocate and decide and do not meddle and worry about whether folks in the rural areas are beneficiaries of this breathtaking new technology. And others of us say, no, this is something of a more universal need and a more universal nature, and we want all of America to benefit from it.

That is what this amendment is about, I suppose, and why I oppose it. I think it contravenes that basic need that we have in this country to make sure all Americans benefit from the potential good that comes from this new telecommunications industry.

So, Mr. President, I would like to make one additional point. I know that the chairman of the committee and the ranking member are very anxious to move forward. We have a vote ordered now or one that is about to be ordered. Is there a vote pending at this point?

Mr. PRESSLER. No. We are working on an agreement.

Mr. DORGAN. I understood earlier this week that the antiterrorism legislation should be moved quickly, and I cooperated with that. It was important to do that. The majority leader was absolutely correct. But I do not think there is a compelling need to suggest that we ought to be dealing with hundreds of billions of dollars in American industry and the rules for the telecommunications industry and be worrying about whether we get 20 or 30 minutes to fully debate something that is going to have a profound impact on our country. Let us take some time on these amendments and explore them thoroughly, and let us have good debate and substantial debate, and then let us make judgments.

But there is no reason, in my judgment, to believe that we have to finish this bill by 6 o'clock tonight or 9 o'clock tonight or 10 o'clock tomorrow. This bill ought to take whatever time it needs for us to devote our best energies and intellect to make sure this is the right thing for our country.

Mr. President, I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in very strong opposition to the amendment that has been offered by Senator MCCAIN. It certainly is disturbing to think that some Members in this body cannot accept a provision that will provide affordable access to rural schools, libraries, and health care providers, given that we have become part of the information age, and this issue is absolutely critical to our Nation's future.

The Senator from Arizona has offered an amendment that will strike the provision that was offered by Senator ROCKEFELLER, Senator EXON, Senator KERREY, and myself in the Commerce Committee which requires telecommunications carriers, upon a bona fide request, to provide important telecommunications services to schools and libraries and rural health care providers.

This principle of affordable access is not a new concept. The universal service concept has been embodied in our national telecommunications policy since 1934, to ensure that all parts of America had access to the telephone. It was important to ensure that all Americans had access to the essential service at the time, telephone service.

But universal service needs to be updated, and in fact, the bill recognizes that universal service is an evolving concept. The bill presently ensures universal service for telemedicine, and educational services, which I believe will make a difference, not only for America and its ability to compete with other countries, but also for individuals in preparing themselves for the work force of tomorrow, which we know will be constantly changing. And ensuring that our Nation's children gain access to the important technologies of the future will make a significant difference in the standard of living they and their families will enjoy for years to come. That is what this amendment is all about.

The Senator from Arizona, Senator MCCAIN, is offering an amendment to strike this language. His amendment will result in a nation of technology haves and have-nots, and that is not an outcome that I am willing to accept.

I do not believe that we in Congress should pass a new telecommunications policy—I might add, the first revision of the Communications Act since 1934—which divides our Nation between the telecommunications haves and the have-nots. Many of the telecommunications providers are going to reap enormous gains from this legislation. Most will, and some will not. But the point is, in deregulating the telecommunications industry, we must make sure that we do not deny important areas of our country affordable access to telecommunications services.

We know the densely populated urban areas will benefit from deregulation. They will have the benefit of all of the advances in technology for today and tomorrow and thereafter. But what about the rural areas? We know now that telecommunications services are far more expensive in rural areas than they are in urban areas, for example, access to Internet costs more in rural areas because the Internet nodes of access often are not in local calling areas, meaning that rural consumers must pay toll rates.

What is going to happen now? If we do not guarantee some affordable access to telecommunications services in rural schools, libraries, and health care centers, where are they going to be tomorrow? Where will our Nation be? It is in our national interest to ensure that these areas are part of the information superhighway.

If we want young people to be familiar with technology and to have it become second nature to them, to understand that it is their future, I cannot understand why we would support Senator MCCAIN's amendment, which would take out the one provision that provides enormous public gain for all of America.

Look at telemedicine. It is the here and now and it is the wave of the future. I have talked to many rural health care centers in my State of Maine. They need affordable access to telemedicine. They need the help so that they can provide the same kind of services and health care for their rural constituents as enjoyed by residents of more densely populated areas.

I received a letter recently from Eastern Maine Health Care Services, which is located in a rural area of the State. They write:

> In the past several months, a network of hospitals have begun to collaborate in our region of Maine. One of the outstanding issues within that group is the need to use telemedicine as a tool for providing cost-effective quality health care from the smallest to the largest towns in our region. Telemedicine in our region is defined as the transmission of data —voice, image, and video—over distance. We have come across many obstacles in this endeavor, but one of the greatest obstacles is the transmission of these media over the present telecommunications lines at an affordable cost. Many of the hospitals and health centers in our service area have extremely limited funds.

I thank the Senator, the chairman of our committee, Mr. PRESSLER, for including important refinements to this language in the managers' amendment. I know that there are some, such as the sponsor of the amendment to strike this language, who believe that the

marketplace should be free of regulations and that somehow, someway, affordable telecommunications will be available for everybody at affordable rates.

Other Senators have mentioned here on the floor today, as an example of deregulation and the impact that it has had on many rural parts of our country, the impact of airline deregulation. I can certainly speak firsthand to that, as far as how it has affected the State of Maine. It certainly has denied us the kind of airline service I would have thought might have developed from deregulation, and it simply has not happened.

Many of the areas that at one time had the benefits of airline service—and I might add jet service—do not even have the benefits of commercial airline service.

Our largest city in the State of Maine, Portland, ME, is losing jet service as a result of deregulation. That is occurring this year.

Since we have had deregulation—this is about 17 years ago —the situation has gotten worse. It has not improved in the rural areas of our country. That is a fact.

I can speak to it firsthand because I use those airlines every week. We have commuter services. We do not have jet service for the most part, anymore, in the State of Maine. Most of the areas, like Presque Isle and Portland, that used to have jet service do not have the benefits of commercial airline service.

So that is why I cannot understand why we want to apply the same notion here when it comes to telecommunication services. What will happen to the rural area? Who will make sure that our schools, libraries and health care centers are going to have the benefits of our national information infrastructure, if we do not provide for that in this legislation?

House Speaker NEWT GINGRICH said ''If our country doesn't figure out a way to bring the information age to the country's poor, we are buying ourselves a 21st century of enormous domestic pain.'' He said, ''Somehow there has to be a missionary spirit in America that says to the poor kid, the Internet is for you, the information is for you.''

Well, that is exactly right. But I think that we have an obligation as a Nation to ensure that our young people have affordable access to this kind of service.

The National Center for Education Statistics reports—and I think it is interesting to note these statistics because I think it proves the point—that 35 percent of public schools have access to the internet, but only 3 percent of all instructional rooms, classrooms, labs, and media centers in public schools are connected to the internet.

Of the 35 percent of the schools with access, 36 percent cited telecommunication rates as a barrier to maximizing the use of their telecommunication capabilities.

Some would suggest that the Snowe-Rockefeller-Kerrey amendment is opening a Pandora's box, a new array of entitlements for schools, libraries and hospitals. No, it is not.

As I said earlier in my remarks, universal service provisions for residential consumers existed in the bill prior to the adoption of this amendment, to this legislation, in the committee.

Those provisions guaranteed access to essential telecommunication services for residential consumers. Our amendment simply provides that assurance for key institutions in rural areas. Our objective is to ensure that rural areas are on an equal footing in terms of schools, libraries, and health care facilities in urban areas.

I should also mention the fact that we have worked with some of the Bell telephone companies to address their concerns. We made some changes in the language, to address their concerns about incremental costs language. The revised language ensures affordable access to educational services for schools and libraries, and discounts will be determined, as for residential consumers, by the joint board in conjunction with the FCC and the states. The discount must be an amount necessary to ensure affordable access to use the telecommunications services for educational services.

Some have suggested that these discounts would be wasted on some communities with poor schools, low literacy rates, high levels of unemployment, or other social problems. I disagree. This language will open doors, not close them. Those communities stand to gain enormously from the telecommunication network. It will open up a whole new world to these communities. Senator MCCAIN's amendment will deny those gains, benefits, and opportunities for troubled areas.

We do not know what the future will be all about. We do not have a crystal ball. We do know, however, that technology and the information age is going to be very much part of our future, I think in ways which we cannot now fully anticipate or appreciate even today.

This is the first time we have addressed telecommunication policies, I mentioned, since 1934. There probably will be years and decades before we come back to this issue as a Nation and as an institution.

How can we seek to deprive some areas of the country of the knowledge that they need in order to thrive and to develop, and to be productive for the future, for their future and this country's future?

Knowledge is power. To cut some areas off from the information superhighway is not only denying them the future that they deserve, but it is denying the kind of future this country deserves, because their future is going to affect America's future.

I hope that the Senate will reject this amendment of Senator MCCAIN to strike out our universal service language, which, I might add, is not a new concept. In fact, it is interesting to note that the Commerce Committee in the last Congress approved a bill by a vote of 18 to 2 which contained adopted similar language on this very issue, extending the universal service concept to these key institutions, schools, libraries and rural health care facilities. Last year's bill went even further than this year's bill—it contained universal service discounts for museums and zoos and so on.

We narrowed our language to ensure that we were just addressing the needs of key entities that are so important to the development of this Nation.

Funding is a major barrier to access, it is the one that is most often cited in the acquisition of users of advanced telecommunications in public schools.

Smaller schools, with enrollments of less than 300, are less likely to be on the internet than schools with larger enrollment sizes. Only 30 percent of the small schools reported having internet access, while 58 percent of schools with enrollments of 1,000 or more reported having internet access.

So we know that there is a gap between the high expectations of an increasingly technologically-driven society and the inability of most schools, particularly rural schools, to prepare students adequately for the high-technology future.

Almost 90 percent of K through 12 classrooms lack even basic access to telephone service. Telephone lines are used to hook up modems to the internet. When classrooms do have phone lines, schools are typically charged at the corporate rate for service. Schools and libraries in rural areas often pay more for access to information services because the information service providers are not located in the local calling regions, meaning they have to make long-distance calls.

A recent study conducted by the U.S. National Commission on Libraries and Information Science found that 21 percent of public libraries had internet connections. Only 12.8 percent provide public access terminals. Internet connections were 77 percent for public libraries serving a population base of more than 1 million, but declined to 13.3 percent for libraries serving fewer than 5,000. Maine, I might add, has a population of 1.2 million. The largest city representing Maine has no more than 80,000 people.

I hope that Members of this body would understand the importance and the value of maintaining the language that we have included in this legislation. It is so important to our future and to our children's future. It is fundamental that we, as a Nation, assure that all areas in America have access to essential telecommunication services for the future.

I, for one, will not vote to deprive schools and libraries and hospitals of the affordable telecommunication services that they need and require.

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I hope that Members of this body will vote to defeat Senator MCCAIN's amendment. His amendment will go a long ways toward denying the important opportunities that we should afford our young people. No matter where they live in America, everyone should be entitled to have access to the information superhighway which will be so much a part of our future. So I urge Members of this body to defeat the McCain amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak just briefly on this amendment that Senator MCCAIN has offered to strike out section 310 of the telecommunications bill and indicate my strong opposition to that effort. The provision which he is intending to strike was added by the Senator from Maine in the committee markup with the help of the Senator from West Virginia and I know with the urging of the Senators from Nebraska and others. I think the provision that was adopted in committee is an excellent provision and one we need to keep in the bill.

I became interested in this set of issues because of the needs in my own State of New Mexico to provide telecommunications services to rural schools in particular, but also to rural hospitals and to rural libraries. In our State, we have one model program which came to my attention several years ago, and that is at the Clovis Community College on the east side of New Mexico. It is a 2-year school. They began a pilot project several years ago to provide instruction from that community college into nine of our rural high schools in that part of the State. We still have, today, in this school year which is just now ending, classes taught at the community college that students in those small, rural high schools are able to access in their own classrooms. That has been a very successful project and it is a model for what we ought to be doing throughout my State and throughout this entire country.

However, we are not able to do it throughout my State and throughout this entire country because of the enormous cost of taking advantage of telecommunications services. What is needed is special provisions, special rates so that educational services can be provided to schools at reasonable cost; and can be provided to rural hospitals and rural libraries at reasonable cost.

I am persuaded that technology can either be a great boon to mankind and to the people in this country in coming years, or it can prove to be a great divider of our people. Either it will help us all to pull ourselves up and realize the opportunity that is present in this country, or it will further divide the rich from the poor, the urban from the rural, the ''haves'' from the ''have nots.''

The provision that the Senator from Maine proposed in committee, which is now in the bill and which we need to keep in the bill, goes a long way toward helping us ensure that technology brings us together instead of dividing us. I do think it is essential that we take some action in this area as a public policy matter. You cannot leave everything up to the free market system.

I heard the Senator from North Dakota speaking, Senator DORGAN, earlier this afternoon. He was pointing out that left to its own devices, the free market system will provide technological opportunity and new technology and benefits to those who can pay the bill. We want that to happen. But we also want some access to that technology for those who may not be able to pay as much and that is what this provision is intended to do.

There is another example in my State which I just would allude to because it is a very small example but perhaps one that people can understand. There is a small community in New Mexico called Santa Rosa, which is east of Albuquerque on our Interstate 40. That is the community that you have to go to if you live in Guadalupe County and you want to go to high school. You have to travel to Santa Rosa.

North of Santa Rosa about 60 miles is the much smaller community of Anton Chico. If you live in Anton Chico you have school right there up through the elementary level, and then you have to get on a bus and travel 60 miles each way to go to high school.

What the school district there in Guadalupe County has done very effectively, is use telecommunications to provide instruction from the Santa Rosa schools to a classroom in Anton Chico, for those students who wish to continue past the eighth grade and take instruction in the ninth grade without having to travel all the way to Santa Rosa.

This has allowed them to keep students in that school for that extra year, and in many cases keep those students involved in education long enough that they will stay in school through twelfth grade.

This is dealing with a very, very real problem we have in New Mexico of students dropping out. They drop out for a variety of reasons, but one of the reasons that students drop out in some of the rural parts of our State is because of the physical problems of getting to the high school that they need to attend each day.

Modern telecommunications services can help us to solve this problem. One of the great opportunities that we have as a country, as we try to improve our educational system, is to take proper advantage of new technology to keep students interested, to help students raise the standards that they are achieving in school, and to eliminate the difference that exists between the quality of instruction in urban schools and that of rural schools.

In order that technology is successful or is able to help us in this regard, we need to deal with the problem of the cost of using that technology. This provision allows that. I hope very much we will keep it in the bill. It is one of the better provisions in this telecommunications bill and I think it would be a very sad day if the Senate were to agree to strike this part of the bill.

I compliment the Senator from Maine, the Senator from West Virginia, the Senators from Nebraska, and others who have worked hard to get this provision in the committee-reported bill. I urge my colleagues to keep it in there and to defeat the McCain amendment when it comes to a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to try to give a sense of a little bit of the overview of this, and do it within a relatively short amount of time. I want to also say that there have been some very constructive conversations that have been taking place, which reflect themselves in the managers' amendment.

For example, there was a very constructive conversation yesterday afternoon involving the Senator from Maine, the Senator from Nebraska, Senator KERREY, myself, and others with, for example, Bell Atlantic, which represents my State, Ameritech, NYNEX. We were able to reach accommodation in a very constructive, positive way, in ways which are reflected in the managers' amendment. So I do not want people to think this is kind of a pitched battle only. There have been some people who have been trying to do some good work on this, on both the corporate and senatorial side.

I have to say we have heard some absolutely amazing statements from the Senator from Arizona and some of his allies. Make no mistake about what they are trying to do. They are trying to say to all of these telecommunications giants: Go ahead and charge exorbitant rates on the backs of America's schools and libraries and rural health institutions, and keep those community institutions off the ramps of learning and telemedicine. Or go ahead, in the alternative, and milk schools and libraries for as much money as you can get.

I can fly, under airline deregulation, from Huntington, WV, to Washington, DC, in 1 hour. But it is cheaper to fly from Washington, DC, to Los Angeles. I think you understand the point. Where people think they can put it to you and they are in a profitmaking business and they do not have a sense of corporate responsibility or a broader picture, as some that I have mentioned do have, they will do it. And they have done it. And it hurts.

We should reject that kind of thinking out of hand in this Chamber. Private telecommunications companies

are being given an open ticket in this bill to get into new businesses, exciting businesses, important businesses, making all kinds of profits and reaping incredible dividends. And I do not object to that. I do not object to that. I think what we are looking at is an extraordinary excitement.

I had dinner with the President of a computer company last night—with six of them, in fact. He said within a very few years any citizen of the world will be able to talk with any other citizen of the world directly, through e-mail or some such, based upon the name of the person, the service that the person provides, be it a business or a location. There will be worldwide direct person-to-person communication in as fast a time and with as much clarity as you pick up your local telephone to dial your mother-in-law.

All we are doing in our provision is to say, in return for this explosion of excitement and opportunity and profits, which create, indeed, more opportunity for all of that growth, for all of those profits that you will now be able to get your hands on, make sure that you bring libraries, schools, and hospitals along with you. That is called a fair deal.

Mr. President, let us be clear about what the Senator from Arizona is trying to do also with this amendment. This amendment strikes a dagger into the heart of Main Street U.S.A. Just about every issue associated with the telecommunications industry sounds incredibly complicated and confusing. As soon as you start talking about it, the jargon and the terms are from a world of their own—cyberspace, internet, on-line, you name it.

The Snowe-Rockefeller-Exon-Kerrey amendment in this bill—and the one that the Senator from Arizona wants to strip from this bill—has an extremely simple, basic mission. It is the way to make absolutely sure that America's schools, elementary and secondary, libraries and rural health care institutions are part of this information superhighway that is unfolding before our eyes. I do not think anyone is confused about what we mean when we say that schools, libraries, and rural hospitals should be one of this country's and this body's highest priorities. Without a doubt, I can say that is how the people of West Virginia feel—that our schools, our libraries, and our rural hospitals and clinics are a lifeline that we hold most dear. And that is true for all States.

The provision in this bill, and the one being attacked by the McCain amendment, which we hope loses, designates these vital institutions—again, schools, libraries, rural health facilities, and hospitals—as community users and then requires communications companies to charge this category of community user affordable rates for universal service. Through this part of the bill, we guarantee that America's children and library users and health care providers in rural communities can take advantage of the exciting range of technologies that are in fact the new roads, the new interstates, to education and lifesaving medical information.

I applaud the Senator from Maine, OLYMPIA SNOWE, for her work in incorporating this provision into the telecommunications bill. It is her amendment. Together we presented this idea to our colleagues in the Commerce Committee, and her commitment to this idea helped win the day when we had the vote on our provision. Both Senators from Nebraska, Senators KERREY and EXON, have been stalwart partners in this work. This provision, section 3010 of the bill, is a major reason to enact telecommunications reform. Looking at it from my State's perspective, it is the major reason. This is a historic chance to ensure that schools, libraries, and rural health care providers will acquire affordable access to advanced communications services, not only now but in the future, and all kinds of possibilities that we can only begin to imagine today.

The telecommunications bill before us, carefully crafted by Senators HOLLINGS and PRESSLER, presents us with an opportunity that will not come again. It is time to unleash an industry into the realm of competition, innovation, job creation, product creation and profit. But in return, Mr. President, we should make sure that the most basic institutions of our community and our society can hitch a ride onto this great journey.

Once a few of the kinks and other parts of this bill are worked out—by that I mean things that are being worked on by the leadership as I talk—the passage of this bill will be good news for business, good news for workers and consumers, and good news for our country as a whole. And it will be great news for our basic institutions, the institutions through which all of us have to pass in order to achieve adulthood—schools, libraries, in this case rural health facilities—because they know they will not be left behind. If the McCain amendment passes, they will be left behind. If it is defeated, those schools, libraries, and rural health facilities will not be left behind.

The Senator from Arizona thinks this is a part of the bill that can be amputated or weakened. If that is what he thinks, let me be very, very clear about what that means to schools, libraries, and rural health institutions. You are telling the organizations that are the bedrock of America that they will just have to stay on the back roads of communications. The organizations with the big money and clout can speed their way onto that information superhighway as fast as they want. But the institutions that educate our children and our adults, that serve Americans with the keys to knowledge, that treat and cure the people of rural communities will have to settle for the back road.

Mr. President, I do not want anybody to be at all unclear about this. One of the things that we have learned in the Commerce Committee and in our own conversations is, if we think the world has begun to change in terms of telecommunications up until this point, we have not seen anything yet. Remember, I said a moment ago that every 18 months the capacity of computers has doubled for the last 30 years. That is going to speed up. So what we are talking about now is going to be far greater in the future. Therefore, what we deprive people of now will hurt much more in the future than we can possibly imagine.

Our provision in the bill says to these institutions that they will have their place on the modern roads of telecommunications—schools, libraries, rural health clinics, and hospitals.

We intend to open the new worlds of knowledge and learning and education to all Americans, rich and poor, rural and urban. Browsing a Presidential library, reviewing the collections of the Smithsonian, studying science or finding new information on the treatment of an illness are becoming available to all Americans through new technologies in their homes or at their schools, libraries and rural hospitals. And our provision, the one that the Senator from Arizona wants to strike, is designed to make sure that these links do get made to our children and citizens.

Mr. President, our provision is targeted. It promises affordable rates to institutions that are the heart and soul of the communities of the United States of America, and we all know it. Our provision deals with the new realities and opportunities that face schools and libraries and rural health institutions in the towns and States that we all represent—every single one of us—rural or urban.

We hear a lot about the explosion of computers in America's homes. But let us keep in mind that a lot of families cannot afford their own computers and equipment for their children.

They cannot afford that. This Senator can. Some other Senators here can. Most people cannot. We are talking, Mr. President, about thousands of dollars that many, many families in my State of West Virginia and elsewhere simply do not have for this kind of purchase. The Presiding Officer may be aware that in 1994, for the first time, the purchase of personal computers surpassed the sale of television sets in this country. The Presiding Officer may be aware that those who are on Internet are now 30 million, and that that number is growing at 10 percent per month, but it is not growing in Welch, WV. It is not growing in Alderson, WV, and it is not growing in the Presiding Officer's rural areas and some of his urban areas because the people do not have the capacity to get on line to join up with that information highway.

Schools and libraries are the institutions that serve our communities and that serve our children, no matter what. That is why we want to make sure that these institutions can count on affordable rates to get on line, to tap into telecommunications services and to bring in the learning and the information from distant places for our children and adults and other users to learn from.

No matter where one lives, we want every citizen to have a chance to go to the local library and visit a world of information available as a result of these new technologies.

I am very sorry to hear some talk of different ways to achieve our basic goal. Let us face it. Some communications companies do not want to be forced to offer rates to even the most basic institutions serving our communities. But let me be clear. Our approach is the simplest way to achieve the simplest goal I believe that all of us support—affordable access to communications that these community institutions in fact do need. The Snowe-Rockefeller-Exon-Kerrey part of this bill provides the way to ensure that elementary and secondary schools and libraries have access to essential universal telecommunications services, which will be defined, incidentally, by the universal service board described in this bill, at rates that are affordable. The affordable rate will be determined by the FCC and the State commission, depending upon whether you are talking interstate or intrastate.

What does this mean for thousands of elementary and secondary schools in America? A 1995 study by the National Center for Education Statistics discovered, to my shock, that only 3 percent of classrooms in public schools in America were connected to something called Internet, which is the whole future, a large part of the future—only 3 percent. Why? One reason has to be the lack of funds to even buy the equipment.

But another reason, which becomes more serious as schools do scrape together the money for the one-time expense of buying equipment, is their inability to pay excessive rates to hook into those services. It is one thing to have the computer on the table or the desk. It is another to have that hooked up to the wall and then through that wall to the other wall. That is expensive.

Look at the study of the U.S. National Commission on Libraries. They found that 21 percent of public libraries are connected to the Internet. And I thought that was pretty good news. But that figure then suddenly drops to 13 percent when it comes to public libraries in rural areas and small communities.

Why does it drop? Because there are libraries that do not have the money and will not have the money to pay commercial rates to be on-line. And therefore you just count them out of it.

I described in Pocahontas County—and I see my senior colleague from West Virginia here—the small, octagonal library that was barely scraped together, the only library in the county. It is one of the largest counties east of the Mississippi and it has about 7,000 people in it. And we scraped together the money to put that octagonal building up, all made of wood and put solar panels on the outside because fuel is expensive.

Now, of course, there is a problem; it rains 45 inches every year in Pocahontas County so the solar panels do not work, so they have to spend money on fuel. But that is typical of a rural community, of a library trying to make it. And then you ask them on top of that to have to pay money to hook up to these information systems. It cannot work and it will not work, and it is not fair to those people. Why is somebody born in a big city any better than somebody born in a small rural area? The answer is he or she is not. But I refuse to be a part of creating a two-tier society. We appear to be on our way to doing that in other ways. I do not want it to be done in terms of the ability to learn and to grow.

In West Virginia, our schools are determined, by hook or crook, to get computers into every one of our 900 elementary and secondary schools because our Governor has made it a priority and so has our Bell Atlantic company. They have made a special project of West Virginia. Classrooms in 50 different places already can connect to Internet. But this is not the way most of it works, Mr. President. This is a special set of circumstances.

Let us be clear. If the schools of West Virginia cannot count on affordable rates—and that is what this part of the bill is about—many of them are never going to be a part of the world that telecommunications offers regardless of what they have.

Teachers in West Virginia cannot wait to use these computers, Mr. President, and their links to distant places. They are excited about it. It transforms them as it transforms us as we get into the business of learning computers. They want to get into libraries. They want to get into colleges, to courses on every topic imaginable, to art collections, to whatever for their students. They have come before the Commerce Committee and boasted about what they can do for their children in schools when they have computers.

Think of what this means for children of small schools in remote towns in West Virginia or South Dakota or Alaska or South Carolina or Maine. Through their computers, students can take a language class that is being given in Texas, visit a museum's collection on Fifth Avenue in New York, communicate with a computer pen pal in Asia or Russia or South America, and explore the jungles and the rivers and the plains of distant places to learn about science and biology and nature. Extraordinary opportunities, if it will be provided for them.

Most classrooms in America still look the same as they did 60 years ago when we wrote the first telecommunications act. They have chalk and blackboards, desks and chairs. Yet, with the tools of our modern-day office, how can we possibly expect our children to become productive, informed, innovative contributors to the economy out there, beyond the schools, when they learn with a blackboard and they do not have a computer? It will not work. If our children are to use technology thoughtfully and appropriately, they must have access to it in their formative years.

Our bill also has a special provision to guarantee access to the health care providers in rural communities, like rural hospitals and clinics, by promising them universal telecommunications services at rates reasonably comparable to the rates charged urban health care providers, language carefully worked out.

Why do we single out our health care providers in rural areas? Why do we do that? Because their remoteness makes it far more likely that they cannot afford the cost of telecommunications that are now being used to save lives and help train health care professionals and provide other critical services. Most of this is known as telemedicine. It is the wave of the future. It is what is going to hold down the cost of health care.

My own home State of West Virginia is a pioneer, as Senator BYRD well knows, in the frontier of telemedicine. Our mountaineer doctor television program that we are struggling as best as we can to make work has created a network using interactive video and other telecommunications services that hooks up two of our academic health centers to our large teaching hospitals, two veterans hospitals—two veterans hospitals are involved in this—and six hospitals in rural areas, all hooked up and linked together through this network. Senior medical professors and practitioners are guiding and training physicians at hospitals hundreds of miles away.

Just about a week ago, a resident in one of West Virginia's rural hospitals was confronted with a broken neck. He had never treated this resident, obviously, and had never treated a broken neck before. Thanks to that mountaineer doctor program, called telemedicine, the chief of emergency medicine at West Virginia University helped that resident through the steps of stabilizing that patient and preparing a transfer of that patient to a more sophisticated medical facility.

Through this telecommunications network, West Virginia's chief of neurology helped a medical student and primary care doctor in a Grant County hospital determine if a Medicare patient was suffering from Lou Gehrig's disease. This consultation by interactive video saved that patient a brutal

140-mile trip, allowed him to remain comfortable in his own community's rural hospital, and saved Medicare about $2,500 in extra costs. Examples like this go on and on and on just in West Virginia.

I know from listening to statements made by Majority Leader DOLE, by the chairman of our committee, Senator PRESSLER, and my good friend, the Senator from Montana, Senator BURNS, that they are among many in this body who know all too well what telemedicine means to their States. Talk about being rural, you better talk about Montana, as well as West Virginia and Maine.

Again, the Snowe-Rockefeller part of this bill simply ensures that these institutions can count on affordable rates to take advantage of telemedicine and other unfolding communications technologies. Affordable telemedicine will allow patients in rural America to receive in their own communities the care they need. They will not have to suffer the costs and the hardship of travel, and they will be able to receive care at their local hospital, thus helping to preserve that hospital.

The Snowe-Rockefeller language is an economic development tool and it is an empowerment vehicle. It ensures that our children will become productive members in a world that is growing more technological and competitive every single hour. It ensures that our citizens in rural America will be able to stay in their communities and receive quality health care. It ensures that we will not create information haves and have-nots in our country.

I will close, Mr. President, and I apologize to my colleagues for the length of what I have said, but I wanted to lay this out. One of our colleagues who is opposed to this bill and who supports the McCain amendment, which I hope will be defeated or tabled, said on this floor earlier that rural hospitals and rural clinics already have access to affordable rates. That is absolutely without any merit or basis in truth whatsoever. The lack of adequate telecommunications infrastructure is a major barrier to the development of telemedicine and those systems in our rural communities.

Let not that statement get by. Rural areas have the equivalent of a dirt road when it comes to telecommunications. When Texas implemented one of the very first telemedicine projects in the country, they found that people still had party lines in west Texas—party lines. They had to install dedicated T–1 lines at very significant costs because T–1 lines are powerful instruments. Basic startup costs are coming down, but according to all the experts in this field, transmission costs must be lowered to make telemedicine economically feasible.

The small rural hospital in West Virginia was told that it would cost $4,300 a month to hook up with a major, larger hospital for administrative and quality assurance support. They decided they could not afford the technology, and so they did not do it. And there you have it.

The University of Arizona, not a small rural hospital, established the Arizona international telemedicine internetwork in 1993. They used straight telephone lines and they used compression to transmit static images. They say cost is a barrier to upgrading. According to them, their carrier—in this case U.S. West—has been inflexible in making any sort of cost concessions.

Mr. President, I have said what I want. There are many others on the floor who want to speak. I was determined to try and give a broad overlay of what the Hollings-Pressler bill does, and I have done my best to do so.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I rise today in support of the language that was passed by the committee, which my friend, the Senator from Arizona, is proposing that we strike. I would like to speak to that part of the bill that makes advanced telecommunications more affordable to public schools and libraries.

During the consideration of the telecommunications bill last year, I offered legislation very similar to the language that we are considering today, to ensure that every school and classroom in the United States has access to telecommunications and information technologies. I proposed an educational telecommunications and technology fund to support elementary and secondary school access to the information superhighway.

Regrettably, last year's telecommunications bill was not taken up by the full Senate before adjournment. The provision in the bill before us, introduced by Senators SNOWE, ROCKEFELLER, and KERREY of Nebraska, will make advanced telecommunications connections more affordable for schools and libraries. Specifically, the provision allows elementary and secondary schools, as well as libraries, to receive telecommunications services for educational purposes at an affordable rate.

Currently, schools all over the country, including those in my own State of Virginia, are forced to pay business rates for access to the information superhighway. That means that schools are subsidizing residential customers. Without more affordable rates, schools, by the thousands, will not have adequate, and, in some cases, not have any access to the Internet. As a result, too many American children will be left by the wayside.

For those of our colleagues that have any doubts about the value of electronic communications in the classroom, I challenge them to sit down at a computer with Internet access and surf. They will be visiting one of the most up-to-date and fastest growing libraries in the world. You can chat with experts from across the globe. You can set up the video link with teachers at distant schools using a small camera costing as little as $100. You can share data or results in a joint research effort spanning continents. You can take an electronic tour of the White House, or visit the so-called web page of a Member of Congress. I have such a page, and many of our colleagues have those, Mr. President. You can even see images of molecules or galaxies. The possibilities are endless.

In discussions with school administrators, it becomes clear that students are fascinated by the Internet. Students that might otherwise be indifferent are eagerly pursuing new subjects and sharing their newfound knowledge with the global community of students.

Simply put, Mr. President, the child with access will be at a distinct advantage and better prepared for future employment. And those without access are simply going to be left behind.

We cannot afford to let our school systems slip behind those of our leading competitors when the technology is at our fingertips—the technology that was pioneered here in the United States.

Mr. President, I urge our colleagues to support the most cost-effective education we can offer our Nation's children. I urge my colleagues to support the Snowe-Rockefeller-Kerrey provision and oppose the amendment offered by my friend from Arizona.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I see my friend from West Virginia, Senator BYRD, on the floor. I will be brief, I say to my colleague. I know he has been waiting for some time.

I just have a couple of comments to make. Our States have done a lot in this area. I know that, for example, some of the States in the South have done things.

This describes that in the State of Alabama, there is pending approval within the next few days where the Educational Network Service will offer DS–1 and 56–KBP service for any educational institution at a discount rate.

In Florida, there is legislation waiting signature, where the LEC's are required to provide advanced communication services to eligible facilities, including public universities, community colleges, area technical centers, public schools, libraries, and teaching hospitals.

In Georgia, the Public Service Commission approved the Southern Bell reduced rate telephone service for schools, called the Classroom Communication Service.

In the State of Kentucky, the State government provides high-volume discount access to schools, hospitals, libraries, and government agencies.

In Louisiana, all schools in Orleans Parish receive an additional 33-percent

discount, and public and parochial schools pay residential rates as opposed to business rates.

Mississippi has two special pricing arrangements targeted toward education in the classroom communications services, distance learning, and transport services.

South Carolina has somewhat the same thing.

Tennessee has in-classroom computer access service, distance learning, video transport service, et cetera.

Mr. President, the fact is that nearly every State in America has some kind of accommodation for this. I am appreciative of the fact that the Senator from West Virginia may not share my view about the role of the Federal Government versus the role of the State government, but the fact is that the State governments, who I think are much better attuned and much more cognizant of the needs of their respective States, are doing these kinds of things. To my view, this is vitiating the requirement for, again, another unfunded mandate, which this is.

Mr. President, I heard the Senator from West Virginia, who makes some very emotional arguments that there are some libraries that will never be able to afford a computer, or some hospitals. Who are they, Mr. President? So to cure the problem we are just going to give a blanket agreement to wealthy, private schools, wealthy hospitals, wealthy libraries. There is no means testing. If the Senator from West Virginia and the Senator from Maine had, in any way, brought in some kind of provision for means testing as to who needs it and who does not before we proposed this unfunded mandate, I would have been much more open to some compromise or agreement on it. I am sorry that virtually all schools, all hospitals and libraries are going to receive this.

Mr. President, I think we are being a little discriminating in our morality here. I would like to see the Disabled American Veterans have this same kind of facility. They are people who have fought and served and sacrificed. Do they deserve something? I do not see them included. What about the Veterans of Foreign Wars and the Salvation Army? They are organizations I have admired enormously. They get all of their funds from contributions, at least about 95 percent of them.

What is it that makes us discriminate with these institutions and not with others? I understand that—and I was not told this directly by the Senator from Maine—she intends to make a motion to table this amendment. If this amendment is tabled, then I may have an amendment expanding this to other needy and deserving Americans and groups of Americans that also may be as equally as deserving as private schools are, for example, or as wealthy hospitals are, or the Getty Library.

So I think that the flaw here, Mr. President, is who are we really trying to help, and who are we not? It seems to me that there are many who are deserving of our help who are not included in here, and there are many who are not who are included. I would like to see us be much more discriminating.

I believe the whole thrust of the American people is that they believe local government is best. I would like to see the States be able to continue what they are doing and tailor what is best for their respective communities and localities and counties and cities and towns, rather than the Congress acting in a far more sweeping and all-encompassing fashion.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank the Chair.

I rise in strong support for the provision authored by my distinguished colleague from the State of West Virginia, Mr. ROCKEFELLER. I oppose the attempt to remove it from the bill.

It has long been an axiom in the development of America that rural America be provided basic telephone services, under the concept of universal service. Universal service is, again, a central part of the bill before us. Mr. ROCKEFELLER's amendment, together with the distinguished Senator from Maine, Ms. SNOWE, attempts to ensure that our schools, our libraries, our health care facilities have access to the best that is available across our country for the well being of our children, our elderly, our rural dwellers at affordable rates. This amendment allows a child in Beckley, WV, to access the Library of Congress to enhance his education, allows the provision of medicine from the best facilities in America to be available to health care providers in communities which cannot afford to have all facilities available at their fingertips. It is a mechanism to enhance standards throughout the country. It is a force enhancer, a multiplier, an advanced bootstrap for rural America at reasonable cost.

I have, for the last several years, supported funding for medical doctor's television, so that experts in universities can conference with doctors in rural remote areas so that they have the best that medicine has to offer in the State. The Rockefeller provision extends this concept for all citizens to have access to the best that is available across the country. This is the fruit of the technological and telecommunication revolution that is meaningful, that makes sense, and will build human capabilities and infrastructure in our land.

I commend my colleague for this provision. It is a builder of communities throughout our land, a benefit that our technological progress gives us as a society. I support the provision, and urge my colleagues to defeat the amendment.

I yield the floor.

Ms. SNOWE. Mr. President, I just want to address a couple of points that have been raised by Senator MCCAIN because I think it is important to address his comments with respect to what would be provided, and to whom, under the manager's amendment that was incorporated in the legislation which Senator MCCAIN seeks to strike.

I cannot think what would be more in the public's interest than schools, libraries, and hospitals. As I said earlier, in the last Congress, the Committee, on a nearly unanimous vote, sought to provide universal service to zoos, aquariums, and museums. We do not include those entities under this language because we think we should strictly limit it to very essential institutions, schools, libraries, and rural hospitals.

Universal service happens to be a national priority. That is what this issue is all about. Senator MCCAIN said leave it to the States. States are involved, in the sense that there is a joint board in this legislation that will help determine the rates for the communities under the universal service provision.

But this happens to be a national priority, a national issue, and it is too important just to leave it to the States on an ad hoc basis and say whatever happens, happens. The States are certainly doing their best. They understand the importance of this issue, and have been very innovative and progressive. But they cannot do it alone. Presently, there is a disparity between the States.

We all recognize how important the information age is to the future of this country and to individuals and to families. It is so important, and therefore I think it requires a national policy and should be established as a national priority. Certainly, universal service can be supplemented by the States. The fact is, they cannot do it alone.

This is a major telecommunications policy. If that was not the case, we would not be here discussing today the amendment before the Senate.

But it is an important telecommunications policy. It is essential that we establish some parameters to universal service. There may be a day when it will not be required. But right now, we need a transition with respect to telecommunications. That is why the universal service language becomes an imperative.

We have to recognize the changes that have evolved and will continue to evolve over time. We have to anticipate the needs of America. I cannot think of entities with a greater need to affordable telecommunications services than schools, libraries, and rural hospitals. I never would have expected anybody to have questioned that.

The language in the bill extends the idea, included in the Communications Act of 1934, of universal service. That is all we are saying, with the language in the bill, sponsored by myself and Senator ROCKEFELLER and Senator KERREY and Senator EXON and adopted by committee. The language simply extends universal service to schools, libraries, and rural hospitals.

Under the language, essential telecommunication providers will get reimbursements. They can recoup the

discounts given to these public entities from the universal service fund.

In the case of schools and libraries, the discount is an amount necessary to ensure affordable access to telecommunications services for educational purposes. This is a modification we made in the managers' amendment that was offered last night.

By changing the basis for the discount from incremental cost to an amount necessary to ensure an affordable rate, the Federal-State joint board in conjunction with the FCC and the States have some flexibility to target discounts based on a community's ability to pay.

The discounts will not be indiscriminate, as the Senator from Arizona suggested in his previous remarks. There will be some parameters, because we do not have an unlimited fund.

There have been a number of letters from supporters of the language in the bill that various Senators have received. I would like to quote from a couple of them. I think it gives everyone an idea of the importance of this issue. One letter that I will quote from is from an education technology specialist.

She writes to one Senator, and I received a copy of this letter:

> Two key issues for rural States like ours are affordable and equitable access. Cost is the barrier cited. A recent survey shows only 3 percent of the Nation's classrooms have access to Internet or use information services for instructional services. Preferential rates for school and libraries at cost would be a step toward eliminating this barrier. As a Nation and as a State, we must recognize the need for improvement in our educational system and seize the opportunities offered by technology and telecommunications. The dream of access, equity, and excellence for all Americans for life means acting now to ensure these essential elements for better education, bound in decisions currently under consideration. We urge you to make certain the voices of K through 12 educators are heard and their needs addressed in the drafting and passage of this legislation.

In another letter:

> I hope that Members of Congress will stop and consider the impact that schools and libraries had upon their lives. Then, if they will project what these entities can provide when they are equipped with appropriate connectivity, we can begin to understand the quality of true education our young people will possess that will equip them for bright futures. With your help, thousands of young lives will be able to experience the rush that comes with free exploration of knowledge sources.

And then we received a list of different associations that are supporting this legislation, again, I think, expressing the thought that this legislation and this provision is so important to the future of this country. The organizations are part of a coalition supporting affordable telecommunications access for our Nation's schools and libraries, and there are a number of different associations. I am not going to read them all, but I ask unanimous consent to have them printed in the RECORD, Mr. President.

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

SUPPORT AFFORDABLE TELECOMMUNICATIONS ACCESS FOR OUR NATION'S SCHOOLS AND LIBRARIES

Supported by a coalition including:

American Association of Community Colleges.
American Association of School Administrators.
American Association of School Librarians, a division of the American Library Association.
American Council on Education.
American Federation of Teachers.
American Library Association.
American Psychological Association.
Association for Advancement of Computing in Education.
Association for Educational Communications and Technology.
Association for Supervision and Curriculum Development.
Center for Media Education.
Coalition of Adult Education Organizations.
Consortium for School Networking.
Council for American Private Education.
Council for Educational Development and Research.
Council of Chief State School Officers.
Council of the Great City Schools.
Council of Urban Boards of Education.
Educational Testing Service.
Instructional Telecommunications Council.
International Society for Technology in Education.
International Telecomputing Consortium.
National Association for Family and Community Education.
National Association of Elementary School Principals.
National Association of Secondary School Principals.
National Association of State Boards of Education.
National Education Association.
National School Boards Association.
Organizations Concerned about Rural Education.
Public Broadcasting Service.
Software Publishers Association.
The Global Village Schools Institute.
The National PTA.
Triangle Coalition for Science and Technology Ecucation.
United States Distance Learning Association.

Ms. SNOWE. For example, the American Association of Community Colleges, the American Association of School Administrators, American Association of School Librarians, American Council on Education, American Federation of Teachers, American Library Association, the American Psychological Association, the Council of Urban Boards of Education, the Educational Testing Service, the National Association for Family and Community Education, National Association of Elementary School Principals, the National Association of Secondary School Principals, the National Association of State Boards of Education, the National Education Association, the National School Boards Association, the National PTA, the United States Distance Learning Association.

That gives you an idea of the cross-section of organizations and associations across America that support this language. Even I was surprised at the extent to which the language that we incorporated in this legislation received such strong and widespread support.

The FCC Chair, Reed Hundt, recently stated:

> There are thousands of buildings in this country with millions of people in them who have no telephones, no cable television, and no reasonable prospect of broadband services. They are called schools.

This all goes to show how important this issue is. I hope that Members of this Senate will oppose the McCain amendment and will continue to support the provision that is incorporated in the managers' amendment and in the underlying legislation that was supported by members of the Commerce Committee—not a unanimous vote but a broad vote—because this is so important to the future of this country.

Mr. President, I move to table the McCain amendment. 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 clerk will call the roll.

Several Senators addressed the Chair.

Mr. HOLLINGS. Mr. President, I wanted to suggest the absence of a quorum. The distinguished Senator from Nebraska who cosponsored the amendment has not had a chance to be heard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection.

Mr. PRESSLER. Reserving the right to object. I will not object.

The PRESIDING OFFICER. You cannot reserve the right to object to calling off the quorum.

Mr. PRESSLER. I withdraw my request.

Ms. SNOWE. Mr. President, I ask unanimous consent to withdraw my tabling motion and to vitiate the yeas and nays.

Mr. PRESSLER. Reserving the right to object, and I will not object. Senators are doing different things. We are trying to give a little advanced notice when these votes will occur. I am not trying to cut anybody off or anything of that sort. I am wondering if we could vote—I ask the Senator from Nebraska when he would suggest we have a vote.

Mr. KERREY. I appreciate that. What I would propose is that I make my statement. We have been led to believe there are a couple of other people who would like to speak, but if they do not make it down to the floor by that

time, we might be able to set a time relatively quickly after I get done talking. I just do not know whether there will be other Members actually getting down, having said they are coming.

Senator MCCAIN asked earlier. I said it could be 6 or it could be 8. I think we pretty well heard most of the arguments on this particular proposal.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine to vitiate the yeas and nays and withdraw her motion to table?

Hearing none, it is so ordered.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent for an agreement to vote at 5:15. Or would that be objected to?

Mr. KERREY. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. KERREY. Mr. President, I say to——

The PRESIDING OFFICER. Does the Senator from Nebraska seek the floor?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. You run a tight ship, Mr. President.

I say to the Senator from South Dakota, I am not trying to unreasonably object. I am uncertain as to how much longer is a reasonable time.

I myself would be surprised if I am going to talk for 30 minutes, and if no one comes down here at that particular time, between now and the time that I stop I think we can put a time on this pretty quickly.

Mr. President, again I hope colleagues understand that this bill is being asked for largely by American companies and corporations that would like to do things, lines of business they currently cannot do. I have heard colleagues after I have said that say, no, we have lots of people in our State who really understand and would like to have this.

That may be the case indeed. On this particular section there are quite a few people who understand the potential and positive impacts. Indeed, I would argue that—perhaps somebody has a countervailing argument—but I would argue, of all the sections, this section has more Americans excited about what might happen if this proposal were to become law. There has been more straight grassroots citizen support for this section of the bill than any other section of the bill.

We have heard from companies, we have heard from a whole range of people. The Senator from Arizona raises some valid and interesting points. I do not dispute all the points he raised.

But one of the points that is raised, dealing with K–12 education, where we have the largest amount of support, the distinguished Senator from Maine earlier read off a list of organizations that are in support. I will not go through all these again: American Association of School Administrators, the American Federation of Teachers, the National Education Association, school boards, and other people who understand that, if you leave the status quo in place, these schools are going to get further and further behind. That really is a given. It is not going to go away.

When the distinguished Senator from Arizona comes and says there is lots of progress being made out there, it is true there is progress being made. But colleagues should not be taken in by that argument because this law takes away the incentives that schools have used to get State public service commissions to negotiate for them. That is what has been going on.

What has been going on in Georgia and other States is that they have negotiated and given the regional Bell operating company the right to price differently in exchange for connecting the schools. They did not do it for eleemosynary reasons or as a consequence of saying we can give away a little of our cash flow. They did it to get something in return.

Mr. President, this legislation goes into every State public service commission, and says you shall allow price cap regulation. There is no more incentive for an RBOC to negotiate the sort of things we have seen happen in State after State after State.

So understand that the reason that section 310 is needed in this legislation—and it is contained significantly, I point out to colleagues, in the title III portion that calls for the end to regulation—is because in other sections of the bill, we take away the very incentives that have been used to get the progress that we have been seeing in other States.

So do not come to the mistaken conclusion that if this title is stricken you are going to continue to see the kinds of progress that we have seen in States. You will not see it. It will stop.

I would like to make a point and talk a little about why we need this. Again, I understand there are lots of other areas of concern—libraries, hospitals, and so forth. My No. 1, 2, and 3 concern is the educational environment. The question is why is it important? Is there a sense of urgency attached? Is there any reason for us to be excited about this? Is there any reason to believe that the promise of this technology will be different than the promise that lots of us heard 40 years ago when people were saying we are going to put this television set in your home. They bring a television set into your room, into your home. Television was going to be a great learning technology. We are going to learn more. That was the idea. In some cases, with children's educational television, we have seen some improvement in test scores. But for many of us adults, we hold I think the correct conclusion that television has produced a distraction, larger and larger volumes of time being consumed with young people watching television, not doing homework, not doing the work required in school, and as a consequence, people say maybe this technology is just another one of those items, just another promise to do something, another easy solution to the difficult work of education.

Mr. President, this technology is different. Computer technology is much different than we have seen in other educational applications, in other technology applications. We can cite research. You can use anecdotes. You can talk about any measurement you want out in your local community. But computer technology, particularly when it is network and particularly when there is access to a database outside of the school, particularly when the network concludes a connection between the home and the school itself, there are advances in mathematics, impressively so. There are advances in reading, almost counterintuitive for those of us who have seen this technology. How can you possibly learn to read and write better? But there are improvements in test scores in both areas when the technology is available to young people.

The fact of the matter is this technology does offer substantial hope to do something for public education that a lot of us have begun to believe—we are wondering whether anything is going to work. We are wondering whether anything is in fact going to do something to turn around what we see as decline in test scores in many significant areas.

I note that the National Assessment of Educational Performance not long ago said that high school seniors, a full third, cannot read at the basic level; that approximately a third can read at the proficiency level or above, down 10 percent from 2 years ago. You cannot graduate from high school anymore—and half of our young people will graduate and go right into the work force and are not able to read and write, and do multistep mathematics, to be able to think in creative, in complex ways, and expect to earn very much in the workplace. It may have been true when most of us went to high school and graduated that you could do that, but not anymore. Today you have to know more. You use that computer in the workplace, and you have to know a lot more besides the sorts of things that were required when I got out of high school in 1961.

Mr. President, there is an urgency attached to this section. That is what I am trying to describe to my colleagues. Not only is there a demand for it. Not only in this case do we have people in the community saying: Senator KERREY, this is one where I know it is going to help. I am not certain about all the rest, and I am a little bit nervous about what is going to rate telephone or cable. I do not know about all this promise about new jobs. I have some stats I am going to talk about later when I talk about this promise of employment. An awful lot of people

were turned out onto the bricks as a consequence of technology. They get a little nervous when I tell them there are going to be a lot of jobs. They do not know about all of that. They say to me, I know because I have seen computer technology work in my home. I have seen it work in the school. I know it can work. We are trying to network it inside our school buildings. We are trying to make progress there.

What are we up against? We are up against a number of things. The people are saying to me and with schools that I have worked, that the principle among those things is that if you want to fund it, you have to fund it out of property or sales and income taxes.

I am going to get to a subject that will probably put my colleagues to sleep because I talk about it perhaps too much; that is, how we fund not just education, but how we fund other things that we try, other services that we try to provide to our people. In the State of Nebraska, we have about 275,000 people in the K through 12 environment. We have 275,000 people over the age of 65. We spend $1.3 billion on that K through 12 environment, and $4.5 billion on people over 65. Now, the source of revenue for retirement and health care is payroll taxes. It is relatively easy to get that from people in the work force; apparently about 16 percent of total wages. The source of revenue for the schools is property, sales, and income tax.

The incremental cost expenditures from the schools will be $50 million against the $1.3 billion base. On that retirement and health care data, the differential is going to be close to $500 million. The reason the cost increase is so low is that the people at the local level are saying: We are fed up with property tax increases, and we are not very excited about sales and income tax increases, either. And our schools get squeezed.

I had a rather unpleasant encounter with an educational organization that said this is not going to be a big deal because it is only going to address the cost to the schools, about 16 percent, and phone activity is not a problem, and affordable dial tone is not a problem. It is a problem. It is true that States have been able to negotiate with the public service commissions. But that only affects interLATA costs. It does not affect long distance calls, and it does not let these kids get on line and access databases in long distance education. It does not provide the kind of high-speed activity these schools need.

We are not asking for a bailout. Schools are still going to have to put a ton of money in software, a ton of money in hardware. They are going to still have to make a good-faith effort and contribution in order to make this work. This is not a subsidy that is unreasonable. It is a subsidy that is not only quite reasonable but it is a savings. If we do not provide it, we are going to lose a tremendous opportunity to bring education technology to our children and give them, I think, a learning tool that can enable them to increase math, increase reading, increase verbal scores. I have seen it work. I have looked, as I said, at research data. I have seen anecdotal evidence, as well. It in fact gets the job done.

Mr. President, one of the arguments again that we hear a lot, or at least I have heard a lot—I am not sure how much it applies to this particular amendment; perhaps it does, perhaps it does not; I believe it does—is that we are giving special attention to a particular group of people, and that they do not deserve the special attention. I am not really talking about the comments of the Senator from Arizona. I heard comments made by others. Why would we want to single out one particular group? We have 100,000 school buildings in the public school system, 16,000 school districts out there, 45 million students, government-run operations, pure and simple, and we have to figure out some way to help them out.

But what very often is annoying to me is the argument—and I have heard it from the business sector, mostly; it is made by businesses who have been given special protection, who have been given a monopoly franchise, and now are complaining when we give somebody else special attention. It is not like the RBOC. It is not a mom-and-pop started in Charleston, SC. This is a regulated monopoly. It is not like they started from scratch or something. It is with tremendous cash flow, and tremendous resources.

I am prepared to let them compete. I am prepared to provide deregulation to them so they can get out there and go head to head. I think there will be benefits from it.

But please spare me when it comes to trying to help 45 million school children with this argument that I am giving them special attention. For god's sake. You would not even exist were it not for a franchise granted to you by the people of the United States of America. At least, that is how I see it. I would be very interested to hear, and I asked earlier if the Senator from South Carolina would be willing to give his own description of that.

It seems to me that when a regional Bell operating company—I have good friends, at least I used to have good friends in that particular sector—when they come and say why would you want to provide special attention to these schools like this, it seems to me that I am deserving of saying to them, well, did we not give you a special franchise? Did we not give you a special right to do business in a monopoly way? And did we not keep all the internet competition away so that you could do all this stuff over the years?

Am I missing something, I ask my friend from South Carolina?

Mr. HOLLINGS. If the distinguished Senator will yield, I think he is right on target with respect to the regional Bell operating companies. They are not just a guaranteed monopoly but a guaranteed return on investment.

But they used to have a percentage return of profit, and they did not like that because they found, quite to the point, if they could get what they said, pay caps, the actual size and operation growing, minimizing, of course, the general cost of operation, and superimpose on that downsizing, which is firing, to me, the employees—and everybody thinks this is a wonderful thing, that everybody is downsizing, but that is what they are doing, and so they are increasing their return on investment but more particularly what they call the operating cash flow margin. That is the principal measure of the financial worth of a company by Wall Street and the financial community.

Specifically, I say to the Senator, I have a chart—I swore I was not going to use charts, but I am going to have to get this one blown up for the Senator because I have the operating cash flow margin by industries from computers to chemicals, household products, autos, trucks, alcoholic beverages, long-distance companies, the soft drink industry, semiconductors, railroads, drug industry, electric utilities, petroleum-producing corporations, and, of course, the regional Bell operating companies.

This is a small sort of chart. We will have it enlarged. But you can see right at the bottom edge, in the lowest so-called operating cash flow margin of 10.3 percent is computers. Come right on up midway, 19 percent for the long-distance companies, and for the regional Bell operating companies it is 46 percent. It is above all the others.

If you want to get to the actual return, you would find in Standard & Poor's in a composite of the top 1,000 corporations in America, their average would be 10.4 percent, but the regional Bell operating companies is 16.6 percent.

Now, if you want to go then up to their cash flow margin, as they call it, that would be 46 percent rather than the average of 34.1. If you go up to the actual operating income margin, it is 26 percent with the U.S. average of 10 percent.

But they tell me in the financial community, if the Senator will give me just a second more, it is not only the 46 percent, but we had it in those hearings that the RBOC's had a cash flow of about $5.5 billion. They paid some $600 million in taxes, Mr. President. I think the distinguished Presiding Officer was there when this was brought out. Of the $5.5 billion in cash flow, $600 million was in taxes, $1.6 billion was paid to keep Wall Street happy—that was the dividends—which left them $1.7 billion to invest.

Excuse me. That $1.7 billion they reinvested in upgrading the equipment and optic fibers and everything else of that kind. It left them $1.6 billion in their back pocket so they could walk

into any bank: I have $1.6 billion in my back pocket, and I would like to make a loan.

Well, heavens above, what financial power. And they wanted to know a little while ago why we had to have the public interest test included in this thing. With that $1.6 billion in their back pocket, they are already into New Zealand. They are putting in communication links between Moscow and Tokyo. That is these telecommunications companies. They are in Hungary.

I landed last year, I say to the Senator, in Buenos Aires, and the Ambassador came out and met me in the car. As we were driving into town—this is Ambassador Cheek, an Arkansas native—he turned to me, and he said: Well, our section is doing good.

I said, how is that?

He said Bell South here operates—I think they have about 14 to 16 million in Buenos Aires, and Bell South runs the local telephone, and they are getting a tremendous return on their investment. I know they are into Mexico and everything else.

I commend them. I do not know of a better operating company in my own sort of hometown, Bell South and Southern Bell. But they should not come here—and I do not think, frankly, these companies are coming.

I find it, I say to the Senator, as a result more or less of pollster politics. You go to run for Congress and the Senate, and the first thing you do is you get a poll and the poll gets you five to seven hot-button items. Crime, everybody is against crime. Taxes, everybody is against taxes. Jobs, everybody is for jobs. It is a jambalaya of the same nonsense, where you have the contract.

One thing, this communications bill, you know what, is not in the contract. And you know why? Because this communications bill is going to do something. You can take that 10-point contract, it is all process. It is all procedure. It is all pap. It is all line-item veto, term limits, paper shuffling or whatever—unfunded mandates, balanced budget constitutional amendment. It is all process, making sure you do not do anything but what the pollster tells you to hit and identify. Do not ever be for or against. Identify with the problems but do nothing about them.

Here we are trying to do something about them and you know what they come up with? They take the very responsibility they have fundamentally for education, for the schools, for the libraries, for the nonprofit health care, community health service, rural health centers and everything else and talk against them, using expressions like ''micromanagement, meddling, bureaucracy'' and everything else, like somehow something was wrong with that.

I thought that is what we were here for. If we are not here for the community health centers, who is? If we are not here for the schools, where are they going—all private schools with vouchers and people with money running around butting into each other? We are going the way of England. We are getting two levels of society now. Those with jobs are making 20 percent less today than what they were making 20 years ago.

And the census figures, I say to the Senator—I will yield right now—will show that in the age group 17 to 24, 73 percent of that age group cannot find a job or they cannot find a job outside of poverty. And here the people's representatives are coming here and talking against the people's institutions because the pollsters tell them to do that. It is a sort of an ideological bent: Get rid of the REA, a magnificent entity; get rid of public communications that is doing some good. And they tell you, yes, you know, public broadcasting—sure, it can make a profit. We can sell those VHF channels like gangbusters, and they can put on some more of the giggle shows or whatever you call them. You turn them on and there is some little wise kid about this high and the grownups tottering around, the wise kid makes the smart remark and everybody goes ''hee-hee-hee'' and that is all you get unless you have public television.

So I think that the distinguished Senator is getting right to one of the most valuable discourses I have seen because you have seen the rural Senators come with the metropolitan areas saying since we have the satellite and you can beam down into the rural area as well as down into the urbanized megacity you do not need these things—you do not need schools; you do not need hospitals; you do not need libraries anymore. And if you do, let the market forces operate them.

Mr. KERREY. I appreciate that. In fact, I am sure people will be interested—and I believe there is a lot of promise of jobs, by the way, in changing our regulation and going more to competition.

But do not count on the jobs coming from the companies that are typically coming up here on Capitol Hill urging us to do one thing or another. I have some interesting facts in that regard.

Regional Bell operating companies in 1984 in the United States of America employed 556,561 people. In 1993, that was down to 395,639. They dropped over 160,000 employees in that period—160,000 employees in approximately 10 years. The LEC's/Independents went from 180,000 down to 140,000. So now you are down 200,000 employees over that period of time.

The cellular industries everybody talks about really added a whole bunch of employees. They have added 40,000. So now you are back to a net loss of 160,000. So you hear from the RBOC's, LEC's and you hear from cellulars. They are talking about jobs saved. I am down 160,000 thus far. Are you going to keep going in that direction and give me more of the same?

The broadcast industry has gone from 170,000 down to 150,000, so another 20,000. Now I am up to 180,000 jobs. I bet you an awful lot of those people did not get jobs that paid the same as they previously had.

In cable television, you see increased employment in cable television, 67,000 or so up to about 109,000. So you are still about 150,000 jobs or so down.

We have the computer industry that we talk about an awful lot, a surprising number. I heard—I cannot remember who it was—a colleague come down and talked about we ought to do it like the computer industry has done. For your information, the computer industry in 1985 employed 542,000 Americans. Guess how many employees in 1993? 400,000 employees, down 150,000. When you are at home in your hometown meetings and they say to you, ''Senator, what is this telecommunications deregulation bill going to do for me?'' and you say, ''Jobs,'' you better be prepared to say where those jobs are going to come from. You better be prepared to answer that person who says, ''Thus far, technology has not been all that kind. I used to make $40,000 a year and now I am down to $15,000. How is that working for me?''

I hope that this particular attempt to strike this section will be rejected.

As I said earlier, the reasons I would cite are the following: One, it is about the only hope we have, I believe, of improving the quality of education both in the home and in the school. It is working. It is working out there.

Secondly, if you believe that the progress that is being made out there in the States right now is exciting, understand that the language in other sections of the bill takes away the incentives the RBOC's have had to do those things. It truly does. There is no disputing that. In every single State—every single State—where this kind of effort has been made, it has been made in exchange for regulatory relief, particularly going from rate-based rate of return to price caps. The premier example is in the State of Georgia, but it is not alone.

Finally, Mr. President, this well-meaning attempt to strike this section should be tabled because this is one of the few pieces of this legislation where, indeed, we are hearing from our citizens, where, indeed, we are hearing from mothers and dads and the PTA, the PTO that are coming to us and saying, ''This one is going to work. We're trying to figure out how to make computers work in our school. We are up against the property tax lid, we are up against sales and income. We are trying to figure out how to do it, and this is going to give us a little help.''

Do not believe it is a giveaway. These schools are going to make a maintenance effort on top of that. They have to. They have to spend a lot of money on software and hardware. This is just a little bit of help asked for by the companies that, indeed, can afford to do it given what this legislation allows

them to do, given what this legislation provides for them.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, one note on commending our distinguished colleagues. The Senator from Maine, the Senator from West Virginia, and the Senator from Nebraska have joined together on this amendment and given leadership.

It should be noted that when we started, easily 4 years ago, the then distinguished Senator from Tennessee, AL GORE, was the one who paraphrased the ''information superhighway.'' Part and parcel of his drive for the information superhighway was just this: education, hospitals, libraries, public entities and public interest groups that we had even expanded in the original treatment some 4 years ago in our Committee of Commerce. Vice President AL GORE has to be credited with this part of the information superhighway.

We had at our hearings this year the Secretary of Education, Secretary Riley, come forward and testify on this particular score outlining the various uses and needs of this particular consideration by the public to go ahead and take entities that are on a nonprofit basis—public schools are not for profit, not-for-profit hospitals, libraries and otherwise—and give them consideration, which is just like the universal service fund, to get the communications facilities out into the rural or sparsely settled areas.

So I commend Senator SNOWE, Senator ROCKEFELLER, and Senator KERREY, but I particularly wanted the record to show that the Vice President of the United States has been the leader on this information superhighway, and particularly the educational, health and library facilities to be afforded these particular services at a reduced rate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the McCain amendment. I want to commend the previous speakers who have emphasized very eloquently what this will do for the critical areas, especially of education. I am, as my colleagues know, the chairman of the Senate Subcommittee on Education. I have just completed a number of trips around this country visiting the schools in the urban areas of this Nation, from Baltimore to New York to Detroit to Washington, DC, as well as Los Angeles and San Diego. I have also examined the statistics of where our schools are at this particular point in our history when it is so essential and so important that we improve our educational system to be competitive in the world that awaits us out there and the markets that are necessary for this Nation to expand its economy.

The number one problem we see is the ability of our schools to be able to take advantage of the wonders that can come about through the information age. As I talk with them and travel with them, there is no question but that one of the most critical and important barriers they have to being able to participate in a meaningful way by the utilization of computer technology to provide the education through the software that would be made available and the opportunities that come through that is the inability to have affordable telephone communications. Without that, there is no hope that they will be able to make the kind of leap that we have asked them to make, for, as you know, we have passed Goals 2000, strongly indicating that we must by that time improve substantially the education of our young people.

I have been through my charts. I have gone through them many times, and I will many more times, to try to let everybody know the serious problems we are having.

First, I pointed out over and over again, when you compare our young people in the younger groups with competitor nations across this world, those nations which we would be competing with and gradually losing our competitive edge, we are last—last—in math and science among 14 of those nations.

Most probably, the most devastating statistic that we have facing us is the knowledge that 55 percent of our young people now that go through the school system come out functionally illiterate, because if you are not going to college, we do not worry about you. They are going to be the skilled work force of tomorrow in America. But if we do not furnish them the tools in schools and are not able to provide the kind of software that is out there and the ability to bring them up to speed on skills and on education, math, reading and all, we will not make it.

This is the best and biggest step forward we can make, by ensuring that there will be access to telephone lines.

Let me give you an example of how bad off it is. About 3 percent of our schools in this Nation right now have access to internet or outside communications for the utilization of the information age. When I go around to cities, I say, ''I want to see your best and your worst.'' I have seen the best, and I have seen what they can do with the information age. I have seen so many young people sitting there with eyes lit up and looking at fantastic software and learning well above the capacity that we have ever had before.

Do you know how many of those schools there are in this Nation? Maybe 1 percent. Then I said, ''I want to go to the worst that you have.'' I remember very vividly in the city of New York going down to a school on the lower east side. We went in there, and I think it was an old factory building. There were six floors that you have to walk up and down. I said, ''Let me see what you have to offer your young people.'' She showed me four computers. I said, ''How old are these?'' She said, ''I think they were from the 1970's.'' I asked, ''What kind of software do you have?'' She said, ''Let me show you.'' It was something I had seen back in the mid-1970's. But she said, ''I am excited. We just got a grant for $250 to upgrade our software.''

Well, anybody that knows anything about computers and software knows what you are going to get for $250 is not going to do much for anybody. I saw similar things in Los Angeles and San Diego. I saw the best and the worst.

This one provision in the bill will do as much as we can do for education as anything else—the dimensions of what it will cost in these schools to be able to bring the communications in without this kind of help is devastating. For instance, there is $300 million in backlog of repairs and renovations needed in the city of Washington in order to upgrade structure to do the things that are needed to be done. It is $100 billion nationwide. But if you can afford to get the phone lines in and give them a reasonable rate, then we have an opportunity to take advantage of that tremendous software that is out there. I have seen systems which are imaginative and wonderful. But it will not work unless there is access to it. The only way we can start making that access—and we need to worry about the ability to have power to run these and other things that go along with it. But if do you not have the phone access, you will not get there.

So I urge very strongly, if you believe as I do that education is so critical and important to the future of this Nation, the one best thing you can do right now is to vote against the McCain amendment and make sure the provisions are in here to assist our country, to be able to elevate our educational system on a fast track instead of the slow, slow snailpace process we are undergoing now.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I rise in support of the McCain amendment. I guess when I first came to the Senate and I took a look at my State—long distances, sparsely populated—nobody has made more speeches on education, telemedicine, and all of those good things that can happen through wideband, broadband telecommunications.

Once we start down the road of preferential treatment, there is no end to it, and that technology will not be deployed at any price. That is the reason that we are doing this piece of legislation, to give some people incentive to deploy new technologies. If there is a way that we can serve education and telemedicine in rural areas, it will be done. It is being done in my State. For

the first time, we have school boards that are setting aside money now for equipment and software and, yes, charges in order to accommodate it, to give some people incentive to deploy it.

What this does as a result is create a whole new class of preferential telecommunications service entitlements for a diversity of groups. I have no disagreement with my colleague with regard to the contribution which advanced telecommunications can make to society, especially in rural America. My home State of Montana is one of those rural areas in the country. I have worked very hard to make sure that we have this new technology. But we have to find ways to be entrepreneurial and allow some competition into it to make it work. You know what? It works in an area where telephone companies and those companies that work outside of the regulatory environment—country telephones, REA's, people who have an interest in community that makes it available to their schools because they know what the investment is in that school and what it is worth to that community.

They can do that because they do not have to go to a PUC and explain why they are doing it for a school or why they are doing it for a rural hospital. The RBOC's are inside that regulatory, and what we are trying to do is relieve ourselves of them so they can do some special things. This new technology is not going to go out there, and we are not going to tell Government to force it out there. It is not going to make it friendlier or cheaper for preferential users.

When the heavy hand of Government reaches out to mandate that business prevent preferential rates to certain groups, business is not going to be the one who pays. You know who will pay for it? Consumers pay for it. That is what we have lost here a little bit—that the paying public of every telephone will pay for this preferential treatment. You can almost call that double taxation, because they are also paying school taxes and also probably to some of the hospitals for some of the work they are doing there. We just tend to forget. Make no mistake about it, businesses will pass along such costs to consumers through higher rates—the same consumers that will be looking for lower costs and more services once this legislation passes.

So philosophically, section 310 takes a mandated approach that moves exactly in the opposite direction from the entire legislation, and it is an approach that is really tough to support. It defies logic on preferential treatment. You just cannot simply ignore the future impact this will have on the consumers in Montana, and they will come at a higher cost—a higher cost—if this legislation passes with this section intact.

Whenever there are a lot of people who want to get into that universal service and they want to use it for themselves, keeping in mind that the integrity of universal service is in question now because of preferential treatment, the Senator from Nebraska is 90 percent right. He understands what it did for Nebraska. I understand what it is doing in Montana. But it takes dollars in order to get that technology out there. If the Federal Government wants to step up to the plate and get some money out there, that is fine and dandy. I would support some of that for infrastructure inside the schools.

But we are going in exactly the wrong direction. It is a great thought. It has probably broad support because you always find more people who want something for nothing than you do people who want nothing for something. And that is just exactly the wrong direction. The marketplace is already moving in the right direction. It does not need this legislation in some areas to provide more service and more technology. But that progress could be stymied through mandates from this Government and—probably the Wall Street Journal was right this morning—placing more mandates. Every time we have a mandate, somebody pays. And it will be the consumers of this country who will pay for it, because this does not get out there for nothing.

I think it is a wrong approach. I say to my colleagues, if they are serious about building a national health and education infrastructure through telecommunications, this is the wrong direction to go, because with competition in the marketplace we will find somebody that will provide the services a little bit cheaper maybe than the next guy to do business in an area where there is a high volume of business as there is in education and health care provision in rural areas.

I ask my colleagues to support the McCain amendment.

I yield the floor.

Mr. KERREY. Before the Senator from Montana leaves, I appreciate the statement. I must say, Mr. President, I appreciate very much that Senator from Montana included a couple sections of language in this legislation on my behalf, section 304. It does deal with education. We added elementary and secondary schools for advanced telecommunications incentives. That is the connection. That is the fiber that would go to the school. It does not cover affordable rates and does not get some of the other things section 10 does, but last year when S. 1822 passed, the vote was 18–2. The Senator from Oregon, Senator PACKWOOD, and the Senator from Arizona, Senator MCCAIN, voted against it, but last year section 104 that the Senator from Montana supported did provide preferential rates.

Section 104 says the purpose of this provision—a new provision of the 1934 act to provide for public access actually much broader than what 310 does: disseminate noncommercial, educational, cultural, civic, and charitable, so the public has access to telecommunications network—the purpose of this provision is to ensure that these entities may be able to obtain, at preferential rates, advance services and functionalities for all their communication needs.

The chairman of the committee voted for it last year—last year's ranking member, this year's chairman. All members of the committee, not just Republicans, but all members of the committee, voted for that last year with the exception of the Senator from Arizona and the Senator from Oregon.

I know there is a good explanation as to what happened between last year and this, but last year, preferential rates were part of the bill, and this year they are some kind of a slippery slope.

Mr. BURNS. To reply to the Senator from Nebraska, had it been part of this bill out of committee—that is the only place I voted for, was out of committee. I would probably have voted for it again to get it out of the committee to get it to come to the floor of the U.S. Senate in order to move this legislation along.

Mr. KERREY. The Senator has included S. 1822, some special comments that indicate which provisions of S. 1822 he did not particularly like, and I have read that and I do not find any objection to providing the preferential rates to the various institutions.

My focus is the K-through-12 institutions.

Mr. BURNS. I say to the Senator that was a year ago, and I would have voted to get it out of committee.

Once we look at who will pay for it and who will pick it up, somewhere in this mix we have lost the consumer. That is where it is going to come. It will come in the form of higher rates for everybody.

I say if we do not do that, then the deployment of the technology will be slower to happen. That is where I am coming from.

Mr. KERREY. Those Members concerned about higher rates, I point out that the managers' amendment, that I am quite sure will be accepted, has some changes that allows for universal funding to be used to provide these preferential rates, which avoids the necessity for any kind of concern for rate increase.

Again, I close briefly, the Senator from Maine was kind earlier to vitiate a tabling motion. I am prepared to end this in this debate.

I say in summary, for me, we are making progress out there right now in States precisely because we have an opportunity to negotiate with telephone companies because they are trying to move from a rate-based system of regulation to a price cap system. This legislation takes away that leverage by saying that all States will move to price cap regulation. The progress we see being made out there will stop.

This piece of legislation with section 310 intact, this particular section intact, will give every single Member

who votes to retain this section in there, I guarantee, an awful lot of pride. I promise, from personal experience and visiting schools that are using computer technology, those schools that use this provision—and they will, there will be very few schools that do not find themselves saying this is a way to leverage the purchase of computers, the purchase of software, to begin to use the technology for math scores, reading scores, and writing scores—all the things that have been frustrating, as citizens, will allow Members to get quite excited.

I hope that Members will not support this well-intentioned motion to strike the section and allow section 310 to remain in S. 652. I yield the floor.

Ms. SNOWE. Mr. President, just a few final points that I think are important to make in response to one of the previous speakers, Senator BURNS.

First of all, the language that has been incorporated in the legislation before the Senate that was offered by Senator ROCKEFELLER, Senator KERREY, Senator EXON, and myself in committee extended the already existing universal service provisions within the legislation. Universal service has been a fundamental part of our telecommunication policy, and rightly continues to be part of our telecommunication policy before this Senate.

We extended the provisions to include schools, libraries, and hospitals because we think it is in the public interest. It is in our national interest.

Furthermore, I think it is important to note that this ultimately will save money. When we talk about the deregulation of the telecommunication industry, which is what this legislation is all about, many providers will reap enormous benefits as a result of the goal of this legislation. We want to make sure that the rural areas also reap benefits, that they are not removed from affordable access to the technological growth and development of the information superhighway. It will save money through telemedicine. Making sure schools have access will ultimately increase the economic growth of this country. This language is a wise investment that will ultimately save money.

In talking to rural health care centers and hospitals, they point out that through telemedicine they could communicate with some of the specialists, without transporting the patient or going to another hospital in order to get those services. They can do it through telemedicine.

Access may be there to some citizens, in a limited fashion in some rural health care centers, as Senator BURNS mentions. It is not pervasive, and certainly not in my State.

Without this language in the bill, then rural areas will not reap the full benefits of the information age because it will be more economically feasible for carriers to provide those services in densely populated areas, in urban areas—not in the rural areas of our country.

We have to ensure that there is a minimal threshold of affordable access to telecommunications services to our schools and our libraries and rural hospitals. We cannot make it more basic than that.

Finally, I would like to note that three of the Bell telephone companies support our provisions. We refined our language to conform to some of their concerns. NYNEX, Ameritech, and Bell Atlantic do not oppose these provisions.

I hope Members of this body will defeat the McCain amendment, which would strike the language that we have incorporated in the legislation before the Senate. I move to table the McCain amendment, and 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 clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SHELBY], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

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

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—58

Akaka	Exon	Lieberman
Baucus	Feingold	Mikulski
Bingaman	Feinstein	Moseley-Braun
Bond	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Campbell	Jeffords	Rockefeller
Chafee	Johnston	Sarbanes
Cochran	Kassebaum	Simon
Cohen	Kennedy	Simpson
Conrad	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Thomas
Dodd	Lautenberg	Wellstone
Domenici	Leahy	
Dorgan	Levin	

NAYS—36

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bennett	Grassley	McConnell
Brown	Gregg	Nickles
Burns	Hatch	Packwood
Coats	Heflin	Pressler
Coverdell	Hutchison	Roth
Craig	Inhofe	Santorum
Dole	Kempthorne	Smith
Faircloth	Kyl	Thompson
Frist	Lott	Thurmond
Gorton	Lugar	Warner

NOT VOTING—6

Biden	Helms	Shelby
D'Amato	Murkowski	Stevens

So the motion to lay on the table the amendment (No. 1262) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I note that a quorum is not present.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, I hope Senators will bring up their amendments. We are ready for amendments. As far as I am concerned, I would like to go deep into the night, but maybe others disagree.

I have been trying all afternoon to get the voting speeded up. We are ready for the next amendment, as far as I am concerned. I do not know if anybody has an amendment ready. And I have been seeking time agreements. But we can really move much faster. We could theoretically finish this bill tonight if we really get going. So I would appreciate Members' support in moving this forward. We are ready for amendments. Senator HOLLINGS and I ready for any amendments.

Mr. DOLE. Mr. President, I have talked with both managers of the bill to see what we could do to accommodate our colleagues who have commitments for the next couple of hours. But then you have colleagues who have commitments tomorrow morning. I am not certain we can accommodate everybody. But the key is to get an amendment laid down that will take a couple of hours.

I think the Senator from South Carolina may be prepared to offer his amendment.

Mr. THURMOND. Not yet.

Mr. DOLE. He is in doubt.

There is the managers' amendment that still has not been adopted, and the amendment by this Senator, and then the amendment by Senator DASCHLE.

Mr. HOLLINGS. We are trying to work those out. We will work those out if we can get another amendment up and relieve our colleagues here.

Mr. DOLE. I have given a copy of my amendment to Senator KERREY because I know his concern with the bill. If we need to furnish any additional information, we will be happy to do so. But we do need to get an amendment here.

Do we have a list of amendments?

Mr. PRESSLER. If the leader will yield, we invite any amendments. But we are prepared to go to third reading very soon if Members do not bring up their amendments.

Mr. DOLE. As I understand, the Senator from Maine, Mr. COHEN, is prepared to offer an amendment which will take approximately 1½ hours. I am not sure how much the people in opposition might want.

Mr. PRESSLER. As I understand, Senator THURMOND will have an amendment and Senator DORGAN. Those are the only outstanding amendments that I know of.

Will someone correct me if that is not true?

We have the Cohen amendment and we have the Thurmond amendment and the Dorgan amendment coming up. That is all that I know of.

Mr. DOLE. The Senator from Maine is prepared to enter into a time agreement of 1 hour and 30 minutes equally divided, if that is all right with the Senator from South Carolina.

Mr. HOLLINGS. Yes.

Mr. DOLE. May we make that request?

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Reserving the right to object, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. 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. KERREY. Mr. President, I have no objection to the unanimous consent to set a time for this debate.

The PRESIDING OFFICER. Is there further objection?

Without objection, it is so ordered.

Mr. COHEN. Mr. President, reserving the right to object——

Mr. DOLE. No second-degree amendments in order.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KERREY. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, as I understand it, we have agreed to an hour and a half equally divided, expecting a vote no later than—I would say what—a quarter of 8?

Mr. PRESSLER. That is correct.

Mr. COHEN. If it can occur sooner, can Senators be on notice that if time is yielded back we will vote prior to that time?

Mr. PRESSLER. For the convenience of Members, perhaps we can agree it will be an hour and a half. It does not make any difference to me. I am for voting as soon as possible.

Mr. COHEN. A 7:30 vote.

Mr. PRESSLER. And we will divide the time equally.

Mr. COHEN. I ask unanimous consent that there be no second-degree amendments.

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

AMENDMENT NO. 1263

(Purpose: To provide for the competitive availability of addressable converter boxes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself and Ms. SNOWE, proposes an amendment numbered 1263.

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

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

The amendment is as follows:

On page 8, between lines 12 and 13, insert the following:

(15) When devices for achieving access to telecommunications systems have been available directly to consumers on a competitive basis, consumers have enjoyed expanded choice, lower prices, and increased innovation.

(16) When recognizing the legitimate interest of multichannel video programming distributors to ensure the delivery of services to authorized recipients only, addressable converter boxes should be available to consumers on a competitive basis. The private sector has the expertise to develop and adopt standards that will ensure competition of these devices. When the private sector fails to develop and adopt such standards, the Federal government may play a role by taking transitional actions to ensure competition.

On page 82, between lines 4 and 5, insert the following:

SEC. 208. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

Part III of title VI (47 U.S.C. 521 et seq.) is amended by inserting after section 624A the following:

"SEC. 624B. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

''(a) AVAILABILITY.—The Commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of addressable converter boxes to subscribers of services of multichannel video programming distributors from manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service. Such regulations shall take into account—

''(1) the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and

''(2) the need to ensure the further deployment of new technology relating to converter boxes.

''(b) TERMINATION OF REGULATIONS.—The regulations adopted pursuant to this section shall provide for the termination of such regulations when the Commission determines that there exists a competitive market for multichannel video programming services and addressable converter boxes among manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service.''.

Mr. COHEN. Mr. President, I rise this evening, along with Senator SNOWE, to offer an amendment that is a pro-consumer amendment. It is a pro-competition amendment that is focused on one narrow area of telecommunications that I truly believe needs more competition.

Basically, what we have is a situation in which cable companies will offer their cable service and offer the so-called set-top boxes, a cable box essentially, that you need to rent in order to carry the cable signal.

Obviously, cable companies are in the business to sell their signals and their programming, and they want to protect the integrity of that signal and that programming. I think that is not an unreasonable request. It is one that we ought to protect.

The difficulty, however, is that there is little, if any, competition in the set-top box market. As a matter of fact, what you have is an essential monopoly that has been granted to the cable companies.

We had a situation in Maine a short time ago where one company increased the monthly charge by almost $3, just for the privilege of renting a box in order to carry signals that subscribers were already carrying. A furor erupted over that.

There is no real way to deal with this situation other than introducing competition. What I am seeking to do by this amendment is to allow the FCC the authority to call upon the private sector to develop a standard that would say, ''Here is the technology whereby we can protect our signals but also allow for competition in the manufacture and distribution of these set-top boxes.''

If we go back historically, we look at what happened to telephone companies. Decades ago, telephone companies would say, ''You have to rent our telephone. If you don't rent our telephone, you don't get any telephone service.''

Of course, times have changed. We now can walk into Circuit City, Radio Shack, Best Buy, or any of the supermalls, and we can find 20 or 30 different types of telephones. The signal has been protected. We can plug the telephone into the wall. We still have to pay the Bell companies, AT&T, MCI or whoever is carrying the signal. But the signal is protected.

As a result of competition, we have a wide variety of choices in other markets—VCR's, television sets, computers, video game players, and stereo systems. In these markets, we have competition. What this amendment seeks to do is introduce competition into the set-top box market.

Mr. President, I really believe that those who are opposed to this amendment—I have seen a letter circulated—argue that somehow this amendment represents more regulation. Those who argue against this amendment are for monopoly, not for more competition.

What we seek to do is to allow the FCC to call upon the private sector to develop the standards, and those would come—they should come—in a reasonably short period of time. We can do it today with analog technology. I am told that digital technology is moving along very rapidly. For example, one

could take a credit card, or something that looks like a credit card, and the cable company that is sending the signal would have their code on that card. You could not receive the programming without inserting that card into the set-top box.

That is something that is not too far away on the horizon. It may not even be necessary to have a set-top box the way technology is running today. But even if we are dealing with analog technology, competition can exist in the manufacture and distribution of the boxes, just as we have competition in the manufacture and distribution of telephones today.

So for those reasons, I am submitting the legislation. I am hoping that the Members of the Senate will agree that if we are trying to stimulate more competition, give consumers more choices at lower prices—which, after all, is the goal of this legislation—then it should be accepted.

I understand there are several States where these set-top boxes are manufactured, and the manufacturers like being able to go to the cable companies and say, ''Here, buy our box.'' If I were they, I would enjoy that as well.

But if we are really talking about competition and giving consumers greater choices and lower prices, there is absolutely no reason why this amendment should not be accepted by the overwhelming majority of those people who are supporting deregulation, who are supporting this telecommunications revolution, and who want to see more competition.

With that in mind, Mr. President, there may be others on our side. I know Senator Snowe is here, and she is a chief cosponsor of the legislation. It is something that is long overdue. The problem we have today is there is no free market. If we were back 30 years ago in the telephone industry, we would still have the old black phone and still be paying rent to AT&T. If we had this information superhighway, we would say basically you cannot own a car, you have to rent one of our cars.

What this amendment says is we are going to give the consumer the opportunity to buy set-top boxes from any source they choose and, at the same time, allow for the protection of the signal by the cable company that is sending it forth. I believe this represents a reasonable approach.

By the way, there were questions raised about my earlier legislation (S. 664) on this issue. Was I really trying to bring in the computer industry? The answer is no. Was I trying to bring in the cellular phone industry? Again, the answer is no. To address the concerns of these industries, our current amendment focuses on the lack of a competitive market for cable boxes. We have excluded cellular telephone communications. We have excluded anything relating to computers. The legislation is designed solely for set-top boxes. We have no desire or intent to regulate cellular phone or other telecommunications markets.

I urge those who are now advocating competition in order to give consumers lower prices and more choice to support the amendment.

I reserve the remainder of my time.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Maine, Senator COHEN, and I join in cosponsorship of this legislation to ensure that set-top boxes are competitively available. I commend him for offering this legislation because I think in the context of the legislation before us today, this becomes a very important issue.

Currently, as Senator COHEN has noted, consumers have absolutely no choice with respect to set-top boxes. They are forced to rent them from cable companies, often as a requirement to receiving cable signals.

This issue was highlighted recently when a cable operator in Maine planned to scramble signals and require their customers to rent set-top boxes at a predetermined price.

This obviously did not go over very well because it did not offer a choice to the consumers. Rather, they were required to rent set-top boxes for an additional fee added to their cable costs in order to unscramble the cable signal.

Fortunately, the issue was resolved, but I think it underscores an important point, the need to ensure that consumers seeking to access cable services have options. This amendment would allow consumers to purchase the set-top box from a local retail store, or to lease or purchase a box from their cable provider. They would be able to choose boxes that will work with their own television set and continue receiving the cable programming channels to which they have subscribed.

When set-top boxes are available in a competitive market, consumers will benefit from lower prices, increased flexibility, and a higher quality product. Competition will ensure technological innovation in set-top boxes, as companies compete to provide a better product at lower prices.

I recognize that as companies try to provide consumers with new and changing technological features, there are bound to be growing pains. In the case of the State of Maine cable provider, the requirement to rent set-top boxes was intended to provide consumers with added flexibility through addressable programming—but instead it limited consumer choices because it required them to rent the set-top boxes and bear the additional cost, even if they wanted to receive the same services. I do not think that is a mandate, nor is it a price, that consumers should be forced to bear. I think certainly we should encourage competition, and I think this amendment does this.

This amendment requires the FCC to assure that set-top boxes used by consumers to access cable programming are available in a competitive market. This amendment also continues to recognize the legitimate interest of cable operators in ensuring the delivery of cable services only to those consumers which have paid for them.

Present technology, however, can ensure the integrity and safety of cable operators' signals without requiring delivery of set-top boxes only through the cable company.

In fact, the Electronic Industries Association has developed a draft standard for security cards, similar to credit cards, that could be inserted into set-top boxes by cable companies to protect their system, while allowing consumers to use a commercially-sold set-top box.

I think it is important to mention this issue because I know that cable companies were concerned about providing safeguards for their own signals. And this legislation provides for that, takes that into account. Under the amendment the FCC has the responsibility and obligation to consider the legitimate needs of owners and distributors of cable programming to ensure system and signal security, and to prevent theft of programming or services.

It is interesting to look back on telephones prior to the deregulatory environment, specifically, think back to 1978—to give an example of how much costs have dramatically changed in telephone services, back in 1978, it cost $8.10 a month to rent a touch-tone telephone from AT&T—a noncompetitive rental that would cost about $18.60 in 1994 dollars, plus the touch-tone and extension fees. As you know, the AT&T monopoly was broken up back in 1984. With that decision, the non-competitive telephone rental market was concluded.

In today's competitive market, a similar phone can be purchased for less than twenty dollars—about the same cost as a monthly rental from AT&T would have cost in today's dollars. In 1983, it cost $3.03 to rent a standard black telephone—$4.63 in 1994 dollars. Later that same year, when AT&T customers were allowed to buy the phones already in their homes, the very same phone could be purchased for $19.95.

We have learned that competition did not threaten the security of the phone networks, and consumers benefited from technological innovations, lower prices, and expanded choice. So I think that a ''yes'' vote on Senator COHEN's amendment will bring competition to the market for set-top boxes, I think, benefiting consumers all across America. I think the case has been made absolutely clear. I urge a ''yes'' vote for consumer choice and improved competition.

I yield the floor, Mr. President.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I must rise in opposition to this amendment. But I do want to praise Senator COHEN, Senator SNOWE, and others who have worked on this, and who have done a good job of trying to find a solution.

I know that the intention of the amendment is to permit unbundling of cable boxes so that vendors other than cable companies can offer them.

While it is a good concept, the amendment is faulty.

Consumers should be able to obtain their set top boxes from vendors other than their cable provider. However, urging the FCC to step in to find a solution may not be the right way to proceed.

This amendment is drafted in such a way that I cannot imagine the FCC reacting in any other way but to try to issue standards governing set top boxes.

Standards should be set by industry. And, I understand that there has been difficulty in getting cooperation from industry in establishing standards. A uniform standard would make it easy for vendors and manufacturers who wish to get into the business. However, there is no uniform standard among the nation's cable operators.

Cable is going to have to change. Competition will force change. DBS has licensed several satellite dish providers, and the cost of DBS will continue to decline. The percentage of DBS will increase, and cable will have to compete to keep its customers.

There simply is no need for Congress to mandate further FCC studies or regulations on the subject of set-top boxes. The proposed amendment on set-top boxes is not sound for a number of reasons, including: The retail sale of cable descramblers could increase cable theft; increased cable theft will raise costs for cable systems and customers; widespread cable theft will surely discourage increased investment in cable programming and cable distribution facilities.

The proposed amendment is premised on the following four myths:

Myth 1: Cable boxes are no longer necessary to secure video programming.

Myth 2: The use of new digital technologies with replaceable ''smart cards'' will solve cable's security concerns.

Myth 3: Cable boxes are like telephones.

Myth 4: Retail availability of cable boxes will reduce prices to consumers.

Decoder boxes in homes are the only viable form of security for video service. While there are other ways to secure a program service, all of the known techniques have problems that make them useful only in limited circumstances. For example, negative traps cannot be used with multiple pay services without interfering with the signal quality of other programs delivered. Interdiction technology is costly and not totally reliable.

Since cable theft raises the cost of doing business for cable systems and, ultimately, cable consumers, product security is essential to the economic well-being of cable operators, cable consumers, and program networks. In addition, product security is vital for continued investment in cable programming and cable distribution systems.

Theft of cable service is a multi-billion dollar problem today. The retail sale of cable descramblers and would increase cable signal theft significantly. A person with a desire to modify cable boxes would be able to purchase any number of them at retail, modify them to illegally receive encrypted services, and then resell them to others at whatever cost the market would bear.

Signals protected by digital techniques are not immune to attack. The security of other television services that have depended on digital techniques and smart cards have been quickly compromised. Indeed, such security systems used by program providers in Europe were broken within months of their deployment.

Proponents of set-top box legislation argue that even if system security is breached, the smart card can be changed. The problem for both consumers and cable operators is the expense of such a scheme: Smart cards cost $30–$40 apiece. Sending out new cards to all customers every time signal security is breached would become a prohibitive recurring cost.

Telephone architecture and cable architecture are radically different. The telephone instrument itself does not grant consumers access to the services being sold by the telephone company. The telephone set is merely the instrument that consumers need to use the network. Access to telephone services is provided by a line that connects consumers to the telephone company's central office. In order to prevent consumers from using a service, such as dial tone, the telephone industry physically disconnects the consumer's wire at the central office. Consumers cannot steal the service.

Cable companies, however, must protect their services at the consumer's home, since the signals of all program services are present at all times in the cable system's distribution system.

Cable operators scramble or encrypt program signals to prevent their unauthorized reception. Access to the encrypted product which is present in every home is given only to consumers who have purchased it by providing a set-top box containing the appropriate descrambling circuitry.

Even telephone companies entering the video-delivery business have recognized that the most efficient way to deliver a video to consumers is to replicate cable television architecture, and they are deploying that approach in their new distribution networks.

Current law requires cable operators to provide decoders and descramblers to consumers at cost. S. 652 does not change existing law. The retail cost of a descrambler is 10 times higher than the annual rental fee consumers now pay.

Cable companies deploy new set-top technology every 5 to 7 years. This obsolescence cost is far less for a consumer paying an annual rental fee based on actual cost than for consumers at retail.

Cable companies utilize different scrambling technologies from market to market, requiring cable boxes to be franchise specific. Consumers moving from one franchise area to another pay far less by renting their set-top equipment than by purchasing new boxes at retail.

For all the reasons I have mentioned, we do not need to place yet another requirement on this industry, particularly one which harms both paying customers and cable operators.

Therefore, I oppose the amendment.

Mr. COHEN. Mr. President, let me take this opportunity to add a few comments.

First, let me add my distinguished colleague, Senator THURMOND, as a cosponsor to the amendment.

Let me try to respond briefly to the comments that have been made. It seems to me these are the very same arguments that AT&T made 30 years ago: ''If you do not allow us to control the phone, we will lose our signal. We will have people who will be getting access to our telephone service without paying for it.''

The objective of this amendment is to make sure the FCC calls upon the private sector to develop the standard that will protect the cable signal. I do not want to see the cable companies lose the benefit of programming and the costs of doing business by having people engage in thievery. What we want to do is make sure that they are, in fact, protected. That is precisely the wording and the intent of the language of the amendment.

The Senator from South Dakota said competition will force change. But that is the problem. There is no competition in the set-top box market; there is a monopoly. We want to have competition. We want to force change. We want to have 10 different types of boxes or whatever other devices might be developed in the future, and not grant a monopoly to any one of the cable companies.

Yes, competition does force change. We have seen it in virtually every aspect of our lives, from the telephones, the VCR, to the computers, to everything. We go to Circuit City, Radio Shack, any of these major malls, and we see an absolute abundance of electronic devices by virtue of having a free market.

There is no free market today with set-top boxes. Take, for example, one cable company in Arlington, VA. Here is what they say in their ''Policies and Procedures'':

Please remember . . . that channel selector boxes with descrambling capability can only

be obtained from Cable TV Arlington. In fact, should you see advertisements for cable equipment that have descramblers in them (so-called ''pirate boxes'' or ''black boxes'') you should understand these devices are illegal to sell or to use, unless authorized by CTA [Cable TV Arlington]. Because of the need to protect our scrambled services, Cable TV Arlington will not authorize the use of any descrambler not provided by CTA. CTA does not recommend purchasing channel selector boxes from other sources.

Companies say ''Rent our boxes.'' People cannot buy them.

If you have more competition, you obviously will have greater consumer choice. You will have more manufacturers. You will have diversity. You will have quality, as well.

Our amendment has a security provision, and for those who are concerned about whether the FCC is now going to interject itself and take over, we have also added a sunset provision. I do not want to see the FCC have long-range regulatory authority. But we are talking about breaking up the monopoly by saying the FCC shall go to the private sector, give them enough time to develop a standard, and if they do not develop a standard, propose a temporary standard. And it is temporary under this legislation as drafted.

Who supports this, Mr. President? Well, I have a letter here from the Information Technology Industry Council [ITI]. I will have it printed for the RECORD.

We also have the support of the Cellular Telecommunications Industry Association [CTIA]. They were originally concerned with the bundling provision in my earlier legislation. Because of this concern, I deleted the bundling provision in the amendment. So they are now in support and do not oppose the amendment.

Who is opposed to it? Obviously, the cable companies are opposed to it. They are the ones who are saying no; we like having this monopoly. We want to control the boxes. We want to rent them. We do not have to worry about competition. We do not have to worry about it at all.

The companies, obviously, who manufacture the boxes like going to a couple of cable companies and saying, ''Here is our product.'' They do not want to be forced to engage in competition for the manufacture of these devices, be they boxes or some other type of device that the future will show us.

I think we have also addressed the issue of security. We have addressed the issue of limited FCC regulatory power by saying it is only temporary. The core of this amendment is more competition, lower prices, better quality, and more choice.

Mr. President, I make these comments on behalf of many of my colleagues who have served on the Judiciary Committee, as well. Perhaps they will be coming to the floor before debate is concluded.

The notion that somehow we have to be concerned that if we allow any competition, this will actually increase the theft of cable signals, I think is precisely the same argument that was made by the telephone industry 30 years ago.

I think we have come a long way since then by virtue of competition. The consumer certainly has benefited. I think that this is precisely what needs to be done with this area of telecommunications that is now controlled by monopolies.

I reserve the balance of my time.

Mr. President, I ask unanimous consent to have printed in the RECORD the material previously mentioned.

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

INFORMATION TECHNOLOGY
INDUSTRY COUNCIL,
June 8, 1995.

HON. WILLIAM S. COHEN,
U.S. Senate,
Washington, DC 20510.

DEAR BILL: ITI, the Information Technology Industry Council, supports your amendment to S. 652 that would enhance the competitive availability of equipment used to access multichannel video programming services. Competitive markets for these devices, like the one in which the computer industry has thrived, will benefit consumers and industry alike.

ITI represents the leading U.S. providers of information technology products and services. Our members had worldwide revenue of $227 billion in 1994 and employ more than one million people in the United States. It is our member companies that are providing much of the hardware, software, and services that are making the ''information superhighway'' a reality.

We have been working with Kelly Metcalf of your staff over the last several weeks and believe that, as modified, the proposed amendment will improve consumer choice and stimulate competition and innovation in the market for the converter boxes and other devices that consumers will use to access video and other services provided by video programmers. This will ensure that consumers of multichannel video services—whether provided by cable systems, direct broadcast satellite, video dialtone networks, or other means—will be able to purchase equipment necessary to receive programming and services separately from the video services. This will allow independent manufacturers and retailers, who have no relationship to the service provider, to offer such equipment directly to consumers.

We appreciate your leadership and your willingness to work with us to address our concerns on earlier versions of the amendment.

Sincerely,

RHETT DAWSON,
President.

CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION,
Washington, DC, June 8, 1995.

HON. WILLIAM S. COHEN,
U.S. Senator,
Washington, DC.

DEAR SENATOR COHEN: The wireless industry, through CTIA, has worked closely with you and your very capable professional staff regarding concerns of the commercial mobile service industry about restrictions and regulations being considered which would affect the industry's competitive and highly diverse marketing and distribution channels for mobile telecommunications equipment and services.

We are pleased that the amendment which you have offered does not affect the commercial mobile radio services equipment market, nor impose additional regulatory restrictions which would slow or deter the current ability of existing and new CMRS competitors, as well as retailers and manufacturers, to aggressively market mobile equipment and services to consumers from numerous outlets, including national, regional and local retailers, specialty stores and dealer stores.

The wireless industry appreciates the concerns that you have expressed about some aspects of the telecommunications equipment marketplace and we thank you for narrowing the scope of your amendment to address those legitimate concerns.

Very truly yours,

THOMAS E. WHEELER,
President/CEO.

Mr. KERREY. Mr. President, I would like 10 minutes to speak in favor of the Cohen amendment.

Mr. COHEN. I yield 10 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I have viewed the amendment and the company documents and listened to the Senator from Maine. I must say, he is entirely consistent with what this legislation, at its best, proves in a couple of ways. We will have the opportunity to discuss and debate this later.

It says that if consumers have a competitive choice—and by that, I mean that if I do not like what I got, I go someplace else.

The distinguished occupant of the chair has been in business and understands what choice is. If you have a product that your customer wants to buy, your customer buys it. If you do not, if the price or quality is wrong, he goes somewhere else. And in that kind of environment it tends to focus the mind. It tends to say to you, ''I better figure it out and give that customer the right price.''

The customer says to me, ''I do not like black, I like blue, and if you do not give me blue, I will go down the road here where they are manufacturing it in blue.'' That is the kind of competitive choice that produces the kind of quality and the kind of choices that in fact we have seen in other sectors of our economy and that we are trying to do with this particular piece of legislation.

I understand the opposition to it. I understand certain sectors of the industry are worried about what is going to happen in a competitive environment. But let us not say to our citizens, as we are going through this debate as we are, that we are going to try to use competition to give you something that you currently do not have right now and then kind of pull back, which is what we would do if we do not accept this amendment, in my judgment.

I understand there are some concerns about what sort of impact this might have upon rural cable or smaller cable operators. I am prepared to surface that kind of concern. We just did that, in fact, with the Snowe-Rockefeller amendment in education.

If you have a particular problem where somebody is not able to survive, if you can make a good case where there ought to be some direct subsidy to enable them to survive, let us do it. But let us not take the entire sector, this piece of the electronics market, and shut down development of it, which in my judgment we are about to do unless we allow competitive choice to occur as we again are trying to produce a piece of legislation that pretends to be in favor of competition as a way to make the U.S. economy and this sector of our economy not only more productive but satisfy the needs of the consumers at the other end.

As I said in some earlier comments—and I will try not to run beyond my 10 minutes; you can hammer me down when I have gotten to the end point—on previous occasions, this piece of legislation we are considering, S. 652, is not a small bill. It is a big bill. It is going to have a major impact on every household in America.

From my experience with the divestiture in 1984, I remember for the first 2 or 3 years people were not happy. They were upset. They did not like all the choice. They were confused about it. We have to make sure, if there is a philosophy here that we believe will produce lower prices and higher quality, we have to be sure we will stick with it. But if we do not stick with it, what is going to happen is you are going to continue to have artificial separations that make it difficult for those entrepreneurs to come to our households and say, ''I am prepared to sell you a packaged service. Here is my price and what I will give you. And if you do not like it, there are lots of other people who will come here and try to nail down your business.''

That is the environment we are trying to create, and if we do not create it, consumers will say to us, our citizens will say to us as consumers, that we have gotten a good deal out of this thing. It has been good for us.

If we preserve any sort of monopoly out of concern, ''I am not sure what is going to happen here, maybe I better hedge my bet a little bit,'' it seems to me we are going to find ourselves wondering why we supported this legislation.

I make it clear, even with this amendment adopted, I need to have some additional changes in this before this bill is going to get my support. But this particular amendment is entirely consistent with what I think this legislation needs to do before we enact it.

Mr. LEAHY. Mr. President, I join as a cosponsor of this amendment and commend my colleagues for their leadership. Just last year, Senator THURMOND and I proposed an amendment along the same lines to promote consumer availability of converter boxes. We were delighted when our colleagues from Maine took up the fight and previously noted our support when they appeared before the Antitrust Subcommittee earlier this year.

This amendment seeks to encourage consumer options and competition. It uses regulatory authority only as a last resort when competition is not working, when consumer choice is not available, and where the private sector and the marketplace fail to develop standards that ensure competition. It is, of course, our hope that this regulatory authority never need be exercised.

Mr. HELMS. Mr. President, the pending amendment requires the Federal Government to jump in and set standards for technology and this will have a chilling effect on new technologies. Not only that it will compromise the security devices used in cable TV that enable parents to protect their children from indecent and violent programming on television. Allowing the FCC to set standards for technologies will have an adverse impact on new technologies being developed.

Mr. President, in order to protect their services, cable television operators have used increasingly sophisticated and cost-effective methods to secure that signals against theft. Current technology does this by including the security devices in a converter placed on or near the television set.

Security for these programs is essential for parents who wish to protect their children from the deluge of violent and explicitly sexual material so regrettably abundant on many cable channels. If the FCC, for whatever reason, sets a weak or easily compromised standard, it will be much easier for our children to gain access to trashy and violent programming.

Let me state for the record a few examples of the type programs to which children may gain access: HBO's program (called ''Real Sex'') in which a former porn state describes sexual acts and how men can dress like women: and the Playboy Channel, the X-rated movies on pay-per-view channels, and the violent R-rated movies.

Concerns over the lack of security are very real: the cable television industry is already experiencing a significant level of theft of service-approaching 15 percent in the largest systems. This cost cable operators and owners of intellectual property an estimated $4.7 billion per year. Satellite television was victim to theft of service rates in the late 1980's which approached 65 percent of the market.

This amendment would turn over to Federal bureaucrats the responsibility for making the determination as to how much security is adequate. That determination will be binding on owners of intellectual property and network providers. This obviously is unacceptable.

The Federal Government should not be charged with setting the standards for technology. Standard setting for technology belongs in the hands of those in the private sector who have the expertise and the incentive to protect intellectual property.

A national and uniform security standard actually facilities theft by giving criminals a single target; it also stifles the necessary innovation for security to stay ahead of high-technology hackers.

Mr. President, I am unalterably persuaded that property owners, and those acting for them, should have the right and responsibility to determine the level and method of security appropriate for their needs. That is clearly an economic business decision—not a matter for bureaucrats determination.

We must let new technologies develop to preserve security, experience the development of increased retail availability of equipment and avoid the consequences of the law of unintended results that usually accompanies regulation.

The Cohen amendment should be rejected.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I wonder if the Senator from Maine would allow us, within the unanimous consent agreement, to go to the managers' amendment that we have worked out and we wish to have agreed to. We are not going to change anything here. This will take about 5 minutes at the most.

Mr. COHEN. I have no objection.

Mr. PRESSLER. For the information of everybody, we will stick with the 7:30 vote. There is no change. There are more amendments to this and other speakers are welcome to come to the floor.

Mr. FORD. Mr. President, could the Senator refrain for just a moment?

It is all right, Mr. President.

Mr. COHEN. I assume it will take about 5 minutes after the time?

Mr. PRESSLER. Yes. It will take no more than 5 minutes.

Mr. HOLLINGS. Mr. President, this is a managers' amendment. We worked it out on both sides and we think this is a good use of time. We have been looking for the opportunity. We cleared it with those Senators. I yield.

Mr. PRESSLER. Mr. President, I ask unanimous consent to set aside the Cohen amendment for no more than 5 minutes.

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

MODIFICATION TO AMENDMENT NO. 1258

Mr. PRESSLER. Mr. President, I call for the regular order with respect to amendment No. 1258. This is a modification of the managers' amendment.

I send to the desk a modification of our amendment, the amendment of Senator HOLLINGS and I, and ask the amendment be modified accordingly.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 7 of the amendment, beginning with line 22, strike through line 4 on page 8 of the amendment and insert the following:

''(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only

through a separate subsidiary company that is not a public utility company.

''(2) OTHER UTILITY COMPANIES.—Each State shall determine whether a holding company subject to its jurisdiction—

''(A) that is not a registered holding company, and

''(B) that provides telecommunications service,

is required to provide that service through a separate subsidiary company.

''(3) SAVINGS PROVISION.—Nothing in this subsection or the Telecommunications Act of 1995 prohibits a public utility company from engaging in any activity in which it is legally engaged on the date of enactment of the Telecommunications Act of 1995; provided it complies with the terms of any applicable authorizations.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'public utility company', 'associate company', 'holding company', 'subsidiary company', 'registered holding company', and 'State commission' have the same meaning as they have in section 2 of the Public Utility Holding Company Act of 1935.''.

On page 8 of the amendment, between lines 5 and 6, insert the following:

On page 36, line 13, strike ''within 9 months'' and insert ''not later than one year''.

On page 18 of the amendment, between lines 10 and 11, insert the following:

On page 74, line 1, strike ''(2) SEC JURISDICTION LIMITED.—'' and insert ''(2) REMOVAL OF SEC JURISDICTION.—''.

On page 18 of the amendment line 12, before the period insert the following: ''and insert 'to grant any authorization'''.

On page 18 of the amendment, between lines 17 and 18, insert the following:

On page 74, line 12, strike ''contracts.'' and insert ''contracts, and any authority over audits or access to books and records.''.

On page 19 of the amendment, between lines 3 and 4, insert the following:

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

On page 22 of the amendment, beginning with ''The'' on line 23, strike through line 24.

On page 13 of the amendment strike lines 14 through 17 and insert the following: ''is amended by adding at the end the following:''

On page 13 of the amendment, line 25, insert closing quotation marks and a period at the end.

On page 14 of the amendment, strike lines 1 through 3.

On page 9 of the amendment, line 24, strike ''120 days'' and insert ''180 days''.

On page 7 of the amendment, line 9, before the period insert ''so long as the costs are appropriately allocated''.

Mr. PRESSLER. Mr. President, these modifications represent minor and technical changes in the public utility company provisions, preserve current law regarding the sunset provision of section 628 of the Communications Act of 1934, and extend the period for certain market opportunity determinations from 120 days to 180 days.

Mr. President, following the remarks of my colleague, I urge the adoption of the amendment.

Mr. HOLLINGS. Mr. President, it has been cleared on this side. I join the Senator from South Dakota.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1258), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I ask unanimous consent the amendments included in the managers' amendment be treated as original text for purposes of further amendment during the consideration of the bill.

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

Mr. KERREY. This manager's amendment allows the FCC to modify those provisions of the modified final judgment (MFJ) that are not overridden or superseded by the bill. Does this provision of the Manager's amendment allow the FCC to change the provisions regarding the entry of the Bell operating companies into long distance or manufacturing?

Mr. PRESSLER. No. The amendment is intended, to allow the FCC to modify those provisions of the MFJ that this legislation would not modify or supersede.

Mr. KERREY. The manager's amendment changes the definition of ''telecommunications service'' by deleting a sentence concerning the transmission of information services and cable services. My question is whether the deletion of this sentence will affect the scope of many of the bill's substantive provisions.

For example, section 254(a) preempts State entry restrictions on the provision of ''telecommunications services.'' Does the new definition mean that States would be allowed to restrict entry into the business of transporting information services?

Section 254(b) ensures that States can preserve universal service for ''telecommunications services.'' Does the new definition mean that States could not preserve universal service for the transmission of any information services?

The bill provides detailed requirements that must be satisfied before the Bell companies may offer interLATA ''telecommunications services.'' Does the deletion of that sentence mean that the Bell companies may provide interLATA transmission of information services without complying with the requirements of this legislation?

Mr. PRESSLER. The answer to each of those questions is ''no''.

The deletion of this sentence is intended to clarify that the carriers of broadcast and cable services are not intended to be classified as common carriers under the Communication Act to the extent they provide broadcast services or cable services.

AMENDMENT NO. 1263

Mr. PRESSLER. Mr. President, I now move to go back to the Cohen amendment. I say to Senators, a vote has been set for 7:30. Any Senators wishing to speak on this amendment or on the bill, I invite them to the floor, if that is agreeable with the Senator from Maine.

I do have some closing, about 5 minutes of closing remarks on the Cohen amendment, but I will hold those over for a bit.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Who controls the time in opposition?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I yield as much time as the Senator from Kentucky wishes.

Mr. FORD. I do not want very much. I rise more in being inquisitive here rather than being in opposition to the amendment.

I understand what my friend from Nebraska says about competition. You come in the front door with a piece of equipment and you offer it for a certain price and if that is a little too high, there is always somebody else who will knock on the door and sell you something different.

Not many people go out in rural areas and drive 5 miles from customer to customer. They like to stay in town where you have houses and lots and there are 15 customers on one block rather than two customers in 15 miles.

My rural cable people are very concerned about this particular amendment, and I will tell you why. One, they are not sure what this will do to the small cable operator who would have maybe 250 or 500 customers, maybe 1,000, in a rural area. Will they be able to accommodate? Can they get the accommodation? Will they be able to carry things that will not be unscrambled through the boxes? Of course, our friend who promotes this amendment says everything is protected; there are temporary rules. Temporary rules that go into permanent rules? How soon will that be done? I have a lot of concern for the little people, particularly in rural areas.

There must be something special from all these technology groups. They must make the boxes and they want to manufacture them and sell them. I do not blame them.

I hate for me to be the vehicle to help them sell their products. I think they ought to be competitive, and if they have a better product, they can sell to the cable companies, if that is what is in it. But I am going to be concerned about my rural area and, somehow, I think if we could have a short study period here, perhaps we could eliminate their fears. Because, if the small rural cable operator cannot make it and then he has a financial problem and he is being pressured by the larger cable companies to buy him out, we find there will be less and less competition in the cable community than there is now out there. And the struggling small cable operator, I think, is

getting in trouble more and more all the time. They are not concerned; they are frightened.

They are not concerned; they are frightened. When you talk to them about having to borrow money to enlarge to try to keep up with the new technology and with the new rules, all of that, it becomes almost unbearable weight; to hire lawyers, to do all these things, and the expense is just almost unbearable weight.

I hope that Senators will look at this and have a study. I do not want a long study. I just want somebody to look at it and to convince the small cable operators that this is a good thing for them, that they will not be hurt, that they will be able to have—not many small communities have Radio Shacks. They may have a Wal-Mart about 15 or 20 miles away they can drive to, but they are not going to have a Radio Shack or Electric Avenue or all of these things right close by.

So, Mr. President, I am expressing some frustration as it relates to what we do to the small operator, the small entrepreneur. Let us put his life into it. And he is still struggling to be in competition with the major that is knocking on his door every day saying, ''You cannot make it fellow. Let us take it over.''

I would want the Senator from Maine, if he could—he is a smart individual and is a good word merchant—if there might be some way that we could have a short period of study that would maybe just apply to small cable operators and not major ones. I hear they are going to have a credit card. Just stick it in the box, punch it, and you get your program. Not many out in the rural areas are going to have a box you can put a credit card in, punch it, pull it out, and you will get certain programs. It will be very difficult for them to do.

I am here trying to protect the small operator in my rural constituency, and I hope I will not have to oppose this amendment. I hope we can have some sort of a study as it relates to really finding out whether all of these things are possible, all of these things are doable, this competition is going to be out there, and that everything is going to be great. If you can convince my small operators or me, I would be more than willing to be an advocate of this amendment. But I was always brought up believing when in doubt, do not. I am in doubt about what this does to my small cable operators.

Mr. President, I hope that we will give serious consideration to a study. I do not want a long one, but at least a period of time to be sure that my small cable operators will not be damaged in their operation and that their financial future will not be jeopardized because of this.

To go back to Abraham Lincoln, who said, ''When progress is made somebody gets hurt.'' That is when Abraham Lincoln was defending the railroads against the barge and ferry operators when trying to build a bridge across the Missouri River. The railroad won and it hurt the ferry operators and the barge operators. So Mr. Lincoln said, ''When progress is made somebody gets hurt.''

I am trying to prevent the hurt here. I have not been convinced that this will not hurt my small operators.

I yield the floor. I thank the Senator for giving the time.

Mr. PRESSLER. Mr. President, I think the goal of the Senator from Maine is very laudable, and I also believe we have to jog a little the cable industry to set a standard because they have been very slow to do so. I think the cable industry needs to get the message that we want better action from them in setting the standards. But when I get to boiling down to my concern about this amendment, it is that it says, ''The commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of * * * convertible boxes, subscribers, and services of multi-channel video programs and distributors from manufacturers,'' et cetera. The part that worries me is that the ''commission shall adopt regulations.''

I am concerned that this might lock technology in. I fear it may be likely that the industry will not adopt a common standard in a timely fashion, thus involving potential standard setting by the FCC. The standards created by a Government entity may result in technology being locked in place which could result in stifling innovation. If the computer industry had been subject to a similar legislative mandate when interoperability was a real problem for early users of personal computers, I doubt our industry would be as competitive as it is today. After all, what is the top box but a small computer. If we have a standard developed by the FCC for these boxes, I think we will not have the future improvements and innovations that could occur if we simply leave the standard setting to the industry.

I cite the innovations that we have had in computers where there has not been a standard set by Government and innovation has gone forward very quickly. On the other hand, I would jawbone the cable industry very much to set a private standard so there could be more competitors.

Mr. President, this concludes my remarks on this particular amendment. I am sure there are other speakers. We have from now until 7:30, depending on Senators coming to the floor, but we are open for opening statements or statements on this or any other part of the bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. 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. KERREY. Mr. President, the Senator from North Carolina is getting ready to speak.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Thank you, Mr. President.

Mr. President, in the June 2, 1995 edition of the Washington Times, there appeared a front page article which was another reminder of the serious problem of theft of intellectual property. The article makes reference to the extraordinary efforts to which signal thieves have gone to steal programming carried by cable television systems, such as movies and special programs. They obtain cable television converters, normally through illegal means, modify them to compromise the security, and then sell them to either knowing or unwitting consumers so that they can steal the programming.

Indeed, in a recent article reported in the February 20, 1995 edition of Multi-Channel News that these signal thieves are increasingly resorting to armed robbery to obtain these boxes.

Mr. President, as both articles point out, this theft is a crime. It is viewed very seriously by Federal law enforcement officials because, left unchecked, such theft could undermine our national telecommunications networks. Let us not forget that, in the late 1980's, theft of satellite service almost destroyed that industry.

Mr. President, given the high value placed on this equipment by these thieves, I am very concerned about the amendment offered by the distinguished Senator from Maine, to make such equipment available at retail. Aside from the fact that the proposal would put the FCC right in the middle of setting standards and designing equipment for advanced digital technologies, this proposal fails to adequately address the problem of these signal thieves.

The current situation is that the limited numbers of warehouses where these cable television security boxes are kept are a major target for these signal thieves. Here you have a situation where the equipment is considered so valuable that signal thieves are risking armed robbery to obtain it. Can you imagine how much worse the situation would become if that equipment were widely available at retail? Under these circumstances, it would become virtually impossible to keep it out of the hands of signal thieves.

Let us not forget that these thieves are not stealing these security boxes so that they can display them on their fireplace mantles. They are using them to steal programming. The more easily

they can be obtained, particularly in quantities, the faster and cheaper it is for these signal thieves to mass produce modified boxes to steal programming.

Mr. President, I sympathize with the goal of the Cohen amendment. But I think that the approach taken is fatally flawed. It rests on the assumption that the Government can know that some security technique, like smart cards, can be used to facilitate retail sale. I do not know that to be true. Not even the experts at the FCC can know that to be true.

Yet the principle which underlies the amendment is that the Government can and will make the determination as to how much security is adequate. That determination will become binding on owners of intellectual property and network providers. This is not acceptable.

I believe that property owners and those acting for them should have the right to determine the level and method of security appropriate for their needs. That is an appropriate, economic business decision and not a matter for Government determination.

Moreover, it is entirely consistent with the deregulatory goals of this legislation that the chairman has consistently and clearly advocated during the debate on the underlying legislation and this amendment in particular.

This amendment is not proconsumer but it is proregulation. Therefore, I strongly urge that the pending amendment be defeated.

Mr. President, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Nebraska.

Mr. COHEN. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen minutes. The other side has 13 minutes 54 seconds.

Mr. COHEN. This side has?

The PRESIDING OFFICER. Fifteen minutes.

Mr. COHEN. How much time does the Senator need?

Mr. KERREY. I was actually going to ask the managers—I do not know—if the opponents to this amendment were going to use all 13 minutes?

Mr. HOLLINGS. No. The opponents have used time. Go right ahead.

Mr. KERREY. Did the Senator want to respond?

Mr. COHEN. I am just curious; the Senator is going to speak for the amendment or against it?

Mr. KERREY. I am still speaking for the amendment.

Mr. COHEN. All right. The Senator wants me to give him some time then.

Mr. KERREY. I wish to speak more generally about the bill.

Mr. HOLLINGS. I yield sufficient time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank very much the Senator from South Carolina.

Mr. President, this amendment is important, but I say to the Senators who will be perhaps watching, or the staffs who will be over the next 30 minutes trying to figure out OK, what is going to happen next? Where are we in this piece of legislation? Remember, there are 9 sectors of the telecommunications industry, all directed to approximately 100 million American households. That is where they do business. They are selling to commercial customers as well, but they are focused on those households, and that is where we are going to hear whether this legislation is successful or not. That is where, a year from now, a year and a half, 2 years from now, you are going to hear people say, you know, this really did work. You were telling us it was going to work. It did work.

Nine sectors. I will run through them briefly again. Broadcasting is the big one, cable is one, telephone is one, Hollywood and music recording—that is music and the images—publishing is one, computers is one, consumer electronics, which is the subject of this particular amendment, wireless is one, and satellite is one.

All nine of them, Mr. President, represent hundreds of billions of dollars' worth of sales into the American household on a constant basis. They are making judgments about what to purchase and what to buy. What has happened is that the technology has changed so that it is possible now for people to buy in a package, and what we are trying to do is give them real competitive choice.

It is going to be traumatic. What we need to do is to say what is more important to us, the trauma faced by those consumers, those citizens in the households, or the trauma of businesses as they face competition for the first time in their business lives?

Mr. President, not only does this amendment need to be adopted, but we need to change the underlying bill so that the Department of Justice, which has been the prime mover in this—I know that many of my colleagues on the other side of the aisle think the Department of Justice should be left out, with just a consultant role, if necessary. I really urge you to think about that. That is going to be the next order of business. The DOJ, the Department of Justice, is the one that started this in motion in 1948, in a consent decree, with the Department of Justice action against AT&T. That is what produced the competitive environment in long distance.

If you hook the Department of Justice of that Republican administration to another Republican administration to a Democrat administration, they have consistently been the best advocates in this Nation's Capital for competition. They are the ones that said: Look, I know you want to own all the market. I understand what you are trying to do. But you cannot. We have to keep this competitive because not only will consumers benefit, but the economy will benefit as well.

I understand people said oh, no, that is not going to work. I have talked to the companies about this. I know why they do not like it.

The Department of Justice needs to be more than just a consultant in this thing. Otherwise, I tell you, Mr. President, my colleagues, I think you are going to regret this vote. You are not going to get the kind of vigorous competition that is needed in all of these sectors, in a package fashion, that is going to have our consumers say I was paying $120 a month for all of my information, all these things taken together, all nine of them, and now I am paying $80. This is terrific. This is working.

Disregard, if possible, the companies that are coming in and saying, gee, I do not want to do it that way because this is going to be a better way.

Think about those consumers in the households. Think about those individual families in the households. This amendment is going to look a lot better, the DOJ role is going to look a lot better under those circumstances.

I suggest, Mr. President, that another particular portion of this legislation that says a local telephone company can buy a local cable company, we cannot allow that in the local area, because then you are only going to get one line to 75 percent of the homes.

So I hope as we go through this thing colleagues will see that there is an intent with this legislation to produce a competitive environment about which, if we do it, the citizens we represent will say this did work; we are glad you provided that for us.

It is not completely unregulated. It is not completely unfettered competition. The structure here that we are trying to produce allows competition to satisfy not just a public interest that we understand is still present but also a consumer interest.

So once again I understand very much the concern raised by the distinguished Senator from Kentucky and perhaps there is some accommodation that can be made in the area of a study. I do not know. I certainly would not necessarily object to that, if the distinguished Senator from Maine could work it out. But I think we have to really make sure we understand that if competition is something we are going to use to reduce prices and increase quality, then we have to turn back some folks who are going to be coming to us, and I really think the toughest one of all is going to be the Department of Justice role. And I understand people are digging in on it, but I hope you do not dig in too much because you are the one who is going to have to live by this vote. You are the one who is going to have to explain whether this works or not.

I would not be on the floor all day today and last night not feeling very strongly as I do. Unless we get this thing right, we are going to live to regret it.

Mr. FORD. Will the Senator yield for a question?

Mr. KERREY. I will be pleased to yield.

Mr. FORD. After this amendment passes, how long does the Senator think it would take the companies to go to China and have these boxes made for practically nothing and come back over here and flood the area with them?

Mr. KERREY. There is no question the distinguished Senator from Kentucky is raising a very legitimate concern. When we lift the restrictions on manufacturing in general, which we are doing in here—and we heard earlier the distinguished Senator from Arizona coming down and saying that we finally got out of this domestic content stuff in there. That was there out of a concern we try to keep some of this manufacturing business in the United States. There is no question that is a legitimate concern.

Mr. FORD. Not only, would I say to my friend, is my concern for the small cable operator. I would encourage those who are promoting this amendment to give us an opportunity to study it. All of a sudden we get this amendment out on the floor and people have an opportunity maybe to study it for a short period of time. Competition is great, but competition putting out a lot of cable operators, small entrepreneurs struggling for a long time, does not set very well with me, and I am sure it does not set very well with the Senator from Nebraska.

Mr. KERREY. I am not the sponsor of the amendment. The distinguished Senator from Maine is. However, he would decide in that regard. I certainly would have no objection to what the Senator proposes.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I ask unanimous consent that Senator HUTCHISON and Senator LEAHY be added as cosponsors.

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

Mr. COHEN. Mr. President, I will respond briefly to the comments of the Senator from Kentucky.

He mentioned that he is from a rural State. So am I. I do not know what the population of his State is, but we have little over 1 million people in the State of Maine. I used to be the mayor of the third largest city in Maine—38,000 people. So we have a rural population in my State as well.

I doubt very much whether there are many States—no matter how rural—that do not have a Radio Shack or a Wal-Mart or a Sam's or some other major type of outlet in their States. That really is not the issue. If you live in a rural area and you do not have a Wal-Mart, Sam's, Circuit City, or Radio Shack, what you do is just keep renting your box from your cable company.

That is all you have to do. You have a choice. You do not have to buy anything. You can continue to pay the rent for the box. Your small cable company rents the box to you, and you continue to pay the rent. If you get unhappy with it, you may decide you want to make the trip 12 miles to buy another converter box.

What I am saying is consumers cannot take that signal of the cable company and steal that signal by virtue of having access to the box. That was the purpose of having the private sector develop a standard whereby cable operators protect their signal.

What the FCC does is turn to the private sector, just as they did with the phone jack. The standard for the telephone jack was developed by the private industry.

That is what we are talking about here. If you are talking about theft, what do we tell Hewlett-Packard, Compaq, or IBM or any of the other major computer developers and manufacturers today? You know something, we have a big problem—hacking. We have hackers all over the country, all over the world. They can get into the computers at the Pentagon.

The Senator from South Carolina knows about this. All the people who are here, the Senator from Kentucky and all of you, have had access to information. They can gain access to the computers in the Pentagon.

What do we do? Shut down the computers? We said, ''No, let's do better. We have to develop better standards for protecting the signals, protecting the technology.'' That is what is going on in the private sector today. We all have been briefed on what is going on in the private sector, the kind of standards designed to prevent hackers from getting access.

What is the largest growing market today? The direct satellite television. Do you think people are putting millions or billions of dollars into developing direct satellite television if they are worried that they cannot protect their signals?

That is what is going on. The industry will develop the equipment to protect the signals. Why are you going to give cable companies, not mom-and-pop cable companies, major cable companies the opportunity to run a monopoly? For the small rural State that may have only one cable company and no marts where consumers can go to purchase a set-top box, there will be no problem. Consumers will just keep renting that same box.

Mr. President, the Senator from South Dakota said that what we really have to do is jawbone the industry. The difficulty is the jawbone is not connected to the hip bone. They are not walking, they are not running, they are not doing anything.

What they are doing is holding on to a monopoly, and they are saying, ''Take our box or don't get any signal, period.'' What we are saying is here is an opportunity to put competition into the business so that people have a choice with lower prices and the cable company still protects its signal.

Mr. President, that is why the Consumer Federation of America and the Consumers Union endorse this particular amendment. It is why ITI supports the amendment. They also support it because they see this as an opportunity to get more competition in the field that we are supposed to be trying to get competition in—telecommunications.

I want to say to the Senator from Kentucky, I represent a small State, too. I have small cable companies. They are not particularly concerned they are going to be put out of business. Their signal is protected—maybe not well enough from somebody stealing the boxes. But the private sector will develop a standard to protect the signals.

The FCC can adopt the standard, as they have with the telephone jack, to allow any individual to go into any store—rural, urban, big mall, little shop—to buy a telephone, to buy a VCR, to buy a computer, to buy an organizer. A standard ought to apply to the set-top box as well. That is what this amendment is designed to do, to allow the private sector to get into the business of lowering the prices for consumers so they do not have the consumer at the mercy of the cable operator saying, ''Take this box or else you get no signal. Rent this box or rent this telephone; you can't buy your own.''

What we are saying is let us give the consumer a choice to buy a set-top box or rent one, whether you live in an urban or rural State. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, we have approximately 15 minutes until the next rollcall vote. I believe all speakers have concluded. I urge Senators who wish to make statements on the bill to come to the floor.

Mr. FORD. Mr. President, will the distinguished Senator from Maine answer a question for me, just one?

Mr. COHEN. If I can.

The PRESIDING OFFICER. Who yields time to the Senator from Kentucky?

Mr. PRESSLER. I yield time.

The PRESIDING OFFICER. The Senator from South Dakota yields time to the Senator from Kentucky.

Mr. FORD. Am I correct in that if the television set is cable ready, you do not need the box?

Mr. COHEN. That is correct.

Mr. FORD. So most television sets are becoming cable ready. They may not go up to 98—they may be 60-some-odd, most of them. So, technically, the box is not used on a cable-ready television.

Mr. COHEN. Right. Many, many homes, as you know, in the rural areas do not necessarily have the cable-ready type of television.

Mr. FORD. As I recall, and the Senator might agree with me, we would allow only one charge under the cable bill, no matter how many TV sets you might have in your home. They used to charge you for each one, now they charge for one.

Mr. COHEN. I correct myself. You may still need a set-top box, even though you have a cable-ready television set. That is what happened in southern Maine recently where a major company as a matter of fact, said, ''This box you have to rent. Even though you are currently getting our signal, this is something we are going to now prepare for the future in terms of interactive television and you must now rent this box, in order to get the signal you were getting previously through your television sets.''

Mr. FORD. I wanted to clear up one thing with my friend from Maine. Time Warner withdrew that, and they no longer do that.

Mr. COHEN. They withdrew it only after great protest was raised, precisely the problem when you have a company who can come in and say, ''The signal you are getting now you have to pay more for it. Now it is roughly $3 more and you are going to get just precisely the same thing you were getting before.''

Mr. FORD. That is no longer being done.

Mr. COHEN. It does not prevent any other company in any other State from doing precisely the same thing.

Mr. FORD. I understand that, Mr. President, and I say to my friend, with cable ready, I do not believe you need the box. I think he agrees with me that basically that is true.

Mr. COHEN. No, because the—

Mr. FORD. I am not sure the cable company can still scramble on a cable-ready. You cannot get HBO—it is scrambled—unless you pay for it and then they release that. The box is almost a moot question in some respects. But I still have the same concern I had earlier about the small cable operator.

You have a rural State; I have a rural State. I remember the satellite dishes we put up, about $3,000 apiece, and then you had to go to the cable company and get it turned on. There are a lot of things going on. But progress has been made.

Now FCC is not going to help build anything. They are not going to mandate anything, I understand, but you are going to set standards. I agree with the chairman, when you set standards, you limit the technology in a great many places, because as long as they meet the standards, they do not have to be competitive.

We have 8 or 9 minutes we can have some debate with. But it is awfully hard for me to agree that the box is a problem, except in cases where the television set is not cable-ready. I believe what the Senator from North Carolina said a few minutes ago—it is setting up for a lot of theft as it relates to intellectual property.

I hope this amendment will be defeated. But better than that, I wish the Senator from Maine would let us study it and convince us and be sure when he comes forward with this, that we all understand it. It could be a 3-month study, 6-month study, a 1-year study, or whatever it might be, so that we can come back and that study will be available, and then we can go forward with legislation and we can probably give better instructions to the FCC.

I thank the Senator for his courtesy.

Mr. COHEN. I thank the Senator for raising the issue. It highlights the nature of the problem whereby one company can suddenly come in and decide it wants to give you a different type of service and you must rent this box in order to get what you are already paying for. Sure, there was an outcry, an outrage expressed by consumers. They were told to relax, this is for the future. We are preparing you for interactive television. They got interactive alright with the consuming public, and they were forced to take it down.

The FCC is not in the business to try and stifle developments. As a matter of fact, can we argue today that as a result of the standards developed by the private sector and incorporated by the FCC, that technology has been stifled in the telephone industry? I do not think so.

We are seeing tremendous progress being made. I point out to the Senator from Kentucky that while some people might get hurt, a whole lot of people get helped when you make progress. We are trying to help millions of people in this country acquire the technology cheaper and with greater choice, and hopefully with greater quality. That is the purpose of the amendment. So the telephone industry is a good example of what can take place with the set-top box market.

I might point out that on page three of the amendment, it indicates, ''Such regulations shall take into account the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and, secondly, the need to ensure the further deployment of new technology relating to converter boxes.''

I say to those who are arguing that this is being raised to stifle technology, it is just the opposite. Those against this amendment want to stifle competition. Those who vote for this amendment will vote for the Consumer Federation of America and the Consumers Union.

When the vote comes at 7:30, those people here that are concerned about getting more choice to the public, getting better quality, and getting more competition will vote to support the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. 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. COHEN. Mr. President, just before our time expires, I want to indicate that this amendment certainly is not a partisan issue, as you can see from the debate that has taken place, with the Senator from Nebraska joining the Senator from Maine, and others who have expressed support for this amendment.

I also point out that in the other body, Congressman BLILEY, the chairman of the House Commerce Committee, and also Congressman MARKEY, the ranking member on the House Telecommunications Subcommittee, have endorsed the legislation and, in fact, have reported it out of the committee. So the legislation is bipartisan in the House. I hope the bipartisan support for this amendment will be reflected in the vote here this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, an up or down vote has been agreed to.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1263 offered by the Senator from Maine [Mr. COHEN].

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], the Senator from Alabama [Mr. SHELBY], and the Senator from Arkansas [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

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

The result was announced—yeas 30, nays 64, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—30

Ashcroft	Chafee	Graham
Boxer	Cohen	Hatfield
Bradley	Feingold	Hutchison
Bumpers	Feinstein	Jeffords
Byrd	Glenn	Kassebaum

Kerrey	Moseley-Braun	Simpson
Lautenberg	Pell	Snowe
Leahy	Rockefeller	Thompson
Levin	Roth	Thurmond
Lieberman	Simon	Wellstone

NAYS—64

Abraham	Dorgan	Lott
Akaka	Exon	Lugar
Baucus	Faircloth	McConnell
Bennett	Ford	Mikulski
Bingaman	Frist	Moynihan
Bond	Gorton	Murkowski
Breaux	Grams	Murray
Brown	Grassley	Nickles
Bryan	Gregg	Nunn
Burns	Harkin	Packwood
Campbell	Hatch	Pressler
Coats	Heflin	Pryor
Cochran	Helms	Reid
Conrad	Hollings	Robb
Coverdell	Inhofe	Santorum
Craig	Inouye	Sarbanes
D'Amato	Johnston	Smith
Daschle	Kempthorne	Specter
DeWine	Kennedy	Thomas
Dodd	Kerry	Warner
Dole	Kohl	
Domenici	Kyl	

ANSWERED ''PRESENT''—1

Mack

NOT VOTING—5

Biden	McCain	Stevens
Gramm	Shelby	

So the amendment (No. 1263) was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I hope the Senator from North Dakota will bring his amendment forth.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is the pending business is the Dole amendment. I ask unanimous consent that the Dole amendment be set aside so that I might offer an amendment.

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

AMENDMENT NO. 1264

(Purpose: To require Department of Justice approval for Regional Bell Operating Company entry into long distance services)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. SIMON, Mr. KERREY, Mr. REID, and Mr. LEAHY, proposes an amendment numbered 1264.

The amendment is as follows:

On page 82, line 23, beginning with the word ''after'', delete all that follows through the words ''services'' on line 2, page 83 and insert therein the following: ''to the extent approved by the Commission and the Attorney General''.

On page 88, line 17, after the word ''Commission'', add the words ''and Attorney General''.

On page 89, beginning with the word ''before'' on line 9, strike all that follows through line 15.

On page 90, line 10, replace ''(3)'' with ''(C)''; after the word ''Commission'' on line 17, add the words ''or Attorney General''; and after the word ''Commission'' on line 19, add the words ''and Attorney General''.

On page 90, after line 13, add the following paragraphs:

''(4) DETERMINATION BY ATTORNEY GENERAL.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

''(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization.''

''(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register.''

On page 91, line 1, after the word ''Commission'' add the words ''or the Attorney General''.

AMENDMENT NO. 1265 TO AMENDMENT NO. 1264

(Purpose: To provide for the review by the Attorney General of the United States of the entry of the Bell operating companies into interexchange telecommunications and manufacturing markets)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. D'AMATO and Mr. DEWINE, proposes an amendment numbered 1265 to amendment No. 1264.

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

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

The amendment is as follows:

On page 82, line 23, strike ''after'' and all that follows through ''services,'' on page 83, line 2, and insert in lieu thereof ''to the extent approved by the Commission and the Attorney General of the United States,''.

On page 88, line 17, insert ''and the Attorney General'' after ''Commission''.

On page 89, line 3, insert ''and Attorney General'' after ''Commission''.

On page 89, line 6, strike ''shall'' and insert ''and the Attorney General shall each''.

On page 89, line 9, strike ''Before'' and all that follows through page 89, line 15.

On page 89, line 16, insert ''BY COMMISSION'' after ''APPROVAL''.

On page 90, between lines 9 and 10, insert the following:

''(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application.''.

On page 90, line 12, strike ''shall'' and insert in lieu thereof ''and the Attorney General shall each''.

On page 90, line 17, insert ''or the Attorney General'' after ''Commission''.

On page 90, line 19, insert ''and the Attorney General'' after ''Commission''.

On page 91, line 1, insert ''or the Attorney General'' before ''for judicial review''.

On page 99, line 15, strike out ''Commission authorizes'' and insert in lieu thereof ''Commission and the Attorney General authorize''.

On page 99, line 18, insert ''and the Attorney General'' after ''Commission''.

On page 90, line 6, after ''necessity'', insert: ''In making its determination whether the requested authorization is consistent with the public interest, convenience, and necessity, the Commission shall not consider the effect of such authorization on competition in any market for which authorization is sought.''

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. DOLE. Is there a time agreement on this amendment?

Mr. HOLLINGS. Not yet, no.

Mr. DOLE. Would there be a possibility of having a time agreement?

Mr. DORGAN. I would not agree to a time agreement at this point. This is one of these major issues on this bill. I think that we have an amendment in the second degree. I think this will have to be explored at some length.

Mr. HOLLINGS. Could we agree to debate it tonight and vote first thing tomorrow?

Mr. DORGAN. I would not agree to that time agreement.

Mr. PRESSLER. If my colleague will yield, if we could debate all this evening, and have a vote at 9 in the morning, would that be agreeable?

Mr. DORGAN. My point is, I do not want to agree to a time agreement on these issues. We have two amendments on the Department of Justice's role here. This is I think one of the central issues in this bill. If you are suggesting that we ought to now, in the next few hours, debate when a number of Members will probably not be here and have a vote in the morning, I do not think that there is an urgency on this bill to move to a vote on one of the central issues in this bill by 9 o'clock in the morning. So I would not agree to a time agreement at this point.

Mr. PRESSLER. If my colleague will yield, we could debate until midnight or beyond, and Members who wish to speak could speak tonight and vote at 9 in the morning. Everybody could speak who wants to speak this evening.

Mr. DORGAN. I would respond that I do not at this point propose to accept a time agreement. I think what we ought to do is have the debate and see

which of our colleagues wish to weigh in on these issues. This is, as I said, one of the central issues in this bill. I think at least from my observations there are many Members on both sides who will want to be heard, and many of them want to be heard at some length on these two amendments. I think it is premature to be seeking a time agreement.

Mr. DOLE. Will the Senator yield? But we are prepared to debate it at some length tonight; is that correct?

Mr. DORGAN. Oh, yes.

Mr. DOLE. There will be no more votes tonight. We will try to see what happens in the next couple of hours. It is a very important amendment, and it is central to the debate. I do not have any quarrel with the amendment of the Senator from North Dakota nor the Senator from South Carolina. I am not trying to crowd anyone. I want my other colleagues to know what they can expect.

So I think it is safe to say, if it is all right with the Democratic leader, there will be no more votes tonight. We will take another look at it at 10 o'clock, 11, whatever, whoever is still here.

Mr. DORGAN addressed the Chair.

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

Mr. DORGAN. Mr. President, as Members know, I offered the amendment and the amendment has been second-degreed by an amendment offered by Senator THURMOND, and we will, I expect, debate the merits of both amendments at this point.

As I indicated to the majority leader, this is, I think, one of the central issues in the telecommunications bill that the Senate must consider.

When I spoke this afternoon on this legislation, I talked about the breathtaking changes in our country especially in the area of telecommunications, technology, the building of the information superhighway. I also talked about what telecommunications technology means to the people in this country and our future.

I must say that the people in the private sector in our country have been investing money, and taking risks. I commend them for that. The risk-taking entrepreneurs, I think have brought enormous fruits of accomplishment to our country. Their advances in technology will improve life in our country in many, many ways. It creates jobs; it provides entertainment. It does many, many things that are important for our country.

The question of how we develop the information superhighway, who benefits from it and what are the rules in a competitive economy we are now confronting.

The industry, dealing with 1930's laws that were originally established in telecommunications, has been out developing its own course largely because there have not been guidelines established by Congress. The Senator from South Dakota and the Senator from South Carolina now bring to the floor a piece of legislation that says let us update the 1930's laws and let us talk about the guidelines, what are the conditions of competition. And this legislation, I think, has a lot to commend it to the Members of the Senate.

So I have supported the legislation out of the Commerce Committee but have indicated that I feel there are some problems with the legislation, one of which is the role of the Justice Department in establishing the criteria for when competition exists with respect to local service carriers and when those local service carriers, namely, the regional Bells, can go out and engage in long distance competition.

The Commerce Committee passed a telecommunications bill last year, and a bill was passed by the entire House of Representatives, that included provisions with respect to the tests that should be met before the Bell systems should go out and begin to compete in long distance.

That test was very simple. It's called the VIII(c) test. VIII(c) provides a test for the Department of Justice to perform its assigned and accustomed role to determine when there is competition in local service and when then the Bell systems will be allowed to go out and compete in long distance service.

VIII(c) existed last year in the telecommunications bill that was passed in the House and the Senate Commerce Committee. All of a sudden this year that test vanishes. That's why I propose in my amendment to establish the VII(c) test.

Some say, gee, that is a radical requirement, an VIII(c) test for the Justice Department. So radical, it is exactly what the House passed last year, so radical it is exactly what the Senate Commerce Committee passed last year. It is not radical at all. It is exactly what the Justice Department role should be in evaluating when sufficient competition exists in the local exchanges so that the Bell systems will be free to engage in long distance services.

I wish to remind my colleagues of the experience we have had with airline deregulation. When we deregulated the airlines we said that the role of determining when sufficient competition existed and whether mergers should be allowed will be assumed by the Department of Transportation. The Department of Justice shall have a consultative role.

What has happened as a result of that? Well, you have all seen what has happened. We have seen the large airlines in this country grow larger through acquisition and merger. They have bought up the regional carriers. So now we have fewer airlines and bigger airlines; in other words, less competition.

It is interesting to me that when we have seen some of these mergers proposed, the Department of Transportation consults with the Department of Justice, and the Department of Justice says, well, we do not think this merger would be in the country's interest from a competitive standpoint; we think it would diminish competition. And then the Department of Transportation says, we do not care about that; we are going to allow the merger to occur anyway.

That is a sample of what happens when you take the Justice Department out of the decision making in these areas.

Now, we have, over a long period of time in this country, established the Justice Department as the referee in the issue of where and when sufficient competition exists with respect to questions like this. But this bill comes to the floor and says well, now, let us see if we can do something different. Let us take the Justice Department; let us clip their wings. Let us defang the Justice Department with respect to its ability to make judgments about what is in the public interest and what is not in the public interest in this particular area.

I listened intently about the subject of competition. Members of the Senate have come to the floor of the Senate and talked about the market system and competition. I think the market system is a wonderful thing, and it has brought this country enormous benefits. It is the way this country has become as strong as it is—market system, free and open competition.

But if you believe in the market system and competition, then you have to, in my judgment, stand up for these kinds of issues. You have to stand up for the role of the Justice Department to investigate and evaluate what represents antitrust, what kinds of conditions must we insist upon to ensure competition, because if you are not standing up for those kinds of things that ensure competition, in my judgment you are no friend of the marketplace. You are no friend of free markets. That is the reason I offer this amendment to the Senate tonight.

This amendment utilizes the standard that is found in section VIII(c) of the modified final judgment with which most of us are familiar. This amendment requires the Bell systems to show there is no substantial possibility that it could use its monopoly power to impede competition in the long distance market.

The standard I propose is well understood. It has been applied by the Department of Justice and the courts since 1982. The standard protects competition in long distance services by limiting the entry to cases where local monopolies have ceased to exist or the potential for abuse of power in local markets is absent.

Now, under the bill as reported, as I have indicated, the Bell systems need only apply to the FCC to enter long distance services, and the FCC would use what is called a public interest standard and determine that the Bell systems have completed the competitive checklist. They might ask the Justice Department in a consultative role

but it will not matter, because the FCC will make the judgment.

Well, the problem with that is this. The FCC is a regulatory agency and the Department of Justice is the agency that has had over time and does have the capability of evaluating the issue of competition.

The Department of Justice is the agency with the expertise in protecting and promoting competition in telecommunications markets. It was the Department of Justice that investigated and sued to break up the Bell system monopoly, which resulted in making the long distance and manufacturing markets competitive.

All of us understand what has resulted from that. Those areas of the telecommunications system that are competitive, namely, now long distance and manufacturing—and let me say, especially long distance—those areas have produced enormous rewards for the consumers: lower prices and substantial changes in opportunity for choice. You can go to any one of hundreds of long distance carriers these days and find a wide variety of choices at competitive prices, prices much, much lower than consumers paid when the old monopoly system existed.

I have indicated that we have seen what has happened with respect to another deregulation model, airlines. When the airline deregulation occurred and the opportunity to judge the competitiveness of certain future structures was given not to the Department of Justice, but instead to the Department of Transportation, we understand what happened. The consumer, in my judgment, has been shortchanged. Mergers that should not have been allowed which the Department of Justice said were anti-competitive were allowed by the Department of Transportation.

If we do not change this bill, if we do not impose this VIII(c) test, in my judgment, we will be left in the same position with respect to telecommunications as we have been with the airlines, and it will not be a friendly position for the American consumer.

The fact is the Department of Justice has promoted competition in the telecommunications industry under both Republican and Democratic administrations. The AT&T investigation began under the Nixon administration. The suit was filed under the Ford administration. It was pursued through the Carter administration, and it was settled during the Reagan administration. On a bipartisan basis, the Department of Justice, I think, has stood up for the interests of the American consumer, attempting to require and impose a competitive test.

You have heard in discussion on the floor of the Senate that the breakup of the Bell system meant that long distance telephone rates have dropped 66 percent and the long distance competitors have constructed four nationwide fiber optic networks in this country, which is now the backbone of the information superhighway.

If we do not include in the telecommunications legislation the kind of amendment I am proposing, the role that would traditionally have been the role for the Department of Justice will become the burden of enforcement for the FCC. The FCC, I think, clearly is ill-equipped to adequately serve that function.

In 1987, the GAO reported that at its existing staff level, the FCC would be able to audit carrier cost allocations in order to protect ratepayers from cross-subsidization only once every 16 years, and then only on the major carriers.

A 1993 GAO report found that as of 1992, the FCC staff of 14 auditors could, on average, cover the highest priority audit areas once every 11 years and all audit areas once every 18 years. The GAO concluded in that February 1993 report that at the current staffing level, the FCC cannot, in the GAO's words, ''provide positive assurance that ratepayers are protected from cross-subsidization.''

The only way, in my judgment, to assure that true competition is existing at the local level—and when that exists we free the Bell systems to compete in the long distance area—but the only way to assure that true competition exists is to look at the actual marketplace facts, and the place to do that, the proper place to do that is in the Department of Justice.

I mentioned earlier that last year the very test that I am proposing today for this legislation was in the bill passed by the House of Representatives. That bill passed in the U.S. House with 420 votes. The Senate Commerce Committee passed legislation by an 18-to-2 vote, and it included what I now propose we add to this legislation. So it will be interesting to hear the cries of those who come to the floor and say, ''Gee, this is way out of bounds, this is really radical stuff you are proposing.'' I want to hear the wailing of those who oppose this and ask them if what the House of Representatives did with 420 votes last year or what the Senate Commerce Committee did by an 18-to-2 vote last year was truly radical, or has somehow the public interest standard changed in 12 months? And if so, what is that change? Did the election last year tell us that the Department of Justice had to have its wings clipped with the question of whether or not there is competition before we decide to change the circumstances under which the Bell systems can compete for long distance? I do not think so.

I think the American people expect and the American people would require us to believe that competition is fair competition and that true competition exists before we decide to allow the Bell systems to get involved in long distance and potentially create monopolistic conditions in a segment of the industry that is now highly competitive.

I want to read some comments about last year's test, which I now propose in this year's bill. James Cullen, the president of Bell Atlantic, March 8, 1994, wrote a letter to Senator HOLLINGS, and he said this about the standard I am now proposing:

> The section VIII(c) standard is the correct test for whether a Bell company should be allowed to provide interstate long distance services. Under this test, the restrictions imposed on a Bell company shall be removed upon a showing by the petitioning BOC that there is no substantial possibility that it could use its monopoly power to impede competition in the market it seeks to enter.

Cullen also confirmed that the VIII(c) test was the appropriate test when he testified before the Senate Commerce Committee on May 12, 1994.

The CEO of Pacific Telesis, Sam Guinn, wrote to Senator HOLLINGS on March 16, 1994, stating this:

> The VIII(c) test—the ability to impede competition in the market we're entering, the long distance market—is the appropriate test. A test based on local competition just won't work.

William Weiss, then chairman and CEO of Ameritech, wrote to Senator Danforth saying:

> An entry test, based on antitrust principles, must focus on conditions in the market one is seeking to enter. The modified final judgment (MFJ) provides just such a test. * * * The MFJ provides that the line of business restrictions, including the long distance prohibition, shall be removed when there is no substantial possibility that a regional company could use its monopoly power to impede competition in the market it seeks to enter.

Again, that is from William Weiss, then chairman and CEO of Ameritech.

In fact, Ameritech recently reached an agreement with the Justice Department to conduct a trial to offer long distance service from Grand Rapids, MI, and Chicago, IL. Under that trial, the Department of Justice would have to evaluate competitive conditions in the marketplace to determine that those conditions ensure there is ''no substantial possibility that commencement of the experiment could impede competition in interLATA service.''

That trial not only uses the VIII(c) standard, but it also requires that actual competition exists prior to Ameritech offering long distance services.

I had the opportunity to visit with Anne Bingaman at the Justice Department, who is in charge of the Antitrust Division, about this very agreement. It is interesting that this agreement uses the VIII(c) test.

There are plenty of claims and there is a great deal of discussion on the floor about this issue, largely because it is an issue that is very controversial at this point.

We have a bill before us that deals with literally hundreds of billions of dollars of revenue to very important segments of our economy, and the industry's breakdown between the long distance industry, the local service carriers. I understand why they would

use some of these things in their own self-interest. I am not interested in their self-interest at this point. I want the telecommunications industry to do well, and I want them to do well especially for our country.

My interest, however, on the floor of the Senate is the public interest. The question is not what benefits them. The question is what benefits the American citizens in the longrun? What benefits our country? What advances our country's economic interests, our public interests?

I think if we evaluate that, we will understand that imposing a requirement that competition exist at the local level before we unharness in the modified final judgment the Bell systems to go compete in the long distance system is in the best public interest. I know some make the case that is not necessary; the FCC can do it. Some make the case that the Justice Department role should not be such a strong role. But they do that, in my judgment, because they represent—or they argue the interests of an $80 to $100 billion enterprise out there, the enterprise of local service carriers who want to do something and are prevented from doing it now and who want to be able to unharness themselves with the least possible difficulties. I do not want to put up roadblocks. If they want to compete in long distance, they have every right to do it, as long as they are allowing competition in the local exchanges.

The question is, how can you demonstrate that? All of us understand that it is easy to decide to say you are now allowing local competition. It is easy to create conditions in which you try to demonstrate that is the case, but even as you create conditions to demonstrate that is the case, you can suddenly create other conditions to make it more difficult. Everyone understands that. That is the danger and the dilemma.

We are interested in this 8(c) test, in true competition. We are not interested in theory. We are interested in when true competition exists in the local exchanges, because when it exists, then there is no disagreement on the floor of the Senate about whether the Bells ought to be able to involve themselves in long distance service. Of course, they should.

But the question is when it exists, and who should be the arbiter of that? Those who argue for a weaker standard in the Department of Justice, in my judgment, are making a very serious mistake. It is a mistake that was not made in the last session by the House of Representatives or by the Commerce Department. But something has changed. I do not think it is the facts. I think the political dynamic has changed in some way, and I hope that the public interest need prevails on this issue.

The public interest need, in my judgment, is to have the U.S. Justice Department play the role they have always played on behalf of the American citizens—to make sure there is robust, healthy competition. When it exists, then we unleash the opportunities for those who now have monopolistic power to get involved in the long distance service. But until it exists, they should not be allowed to do so. Until the Justice Department—the Department with the experience, background and knowledge to make that judgment—is given full opportunity to do so by amending this portion of the bill, I think the American people will be shortchanged. I hope that we will, at this point, reject the second-degree amendment when we get around to voting and that we will adopt the 8(c) standard. I expect there will be a lot of discussion between us in the intervening hours today, tomorrow, Monday, or whenever we vote on these issues. I think this will be one of the most important issues that we resolve on the floor of the Senate as we seek to advance legislation establishing new rules for the 1990's and into the next century in the telecommunications industry.

Let me finish with one additional statement about this issue, and then I want to speak to other areas at some point later in the debate. There is ample discussion on the floor of the Senate about the fruits of competition in these areas. I come from a part of the country where I swear that there will not be much competition. A county of roughly 3,000 people is not going to attract a lot of competitors. A hometown of 300 people is not going to be the cause of fierce competition between eight carriers who want to serve these 800 people. That is not the way competition works. Competition exists in a free market to maximize profits in areas where you yield maximum returns. That is in the affluent neighborhoods of America, in the population centers of America. That was true under deregulation of the airlines, and it will be true under deregulation of the telecommunications industry.

That is why another part of this bill that I care very much about are the protections in this bill for rural America—not protections against competition, but protections to make sure we have the same benefits and opportunities in rural America for the build-out of the infrastructure of this telecommunications revolution, as we will see in Chicago, Los Angeles, New York, and elsewhere. Our citizens are no less worthy of the opportunities that are brought to them by this industry than citizens who live in the biggest cities of our country.

I think once we establish the public interest tests of this legislation, we must do it not only with respect to the role of the Department of Justice, which is important, but also with respect to the issue of universal service and with respect to the issue of concentration of ownership in broadcast facilities. I think if we address those properly, and if we do our jobs the way I think people expect us to, I think we will have produced a good bill—good for this country, good for all citizens of this country regardless of where they live.

With that, Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today with Senators D'AMATO and DEWINE to offer an amendment to ensure that fundamental antitrust principles will be applied by the Antitrust Division of the Department of Justice to determine when the Bell Operating Companies should be allowed into the long distance and manufacturing markets. My amendment establishes a legal standard to be applied by the Justice Department based on section 7 of the Clayton Act, which the Congress passed in 1914. Under this standard, the Bell companies would be permitted to enter into long distance and manufacturing unless the effect of entry would ''substantially lessen competition, or tend to create a monopoly.''

Section 7 of the Clayton Act is the well-established and well-known standard used nationwide to determine whether mergers and joint ventures—which affect the economic course of our country—are pro-competitive or not. Indeed, we rely on this Clayton section 7 standard even in areas of national security, as in the recent merger of defense giants Lockheed and Martin Marietta. In the same way, this antitrust standard should be used to determine whether competition and consumers will be served by Bell company entry into new markets.

As chairman of the Judiciary Committee's Antitrust, Business Rights, and Competition Subcommittee, I firmly believe that we must rely on the longstanding bipartisan principles of antitrust law in order to move as quickly as possible toward competition in all segments of the telecommunications industry, and away from regulation. Applying antitrust concepts is vital to ensure that free market principles will work to spur competition and reduce government involvement in the industry.

The standard for permitting Bell company expansion from their local exchange markets into long distance and manufacturing may well be the most important antitrust question in this legislation. This issue results from the 1982 antitrust settlement which divided the single Bell system monopoly into the seven regional Bell companies, and limited the lines of business they could pursue. The debate centers on whether those seven Bell companies should be allowed into long distance and manufacturing markets while maintaining their current market position in local telephone service. The concern is that despite detailed rules, the Bell companies may be able to use their market power in local telephone service to harm competition in the long distance

and manufacturing markets where competition already exists.

It is generally desirable to have as many competitors as possible in each market. I want to make clear that the Bell companies certainly should be allowed to enter long distance and manufacturing under appropriate circumstances. The question is merely when. But the Bell companies should not be allowed to enter without consideration of whether their entry will harm competition. S. 652 does not require antitrust analysis on this point and provides only a minimal consulting role for the Department of Justice.

As drafted, S. 652 allows the Bell companies to get into the long distance and manufacturing markets if they meet a checklist and the FCC finds that entry is in the public interest. The checklist is intended to permit other companies to enter the Bell companies' local exchange markets and compete with the Bells. But the checklist does not require that anyone actually compete with the local exchange monopoly. Moreover, S. 652 appears to require only a single interconnection agreement between a Bell company and a potential competitor—no matter how small—before the Bell company can seek to enter long distance.

Mr. President, I am not confident that this checklist will be adequate to take the place of thorough antitrust analysis. It would be unwise to ignore antitrust analysis. It would be unwise to ignore antitrust principles and risk harm to the substantial competition which has developed in telecommunications markets over the last dozen years through the application of antitrust principles.

The Clayton section 7 standard in my amendment is much more moderate than the so-called ''8–C'' test from the Modification of Final Judgment which broke up the Bell system monopoly. It is my belief, as one long interested in competition and our antitrust laws, that the language from Clayton section 7 is the best standard to employ. This standard permits the flexible analysis needed to determine when the Bell companies should be allowed to enter into long distance and manufacturing markets.

The Clayton section 7 test would permit Bell company entry into long distance and manufacturing unless entry would substantially lessen competition. Clearly, we should not permit entry which would not only lessen competition, but would substantially lessen competition. The Clayton section 7 standard is well understood and can be fairly applied to ensure ongoing competition in telecommunication markets. The Clayton standard has been applied in each merger in the telecommunication industry, including several large recent ones. This standard provides the proper incentives to the Bell companies to encourage them to open local monopolies to competition, rather than meeting the minimal requirements of a checklist.

Let me make very clear that this Clayton section 7 standard does not necessarily require the Bell companies to lose any market share or even face actual competition in their local exchange markets. The Bell companies often assert that their entry into long distance and manufacturing would benefit competition. If this is true, they could enter those markets promptly under a Clayton section 7 standard, because competition would not be substantially lessened.

Although the Bell companies may not support this standard, it is noteworthy that in the past Bell companies were less critical of the more stringent 8–C test. In fact, there was agreement among Bell companies concerning the 8–C test in the last Congress when negotiating over telecommunications legislation. If the higher standard of the 8–C test was acceptable last year, the familiar Clayton section 7 standard should be considered far more reasonable.

If this antitrust analysis is to be undertaken, as I and many other Members believe it should, the Antitrust Division of the Department of Justice has the necessary background and expertise to conduct the analysis. The Justice Department has some 50 attorneys and other professionals with antitrust expertise in the telecommunications area. The Justice Department was responsible for the breakup of the Bell system monopoly which has resulted in significantly greater competition, and has been continually involved in the industry since that time.

It would be redundant and inefficient to ignore the proven track record and expertise of the Justice Department and begin to develop such know-how in another agency. The Federal Communications Commission does not have expertise in antitrust law, and history shows that it is not desirable to attempt to develop antitrust expertise across a range of Federal agencies. For example, it is now recognized that the Department of Transportation did not give adequate weight to antitrust principles when it conducted its own antitrust analysis of airline mergers. Although the Justice Department had a consulting role, the Transportation Department disregarded the important antitrust expertise of the Justice Department, and approved deals which have resulted in excessive concentration in the airline industry, and higher prices for consumers. It is vital that we avoid this mistake here.

Mr. President, these antitrust issues in the telecommunications legislation affect a huge sector of our economy, and impact every consumer and business in our Nation. The hearing by the Antitrust, Business Rights, and Competition Subcommittee, which I chaired last month, confirmed the importance of ensuring that S. 652 embraces antitrust principles which are adequate to encourage competition and benefit consumers. These principles have been tested and refined by more than 100 years of antitrust analysis and experience in our Nation.

The purpose of the antitrust laws is not to favor one group over another, but to apply objective principles to encourage competition for the benefit of consumers. When antitrust principles are observed, competition is maximized resulting in lower prices, better services and products, and more innovation for the benefit of consumers and our Nation. If antitrust principles are ignored, however, competition is likely to suffer and concentration of market power in a few companies may lead to harm to consumers, less innovation, and the end of our country's leadership in telecommunications.

Finally, I would note that despite the current claims by some, this important issue of Bell company entry generally has not been partisan in the past. In addition to the concerns of Democratic Members and the current Administration, Republicans have long been champions of applying our antitrust laws in the telecommunications field. In fact, the break up of the Bell system monopoly resulted from the antitrust investigation by the Justice Department begun during the Nixon Administration, from antitrust litigation brought by the Justice Department during the Ford Administration, and from the settlement by Assistant Attorney General William Baxter during the Reagan Administration. In fact, Mr. Baxter wrote to me last month on this subject, encouraging an ongoing role for the Department of Justice in determining when the Bell companies should get into other lines of business, which I included in my Antitrust Subcommittee hearing record. The current antitrust head at the Department of Justice asserts that same position.

For all of these reasons, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I think we have come to a key part of this debate. As I see it, we are trying to decide whether or not the Department of Justice should have a regulatory role in this whole matter.

Under the bill brought to the floor by Senator HOLLINGS and me and others, and by the Commerce Committee, there is a checklist test at the FCC and there is a public interest test at the FCC. There is also required that the Attorney General be consulted. And he might make a recommendation based on the 8(c) test, or he might make a recommendation based on the Clayton Act, or he might make a recommendation on public interest standards.

The Justice Department is not supposed to be a regulatory agency. Its duties are in the antitrust area. If we adopt either of these amendments, we are basically continuing to employ about 200 people over at Justice who are regulators and not people who interpret antitrust law. We are making the Department of Justice into a regulatory agency when it is supposed to be

dealing with interpretations of antitrust law.

What has happened under Judge Greene's order, partially out of necessity, is that the Justice Department began hiring whole legions of people over there to administer the consent decree. For example, the Ameritech waiver has been cited. The Ameritech company in the Chicago area has been, quite rightly, allowed to do some things by the Department of Justice under Judge Greene's consent decree. And quite appropriately, because Congress has not acted.

That is one thing about this bill. We are at least trying to get Congress to do this instead of the courts. But if we allow the Justice Department to begin regulating, it will be like in the Ameritech decision. I am not saying the Ameritech decision is wrong, but it shows how the Justice Department likes to use its people as regulators.

That Ameritech waiver, the proposed waiver, creates a highly regulatory process under which Ameritech may be able to obtain temporary interLATA authority, but only on a resale basis and only for calls originating from the Illinois portion of the Chicago LATA and the Grand Rapids LATA in Michigan, areas that serve only 1.2 percent of the area's population.

But the point is, the chief regulator in this process is the Department of Justice, the same Department that has frequently taken from 3 to 5 years to process waivers under the existing decree. So this means we are probably adding 3 to 5 years of regulation if we adopt the amendment by my friend from North Dakota. This is more Government regulation. This is supposed to be a deregulatory bill. We are supposed to be deregulating here, but we are adding another formal layer of regulation.

We have already pointed out that the Ameritech decision is illustrative of the regulatory function of the Department of Justice. And they want to keep these people employed over there. They want to keep on being regulators. They want to be something other than what they are constitutionally created to be. After this bill passes, the Department of Justice will not have to carry out that role. That will save the taxpayers a lot of money; moreover, it will lessen regulation. Indeed, I would like someday to see the FCC substantially reduced.

But under this amendment we are not only keeping the FCC using both the checklist and the public interest standard, we are also going a step further and saying after they get through we are going to send it over to Justice and do the same thing all over again with another set of regulators. That will take 3 to 5 years, I do not care how you slice it, because that is the way it has been in the past and that is the way the Department of Justice functions. Anything that goes over there, it will take 3 to 5 years to get a decision out and there is ample evidence to illustrate that.

The point I made about Ameritech is that it shows the Department of Justice likes even to write telephone books over there. That is not the business they are supposed to be in. They are in the business of antitrust and the big picture of law.

The Dorgan amendment would give the Department a separate, independent clearance in addition to the FCC's clearance for determining whether the Bell operating companies have complied with the checklist for opening their networks to their new competitors.

Providing this authority to the Justice Department is unprecedented. The Antitrust Division of the Justice Department has never had decisionmaking authority over regulated industries or any industry. Justice was given a role under the modified final judgment, the consent decree which governed the breakup of AT&T. One of the key reasons for passing telecommunications legislation is once and for all to establish national policy, thus phasing out the MFJ.

How is the modified final judgment administered today? The U.S. district court retains jurisdiction over those companies that were party to the MFJ. The court then asked the Justice Department Antitrust Division to assume postdecree duties. The Antitrust Division provides Judge Harold Greene of the district court with recommendations regarding waivers and other matters regarding the administration of the MFJ.

Does the Antitrust Division have decision authority over the MFJ? No. The U.S. district court, in the person of Judge Greene, has sole decisionmaking authority over the administration of the MFJ. The Antitrust Division at Justice essentially acts as Judge Greene's staff attorneys. Obviously, those several hundred attorneys in Justice want to keep their jobs, and the Justice Department wants to keep that bureaucracy going.

Let us review the kind of job that has been done there by those regulators in the Justice Department. First of all, the Justice Department has not conducted triennial reviews effectively, or every 3 years, as it is supposed to. When the MFJ was instituted, Justice said it would conduct reviews every 3 years, known as the Triennial Review, to make recommendations to the court regarding the continued need for restrictions implemented under the MFJ. The Triennial Reviews were to provide parties to the MFJ with a ''benchmark'' by which to gain relief.

Since 1982, only one Triennial Review has been conducted.

Waiver requests: Justice is slow—very, very slow. Bell operating companies are required under the MFJ to obtain DOJ review of waiver requests before filing with the district court.

In 1984, Justice disposed of 23 waiver requests with the average age of waivers pending at Justice being 2 months. In 1994, Justice disposed of 10 waiver requests with the average age of the 30 waivers pending at DOJ at the end of the year being approximately 30 months. That is, people had to wait 30 months for a decision.

Justice review of the waiver requests takes almost as much time for each waiver as the time that was intended to elapse between the Triennial Reviews, which have not been done. One may think that many of these waiver requests must be controversial because they take so long for Justice to make a decision. This is not the case. In fact, the district court has approved about 96 percent of the waiver requests filed before it.

So I say we should say no to a coequal Justice role in regulation.

The Justice track record in fulfilling its obligations under the MFJ is poor. Why would Congress wish to give the Department an unprecedented role that they do not have under the existing MFJ?

S. 652 gives Justice a role but instead of reporting to Judge Greene with its recommendations, the Justice Department would make its recommendations to the FCC, the proper authority.

There is no reason why two federal entities should have independent authority over determining whether the very clear congressional policy has been met.

THE U.S. DEPARTMENT OF JUSTICE SHOULD NOT CONTROL BELL CO. ENTRY INTO NEW LONG DISTANCE

The U.S. Department of Justice is asking that it be given a ''decisionmaking'' role in the process of reviewing applications for Bell Co. entry into long distance telephone service. A grant of such authority to Justice is unprecedented. It goes far beyond the historical responsibility of Justice, is a significant expansion of the Department's current authority under the MFJ; and raises constitutional questions of due process and separation of powers.

First, assigning a decisionmaking role to Justice is unprecedented.

The Antitrust Division of the U.S. Department of Justice has one duty: to enforce the antitrust laws, primarily the Sherman and the Clayton Acts.

It has never had a decisionmaking role in connection with regulated industries. The Department has always been required to initiate a lawsuit in the event it concluded that the antitrust laws had been violated. It has no power to disapprove transactions or issue orders on its own. While the U.S. district court has used the Department of Justice to review requests for waivers of the MFJ, the Department has no independent decisionmaking authority. That authority remains with the courts.

Second, decisionmaking authority should reside in the agency of expertise.

In transportation, energy, financial services, and other regulated businesses, Congress has delegated decisionmaking authority for approval of transactions that could have competitive implications with the agency of expertise, and typically has directed the agency to consider factors broader than simply the impact upon competition in making its determinations. This approach has worked well. It contrasts with the role Justice seeks with regard to telephony.

Third, assigning a decisionmaking role to Justice establishes a dangerous precedent that could be expanded to other industries.

Telecommunications is not the only industrial sector to have a specific group of Justice Department Antitrust Division lawyers devoted to examination of its discrete competitive issues and market structure. The Antitrust Division has a Transportation, Energy and Agriculture Section, a Computers and Finance Section, a Foreign Commerce Section, and a Professions and Intellectual Property Section. The size of the staff devoted to some of these sections is roughly equivalent to that devoted to telecommunications.

If the Department has special expertise in telecommunications such that it should be given a decisionmaking role in the regulatory process, does it not also have special expertise in other fields as well? Today's computer, financial services, transportation, energy and telecommunications industries are far too complex, and too important to our nation's economy, to elevate antitrust policy above all other considerations in regulatory decisions.

Fourth, the Justice Department proposal raises constitutional questions of due process and separation of powers by failing to define an appeals process or an appropriate standard of review for agency determinations.

The Justice Department, in requesting a decisionmaking role in reviewing Bell Co. applications for entry into long distance telephone service, seeks to assume for itself the role currently performed by U.S. District Judge Harold Greene. They want to keep on doing things the way they are but they are going to replace Judge Greene with themselves, unnecessarily so. It does so without defining by whom or under what standards its actions should be reviewed. Typically, as a prosecutorial law enforcement agency, actions by the Department of Justice have largely been free of judicial review. In this case, the Department also seeks a decisionmaking role. As a decisionmaker, would the Antitrust Division's determinations be subject to the procedural protections and administrative due process safeguards of the Administrative Procedure Act? What does this do to the Department's ability to function as a prosecutorial agency? Should one agency be both prosecutor and tribunal?

Congress should reject the idea of giving the Justice Department a decisionmaking role in reviewing Bell Co. applications to enter the long distance telephone business. It is bad policy, bad procedure, and bad precedent.

DOJ IS THE PROBLEM, NOT THE ENTRY STANDARD FOR THE RBOC'S

The Sherman and Clayton Acts give the Justice Department ample authority to assure the RBOC's comply with the antitrust laws as they enter the long-distance business.

I think those two acts, the Sherman and Clayton standards, have come to be known as very good standards. They are under the Justice Department's legitimate role.

The Justice Department has never had a decisionmaking role in connection with regulated industries, or any other industry. The decisionmaking role should reside in the FCC: the agency with the regulatory expertise.

The issue centers around the way the Justice Department administers its current responsibility under the MFJ and the length of time the Department takes to reach its decisions, not what, if any, standard should be applied to RBOC entry into the long distance business.

The Department has consistently interpreted section VIII C of the MFJ to mean there must be actual and demonstrable competition, when in fact the section only requires that the entity entering a market not have the ''substantial possibility that it could use its monopoly power to impede competition.''

The Justice Department has been unable to loosen its grip on the reins of regulation, nor handle issues in a timely fashion. In 1984 the average age of pending waivers was two months. In 1993, the average age of pending waivers was 3 years.

The Department of Justice has one duty: to enforce the antitrust laws. It should not be allowed to become the police officer, judge, and jury for the telecommunications industry.

So, Mr. President, in summary and in conclusion, let me say to my colleagues that we have worked out a bipartisan bill in the Commerce Committee. All Democrats voted for it and two Republicans voted against, and all the other Republicans voted for it in the committee. It is a carefully crafted bill that would be deregulatory yet would protect the public interest and the taxpayers. In that bill we set the standard. We are trying to get everybody into everybody else's business. We are trying to break up the economic apartheid. We are trying to encourage small business entry.

If we can pass this bill, it will be like the gun going off in the Oklahoma land rush because investors and consumers and entrepreneurs will have a road map to take us into the wireless age.

This is a transitional bill, as I see it. If we add another layer of regulation on this bill, if we add the Department of Justice doing the same thing the FCC is doing, then we are merely adding another 3 to 5 years to any decisions. The Justice Department just does not move very fast. We would be giving to the Justice Department, which is supposed to interpret the Sherman and Clayton Acts, a regulatory role. I know there are about 200 lawyers over there in Justice who have been carrying out Judge Greene's orders. They are Judge Greene's attorneys. That is because Congress failed to act.

I am not criticizing Judge Greene. I am not criticizing those attorneys. But in S. 652 we have set up a system and a process that is very fair. There is the competitive checklist, and the FCC can use the public interest standard. The public interest issue was voted on today in this body. We have tried to work these things out.

I know there is a great nervousness between the long distance companies and the regional Bells. But we have reached a balance. These amendments would throw that balance off. But worse, they would disserve the public because the public wants lower cost telephones and lower cost cable rates. They are getting, in this amendment, more regulations, more delays. There would be more delays in developing new devices.

The cellular phone was invented in the late fifties. But because of Government regulation, we did not really see much of them until about 1985. Then the cellular phones came onto the market without much regulation. Now the price is coming down, and more and more people are buying them. Still, it took 40 years because of Government regulation.

That is what this amendment is about. This amendment is for more Government regulation. We need to be deregulators. We need to be procompetitive.

This is a very important amendment. I urge that we vote this amendment down, the underlying amendment, and any second-degree amendment, because this goes to the very heart of the debate in the Senate tonight. It is deregulation. We go on and on with layers of people to approve things going from one agency to another to another to another. We go on and on asking people to wait 3 to 5 years. We have people in the Justice Department who want to oversee the writing of yellow pages in telephone books. They are supposed to be interpreting the Sherman and Clayton antitrust acts. That is what the Justice Department is for. The FCC has another role.

I urge when we come to this that we vote it down. It is a very regulatory amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Could I just yield momentarily? I think the Senator from North Dakota has an amendment of clarification to his amendment.

AMENDMENT NO. 1264, AS MODIFIED

Mr. DORGAN. Mr. President, I send a modification to my amendment to the

desk, and I might tell the Senate the modification is to form only, not to substance. And I ask the modification be accepted.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1264), as modified, is as follows:

On page 82, line 23, beginning with the word ''after'', delete all that follows through page 91, line 25, and insert the following:

''to the extent approved by the Commission and the Attorney General''.

''in accordance with the provisions of subsection (c);

''(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

''(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

''(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

''(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

''(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

''(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

''(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

''(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

''(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

''(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

''(F) Local switching unbundled from transport, local loop transmission, or other services.

''(G) Nondiscriminatory access to——

''(i) 911 and E911 services;

''(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

''(iii) operator call completion services.

''(H) White pages directory listings for customers of the other carrier's telephone exchange service.

''(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

''(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

''(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

''(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

''(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

''(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale——

''(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

''(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5)

''(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange ''area where that company is the dominant provider of wireline telephone exchange service or exchange access service,'', a telecommunications carrier may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

''(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

''(c) IN-REGION SERVICES.—

''(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission and Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(2) DETERMINATION BY COMMISSION.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part.

''(B) APPROVAL.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

''(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

''(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

''(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission shall publish in the Federal Register a brief description of the determination.

''(4) DETERMINATION BY ATTORNEY GENERAL.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

''(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization.''

''(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register.''

''(4) JUDICIAL REVIEW.—

''(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission or Attorney General is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission and Attorney General under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission or the Attorney General for judicial review of the determination regarding the application.

''(B) JUDGMENT.—

''(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code.

''(ii) A judgment—

''(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

''(II) reversing any part of the determination that denies all or part of the requested authorization, shall describe with particularity the nature and scope of the activity, and

of each product market or service market, and each genographic market, to which the affirmance or reversal applies.

''(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

''(A) SEPARATE AFFILIATE SAFEGUARDS.—Other than interLATA services * * *''.

Mr. HOLLINGS. Mr. President, I am probably a good witness to settle this case because much of what has been referred to is what we did last year and the year before.

As the Clinton administration came to office, we had the original hearing. I remember it well. Secretary Brown of Commerce appeared. He asked for the Department of Justice. I cross-examined him very thoroughly on that because what we were trying to do was deregulate, what we were trying to do is sort of give us the term in the market, one-stop shopping. And if there were any inadequacies in the administrative body, namely the Federal Communications Commission, it was incumbent on me, I felt, as a Senator to make sure those inadequacies were considered. I felt the administration felt very, very strongly about this. And what you do in Government in the art of the possible is you get a bill.

So while I really wanted to have the one-stop shopping, I went along with the majority vote overwhelmingly as has been referred to. We had an 18 to 2 vote, and that kind of thing.

We had the Bell companies, the Senator from North Dakota is quite correct, reading the 8(c) test that is a part of his amendment, and the amendment, of course, of the distinguished senior colleague of mine from South Carolina, Senator THURMOND, is whether or not it will substantially lessen competition. One is the no substantial possibility to use monopoly power to impede competition. That is once competition has already ensued. The Dorgan amendment.

The Thurmond amendment is to the effect of reviewing ahead of time a merger, for example, to see whether it would substantially lessen competition.

We begin with the fundamental that to monopolize trade is a felony, and these communications people are not criminals—not yet, in any event, and they do not belong in the Justice Department unless they violate the law.

So looking at the majority vote in the art of the possible in getting a good communications bill passed, I was very careful.

Number one, if all the colleagues would turn to page 8, I think it is, of S. 652, and you look down starting at line 20, section 7, ''Effect on other law,'' I read this simple line:

Except as provided in subsections (b) and (c)—

which have to do with the MFJ and the GTE consent decrees—

Except as provided in subsections (b) and (c), nothing in this act shall be construed to modify, impair, or supersede the applicability of any antitrust law.

So let us clear the air. S. 652 says antitrust, keep all your experts; do all your reviews; study all your studies; make all your motions.

How many years does it take? They are so proud: Well, the Justice Department is the one that broke up the AT&T. Well, if they wait for them to break up the next monopoly in a similar fashion, we will all be term limited. Even the senior Senator might not be here. I do not know. It will be long enough, I can tell you that.

So let us get right down to it. The Antitrust Division has its responsibilities under Section 7 of Clayton. It has its responsibility with respect to the Sherman Act, whether any violations are there because that is how they moved with respect to AT&T.

The thrust here is by the long distance crowd to get some more bureaucracy.

That stated it in a line.

Just like my friends, the Bell crowd, wanted to do away with the public trust, this long distance crowd wants to bureaucratize the entire thing like the end of the world is going to happen if you do not have the Justice Department bureaucracy and minions studying, moving, motioning, hearing, and everything else.

I graduated from law school. I had a colleague I think who joined the Louisiana land case down there. Like the Georgia Pacific, they had the Louisiana pulp and paper case. It was a long—well, 13 years later, under the fees he got, he was retired down in Florida. And I always regretted that I went to trying cases in my hometown and did not get connected up with one of those rich antitrust motions.

We are all spoiled. You have a wonderful Assistant Attorney General in charge of the Antitrust Division, Ms. Anne Bingaman, who has done an outstanding job with respect, for example, to the Microsoft case and engineering the Ameritech consent decree. You have a wonderful set of facts there where they were all petitioning and joining in. They were not enjoining. They were not motioning to estop. They were not appealing. And they were not getting clarifications and everything else, all these other motions that can be made under antitrust with findings and what have you.

This was already under the Department of Justice consent decree, the MFJ consent decree whereby they could come in and motion the judge and agree on a limited market that was outlined, and you did not have to go into the regular antitrust bureaucracy and ritual that takes years on end, which they have already put in the Record, fortunately, for me.

The Senator from North Dakota talked about starting with President Nixon, President Ford, President Carter, and then finally under President Reagan. So there is a strong feeling here that we tried to simplify as much as possible this proceeding.

And under the amendment of the Senator from North Dakota about the 8(c) test, no one knows it better than I because I did cite those letters and understanding and everything else of that kind. Because of the way 1822 was drafted year before last, it had actual and demonstrable competition. That just threw everything into the fan, and before I could get around and explain anything to the colleagues and everything else what we were trying to do, they just had a mindset that the chairman of the Commerce Committee was off on a toot and a little mixed up and it was not going to go anywhere. I had to agree with them; I was not going to go anywhere. So we sat down and over a 2-year period, meeting every Friday with all the Bell companies, and meeting every Tuesday morning with all of the long distance companies and the other long distance competitors in there, we then started spelling out as best we could that checklist of what actual and demonstrable competition would encompass. So we spell this out dutifully.

I wish to read that to you because I wish to show you what actual and demonstrable, what 8(c) is. The idea is that we have disregarded the admonition that there be no substantial possibility of using monopoly power to impede competition.

Well, how do you determine that? You determine that best by making a checklist of the unbundling, of the local exchange, the interconnection after it is unbundled. You get the dial parity. You set up a separate subsidiary and all the other particular items listed.

I have a wonderful group here that is very familiar with the bill. They know how exactly to turn to the page and section so I can read it to you. But while they search for it, which is very difficult to find, what we did is we dutifully spelled out the 8(c) test, which is the amendment of the Senator from North Dakota, and thereupon put in the bill itself, which, again I think, is on page 89. Understand, we had not disregarded actual and demonstrable competition. On page 16, line 10:

(b) MINIMUM STANDARDS.—An interconnection agreement entered into under this section shall, if requested by a telecommunications carrier requesting interconnection, provide for—

(1) nondiscriminatory access on an unbundled basis to the network functions and services of the local exchange carrier's telecommunications network software to the extent defined in the implementing regulations by the Commission.

(2) nondiscriminatory access on an unbundled basis to any of the local exchange carrier's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carrier's networks;

(3) interconnection to the local exchange carrier's telecommunications facilities and services at any technically feasible point within the carrier's network;

(4) interconnection that is at least equal in type and quality to and offered at a price no higher than that provided by the local exchange carrier to itself or to any subsidiary,

affiliate, or any other party to which the carrier provides interconnection;

(5) nondiscriminatory access to the poles, ducts, conduits and rights-of-way owned or controlled by the local exchange carrier at just and reasonable rates;

(6) the local exchange carrier to take whatever action under its control is necessary, as soon as is technically feasible, to provide telecommunications number portability and local dialing parity in a manner that.

(A) Permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service in the market served by the local exchange carrier;

(B) permits all such carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing with no unreasonable dialing delays; and

(C) provides for a reasonable allocation of costs among the parties to the agreement.

(7) telecommunications services and network functions of the local exchange carrier to be available—

AMENDMENT NO. 1265, AS MODIFIED

Mr. THURMOND. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 1265), as modified, is as follows:

Strike all after the first word of the pending amendment and insert the following:

(2) Section 309(d) (47 U.S.C. 309(d)) is amended by inserting ''(or subsection (k) in the case of renewal of any broadcast station license)'' after ''with subsection (a)'' each place it appears.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 *et seq.*), as added by this Act, is amended by inserting after section 254 the following new section:

''SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

''(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 under section II(D) of the Modification of Final Judgment, a Bell operating company, that meets the requirements of this section may provide—

''(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service to the extent approved by the Commission and the Attorney General of the United States, in accordance with the provisions of subsection (c);

''(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

''(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

''(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

''(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this action only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

''(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

''(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

''(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

''(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

''(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

''(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

''(F) Local switching unbundled from transport, local loop transmission, or other services.

''(G) Nondiscriminatory access to—

''(i) 911 and E911 services;

''(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

''(iii) operator call completion services.

''(H) White pages directory listings for customers of the other carrier's telephone exchange service.

''(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

''(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

''(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

''(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

''(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

''(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

''(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

''(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

''(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange ''area where that company is the dominant provider of wireline telephone exchange service or exchange access service,'' a telecommunications carrier may not jointly market telephone exchange service in such telephone exchange area purchased from such company with interLATA services offered by that telecommunications carrier.

''(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

''(c) IN-REGION SERVICES.—

''(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission and the Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(2) DETERMINATION BY COMMISSION AND ATTORNEY GENERAL.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission and the Attorney General shall each issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part.

''(B) APPROVAL BY COMMISSION.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

''(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

''(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. In making its determination whether the requested authorization is consistent with the public interest convenience, and necessity, the Commission shall not consider the antitrust effects of such authorization in any market for which authorization is sought. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

''(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen

competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application.''.

''(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission and the Attorney General shall each publish in the Federal Register a brief description of the determination.

''(4) JUDICIAL REVIEW.—

''(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission or the Attorney General is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission and the Attorney General under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission or the Attorney General for judicial review of the determination regarding the application.

''(B) JUDGMENT.—

''(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code.

''(ii) A judgment—

''(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

''(II) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

''(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

''(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services au-''.

AMENDMENT NO. 1264, AS MODIFIED

Mr. HOLLINGS. I thank the distinguished Senator.

(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services, other than reasonable conditions required by a State; and for the purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

(A) of services included—

I could keep on reading. I hope the colleagues will refer right on past page 19.

How this was developed is powerfully interesting, Mr. President, because we had the lawyers. I said earlier today 60,000 lawyers are licensed to practice before the District of Columbia bar; 59,000 of them are communications lawyers, and they have all been meeting here for the last 2 years. They know every little motion, every little twist, every little word, every little turn.

This is nothing about the Department of Justice. All of this has to be done by the Federal Communications Commission. Talk about expertise. How high and mighty and what a great aura of austerity and other things we have to have here for the Department of Justice. The Department of Justice looks out at the market and finds out if there is any unreasonable monopolistic practices in restraint of trade. They have a very broad thing. They do not look at any of these things. They would not be equipped to and would not know.

When you get through having done all of this, which really ends up into actual and demonstrable competition, which ends up actually being the 8(c) test under the modified final judgment, when you have done all of that, there is one other catchall, and that was referred to earlier today in an overwhelming vote of the public interest standard. That is why you had it, Mr. President. For everybody's understanding, if you wanted to know why they were fighting to get rid of the public interest standard, we had the catchall in there that the public interest standard had to be adhered to, and that was measured by the Federal Communications Commission.

Here is how that reads:

If the commission determines the requested authorization is consistent with the public interest convenience and necessity. . .

Now that is a tremendous body of law under the present and continuing to be 1934 Communications Act. Oh, it would be great to come and have the Pressler Act, the Hollings Act. We could go down in history.

But there is a tremendous body of law under the 1934 Communications Act, and if we started anew with an entirely new communications act for our own egos around here, then we would have really messed up 60 years of law and decisions, res adjudicata, understandings, and we would have caused tremendous mischief. We would not have deregulated anybody. We would have thrown the information superhighway into the ditch.

So what we did is refer back to that where it is referred as a public interest matter 73 times under the original 1934 act.

The Commission, after doing all of that, has at its hand a duty affirmatively—you are talking about affirmative action in Washington these days. The affirmative action imposed upon the Federal Communications Commission is found on page 89 where the ''Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard.''

Then if the colleagues would turn to page 43 of the committee report:

Within 90 days of receiving an application, the FCC must issue a written determination, after notice and opportunity for a hearing on the record, granting or denying the application in whole or in part. The FCC is required to consult with the Attorney General regarding the application during that 90-day period. The Attorney General may analyze a Bell operating company application under any legal standard (including the Clayton Act, Sherman Act, other antitrust laws, section 8(c) of the modified final judgment, Robinson-Patman Act or any other antitrust standard).

I can tell you, Mr. President, that you cannot do a better job than that. I have no misgivings for the wonderful vote on the good bill, 1822. We were ready, willing and able to pass it as it was. I was passing it the best way we could. But on second thought, looking at the votes, the support, the determination of the colleagues—and that is what we all said in the very beginning, that this is a good balance, we do not disregard the public on a fundamental here. What we do—and it is well to be argued—is that we consider the public. If you go down all the particular things required, plus the public interest standard, if you go into the Attorney General coming in, you know that is going to raise a question if the Attorney General sees any substantial possibility of monopoly power being used to impede competition or the other Clayton 7 act substantially lessening competition.

Either way, or any other way, under the Sherman Act, the Attorney General has an affirmative duty to advise, and that is right quick like, because they have to do it under a stated time here in our act. I do not know how to more deliberately go about the particular granting of licensing and opening up of markets, allowing the Bell operating companies into long distance and the long distance into the Bell operating companies and to let competition ensue.

So both of these amendments—the amendment of the distinguished Senator from South Carolina to the second degree under the Clayton 7 test is cared for under this S. 652. The 8(c) test of no substantial possibility, of impeding competition, is taken care of here. And over and above it all, it is stated clear on page 8 of the particular bill that all standards can be used by the Attorney General. The Attorney General has its duties. They are generally criminal duties, and we should not have our wonderful carriers, whether they be Bell operating companies, long distance companies, or any other telecommunications carriers, even calling over there and trying to find a Justice department lawyer, rather than a Federal Communication Commission lawyer. It is like ailments physically, when you have to get a special doctor. Well, you need a special lawyer for that. Once he gets into that and they get the billable hours and the motions and clarifications and everything else, you can forget about your communications company. It has gone down the tubes financially. We put it in there to make sure that the Antitrust Division of the United States Justice Department is not impeded in any fashion.

''Nothing in this act shall be construed to modify, impair, or supersede

the applicability of any add antitrust law.''

Now, why do we have these amendments? The long distance crowd are wonderful people. I have been working with them, and I have been working with the Bell companies. We all say that everybody has to get together and we have to get this bill passed. We have to do it in a bipartisan fashion. It is incumbent on this Senator's judgment here at this particular time that this is far and away the best approach.

So I support our distinguished chairman here in his S. 652, to eliminate the direct hearing process, and everything else, of going first to one department of Government and after you get through with that department of Government, come down over to the next department of Government, and then go through all of that list of things that I have listed down there and expect to get anything done.

We are trying to get one-stop shopping here. There is no reason other than, yes, if you get a violator, and if you get a violator with all of this klieg light of attention being given to communications and the responsibilities to the FCC and the experts they are going to have to hire. They have already made $7 billion for us this year with auctions. So there is no shortage of money at the FCC.

We have to make sure we have the Federal Communications Commission's appropriations in our subcommittee of appropriations, and we are going to provide a very outstanding staff, because we want to facilitate. We do not want the FCC coming back and saying we are overwhelmed and we cannot possibly get it out and we cannot do this and that. Temporarily, for 2, 3 years, sitting down and promulgating all of the rules, entertaining all of the petitions and what have you, there is going to be a plethora of legal proceedings looking at both the 8(c) tests and section 7 of the Clayton Act, and all other measures with respect to trying to open up and make sure that on the one hand there is competition, and on the other hand that any present monopoly power is not used to impede that competition. I do not know how you can get it done any better than that.

This amendment would really just formalize both things constituting a requirement to get the lawyers and go up and go through one and go through the other, where these two can really communicate, not only by phone—communications, that is—but they can send a letter and give a formal opinion, and everything else like that, and you can bet your boots that the Federal Communications Commission is not going to disregard the advice of that Attorney General if it is a strong showing in its opinion that there is some substantial possibility of impeding competition, or that it lessens substantially competition.

No FCC is going to get by with that. That appeal will go up, and the order would not go anywhere before it would be appealed up and probably set aside, because then it would have one division of the Government against the other division.

We have smoothed it out and streamlined it. We have cut out the bureaucracy, and yet, we have had every particular safeguard that you can imagine, that the lawyers could think of that is in here, to make sure that it works and works properly for the public interest.

I yield the floor.

Mr. KERREY. Well, I must say, Mr. President, I rise with some trepidation. The distinguished Senator from South Carolina has made a very impressive legal case as to why the language in the bill, as it is written, is satisfactory and the distinguished Senator from South Dakota, prior to him, laid out a number of reasons why the amendment offered by the Senator from North Dakota is wrong.

I say to my colleagues that I do not come here representing the long distance companies or any other companies. I come here representing the consumers, first of Nebraska, and then of the United States of America. And I hear in the arguments offered here that, first of all, this would be an unprecedented thing for the Justice Department to do. Well, if it is our fear of breaking precedent that is the problem with this amendment, then we should not enact this legislation. This legislation is unprecedented, is it not?

I ask the distinguished Senator from South Dakota, is this legislation not itself unprecedented? Has the Congress of the United States of America ever considered a law that would take such a substantially regulated monopoly with such size and move it into a competitive environment? When have we done this before, of this size and magnitude?

Mr. HOLLINGS. If the Senator will yield. AT&T.

Mr. KERREY. The AT&T divestiture was done by the Department of Justice, not the Congress.

Mr. HOLLINGS. It took 10 years. We do not want to do that.

Mr. KERREY. My point here is, to say that what we are asking for with this amendment is unprecedented leads me to the question, is this legislation itself not unprecedented? Is not what Congress is considering with S. 652 unprecedented? I do not come to the floor and say let us not do S. 652 because it is unprecedented. I understand it is unprecedented. We are in unchartered waters. We have not done this before.

Mr. PRESSLER. Will my friend yield?

Mr. KERREY. I yield.

Mr. PRESSLER. We are in unchartered waters in the sense that already the Department of Justice is running an industry, so to speak. That is without precedent in terms of Judge Greene's order, which I think was necessary, because Congress did not do its duty. Congress is now doing its duty or trying to in this bill.

Mr. KERREY. The Senator is saying that the Congress, the fact that we had divestiture of AT&T in 1985 was the failure of the U.S. Congress?

Mr. PRESSLER. In part, yes. The Congress should have acted.

Mr. KERREY. Mr. President, I ask the Senator from South Dakota what would he propose Congress do?

Mr. PRESSLER. Congress has been paralyzed and unable to make telecommunications policy because there are so many people in telecommunications who can checkmate the decision. So as telecommunications was modernizing, the Congress was not reacting, and the pressure built up to the point that Judge Greene made the decision that he did.

Mr. HOLLINGS. Will the Senator yield?

Mr. KERREY. Pleased to yield.

Mr. HOLLINGS. We had 10 years of hearings, John Pastore of Rhode Island was chairman of the subcommittee, and in the late 1960's and all the way through the entire 1970's we had hearings.

I got a nice compliment from Judge Greene. Minority opinions that we put in the committee reports, after all of our hearings, trying to break up AT&T. Congress was trying to do it because there were 12 orders that were made by the Federal Communications Commission, but they, AT&T, was so legally powerful that they had each of the 12 orders into some legal snarl of one kind or another, whereby none of the orders were enforceable. They could not get anything done, and we could not deregulate.

That is why they were accelerating the particular antitrust proceedings. Congress was unable to act. I am a witness to that because I served on that subcommittee and went to hearings ad nauseam, trying to do it, and we make up the reports and everything else. Finally, it had to be done by the Justice Department.

It is just like the Senate passing different bills. We tried during the 1980's to take this from Judge Greene and put it back into the FCC and got nowhere. We had the manufacturing bill pass by 74 votes—bipartisan in the Senate. It got blocked over on the House side.

Every time we turned and tried at the congressional level we failed. Now we are about to succeed, I think, and I am confident we have the support of the distinguished Senator from Nebraska.

Mr. KERREY. I will stipulate that I agree that Congress failed in not being able to resolve the various conflicts and pass legislation to break up AT&T in the 1980's and come up with a legislative solution.

A failure of the Reagan administration, as well, not to be able to exercise sufficient leadership. I stipulate here on the floor tonight that it was a failure of the Reagan administration, a failure of the U.S. Senate in the 1980's, and a failure of the United States House of Representatives to be able to get this job done.

Is that a fair stipulation? Am I expressing something with which the Senator from South Dakota would disagree?

Mr. PRESSLER. Would my friend yield?

Mr. KERREY. I yield.

Mr. PRESSLER. I am not trying to score debate points, but in part, it was a failure of everyone and previous Congresses and administrations to tackle the difficult problem we were trying to tackle.

I am not putting anybody down. This bill has been worked on by many Senators, and the Senator from South Carolina has shown great courage. His speech was one of the great speeches that I have heard in the Senate.

I would say to my good friend from Nebraska, may I ask a question: Is there any other precedent, is there any other industry that has been taken over by the Justice Department and regulated and run as Judge Greene's decree did? Is not that unprecedented?

Mr. KERREY. Absolutely is.

Is there any situation, Senator, where governmental entity has produced so much good? Is there? Tell me the bad things that have happened since the consent decree was filed.

Mr. PRESSLER. Well, I would have supported the concept of a consent decree.

I think we have reached a point where Congress should take back its rightful role. I think that Judge Greene probably would say that. I have not met him. I would love to meet him some day, because he is one of the great people in American history in terms of what he has done. An industrial reconstruction that is bigger than any in history.

I always tell students when I give speeches in my State of South Dakota, if they want to influence public policy, they should become a journalist or Federal judge first, if they really want to have sweeping affects. I cite Judge Greene as an example.

But if I may say so, we are sort of debating the chicken and the egg.

Mr. KERREY. It is not the chicken and the egg.

Mr. PRESSLER. We have a situation that I think we have the responsibility to act.

Mr. KERREY. If Congress did it in 1985, they could not have done it as well as the Department of Justice. The regional Bell companies at the time of the filing of the consent decree object to restrictions placed on them on manufacturing, on services, and they objected because they wanted to get into all the things.

The consent decree said we will have competition. It said we will move from a monopoly to competition.

This is the agency of the government that has enabled us to do that. The U.S. Department of Justice has done it. That is what I see. I see them as an agency that has produced competition, in an unprecedented time, once before, and now in another unprecedented time.

In my judgment, we need them not to produce duplication, not to produce a duplicative process. It is a parallel process. Do you not go to one agency and then to another. I tend to walk through, as I see, the process.

I feel odd arguing, because in S. 1822 last year, we had all this pretty well settled. Last year's legislation came out with a 18–2 margin. I believe, basically, that did what the Dorgan amendment is now asking for.

I point out, as well, one of the statements that was made here that this thing could drag on a long, long time.

Well, the amendment tends to deal with that. I point out to my colleagues that there is a determination, a process, that says that the Attorney General, not later than 30 days after receiving an application, shall issue a written determination. There is a time certain in here of the 90 days.

Now, maybe 90 days is too long. Maybe it ought to be somewhat shorter. There is an attempt made here not to lengthen the process. Indeed, I believe very strongly that the law as it is written without this amendment is an invitation for lengthy litigation.

But most importantly, Mr. President, my fear with this, and it is a sincerely based fear, I do not come here pulling for the long distance companies, or represent one interest or another.

I come many times in this debate to say this: We are going to vote on this in final passage some time in the next year. We will have a vote on final passage.

Members need to understand that they will be held accountable for that vote. Who will hold them accountable? Who will say, ''You cast the right vote.'' In the early difficult days, it will be the companies who have taken an interest. It will be the corporations that have been in town talking to Senators, day in and day out since the committee began its work in the early part of this year, and since the committee started its work last year. The companies that have been in town saying ''We like this provision, we don't like this provision,'' all the delicate balance that has been referenced. Either get a pat on the back, or a wave, or some smaller number of fingers directed in your direction.

I urge my colleagues to understand that the much more important test of whether or not this piece of legislation is going to be something Senators are either proud of, or for the rest of your political career—perhaps shortened by this vote—Senators are explaining why they thought it would do something else.

This piece of legislation either produces lower prices and higher quality to 100 million residential users of information services from 9 basic industries, or anybody that votes ''aye'' on this thing has a lot of trouble.

I do not care what AT&T says. I do not care what the RBOC says. I do not care what the cable companies say or the broadcast people say, or anybody else says. Out in that hallway or in your office or through the mailbox or through E mail or any other kind of communication, they may tell Senators they are doing the right thing, but the real test is going to come a year from now, 2 years from now, 3 years from now when this rubber begins to meet the road.

The question then will be, what do the consumers say? What do the citizens say? Dare I mention it, what do the voters say, who have not asked for this piece of legislation?

I say now for the 8th or 9th or 10th time, this is not something that has been driven by town hall meetings. This is not on talk radio. This is not something that is coming as a part of the Contract With America. No one has polled this. No one has reached out and said, we will do focus groups and find out what is going on here. This is being driven by legitimate corporations with a sincere desire to do something that current law says they cannot do.

So we are trying to do something that is unprecedented— unprecedented to take a large sector of our economy and move it from a monopoly status into a competitive environment.

And if we only worry about whether or not the existing corporations are going to be able to get what they want, in my judgment, not only would the consumers be unhappy, because they do not get the competitive choice they need. In my judgment, as well, all the promises of jobs we are talking about all the time, are not going to be fulfilled. Because, rest assured, when jobs are created they are going to be created by companies that do not even exist today. New entries, like we saw with Microsoft, new entries like we saw with Intel—we are going to see new entries that are going to be creating the jobs of tomorrow. And, unless this legislation permits, with no reservations, competition at the local level, it is unlikely that either the consumers of the United States of America, or those people in America who are trying to find jobs, are going to be terribly happy with the product.

I am going to go down a few things I have heard said here this evening. I do not know how much longer I will talk. I will talk a while. We are going to come back in tomorrow and have plenty of time to go through some additional matters. Let me go through some of the things that were referenced.

I have heard it said this is more regulation and more delay. I am prepared to argue and present it is not. I am prepared to argue in fact that the existing legislation, unless it is changed by the Dorgan amendment, is going to be more regulation and more delay.

I have heard it said the Department of Justice is going to take on legions of new employees. It is not true. Indeed, the much more likely possibility is it will be the FCC that has to take on legions of new employees because they are not used to doing this kind of work.

It is much more likely that the plethora of applications that come the FCC's way is going to produce an increase in that bureaucracy and not an increase in the Department of Justice.

I have heard it said, and I referenced it earlier, this is going to create duplication. It is not. It is a concurrent process, a simultaneous process of application. The FCC does the work it is supposed to do. The Department of Justice does the work it is supposed to do. There is not an overlapping of permit requirement here. One agency has one responsibility; another has another responsibility. There is a time certain, as I indicated already in the amendment.

In my judgment we have made an effort with this amendment to try to take into account the concerns that people have. Are we going to have more regulation? Is this going to create duplication? Is this going to mean more paperwork and delay? It will not mean more of any of those things. It will mean less.

I have heard it said, as I indicated earlier, that this is an unprecedented intrusion by the Department of Justice into an industry. Mr. President, this whole venture is unprecedented. I hope colleagues understand that. It is an unprecedented action. It is an unprecedented bipartisan action, and I trust and hope this amendment will become an unprecedented bipartisan action as well, because, unless we improve this legislation with this change, those who vote ''yes'' on this bill, I believe sincerely and genuinely, will regret having done so.

Mr. President, I hear that this is a dangerous precedent.

Mr. PRESSLER. I am sorry. I have the example, if the Senator will yield, that he asked for earlier.

Mr. HOLLINGS. If the Senator will yield, what we have, I say to the distinguished Senator, is the minority leader's amendment. When we called up the bill we put in the majority leader's amendment. We did not have a opportunity to put in the minority leader's, and we wanted to print it in the RECORD so the Members could read it.

Will Senator temporarily yield?

Mr. KERREY. I will.

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I may send an amendment to the desk on behalf of myself and the Democratic leader, Senator DASCHLE.

Without objection, it is so ordered.

AMENDMENT NO. 1266

(Purpose: To clarify the requirements a Bell operating company must satisfy before being permitted to offer long distance services, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. DASCHLE, proposes an amendment numbered 1266.

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

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

The amendment is as follows:

On page 53, after line 25, insert the following:

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadcast number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(20 interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standard-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term ''telecommunications network-level interoperability'' means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

On page 66, line 13, strike the closing quotation marks and the second period.

On page 66, between lines 13 and 14, insert the following:

''(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES—

''(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

''(B) CABLE OPERATORS.—No cable operators or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

''(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

''(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated places or territories that—

''(i) have fewer than 50,000 inhabitants; and

''(ii) are outside an urbanized area, as defined by the Bureau of the Census.

''(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

''(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

''(ii) the system of facilities would not be economically viable if such provisions were enforced, or

''(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

''(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

''(G) SAVINGS CLAUSE.—Nothing in this paragraph affects the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture.''.

On page 70, line 7, strike ''services.'' and insert ''services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.''.

On page 70, line 21, strike ''area.'' and insert ''area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.''.

On page 79, before line 12, insert the following:

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

On page 88, line 4, strike ''area,'' and insert ''area or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier,''.

On page 88, line 5, after ''carrier'' insert ''that serves greater than 5 percent of the nation's resubscribed access lines''.

Mr. HOLLINGS. I thank the distinguished Senator from Nebraska for allowing us to do that. This will have

printed in the RECORD, now, this particular amendment, for the colleagues.

AMENDMENT NO. 1264, AS MODIFIED AND AMENDMENT NO. 1265, AS MODIFIED

Mr. KERREY. Mr. President, let me go through a few more things here. I appreciate that. I have only a few things.

Mr. PRESSLER. Will my friend yield? This is a fascinating dialog for me. I am not in any way trying to one-up or anything. But in the early 1980's both AT&T and IBM were in the Justice Department with big lawsuits against them. And on the same day, January 8, 1982, the Federal Government chose two different destinies for those mammoth companies.

It is my contention that, had we done with AT&T then what we are trying to do now, that is broken up the monopoly by requiring them to unbundle and interconnect and allow competition—in any event the computer industry went the other way. The computer industry—it is true there are winners and losers. It is true IBM has had problems and had spinoffs. But the computer industry, in terms of service to the American people, and dropping costs, moved forward much faster. In fact, there is a chart here that, had the telecommunications industry moved forward in competition as much as IBM in the computer area, the cost of telephones today would be about a fifth what they are, because the innovation and the competition, reduction in costs was much greater in the computer industry.

So the Justice Department on the same day in 1982 sent the two industries on two different paths. They did that with AT&T because Congress had failed to act. We failed to do then what we are trying to do now, that is open up access, provide interconnection and unbundling to provide competition. And we would have had much more innovation in the telecommunications area, if you compare the two industries.

Mr. KERREY. I say to the Senator from South Dakota, had we done that, had we tried to follow the model of IBM, we would have had to do a number of other things. We would have had to say there is no public purpose in having universal service to all Americans.

Mr. PRESSLER. I am not talking about IBM, I am talking about the computer industry. I am talking about the computer industry.

Mr. KERREY. But AT&T and IBM are wholly different cases. IBM is a company that manufactured hardware and software for the consumer and business industry. There is no public purpose there, in saying we have to make sure every single American household has a computer. Whereas AT&T was a monopoly created with the 1934 Communications Act, with a franchise and a specific instructions to achieve universal service for all Americans.

So, in the one case——

Mr. PRESSLER. If my friend will yield, I am talking about the computer industry, the competitiveness that is in it. It has been far more innovative than the telecommunications areas. I know the two companies are different. I am not just talking about IBM. It has been replaced—there have been all those things that have happened; Intel, Apple, and all sorts of things. I could go through them.

But a comparison of the two technologies, how they have progressed—compare the computer area to telecommunications, you would find that today a telephone call would be only a few cents, if it had advanced as much as the reduction in cost of personal computers. My friend asked for an example. That is an example.

But, in 1982, what the Congress should have been doing——

Mr. KERREY. I ask my friend from South Dakota, does he think it would have cost a couple of cents in Rapid City, SD?

Mr. PRESSLER. Personal computers cost much, much less in Rapid City.

Mr. KERREY. If we had taken the IBM track in 1984, does the Senator think it would have cost a couple of cents for phone service in South Dakota? I do not think so.

Mr. PRESSLER. Personal computers cost much less in South Dakota than they would otherwise. You can argue this thing circuitously. You might have innovations. In the computer area there are so many innovations. We may have had telecommunications innovations that we have not had. You cannot argue this perfectly.

But there is probably no part of American industry that has had more innovation and competition than the computer industry, and people in Rapid City, SD, can buy personal computers at a fraction of the cost, and they are much more advanced than they would have been had the Justice Department gone the other way.

Mr. KERREY. The point in fact is the Justice Department put the pressure on IBM, caused IBM to spin off two relatively insignificant, at the time, inventions. One was——

Mr. PRESSLER. I am talking about the computer.

Mr. KERREY. The Department of Justice had a very constructive impact on IBM and on the U.S. economy. They had them spin off a couple of little things. One was an operating system called MS–DOS. And a couple of guys, high school or college dropouts up in Seattle, they built Microsoft. And Intel was the second company that got spun off, because the Department of Justice said we have a monopoly here. It is unacceptable.

You are going to control too much of the economy. We are going to require some action. I understand you are using an example. I find the example difficult frankly on two grounds: One, in the case of IBM, you are dealing with a company that is different than AT&T. AT&T is a licensed monopoly by law created as a monopoly. The question is how do you go from that monopoly to something you now want to become a competitive industry?

That is what I find most remarkable about the objection to this amendment—that if you are looking for a Federal agency with experience taking a monopoly situation to a competitive situation, why in heaven's name would we not go to the Department of Justice that has the most experience doing it and the most successful experience doing it? They have the track record. They have the personnel. Tell me where the FCC was in all of this. Describe to me the FCC's role either in IBM or in AT&T in a transition from monopoly to competition.

Mr. PRESSLER. If my colleague will yield again, I am talking not specifically about IBM. But I am talking about the direction the computer industry took. AT&T was a Government monopoly. But my argument is that if we had done what we are trying to do in this bill—that is, require them to unbundle and interconnect, to allow for local competition, allow people to have access locally as this bill does, the whole telephone communication industry might be much more innovative today than it is.

Mr. KERREY. I hear that. But one of the reasons Congress did not do that was when you get right down to it, it is difficult for us to say to a company you have to be competitive.

I say to my friend from South Dakota that when the Cohen amendment came up earlier we were on the opposite sides of that issue. The Cohen amendment said we are going to take the set-top box industry and allow it to develop in a competitive fashion. There were concerns from smaller cable operators that it could result in some hardship to them. It could result in some problems for them. I understand. I think it is very difficult for the U.S. Congress to take a position to say to any industry that we are going to require you to go from a situation where you are not competitive, where you have been given Government protection of some kind, and in this particular case it is the telephone industry, given a franchise, given protective status, protected from competition, we are trying to figure out how to protect them from that protected status to a competitive environment, and the only Federal agency in town, in the people's capital in Washington, DC with the experience of having done it is the U.S. Department of Justice is given a consultative role. ''Oh, what do you think of this transition, Mr. Department of Justice?''

It seems to me, odd. I do not understand. I understand why the people who are going from a monopoly to a competitive environment oppose this. I understand why they are nervous about it because they saw how effective the Department of Justice was the previous time they did it. They saw how rigorous the Department of Justice was in

making sure that there was competition.

Mr. PRESSLER. If the Senator will yield, it is not true that if we allow the FCC to set the standard for anything, a Government standard, there is very little room for innovation, for new inventions, for the type of things that have happened in the competitive world. There are some winners and some losers.

But my point about computers is that every 18 months things become virtually obsolete because there is so much competition. There are so many things going on. The average consumer has benefited from all this competition. They can own a personal computer, and the prices are going down and capacity has gone up enormously. Had we had the Government standards we would not have seen that type of innovation.

That is the point I am trying to make.

Mr. KERREY. We are not proposing a Government standard with this amendment, I do not believe. Maybe I misunderstand the amendment of the Senator from North Dakota. I do not believe so. I do not believe we are proposing that. I do not know if the Senator from South Dakota is familiar with it. I suspect the Senator is since he has been inundated with all of this stuff involved in this piece of legislation. There is an issue of interoperability.

I introduced an interoperability bill a month or so ago, and immediately was approached by some people in the private sector who said that if the Government comes in and sets a legal de jure standard, what that does is it inhibits the development of the de facto standards, and I yielded to that argument. Indeed, I do not want the Government to establish in technology with the de jure standard that makes it difficult for the companies to go to the marketplace and say we are going to give what the marketplace wants and after we have given you what you want that becomes the standard, that becomes the new standard. I do not want to inhibit that at all.

What I am concerned about, again I say for my colleagues, I am concerned about that the consumer who will not benefit unless there is competition so rigorous that I can take my business someplace else if I do not like what is being offered either in the way of price or service, not in independent lines of business, not in cable, not in dial tone, not in tech. But if they want to come in and sell it to me all put together for a lower price than I am currently paying, that is where I am going to get innovation and reduction in the cost of my current household information services. I am not going to get it if you preserve out of concern for what the Department of Justice is going to do, if you preserve a line of business differential in some artificial fashion. I think that is what this legislation does unless we get the Department of Justice with a role, an active role.

I mean I am willing to consider any suggestions on what to do, to reduce any potential duplication, overlap. I am willing to consider any suggestions to make sure we shorten the time. We do not want to stretch it out. The idea is do what Justice did in 1984. You go into court. If you get the parties in hand, you write up a memorandum. You get in this case a consent decree. You walk into the judge at a Federal court, and you file it. All parties agree. You do not have litigation afterwards.

You do not have any dispute to tie this thing up for a long time and tragically prevent the very competition that we are trying to see. I hope my colleagues understand that. If this thing is litigated, if I as an owner in a monopoly fashion have the right to deliver information services at the local level, and can tie this thing up in court for a long enough time to prevent that innovation from occurring, it is prevented permanently for the very reason that the Senator from South Dakota said, because innovation only lasts a little while and then it is obsolete.

So I understand this delicate balance. I truly do. The distinguished chairman and the ranking Member have worked so hard on it. I understand that maybe it could all come apart if this amendment is agreed to. Members say, ''Oh, my gosh. We settled that in committee. We cannot now take it up again.''

I hope that we get some reconsideration of that conclusion. If I am wrong, if I have reached a conclusion because I have myself diagnosed the scene and do not understand what is going on, come and tell me. I am prepared to admit. If I see that incorrectly I have assessed on behalf of consumers and people making certain this legislation does set off some innovation that results in new and higher paying jobs for the people of the United States of America, I do not believe that this is a precedent that we should fear. Indeed, I believe it is a precedent that we should seek based upon the success of having done it once before.

I heard one of the comments here this evening. Well, if the Justice Department has specialized expertise, then maybe we would ask them to do this. It does have specialized expertise. That is precisely the point. It has specialized expertise. Let us define what we want the Justice Department to do based upon that specialized expertise and have the FCC do what it does well, based upon its specialized expertise. And in that kind of a situation, Mr. President, we must be able to come to an agreement on how to make certain that we do not end up with overlap and duplication and a long regulatory process that makes it difficult not just for the RBOC's to get into long distance, but far greater concern for all of us who want to make sure that our vote turns out right, and that consumers end up with lower prices and higher quality service as a consequence.

Mr. President, I really could talk a bit longer. I do not know what the distinguished Senator from South Dakota has in mind for the evening. It looks like there is a shortage here of red-blooded American men and women, unfortunately, elected to this great body that want to talk on this wonderful issue.

Mr. PRESSLER. I do not see colleagues nor the Chamber filled with people listening to my words.

But, in very good spirit, I say to my friend from Nebraska, I have worked with him on his interoperability amendment. In fact, we accepted it. But only after insisting that a private standard be set. My understanding is then the Senator's original proposal had a Government standard set.

Mr. KERREY. It had a voluntary Government standard, and I was willing to make changes and make certain that it did not become a rigid Government standard, this is true.

Mr. PRESSLER. I do not care to debate it.

Mr. KERREY. Network and network interoperability.

Mr. PRESSLER. I welcome it and pleased to accept it, and it demonstrates that we are working together.

I have said about all I am going to say today, but I do have some remarks for the leader at the appropriate time.

Mr. KERREY. I will just take a few minutes and conclude for this evening.

The distinguished ranking member went through the 14 part checklist and said that among other things this checklist—for my colleagues who are wondering, this is in section 221. It actually becomes section 255 of the communications act.

This checklist says this is what a Bell operating company, your local telephone company from whom you purchase your telephone service, this is what they have to do in order to be able to provide long distance. That is, they have to do all these things and present that to the FCC. And when they do that and meet one higher test, one additional test, public interest test, then they are allowed to get into long distance.

Now, the idea here is that that 14 part checklist substitutes for meeting a test called no substantial possibility of interfering with demonstrable competition, or some such thing as that. The idea is that this 14 part checklist is all we need to have in order to make certain that we have competition.

Now, the phone companies in their defense are a bit frustrated with all this because they say oh, my gosh, I have this 14 part checklist and now you want me to satisfy the Department of Justice. I want them to have a role in this thing as well. That is too much.

Mr. President, I actually think that in these negotiations we sometimes sort of seize onto something and begin to feel as if it has to be this way and there is no better way. I say to the phone companies, you would be far better off if your interest is getting competition without litigating it, you

would be far better off with both of these things. You have a checklist. I know exactly what it is you have to do. We have gone through that exercise. We have said that is what you have to do to get into long distance. You present that to the FCC. You go through the process as Justice simultaneous with that and then there is no dispute. There is nobody that can say to you you have not satisfied what is required to make sure there is local competition, and for us in the Congress no risk that we will not have that competition, and it is the biggest risk in this whole deal. Fail to get that competition at the local level and most assuredly regret will come to your mind sometime in the not too distant future.

I am going to just make one last comment and then wrap this up. One last thing that was said was there is a lot of money over at FCC from the auctions. As I understand it, in fact I know it to be the case, that auction money is hardly available if you are going to add staff over at the FCC in order to be able to handle the increased caseload, and there is going to be increased caseload. There is going to be increased pressure upon the FCC. They are going to have to hire new people. They do not have this expertise over there right now. They are going to have to hire at the FCC in order to be able to handle these applications, in order to be able to make those determinations. We are going to have to build what does not exist today in a Federal agency that previously has not had this kind of responsibility. And you are going to have to find an offset in some fashion in order to be able to get the job done, whereas, as I see it anyway, at the Department of Justice we already have those folks on the job.

Mr. President, once again I say I hope that in the process of debating this, this will in the end lead to a piece of legislation I am able to enthusiastically support based upon my confidence that this is going to be good for the American consumer, this is going to be good for American workers that are hoping that this country will create more high paying jobs, that this will be good for American citizens who increasingly are dependent upon information in order to do a good job in their schools, to do a good job in their businesses, to do a good job in their operating rooms and various other places where Americans either work or play.

I appreciate the tolerance and the assistance of the distinguished chairman of this committee and the ranking member who has already left.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, if I may commend my friend from Nebraska because I think our discussion has stimulated at least me to think a bit about where we are historically as we conclude this debate this evening.

First of all, it is stimulating in the sense to think if we can find a way to help people have more products available at a lower cost that are useful to them in their lives, we are doing more for them than if we were to give them Government aid. There is a proper role for Government in our society. But it is my strongest feeling that if we can find ways through competition in the free enterprise system that people can have products at a lower price in abundance and innovations we are actually doing more for them frequently than if we give them grants or aid.

For example, let us talk about senior citizens. I am a champion of senior citizens. We deregulated natural gas prices in the 1970's, and I remember I was over in the House of Representatives, and we were struggling with that issue. And people said, if you deregulate natural gas the prices are going to skyrocket and companies are going to gouge everybody. In fact, the prices came down and they have stayed down. If you want to do a senior citizen a favor, you can help the cost of heating their home stay low. You can help the cost of their goods to be lower through competition.

Usually we think of helping senior citizens by giving them more money or spending taxpayers' money, and in some cases that is accurate. But you can also help senior citizens by providing them low cost fuel and low cost natural gas. And that has been done through deregulated natural gas prices.

And I also say that to a lot of people in the United States the innovations that have occurred in the computer industry—true, there have been some winners and losers among the companies, but the fact is that people have lower cost personal computers available today through competition. And we never could have achieved that through Government regulations or Government standards. Indeed, every 18 months there is a complete turnover.

I also serve on the Finance Committee, and the people in the computer area in Silicon Valley would like an 18-month depreciation schedule because their products are obsolete after 18 months. That is because there is so much competition and there is not a Government standard holding them back. The American free enterprise system allows that type of innovation. Every 18 months the old computer is obsolete, and we are moving forward and people are able to buy personal computers at a low cost. That is a service to people much more so than if we had a huge Government agency regulating and setting standards.

I would say that through this bill if we can increase competition and if through this bill we can bring innovation, we will see the same kind of explosion of new devices and investment and services for telecommunications at a lower cost to consumers, just as we have seen in other areas of competition. But we do not have that so long as we have the Justice Department and the FCC running things with Government regulation and Government standards.

Now, also let me say what will happen if we do not pass this bill.

It is tough to pass this bill because different groups have checkmates and the White House has been opposing this bill—though they will not say they will veto it. But I am very sad about this opposition, because if we do not pass this bill, we will be failing again as a Congress to do what we are supposed to do.

Had Congress, before 1982, required AT&T to unbundle and interconnect so they could have competition in the local markets, we would not be here today. We would have had an explosion of new devices in telecommunications, more than we have had. We would have lower costs. There is no reason the cost of long distance calls needs to cost what they do. Consumers should be paying a fourth of what they are paying for local and long distance service, based on what has happened to prices in the computer area.

We are trying to do what we were supposed to do in 1982 in this bill, and we are trying to get this thing together. Yet people come to the floor with more regulatory amendments. This amendment that is before us now to put on the Department of Justice another layer of regulation is going to delay, delay, delay. What if computers and innovation in computers had to go through the Department of Justice? It takes 3 to 5 years for them to respond even to petitions that are routine. Why do we want more regulations?

If we do not pass this bill, we will be failing again. People say, ''Well, if we don't pass this bill, we'll get another bill.'' No, we will not. We are coming into a Presidential election, and it will be over to 1997 and that is 2 more years of innovation and lower prices for the American people lost.

I say to the White House, I find it very odd that the White House is opposing this bill, because they will not say they will veto it. I went over three times to see AL GORE, to get him to lead this movement, because it is everything he says he believes in. It is reinventing, privatizing, all of those things; it is the information highway.

I have been amazed that the White House has not supported this. They will not say they are going to veto it.

Every Democrat on the Commerce Committee voted for this bill. The Democrats in the Senate have been at the forefront of helping us to deregulate and move forward in telecommunications.

I know there have not been very many bipartisan bills that have passed this Senate, and I will not put this on a partisan basis. I would give as much credit to Senator HOLLINGS as to some of the Republican people and Democratic people that have served for years. But here we have a chance to deregulate an industry, to get everybody into everybody else's business. If we slip and fail, this thing will go over to 1997, and then we will start again, I suppose, because we are not going to

have a major telecommunications reform bill in a Presidential election year.

I have also said that I hope that this bill passes both Houses by the Fourth of July. I hoped it would be signed by the President by the Fourth of July. That was my original goal.

The Senate has moved on a bipartisan basis in an amazingly coordinated way. We had meeting after meeting every night with Democrats and Republicans. We met Saturdays and Sundays, Democrats and Republicans, shoulder to shoulder, to finally get a telecommunications bill. We passed it through the Senate Commerce Committee when people said it could not be passed. It is on the Senate floor.

This is early June. This is one of the most complicated bills here, and it will affect a third of the American economy. It affects every home in America. And I think it is time for the White House to join us. They are opposing this bill. I think it is time for the Consumer Federation of America to join us. I hope NEWT GINGRICH gives this bill an early slot over there because it is very important. It is a bipartisan bill that will create jobs, and it will create the kind of jobs we want in this country.

Right now, a lot of our telecommunications industry is forced to invest overseas because they are prohibited from doing certain things here. Our regional Bells cannot manufacture, they cannot do this, and they cannot do that. So one of my friends in my life, Dick Callahan, for example, president of U.S. West International, is over in London. He is originally from Sioux Falls. He is not in Denver and Sioux Falls investing, he is over in London investing U.S. money in things that the telecommunications companies can do there that they cannot do here. I would rather have the Dick Callahans of this world creating jobs in the United States.

Also, this bill is a modernizing bill. We are losing jobs in some of our aging industries, very frankly. We read every day about how a certain mature industry is laying off people. I recently toured the Caterpillar plants in Peoria, IL, and I saw the difference in the assembly line where the modernized part is, where they turn out 51 engines a day, versus the old part, where they turn out 13 engines a day. They make 51 engines with fewer people.

But those people will need new jobs in new industries, and this bill does that. Everybody should understand that. This is a jobs bill, but it is not a jobs bill through Government, it is a jobs bill through free enterprise. If we are going to do something for people, we provide them more services at a cheaper level, just as with deregulating natural gas. We helped every senior citizen, probably more than we did with the COLA on Social Security, by providing them with a cheap form of fuel to heat their home. And that is what this bill is.

I could go on at great length. But I would like to conclude the debate today by saying I think we have made good progress on this bill. This is a bill that some of the private newsletters said only had a 10 percent chance in January. They said it had a 30 percent chance in April. But I think we are right on the cusp. We have to make progress with this bill. If we do not, we will be failing the American people and we will be failing the creation of a lot of jobs, new kinds of jobs, and we will be having our brightest people going overseas investing our telecommunications capital, as is happening.

Mr. CAMPBELL. Mr. President, I rise today to support the Telecommunications Competition and Deregulation Act of 1995—S. 652.

S. 652 will open telecommunications markets to competition which will benefit consumers and the American economy. It will give America the freedom we need to remain the world's leader in telecommunications, information and computer technology in the 21st century. Keeping this edge will enhance our competitiveness, spur domestic economic growth and job creation, and, most importantly, provide a better quality of life for our citizens.

Mr. President, I want to make sure that these same benefits flow into the educational system and into our classrooms, libraries and hospitals.

The communications revolution is leaving our schools behind. As access to telecommunications technology and information increases across the country, our classrooms are cut off from the information revolution. The National Center for Education Statistics reports that overall, 35 percent of public schools have access to the Internet but only 3 percent of classrooms in public schools are networked. Smaller schools in rural areas are even less likely to be on the Internet than schools with larger enrollment sizes.

Mr. President, I live in a small rural town in Colorado where many schools lack even basic phone lines. I have seen, first-hand, how many rural areas were left unserved and were dependent on the Federal Government to finance cooperatives to bring basic telephone service to rural communities. Schools and libraries in rural Colorado and in rural America cannot afford to be left unserved and kept out of the information revolution.

The Snowe-Rockefeller provision in S. 652 ensures that rural communities and high cost areas have access to communications and information technology. This provision builds on the overall universal service provision in S. 652 and adds the important component of providing schools, libraries and hospitals with affordable access to the Information Superhighway. In my view, it is essential to rural communities to keep this provision in the bill. Otherwise, rural areas will not benefit from technological advances in communications.

There is a growing understanding that technology can have a significant positive impact on teaching and learning and can serve as a means for achieving educations excellence. For example, a computer network connected to the classroom means that every teacher and student has access to the world's greatest libraries. New technologies and tools such as e-mail and the World Wide Web will give schools greater access to text, audio and video-on-demand. Through telecommunications, students and teachers will gain access to significantly greater amounts of information than would otherwise be available.

Teachers could be far more productive and innovative if they had access to new ideas and technologies through computer networks. Studies show productivity increases of as much as 30 percent when teachers are connected to the Information Superhighway. In essence, teachers would be able to exchange lesson plans, get tips from their colleagues, or obtain access to the Library of Congress or the National Archives for teaching materials. In rural areas, students can access information through distance learning programs where information and instruction is exchanged by two-way videos.

There are many exciting technological opportunities available for our schools and libraries across the country. Yet, teachers simply do not have adequate tools to use the resources of the information revolution. Most teachers have not had adequate training to prepare them to use technology effectively in teaching. According to survey data from the National Education Association, an estimated 56 percent of all public school teachers feel they need training to use personal computers adequately in their classes and 72 percent need training in the use of on-line databases.

Technology can even draw parents into the education process. Many parents do not understand how technology filters into the education process, and they do not understand its significance in their children's schooling. However, parents can have access to simple voice-mail technology and can call into a mailbox to find out the homework assignment or information about a class trip. In the future, classroom networks could eventually extend to the home and thereby fulfill what educators say is their biggest unmet need: lengthening the learning day and involving the parents.

Mr. President, all of the Nation's children deserve to be exposed to the best possible education, not just those who live in affluent areas. But, without a national commitment to providing affordable access to these emerging technologies in schools and libraries in rural areas, our Nation will fall far short in preparing all its citizens for the 21st century.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

THE MUSIC PERFORMANCE TRUST FUNDS

Mr. KENNEDY. Mr. President, Henry Wadsworth Longfellow once said that music is the universal language of mankind. If so, recording industries music performance trust funds enable that language to be heard and enjoyed by all.

Since its creation in 1948 by the Recording Companies of America and the American Federation of Musicians, MPTF has raised over $500 million, and has sponsored more than a million free instrumental performances throughout the United States and Canada. MPTF can truly be described as the largest single sponsor of live music in the entire world.

Indeed, the effect of MPTF is enormous. It provides young musicians with opportunities to learn from experienced professionals. It permits individuals to hear excellent artistic selections, and to broaden their musical tastes. It functions as an educational tool enabling students to acquire a better appreciation and understanding of music. It serves as an outstanding example of industry and employees working together for a greater future, in which the arts are widely accessible to people in their own communities.

It is often said that few things in life are free. When MPTF was first envisioned, it was designed to be an exception to that rule. Its original goal was to present free musical performances for community education and outreach, with emphasis on reaching the largest possible audiences. For half a century, in reaching for that goal, MPTF has helped to develop, strengthen, and enrich our national culture and heritage, especially the appreciation and enjoyment of live music.

Because of these admirable achievements, it is a privilege to take this opportunity to commend the recording industry and MPTF for their leadership. Through their efforts, music is fulfilling its potential as a magnificent unifying and humanizing experience that can be shared and understood by all.

WILLIAM W. WILKENS, SR.

Mr. THURMOND. Mr. President, I rise today to reflect on the life of a good friend of mine, and one of our State's leading citizens—William Walter Wilkins, Sr.—who passed away recently.

Born in the South Carolina ''Upstate'', Mr. Wilkins became one of the most prominent and well liked citizens of the region. A gifted athlete, ''WW'' was active in a number of sporting activities, including playing 4 years of varsity basketball, before his cum laude graduation from Furman University. Soon after he earned his law degree from that prestigious institution in 1929, William began to establish a well deserved reputation as a capable and dedicated attorney whose integrity was unimpeachable. Mr. Wilkins was forced to put his law practice aside to serve in the Navy during World War II, but upon his return to the United States, he founded the Wilkins Law Firm and remained its senior partner until his retirement in 1992.

A civic minded individual, Walter was actively involved in many community activities and was recognized as an important regional leader. In addition to being a member of the Greenville County and South Carolina Bar Associations, he belonged to a number of other civic groups and organizations. He was the Past Commander of the James F. Daniel, Jr. American Legion Post; a past Master of the Walden Masonic Lodge; and, Chairman of the Board of Directors of the Greenville County American Legion Fair Association, where he served as chairman for 44 years and helped to raise many thousands of dollars to support the Legion. His commitment to civic service earned him many recognitions and awards from groups as diverse as the American Legion, the City of Greenville, and the Governor of South Carolina who presented him with our State's highest award, ''The Order of the Palmetto''.

Perhaps the one thing that Walter Wilkins loved more than practicing law was his family. He was very devoted to his lovely wife, Evelyn, and their three children: Nancy Wilkins Lydon; Judge William W. Wilkins, Jr.; attorney and Speaker of the South Carolina House of Representatives, David H. Wilkins; and Dr. Robert T. Wilkins of Denver, Colorado.

As a class project, one of Walter's grandchildren wrote a short essay about him, and I would like to share an excerpt of it with you:

My grandfather, Walter Wilkins or ''Papa'', has had a great influence on my life. Thanks in large part to ''Papa'', our family name is well respected in the community. Having a family tradition of which I am very proud means a great deal to me. I was not really aware that ''Papa'' did more for us than simply give us a little money at Christmastime until my entire family gathered for a ceremony in ''Papa's'' honor by a well-known organization in Greenville County. The speaker talked a great deal about ''Papa's'' many contributions to the community. It was then I realized how much we owe ''Papa'' for our good name and reputation. ''Papa'' is not as strong and healthy as he used to be, and I'm afraid he won't be with us for too many more years. But his contributions to our family will live on. He has given us a legacy of integrity and honor, and taught us to always do our very best. I know that's why he tried so hard to make clear to his children and grandchildren when he would stress hard work in our schoolwork and athletics. I can still picture in my mind playing football and other sports in his backyard and looking up at the window and making eye contact with him sitting there watching me play, pulling for me to always do my best.

Certainly a moving and fitting tribute to a unique man. All those who knew Walter Wilkins, Sr. share the sense of loss his family must feel and they have our deepest sympathies on the passing of their father and grandfather.

THE LATE SECRETARY OF DEFENSE, LES ASPIN

Mr. THURMOND. Mr. President, providing for the adequate defense of our Nation is a concern that members of the Senate Armed Services Committee and the House Committee on National Security take quite seriously. Political differences are pushed aside in order to ensure that our soldiers, sailors, marines, and airmen are well provided for, both in the equipment they require to do their jobs and in being compensated for their sacrifices in service to the United States. Over the years, I have had the pleasure of working with a number of men and women on these committees who have demonstrated their commitment to our personnel in uniform and for the security of the United States. One of the most serious-minded and analytical of this group was the former chairman of the House Armed Services Committee and Secretary of Defense, Les Aspin, who unexpectedly passed away recently after suffering a massive stroke.

A graduate of Yale, Oxford, and the Massachusetts Institute of Technology, Les was a man who dedicated almost his whole adult life to the national security field. Les entered government service with Robert McNamara and served in the Pentagon during the Vietnam War. After deciding to leave the Department of Defense, Les turned to academia and taught economics at Marquette for a year before running for, and being elected to, Congress where he served from 1971 until 1993. It was during those years that I came to know Les well, especially as he climbed the leadership ladder of the House Armed Services Committee. As its Chairman, he surprised, and even angered, a number of people with his stands in favor of the MX missile, aid to the Contras, and for his support in our military efforts against Saddam Hussein. He assumed these positions because he studied the issues, weighed their costs and benefits, and acted in a manner that was in the best interests of the United States.

In 1992, his role as an advocate for the armed services brought him to the attention of then newly elected President Clinton, who decided that Les would make an ideal Secretary of Defense. Resigning from his powerful seat in the House, Les again heeded the cry of service and assumed the Secretary's job, a position that some said he coveted and many thought him ideal to hold. Unfortunately, his tenure in this post is not remembered with as much admiration as was his service in the Congress.

The truth of the matter is that being the Secretary of Defense for Bill Clinton was no easy task, especially in the first days of his administration. President Clinton wanted to end the ban on gays in the military, envisioned turning American troops over to the United Nations, cutting defense, and committing U.S. forces to various humanitarian and peacekeeping operation. As the man charged with implementing these policy objectives, Les had an uphill struggle from the time he stepped foot in the Pentagon. Given all the obstacles placed before him, Les did a commendable job of working for the defense of the United States.

Mr. President, Les Aspin was a man who was pleased to be able to serve his Nation and he worked hard in each endeavor he undertook. Some say his zeal for work is what killed him, but I prefer to think that he gave his heart for his Nation. We all appreciate the sacrifices and contributions that he made during his life and he will be missed by all those who knew him.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, on the evening I learned I had been elected to the Senate in 1972, one of the commitments I made to myself was that I would never fail to see a young person or a group of young people who wanted to see me. It was certainly beneficial to me that I did because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 33 years I have been in the Senate.

Most of them have been concerned about the magnitude of the Federal debt that Congress has run up for the coming generations to pay. The young people and I always discuss the fact that under the Constitution, no President can spend even a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I have been making these daily reports to the Senate since February 22, 1992. I want to make it a matter of record precisely the size of the Federal debt which as of Wednesday, June 7, stood at $4,902,043,504,916.54 or $18,608.24 on a per capita basis.

What Congress has already done to future generations is immoral.

COMMENCEMENT ADDRESS BY PRESIDENT HAVAL AT HARVARD UNIVERSITY

Mr. KENNEDY. Mr. President, earlier today, President Vaclav Havel of the Czech Republic received an honorary degree from Harvard and delivered the commencement address.

President Havel's address is an eloquent analysis of the human condition in our diverse, interdependent and increasingly technological world, where the greatest achievements of humanity can also lead to the greatest destruction. He speaks especially of the responsibility of politicians and the mass media to enhance respect for individuals and for other peoples, other nations, and other cultures, so that the discoveries of the modern age will be able to serve humanity, no destroy it. As he states, ''Our conscience must catch up to our reason, otherwise we are lost.''

I believe that President Havel's eloquent and thoughtful address will be of interest to all of us in Congress, and I ask unanimous consent that the prepared text of the address may be printed in the RECORD.

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

ADDRESS BY VÁCLAV HAVEL

Mr. President, Mr. Vice-President, ladies and gentlemen. One evening not long ago I was sitting in an outdoor restaurant by the water. My chair was almost identical to the chairs they have in restaurants by the Vltava River in Prague. They were playing the same rock music they play in most Czech restaurants. I saw advertisements I'm familiar with back home. Above all, I was surrounded by young people who were similarly dressed, who drank familiar-looking drinks, and who behaved as casually as their contemporaries in Prague. Only their complexion and their facial features were different—for I was in Singapore.

I sat there thinking about this and again—for the umpteenth time—I realized an almost banal truth: that we now live in a single global civilization. The identity of this civilization does not lie merely in similar forms of dress, or similar drinks, or in the constant buzz of the same commercial music all around the world, or even in international advertising. It lies in something deeper: thanks to the modern idea of constant progress, with its inherent expansionism, and to the rapid evolution of science that comes directly from it, our planet has, for the first time in the long history of the human race, been covered in the space of a very few decades by a single civilization—one that is essentially technological. The world is now enmeshed in webs of telecommunication networks consisting of millions of tiny threads or capillaries that not only transmit information of all kinds at lightning speed, but also convey integrated models of social, political and economic behavior. They are conduits for legal norms, as well as for billions and billions of dollars, crisscrossing the world while remaining invisible even to those who deal directly with them. The life of the human race is completely interconnected not only in the informational sense, but in the causal sense as well. Anecdotically, I could illustrate this by reminding you—since I've already mentioned Singapore—that today all it takes is a single shady transaction initiated by a single devious bank clerk in Singapore to bring down a bank on the other side of the world. Thanks to the accomplishments of this civilization, practically all of us know what cheques, bonds, bills of exchange, and stocks are. We are familiar with CNN and Chernobyl, and we know who the Rolling Stones, or Nelson Mandela, or Salman Rushdie are. More than that, the capillaries that have so radically integrated this civilization also convey information about certain modes of human coexistence that have proven their worth, like democracy, respect for human rights, the rule of law, the laws of the market-place. Such information flows around the world and, in varying degrees, takes root in different places.

In modern times this global civilization emerged in the territory occupied by European and ultimately by Euro-American culture. Historically, it evolved from a combination of traditions—classical, Judaic and Christian. In theory, at least, it gives people not only the capacity for worldwide communication, but also a coordinated means of defending themselves against many common dangers. It can also, in an unprecedented way, make our life on this earth easier and open up to us hitherto unexplored horizons in our knowledge of ourselves and the world we live in.

And yet there is something not quite right about it.

Allow me to use this ceremonial gathering for a brief meditation on a subject which I have dwelt upon a great deal, and which I often bring up on occasions resembling this one. I want to focus today on the source of the dangers that threaten humanity in spite of this global civilization, and often directly because of it. Above all, I would like to speak about the ways in which these dangers can be confronted.

Many of the great problems we face today, as far as I understand them, have their origin in the fact that this global civilization, though in evidence everywhere, is no more than a thin veneer over the sum total of human awareness, if I may put it that way. This civilization is immensely fresh, young, new, and fragile, and the human spirit has accepted it with dizzying alacrity, without itself changing in any essential way. Humanity has evolved over long millennia in all manner of civilizations and cultures that gradually, and in very diverse ways, shaped our habits of mind, our relationship to the world, our models of behaviour and the values we accept and recognize. In essence, this new, single epidermis of world civilization merely covers or conceals the immense variety of cultures, of peoples, of religious worlds, of historical traditions and historically formed attitudes, all of which in a sense lie ''beneath'' it. At the same time, even as the veneer of world civilization expands, this ''underside'' of humanity, this hidden dimension of it, demands more and more clearly to be heard and to be granted a right to life.

And thus, while the world as a whole increasingly accepts the new habits of global civilization, another contradictory process is taking place: ancient traditions are reviving, different religions and cultures are awakening to new ways of being, seeking new room to exist, and struggling with growing fervour to realize what is unique to them and what makes them different from others. Ultimately they seek to give their individuality a political expression.

It is often said that in our time, every valley cries out for its own independence or will even fight for it. Many nations, or parts of them at least, are struggling against modern civilization or its main proponents for the right to worship their ancient gods and obey the ancient divine injunctions. They carry on their struggle using weapons provided by the very civilization they oppose. They employ radar, computers, lasers, nerve gases, and perhaps, in the future, even nuclear weapons—all products of the world they challenge—to help defend their ancient heritage against the erosions of modern civilization. In contrast with these technological inventions, other products of this civilization—like democracy or the idea of human rights—are not accepted in many places in the world because they are deemed to be hostile to local traditions.

In other words: the Euro-American world has equipped other parts of the globe with

instruments that not only could effectively destroy the enlightened values which, among other things, made possible the invention of precisely these instruments, but which could well cripple the capacity of people to live together on this earth.

What follows from all of this?

It is my belief that this state of affairs contains a clear challenge not only to the Euro-American world but to our present-day civilization as a whole. It is a challenge to this civilization to start understanding itself as a multicultural and a multipolar civilization, whose meaning lies not in undermining the individuality of different spheres of culture and civilization but in allowing them to be more completely themselves. This will only be possible, even conceivable, if we all accept a basic code of mutual co-existence, a kind of common minimum we can all share, one that will enable us to go on living side by side. Yet such a code won't stand a chance if it is merely the product of a few who then proceed to force it on the rest. It must be an expression of the authentic will of everyone, growing out of the genuine spiritual roots hidden beneath the skin of our common, global civilization. If it is merely disseminated through the capillaries of this skin, the way Coca-cola ads are—as a commodity offered by some to others—such a code can hardly be expected to take hold in any profound or universal way.

But is humanity capable of such an undertaking? Is it not a hopelessly utopian idea? Haven't we so lost control of our destiny that we are condemned to gradual extinction in ever harsher high-tech clashes between cultures, because of our fatal inability to cooperate in the face of impending catastrophes, be they ecological, social, or demographic, or of dangers generated by the state of our civilization as such?

I don't know.

But I have not lost hope.

I have not lost hope because I am persuaded again and again that, lying dormant in the deepest roots of most, if not all, cultures there is an essential similarity, something that could be made—if the will to do so existed—a genuinely unifying starting point for that new code of human co-existence that would be firmly anchored in the great diversity of human traditions.

Don't we find somewhere in the foundations of most religions and cultures, though they may take a thousand and one distinct forms, common elements such as respect for what transcends us, whether we mean the mystery of Being, or a moral order that stands above us; certain imperatives that come to us from heaven, or from nature, or from our own hearts; a belief that our deeds will live after us; respect for our neighbours, for our families, for certain natural authorities; respect for human dignity and for nature: a sense of solidarity and benevolence towards guests who come with good intentions?

Isn't the common, ancient origin or human roots of our diverse spiritualities, each of which is merely another kind of human understanding of the same reality, the thing that can genuinely bring people of different cultures together?

And aren't the basic commandments of this archetypal spirituality in harmony with what even an unreligious person—without knowing exactly why—may consider proper and meaningful?

Naturally, I am not suggesting that modern people be compelled to worship ancient deities and accept rituals they have long since abandoned. I am suggesting something quite different: we must come to understand the deep mutual connection or kinship between the various forms of our spirituality. We must recollect our original spiritual and moral substance, which grew out of the same essential experience of humanity. I believe that this is the only way to achieve a genuine renewal of our sense of responsibility for ourselves and for the world. And at the same time, it is the only way to achieve a deeper understanding among cultures that will enable them to work together in a truly ecumenical way to create a new order for the world.

The veneer of global civilization that envelops the modern world and the consciousness of humanity, as we all know, has a dual nature, bringing into question, at every step of the way, the very values it is based upon, or which it propagates. The thousands of marvelous achievements of this civilization that work for us so well and enrich us can equally impoverish, diminish, and destroy our lives, and frequently do. Instead of serving people, many of these creations enslave them. Instead of helping people to develop their identities, they take them away. Almost every invention or discovery—from the splitting of the atom and the discovery of DNA to television and the computer—can be turned against us and used to our detriment. How much easier it is today than it was during the First World War to destroy an entire metropolis in a single air-raid. And how much easier would it be today, in the era of television, for a madman like Hitler or Stalin to pervert the spirit of a whole nation. When have people ever had the power we now possess to alter the climate of the planet or deplete its mineral resources or the wealth of its fauna and flora in the space of a few short decades? And how much more destructive potential do terrorists have at their disposal today than at the beginning of this century?

In our era, it would seem that one part of the human brain, the rational part which has made all these morally neutral discoveries, has undergone exceptional development, while the other part, which should be alert to ensure that these discoveries really serve humanity and will not destroy it, has lagged behind catastrophically.

Yes, regardless of where I begin my thinking about the problems facing our civilization, I always return to the theme of human responsibility, which seems incapable of keeping pace with civilization and preventing it from turning against the human race. It's as though the world has simply become too much for us to deal with.

There is no way back. Only a dreamer can believe that the solution lies in curtailing the progress of civilization in some way or other. The main task in the coming era is something else: a radical renewal of our sense of responsibility. Our conscience must catch up to our reason, otherwise we are lost.

It is my profound belief that there is only one way to achieve this: we must divest ourselves of our egotistical anthropocentrism, our habit of seeing ourselves as masters of the universe who can do whatever occurs to us. We must discover a new respect for what transcends us: for the universe, for the earth, for nature, for life, and for reality. Our respect for other people, for other nations, and for other cultures, can only grow from a humble respect for the cosmic order and from an awareness that we are a part of it, that we share in it and that nothing of what we do is lost, but rather becomes part of the eternal memory of Being, where it is judged.

A better alternative for the future of humanity, therefore, clearly lies in imbuing our civilization with a spiritual dimension. It's not just a matter of understanding its multicultural nature and finding inspiration for the creation of a new world order in the common roots of all cultures. It is also essential that the Euro-American cultural sphere—the one which created this civilization and taught humanity its destructive pride—now return to its own spiritual roots and become an example to the rest of the world in the search for a new humility.

General observations of this type are certainly not difficult to make, nor are they new or revolutionary. Modern people are masters at describing the crises and the misery of the world which we shape, and for which we are responsible. We are much less adept at putting things right.

So what specifically is to be done?

I do not believe in some universal key or panacea. I am not an advocate of what Karl Popper called ''holistic social engineering'', particularly because I had to live most of my adult life in circumstances that resulted from an attempt to create a holistic Marxist utopia. I know more than enough, therefore, about efforts of this kind.

This does not relieve me, however, of the responsibility to think of ways to make the world better.

It will certainly not be easy to awaken in people a new sense of responsibility for the world, an ability to conduct themselves as if they were to live on this earth forever, and to be held answerable for its condition one day. Who knows how many horrific cataclysms humanity may have to go through before such a sense of responsibility is generally accepted. But this does not mean that those who wish to work for it cannot begin at once. It is a great task for teachers, educators, intellectuals, the clergy, artists, entrepreneurs, journalists, people active in all forms of public life.

Above all it is a task for politicians.

Even in the most democratic of conditions, politicians have immense influence, perhaps more than they themselves realize. This influence does not lie in their actual mandates, which in any case are considerably limited. It lies in something else: in the spontaneous impact their charisma has on the public.

The main task of the present generation of politicians is not, I think, to ingratiate themselves with the public through the decisions they take or their smiles on television. It is not to go on winning elections and ensuring themselves a place in the sun till the end of their days. Their role is, something quite different: to assume their share of responsibility for the long-range prospects of our world and thus to set an example for the public in whose sight they work. Their responsibility is to think ahead boldly, not to fear the disfavor of the crowd, to imbue their actions with a spiritual dimension (which of course is not the same thing as ostentatious attendance at religious services), to explain again and again—both to the public and to their colleagues—that politics must do far more than reflect the interests of particular groups or lobbies. After all, politics is a matter of serving the community, which means that it is morality in practice. And how better to serve the community and practice morality than by seeking in the midst of the global (and globally threatened) civilization their own global political responsibility: that is, their responsibility for the very survival of the human race?

I don't believe that a politician who sets out on this risky path will inevitably jeopardize his or her political survival. This is a wrongheaded notion which assumes that the citizen is a fool and that political success depends on playing to this folly. That is not the way it is. A conscience slumbers in every human being, something divine. And that is what we have to put our trust in.

Ladies and gentlemen,

I find myself at perhaps the most famous university in the most powerful country in the world. With your permission, I will say a few words on the subject of the politics of a great power.

It is obvious that those who have the greatest power and influence also bear the greatest responsibility. Like it or not, the United States of America now bears probably the greatest responsibility for the direction our world will take. The United States, therefore, should reflect most deeply on their responsibility.

Isolationism has never paid off for the United States. Had it entered the First World War earlier, perhaps it would not have had to pay with anything like the casualties it actually incurred.

The same is true of the Second World War. When Hitler was getting ready to invade Czechoslovakia, and in so doing finally expose the lack of courage on the part of the western democracies, your President wrote a letter to the Czechoslovak President imploring him to come to some agreement with Hitler. Had he not deceived himself and the whole world into believing that an agreement could be made with this madman, had he instead shown a few teeth, perhaps the Second World War need not have happened, and tens of thousands of young Americans need not have died fighting in it.

Likewise, just before the end of that war, had your President, who was otherwise an outstanding man, said a clear ''no'' to Stalin's decision to divide the world, perhaps the Cold War, which cost the United States hundreds of billions of dollars, need not have happened either.

I beg you: do not repeat these mistakes! You yourselves have always paid a heavy price for them! There is simply no escaping the responsibility you have as the most powerful country in the world.

There is far more at stake here than simply standing up to those who would like once again to divide the world into spheres of interest, or subjugate others who are different from them, and weaker. What is now at stake is saving the human race. In other words, it's a question of what I've already talked about: of understanding modern civilization as a multicultural and multipolar civilization, of turning our attention to the original spiritual sources of human culture and above all, of our own culture, of drawing from these sources the strength for a courageous and magnanimous creation of a new order for the world.

Not long ago I was at a gala dinner to mark an important anniversary. There were fifty Heads of State present, perhaps more, who came to honor the heroes and victims of the greatest war in human history. This was not a political conference, but the kind of social event that is meant principally to show hospitality and respect to the invited guests. When the seating plan was given out, I discovered to my surprise that those sitting at the table next to mine were not identified simply as representatives of a particular state, as was the case with all the other tables; they were referred to as ''permanent members of the UN Security Council and the G7'' I had mixed feelings about this. On the one hand, I thought how marvelous that the richest and most powerful of this world see each other often and even at this dinner, can talk informally and get to know each other better. On the other hand, a slight chill went down my spine, for I could not help observing that one table had been singled out as being special and particularly important. It was a table for the big powers. Somewhat perversely, I began to imagine that the people sitting at it were, along with their Russian caviar, dividing the rest of us up among themselves, without asking our opinion. Perhaps all this is merely the whimsy of a former and perhaps future playwright. But I wanted to express it here. For one simple reason: to emphazise the terrible gap that exists between the responsibility of the great powers and their hubirs. The architect of that seating arrangement—I should think it was none of the attending Presidents—was not guided by a sense of responsibility for the world, but by the banal pride of the powerful.

But pride is precisely what will lead the world to hell. I am suggesting an alternative: humbly accepting our responsibility for the world.

There is one great opportunity in the matter of co-existence between nations and spheres of civilization, culture and religion that should be grasped and exploited to the limit. This is the appearance of supranational or regional communities. By now, there are many such communities in the world, with diverse characteristics and differing degrees of integration. I believe in this approach. I believe in the importance of organisms that lie somewhere between nation states and a world community, organisms that can be an important medium of global communication and co-operation. I believe that this trend towards integration in a world where—as I've said—every valley longs for independence, must be given the greatest possible support. These organisms, however, must not be an expression of integration merely for the sake of integration. They must be one of the many instruments enabling each region, each nation, to be both itself and capable of co-operation with others. That is, they must be one of the instruments enabling countries and peoples who are close to each other geographically, ethnically, culturally and economically and who have common security interests, to form associations and better communicate with each other and with the rest of the world. At the same time, all such regional communities must rid themselves of fear that other like communities are directed against them. Regional groupings in areas that have common traditions and a common political culture ought to be a natural part of the complex political architecture of the world. Co-operation between such regions ought to be a natural component of co-operation on a world-wide scale. As long as the broadening of NATO membership to include countries who feel culturally and politically a part of the region the Alliance was created to defend is seen by Russia, for example, as an anti-Russian undertaking, it will be a sign that Russia has not yet understood the challenge of this era.

The most important world organization is the United Nations. I think that the fiftieth anniversary of its birth could be an occasion to reflect on how to infuse it with a new ethos, a new strength, and a new meaning, and make it the truly most important arena of good co-operation among all cultures that make up our planetary civilization.

But neither the strengthening of regional structures nor the strengthening of the UN will save the world if both processes are not informed by that renewed spiritual charge which I see as the only hope that the human race will survive another millennium.

I have touched on what I think politicians should do.

There is, however, one more force that has at least as much, if not more, influence on the general state of mind as politicians do.

That force is the mass media.

Only when fate sent me into the realm of high politics did I become fully aware of the media's double-edged power. Their dual impact is not a specialty of the media. It is merely a part, or an expression of the dual nature of today's civilization of which I have already spoken.

Thanks to television the whole world discovered, in the course of an evening, that there is a country called Rwanda where people are suffering beyond belief. Thanks to television it is possible to do at least a little to help those who are suffering. Thanks to television the whole world, in the course of a few seconds, was shocked and horrified about what happened in Oklahoma City and, at the same time, understood it as a great warning for all. Thanks to television the whole world knows that there exists an internationally recognized country called Bosnia and Herzegovina and that from the moment it recognized this country, the international community has tried unsuccessfully to divide it into grotesque mini-states according to the wishes of warlords who have never been recognized by anyone as anyone's legitimate representatives.

That is the wonderful side of today's mass media, or rather, of those who gather the news. Humanity's thanks belong to all those courageous reporters who voluntarily risk their lives wherever something evil is happening, in order to arouse the conscience of the world.

There is, however, another, less wonderful, aspect of television, one that merely revels in the horrors of the world or, unforgivably, makes them commonplace, or compels politicians to become first of all television stars. But where is it written that someone who is good on television is necessarily also a good politician? I never fail to be astonished at how much I am at the mercy of television directors and editors, at hoe my public image depends far more on them than it does on myself, at how important it is to smile appropriately on television, or choose the right tie, at how television forces me to express my thoughts as sparely as possible, in witticisms, slogans or sound bites, at how easily my television image can be made to seem different from the real me. I am astonished by this and at the same time, I fear it serves no good purpose. I know politicians who have learned to see themselves only as the television camera does. Television has thus expropriated their personalities, and made them into something like television shadows of their former selves. I sometimes wonder whether they even sleep in a way that will look good on television.

I am not outraged with television or the press for distorting what I say, or ignoring it, or editing me to appear like some strange monster. I am not angry with the media when I see that a politician's rise or fall often depends more on them than on the politician concerned. What interests me is something else: the responsibility of those who have the mass media in their hands. They too bear responsibility for the world, and for the future of humanity. Just as the splitting of the atom can immensely enrich humanity in a thousand and one ways and, at the same time, can also threaten it with destruction, so television can have both good and evil consequences. Quickly, suggestively, and to an unprecedented degree, it can disseminate the spirit of understanding, humanity, human solidarity and spirituality, or it can stupefy whole nations and continents. And just as our use of atomic energy depends solely on our sense of responsibility, so the proper use of television's power to enter practically every household and every human mind depends on our sense of responsibility as well.

Whether our world is to be saved from everything that threatens it today depends above all on whether human beings come to their senses, whether they understand the degree of their responsibility and discover a new relationship to the very miracle of Being. The world is in the hands of us all. And yet some have a greater influence on its fate than others. The more influence a person has—be they politician or television announcer—the greater the demands placed on their sense of responsibility and the less

they should think merely about personal interests.

Ladies and gentlemen, in conclusion, allow me a brief personal remark. I was born in Prague and I lived there for decades without being allowed to study properly or visit other countries. Nevertheless, my mother never abandoned one of her secret and quite extravagant dreams: that one day I would study at Harvard. Fate did not permit me to fulfill her dream. But something else happened, something that would never have occurred even to my mother. I have received a doctoral degree at Harvard without even having to study here.

More than that, I have been given to see Singapore, and countless other exotic places. I have been given to understand how small this world is and how it torments itself with countless things it need not torment itself with if people could find within themselves a little more courage, a little more hope, a little more responsibility, a little more mutual understanding and love.

I don't know whether my mother is looking down at me from heaven, but if she is I can guess what she's probably thinking: she's thinking that I'm sticking my nose into matters that only people who have properly studied political science at Harvard have the right to stick their noses into.

I hope that you don't think so.

Thank you for your attention.

MESSAGES FROM THE HOUSE

At 2:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 535. An act to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas.

H.R. 584. An act to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa.

H.R. 614. An act to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.

The message also announced that House disagrees to the amendment of the Senate to the resolution (H. Con. Res. 67) setting forth the congressional budget for the United States Government for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. KASICH, Mr. HOBSON, Mr. WALKER, Mr. KOLBE, Mr. SHAYS, Mr. HERGER, Mr. ALLARD, Mr. FRANKS of New Jersey, Mr. LARGENT, Mrs. MYRICK, Mr. PARKER, Mr. SABO, Mr. STENHOLM, Ms. SLAUGHTER, Mr. COYNE, Mr. MOLLOHAN, Mr. COSTELLO, Mr. JOHNSTON of Florida, and Mrs. MINK of Hawaii as the managers of the conference on the part of the House.

The message further announced that pursuant to the provisions of section 194(a) of title 14, United States Code, the Speaker appoints as members of the Board of Visitors to the United States Coast Guard Academy the following Members on the part of the House: Mrs. JOHNSON of Connecticut and Mr. GEJDENSON.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 535. An act to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Environment and Public Works.

H.R. 584. An act to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa; to the Committee on Environment and Public Works.

H.R. 614. An act to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–167. A concurrent resolution adopted by the Legislature of the State of California; ordered to lie on the table.

''ASSEMBLY CONCURRENT RESOLUTION NO. 25

''Whereas, every three hours one person in the United State dies while awaiting organ transplantation, and in 1994, 3,098 persons died while awaiting transplants because too few families agreed to give the 'Gift of Life' by consenting to organ donation on behalf of their deceased loved ones; and

''Whereas, in addition to solid organs, transplants can be performed using tissues such as heart valves for cardiac patients, corneas for patients with corneal blindness, skin for patients with critical burns who require skin grafts, and bone and cartilage for reconstructive or rehabilitative orthopedic transplants; and

''Whereas, more than 18,000 organ transplants were performed in the United States in 1994, of which 2,400 were performed in California; and

''Whereas, the national waiting list of patients in need of solid organ transplants now exceeds 38,000 men, women, and children; and

''Whereas, more than 400,000 tissue transplants were performed in the United States in 1994, of which more than 40,000 were performed in California, most of which were skin, bone, tendon, and cartilage allografts; and

''Whereas, at any given time the number of patients in the United States waiting to receive tissue transplants exceeds 10,000 men, women, and children; and

''Whereas, more than 41,000 corneal transplants were performed in the United States in 1994, of which 4,736 were performed in California; and

''Whereas, the national waiting list of patients in need of corneal transplants exceeds 6,000 men, women, and children; and

''Whereas, evidence about a person's willingness to be an organ and tissue donor, even in the form of a signed Organ Donor Declaration on a California driver's license under the Uniform Anatomical Gift Act, often can be outweighed when families elect not to consent to donation; and

''Whereas, in 1994, more than 2,400 California families gave the 'Gift of Life' to critically ill people in California, across the United States, and even in other countries, by consenting to the prompt recovery of organs and tissues on behalf of their deceased family members, even during their time of grief and bereavement; and

''Whereas, one California family, the family of the late Nicholas Green of Bodega Bay, has received international recognition for their altruistic decision to donate Nicholas' organs and tissues to desperately ill children and adults in Italy, where Nicholas tragically perished in October 1994, at the age of seven; and

''Whereas, in California there is a need for increased education and awareness about the supply and demand for organ and tissue donation so that patients, families, and their physicians can speak openly about organ and tissue donation, participate in family discussions, prepare Advance Directives stipulating their wishes regarding organ and tissue donation, and recognize that organ and tissue donation is a lifesaving memorial tribute to deceased loved ones. Now, therefore, be it

''*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby proclaims Monday, April 17, 1995, as California Donor Family Recognition Day to coincide with National Organ and Tissue Donor Awareness Week from April 16, 1995 through April 22, 1995, so that the citizens of California may be made aware of the need for organ and tissue donation and the opportunity that organ and tissue donation offers as a lifesaving memorial tribute to deceased loved ones; and be it further

''*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor of the State of California, to the President and Vice President of the United States, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Health and Human Services, and to the Director of the United Network for Organ Sharing, advising them of the special recognition afforded by the Legislature to those families who have given the 'Gift of Life.'''

POM–168. A resolution adopted by the Senate of the Legislature of the State of Georgia; ordered to lie on the table.

''A RESOLUTION

''Whereas, the State of Georgia and other states have a constitutional provision that prohibits its legislative body from creating a budget deficit in its appropriations process; and

''Whereas, the State of Georgia has various constitutional and statutory constraints relative to debt financing which require the state to maintain a very tight credit strategy; and

''Whereas, the economic welfare of the United States and its citizens depends on a stable dollar and a sound economy; and

''Whereas, the federal budget deficit has had a deleterious impact on the nation's financial health and has impeded severely investment productivity and growth; and

''Whereas, the members of the United States House of Representatives cast a vote of overwhelming support for a balanced budget amendment to the federal Constitution; and

''Whereas, the Georgia General Assembly has supported an amendment requiring a balanced federal budget for many years, having specifically applied to the United States Congress to call a convention for the purpose of proposing such an amendment in 1976: Now, therefore, be it

''*Resolved by the Senate* That the members of this body urge the United States Senate to adopt the balanced budget amendment and applaud the United States House of Representatives for overwhelmingly supporting the proposed amendment; Be it further

''*Resolved by the Senate* That the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to the Secretary of the Senate of the United States Congress, the Clerk of the

House of Representatives of the United States Congress, and to each member of the Georgia congressional delegation.''

POM–169. A joint resolution adopted by the Legislature of the State of Colorado; ordered to lie on the table.

''Whereas, the Contract with America was formed in an effort to turn the government of the United States of America in a new direction; and

''Whereas, the American people have spoken clearly regarding the Contract with America, overwhelmingly endorsing the concepts of the Contract; and

''Whereas, while we have taken the first steps, the real work to implement the will of the American people, as embodied in the Contract with America, is just beginning; and

''Whereas, it is essential at this crucial time that the members of the General Assembly of Colorado, as well as leaders throughout the country, make known our support for the efforts underway in the United States Congress: Now, therefore, be it

''Resolved by the House of Representatives of the Sixtieth General Assembly of the State of Colorado, the Senate concurring herein: That we, the members of General Assembly of the state of Colorado, hereby support the Contract with America and hereby urge all government leaders throughout the country to voice their support of the vital work being done to realize the desires of the American people as described in the Contract with America; be it further

''Resolved, That the General Assembly requests that the members of the Congressional delegation of Colorado work diligently to implement the legislation necessary to fulfill the promises made to the citizens of the United States in the Contract with America; be it further

''Resolved, That copies of this Resolution be provided to Governor Roy Romer, the Speaker of the House and the President of the Senate of the state legislature in each of the other states, President Bill Clinton, Vice President Al Gore, Senate Majority Leader Bob Dole, Speaker of the House Newt Gingrich, Senate Minority Leader Tom Daschle, House Minority Leader Richard Gephardt, United States Senator Hank Brown, Senator Ben Nighthorse Campbell, Representative Dan Schaefer, Representative Joel Hefley, Representative Wayne Allard, Representative Scott McInnis, Representative Pat Schroeder, and Representative David Skaggs.''

POM–170. A resolution adopted by the Board of Commissioners of the County of Franklin, North Carolina relative to tobacco; to the Committee on Labor and Human Resources.

POM–171. A resolution adopted by the Board of Commissioners of the County of Martin, North Carolina relative to tobacco; to the Committee on Labor and Human Resources.

POM–172. A resolution adopted by the American Bar Association relative to victims of domestic violence; to the Committee on Labor and Human Resources.

POM–173. A resolution adopted by the Student Government of George Mason University, Fairfax, Virginia relative to Federal student financial aid; to the Committee on Labor and Human Resources.

POM–174. A resolution adopted by the Texas Society Sons of the American Revolution relative to the National History Standards; to the Committee on Labor and Human Resources.

POM–175. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Labor and Human Resources.

''SENATE RESOLUTION

''Whereas, seven years after the national Family Support Act was passed in 1988, Hawaii and the nation's welfare rolls have soared to record levels; and

''Whereas, according to the American Public Welfare Association, Hawaii's Aid to Families with Dependent Children (AFDC) caseload from July, 1989 to November, 1993 increased by 43.2 per cent; and

''Whereas, nearly one in seven American children is receiving AFDC assistance, and fewer than one per cent of those on welfare work for their benefits, yet this body believes the majority of people now on welfare want to support themselves and their families, and will do so if given the proper encouragement and support; and

''Whereas, the poor economic condition of the State, including increased unemployment, will continue to increase the number of participants in all welfare programs, most especially AFDC, general assistance (GA), the food stamp program, MedQuest, and Medicaid; and

''Whereas, this surge in eligible recipients has occurred more dramatically and rapidly than the Department of Human Services could be expected to predict; and

''Whereas, for three of the last five years, the Department of Human Services has faced shortfalls requiring emergency appropriation of funds to continue operation of its scores of programs, and in 1995 request $22,000,000 from this body because of budget shortfalls in the AFDC, MedQuest and Aid to the Aged, Blind, and Disabled (ABD) programs; and

''Whereas, the number of persons who will be unemployed and therefore eligible for medical benefits and financial assistance will continue to alarmingly deplete the already strained financial resources of the State; and

''Whereas, in June, 1994, the AFDC caseload count was 20,843 of which 95.8 per cent were citizens; and

''Whereas, in June 1994, the ABD caseload count was 2,211 of which 65.2 per cent were citizens while permanent aliens accounted for 33 per cent and refugees accounted for 1.2 per cent; and

''Whereas, the ABD population in Hawaii, as in most States, is the fastest growing population in the Medicaid program and the costs of providing services are growing at a faster rate than costs in the overall Medicaid program; and

''Whereas, in June, 1994, the GA caseload count was 9,057 and the recipient total count was 12,961 of which 92.1 percent of single recipients are citizens and 84.7 per cent of family recipients are citizens; and

''Whereas, the 104th Congress is now dominated by a Republican majority which will attempt to:

''(1) Provide tax relief to the middle class;

''(2) Increase defense spending;

''(3) Continue to insist on deficit reduction; and

''(4) Transfer many of the country's most pressing problems to the states for resolution; and

''Whereas, the President and the Congress will be searching for revenues to fund these various commitments, and prominent on the agenda are proposed reductions in the federal contribution to the public assistance programs, particularly the Medicaid program; and

''Whereas, the President of the United States has called for comprehensive massive welfare reform; and

''Whereas, this body agrees that reform of the State's welfare system be completed before the threat to the State's financial security becomes more burdensome; and

''Whereas, there is general agreement that able-bodied welfare recipients should not expect the government to support and raise their families indefinitely and should be required to choose among work, school, community service, or termination of benefits alternatives; and

''Whereas, nationally, approximately one-third of public assistance recipients cannot read a street map or fill out a Social Security card application; and

''Whereas, it is estimated that two-thirds of AFDC recipients who have been on welfare for more than two years have not graduated from high school and the average adult on welfare has eighth grade level reading and math skills; and

''Whereas, welfare recipients who want to work should be rewarded with incentives and not financially punished by having benefits immediately withdrawn upon receipt of the first paycheck; and

''Whereas, many states and the federal government recognize that most Americans are no longer willing to pay increased taxes to continue supporting America's out-of-control welfare system; and

''Whereas, the federal Health Care Financing Administration has authorized waivers for twenty-six states to experiment with various welfare schemes. Now, therefore, be it

''Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, That the Department of Human Services is requested to report on the cost-effectiveness, if any, of the following measures, including any cost savings stemming from changes to its operations:

''(1) Ways to encourage self-sufficiency and support egress from the Aid to Families with Dependent Children (AFDC) program, recognizing that a lack of self-esteem, education, and self-confidence created and perpetuate the welfare treadmill, and recognizing that the JOBS program has a waiting list of approximately ten thousand but that in five years of existence has found jobs for approximately only four hundred fifty participants so that significant success of the JOBS program is far from imminent;

''(2) Limiting to two the number of children for whom the State will provide financial and medical support, together with any evidence that this limitation is an incentive to AFDC mothers to control the number of children they bear while relying on the state and federal governments for support;

''(3) Limiting able-bodied mothers' AFDC assistance to two years, with continuation of the children's benefits only after annual re-evaluation;

''(4) Termination or denial of AFDC benefits to children:

''(A) Whose paternity has not been established unless:

''(i) A paternity suit has been initiated;

''(ii) the parent or guardian is proven to be deceased, or missing; or

''(iii) The State determines the physical wellbeing of the mother or child is threatened by that identification; or

''(B) For failure to fully cooperate with the Child Support Enforcement Agency;

''(5) Increasing sponsorship of legal immigrants from three to five years if the immigrant commits a felony or becomes eligible for public assistance;

''(6) The feasibility of reporting to the Immigration and Naturalization Service for possible deportation legal aliens who have lived in the United States for less than five years who have received welfare benefits for more than twelve months and who have been convicted of a felony related to welfare fraud;

''(7) Termination of benefits including benefits from the food stamp program, which is one hundred per cent federally funded upon failure to voluntarily participate in a transition-to-work, a work program, or both. This would not apply to those who:

''(A) Are physically unable;

''(B) Are of advanced age;

''(C) Are attending school full-time;

''(D) Are providing full-time care for a disabled dependent;

''(E) Are making satisfactory progress in a substance abuse program; or

''(F) Have had a child within six months;

''(8) Requiring the performance of community service for those welfare recipients awaiting placement in a transition-to-work program, such as the JOBS or JOBS Works program. These community service opportunities could be offered by state and city and county agencies who are faced with hiring freezes and are in desperate need of help to perform their day-to-day assigned functions. These welfare recipients could also be utilized to help maintain public buildings, schools, universities, nursing homes, hospitals, and other agencies and organizations that are suffering financially because of reductions in reimbursement or in approved positions;

''(9) Whether states can require unemployed, noncustodial parents who are two months or more in arrears on child support payments to participate in a work or community service program;

''(10) Termination of welfare benefits to identified substance abusers who refuse to participate in a rehabilitation program, or do not show satisfactory rehabilitation progress;

''(11) Termination, or at minimum, reevaluation of welfare benefits to identified individuals who refuse medical or psychological treatment for their conditions. It has been determined that there are significant numbers of recipients who have been classified as ''mentally or physically disabled'', who fail to show improvement or benefit from treatment, and have been receiving ''treatments'' for more than fifteen years;

''(12) Replacing free no-fault insurance for welfare recipients with a $20 per month bus pass in counties having a public transportation system. Hawaii's financially exhausted citizens legitimately resent having to pay for this extravagant benefit when the island of Oahu enjoys the privilege of having a nationally recognized public transportation system. The Department of Human Services is requested to research other states that have rural populations and recommend alternatives to providing free auto insurance;

''(13) Alternatives being considered in Congress and in other states to address the uncontrolled increases in welfare expenditures;

''(14) The feasibility of implementation of a ''Learnfare'' program, based on the Wisconsin model, whereby welfare benefits are cut to families whose teenagers are chronically truant. Americans believe that welfare families have an obligation to not only assume financial responsibility for their own lives but also most certainly have an obligation to make sure that their children attend school; and

''(15) The success of a Wisconsin law requiring some parents of teenage mothers and fathers to support their grandchildren; and be it further

''*Resolved* That this body recognizes that the avenue to welfare reform is paved with education, enhancement of self-respect, and the perpetuation of human dignity. This body also recognizes that the current system was established by a benevolent Democratic Congress to provide temporary financial and medical assistance to vulnerable and impoverished Americans, not to mire our citizens, especially our most precious commodity—our youth—in the quicksand of despair, hopelessness, and self-loathing which are the results of the existing system; and be it further

''*Resolved* That the Department of Human Services is requested to report findings and recommendations to the Legislature no later than twenty days prior to the convening of the 1996 Regular Session; and be it further

''*Resolved* That certified copies of this Resolution be transmitted to the Director of Human Services and to the President of the United States Senate and the Speaker of the House of the United States House of Representative to support the denial of welfare benefits to all legal immigrants admitted to the United States after January 1, 1996, other than those admitted to this country seeking political asylum.''

POM–176. A resolution adopted by the Senate of Legislature of the State of Hawaii; to the Committee on Labor and Human Resources.

''SENATE RESOLUTION

''Whereas, Community Action was introduced to Hawaii in 1965 by enactment of the Economic Opportunity Act of 1964 for the sole purpose of ameliorating the causes and conditions of poverty in the State; and

''Whereas, four agencies were established to carry out this mandate: Honolulu Community Action Program, Inc., Hawaii County Economic Opportunity Council, Maui Economic Opportunity, Inc., and Kauai Economic Opportunity, Incorporated; and

''Whereas, these agencies have provided needed services to the low-income population in areas of employment and educational opportunities, income management, housing, transportation, economic development, emergency assistance, and self-sufficiency projects; and

''Whereas, they have extended opportunities to low-income families and individuals through better participation in the affairs of the community; and

''Whereas, they have coordinated and established linkages between governmental and other social programs to assure the effective delivery of services to low-income individuals; and

''Whereas, they have encouraged the use of entities in the private sector in efforts to alleviate poverty in the community; and

''Whereas, United States Congress has recently indicated that it intends to either eliminate or reduce Community Services Block Grant funds that currently support these agencies in the amount of $2,222,460; and

''Whereas, the loss of this grant will jeopardize the continuation of providing antipoverty efforts in the form of community action and the positive impact of sustaining other state and federal grants within the agencies that presently exceed $20,000,000; and

''Whereas, this loss would seriously affect the eight hundred fifty employees that are currently employed by these agencies; and

''Whereas, the elimination of the Community Services Block Grant will severely halt services provided to the target population of 105,100 low-income persons; Now, therefore, be it

''*Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995,* That Hawaii's congressional delegation is urged to help preserve the Community Services Block Grants that support the Community Action agencies in Hawaii; and be it further

''*Resolved* That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Hawaii's congressional delegation.''

POM–177. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Labor and Human Resources.

''JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO SUPPORT THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

''Whereas, the federal House Appropriations Subcommittee has voted to eliminate funding for the Low Income Home Energy Assistance Program; and

''Whereas, approximately 60,000 families in Maine receive aid through the Low Income Home Energy Assistance Program; and

''Whereas, the Low Income Home Energy Assistance Program is crucial to the Maine families who rely on the federal program to help with weatherization costs for their homes and winter fuel bills; Now, therefore, be it

''*Resolved* That We, your Memorialists, respectfully urge that legislation be enacted by the Senate and the House of Representatives of the Congress of the United States to restore funding for the Low Income Home Energy Assistance Program; and be it further

''*Resolved* That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.''

POM–178. A joint resolution adopted by the General Assembly of the State of Vermont; to the Committee on Labor and Human Resources.

''*Whereas,* the Program of Action of the Cairo International Conference on Population and Development, which received consensus from all 183 participating nations is a significant blueprint for investing in humanity and the world's biosphere, and

''*Whereas,* human overpopulation poses a serious threat to all life on earth including human life, and

''*Whereas,* the problem of preserving the earth's capacity to sustain human beings and other species is enormous and immediate, and

''*Whereas,* the quality of life will vary inversely to the number of people living on the earth and the intensity of the population's use of natural resources, and

''*Whereas,* the United States comprises only five percent of the world's population but consumes 25 percent of the world's commercial energy and produces the greatest volume of solid waste, and

''*Whereas,* at current rates of fertility and immigration, the United States population will grow from the present 250 million to over 400 million people by the year 2050, and

''*Whereas,* at current rates of fertility the world's population will grow from its present level of 5.7 billion to 11.5 billion people by the year 2050: *Now therefore be it*

''*Resolved, by the Senate and House of Representatives,* That the Vermont General Assembly urges the Vermont Congressional delegation to bring before the United State Congress legislation that requires the United States to adopt a national population policy aimed at stabilizing the United States' population considering its patterns of consumption; *and be it further*

''*Resolved,* That the Vermont Congressional delegation is urged to support policies that recognize the connection between population dynamics and the education and economic status of women; *and be it further*

''*Resolved,* That the delegation is urged to support policies that further the United States State Department's brief on Population and Development, including the elimination of legal and social barriers to gender

equality, population policies that encompass economic opportunity for women, and that family planning be a part of primary and reproductive health initiatives; *and be it further*

''Resolved, That the delegation is urged to support policies that will inform our citizens about family size, unsustainable resource use and their combined impact on world resource depletion; *and be it further*

''Resolved, That to lessen international chaos and worldwide environmental degradation caused by population pressures, the delegation is urged to support efforts to raise federal funding to implement international population stabilization programs, as devised by the governments involved in the 1989 Amsterdam Conference, to four percent of the total United States foreign aid appropriation as was agreed upon at the conference; *and be it further*

''Resolved, That the Secretary of State be directed to send copies of this resolution to the President and Vice-President of the United States, the Speaker of the United States House of Representatives and to each member of the Vermont Congressional delegation.''

POM–179. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry.

''SENATE CONCURRENT RESOLUTION

''Whereas, Hawaii's sugar industry has grown and processed sugarcane continuously for 160 years; and

''Whereas, the sugar industry is one of the State of Hawaii's most important sources of export revenues, generating total revenues of $279 million on the export sales of raw sugar and molasses and sales of electricity to island energy grids; and

''Whereas, the sugar industry is Hawaii's largest agricultural activity and generates more than one-third of the agriculture industry's total annual revenues of $655 million; and

''Whereas, Hawaii's sugar industry provides employment, directly and indirectly, for nearly 10,000 people, including good paying jobs in rural areas, and generates, directly and indirectly, more than $800 million of annual economic activity in the State; and

''Whereas the lush green fields of sugarcane provide a pleasing aesthetic backdrop for lifestyle activities and contribute significantly to the positive experiences of visitors to Hawaii; and

''Whereas, Hawaii's sugar industry is an integral part of the U.S. sweetener industry, comprised of beet sugar, cane sugar, and corn sweetener producers and processors, providing both directly and indirectly, employment for 420,000 people in 42 states and $26.2 billion in annual economic activity; and

''Whereas the U.S. sugar program protects Hawaii's and the nation's other domestic sweetener producers from unfair, heavily subsidized foreign competition; and

''Whereas, the U.S. sugar program is mandated by Congress to operate at no cost to the taxpayer and actually generates over $30 million annually in revenues for the U.S. Treasury in marketing assessments, helping to reduce the federal budget deficit; and

''Whereas, the U.S. sugar program has assured the consumer of ample supplies of high-quality refined sugar products at an average retail that is lower than the world average retail price and among the lowest retail prices in the world's developed countries; and

''Whereas, international trade reforms undertaken under the auspices of the Uruguay Round of the General Agreement on Tariffs and Trade and under the North American Free Trade Agreement make the U.S. sugar program consistent with all U.S. international trade agreement obligations; and

''Whereas, the elimination of the U.S. sugar program would threaten the stability, quality, and price of sugar supplies for U.S. consumers, and jeopardize the livelihoods of efficient U.S. sugar farmers and the state and local economies to which they make important contributions in jobs and revenues; Now, therefore, be it

Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the House of Representatives concurring, That the Legislature respectfully urges the United States Congress to renew the highly successful U.S. sugar program in the 1955 Farm Bill; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the Speaker of the U.S. House of Representatives and the Chair of the House Committee on Agriculture, the President of the U.S. Senate and the Chair of the Senate Committee on Agriculture, each member of Hawaii's congressional delegation, the Secretary of the U.S. Department of Agriculture, and the Governor of the State of Hawaii.''

POM–180. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Appropriations.

''SENATE JOINT RESOLUTION NO. 8

''Whereas, the Endangered Species Act of 1973 was enacted for the express purpose of providing a program for the conservation of endangered and threatened species of wildlife, fish and plants and to provide a means whereby the various ecosystems upon which such species depend may be conserved; and

''Whereas, since its enactment, the Endangered Species Act of 1973 and the several amendments thereto have been successful in protecting various species of wildlife from extinction, including the American bald eagle, and have increased the awareness of the American public as to the need for protecting the many diverse and unique species of wildlife in the United States; and

''Whereas, despite its successes, the Endangered Species Act of 1973 has also been criticized as containing draconian and intransigent provisions which do not allow for the consideration of its impact upon the ever-present need for human growth and development; and

''Whereas, the enforcement of the provisions of the Act often requires restrictions to be placed upon economic growth and development in the geographic areas in which protected habitats are located, thereby creating hardships upon the persons residing within those geographic areas; and

''Whereas, the recent controversy surrounding the protection of the spotted owl in the Northwestern United States and its impact upon the logging industry provides a dramatic example of the need to balance competing interests in the area of wildlife protection; and

''Whereas, the Congress of the United States has made several appropriations of money to assist in carrying out the provisions of the Endangered Species Act of 1973, and is currently considering making another such appropriation; and

''Whereas, in conjunction with making such an appropriation, Congress may also consider the enactment of various amendments to the Endangered Species Act of 1973, thereby creating an opportunity for Congress to restructure the provisions of the Act and to carry out a more balanced approach to the protection of endangered and threatened species of wildlife; Now, therefore, be it

''Resolved by the Senate and Assembly of the State of Nevada, jointly, That the Congress of the United States is hereby urged to include in the appropriations act that is currently under consideration to fund the Endangered Species Act of 1973, an amendment which would provide for a consideration of the impact the Act may have on the economic growth and development of those geographical areas in which protected species of wildlife, fish and plants are located; and be it further

''Resolved, That Congress is further urged to amend the Endangered Species Act of 1973 to require the United States Fish and Wildlife Service to prepare and cause to be published a proposed recovery plan for each species declared endangered or threatened, including an analysis of the costs and benefits of the plan and an assessment of its impact on private property that will be affected by the plan, before taking any regulatory actions or carrying out any management activities for that species; and be it further

''Resolved, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

''Resolved, That this resolution becomes effective upon passage and approval.''

POM—181. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Appropriations.

''SENATE JOINT MEMORIAL 8014

''Whereas, Congress traditionally has deferred to state regulation of water; and

''Whereas, Congress enacted the McCarran Amendment, 43 U.S.C. Sec. 666, to allow the joinder of the United States in state general stream adjudications; and

''Whereas, Congress intended the United States to be subject to the same procedures as all other water users joined in state stream adjudications; and

''Whereas, many of the western states' general stream adjudication procedures require claimants to pay a fee to offset a part of the state's expenses arising from state general stream adjudications; and

''Whereas, many of the western states are conducting general stream adjudications in state courts for the purpose of quantifying all water right claims in accordance with the McCarran Amendment; and

''Whereas, the United States is a large claimant of water rights in these general stream adjudications; and

''Whereas, the United States often provides legal representation of Indian tribes claiming reserved rights in state general stream adjudications, and these rights stem from agreements with the United States; and

''Whereas, the adjudication of federal and Indian water right claims takes a great deal of the state courts' and state water rights agencies' time, effort, and resources; and

''Whereas, in some instances, federal agencies have promised financial support to states in these adjudications which the western states have included in their budgets; and

''Whereas, the United States has in the past paid adjudication filing fees in some western states; and

''Whereas, the United States Supreme Court interpreted the McCarran Amendment as not waiving the United States' sovereign immunity to payment of state adjudication fees; and

''Whereas, this suit by the federal government is contrary to promises and assertions made by various federal officials to provide financial assistance to states for the conduct of the adjudication; and

''Whereas, equity and fairness dictate that the United States share the financial burden

borne by other claimants and the state in funding these adjudications; Now, therefore, Your Memorialists respectfully pray that Congress require federal agencies to pay state adjudication fees to the same extent as required of other claimants; and be it *''Resolved,* That Congress require the Bureau of Indian Affairs to pay state adjudication fees for Indian reserved claims to the same extent as required by other claimants; and be it further *''Resolved,* That Your Memorialists urge Congress to appropriate moneys for payments to states that have incurred costs as a result of federal or Indian reserved claims or objections to private claims in a state general stream adjudication for services that the respective states have provided to the federal government in quantifying its water rights; be it *''Resolved,* That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.''

POM–182. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Armed Services.

''RESOLUTION

''Whereas, Fort Indiantown Gap is vital to the training of the Pennsylvania Army National Guard and the Pennsylvania Army Air National Guard, the United States Army Reserve, the United States Army, the United States Marine Corps and several other Federal and State agencies; and

''Whereas, Fort Indiantown Gap provides a true, seamless training partnership among the forces; and

''Whereas, Fort Indiantown Gap has maintained a successful training partnership for over 55 years; and

''Whereas, the current cost of $19 million to operate the installation is a sound financial investment for the Federal Government in return for the excellent training facilities; and

''Whereas, the training expenditures of Fort Indiantown Gap are extremely cost efficient with over 177,000 personnel trained annually at a per capita cost of $91.50; and

''Whereas, the National Guard Bureau is not adequately funded to assume the training mission of Fort Indiantown Gap; and

''Whereas, the National Guard Bureau could not maintain the status quo at Fort Indiantown Gap in terms of training, safety, security and services provided without substantial additional funding; and

''Whereas, the withdrawal of the United States Army Garrison from Fort Indiantown Gap will reduce the quality of life for the remaining tenants of the installation; and

''Whereas, the withdrawal of the United States Army Garrison from Fort Indiantown Gap will diminish the safety of operation on the installation and increase the expense of training; and

''Whereas, the withdrawal of the United States Army Garrison from Fort Indiantown Gap will result in the loss of a neutral training buffer and operations facilitator for the forces who conduct training at Fort Indiantown Gap; and

''Whereas, the withdrawal of the United States Army Garrison from Fort Indiantown Gap will diminish the security of the installation; and

''Whereas, a reduction in training operations at Fort Indiantown Gap will result in an increase in training expense, liability for injury to third parties, injury to personnel, damage and wear and tear to vehicles and equipment and danger to the environment as a result of travel to alternate training sites; and

''Whereas, the withdrawal of the United States Army Garrison from Fort Indiantown Gap will have a negative impact upon the local economy and will result in the loss of services to the locale; and

''Whereas, the withdrawal of the United States Army Garrison from Fort Indiantown Gap is an abrogation of the responsibility of the Department of Defense to support the training and readiness of the reserve components of the National Guard and the United States Army Reserve; Therefore be it

''Resolved, That the Senate of Pennsylvania urge the Department of Defense, the Base Realignment and Closure Commission and the Congress of the United States, in order to maintain maximum military capability at minimum cost, to immediately suspend any further effort to close Fort Indiantown Gap or reduce the training mission of that facility; and be it further

''Resolved, That the Senate support maintaining the status quo at Fort Indiantown Gap, Pennsylvania, and urge the Department of Defense and Congress to support the same; and be it further

''Resolved, That the Senate urge the Department of Defense and Congress not to reduce the mission of the 10th Mountain Division by eliminating the Garrison at Fort Indiantown Gap, Pennsylvania.

''Resolved, That copies of this resolution be forwarded to the United States Secretary of Defense, the Base Realignment and Closure Commission, the chairmen of the Armed Forces Committees of the United States Senate and the United States House of Representatives, the United States Senators Arlen Specter and Rick Santorum and the members of the United States House of Representatives representing the Commonwealth of Pennsylvania.''

POM–183. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Armed Services.

''Whereas, the Greater Pittsburgh International Airport Air Reserve Station in Moon Township (911th) has been recommended for closure by the Secretary of Defense and the 1995 Defense Base Realignment and Closure Commission; and

''Whereas, the 911th Airlift Wing's presence in the Pittsburgh region of the State adds nearly $62 million to the economy and services 1300 reservists; and

''Whereas, the 911th participated in military operations in the Persian Gulf, Bosnian Airlift, Somalia and Haiti and domestic relief efforts in response to Hurricane Hugo, Hurricane Andrew and air disasters; and

''Whereas, the 911th is used as a base for emergency management operations for western Pennsylvania and other regional sites; and

''Whereas, the 911th's strategic location, military worthiness, emergency preparedness and historical contributions demand reconsideration of the 1995 Defense Base Realignment and Closure Commission's decision to recommend closure; Therefore be it

''Resolved, That the Senate of Pennsylvania urge Congress, the Department of Defense and the Base Realignment and Closure Commission to immediately suspend any further effort to close the 911th Airlift Wing or reduce the training mission of that facility; and be it further

''Resolved, That the Senate of Pennsylvania support maintaining the facility at the Greater Pittsburgh International Airport Reserve Station, Moon Township, Pennsylvania, and urge Congress and the Department of Defense to support the same; and be it further

''Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to the Secretary of Defense and to each member of Congress from Pennsylvania.''

POM–184. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Armed Services.

''HOUSE JOINT RESOLUTION 573

''Whereas, the recent worldwide conflicts have highlighted again the contributions of this nation's military and retired veterans; and

''Whereas, integral to the success of our military forces are those servicemen and servicewomen who have made a career of defending their country, who in peacetime may be called away to places remote from their families and loved ones, and who is war face the prospect of death or of serious disabling wounds as a constant possibility; and

''Whereas, legislation has been introduced in the United States Congress to remedy an inequity applicable to military careerists; and

''Whereas, the inequity concerns those veterans who are both retired and disabled and who, because of an antiquated law that dates to the nineteenth century, are denied concurrent receipt of full retirement pay and disability compensation pay, but instead may receive one or the other or must waive an amount of retirement pay equal to the amount of disability compensation pay; and

''Whereas, no such deduction applies to the federal civil service so that a disabled veteran who has held a nomilitary federal job for a requisite duration receives full longevity retirement pay undiminished by the subtraction of disability compensation pay; and

''Whereas, a statutory change is necessary to correct this injustice and discrimination in order that America's occasional commitment to war in pursuit of national and international goals may be matched by an allegiance to those who sacrificed on behalf of those goals; Now, therefore, be it

''Resolved by the House of Delegates, the Senate concurring, That Congress be urged to amend United States Code Chapter 71, relating to the compensation of retired military personnel, to permit full concurrent receipt of military longevity retirement pay and service-connected disability compensation pay; and, be it

''Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, the President of the United States Senate, and to the members of the Virginia Congressional Delegation that they may be apprised of the sense of the General Assembly of Virginia in this matter.''

POM–185 A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Banking, Housing, and Urban Affairs.

''RESOLUTION NO. 5

''Be it Resolved by the Legislature of the State of Alaska:

''Whereas the President of the United States has, by executive order, continued the ban on the export of Alaska North Slope crude oil contained in 50 U.S.C.S. Appx. 2406(d) (sec. 7(d), Export Administration Act of 1979) that prohibits, with tightly restrictive exceptions, the export of domestically produced crude oil transported by pipeline over the right-of-way granted by 43 U.S.C. 1652 (sec. 203 of the Trans-Alaska Pipeline Authorization Act); and

''Whereas the ban on the export of Alaska North Slope crude oil effectively limits its sale to the domestic American market, and

''Whereas Alaska North Slope crude oil required to be transported and delivered for

sale in the domestic market incurs approximately $2–$4 per barrel in higher transportation charges than if the oil could be exported to Pacific Rim countries; and

''Whereas the higher transportation cost associated with shipping Alaska North Slope crude oil to the Gulf Coast states reduces the wellhead price of the oil; and

''Whereas, over a seven-year period of time, Alaska would gain $700,000,000 to $1,600,000,000 in state taxes and royalties if the ban is lifted; and

''Whereas lower wellhead prices make uneconomic the threshold for exploring for and producing all North Slope oil and, as a result, production from certain existing and newly discovered oil fields is currently uneconomic; and

''Whereas the transportation cost savings from lifting the Alaska North Slope crude oil export ban will be available for reinvestment in domestic exploration, and development of marginal and newly discovered oil reserves will increase production and enhance the nation's energy and economic security; and

''Whereas, according to the June 1994 U.S. Department of Energy report on exporting Alaskan North Slope crude oil, reserve additions in Alaska alone could be as large as 200,000,000 to 400,000,000 barrels, a size that roughly equals the known reserves in major North Slope fields, such as Point McIntyre; and

''Whereas the export ban singles out Alaska, effectively penalizing the state and reducing revenue needed for vital state programs; and

''Whereas, according to the U.S. Department of Energy June 1994 report, exporting Alaska North Slope crude oil to Pacific Rim nations will decrease the substantial trade deficit with nations that have expressed a strong interest in purchasing Alaska produced oil; and

''Whereas the proposal to lift the Alaska North Slope crude oil ban has enjoyed strong support in the Legislature of the State of Alaska, the Legislature of the State of California, and the United States Congress; and

''Whereas lifting the oil export ban would result in a net increase in United States employment from 11,000 to 25,000 jobs nationwide; be it

''*Resolved* That the Alaska State Legislature supports lifting the ban on export of Alaska North Slope crude oil; and be it further

''*Resolved* That the President is respectfully requested to present to the United States Congress a recommendation that it is both in the national interest to lift the ban on the export of Alaska North Slope crude oil and discriminatory to the state to maintain the ban; and be it further

''*Resolved* That the Alaska State Legislature endorses H.R. 70 and S. 70, pending companion federal legislation removing the restraints on the export of Alaska North Slope crude oil.''

POM–186. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on the Budget.

''SENATE JOINT RESOLUTION NO. 16

''Whereas, the United States Geological Survey was established by Congress in 1879; and

''Whereas, in preparing the budget for the next federal fiscal year, Congress is considering the elimination of the United States Geological Survey; and

''Whereas, the United States Geological Survey has provided valuable services in measuring and studying the quality and quantity of the surface-water and groundwater resources of the State of Nevada; and

''Whereas, the data provided by the United States Geological Survey is vital to the services provided by the State Engineer and other governmental and educational entities within the State of Nevada which are responsible for the control of floods, the teaching of biological sciences, the protection and preservation of endangered species and the protection of water quality; and

''Whereas, it is imperative that the United States Geological Survey continue its studies of the hydrology and geology of the State of Nevada before a decision is made concerning the possible disposal of high-level radioactive waste in the State of Nevada; and

''Whereas, it is anticipated that if the United States Geological Survey is maintained, it will continue its cooperation with the State of Nevada and assist in several projects essential to the future of the State of Nevada, including, without limitation:

''1. A study of the cumulative effects of mining below the water table in the northeastern portion of the State of Nevada;

''2. An analysis of reasonable alternatives for resolving disputes concerning various rivers in the State of Nevada;

''3. Studies of possible policies and programs to meet the rapidly growing requirements for water in Clark County, Nevada; and

''4. An analysis of the deep carbonate systems underlying much of the eastern and southern portions of the State of Nevada; Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the Nevada Legislature urges Congress to maintain the United States Geological Survey; and be it further

''*Resolved,* That the Secretary of the Senate of the State of Nevada prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate of the United States, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the Director of the United States Geological Survey, the Secretary of the Interior and the Assistant Secretary for Water and Science of the Department of the Interior; and be it further

''*Resolved,* That this resolution becomes effective upon passage and approval.''

POM–187. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Commerce, Science, and Transportation.

''HOUSE JOINT RESOLUTION NO. 424

''Whereas, Amtrak is an energy-efficient and environmentally beneficial means of transportation, consuming about one-half as much energy per passage mile as airline travel and causing less air pollution; and

''Whereas, Amtrak provides mobility to citizens of many smaller communities poorly served by air and bus service, as well as senior citizens, disabled people, and people with medical conditions that preclude flying; and

''Whereas, on a passenger-mile basis, Amtrak is nine times safer that driving an automobile and operates safely even in severe weather conditions; and

''Whereas, the number of passenger using Amtrak rose 48 percent from 1982 to 1993, allowing Amtrak to dramatically improve coverage of its operating costs from revenues; and

''Whereas, expansion of Amtrak service by existing rail rights-of-way would cost less and use less land than either new highways or new airports and would further increase Amtrak's energy-efficiency advantage; and

''Whereas, federal investment in Amtrak has fallen in the last decade, while it has risen for both highways and airports; and

''Whereas, states may use highway trust fund money as an 80 percent federal match for variety of nonhighway programs, but they are prohibited from using such funds for Amtrak projects; and

''Whereas, Amtrak pays a federal fuel tax that commercial airlines do not pay; and

''Whereas, Amtrak workers and vendors pay more in taxes that the federal government invests in Amtrak; now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That the President and the Congress of the United States be urged to make no further reduction in funding for Amtrak; and, be it

''*Resolved further,* That the General Assembly request that Amtrak be excused from paying federal fuel taxes that the commercial airlines do not pay, that the states be permitted to use federal highway trust fund moneys on Amtrak projects if they so choose, and that federal officials include a strong Amtrak component in any plans for a national transportation system; and, be it

''*Resolved finally,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia.''

POM–188. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Commerce, Science, and Transportation.

''HOUSE CONCURRENT RESOLUTION

''Whereas, Texas is proud to be home to the National Aeronautics and Space Administration's (NASA) Johnson Space Center and is a state where thousands of Texans have taken part in NASA's goals, vision, missions, and accomplishments in furthering space exploration; and

''Whereas, the approach of an integrated design and development team concept implemented at Johnson Space Center has a proven record of accomplishment, in the Mercury, Gemini, Apollo, and Shuttle programs, and the International Space Station program was purposely located at Johnson Space Center to take advantage of the integrated product team concept that has been so successful in previous NASA programs; and

''Whereas, the human space integration missions at Johnson Space Center, including spacecraft engineering, space shuttle operations program management, the shuttle orbiter project, and science programs, are vital to NASA's human space program; and

''Whereas, a proposed plan developed by NASA to consolidate operations portends an action that would severely impact Johnson Space Center and the Texas economy; and

''Whereas, if the proposal is implemented, Texas stands to lose thousands of primary and secondary jobs associated with the aerospace industry and Johnson Space Center, thousands of secondary, retail, and support jobs, and a significant share of investment opportunities and associated investment benefits; and

''Whereas, Texas was affected negatively as a consequence of NASA's 1994 restructuring, downsizing, and space station redesign at Johnson Space Center; and

''Whereas, Texans support the general goal of reducing government waste and jobs; how the goal is achieved in the case of NASA's proposed reorganization is a key point that needs clarification; Now, therefore, be it

''*Resolved,* That the 74th Legislature of the State of Texas respectfully urge the Congress of the United States to review fully NASA's proposed reorganization plan and to analyze the cost/benefit of the plan, including proposed mission transfers and relocations, with the purpose of preserving and

protecting the United States' leadership in space technology and exploration; and be it further

''*Resolved,* That the Texas secretary of state forward official copies of this resolution to the administrator of the National Aeronautics and Space Administration, to the president of the United States, to the speaker of the house of representatives and president of the senate of the United States Congress, and to all members of the Texas congressional delegation with the request that it be officially entered into the Congressional Record of the United States of America.''

POM–189. A resolution adopted by the Illinois Commerce Commission relative to nuclear waste; to the Committee on Energy and Natural Resources.

POM–190. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

''SENATE JOINT RESOLUTION NO. 27

''Whereas, the State of Nevada has a strong moral claim upon the public land retained by the Federal Government within Nevada's borders; and

''WHEREAS, on October 31, 1864, the Territory of Nevada was admitted to statehood on the condition that it forever disclaim all right and title to unappropriated public land within its boundaries; and

''WHEREAS, Nevada received the least amount of land, 2,572,478 acres, and the smallest percentage of its total area, 3.9 percent, of the land grant states in the Far West admitted after 1864, while states of comparable location and soil, including Arizona, New Mexico and Utah, received approximately 11 percent of their total area in federal land grants; and

''WHEREAS, the State of Texas, when admitted to the Union in 1845, retained ownership of all unappropriated land within its borders; and

''WHEREAS, the federal holdings in the State of Nevada constitute 86.7 percent of the area of the state, and in Esmeralda, Lincoln, Mineral, Nye and White Pine counties the Federal Government controls from 97 to 99 percent of the land; and

''WHEREAS, the federal jurisdiction over the public domain is shared among several federal agencies or departments which cause problems concerning the proper management of the land and disrupts the normal relationship between a state, its residents and its property; and

''WHEREAS, the intent of the framers of the Constitution of the United States was to guarantee to each of the states sovereignty over all matters within its boundaries except for those powers specifically granted to the United States as agent of the states; and

''WHEREAS, the exercise of dominion and control of the public lands within the State of Nevada by the United States works a severe, continuous and debilitating hardship upon the people of the State of Nevada: Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the ordinance of the constitution of the State of Nevada be amended to read as follows:

''In obedience to the requirements of an act of the Congress of the United States, approved March twenty-first, A.D. eighteen hundred and sixty-four, to enable the people of Nevada to form a constitution and state government, the convention, elected and convened in obedience to said enabling act, do ordain as follows, and this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Nevada:

''First. That there shall be in this state neither slavery nor involuntary servitude, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted.

''Second. That perfect toleration of religious sentiment shall be secured and no inhabitant of said state shall ever be molested, in person or property, on account of his or her mode of religious worship.

''Third. That the people inhabiting said territory do agree and declare, that [they forever disclaim all right and title to the unappropriated public lands lying with said territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that] lands belonging to citizens of the United States, residing without the said state, shall never be taxed higher than the land belonging to the residents thereof; and that no taxes shall be imposed by said state on lands or property therein belonging to, or which may hereafter be purchased by, the United States, unless otherwise provided by the Congress of the United States; and be it further

''*Resolved,* That the Legislature of the State of Nevada hereby urges the Congress of the United States to consent to the amendment of the ordinance of the Nevada constitution to remove the disclaimer concerning the right of the Federal Government to sole and entire disposition of the unappropriated public lands in Nevada; and be it further

''*Resolved,* That, upon approval and ratification of the amendment proposed by this resolution by the people of the State of Nevada, copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

''*Resolved,* That this resolution becomes effective upon passage and approval, except that, notwithstanding any other provision of law, the proposed amendment to the ordinance of the constitution of the State of Nevada, if approved and ratified by the people of the State of Nevada, does not become effective until the Congress of the United States consents to the amendment or upon a legal determination that such consent is not necessary.''

POM–191. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

''ASSEMBLY JOINT RESOLUTION NO. 7

''Whereas, the drought which has occurred in the last 8 years in the Lake Tahoe Basin has created conditions in the forests of the basin wherein there is widespread infestation of beetles and other diseases causing an estimated 25 to 80 percent rate of mortality for trees and creating an extremely dangerous and imminent catastrophic fire hazard, which represents a severe threat to life and personal property; and

''Whereas, there are limited routes of ingress and egress in the Lake Tahoe Basin which make any evacuations extremely hazardous; and

''Whereas, the threat of fire and the drastic decline in the health of the forests in the Lake Tahoe Basin presents a serious threat to the natural and human environment in the Lake Tahoe Basin; and

''Whereas, the Tahoe Basin Forest Health Consensus Group, formed in October 1992, is a voluntary organization consisting of interested residents of the basin and specialists in the management of natural resources; and

''Whereas, the stated mission of the Tahoe Basin Forest Health Consensus Group is to recommend to the Tahoe Regional Planning Agency certain changes to the regional plan which would assist in restoring the health of the ecosystem of the forests in the Lake Tahoe Basin; and

''Whereas, to accomplish its mission, the Tahoe Basin Forest Health Consensus Group has stated that it will, be examining the ecosystem of the Lake Tahoe Basin in its entirety, identify and define objectives and strategies intended to educate and assist the public and the various local, state, regional and federal agencies in the Lake Tahoe Basin on the current and long-term dynamics of the ecosystem of the forests; and

''Whereas, approximately 75 percent of the lands of the Lake Tahoe Basin lie within the lands belonging to the national forest; and

''Whereas, the United States Forest Service has indicated that, when adequately funded, it could satisfactorily remove the dead and dying trees in the basin; and

''Whereas, an effective and safe transition from the current unhealthy condition of the forests to a healthy and manageable condition requires vision and commitment from all those concerned: Now, therefore, be it

''*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That the Legislature of the State of Nevada expresses its support for the mission of the Tahoe Basin Forest Health Consensus Group in recommending to the Tahoe Regional Planning Agency those changes to the regional plan which would assist in restoring the health of the ecosystem of the forests in the Lake Tahoe Basin and the reduction of the threat of catastrophic fires; and be it further

''*Resolved,* That the Congress of the United States and the various federal and state agencies that regulate activities in the Lake Tahoe Basin are hereby urged to provide financial and other assistance to the Tahoe Basin Forest Health Consensus Group in the accomplishment of its mission; and be it further

''*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the United States as presiding officer of the Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the United States Forest Service, the Department of Transportation of the State of Nevada, and the Division of Forestry, Division of State Lands, Division of State Parks, and Division of Wildlife of the State Department of Conservation and Natural Resources of the State of Nevada; and be it further

''*Resolved,* That this resolution becomes effective upon passage and approval.''

POM–192. A resolution adopted by the Federal Bar Association relative to the Oklahoma City tragedy; to the Committee on Environment and Public Works.

POM–193. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Works.

''HOUSE CONCURRENT RESOLUTION

''Whereas, the enactment of the Water Pollution Control Act of 1987, also known as the Clean Water Act, marked a renewed commitment and resolve by the federal government to purify and protect our nation's water; and

''Whereas, While the goals of the federal Clean Water Act are shared by the citizens of this country, a balance must be struck between the steps to be taken to reduce water contamination and the adverse impact those steps may have on individuals, the economy, and government; and

''Whereas, under the Water Pollution Control Act, all municipalities with populations of less than 100,000 must obtain a permit from the Environmental Protection Agency for every stormwater discharge point in the city; and

''Whereas, this unfunded federal mandate on municipal stormwater discharges is estimated to cost cities across the country as much as $625,000 per permit; and

''Whereas, thousands of cities will now have to grapple with the enormous costs, complexity, and liability of meeting this new, unfunded federal mandate; and

''Whereas, the failure of the United States Congress to provide adequate funding to implement the Clean Water Act and other federal legislation has placed state and local governments in the untenable position of attempting to fund the federal requirements with diminishing amounts of available revenue or, by failing to do so, jeopardizing state and local eligibility for certain federal funds; and

''Whereas, the 102nd Congress of the United States previously addressed the issue of unfunded mandates by enacting legislation that provided a two-year moratorium on unfunded state and local mandates, which included the municipal stormwater discharge mandate; and

''Whereas, the 103rd Congress adjourned without extending the moratorium, thus triggering the municipal stormwater discharge permit requirement: Now, therefore, be it

''*Resolved,* That the 74th Legislature of the State of Texas hereby strongly urge the Congress of the United States to amend the Water Pollution Control Act to exempt cities with populations of less than 100,000 from obtaining permits from the Environmental Protection Agency for stormwater discharge points; and, be it further

''*Resolved,* That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and president of the senate of the United States Congress, and to all members of the Texas delegation to the congress with the request that it be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.''

POM–194. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia to the Committee on Environment and Public Works.

''HOUSE JOINT RESOLUTION NO. 598

''Whereas, the major purpose of the enactment of the federal Clean Air Act Amendments of 1990 (Public Law No. 101–549) was the improvement and protection of air quality through control of air pollution and its sources; and

''Whereas, in concentrating on control and elimination of air pollution, the provisions of the Clean Air Act Amendments (CAAA) themselves and the regulations promulgated by the federal Environmental Protection Agency (EPA) in furtherance of the CAAA overlook the full range of costs which antipollution measures impose on businesses, industries, state and local governments, families, and individuals; and

''Whereas, supporting regulations of both the CAAA and EPA contain numerous deadlines and compliance schedules that, in seeking to speed the pace of air pollution control and reduction technology, have proven to be unrealistic and inflexible; and

''Whereas, neither the CAAA nor EPA's regulations grant the states adequate latitude in or credit for exploring, developing, and implementing air pollution control and reduction techniques and programs that take into account state and regional differences in pollution problems, geography, climate, political culture, and lifestyle; and

''Whereas, the more the public perceives there to be an imbalance between air pollution control measures' costs and their environmental benefits, the less the public will support the full implementation and vigorous enforcement of such measures; and

''Whereas, an erosion of public support of air pollution reduction and control programs could ultimately lead to a failure or abandonment of those programs and others aimed at promoting and protecting environmental quality: Now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That the Congress be hereby requested to review and reconsider the provisions of the federal Clean Air Act Amendments of 1990 and policies and regulations of the federal Environmental Protection Agency adopted or promulgated in furtherance of that Act in order to ensure, through appropriate amendments and other changes, that federal and federally mandated air pollution reduction and control programs, policies, procedures, requirements, and implementation schedules be, to the maximum extent prudent, practical, cost-effective, and flexible enough to take into account the often widely diverging needs; varying air pollution problems; existing, proposed, and developing state and local air pollution reduction and control programs; and differing life-styles of America's states and regions; and, be it

''*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.''

POM–195. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Finance.

''HOUSE JOINT RESOLUTION

''Be it enacted by the Senate and House of Representatives in General Court convened:

''Whereas, the northern forest comprises 26 million acres of forest land stretching from eastern Maine through New Hampshire and Vermont across northern New York almost to Lake Ontario; and

''Whereas, the northern forest is one of the largest expanses of continuously forested land in the nation; and

''Whereas, the northern forest is valuable in many ways to the people who live within its boundaries, work with its resources, use its products, visit it, and care about it; and

''Whereas, nearly 85 percent of the northern forest is privately owned and has provided a diversity of environmental and economic benefits; and

''Whereas, the forest-based industries of this region have profound impacts on the economies of the 4 states; and

''Whereas, within the 4 states, forest-related jobs, including manufacturing and tourism, account for a total annual payroll of over 3 billion dollars; and

''Whereas, the northern forest provides products to people around the world; and

''Whereas, the northern forest is also valued by those who live outside the region; and

''Whereas, 70 million people live within a day's drive of the northern forest and many come for outdoor recreation, escape and adventure; and

''Whereas, the visitors to the northern forest spend over 16 billion dollars annually, generating 750 million dollars in state and local taxes; and

''Whereas, the northern forest is recognized as an important source of clean water and clear air and as an essential source of rich plant and animal diversity; and

''Whereas, in the 1980's, complex social and economic forces have led to competing and conflicting uses of the northern forest; and

''Whereas, the concern about present and future conversion of forest land to non-forest uses in the northern forest region prompted Congress and the governors of Mine, New Hampshire, New York, and Vermont to create the Northern Forest Lands study and subsequently the Northern Forest Lands Council; and

''Whereas, the study and the council have focused efforts on changes in the region which are, or potentially might be, leading to a loss of public and private values of these lands; and

''Whereas, the values of these lands include long-term stewardship of the forest resource for timber, wildlife, wildlife habitats, and ecosystems; and

''Whereas, in September 1994, the Northern Forest Lands Council presented its recommendations for the northern forests: Now, therefore be it

''*Resolved by the Senate and the House of Representatives in general court convened:*

''That the general court of New Hampshire hereby urges the federal government to implement the recommendations of the Northern Forest Lands Council; and

''That Congress support funding of the forest legacy which is a federal program which provides funds to the United States Department of Agriculture Forest Service and other easement acquisition programs; and

''That, a part of the forest legacy program, local jurisdictions be given maximum flexibility and discretion in administering any federal funds that may be made available through this and other similar programs; and

''That Congress support the Stewardship Incentive Program by eliminating the 25 percent constraint on funds used for developing forest management plans, raising the maximum eligibility from 1,000 to 5,000 acres, allowing states to provide cost share funds for expenses related to voluntary land protection, and requiring landowners to reimburse the granting agency if conversion to non-forest use occurs within 10 years of receiving the cost-share funds; and

''That certain federal laws be changed to allow heirs to make post mortem donations of conservation easements of undeveloped estate land and to allow the valuation of undeveloped land at current use values for estate tax purposes of owners or heirs who agree to maintain the land in its current use for a minimum of 25 years; and

''That Congress change the Income Tax Code to allow the cost of timber to be set at the value of the timber when it was acquired, providing landowners with the incentive to keep timber in production; and

''That Congress change the Income Tax Code to allow small private forest landowners to deduct, from their income tax, the forest management costs for less than 100 hours of work per year; and

''That Congress change the Income Tax Code to exclude from income tax a portion of the gain received from the sale of qualified forest land and conservation easements from private to public conservation agencies; and

''That, as future acquisitions of forest land take place, local jurisdictions be held harmless for the loss of local tax revenues; and

''That Congress fund the Land and Water Conservation Fund a the currently authorized level with at least 60 percent of the funds going to the states; and

''That Congress authorize and fund community development financial institutions or similar programs to steer capital to distressed communities in order to attract

small industries and promote diversification; and

''That Congress provide the necessary funds for the U.S. Forest Service to conduct and publish decennial forest surveys, ensuring that the funding is adequate enough so that it takes place every 10 years; and

''That the general court of New Hampshire hereby urges the United States Congress to review and implement the recommendations of the Northern Forest Lands Council; and

''That copies of this resolution, signed by the president of the senate and the speaker of the house, be forwarded by the house clerk to the President of the United States, to the President of the United States Senate, to the speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.''

POM–196. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance.

''SENATE JOINT RESOLUTION NO. 15

''Whereas, Nevada is one of the fastest growing states in the union; and

''Whereas, the continuous influx of persons into this state promotes a growing, healthy and diversified economy; and

''Whereas, many persons who migrate into this state are retired and live on limited and fixed incomes; and

''Whereas, many of these persons retire to Nevada with the expectation of being exempt from any state income tax and have planned their finances accordingly; and

''Whereas, for many of these persons, the income that they earn from their pension, savings and other investments is barely sufficient to pay their expenses and offset inflation; and

''Whereas, other states have enacted legislation that authorizes the imposition of a tax on income from a pension that originates in those states, even if the person who earns the income resides in another state; and

''Whereas, as a result, many persons who have retird to Nevada are required to pay a tax imposed by other states on the income from their pensions; and

''Whereas, these laws have placed an unexpected and often insurmountable financial burden on many of these persons; and

''Whereas, United States Representative Barbara Vucanovich has introduced a bill in the House of Representatives, H.R. 394 of the 104th Congress, 1st Session (1995), which would prohibit each state from imposing a tax on the income from a pension of any person who is not a resident of that state; and

''Whereas, United States Senator Harry Reid has introduced a similar bill in the Senate, S. 44 of the 104 Congress, 1st Session (1995): Now, therefore, be it

''*Resolved by the Senate and Assembly of the State of Nevada, jointly* That the Nevada Legislature urges the Congress of the United States to pass H.R. 394 or S. 44 of the 104th Congress, 1st Session (1995), which would prohibit each state from imposing a tax on the income from a pension of any person who is not a resident of that state; and be it further

''*Resolved,* That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

''*Resolved,* That this resolution becomes effective upon passage and approval.''

POM–197. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Governmental Affairs.

''HOUSE JOINT RESOLUTION NO. 411

''Whereas, the 10th Amendment to the Constitution of the United States clearly limits the powers of the federal government by stating that ''the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

''Whereas, the debate over the powers of the federal government in relation to the several states has raged throughout our history, but the recent actions of the federal government, particularly in the area of unfunded mandates, have rekindled the controversy; and

''Whereas, the restriction on the power of the federal government, so simply and elegantly stated in the 10th Amendment, is the essence of the federalism envisioned by the framers of the Constitution; and

''Whereas, that vision of federalism, with the states retaining those powers not specifically delegated by the Constitution to the federal government, has been subverted by an insolvent federal government that imposes increasingly onerous and costly mandates on the states; and

''Whereas, the assault by the Congress of the United States on the 10th Amendment showing no signs of abating, the time for the states to exert their constitutional rights has come; now, therefore, be it

''*Resolved* by the House of Delegates, the Senate concurring, That the Congress of the United States be hereby requested to pay greater heed to the clear restrictions placed by the 10th Amendment to the Constitution on the powers of the federal government; and, be it

''*Resolved further,* That the Commonwealth join with the several other states that have taken steps to convene a ''summit on federalism''; and, be it

''*Resolved finally,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Attorney General of Virginia, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia.''

POM–198. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Governmental Affairs.

''HOUSE JOINT RESOLUTION NO. 606

''Whereas, the 10th Amendment to the Constitution of the United States specifies that the ''powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people''; and

''Whereas, the founders of our Republic and the framers of the Constitution of the United States understood that centralized power is inconsistent with republican ideals, and accordingly limited the federal government to certain enumerated powers and reserved all other powers to the states and the people through the 10th Amendment; and

''Whereas, the federal government has exceeded the clear bounds of its jurisdiction under the Constitution of the United States and has imposed ever-growing numbers of mandates, regulations, and restrictions upon states and the local governments, thereby removing power and flexibility from the units of government closest to the people and increasing central control in Washington; and

''Whereas, the United States Supreme Court recognized in *New York* v. *United States*, 112 S. Ct. 2408 (1992), that the constitutional limitations on federal power have continuing vitality, notwithstanding the general failure of the federal courts to afford remedies to the states and their citizens for violations of the 10th Amendment; and

''Whereas, in holding that the states generally must rely on political processes in Washington for their protection, the federal courts have permitted Congress and federal agencies to treat the states as though they are merely part of the regulated community, rather than as sovereign partners in a federal system of shared powers; and

''Whereas, federal mandates have imposed enormous costs on states and localities, draining away resources and preventing state governments from addressing pressing local needs such as education and law enforcement; and

''Whereas, facing a persistent budget deficit, the federal government has forced the burden of funding federal programs onto state and local governments, resulting in an excessive tax burden at the state and local levels; and

''Whereas, federal mandates and preemptive measures impose ''one size fits all'' requirements that deprive state and local governments of the ability to set priorities, thereby diminishing their ability to allocate resources and tailor programs in the way best suited to meet local needs; and

''Whereas, states and localities are burdened not only by federal legislation, but also by mushrooming numbers of costly, complex, lengthy, and often incomprehensible regulations drafted by bureaucrats who are not accountable to the people; and

''Whereas, the exercise of increasing power by Congress, the federal courts, and the federal bureaucracy has diminished the ability of citizens to influence the course of their government and has produced an ever-widening gulf between citizens' demands for change and the ability of state and local officials to effect that change; and

''Whereas, experience has taught that the framers' design of a balanced federal system of shared powers and dual sovereignty can only be restored through federal constitutional changes that secure the rights and prerogatives of the states; and

''Whereas, proposals for structural change likely to be considered by the United States Congress and the Council of State Governments' proposed Conference of the States include constitutional amendments that would:

''1. Require a balanced federal budget;

''2. Prohibit the imposition of unfunded federal mandates;

''3. Require the federal courts to render enforceable decisions in cases or controversies arising under the 10th Amendment.

''4. Give a super-majority of the states the power to initiate constitutional amendments and repeal improper federal legislation, subject to veto by a super-majority of the United States Congress; and

''5. Provide other safeguards against unwarranted federal intrusion into the affairs of the sovereign states and their local subdivisions; and

''Whereas, as a sovereign government under the Constitution of the United States, the Commonwealth of Virginia has not only the right but also the duty to defend the prerogatives of the people of Virginia against federal government excesses; and

''Whereas, the Commonwealth of Virginia currently is attempting to enforce the 10th Amendment rights of its citizens through appropriate litigation: Now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That Congress be urged to observe the principles of federalism as required by the 10th Amendment of the Constitution of the United States. The Commonwealth of Virginia hereby asserts its sovereignty under the 10th Amendment to the Constitution of the United States over all powers neither

prohibited to the Commonwealth of Virginia nor enumerated and granted to the federal government by the Constitution of the United States; and, be it

''*Resolved further,* That this resolution serve as notice and demand to the federal government to cease and desist immediately the imposition and enforcement of mandates that are beyond the scope of its constitutionally delegated powers; and, be it

''*Resolved further,* That the General Assembly of Virginia endorse and support the efforts of the Governor and other representatives of the people of Virginia, including the members of the United States Congress, to secure adherence to and enforcement of the 10th Amendment rights of the Commonwealth of Virginia and its citizens and to secure structural changes at the federal level that will restore the states as full partners in a federal system of shared powers and dual sovereignty; and, be it

''*Resolved finally,* That the Clerk of the House of Delegates transmit a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia in this matter.''

POM–199. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Governmental Affairs.

''HOUSE JOINT RESOLUTION NO. 633

''Whereas, the 10th Amendment to the Constitution of the United States clearly limits the powers of the federal government by stating that ''the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people''; and

''Whereas, the debate over the powers of the federal government in relation to the several states has raged throughout our history, but the recent actions of the federal government, particularly in the area of unfunded mandates, have rekindled the controversy; and

''Whereas, state authority has been eroded primarily by (i) federal assumption of powers reserved to the states under the 10th Amendment; (ii) unreasonable interpretations of the ''commerce clause'' that authorize federal pre-emption with respect to any issue that has any faint or circuitous connection to interstate commerce; (iii) constant threats of withholding, withdrawing, or diverting federal funds to coerce compliance with federal practices; and (iv) failure on the part of the states to challenge federal intrusion, while at the same time showing passive endorsement of federal usurpation by seeking federal funding and by accepting federal delegations of power; and

''Whereas, that vision of federalism, with the states retaining those powers not specifically delegated by the Constitution to the federal government, has been subverted by an insolvent federal government that imposes increasingly onerous and costly mandates on the states; and

''Whereas, the assault by the Congress of the United States on the 10th Amendment showing no signs of abating, the time for the states to exert their constitutional rights has come; Now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That Congress be urged to observe the 10th Amendment to the Constitution of the United States. The Commonwealth of Virginia hereby claims sovereignty under the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution; and, be it

''*Resolved further,* That this resolution serve as the Commonwealth of Virginia's notice and demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and, be it

''*Resolved finally,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Attorney General of Virginia, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia.''

POM–200. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Indian Affairs.

''SENATE JOINT MEMORIAL 8004

''Whereas, the Indian Gaming Regulatory Act of 1988 was passed by Congress to protect tribal and state interests as they pertain to gambling; and

''Whereas, the primary intent of Congress was to allow for tribal economic development and self-sufficiency consistent with the state's public policy as it pertains to gambling; and

''Whereas, under the Indian Gaming Regulatory Act, the conduct of class III gaming within the state's boundaries is subject to the completion of a tribal-state compact; and

''Whereas, the Indian Gaming Regulatory Act does allow certain tribes to operate specific class III card games without the completion of a tribal-state compact if the tribes were operating these gaming activities on or before May 1, 1988; and

''Whereas, the Puyallup Indian Tribe has requested the National Indian Gaming Commission to allow the tribe to operate class III card games without the benefit of a tribal-state compact despite the fact that the tribe was not operating these card games on or before May 1, 1988; and

''Whereas, the Puyallup tribe is clearly attempting to circumvent the legitimate tribal-state negotiation process established by the Indian Gaming Regulatory Act; and

''Whereas, the approval by the National Indian Gaming Commission of such requests would clearly damage the current state negotiation process and regulatory structure developed under current compacts: Now, therefore, Your Memorialists respectfully request that the Congress of the United States direct the National Indian Gaming Commission to reject the Puyallup Indian Tribe's request to operate card games without the benefit of a tribal-state compact and require the Puyallup tribe to proceed with the legitimate negotiation process with the state of Washington that has been established by the Indian Gaming Regulatory Act in order to be allowed to operate any class III gaming activities; be it

''*Resolved,* That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington, and the National Indian Gaming Commission.''

POM–201. A resolution adopted by the Association of Property Owners and Residents of the Port Madison Area, Suquamish, Washington relative to Indian tribes; to the Committee on the Judiciary.

POM–202. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on the Judiciary.

''Whereas, constitutional conventions played an important role in the creation of American government; and

''Whereas, the convention has historically been the expression of the people's right to create their own governing authority and to consent actively to that authority; and

''Whereas, although Article V of the Constitution of the United States says that Congress shall call a convention for the purpose of amending the Constitution whenever two-thirds of the states request it, the article does not address whether states can limit the convention to one or more topics; and

''Whereas, this question raises immediate concerns since most petitions received by Congress today apply for a limited convention and Congress has not adopted legislation addressing the validity of these petitions or how they are to be counted for purposes of determining whether the requisite number of states have applied for a convention; and

''Whereas, many states are reluctant to ask Congress to call a national convention for fear of creating a ''runaway convention'' that might undermine the delicate constitutional framework the forefathers worked so hard to establish; and

''Whereas, it is time for Congress to lay to rest these concerns by proposing a constitutional amendment to clarify that the agenda of a constitutional convention may be set in the application of the states: Now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That the Congress of the United States be urged to propose an amendment to Article V of the Constitution of the United States which provides for the calling of limited national constitutional conventions. The amendment provides for the deletion of the language shown as stricken and the insertion of the italicized language, in essence as follows:

''ARTICLE V

''AMENDMENT OF THE CONSTITUTION

''The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the applications of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments. *Except for applications asking Congress to call an unlimited convention, each application shall specify the subject or subjects which shall limit the agenda of the constitutional convention. In determining whether two-thirds of the states have applied for the same limited convention, Congress shall consider whether each request in its entirely or in part calls for a substantially similar need for change. Any amendments proposed by Congress or convention* shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; *however,* no state, without its consent, shall be deprived of its equal suffrage in the Senate; and, be it

''*Resolved further,* That the General Assembly request the legislatures of the several states to apply to Congress for the proposal of this amendment to the Constitution of the United States; and, be it

''*Resolved finally,* That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States of Representatives, the President of the United States Senate, the Archivist of the United States at the National Archives and Records Administration of the United

States, the members of the Virginia Congressional Delegation, and the legislatures of each of the several states attesting the adoption of this resolution.''

POM–203. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on the Judiciary.

''SENATE JOINT RESOLUTION NO. 15

''Whereas, the founders of our nation appended to the Constitution of the United States ten amendments commonly known as the Bill of Rights; and

''Whereas, the First Amendment of the Constitution of the United States provides that ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceable to assemble, and to petition the government for a redress of grievances; and

''Whereas, the Ninth Amendment to the Constitution of the United States provides that ''The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people; and

''Whereas, the clear and express intent of the framers of the Constitution was to prevent the Federal Government from interfering with the right of the people to freely exercise and express their religious beliefs; and

''Whereas, for more than one hundred and fifty years the people, acting through their state and local governments, enjoyed the freedom to provide for prayer and religious expression in their schools and public assemblies; and

''Whereas, beginning in the 1960's the United States Supreme Court has issued a series of rulings that have systematically stripped from the people their historic and constitutionally guaranteed right to provide for prayer, religious study and religious expression in schools and public assemblies; and

''Whereas, to date, the Congress of the United States has failed or refused to restore to the people their right to provide for prayer, religious study and religious expression in schools and public assemblies; and

''Whereas, it is now time for the citizens of this nation to reclaim and reassert our First Amendment rights which constitutionally guarantee our freedom of religion and freedom of religious expression; Now, therefore,

Be it resolved by the Senate of the Ninety-ninth General Assembly of the State of Tennessee, the House of Representatives concurring, That this General Assembly hereby memorializes the United States Congress to propose an amendment to the United States Constitution to restore to the American people the right to free religious expression, including the right to allow non-sectarian prayer, religious study and religious expression in public schools and other public assemblies, and to submit such constitutional amendment to the several states for proper ratification;

Be it further resolved, That the Chief Clerk of the Senate is directed to transmit an enrolled copy of this resolution to the Speaker and the Clerk of the U.S. House of Representatives; the President and the Secretary of the U.S. Senate; and to each member of Tennessee's Congressional delegation.''

POM–204. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Veterans' Affairs.

''SENATE RESOLUTION

''Whereas, service-connected disability compensation for veterans from World War I, World War II, the Korean War, the Vietnam War, and the Persian Gulf War and any other conflicts, as designated by the President of the United States, is compensation for wounds or injuries, or both, sustained while on active duty; and

''Whereas, social security disability compensation for these same veterans injured while in the service of their country is vital to the health and welfare of disabled veterans and their families; and

''Whereas, the reduction, taxation, or elimination of veterans' disability compensation and social security disability compensation would, in effect, penalize the service-connected disabled, who by the grace of opportunity and the success of unusual determination, have overcome or lessened the economic loss associated with their disabilities; and

''Whereas, any taxation, reduction, or elimination of these benefits will guarantee that disabled veterans and their families can never enjoy the potential to rise above a governmentally-mandated economic status and station in life, without being penalized; and

''Whereas, veterans are not responsible for the current federal deficit; and

''Whereas, these disabled veterans, in good faith, have served their country in support of those ideals upon which this country was founded and have answered the call to protect and defend the Constitution of the United States; and

''Whereas, this nation has a solemn contract with her veterans to provide health care and compensation for wounds or injuries sustained: Now, therefore, be it

''Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, That this body urges Congress to support legislation to safeguard veterans' disability compensation and social security disability compensation from elimination, reduction, or taxation; and be it further

''Resolved That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the House of the United States House of Representatives, the United States Secretary for Veterans' Affairs, the members of Hawaii's congressional delegation, and the Director of the State Office of Veterans' Services.''

POM–205. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Veterans' Affairs.

''SENATE JOINT RESOLUTION NO. 71

''Whereas, the Honorable James H. Quillen has served the good people of Tennessee's First Congressional District as their representative to the U.S. Congress for the past thirty-two years with the utmost in acumen, perspicacity, devotion and industry; and

''Whereas, as a member of the 88th U.S. Congress through the 104th U.S. Congress, James H. Quillen has distinguished himself as a true statesman and an exemplary elected official who can be relied upon to carry out the people's will expeditiously; and

''Whereas, throughout his outstanding legislative career, Congressman Quillen has proven himself to be a good friend and stalwart supporter of the courageous veterans who risked their lives in time of war to defend and preserve the many blessed freedoms our nation and our state enjoy today; and

''Whereas, Congressman James H. Quillen has contributed significantly to the quality and availability of health care in the Northeast Tennessee community; and

''Whereas, he was instrumental in securing passage of the legislative initiative known as the Teague-Cranston legislation, which legislation provided for the establishment of a number of new medical colleges in conjunction with already existing Veterans Affairs facilities; and

''Whereas, Congressman Quillen also secured the addition of Mountain Home Veterans Affairs Center to the list of facilities covered under the terms of the Teague-Cranston legislation; and

''Whereas, James H. Quillen was also instrumental in the establishment of the School of Medicine at East Tennessee State University, which now bears his name; and

''Whereas, he also worked assiduously to secure federal funding for the construction of the modern Veterans Affairs Medical Center at Mountain Home; and

''Whereas, because of the important role he played in the establishment of this stellar medical facility, it is most appropriate that the Mountain Home Veterans Affairs Medical Center should bear the honorable name of James H. Quillen: Now, therefore, be it

''Resolved by the Senate of the Ninety-ninth General Assembly of the State of Tennessee, the House of Representatives concurring, That this General Assembly hereby most fervently urges and encourages the members of Tennessee's delegation to the U.S. Congress to introduce and work for the passage of legislation to redesignate the Mountain Home Veterans Affairs Medical Center as ''The James H. Quillen Veterans Affairs Medical Center'' at Mountain Home, Tennessee in honor of Congressman Quillen's superlative leadership and vision as a member of the U.S. Congress and his lifetime of meritorious service to his constituents in Northeast Tennessee; be it further

''Resolved, That the Chief Clerk of the Senate is directed to transmit a certified copy of this resolution to each member of Tennessee's congressional delegation; the Speaker and the Clerk of the U.S. House of Representatives; and the President and the Secretary of the U.S. Senate.''

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, without amendment:

S. 850. A bill to amend the Child Care and Development Block Grant Act of 1990 to consolidate Federal child care programs, and for other purposes (Rept. No. 104–94).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

John D. Hawke, Jr., of New York, to be Under Secretary of the Treasury.

Linda Lee Robertson, of Oklahoma, to be a Deputy Under Secretary of the Treasury.

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 894. A bill to establish a California Ocean Protection Zone, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND:

S. 895. A bill to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes; to the Committee on Small Business.

By Mr. CHAFEE (for himself, Mr. MCCAIN, Mr. INOUYE, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. GLENN, Mrs. MURRAY, Mr. SANTORUM, Mr. CRAIG, and Mr. SIMPSON):

S. 896. A bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 897. A bill to provide for a nationally coordinated program of research, promotion, and consumer information regarding kiwifruit for the purpose of expanding domestic and foreign markets for kiwifruit; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI (by request):

S. 898. A bill to amend the Helium Act to cease operation of the government helium refinery, authorize facility and crude helium disposal, and cancel the helium debt, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. NICKLES, and Mr. PRESSLER):

S. 899. A bill to amend the Internal Revenue Code of 1986 to prevent fraud and abuse involving the earned income tax credit, and for other purposes; to the Committee on Finance.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 900. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes; to the Committee on Energy and Natural Resources.

S. 901. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN:

S. 902. A bill to amend Public Law 100–479 to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for Mr. DOLE):

S. Res. 129. A resolution to elect Kelly D. Johnston as Secretary of the Senate; considered and agreed to.

S. Res. 130. A resolution providing for notification to the President of the United States of the election of Secretary of the Senate; considered and agreed to.

S. Res. 131. A resolution providing for notification to the House of Representatives of the election of Secretary of the Senate; considered and agreed to.

By Mr. SANTORUM (for himself, Mr. LIEBERMAN, Mr. SPECTER, and Mr. DODD):

S. Con. Res. 17. A concurrent resolution authorizing the use of the Capitol Grounds for the exhibition of the RAH–66 Comanche helicopter; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 894. A bill to establish a California ocean protection zone, and for other purposes; to the Committee on Energy and Natural Resources.

THE CALIFORNIA OCEAN PROTECTION ACT OF 1995

● Mrs. BOXER. Mr. President, I am pleased to introduce today the California Ocean Protection Act of 1995. This act will provide permanent protection for California's Outer Continental Shelf [OCS] from the adverse effects of new offshore oil and gas development, deep-sea mining, at-sea incineration of toxic wastes, and harmful ocean dumping. This act will make management of the Federal OCS consistent with State-mandated protection of State waters.

This act recognizes that the resources of the lands offshore California, and of the Pacific Ocean itself, are priceless. This act recognizes that the real costs of offshore fossil fuel development, mining and toxic waste disposal far outweigh any benefits that might accrue from those activities. Finally, this act recognizes that renewable uses of the ocean and OCS lands are irreplaceable elements of a healthy, growing, California economy.

California's coast, from San Diego to Crescent City, is a natural marvel. From the white sand beaches and secluded coves of southern California, to the grandeur of Big Sur, to the wild, rocky north, this coast is one of the Earth's great wonders—enjoyed by Californians and visitors from around the globe alike. But the California coast is much more than a scenic treasure; it is a dynamic convergence of land and sea—a grand yet fragile system that ultimately depends on the health of the Pacific Ocean for its continued viability.

The cold, clear waters of the Pacific give life to a wealth of plant, fish, bird and marine mammal species. Some of those species in turn support California's multibillion-dollar fishing industry—an industry founded on renewable resource management. Clean Pacific waters also form the basis for California's coastal tourism industry—valued at over $27 billion annually and creator of tens of thousands of jobs in California's economy.

Fishing and tourism are just two of the industries that we must weigh in the balance against non-sustainable, polluting uses of the ocean. The other values supported by an unpolluted Pacific are less easily quantified, but every bit as important. These values are economic, scientific and, indeed, spiritual. These are the values that have somehow gotten lost in the shuffle, as the Congress and past administrations have debated the issue of developing California's offshore resources.

When those values are added to the scales and weighed against the benefits to be obtained from non-sustainable exploitation, permanent protection becomes the only viable choice. Consider that if all the unleased areas of the California coast were suddenly opened to oil and gas development, we would produce less than 60 days of oil for the nation at current rates of consumption. Such production would come at the certain cost of oil spills, contamination by the toxic wastes and air emissions generated by offshore rigs and the increased risk of tanker accidents.

The Nation's interest in future energy security does not require that we pay those costs. Conservation measures are now available that will achieve far greater oil savings than the California OCS can produce, without the environmental risks brought by development. For example, raising CAFE standards to a readily achievable 40 miles per gallon would save 20 billion barrels of oil by 2020—over 18 times the estimated total California OCS reserves in unleased areas. And California is leading the nation in adopting an energy strategy that lessens our dependence on fossil fuels. Conservation programs already put in place by the State of California will save two billion barrels of oil over the next 20 years—almost twice the oil thought to lie in the State's frontier offshore areas.

The legislation I am introducing today would bring the Federal OCS program for California into line with protection now in place for State waters. The State legislature, working cooperatively with Gov. Pete Wilson, has acted to protect most areas of the State tidelands that had not already been protected from oil and gas development. The danger is that unless we act Federal development will render protection of State waters practically meaningless. To State the obvious: water flows. An oilspill in Federal waters offshore California can rapidly foul State beaches, contaminate nutrient-rich ocean upwellings upon which California's fishing industry depends

and destroy endangered species habitat in State tidelands.

In the same way it is misleading to believe that we can limit the hazards of offshore drilling by identifying and protecting environmentally sensitive areas. The ocean is a dynamic system—it is impossible to protect one area—even if there were scientifically sound criteria by which we could identify particularly sensitive areas—without also protecting adjacent areas. Permanent protection for as much of the system as possible again emerges as the only viable option.

This act does contain an exception for existing drilling operations. In recognition of the economic importance of current offshore development in southern California, the act would only prohibit new development. Thus drilling now underway offshore Orange and Santa Barbara counties would be allowed to continue. New drilling in those areas would be stopped.

The act would also prohibit ocean mining, at-sea incineration of toxic wastes and harmful ocean dumping. Each of these activities represents a threat to the marine environment and the coastal economy. Ecologically and economically sound alternatives exist to each of these activities. The prohibitions contained in this act recognized that the optimum value of the ocean is maintained only when it remains free of marine pollution caused by unnecessary exploitation.

I don't have to remind this body of the battles that have been fought over developing oil and gas offshore California. Interior Secretaries Watt and Hodel lined up with the oil industry to push for massive new leasing along the coast. That action was met by an opposite and more-than-equal reaction from the Congress. Thirteen of the past fourteen Interior appropriations bills have contained 1-year leasing moratoria on the lands offshore California. While the unreasonable approach of past administrations has necessitated such moratoria, I think everyone agrees that a more certain, long-term policy is called for. This year with a Republican majority in Congress, we face a real threat that the moratoria will not be extended.

This Act constitutes the long term policy and provides the certainty that California needs. We now have a better understanding of the costs associated with the activities this bill prohibits than we did when Secretary Watt fired his first salvo in the long battle over offshore drilling. We have come to understand that the greenhouse effect, and the global disaster it threatens, is a long-term effect of fossil fuel use. We know that the U.S. has only 4 percent of the world's remaining petroleum reserves and that much of the remainder is in the volatile Middle East—making the development of alternative forms of energy the only true source of energy security.

America has the opportunity and the creativity to lead the way in developing renewable resources and energy efficient innovations. We must commit ourselves to those goals which will enable us to face the future with confidence and hope. Offshore drilling, dumping, incineration and mining offer only short-term benefits at extremely high long-term costs. These activities should not be part of our national strategy for the future.

We have wasted far too much time fighting over a relatively insignificant energy resource. That time could have been far more productively spent devising real solutions to our energy needs. It is time to put the debate over California OCS development behinds us so that we can focus on developing the strategies and technologies that will help us compete and win in the global economy of the 21st century. The only way to achieve that goal is to permanently protect this resource. Anything less than permanent protection will only produce more controversy, more fighting, and continue to distract our focus from the real energy issues facing this Nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''California Ocean Protection Act of 1995''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the coast of California possesses unique historical, ecological, educational, recreational, economic, and research values that are appropriate for protection under Federal law;

(2) the threat to the coast of California, a national treasure, continues to intensify as a result of fossil fuel exploration and development, mineral extraction, and the burning and dumping of toxic and hazardous wastes;

(3) the activities described in paragraph (2) could result in irreparable damage to the coast of California; and

(4) the establishment of an ocean protection zone off the coast of California would enhance recreational and commercial fisheries, and the use of renewable resources within the zone.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) DEVELOPMENT.—The term ''development'' has the meaning stated in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(3) EXCLUSIVE ECONOMIC ZONE.—The term ''Exclusive Economic Zone'' means the Exclusive Economic Zone of the United States, as defined by Presidential Proclamation 5030 of March 10, 1983.

(4) EXPLORATION.—The term ''exploration'' has the meaning stated in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(5) HARMFUL OCEAN DUMPING.—The term ''harmful ocean dumping''—

(A) shall have the meaning provided by the Administrator, in consultation with the heads of other Federal agencies whom the Administrator determines to be appropriate; but

(B) shall not include—

(i) a de minimus disposal of vessel waste;

(ii) the disposal of dredged material that—

(I) would meet the requirements for disposal under the criteria established under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413), including regulations promulgated under that section; or

(II) is disposed of pursuant to a permit issued pursuant to that section;

(iii) a discharge that is authorized under a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); or

(iv) a disposal that is carried out by an appropriate Federal agency under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1411 et seq.).

(6) MINERALS.—The term ''minerals'' has the meaning stated in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(7) OUTER CONTINENTAL SHELF.—The term ''outer Continental Shelf'' has the meaning stated in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(8) PERSON.—The term ''person'' has the meaning stated in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(9) PRODUCTION.—The term ''production'' has the meaning stated in section 2 of such Act (43 U.S.C. 1331).

(10) TERRITORIAL SEA.—The term ''territorial sea'' means the belt of sea measured from the baseline of the United States, determined in accordance with international law, as set forth in Presidential Proclamation 5928, dated December 27, 1988.

(11) ZONE.—The term ''Zone'' means the California Ocean Protection Zone established under section 4.

SEC. 4. DESIGNATION OF CALIFORNIA OCEAN PROTECTION ZONE.

There is established a California Ocean Protection Zone, consisting of—

(1) waters of the Exclusive Economic Zone that are contiguous to the waters of the territorial sea that are contiguous to the State of California;

(2) waters of the territorial sea that are contiguous to the State of California; and

(3) the portion of the outer Continental Shelf underlying those waters.

SEC. 5. RESTRICTIONS.

(a) MINERAL EXPLORATION, DEVELOPMENT, AND PRODUCTION.—

(1) DEFINITION.—In this subsection, the term ''lease'' has the meaning stated in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(2) ISSUANCE OF LEASES, PERMITS, AND LICENSES.—Notwithstanding any other law, the head of a Federal agency may not issue a lease, permit, or license for the exploration for or development or production of oil, gas, or other minerals in or from the Zone.

(3) EXPLORATION, DEVELOPMENT, AND PRODUCTION.—Notwithstanding any other law, a person may not engage in the exploration for, or the development or production of, oil, gas, or other minerals in or from the Zone after the date of the cancellation, expiration, relinquishment, or termination of a lease, permit, or license in effect on June ___, 1995, that permits exploration, development, or production.

(b) OCEAN INCINERATION AND DUMPING.—Notwithstanding any other law, the head of a Federal agency may not issue a lease, permit, or license for—

(1) ocean incineration or harmful ocean dumping within the Zone; or

(2) any onshore facility that facilitates ocean incineration or harmful ocean dumping within the Zone.

SEC. 6. FISHING.

This Act is not intended to regulate, restrict, or prohibit commercial or recreational fishing, or other harvesting of ocean life in the Zone.●

By Mr. BOND:

S. 895. A bill to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes; to the Committee on Small Business.

THE SMALL BUSINESS LENDING ENHANCEMENT ACT OF 1995

● Mr. BOND. Mr. President, as our Nation rushes toward the 21st century, we are living in a critical time for small business men and women. For over 40 years, it has been our Government's policy to encourage the growth of small business and entrepreneurship. With all the discussion today about reinventing or reorganizing Government, I am concerned that too much emphasis has shifted away from our Government's role in promoting small business. We must be committed to deficit reduction, but we also must remain committed to the vital small business sector of our economy.

As chairman of the Committee on Small Business, I believe it is time to reassure America's small business owners and entrepreneurs that their Government is behind them 100 percent. During the past 10 years, as large businesses have restructured, laying off thousands of very able workers, small businesses have filled this void, creating up to five new jobs for each person laid off as the result of a corporate restructuring. During these years, economic growth has been fueled by small business. Fifty-four percent of America's work force now is employed by small businesses which generate 50 percent of the gross domestic product.

As we experience this period of restructuring and significant change in our business community, many small businesses have flourished. And their success has added to our Federal tax revenue base.

As small businesses are confronted with the uncertainties of a changing Government, I believe we should provide them with positive assurance that their Government will continue to support them in the future. Therefore, I have developed the following five fundamental principles for reform, that define the critical role that the Small Business Administration should play as we prepare for the next fiscal year and the next century.

First, consolidate and redesign small business loan guarantee programs: Abolish all SBA direct loan programs except for Disaster Assistance. Implement a simpler and safer credit support role for SBA to encourage private sector loans to small business.

Second, make SBA an effective small business advocate: Change SBA's structure and refocus SBA's resources to make it an effective advocate and ombudsman for small business on Federal governmental policy issues. SBA field offices and Small Business Development Centers should work together to provide regulatory compliance assistance to small businesses and act as a watchdog for excessive Federal regulatory behavior.

Third, refocus SBA's role in small business Government contracting: Retain SBA's role to encourage Federal Government contracting opportunities available to all small businesses. Discontinue the practice of having SBA act as a contracting party with the Federal Government and then subcontracting with small businesses. Consider a new Federal contracting preference for small business located in, and hiring employees from, high unemployment and low income areas.

Fourth, redesign SBA's role in small business venture capital: Increase private sector responsibilities in funding SBA's Small Business Investment Company Program. Investigate authorizing a Government sponsored enterprise to issue pooled securities to fund venture capital investments made by SBIC's.

Fifth, shift small business counseling and management assistance to the private sector: Phase out SBA's direct delivery of small business management assistance and business counseling, and shift the cost of SBA sponsored management assistance increasingly to colleges, universities, and to the States. Encourage the lending community to offer business counseling to applicants for SBA guaranteed loans.

I am setting forth these five fundamentals for reform as a positive statement to our Nation's small business community to assure them that Government reform does not mean they suddenly have been forgotten. And as a demonstration of my strong belief that we need to implement the reforms spelled out in the five fundamentals, today I am introducing the Small Business Lending Enhancement Act of 1995.

This legislation will increase the supply of loans available under the Small Business Administration's 7(a) Guaranteed Business Loan Program. The direct beneficiaries of this bill are America's small business men and women who otherwise would not be able to obtain affordable financing for their companies. The formula I have chosen for this bill authorizes a combination of lower guarantee levels and higher lender fees to increase loan capacity and reduce the taxpayer subsidy of these loans.

The impact of these changes dramatically decreases the amount of the loan loss reserve that must be funded out of annual congressional appropriations. In fiscal year 1995, SBA's 7(a) loan program needed $215 million in appropriated funds to support a $7.8 billion guaranteed loan program. Under my bill, in fiscal year 1996, the 7(a) program can grow to $11 billion but will only require $119 million in appropriations. While the loan program size increases by 41 percent, there is a 44 percent decrease in taxpayer cost to fund the program.

This bill is structured to balance the demands of the popular 7(a) Guaranteed Business Loan Program with prudent fiscal management. While I am committed to balancing the Federal budget, I will work to retain and improve effective programs, like 7(a). I believe the dual avenue I am advocating—combining increased fees from lenders with a decreased appropriations level—creates the correct balance in these times of fiscal restraint.

Small business owners need access to capital, and the Small Business Lending Enhancement Act of 1995 is the first step toward meeting the financing demands of small businesses. My bill is just a beginning. I will continue to study additional enhancements for the 7(a) program, as well as other ways to streamline and improve the manner in which we carry out our Federal policy of encouraging our small business community to continue its growth into the 21st century.

Mr. President, I ask unanimous consent that the bill and certain additional materials be printed in the RECORD.

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

S. 895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Lending Enhancement Act of 1995''.

SEC. 2. REDUCED LEVEL OF PARTICIPATION IN GUARANTEED LOANS.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

''(2) LEVEL OF PARTICIPATION IN GUARANTEED LOANS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in an agreement to participate in a loan on a deferred basis under this subsection (including a loan made under the Preferred Lenders Program), such participation by the Administration shall be equal to—

''(i) 75 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance exceeds $100,000; or

''(ii) 80 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance is less than or equal to $100,000.

''(B) REDUCED PARTICIPATION UPON REQUEST.—

''(i) IN GENERAL.—The guarantee percentage specified by subparagraph (A) for any loan under this subsection may be reduced upon the request of the participating lender.

''(ii) PROHIBITION.—The Administration shall not use the guarantee percentage requested by a participating lender under clause (i) as a criterion for establishing priorities in approving loan guarantee requests under this subsection.

''(C) INTEREST RATE UNDER PREFERRED LENDERS PROGRAM.—

''(i) IN GENERAL.—The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the

maximum interest rate, as determined by the Administration, applicable to other loans guaranteed under this subsection.

''(ii) PREFERRED LENDERS PROGRAM DEFINED.—For purposes of this subparagraph, the term 'Preferred Lenders Program' means any program established by the Administrator, as authorized under the proviso in section 5(b)(7), under which a written agreement between the lender and the Administration delegates to the lender—

''(I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration; and

''(II) authority to service and liquidate such loans.''.

SEC. 3. GUARANTEE FEES.

(a) AMOUNT OF FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended to read as follows:

''(18) GUARANTEE FEES.—With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender and may be charged to the borrower, in an amount equal to the sum of—

''(A) 3 percent of the amount of the deferred participation share of the loan that is less than or equal to $250,000;

''(B) if the deferred participation share of the loan exceeds $250,000, 4 percent of the difference between—

''(i) $500,000 or the total deferred participation share of the loan, whichever is less; and

''(ii) $250,000; and

''(C) if the deferred participation share of the loan exceeds $500,000, 5 percent of the difference between—

''(i) the total deferred participation share of the loan; and

''(ii) $500,000.

(b) REPEAL OF PROVISIONS ALLOWING RETENTION OF FEES BY LENDERS.—Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended—

(1) in subparagraph (B)—

(A) by striking ''shall (i) develop'' and inserting ''shall develop''; and

(B) by striking '', and (ii)'' and all that follows through the end of the subparagraph and inserting a period; and

(2) by striking subparagraph (C).

SEC. 4. ESTABLISHMENT OF ANNUAL FEE.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

''(23) ANNUAL FEE.—In carrying out this subsection, the Administration shall, in accordance with such terms and procedures as the Administration shall establish by regulation, assess and collect an annual fee, which shall be payable by the participating lender, in an aggregate amount equal to not more than 0.4 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) CONFORMING AMENDMENT.—Section 5(g)(4)(A) of the Small Business Act (15 U.S.C. 634(g)(4)(A)) is amended—

(1) by striking the first sentence and inserting the following: ''The Administration may collect a fee for any loan guarantee sold into the secondary market under subsection (f) in an amount equal to not more than 50 percent of the portion of the sale price that exceeds 110 percent of the outstanding principal amount of the portion of the loan guaranteed by the Administration.''; and

(2) by striking ''fees'' each place such term appears and inserting ''fee''.

SEC. 5. TECHNICAL AMENDMENT.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

''(o) PARTICIPATING LENDER.—For purposes of this Act, the term 'participating lender' means any bank or other financial institution that enters into an agreement with the Administration described section 7(a) to provide financing in accordance with that section.''.

TAKING THE SMALL BUSINESS ADMINISTRATION INTO THE 21ST CENTURY—FIVE FUNDAMENTAL PRINCIPLES FOR REFORM

1. *Consolidate and Redesign Small Business Loan Guarantee Programs.*

Abolish all SBA direct loan programs except for Disaster Assistance. Implement a simpler and safer credit support role for SBA to encourage private sector loans to small businesses. Reduce the federal government's guarantee exposure and shift more of the costs of this credit support from the taxpayer to the private sector. Create an enhanced role for secondary market transactions to compensate SBA for the value of its guarantee. Change SBA's role in the program from approving individual loans to one of carefully regulating and overseeing increased responsibilities for private sector program participants.

2. *Make SBA an Effective Small Business Advocate.*

Change SBA's structure and refocus SBA's resources to make it an effective advocate and ombudsman for small business on federal governmental policy issues. SBA field offices will have a Small Business and Agriculture Ombudsman to work together with Small Business Development Centers to offer small business regulatory compliance assistance and act as a watchdog for excessive or inappropriate regulatory enforcement against small businesses by federal agencies. SBA should receive citizen input in these activities from small business volunteers appointed to newly-created Small Business Regulatory Fairness Boards throughout the country.

3. *Refocus SBA's Role in Small Business Government Contracting.*

Retain SBA's fundamental monitoring and informational role to encourage the federal government to make government contracting opportunities available to all small businesses to the maximum extent possible. Discontinue the practice of having SBA act as a contracting party with the federal government and then subcontracting with small businesses. Investigate the possibility of establishing a federal contracting preference for small businesses located in, and hiring a significant number of employees from, geographic areas with high unemployment and low average incomes.

4. *Redesign SBA's Role in Small Business Venture Capital.*

Increase private sector responsibilities in the funding of SBA's Small Business Investment Company program for small business venture capital. Continue SBA's role in the licensing and supervision of SBIC's. Investigate the possibility of reducing federal funding of the SBIC program and limiting guarantee exposure for individual company investments by authorizing a government sponsored enterprise to issue pooled securities to fund venture capital investments made by SBIC's.

5. *Shift Small Business Counseling and Management Assistant to the Private Sector.*

Phase out SBA's direct delivery of small business management assistance and business counseling. Gradually reduce SBA's subsidization of private sector business assistance and counseling, shifting these costs increasingly to colleges and universities, and to the states. Encourage lenders participating in SBA's small business credit support program to offer small business counseling to applicants for SBA supported loans.

THE SMALL BUSINESS LENDING ENHANCEMENT ACT OF 1995

PARTICIPATION IN GUARANTEED LOANS

Reduces the maximum level of participation in guaranteed loans as follows:

1. 75% guarantee rate[1] on any loan participation exceeding $100,000; or,

Footnotes at end of article.

2. 80% guarantee rate[2] on loan participation of less than $100,000 (i.e., LowDoc loans).

GUARANTEE FEES

A. Amends the guarantee fee[3] on 7(a) loans to:

1. 3% on the guaranteed amount between $0 and $250,000;

2. 4% of the guaranteed amount between $250,001 and $500,000; and,

3. 5% on the guaranteed amount between $500,001 and $750,000.

B. Repeals the option for banks to retain 50% of the guaranty fee for small ([4]) and rural ([5]) loans.

ANNUAL LENDER FEE

Requires lenders to pay an annual fee ([6]) equal to .40% on the outstanding balance of the guaranteed amount.

FOOTNOTES

[1] Existing guarantee is 85% for loans between $155,001 and $750,000 with maximum term of ten years. Alternatively, a 75% guarantee is available for loans between $155,001 and $750,000 with a term of greater than 10 years. Preferred Lenders would be able to obtain guarantees as high as 75%; currently their guarantee level is capped at 70%.

[2] The existing guarantee level on loans of up to $155,001 is 90%.

[3] The current guarantee fee is .20% of the guaranteed amount, regardless of loan size.

[4] Applies to loans of up to $50,000.

[5] Applies to loans of up to $75,000. This provision is set to expire on 10/1/95.

[6] At present, the lender fee is charged only on those loans sold in the secondary market.●

By Mr. CHAFEE (for himself, Mr. MCCAIN, Mr. INOUYE, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. GLENN, Mrs. MURRAY, Mr. SANTORUM, Mr. CRAIG, and Mr. SIMPSON):

S. 896. A bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes; to the Committee on Finance.

MEDICAID LEGISLATION

● Mr. CHAFEE. Mr. President, today I am introducing legislation which makes a technical correction to the Omnibus Budget Reconciliation Act of 1990 [OBRA 90]. These changes would allow pregnant women and children enrolled in the Medicaid Program to continue receiving services from osteopathic physicians.

The 1990 provisions were meant to prevent unqualified physicians from caring for Medicaid patients. Strict guidelines were enacted, requiring physicians working with these populations to be certified in family practice, pediatrics, or obstetrics, by the applicable medical specialty board recognized by the American Board of Medical Specialties [ABMS].

While the 1990 budget legislation recognizes the importance of the ABMS in

certifying physicians trained in allopathics, it does not recognize the authority of the American Osteopathic Association [AOA] in certifying osteopathic physicians. As one out of every four Medicaid recipients receives health care from an osteopath, this policy only makes life more difficult for those on Medicaid.

It is important that we rectify this situation. Osteopaths have been an integral and vital part of our Nation's medical community for over a century. This important change ensures that our health care system continues to grow more accessible and reliable for those who depend upon it.

I urge my colleagues to join me in this effort, and look forward to working with them toward the bill's enactment.●

By Mrs. FEINSTEIN:

S. 897. A bill to provide for a nationally coordinated program of research, promotion, and consumer information regarding kiwifruit for the purpose of expanding domestic and foreign markets for kiwifruit; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT

● Mrs. FEINSTEIN. Mr. President, today I am introducing legislation to provide for a nationally coordinated program of research, promotion, and consumer information regarding kiwifruit for the purpose of expanding domestic and foreign markets for kiwifruit.

This bill is identical to H.R. 1486 introduced in the House by Congressman WALLY HERGER, Congressman VIC FAZIO, and others.

The kiwifruit industry is an important and growing sector in American agriculture, with tremendous potential to expand sales both at home and abroad through increased promotion and consumer education.

California presently represents 99 percent of the U.S. kiwifruit production.

Kiwifruit are commercially grown in Kern, Tulare, Fresno, San Joaquin, Yolo, Sutter, Butte, Yuba, and Colusa Counties.

Altogether, there are about 700 kiwifruit growers in my State.

In 1993, U.S. consumption of kiwifruit was 59 percent California grown, 33 percent Chilean imports, and 8 percent New Zealand imports.

It is my understanding that Chilean exporters have expressed interest in participating with California growers in promoting kiwifruit to encourage increased domestic consumption and expand opportunities in foreign markets.

The self-help program, administered by the Department of Agriculture, would be funded almost entirely by industry user fees. The industry would assess benefiting domestic growers and importers to equitably share in the costs.

Currently there are 18 similar federally authorized commodity research and promotion programs.

Once Congress approved the authorizing legislation, the promotion program must be approved by a majority of the handlers of kiwifruit, including the handlers of imported kiwifruit.

Specifically, this bill would authorize the Secretary of Agriculture to issue a federal order for kiwifruit research, promotion, and consumer information; establish an eleven member kiwifruit board composed of six growers, four importers, and one member of the general public to run the promotion program; authorize the kiwifruit board to collect assessments, at no more than $0.10 per seven pound tray of kiwifruit, to pay for research, promotion, and consumer information and for administrative expenses incurred by the kiwifruit board; authorize use of the assessments not only for domestic generic promotion, but also for promotion activities outside the United States; and require the kiwifruit order to be approved by a majority of the producers and importers and by a majority of those producing and importing more than 50 percent of the total volume of kiwifruit produced and imported.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Kiwifruit Research, Promotion, and Consumer Information Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in such channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of such markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use such program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BOARD.—The term ''Board'' means the National Kiwifruit Board, as provided for under section 5.

(2) CONSUMER INFORMATION.—The term ''consumer information'' means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

(3) EXPORTER.—The term ''exporter'' means any person from outside the United States who exports kiwifruit into the United States.

(4) HANDLER.—The term ''handler'' means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

(5) IMPORTER.—The term ''importer'' means any person who imports kiwifruit into the United States.

(6) KIWIFRUIT.—The term ''kiwifruit'' means all varieties of fresh kiwifruit grown or imported in the United States.

(7) MARKETING.—The term ''marketing'' means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution or otherwise placing kiwifruit into commerce.

(8) ORDER.—The term ''order'' means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 4.

(9) PERSON.—The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PROCESSING.—The term ''processing'' means canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any manner changing the form of kiwifruit for the purposes of preparing it for market or marketing the kiwifruit.

(11) PRODUCER.—The term ''producer'' means any person who grows kiwifruit in the United States for sale in commerce.

(12) PROMOTION.—The term ''promotion'' means any action taken under this Act (including paid advertising) to present a favorable image for kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

(13) RESEARCH.—The term ''research'' means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) UNITED STATES.—The term ''United States'' means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. (7 U.S.C. 6202.)

SEC. 4. ISSUANCE OF KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER.

(a) ISSUANCE.—To effectuate the declared purposes of this Act, the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than one order shall be in effect under this Act at any one time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this Act may request the issuance of, and submit a proposal for, an order under this Act.

(2) PROPOSED ORDER.—Not later than 90 days after the receipt of a request and proposal for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this Act.

(c) AMENDMENTS.—The Secretary may amend any order issued under this section. The provisions of this Act applicable to orders shall be applicable to amendments to orders.

SEC. 5. NATIONAL KIWIFRUIT BOARD.

(a) MEMBERSHIP.—An order issued by the Secretary under section 4 shall provide for the establishment of a National Kiwifruit Board, to consist of 11 members as follows:

(1) Six members who are producers (or their representatives) and who are not exempt from an assessment under section 6(b).

(2) Four members who are importers (or their representatives) and who are not exempt from an assessment under section 6(b) or are exporters (or their representatives).

(3) One member appointed from the general public.

(b) ADJUSTMENT OF MEMBERSHIP.—Subject to the 11-member limit, the Secretary may adjust membership on the Board to accommodate changes in production and import levels of kiwifruit, so long as producers comprise not less than 51 percent of the membership of the Board.

(c) APPOINTMENT AND NOMINATION.—

(1) APPOINTMENT.—The Secretary shall appoint the members of the Board from nominations submitted in accordance with this subsection.

(2) PRODUCERS.—The members referred to in subsection (a)(1) shall be appointed from individuals nominated by producers.

(3) IMPORTERS AND EXPORTERS.—The members referred to in subsection (a)(2) shall be appointed from individuals nominated by importers or exporters.

(4) PUBLIC REPRESENTATIVE.—The public representative shall be appointed from nominations submitted by other members of the Board.

(5) FAILURE TO NOMINATE.—If producers, importers, and exporters fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed by the Secretary without a nomination.

(d) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(1) be appointed in the same manner as the member for whom such individual is an alternate; and

(2) serve on the Board if such member is absent from a meeting or is disqualified under subsection (f).

(e) TERMS.—Members of the Board shall be appointed for a term of three years. No member may serve more than two consecutive three-year terms. However, of the members first appointed—

(1) five members shall be appointed for a term of two years; and

(2) six members shall be appointed for a term of three years.

(f) REPLACEMENT.—If a member or alternate of the Board who was appointed as a producer, importer, exporter, or public representative member ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(g) COMPENSATION.—Members and alternates of the Board shall serve without pay.

(h) GENERAL POWERS AND DUTIES.—The Board shall—

(1) administer orders issued by the Secretary under section 4, and amendments to such orders, in accordance with their terms and provisions and consistent with this Act;

(2) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(3) meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) receive, investigate, and report to the Secretary accounts of violations of such orders;

(5) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(6) employ or contract with a manager and staff to assist in administering such orders, except that, in order to reduce administrative costs and increase efficiency, the Board shall seek, to the extent possible, to employ or contract with personnel who are already associated with State chartered organizations involved in promoting kiwifruit.

SEC. 6. REQUIRED TERMS IN ORDER.

(a) BUDGETS AND PLANS.—An order issued under section 4 shall provide for periodic budgets and plans as follows:

(1) BUDGETS.—The Board shall prepare and submit to the Secretary a budget prior to the beginning of the fiscal year of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect upon a two-thirds vote of a quorum of the Board and approval by the Secretary.

(2) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding kiwifruit. A plan under this paragraph shall take effect upon approval by the Secretary. The Board may enter into contracts and agreements, upon approval by the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan, with funds collected pursuant to this Act.

(b) ASSESSMENTS.—Such order shall provide for the imposition and collection of assessments with regard to the production and importation of kiwifruit as follows:

(1) RATE.—The assessment rate shall be recommended by a two-thirds vote of a quorum of the Board, approved by the Secretary, but shall not exceed $0.10 per seven pound tray of kiwifruit or equivalent.

(2) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (4), the first handler of kiwifruit shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the kiwifruit of each producer whose kiwifruit are so handled, including the kiwifruit owned by the handler.

(3) IMPORTERS.—The assessment on imported kiwifruit shall be paid by the importer to the United States Customs Service at the time of entry into the United States and shall be remitted to the Board.

(4) EXEMPTION FROM ASSESSMENT.—The following persons or activities are exempt from an assessment under this subsection:

(A) A producer who produces less than 500 pounds of kiwifruit per year.

(B) An importer who imports less than 10,000 pounds of kiwifruit per year.

(C) Sales of kiwifruit made directly from the producer to a consumer for a purpose other than resale.

(D) The production or importation of kiwifruit for processing.

(5) CLAIM OF EXEMPTION.—To claim an exemption under paragraph (4) for a particular year, a person shall—

(A) submit an application to the Board stating the basis for the exemption and certifying that the person will not exceed any poundage limitation required for the exemption in such year; or

(B) be on a list of approved processors developed by the Board.

(c) USE OF ASSESSMENTS.

(1) AUTHORIZED USES.—Such order shall provide that funds paid to the Board as assessments under subsection (b) may be used by the Board—

(A) to pay for research, promotion, and consumer information described in the budget of the Board under subsection (a) and for other expenses incurred by the Board in the administration of an order;

(B) to pay such other expenses for the administration, maintenance, and functioning of the Board, including any enforcement efforts for the collection of assessments as may be authorized by the Secretary, including interest and penalties for late payments; and

(C) to fund a reserve established under section 7(d).

(2) REQUIRED USES.—Such order shall provide that funds paid to the Board as assessments under subsection (b) shall be used by the Board—

(A) to pay the expenses incurred by the Secretary, including salaries and expenses of Government employees, in implementing and administering the order; and

(B) to reimburse the Secretary for any expenses incurred by the Secretary in conducting referenda under this Act.

(3) LIMITATION ON USE OF ASSESSMENTS.—Except for the first year of operation of the Board, expenses for the administration, maintenance, and functioning of the Board may not exceed 30 percent of the budget.

(d) FALSE CLAIMS.—Such order shall provide that any promotion funded with assessments collected under subsection (b) may not make—

(1) any false claims on behalf of kiwifruit; and

(2) any false statements with respect to the attributes or use of any product that competes with kiwifruit for sale in commerce.

(e) PROHIBITION ON USE OF FUNDS.—Such order shall provide that funds collected by the Board under this Act through assessments may not, in any manner, be used for

the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this Act.

(f) BOOKS, RECORDS, AND REPORTS.—

(1) BY THE BOARD.—Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report by an independent auditor regarding the activities of the Board during such fiscal year.

(2) BY OTHERS.—So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this Act (or any order or regulation issued under this Act), such order shall require handlers and importers who are responsible for the collection, payment, or remittance of assessments under subsection (b)—

(A) to maintain and make available for inspection by the employees of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times and in the manner and content prescribed by the order, reports regarding the collection, payment, or remittance of such assessments.

(g) CONFIDENTIALITY.—

(1) IN GENERAL.—Such order shall require that all information obtained pursuant to subsection (f)(2) be kept confidential by all officers and employees of the Department and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary of the name of any person violating an order issued under section 4(a), together with a statement of the particular provisions of the order violated by such person.

(3) PENALTY.—Any person who willfully violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if a member, officer, or agent of the board or an employee of the Department, shall be removed from office.

(h) WITHHOLDING INFORMATION.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.

SEC. 7. PERMISSIVE TERMS IN ORDER.

(a) PERMISSIVE TERMS.—On the recommendation of the Board, and with the approval of the Secretary, an order issued under section 4 may include the authorities specified in this section and such additional terms and conditions as the Secretary considers necessary to effectuate the other provisions of the order and are incidental to, and not inconsistent with, the terms and conditions required by this Act.

(b) ALTERNATIVE PAYMENT AND REPORTING SCHEDULES.—Such order may authorize the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(c) WORKING GROUPS.—Such order may authorize the Board to convene working groups drawn from producers, handlers, importers, exporters, or the general public and utilize the expertise of such groups to assist in the development of research and marketing programs for kiwifruit.

(d) RESERVE FUNDS.—Such order may authorize the Board to accumulate reserve funds from assessments collected pursuant to section 6(b) to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which production and assessment income may be reduced. However, any reserve fund so established may not exceed the amount budgeted for operation of this Act for one year.

(e) PROMOTION ACTIVITIES OUTSIDE UNITED STATES.—Such order may authorize the Board to use, with the approval of the Secretary, funds collected under section 6(b) for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

SEC. 8. INCORPORATION OF PETITION AND REVIEW, ENFORCEMENT, AND INVESTIGATION PROVISIONS BY REFERENCE.

The following provisions of the Lime Research, Promotion, and Consumer Information Act of 1990 (subtitle D of title XIX of Public Law 101–624) shall apply to this Act and any order or regulation issued under this Act:

(1) Section 1957 (7 U.S.C. 6206), relating to petitions filed by persons subject to an order issued under this Act and review of administrative rulings on such petitions.

(2) Section 1958 (7 U.S.C. 6207), relating to violations of any order or regulation issued under this Act.

(3) Section 1959 (7 U.S.C. 6208), relating to the authority of the Secretary to make investigations, administer oaths and affirmations, and issue subpoenas in connection with inquiries under this Act.

SEC. 9. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REFERENDUM REQUIRED.—During the 60-day period immediately preceding the proposed effective date of an order issued under section 4, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve of the implementation of the order.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 4, if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum and these producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) SUBSEQUENT REFERENDA.—The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 4 and in effect at the time of the referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the end of the six-year period beginning on the effective date of the order and at the end of every six-year period thereafter;

(2) at the request of the Board; and

(3) if not less than 40 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting such a referendum.

(d) VOTE.—Upon completion of a referendum under subsection (b), the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) these producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this Act as well as the voting list shall be held strictly confidential and shall not be disclosed.

SEC. 10. SUSPENSION AND TERMINATION OF ORDER BY SECRETARY.

(a) UPON FINDING.—If the Secretary finds that an order issued under section 4, or a provision of such an order, obstructs or does not tend to effectuate the purposes of this Act, the Secretary shall terminate or suspend the operation of such order or provision.

(b) LIMITATION.—The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this Act.

SEC. 12. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.●

By Mr. MURKOWSKI (by request):

S. 898. A bill to amend the Helium Act to cease operation of the government helium refinery, authorize facility and crude helium disposal, and cancel the helium debt, and for other purposes; to the Committee on Energy and Natural Resources.

THE HELIUM DISPOSAL ACT OF 1995

● Mr. MURKOWSKI. Mr. President, on behalf of the administration, I introduce the Helium Disposal Act of 1995. This legislation was submitted to the Senate Committee on Energy and Natural Resources by the administration as a legislative proposal needed to implement the President's budget for fiscal year 1996.

While I support ending helium refining and marketing operations by the U.S. Bureau of Mines, I do not support the administration's legislation.

I am a cosponsor of Senator THOMAS' legislation, S. 738, the Helium Act of 1995. I support Mr. THOMAS' legislation and look forward to working with him to enact responsible legislation that will end the Federal Government's involvement in the refining and marketing of helium in the United States.●

By Mr. BENNETT (for himself and Mr. HATCH):

S. 900. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes; to the Committee on Energy and Natural Resources.

THE CENTRAL UTAH PROJECT PREPAYMENT AMENDMENT ACT OF 1995

Mr. BENNETT. Mr. President, today I am introducing along with my colleague from Utah, Senator HATCH, a bill to extend the authority of the Secretary of the Interior to accept prepayment of portions of the Central Utah Project [CUP]. In 1992, Congress enacted Public Law 102–575 which contained the Central Utah Project Completion Act of CUPCA. Section 210 of CUPCA authorized the Secretary to negotiate and accept early payment from the waterusers for the Jordan Aqueduct component of CUP. This prepayment ultimately proved to be a win/win deal for both the Federal Government and for the waterusers. Shortly after the agreement was signed on October 18, 1993, which concluded the terms of the prepayment, the Federal Government received a check from the local waterusers totaling $35.2 million. The local water districts have also saved money through the refinancing by shortening the total number of payments they must make.

The legislation we introduce today amends section 210 of the CUPCA broadens the Secretary's ability to accept prepayment from the Central Utah Water Conservancy District for the rest of the District's debt to the Federal government on the same terms and conditions that were negotiated for the Jordan Aqueduct. According to estimates provided by the district's bonding counsel, it is expected that prepayment of the district's remaining debt could yield the Federal Treasury between $145 to $200 million over the next 4 to 5 years. Mr. President, this is a significant amount of money which we are in certain need of as we move to balance the Federal budget over the next 7 years. I want to say that this bill does nothing with respect to title to the water project features. They will remain in the name of the United States. This bill is a simple prepayment which will save the Central Utah Water Conservancy District money by shortening its repayment term and will provide the Federal Government a significant amount of revenue at a most critical time. It is my understanding that the extension of this prepayment authority has been reviewed by the district with the Secretary's official representative to the CUP and that the Department of the Interior will support this legislation. I want to thank the district and the Department of the Interior for working together to bring about this win-win scenario.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREPAYMENT OF REPAYMENT CERTAIN CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

Section 210 of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4624) is amended by striking the second sentence and inserting the following: ''The Secretary shall allow for prepayment of repayment contracts between the United States and the District dated December 28, 1965 and November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to those contracts, under the same terms and conditions as are contained in the supplemental contract providing for the prepayment of the Jordan Aqueduct System dated October 28, 1993.''.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 901. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, and for other purposes; to the Committee on Energy and Natural Resources.

THE RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT AMENDMENTS OF 1995

Mr. BENNETT. Mr. President, today I rise to introduce the Reclamation Projects Authorization and Adjustment Act Amendments of 1995. This legislation amends title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 to expand participation of public water providers in water reuse and recycling projects. This bill provides a sensible and lasting solution to the growing problem of dwindling municipal, industrial, and agricultural water supplies in many areas of the country. This bill will also help protect and preserve environmentally sensitive watershed environments by reducing demand for freshwater supplies.

In my home State, Utah, water is a precious commodity and this legislation will allow for the better use and management of our limited water supply. In particular, both Salt Lake City and St. George will greatly benefit from this legislation.

Economically and environmentally, the next step to guaranteeing more dependable and cheaper supplies of water is water reuse and recycling. Recycling programs treat wastewater so that it can be safely used to irrigate land, golf courses, crops, and freeway medians, and replenish groundwater basins. Recycled water is also increasingly being used by industry.

In addition, the Bureau of Reclamation has ended their chapter of building large western dams. Their mission now is to assist in the water management of existing water supplies. From a public policy point of view, it is far cheaper to help our local western communities recycle their water than it is to construct new reservoirs and water delivery facilities. This legislation accomplishes this goal.

Past Federal legislation such as the Endangered Species Act and the Central Valley Improvement Act have placed tremendous stress on fresh water reserves by mandating that large portions of water sources be diverted from use by municipal water suppliers to be dedicated to general fish and wildlife and habitat purposes.

As a result, public water agencies have begun to search for alternative sources of water to meet the demands of rising populations and the limiting effects of regulatory burdens. The costs of importing water over great distances or storing vast reserves of water have begun to make other sources of water more economically feasible. The added environmental benefits also make these sources increasingly desirable.

Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 provides for water recycling projects and has been a major success. It should be considered a model for other infrastructure funding efforts. Compared to other Federal programs it is ''user friendly'' and virtually free of red tape, and because the program is highly leveraged, meaning 75 percent local cost sharing, it is not subject to criticism for subsidizing unworthy projects. As a result the water recycling program has enjoyed wide bipartisan support in Congress and from both the Bush and Clinton administrations. It is also backed by national and local environmental organizations.

Because of the success of Title XVI, communities from around the country are beginning to look at water recycling as not only an attractive new way to serve their customers but also the environment.

This is a unique, win-win program which goes a long way toward preparing for the future, preserving fresh water reserves protecting the Nation's environment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WATER RECYCLING PROJECTS.

Section 1602 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h) is amended by adding at the end the following:

''(e) PARTICIPATION IN CERTAIN PROJECTS.—

''(1) IN GENERAL.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the following water reclamation and reuse projects:

''(A) The North San Diego County Area Water Recycling Project, consisting of projects to reclaim and reuse water in the service areas of the San Elijo Joint Powers Authority, the Leucadia County Water District, and the Olivenhain Municipal Water District, California.

''(B) The Calleguas Municipal Water District Water Recycling Project to reclaim and reuse water in the service area of the Calleguas Municipal Water District in Ventura, California.

''(C) The Central Valley Water Recycling Project to reclaim and reuse water in the service areas of the Central Valley Reclamation Facility and the Salt Lake County Water Conservancy District in Utah.

''(D) The St. George Area Water Recycling Project to reclaim and reuse water in the service area of the Washington County Water Conservancy District in Utah.

''(E) The Watsonville Area Water Recycling Project, in cooperation with the city of Watsonville, California, to reclaim and reuse water in the Pajaro Valley in Santa Cruz County, California.

''(F) The Southern Nevada Water Recycling Project to reclaim and reuse water in the service area of the Southern Nevada Water Authority in Clark County, Nevada.

''(G) The Albuquerque Metropolitan Area Water Reclamation and Reuse Study, in cooperation with the city of Albuquerque, New Mexico, to reclaim and reuse industrial and municipal wastewater and reclaim and use naturally impaired ground water in the Albuquerque metropolitan area.

''(H) The El Paso Water Reclamation and Reuse Project to reclaim and reuse wastewater in the service area of the El Paso Water Utilities Public Service Board.

''(2) FEDERAL SHARE.—The Federal share of the cost of a project described in paragraph (1) shall not exceed 25 percent of the total cost.

''(3) NO FUNDING FOR OPERATION AND MAINTENANCE.—The Secretary shall not provide funds for the operation or maintenance of a project described in paragraph (1).''.

SEC. 2. DESALINATION RESEARCH AND DEVELOPMENT PROJECT.

Section 1605 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–3) is amended—

(1) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(b) LONG BEACH DESALINATION RESEARCH AND DEVELOPMENT PROJECT.—

''(1) IN GENERAL.—The Secretary, in cooperation with the city of Long Beach, the Central Basin Municipal Water District, and the Metropolitan Water District of Southern California, may participate in the design, planning, and construction of the Long Beach Desalination Research and Development Project in Los Angeles County, California.

''(2) FEDERAL SHARE.—The Federal share of the cost of the project described in paragraph (1) shall not exceed 50 percent of the total.

''(3) NO FUNDING FOR OPERATION AND MAINTENANCE.—The Secretary shall not provide funds for the operation or maintenance of the project described in paragraph (1).

''(c) LAS VEGAS AREA SHALLOW AQUIFER DESALINATION RESEARCH AND DEVELOPMENT PROJECT.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Southern Nevada Water Authority, may participate in the design, planning, and construction of the Las Vegas Area Shallow Aquifer Desalination Research and Development Project in Clark County, Nevada.

''(2) FEDERAL SHARE.—The Federal share of the cost of the project described in paragraph (1) shall not exceed 50 percent of the total.

''(3) NO FUNDING FOR OPERATION AND MAINTENANCE.—The Secretary shall not provide funds for the operation or maintenance of the project described in paragraph (1).''.

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. LEVIN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 101, a bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the names of the Senator from Utah [Mr. HATCH] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 770

At the request of Mr. DOLE, the names of the Senator from Virginia [Mr. WARNER], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 792

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 792, a bill to recognize the National Education Technology Funding Corporation as a nonprofit corporation operating under the laws of the District of Columbia, to provide authority for Federal departments and agencies to provide assistance to such corporation, and for other purposes.

S. 794

At the request of Mr. LUGAR, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 830

At the request of Mr. SPECTER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 830, a bill to amend title 18, United States Code, with respect to fraud and false statements.

S. 838

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 838, a bill to provide for additional radio broadcasting to Iran by the United States.

SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE CONCURRENT RESOLUTION 17—RELATIVE TO THE CAPITOL GROUNDS

Mr. SANTORUM (for himself, Mr. LIEBERMAN, Mr. SPECTER, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 17

Whereas the RAH–66 Comanche is the new reconnaissance helicopter of the Army;

Whereas the Comanche will save the lives of military aviators acting in the defense of the Nation;

Whereas the technologies employed in the Comanche makes it a revolutionary, highly effective, and survivable helicopter;

Whereas the Comanche development program is on budget, on schedule, and encompasses the latest concepts of design and testing to drastically reduce performance risk and ensure ease of manufacturing and maintenance; and

Whereas many members of Congress have expressed support for the Comanche and an interest in seeing the Comanche and learning more about its technology: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR THE EXHIBITION OF THE COMANCHE HELICOPTER AND ASSOCIATED TECHNOLOGIES.

The Boeing Company and United Technologies Corporation Joint Venture (hereinafter in this resolution referred to as the ''Joint Venture''), acting in cooperation with the Secretary of the Army, shall be permitted to sponsor a public event featuring the first flying prototype of the RAH–66 Comanche helicopter on the East Front Plaza of the Capitol Grounds on June 21, 1995, or on such other date as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly designate.

SEC. 2. CONDITIONS.

(a) IN GENERAL.—The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Joint Venture shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

(b) FLYING PROHIBITION.—The Comanche helicopter referred to in section 1 shall be transported by truck to and from the event to be carried out under this resolution and shall not be flown as part of the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Joint Venture is authorized to erect upon the Capitol Grounds, subject to the approval of the Architect of the Capitol, a portable

shelter, sound amplification devices, and such other equipment as may be required for the event to be carried out under this resolution. The portable shelter shall be approximately 60 feet by 65 feet in size to cover the Comanche helicopter referred to in section 1 and to provide shelter for the public and the technology displays and video presentations associated with the event.

SEC. 4. EVENT PREPARATIONS.

The Joint Venture is authorized to conduct the event to be carried out under this resolution from 8 a.m. to 3 p.m. on June 21, 1995, or on such other date as may be designated under section 1. Preparations for the event may begin at 1 p.m. on the day before the event and removal of the displays, shelter, and Comanche helicopter referred to in section 1 shall be completed by 6 a.m. on the day following the event.

SEC. 5. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

SEC. 6. LIMITATION ON REPRESENTATIONS.

The Boeing Company and the United Technology Corporation shall not represent, either directly or indirectly, that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the Federal Government of the Boeing Company or the United Technology Corporation or any product or service offered by the Boeing Company or the United Technology Corporation.

SENATE RESOLUTION 129—TO ELECT KELLY D. JOHNSTON AS SECRETARY OF THE SENATE

Mr. NICKLES (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 129

Resolved, That Kelly D. Johnston, of Oklahoma, be, and he hereby is, elected Secretary of the Senate beginning June 8, 1995.

SENATE RESOLUTION 130—RELATIVE TO THE ELECTION OF THE SECRETARY OF THE SENATE

Mr. NICKLES (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Resolved, That the President of the United States be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

SENATE RESOLUTION 131—RELATIVE TO THE ELECTION OF THE SECRETARY OF THE SENATE

Mr. NICKLES (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Resolved, That the House of Representatives be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

AMENDMENTS SUBMITTED

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995 COMMUNICATIONS DECENCY ACT OF 1995

DORGAN AMENDMENT NO. 1259

Mr. DORGAN proposed an amendment to the bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes; as follows:

On line 24 of page 44, strike the word ''may'' and insert in lieu thereof ''shall''.

MCCAIN AMENDMENT NO. 1260

Mr. MCCAIN proposed an amendment to the bill S. 652, supra; as follows:

On page 42, strike out line 23 and all that follows through page 43, line 2, and insert in lieu thereof the following:

''(j) CONGRESSINAL NOTIFICATION OF UNIVERSAL SERVICE CONTRIBUTIONS.—The Commission may not take action to impose universal service contributions under subsection (c), or take action to increase the amount of such contributions, until—

''(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

''(2) a period of 120 days has elapsed after the date of the submittal of the report.

''(k) EFFECTIVE DATE.—This section takes effect on the date of the enactment of the Telecommunications Act of 1995, except for subsections (c), (e), (f), (g), and (j), which shall take effect one year after the date of the enactment of that Act.''.

MCCAIN (AND OTHERS) AMENDMENT NO. 1261

Mr. MCCAIN (for himself, Mr. PACKWOOD, Mr. CRAIG, Mr. KYL, Mr. GRAMM, Mr. ABRAHAM, Mr. DOMENICI, Mr. THOMAS, Mr. KEMPTHORNE, and Mr. BURNS) proposed an amendment to the bill S. 652, supra; as follows:

On page 90, line 6, after ''necessity.'', insert: ''Full implementation of the checklist found in subsection (b)(2) shall be deemed in full satisfaction of the public interest, convenience, and necessity requirement of this subparagraph.''

MCCAIN AMENDMENT NO. 1262

Mr. MCCAIN proposed an amendment to the bill S. 652, supra; as follows:

Strike section 310 of the Act and renumber the subsequent sections as appropriate.

COHEN (AND OTHERS) AMENDMENT NO. 1263

Mr. COHEN (for himself, Ms. SNOWE, Mr. THURMOND, Mrs. HUTCHINSON, and Mr. LEAHY) proposed an amendment to bill S. 652, supra; as follows:

On page 8, between lines 12 and 13, insert the following:

(15) When devices for achieving access to telecommunications systems have been available directly to consumers on a competitive basis, consumers have enjoyed expanded choice, lower prices, and increased innovation.

(16) While recognizing the legitimate interest of multichannel video programming distributors to ensure the delivery of services to authorized recipients only, addressable converter boxes should be available to consumers on a competitive basis. The private sector has the expertise to develop and adopt standards that will ensure competition of these devices. When the private sector fails to develop and adopt such standards, the Federal government may play a role by taking transitional actions to ensure competition.

On page 82, between lines 4 and 5, insert the following:

SEC. 208. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

Part III of title VI (47 U.S.C. 521 et seq.) is amended by inserting after section 624A the following:

''SEC. 624B. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

''(a) AVAILABILITY.—The Commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of addressable converter boxes to subscribers of services of multichannel video programming distributors from manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service. Such regulations shall take into account—

''(1) the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or servics; and

''(2) the need to ensure the further deployment of new technology relating to converter boxes.

''(b) TERMINATION OF REGULATIONS.—The regulations adopted pursuant to this section shall provide for the termination of such regulations when the Commission determines that there exists a competitive market for multichannel video programming services and addressable converter boxes among manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service.''.

DORGAN (AND OTHERS) AMENDMENT NO. 1264

Mr. DORGAN (for himself, Mr. SIMON, Mr. KERREY, Mr. REID, and Mr. LEAHY) proposed an amendment to the bill S. 652, supra, as follows:

On page 82, line 23, beginning with the word ''after'', delete all that follows through the word ''services'' on line 2, page 83 and insert therein the following: ''to the extent approved by the Commission and the Attorney General''.

On page 88, line 17, after the word ''Commission'', add the words ''and Attorney General''.

On page 89, beginning with the word ''before'' on line 9, strike all that follows through line 15.

On page 90, line 10, replace ''(3)'' with ''(C)''; after the word ''Commission'' on line 17, add the words ''or Attorney General''; and after the word ''Commission'' on line 19, add the words ''and Attorney General''.

On page 90, after line 13, add the following paragraphs:

''(4) DETERMINATION BY ATTORNEY GENERAL.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

''(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization.''

''(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register.''

On page 91, line 1, after the word ''Commission'' add the words ''or the Attorney General''.

THURMOND (AND OTHERS) AMENDMENT NO. 1265

Mr. THURMOND (for himself, Mr. D'AMATO, and Mr. DEWINE) proposed an amendment to amendment No. 1264 proposed by Mr. DORGAN to the bill S. 652, supra, as follows:

On page 82, line 23, strike ''after'' and all that follows through ''services,'' on page 83, line 2, and insert in lieu thereof ''to the extent approved by the Commission and the Attorney General of the United States,''.

On page 88, line 17, insert ''and the Attorney General'' after ''Commission''.

On page 89, line 3, insert ''and Attorney General''. after ''Commission''.

On page 89, line 6, strike ''shall'' and insert ''and the Attorney General shall each''.

On page 89, line 9, strike ''Before'' and all that follows through page 89, line 15.

On page 89, line 16, insert ''BY COMMISSION'' after ''APPROVAL''.

On page 90, line 6, after ''necessity'', insert: ''In making its determination whether the requested authorization is consistent with the public interest, convenience, and necessity, the Commission shall not consider the effect of such authorization on competition in any market for which authorization is sought.''

On page 90, between lines 9 and 10, insert the following:

''(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application.''.

On page 90, line 12, strike ''shall'' and insert in lieu thereof ''and the Attorney General shall each''.

Page 90, line 17, insert ''or the Attorney General'' after ''commission''.

On page 90, line 19, insert ''and the Attorney General'' after ''Commission''.

On page 91, line 1, insert ''or the Attorney General'' before ''for judicial review''.

On page 99, line 15, strike out ''Commission authorizes'' and insert in lieu thereof ''Commission and the Attorney General authorize''.

On page 99, line 18, insert ''and the Attorney General'' after ''Commission''.

HOLLINGS (AND DASCHLE) AMENDMENT NO. 1266

Mr. HOLLINGS (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 652, supra, as follows:

On page 53, after line 25, insert the following:

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standards-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term ''telecommunications network-level interoperability'' means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

On page 66, line 13, strike the closing quotation marks and the second period.

On page 66, between lines 13 and 14, insert the following:

''(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES.—

''(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

''(B) CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

''(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

''(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated—

''(i) places or territories that have fewer than 50,000 inhabitants; and

''(ii) are outside an urbanized area, as defined by the Bureau of the Census.

''(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

''(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

''(ii) the system or facilities would not be economically viable if such provisions were enforced, or

''(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

''(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), and (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

''(G) SAVINGS CLAUSE.—Nothing in this paragraph affects the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture.''.

On page 70, line 7, strike ''services.'' and insert ''services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.''.

On page 70, line 21, strike ''area.'' and insert ''area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.''.

On page 79, before line 12, insert the following:

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

On page 88, line 4, strike ''area,'' and insert ''area or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier,''.

On page 88, line 5, after ''carrier'' insert ''that serves greater than 5 percent of the nation's presubscribed access lines''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, June 8, 1995, in open session, to receive testimony on the situation in Bosnia.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 8, 1995, to conduct a hearing on financial services trade negotiations.

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

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, June 8, 1995, beginning at 9:30 a.m., in room SD–215, to conduct a hearing on the earned income tax credit [EITC], and on the nominations of John D. Hawke, Jr., Stephen G. Kellison, Marilyn Moon, Linda L. Robertson, and Ira Shapiro.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 8, 1995, at 10:00 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, June 8, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on S. 436, a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on S. 673, Youth Development Community Block Grant, during the session of the Senate on Thursday, June 8, 1995 at 9:30 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. STEVENS. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on recent court decisions affecting Department of Veterans Affairs regulations regarding veterans' benefits. The hearing will be held on June 8, 1995, at 10:00 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 8, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to review the Forest Service's reinvention proposal and the proposed national forest planning regulations.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Committee of the Judiciary, be authorized to hold a business meeting during the session of the Senate on Thursday, June 8, 1995, at 2:00 p.m., to consider S. 269.

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

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 7, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.0 billion, $3.1 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated May 22, 1995, Congress cleared for the President's signature the 1995 emergency supplemental and rescissions bill (H.R. 1158). The President vetoed H.R. 1158; therefore, since my last report there has been no action that affects the current level of budget authority outlays or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 8, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through June 7, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated May 22, 1995, Congress cleared for the President's signature the 1995 Emergency Supplementals and Rescissions bill (H.R. 1158). The President vetoed H.R. 1158; therefore, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JUNE 7, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,238.7	1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,415.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt subject to limit	4,965.1	4,814.7	−150.4
OFF-BUDGET			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	(3)
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS JUNE 7, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	.....	.....	978,466
Permanents and other spending legislation	750,307	706,236	.....
Appropriation legislation	738,096	757,783	.....
Offsetting receipts	−250,027	−250,027	.....
Total previously enacted	1,238,376	1,213,992	978,466

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS JUNE 7, 1995—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (P.L. 104–6)	−3,386	−1,008	
Self-Employed Health Insurance Act (P.L. 104–7)			−248
Total enacted this session	−3,386	−1,008	−248
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements other mandatory programs not yet enacted	−1,887	3,189	
Total current level [1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	
Over budget resolution			518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

OCEANS DAY 1995

● Mr. KERRY. Mr. President, Oceans Day is celebrated annually to draw attention to the critical need to cross national and political boundaries to protect and preserve the oceans which are among our vital resources. This year it is celebrated today, June 8, 1995.

Oceans, coastal waters, and estuaries cover over 70 percent of the Earth's surface and contain over 90 percent of the world's plants and animals. The world's oceans provide ceaseless beauty and recreational pleasure, but very importantly, they are an essential economic resource for transportation and tourism, a reservoir of biological diversity, and a vital source of food, raw materials, and even new medicines. Yet tragically, our oceans are in peril from pollution, over-use of coastal and marine resources and habitat destruction.

As the president of the U.S. chapter of Global Legislators' Organization for a Balanced Environment [GLOBE], a coalition of international legislators dedicated to creating an international environmental agenda, I recently cochaired a bipartisan conference in Washington, DC on the state of our oceans. The conference brought together leading ocean researchers, advocates, and government officials to examine pressing environmental challenges related to the health of our planet's oceans. This was the first effort in the 104th Congress to seriously examine an environmental issue of international significance in a nonpartisan, nonconfrontational setting, and I believe it was a great success.

This year, on the fourth annual Oceans Day, a national conservation collaborative, including the New England Aquarium, is launching a campaign to preserve and restore the populations of large ocean fish such as tuna, sharks, and swordfish, and marlin. Over the past two decades, as demand has increased, the populations of these fish have plummeted due to overfishing, poor management, and the killing of immature fish and nontarget species. This is devastating news for the estimated one billion people, mostly in developing countries, who depend on fish as their sole protein source. Developing sustainable international fisheries as a shared goal of GLOBE and the conservation collaborative because the survival of our world's growing population may depend on success in that endeavor.

I wholeheartedly agree with Woods Hole Oceanographic Institution scientist Robert Ballard's assessment that, today, the oceans are more important to our survival than ever before. I hope that Oceans Day can raise the Nation's awareness of our dependence on the health of our world's oceans, the current state of the oceans and the imperative to act rapidly and effectively to ensure their preservation.●

RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. President, in accordance with rule XXVI, paragraph 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the Rules of the Committee on Energy and Natural Resources, as amended.

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, *Provided*, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and Ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless eleven Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request of any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be

counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, that no vote may be taken on any proposed amendment unless such amendment reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.●

RETIREMENT OF JOHN C. GOODMAN

● Mr. SIMON. Mr. President, I rise today to acknowledge the retirement of one of my constituents, John C. Goodman. John is stepping down from his post as gateway district manager for customer service and sales at the U.S. Postal Service.

A 39-year veteran of the Postal Service, John was appointed as gateway district manager in September 1992. In making this appointment, Postmaster General Marvin Runyon said at the time, ''We are pleased to have John Goodman serving our customers.'' John's outstanding record of service has made Mr. Runyon's 1992 observation even more meaningful and accurate.

John began his postal career as Postmaster in O'Fallon, IL after which he was elected secretary/treasurer of the National Association of Postmasters of the United States [NAPUS]. He was then elected NAPUS president, serving at the Organization's Washington, DC headquarters. Having completed his term, John returned to the Midwest in 1978 and was assigned to positions in Granite City, IL and later in Columbia, MO.

John also served as acting manager of the Grand Rapids Post Office as part of the Executive Exchange Program, and was the executive assistant for customer relations in St. Louis, MO where he was appointed St. Louis Field Division General Manager/Postmaster in 1986.

John's extensive management and operational expertise has yielded an impressive array of honors and citations. Under John Goodman's supervision, the St. Louis Division won the prestigious Regional Postmaster General's Quality Award. John also won the Postmaster General's Award for Excellence for the Union/Management Pairs [UMPS] program, as well as the National Postal Forum's Partnership for Progress Award for his dedication to customer service.

A native of O'Fallon, IL, John served in the Air Force and attended both the University of Denver and Southern Illinois University in Edwardsville, where he earned a bachelor of science degree in business administration.

Mr. President, I join John Goodman's family and many friends in congratulating him on an exemplary career, and wishing him all the best for the future. Illinois, Missouri and the country have benefited greatly from his superb service.●

TRIBUTE TO NOKOMIS REGIONAL HIGH SCHOOL, NEWPORT, ME

● Ms. SNOWE. Mr. President I would like to recognize the outstanding work being done by both students and faculty at Nokomis Regional High School in Newport, ME.

What is happening at Nokomis is truly exciting. Students and faculty, in their commitment to educational excellence, are making vital links between the classroom and the world around them. Whether in clubs that foster an appreciation for wildlife, testifying before legislative committees, conducting research for State agencies, or helping to save the black tern, Nokomis students are already making a positive difference in the world while at the same time gaining valuable skills and knowledge.

Nothing mankind does occurs in a vacuum—neither should our education. It is important that students and educators alike have a strong feel for how knowledge gained today can have a direct impact on the world of tomorrow. It is not simply enough to memorize information—you must also know why the information is important, and how it can be used for the betterment of our world.

It is clear that the students and faculty at Nokomis High School have positioned themselves at the forefront of this philosophy. Educators at Nokomis should be acclaimed for nurturing a love for learning; students deserve credit for opening themselves to the opportunities presented to them. All are to be commended for innovative and pro-active approaches to education. They are giving all of us perhaps the greatest gift of all—the chance for a brighter future, and a better world for generations to come.

The importance of what is happening at Nokomis cannot be overstated, particularly in an age which will increasingly require skilled and knowledgeable professionals in a wide variety of fields. In particular, scientists with an environmental background will be in great demand as the strain on the world's resources increases with global population. Indeed, efforts at Nokomis are an ideal model for others to follow, and I would encourage anyone in the field of education to look closely at what is being done at Nokomis.

Education is a top priority to me as a United States Senator, and I want to thank the students and faculty of

Nokomis High School for setting the standard by which educational initiatives should be judged. I believe that as the Nation charts a course for education, we need look no further than Nokomis Regional High School in Newport, ME as a shining example of our goals.●

MASSACHUSETT'S CRANBERRY GROWERS CLARK AND GERALDINE GRIFFITH

● Mr. KERRY. Mr. President, my home State of Massachusetts is the leading producer, year in and year out, of cranberries in America and in the world. The economic contribution cranberries make to Massachusetts is impressive, with more than $200 million in payroll to Massachusetts workers and about 5,500 jobs for Massachusetts citizens. I am also proud that Ocean Spray's corporate headquarters are located in Middleboro, MA.

I invite the attention of my colleagues to the article which follows from the November 1994 edition of Yankee magazine. It tells a poignant and all-American story of one cranberry growing family, that of Clark and Geraldine Griffith. Mr. Griffith's family goes back to the 1700's like many multigenerational cranberry families around our Nation. The article tells an impressive story of the mechanization and modernization of what remains, after all, a small family farming operation. It also reminds us of the vulnerability to weather and governmental actions of an important crop that is not subsidized by the Federal Government. And, most of all, it captures the spirit and the hard work of Massachusetts cranberry growers.

Both Clark and Geraldine Griffith are fine citizens of my State, and I commend this article to your reading. I ask that it be printed in the RECORD.

The article follows:

[From Yankee magazine, November 1994]

WAITING FOR THE FROST IN CRANBERRY LAND

Clark Griffith works one row of cranberry vines at a time, driving his water-reel tractor back and forth in a decreasing spiral. The ride is rough and swaying, and he has to brace his legs and keep a secure grip on the wheel so as not to fall. The water reflects the light up into his eyes, and Griffith squints to see the long stake that marks the submerged row just combed and the red and yellow flags that indicate the location of irrigation ditches. At the end of a row he bends forward, pulls out the stake with one hand, quickly turns the wheel with the other, and hurls the stake back into the bog. Water mists the air as the metal rods of the cylindrical beater comb the vines, and berries bob through the white foam to the surface. Amorphous, blood-red trails foam in the wake.

Griffith, who owns 90 acres of bog, flooded this three-acre section two days earlier and is now harvesting his cranberry crop. A strapping man of 62 with peppery hair and a squarish face, he runs the Griffith Cranberry Company in the town of Carver, Massachusetts. Located about an hour's drive southeast of Boston and just inland from historic Plymouth Bay, the three precincts comprising the town—North, Center, and South Carver—have more than 3,500 acres of active bogs: Nearly half of the taxable land is directly or indirectly cranberry related, and almost all of Carver's 121 growers are members of the huge Ocean Spray cooperative. It is a town where police cars sport the logo ''Cranberry Land USA'' and cranberry vines are stenciled on the walls of the post office.

Carver is justifiably called the Cranberry capital of the world. From Labor Day through Halloween, the town's farmers bring in their crop, flooding fields late at night and working bleary-eyed days. In the late fall of 1993 Griffith knows the harvest will be disappointing. He frowns as he reaches into a bin and scoops up glistening berries. The weather has made for a year of small berries. ''It takes a lot of small fruit to fill a box,'' Griffith says. He drops the berries and watches as they bounce in the bin.

Cranberries have always been a part of Carver. Up through the 19th century, when Carver was a community of lumber mills, gristmills, and iron furnaces, people gathered wild cranberries solely for personal consumption. Griffith's family moved here from Rochester, Massachusetts, around the time in 1790 that the 847 souls who lived in Plympton's South Precinct decided to secede from that community and form Carver. His ancestors forged stoves, heaters, pans, and sinks from the bog iron excavated from nearby Sampson Pond. But in the late 19th century, as the iron industry began to wane, his grandfather Alton and his great-uncle Lloyd decided to start farming cranberries. Alton and Lloyd's first bog was inconspicuously christened Bog One in 1902, and it still produces good berries behind Griffith's house.

Griffith started serious work in the fields when he was 13 and labored along with the 40 to 50 workers the family hired at harvest time from the nearby mills in New Bedford. Pickers then used hand scoopers, small wooden boxes with metal or wooden teeth that were combed through the vines. ''When your back got tired, you kneeled,'' recalls longtime Carver grower Albertina Fernandes, ''and when your knees got tired, you stood up.'' But for Griffith, the work was exciting. ''I always considered harvest season to be fun,'' he says. ''I grew up with it, and there was always a gang around laughing and joking.''

Mechanization in the mid-1950s revolutionized the industry. ''It used to take 60 days to do 60 acres. We can now do four to six acres in a day,'' says Griffith, who employs only four fulltime workers. Most equipment is handmade, much of it cannibalized from old cars and trucks. ''When someone discards a piece of equipment, that is what we use,'' says Wayne Hannula, a grower who constructs sanders from old Dodge pickups. ''We all built our own equipment because we all know what we want.''

If the temperature drops too low, it can kill the berries, so there are now daily frost reports. Many farmers have a Chatterbox, an electronic monitoring device that calls them on the phone if it gets too cold. If that happens, the grower has to flood the bogs so that the berries will not freeze. ''The frost can come anytime,'' says Griffith. ''Sometimes it is 4:30 in the morning, and you dash out. Fortunately, I have all electric sprinklers, so all I have to do is snap switches.'' Yet even with the innovations, the work still has its hardships. ''If you have worked all day and the frost comes early, you don't get any sleep,'' says Griffith. ''By three o'clock in the morning, you are pretty tired. You try not to stumble over things and fall in the water while jumping ditches.''

Even with machinery there are losses. ''I had an evening when I got caught flat-footed,'' Griffith recalls of a night in the early 1970s. ''The frost came early in the evening, and I didn't have sprinkler systems on all the acreage. I had to flood a lot of it. We did everything we could, but we lost a lot of cranberries that night.'' One of the area's smaller growers lost part of his crop when a neighbor—a newcomer to town—shut off his sprinklers and left a note: ''Water your crops in the daytime; the noise of the engines keeps us awake.''

Griffith has experienced all the unexpected calamities that have racked cranberry farmers. The worst event to befall the industry, though, was not a natural calamity but a simple government pronouncement. On November 9, 1959, the Secretary of Health, Education, and Welfare announced that an experimental weed killer, Aminotriazole, that was used by some cranberry growers, had caused cancer in laboratory animals. The market immediately dried up.

''We were done picking,'' recalls Griffith, ''and we had a nice crop of berries sitting in the screen house. Of course no one knew what was going to happen to them until the decision was made by Ocean Spray and the government to dump the berries. They came to us and counted the boxes. Then the berries were just poured into dump trucks and taken away.''

Aminotriazole is no longer sprayed on crops, and growers are required to keep detailed records on the chemicals they use. Griffith has files in his office dating back decades. The office is located just up the street from his home. There are maps of the bogs on the wall, a computer linkup to Ocean Spray, and a stained-glass window of a cranberry scooper. He stops by in order to retrieve from his computer information on the previous day's delivery to the Ocean Spray processing plant. He then picks up a stack of papers and drives to the town hall in center Carver. He hitches himself out of his pickup, and bog soil flecks off his shoes as he lumbers toward the building. A gray-haired man greets him in the hall.

''Clark, how is your crop?'' he nervously inquires.

''Terrible,'' Griffith frowns as he shakes his head. ''How about you?''

''I got about three-quarters of what I got last year.''

''Everyone says that it is going to be down,'' Griffith shrugs his shoulders. ''It's not what Ocean Spray estimated. It can't be a bumper crop every year.''

When Griffith finishes at the town hall, he heads back to his bogs. Around noon Griffith's wife, Geraldine, brings coffee and brownies to Bog 20. The men and women emerge from the water and enjoy a few moments of rest. After the break Angel Vasquez mounts the water reel and starts harvesting the rows. Workers smooth the floating fruit carpet with shiny aluminum pushers while others corral the berries with a series of long, white wooden booms. Water presses against the sides of their chest-high rubber waders as firm cranberries bob against their calves. Swarms of small black spiders scamper over the thickening red mass toward the shore. Swallows flock to the water to gather the unexpected bounty.

Griffith drives the winding series of bumpy one-lane dirt roads, checking on his other crews, tending the levels of his various bogs, flooding some and draining others. Before he eats dinner with Geraldine, Griffith checks on the latest frost report and plans for the evening vigil. He talks of slowing down, of doing less work. His house is backed by the moss-covered pines that surround the land. It has a beautiful view of the bog, of the dark green vines that his family has spent generations tending and harvesting. One day it will make for a tranquil retirement spot. But now, after dinner, Griffith drives over to a

pump house and draws water from Sampson Pond to flood Bog 22 for the morning pick. When he returns home, he checks the weather and waits.●

PARTNERS OUTDOORS FAIR

● Mr. MURKOWSKI. Mr. President, I rise today to call to the attention of my colleagues a most unusual and informative event which took place in the Senate Energy Committee hearing room on May 8 and 9. The first Partners Outdoors Fair was hosted by the committee and organized by six Federal agencies and the Recreation Roundtable, a group comprised of the chief executives of more than 20 of the leading recreation-oriented companies in America. The fair was a great success, celebrating the imaginative and effective work taking place across the nation through partnerships involving Federal, State and local agencies, private corporations and others.

The idea for the Partners Outdoors Fair was conceived in early 1995 at the Partners Outdoors conference in Florida, an annual meeting of public and private organization leaders committed to the protection of America's wonderful outdoors resources and the enhancement of the recreational experiences of visitors to federally-managed areas. Candidates for programs to be showcased at the fair were submitted by all six Federal agencies taking part in the conference: the Forest Service, the Bureau of Land Management, the National Park Service, the U.S. Fish and Wildlife Service, the Corps of Engineers, and the Bureau of Reclamation. From the dozens of submissions, 20 displays were selected to represent diversity in focus, partners and size.

As chairman for the Senate Committee on Energy and Natural Resources, I was very enthusiastic upon learning of the plans for the fair and was pleased to offer the use of our hearing room for this important 2-day event. As you might guess, Mr. President, I was particularly enthusiastic about those displays that showcased successful programs in my State of Alaska. One of these, an eye-catching display describing fishing restoration efforts and the Wallop-Breaux Fund, prominently featured the creation of a new sportfishing opportunity at Homer Spit in Alaska. Thanks to the determined efforts of the U.S. Fish and Wildlife Service and several State agencies—as well as to the millions of Americans whose purchases of fishing equipment and motorboat fuels make the Wallop-Breaux fund viable—Homer Spit has seen a steady return of large chinook salmon and has been made more accessible to children, the elderly and those with physical disabilities.

Another display featured a successful partnership including ARCO, the Anchorage School District, the National Audubon Society, Alaska Pacific University, and the BLM. The diverse collection of entities polled its resources to design the Campbell Creek Environmental Education Center, a 10,000-square foot facility that will be built by the BLM on Campbell Tract in Anchorage. Targeted for completion in 1996, the Campbell Creek facility will provide children and others with the opportunity to experience the outdoors, learn about wildlife and understand the role people play in the local and global environments. The center will also promote behaviors, practices and lifestyles that have minimal impact on the environment. Still another display described the interpretive programs used aboard cruise ships that ferry visitors to Alaska's majestic Glacier Bay National Park and Preserve. These programs greatly enhance the cruise experience and are the result of a collaborative effort between companies such as Holland America and the National Park Service.

The fair features many other outstanding displays about partnerships in operation around the country, and those who stopped by saw that the number of partners involved was breathtakingly large and diverse. For example, a program entitled ''WOW—Wonderful Outdoor World,'' which aims at introducing city kids to the pleasures of camping and other outdoor recreational activities, was established with contributions from the Walt Disney Co., the city of Los Angeles, the Bureau of Land Management, the Coleman Co., Chevy/Geo, California State University at Long Beach, and the U.S. Forest Service, among others. Another good example was Tread Lightly, a program to help protect public and private lands through the responsible use of off-highway vehicles. Tread Lightly involves the Forest Service, Four Wheeler Magazine, the Izaak Walton League, Goodyear, Jeep, Honda, Toyota, Ranger Rover, the Perlman Group, and Warn Industries. There were many others worthy of mention. Mr. President, I would ask that a complete list and description of the featured displays appear in the RECORD immediately following my remarks.

Mr. President, there have long been, and continue to be, debates in this country over whether the private or public sector can accomplish certain tasks more effectively. And today, perhaps more than at any other time since the drafting of the Constitution, there is much discussion about whether State and local governments are better equipped for certain tasks than the Federal Government. I do not expect that a relatively small, 2-day event in the Senate Energy Committee hearing room will by itself lay these contentions debates to rest. However, I do believe the Partners Outdoors Fair made great strides in calling our attention to the fact that it does not always have to be one or the other. The public sector can work with the private sector, and the Federal Government can work with State and local governments. In fact, when the particular resources and expertise of each come together in a collaborative effort, the results are precisely what we saw on display on May 8 and 9. In addition, the projects displayed at the fair made clear that progress can be made even without large increases in Federal budgets and even without specific legislative direction.

Mr. President, I would also like to mention an important event that took place on the afternoon of May 9, as the Partners Outdoors Fair was winding to a close. At that time, I joined with Francis Pandolfi, the president and CEO of Times Mirror Magazines and chairman of the Recreation Roundtable, in a news conference at which the Recreation Roundtable released the results of its latest national survey of public attitudes regarding outdoor recreation. Joining us was Edward Keller, executive vice president of Roper Starch Worldwide, the organization that performed the study for the roundtable. One of the most interesting aspects of this event was the presentation of a new national index—the Recreation Quality Index [RQI]—which reflects public perceptions regarding changes in recreation opportunities, quality of experience and personal participation. Regarding the significance of this development, I agree wholeheartedly with Mr. Pandolfi, who called the RQI ''a new, important expression of public opinion which can help guide and measure the impact of policy decisions in Washington and decisions by companies providing recreation goods and services. The RQI provides the first comprehensive reflection of satisfaction with outdoor recreation in America—not just a specific service provided or a specific recreational product.''

Mr. President, I strongly encourage my colleagues to heed these words and to carefully study the recreational needs of the American people when considering legislation that affects our public lands and other issues that affect the $300 billion plus recreation industry in America.

The material follows:

PARTNERS OUTDOORS—1995

FISHERIES RESTORATION: SUCCESSES FROM COAST TO COAST

America's anglers and boaters pay special federal taxes and fees totaling more than $300 million annually—most of which is deposited into the Wallop-Breaux Fund. A sizeable portion of that money is then provided as grants to state fisheries agencies for fisheries research, habitat improvements, fisheries management activities and for expanded access to public waters by anglers and boaters. The monies have had direct and very successful consequences for fisheries from coast to coast. In Alaska, Wallop-Breaux funding was used to create a new sportfishing opportunity at Homer Spit, close to the homes of many Alaskans and accessible by children, persons with physical challenges and the elderly. Research into sensory impregnation has brought a steady return of large Chinook salmon to an area previously without any sizable run.

Similarly, federal assistance has been used on the east coast by Maryland and other states to arrest the precipitous decline in striped bass populations. Research efforts

and fisheries management activities qualified for 75% federal funding. As in many cases, the decline in the fishery was attributable to a combination of pollution and over-fishing. States along the east coast responded with an ambitious recovery plan, limiting fishing and undertaking some mitigation projects. The result is a strong return of this popular sportfish in the Chesapeake Bay and surrounding areas and a reopening of fishing for this species.

Partners in this effort include the millions of Americans purchasing fishing tackle and motorboat fuels, the fishing tackle industry which ''fronts'' the tax monies, the U.S. Fish and Wildlife Service and state fish and wildlife agencies across the nation.

AQUATIC RESOURCES EDUCATION EFFORTS

Aquatic Resources Education Programs are underway across the nation, thanks to Wallop-Breaux partners. Focusing chiefly on youth, the programs teach subjects as diverse as science and safety, fishing techniques and ethics. Up to 10% of each state's Wallop-Breaux Fund allocation can be used for these programs; overall, about 5% of the total funding to states is being spent on these efforts. In ten years, some two million young people have participated in state aquatic resources education projects, and the programs are growing in size and sophistication.

One of the imaginative partnerships which has evolved in aquatic resources education has been Pathway to Fishing. Initiated by Outdoor Technologies Group and expanded to include federal agencies ranging from the Forest Service and the Bureau of Land Management to the Bureau of Reclamation as well as Wal-Mart and other companies, Pathway events have occurred at hundreds of sites across the nation. Pathway can be conducted by a lake, river or pond—or even in a parking lot or open field. Kids learn and have fun, regardless. Volunteers from organizations such as B.A.S.S. and Trout Unlimited as well as federal and state agencies act as instructors in this 12-learning station effort.

Another major focus of aquatic resources education is National Fishing Week, which began on June 5. Hundreds of events will be held across the nation. Partners in this effort include the American Sportfishing Association, fishing tackle companies, federal and state agencies, recreational fishing organizations and the media.

WALLOP/BREAUX: MAKING OUR WATERS BETTER FOR BOATING AND FISHING

Although relatively new, the Wallop/Breaux program is already causing tremendous positive changes in fishing and boating—as well as in the health of our nation's surface waters. Using a 10% federal excise tax at the manufacturer/importer level imposed with the support of industry plus the federal motorfuel excise tax collected on gas used in recreational boating, Wallop/Breaux provides grants to states for fisheries management, for improved boating and fishing access, for aquatic resources education programs, for wetlands restoration, for construction of marine waste disposal sites and for boating safety efforts by the U.S. Coast Guard and state and local agencies.

Using 3:1 matching federal grants, Wallop/Breaux program partners accomplished the following between 1986 and 1993: built 1600 new public boat launching ramps and related facilities, including parking areas and restrooms; improved 9,700 public boat ramps; built 600 roads to open up access to public waters; installed directional signs for thousands of boating and fishing access sites; developed over 1,500 new fishing access sites; and acquired at least 170 properties and over 50,000 strategic acres to improve access to public waters.

In 1992, the Wallop-Breaux program was amended to add a new emphasis on wetlands restoration. A new revenue source—the federal excise tax on fuels used in lawnmowers, chainsaws, snowblowers and other small-engine items—was approved by the Congress. Approximately $50 million per year is now invested in this wetlands effort.

Partners in Wallop/Breaux include more than thirty national recreation and conservation organizations which constitute the American League of Anglers and Boaters, the U.S. Fish and Wildlife Service, state fishery and boating agencies, the U.S. Coast Guard and America's anglers and boaters.

WOW—WONDERFUL OUTDOOR WORLD

On opposite coasts of the nation last year, two groups of individuals addressed the lowered rate of exposure of today's youth to traditional outdoor recreational activities such as camping, fishing, hiking and wildlife viewing. Many factors are behind this drop, from the lure of indoor pastimes to changes in the structure of our families. The conversations joined and a unique national partnership resulted called ''WOW—Wonderful Outdoor World.'' Now operating in a pilot effort in Los Angeles, the program brings tents, lanterns, sleeping bags, fishing poles and other recreational items to the neighborhoods of city kids and offers them camping adventures within blocks of home. The program doesn't end with this first exposure; ''graduates'' are helped to understand the outdoor fun opportunities near-by and the organizations available to make this fun accessible—from city and county agencies to the Boy Scouts. Current partners include the Walt Disney Company, the City of Los Angeles, the Forest Service, the Bureau of Land Management, the Recreation Roundtable, the Coleman Company, Chevy/Geo Environmental, Ralphs Grocery Company, California State Parks, Wells Cargo Trailers, California State University at Long Beach and the L.A. Times. Partners hope to learn from the monthly camping adventures for 9–12 year-olds between May 1995 and April 1996 and to expand the program both in Los Angeles and to more cities.

SMOKEY BEAR BALLOON FLOATS ACROSS AMERICA

In celebration of the 50th anniversary of Smokey Bear, the Forest Service and many friends and partners helped create a new non-profit organization based in Albuquerque, New Mexico, to build and ''campaign'' a new hot air balloon in the shape of Smokey Bear. Towering 85 feet high and 75 feet across, the balloon has already made almost 100 flights. The balloon travels with a specially constructed trailer, donated by Fleetwood Enterprises, which offers an outstanding fire and conservation ethics message. This newest icon for Smokey, one of America's best known and best loved symbols, is totally privately funded but works in close harmony with federal and state forestry organizations. Smokey recently flew in formation with another famed American symbol—Mickey Mouse—at the Walt Disney World Resort, celebrating both the partnerships reflected by the balloon and the origin of the idea for the balloon—at the first Partners Outdoors conference at the Florida site.

WINTER SPORTS PARTNERSHIP

Approximately half of all downhill skiing in the United States occurs at ski areas operating on national forests. Private funding has been used to build the lifts and other facilities, which are then operated under long term permits which return revenues to the government. The ski areas also assist the Forest Service with wildlife management, interpretation and other programs.

A partnership was established among the U.S. Disabled Ski Team, Olympic Gold Medalist Sarah Will, Dick Bass of Snowbird, the National Ski Area's Association and the U.S. Forest Service in 1994. At this time, a Memorandum of Understanding (MOU) was signed by Under Secretary Jim Lyons, Forest Service Chief Jack Ward Thomas and the President of the National Ski Area's Association Michael Berry. The MOU supports enhancing public awareness of ecosystems through environmental education at ski areas at National Forest lands, particularly ski areas, increasing partnership recognition, encouraging stewardship of public land and demonstrating the availability of the National Forests to people of all ages, abilities and cultures.

TREAD LIGHTLY

This program was started by the Forest Service in 1986 to help protect public and private lands through education about responsible use of off-highway vehicles. To maximize its effectiveness, Tread Lightly, Inc., a non-profit organization funded and managed by the private sector, was incorporated in 1990. Tread Lightly unites manufacturers, publishers, environmental groups and individuals who share a basic commitment to recognize and protect our valuable resources. Some of these partners are: Jeep, Honda, Toyota, Range Rover, the Perlman Group, Warn Industries, the Izaak Walton League, Goodyear and Four Wheeler Magazine.

ACCESS AMERICA'S GREAT OUTDOORS

The partnership is among the American Recreation Coalition, the Forest Service, MIG Communications, Quickie Designs and Wilderness Inquiry. It involves a comprehensive approach to integrating universal access to outdoor recreation environments and supports the full implementation of the Americans with Disabilities Act.

Efforts on this program were inspired by the President's Commission on Americans Outdoors. Among the products of this partnership are: a design guidebook offering practical and creative information to public and private recreation facility operators alike; improved facilities across the nation; demonstrations for the Western Governors Association and recreation community leaders and national awareness through media stories.

BACK COUNTRY BYWAYS

The Bureau of Land Management's Back Country Byways program now includes more than 70 routes, showcasing some of the scenic and cultural best of the West. The BLM program has enjoyed the active support of national partners such as the American Recreation Coalition, Farmers Insurance Companies and American Isuzu as well as dozens of local corporate, municipal and civic organizations. Three outstanding byways have been developed recently in the state of Arizona. Historic Route 66 is a part of many family histories dating back to the 1920s. The 42-mile scenic road offers an outstanding side-trip for visitors traveling to Arizona, California and Nevada. The Historic Route 66 Association, Kingman, Oatman and Topack chambers of commerce, Mohave County and Arizona state governmental agencies have worked cooperatively to develop and promote this back country byway.

In March 1994, the Black Hills Back Country Byway was dedicated celebrating ''Riches from the Earth.'' This 21-mile road journeys through rough terrain, provides opportunities for rockhounding, viewing wildlife, hiking, rafting the Gila River and many other activities as well as seeing one of the nation's largest copper mining sites. This byway was developed as a partnership with Phelps Dodge and the Graham and Greenlee Counties and chambers of commerce.

BLACKFOOT CHALLENGE

Facing population growth and the consequences of poor land use practices in the past, the large and lovely Blackfoot River valley in Montana was threatened and in need of comprehensive action. The Bureau of Land Management led efforts to develop a common vision for the region and then enlist public and private partners able to turn the vision into reality. The result is both astonishing and encouraging. Major corporations such as Plum Creek Timber and Phelps Dodge Mining have joined federal agencies, environmental organizations, local governments and private citizens to develop a land use strategy for the area, target priority sites for clean-ups and other mitigation and communicate goals to landowners in the area. The effort has been aided by use of GIS and other new technologies. The valley now has a markedly more positive future.

BLM: HIDDEN PARTNERSHIPS IN THE EAST

BLM has developed partnerships with numerous states, oil and gas companies, wild horse and burro adopters, as well as historically black colleges and universities. These organizations have worked together to protect wildlife habitat, introduce non-traditional publics to the outdoors, improve recreation opportunities, protect fragile ecosystems and cultural resources, and improve environmental education programs.

NATIONAL RIVER CLEAN-UP WEEK

As the national coordinator, America Outdoors originated this program in 1992 in partnership with federal agencies and the private sector. The organizations participating include: Bureau of Reclamation, Forest Service, Bureau of Land Management, National Park Service, American Canoe Association, American Rivers, American Whitewater Affiliation, North American Paddle Sports Association and The National Association of Canoe Liveries and Outfitters.

Since the inception of this partnership, 100,000 volunteers have participated in 1,600 clean-ups covering 30,000 miles of waterways. American Outdoors donates staff time for promotion, coordination, fund raising, distribution of trash bags and development of educational materials. The federal agencies provide logistical support to volunteers for clean-ups on public land, assist with the acquisition of trash bags and coordinate clean-ups. The private sector promotes clean-ups among their membership and provides educational material on the value of maintaining healthy riparian zones and waterways.

CAMPBELL CREEK (ALASKA) ENVIRONMENTAL EDUCATION CENTER

A partnership, including ARCO, Anchorage School District, National Audubon Society and Alaska Pacific University along with BLM, designed the Campbell Creek Environmental Education Center that will be located in a residential facility and will be built by the BLM on the Campbell Tract in Anchorage. The facility will be completed in 1996 and will include a 10,000 square-foot education center, two dormitories, outdoor amphitheater and interpretive trails. The center will provide children and others with the opportunity to experience the outdoors, learn about wildlife and understand the role people play in the local and global environment. The center will also promote behaviors, practices and lifestyles that have minimal impact on the environment.

PUBLIC LAND APPRECIATION DAY

PLAD was initiated by Times Mirror Magazines (TMM) in 1994 and encourages conservation-oriented volunteers to help diminish the huge back-log of restoration projects on our nation's public lands.

Through TMM, reaching 30 million readers, a call to action was given that mobilized forces to public land sites across the country. Five federal government agencies—the Bureau of Land Management, the Army Corps of Engineers, the Forest Service, the Park Service and the Fish and Wildlife Service are partners with TMM. At each site, agency staff oversee the PLAD volunteers who work on restoration projects. All the tools needed to accomplish the work are donated by the PLAD corporate sponsors.

PLAD started with two pilot sites in 1994 and has expanded to 15 sites in 1995. By the end of the century, there will be hundreds of PLAD sites throughout the country and people will know that on the last Saturday in September they can go to a local site to do their part.

LAKE HAVASU (ARIZONA) FISHERIES IMPROVEMENT PROGRAM

This program partnership includes the Bureau of Land Management, Anglers United, Arizona Game and Fish Department, Bureau of Reclamation, California Department of Fish and Game, Metropolitan Water District of Southern California, and the U.S. Fish and Wildlife Service. It is the largest and most comprehensive warm water fisheries project ever undertaken in the United States. The $28.5 million program meets the needs of a host of anglers, revitalizes the fishery, and restores populations of native fish in Lake Havasu.

This program will increase access for all shoreline anglers by construction of foot trails, fishing docks, access roads and parking areas. Other facilities such as fish cleaning stations, ramadas with picnic tables, interpretive areas and restrooms will be added in eight access areas. Over 150 artificial habitat structures will be placed in the lake to provide spawning sites, feeding locations and escape cover for the declining populations of sport fish. Volunteers are a major factor in the construction and placement of artificial habitat structures in the lake. Hundreds of volunteers contribute thousands of hours each year at work sites on the lake. Community involvement complements the partner contributions to implement this program. The Lake Havasu Fisheries improvement program provides exhibits and a habitat construction station for participants and their families so that they actually help make structures on site.

CONSERVATION GOOD TURN

Conquistador Council of the Boy Scouts of America and the Roswell District of the BLM brought 300 scouts and scouters to the dunes in southeast New Mexico. They learned the eight principles of Leave No Trace camping from BLM staff and scouters that were trained by a BLM specialist. An afternoon was devoted to conservation projects in the area. Fences were built and repaired; boundary signs were hung on those fences; concrete was mixed and poured to set poles for other signs; picnic tables were painted; and over one and one-half tons of litter was removed from the area and the adjacent highway. At the end of the project, BLM and the BSA signed a Memorandum of Understanding to make Conservation Good Turn an annual event.

LAKE LANIER AND THE 1996 OLYMPICS

In December 1993, Lake Lanier was selected as the venue for the 1996 Olympic rowing and sprint and canoe/kayak events. Immediately following the announcement, the city of Gainsville, Hall County and the Mobile and Savannah Districts of the U.S. Army Corps of Engineers began a cooperative effort to prepare the site for the July 1996 competition. Through this partnership, leases, reviews, permit approval processes, cultural resources surveys and environmental clearances were all expedited. Construction is currently underway and the project is on schedule. After the Olympic games, the site will be used for local, state and national rowing and/or sprint and canoe/kayaking events.

SPECIAL HANDICAPPED HUNTING AND FISHING OPPORTUNITIES IN GEORGIA

The Augusta and Atlanta areas are regional centers for spinal cord injury patients. The Savannah District U.S. Army Corps of Engineers formed a partnership with the Georgia Handicapped Association, the Southeastern Paralyzed Veterans Association, local bass clubs and the Georgia Department of Natural Resources to provide improved hunting and fishing opportunities for physically challenged sportsmen. The first special hunt was for Eastern wild turkeys and took place on April 1, 1991, on J. Strom Thurmond Lake for 11 sportsmen confined to wheelchairs. It was the first hunt of its kind on public lands and resulted in nationwide publicity. In the second series of hunts, 65 physically challenged sportsmen participated in a deer hunt at Richard B. Russell Lake and harvested 62 deer during the 1993 and 1994 seasons. For the past 3 years, bass tournaments were sponsored in the Georgia and South Carolina areas. Bass club fisherman provided the boats and were paired with a physically challenged sportsman. Additional hunts and fishing tournaments are scheduled for this season.

FISHERIES HABITAT ENHANCEMENT IN MISSISSIPPI

This program is a project of Enid and Sardis Lakes in the Vicksburg, Mississippi District of the U.S. Army Corps of Engineers. Members of the Sardis, Batesville, Oxford and Yalobusha County bass clubs and the Otoucalfa Sportsman's Club collect Christmas trees, donated by the public, and place them in the Enid and Sardis Lakes as fish shelters. The partnership included the Mississippi Highway Department and South Central Bell who donated anchoring material and excess wire for the project.

CHATFIELD WETLANDS

A 20-acre wetland serving as a wildlife sanctuary and environmental education center was created and is now being sustained by a unique partnership of federal and state government agencies, Martin Marietta Astronautics and local conservation enthusiasts. The area is located within Chatfield State Park, Colorado's most visited park, located just minutes from Denver. Already an example of a partnership, since Chatfield is a Corps of Engineers area being operated by the state, Chatfield became even more ''cutting edge'' when innovative state and industry leaders devised an innovative way to reuse 350,000 gallons of treated, high quality waste water from a Martin Marietta plant. Rather than a long-distance pumping operation to discharge the water into a high volume water body, as required by federal and state regulation, the waste water is instead deposited into a new wetland area close to the plant site. Volunteers planted grasses and other vegetation and the site was in use by waterfowl within days of initial discharges. Martin Marietta has also paid for the construction of a viewing site at the wetland area, which is immediately adjacent to a planned trail hub center and an existing major environmental education center. The site is readily accessible for school trips and has become a real asset for the Denver area.

PARTNERS IN INTERPRETATION

More than a billion visits are made each year to America's parks, forests and other public lands. In many cases, little or no contact occurs between the visitors and the federal officials managing the areas because of

manpower limits, inadequate visitor facilities and the pattern of visitation. Yet recently, the Forest Service and the National Park Service have launched imaginative programs to reach more visitors with interpretation programs which add substantially to the quality of the experience. In both cases, the agencies work in partnership with private businesses serving visitors in the areas: resorts and campgrounds, AMTRAK, motorcoach tour operators and cruise lines serving Alaska. The results are exciting—and appreciated by the visitors.

More than 150,000 people each year are now treated to the majesty of Glacier Bay aboard cruise ships. Most of these visitors have the added advantage of special interpretive programs about the land and the bay and the diverse wildlife found here. Companies such as Holland American have entered into agreements with the National Park Service which provide for two NPS interpreters to be onboard the ships, holding regular seminars and answering questions. The cruise lines pay for this service and provide the facilities needed by the NPS, even helping to sell guidebooks and other items. The cruise ships allow hundreds of thousands of people to see areas like Glacier Bay without construction of the on-land facilities which would be required for normal visits. Everyone benefits!

The Forest Service has developed similar cooperative arrangements with hotels and resorts in the Pacific Northwest and with AMTRAK, putting a trained Forest Service interpreter on key trains in the West, for example. Again, private sector contributions offset the cost of the interpreter to the agency, and the private sector also provides the interpretation site eliminating the needed for federal outlays for construction.●

GREEK FOLK FESTIVAL

● Mr. SARBANES. Mr. President, I would like to call to the attention of our colleagues the Greek Folk Festival sponsored by St. Nicholas' Greek Orthodox Church this upcoming weekend. While this celebration is obviously enjoyed by parishioners of St. Nicholas, the entire community also relishes this wonderful festival. St. Nicholas is led by Father Manuel J. Burdusi, a man whom many applaud as a pastor who has developed a strong community within St. Nicholas, including a dynamic youth fellowship.

I would also like to bring to the attention of my colleagues that this festival contributes greatly to the preservation and enhancement of the historic culture of the Greek-American community. The Greek Folk Festival includes educational and cultural activities, live music and dancing, authentic Greek food and pastries, and most importantly, wholesome family entertainment. I would like to highlight an excellent article in today's Evening Sun newspaper by Jacques Kelly, highlighting the magnificent people that make this festival a superb event that is acclaimed year after year. Mr. President, I ask that the article be printed in the RECORD.

The article follows:

[From the Baltimore Evening Sun, June 8, 1995]

PRIEST HELPS HIGHLANDTOWN KEEP THE FAITH

(By Jacques Kelly)

It seems that everybody in this part of East Baltimore knows ''the priest.''

He is the Rev. Manual J. Burdusi, the 33-year-old pastor of St. Nicholas Greek Orthodox church, the spiritual home of many Highlandtown families.

Father Manual, as he is called, is the former altar boy who came back to his home parish wearing a cleric's black robes. He grew, up on Bonsal Street near Francis Scott Key Medical Center. His church is in the 500 block of S. Ponca St. He is one of the pivotal personalities here.

Part of the reason so many East Baltimore Greeks know Father Manual is that they watched him grow up.

As a 10-year-old, he assisted at the Divine Liturgy. Then he joined the choir. After his studies at Hellenic College and the Holy Cross School of Theology in Brookline, Mass., he returned to Baltimore. He was ordained in 1989 and named the church's pastor four years ago.

''I have always felt comfortable on the path that led me to the priesthood. It felt like home'' Father Manuel said.

He also kept things in the family by marrying a woman named Malama (Molly), who also sang in the choir. They have a son named Nicholas, the saint's name commemorated in the church.

One of the hardest things is to bury a person you've known so well in this neighborhood,'' he said one day this week.

The loss of a family member in this close-knit community is strictly observed. Many widows wear black after a husband dies. Families have memorial prayer services in the church 40 days after a death. This is often repeated six months later, then after a year, and on the third anniversary.

At funerals, the custom is to have the deceased in an open casket. Close family members kiss the corpse on the cheek. Others may kiss the hand or forehead or a religious icon.

''The formal process of mourning is therapeutic. It helps with dealing with grief. It forces the family back into the life of the church,'' Father Manuel said.

The life of the church is often the life of this neighborhood. Witness the tremendous activity for this weekend's Greek Folk Festival sponsored by the church. From tomorrow through Sunday, Ponca Street will explode with people, music, food and dancing. It has become one of the city's most popular summer events.

Family ties, church and tradition all mix within this tight community.

Blocks of rowhouses branch off Eastern Avenue in this part of Highlandtown known to some as The Hill, to others Greek Town. Many immigrants from the Greek islands settled here in the 1960s and 1970s. With them came their own grocery stores, bakeries, places to sip strong coffee and talk, and restaurants.

Father Manuel's family, for example, came from an island that was controlled by Italy for some years. His surname, Burdusi, reflects this.

His parish has its origins in a little school established here in the late 1940s. It was torn down and the present church built in 1956. Today, it has 1,200 families on its mailing list. Of these, some 700 are active.

''At times it is so busy, it feels like more,'' the pastor said. ''When it gets very rushed I have to ask my wife, ''Did we pay the bills this month?''

Father Manuel wears a beeper and is on call at all times.

''I don't want anybody to say they couldn't get a call into a priest,'' he said.

It is not uncommon for his parishioners to walk to Sunday services. Some 575 of his families reside in the 21224 Zip Code. Another 120 live in Rosedale and 100 more in Dundalk. The parish has a large and vigorous youth organization that its pastor feels is the cornerstone of the community.

Throughout the festival, Father Manuel will be giving church tours—4 p.m. and 7 p.m. on Friday, 2 p.m. and 4 p.m. on Saturday and Sunday—during which he will explain the rich collection of Christian art here. Just this past Easter, the church unveiled a vibrant mural of Mary, the mother of Jesus, the Christ child and saints Basil, Gregory, Nicholas and John Chrysostom.

Father Manuel also answers questions about the elaborate religious ceremonies here.

When recently asked, for example, how much incense is used on a typical Sunday, the priest thought for a moment and quietly replied, ''Ten tablespoons.''

AMMUNITION CONTROL

● Mr. MOYNIHAN. Mr. President, as some Senators may know, I had intended to offer an amendment to the antiterrorism legislation to update the existing statute prohibiting the manufacture, sale, and importation of armor-piercing ammunition. My amendment would have simply revised current law to cover new projectiles capable of penetrating the soft body armor worn by most law enforcement officers. However, as part of the agreement negotiated by the managers to permit completion of the bill yesterday, all amendments relating to firearms were dropped.

Senator BRADLEY and I planned to offer a separate amendment requiring development by the Department of the Treasury of uniform standards for the testing of armor-piercing ammunition. This is an important effort which I fully support, and I regret that we were not able to offer this amendment.

Unfortunately, the amendment by the Senator from New Jersey failed to address the more immediate danger presented by the presence today in stores nationwide of certain bullets capable of penetrating police body armor. I learned of this ammunition only last week from the FBI. It obviously poses a serious threat to law enforcement.

It has been well over a decade since I first introduced legislation to eliminate the armor-piercing bullets. I first became aware of problem in 1982, and with the help of the Patrolman's Benevolent Association of New York City, as well as other law enforcement groups, helped secure enactment in 1986 of the original statute banning so-called cop-killer bullets. In 1993, I secured passage of a provision in the crime bill, which became law in September 1994, to include in the definition of armor-piercing ammunition the Swedish-made M39B round. When I learned last week that other armor-piercing rounds exist which elude the ban, I immediately began work on an amendment to update the statute once again.

Unfortunately, I was not in a position to offer this amendment to S. 735. As I have said, amendments on this subject were not permitted under the unanimous consent agreement. Even if

such amendments had been permitted, however, we could not have proceeded without the cooperation of the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms. I had gone to some lengths to solicit support for this amendment from both the FBI and the BATF. I had sought to draft language that would ban the new armor-piercing rounds without affecting nonarmor-piercing or other legitimate sporting rounds that pose no threat to law enforcement. Despite repeated inquiries to the FBI and BATF, however, I had no response. The administration took the position on Monday that all amendments should be resisted, and that was that.

Mr. President, I regret that we were unable to proceed on the antiterrorism bill with my amendment to update the ban on armor-piercing ammunition. It is of great importance to the Nation's law enforcement officers. I hope we will be able to more forward on this matter in the near future.●

THE DEAN OF STATE PLANNERS DAN VARIN WILL SOON RETIRE

● Mr. PELL. Mr. President, Daniel W. Varin today announced his own plans for retirement, in one of the quietest, most unobtrusive ways imaginable, after more than 30 years of service directing the State of Rhode Island's planning effort.

Dan Varin, who has been acknowledged nationally a dean of State planning officials, announced his own plans quietly at the end of an otherwise ordinary State Planning Council meeting in Rhode Island, under the agenda item of ''other business.''

Throughout his 30 years, he has brought an unusual ability to his position. He perceives the implications of numbers, statistics, and trends, in a word, he has foresight. He has remained committed to a larger view of things, exercising his gift of seeing the interrelation of issues.

He has been a wonderful, dedicated proponent of comprehensive, areawide planning. He has looked to the future, and worked long hours. He has been available in crises, and brought a great knowledge of how governmental systems work to resolving vexing problems for State and local government.

In the winds of change, and squalls of politics, Dan Varin has been a steadying sail of calm reason. He has been a navigator of great value on a stormy sea.

He has an awesome knowledge of State and Federal programs, and those of us in the Federal Government are indebted to him. Much of what we do relies on State action to secure its realization. With Dan Varin's guidance, many things were done well in Rhode Island.

To say that my office and I will miss him deeply is an understatement. All that really can be said is, ''Thank you, and best wishes for a truly well-earned retirement.''●

APPOINTMENT BY THE MINORITY LEADER

The PRESIDING OFFICER. The Chair would like to make an announcement. The chair announces on behalf of the Democratic leader, pursuant to Public Law 101–509, his appointment of John C. Waugh, of Texas, to the Advisory Committee on the RECORDs of Congress.

AUTHORITY FOR COMMITTEE TO REPORT

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Finance Committee have until 6 p.m. on Friday, June 9, to file a report to accompany H.R. 4, the welfare reform bill.

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

MEASURE INDEFINITELY POSTPONED—H.R. 830

Mr. PRESSLER. Mr. President, I ask unanimous consent that Calendar No. 23, H.R. 830, the Paperwork Reduction Act, be indefinitely postponed.

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

ORDERS FOR FRIDAY, JUNE 9, 1995

Mr. PRESSLER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Friday, June 9, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 652, the telecommunications bill, with the THURMOND second-degree amendment to the DORGAN amendment pending.

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

PROGRAM

Mr. PRESSLER. Mr. President, for the information of all Senators, the Senate will resume consideration of the telecommunications bill early tomorrow morning. Amendments are pending to the bill; therefore, Senators should expect rollcall votes during Friday's session of the Senate, possibly as early as 10 a.m.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. PRESSLER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:17 p.m., recessed until Friday, June 9, 1995, at 9:15 a.m.

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