changes. I believe they are helpful clarifications and I believe they improve the bill. I would note, however, that I still believe that additional changes are warranted for this legislation and that I hope can be dealt with prior to sending this bill to the President.

This legislation, Mr. Speaker, also known as the ''2 percent'' bill, directly affects small and mid-sized telephone companies and has repercussions for millions of consumers across the country.

A chief concern is the ''trigger'' for key deregulatory provisions in the bill, namely the pricing flexibility and pricing deregulation provisions. The bill on the House floor today will continue to allow pricing deregulation upon the arrival of ''facilities-based'' competition in a given service area. Facilities-based entry, however, is defined in the bill to include not only provision of local exchange switching or its equivalent, but also the ''procurement'' of such. Moreover, a facilities-based competitor is merely required to have at least one customer—I repeat, one sole customer.

Hopefully there will be more competition. The point is that although competition may arrive, it may not be robust or effective in constraining prices. A single competitor serving a single customer is simply an insufficient trigger for deregulation. Such a low threshold will mean sweeping deregulation with only the illusion of truly competitive markets in many areas of the country. I hope we can subsequently adjust this competitive trigger so that it reflects the kind of significant competition that serves to constrain prices and drive innovation, rather than the ''paper tiger'' competition that this definition will permit for deregulation to occur.

In addition, I am concerned about combining a lessening of reporting requirements with the continuation, and indeed, increased flexibility, of participation in subsidy pools. At a time when policymakers are struggling to extract unnecessary subsidies from the system and make remaining subsidies more explicit, this legislation would appear to make it more difficult for policymakers and regulators to discern whether the subsidies generally, or particular subsidy levels, are still justified or need to be recalibrated. Mr. Speaker, the National Association of Regulatory Utility Commissioners (NARUC) recently passed a resolution on this bill that stated in part—and I'll quote from it—that ''appropriate reporting requirements that . . . verify proper distribution and use of universal service funding should continue to be available.''

If these so-called 2 percent companies want to live in a truly competitive environment with less regulation then I'm all for that—I wish them well and I hope they make it in the free marketplace.

Yet this legislation still suffers from a ''have-your-cake-and-eat-it-too'' quality. I believe that even if we are unwilling today to lessen or cap the subsidy as we lessen 2 percent company regulations and move these companies from monopoly mindsets to greater competition, we must at least have accountability in the subsidy system so that it doesn't become even more bloated than it already is.

I believe that this Congress needs to have a broader discussion when we act to eliminate certain legacy regulations to ensure that we also act to eliminate or limit legacy subsidies.

In addition, I continued to believe that there is a potential in this bill for companies to ''game'' the regulatory system. We usually do not give regulated entities the opportunity to choose their form of regulation but this bill does just that. I want to commend the bill's sponsors for adjusting the bill somewhat in this area in response to my concerns so that a company now chooses rate-or-return regulation or price cap regulation and this election must be done for 1 year. However, clarifying that such election cannot be done on any given month but rather on an annual basis does not fully alleviate the problem. Flipping back and forth on a yearly basis still permits companies to game the regulatory system in my view.

Another issue I want to highlight is the merger review section. This section states that any review involving a so-called 2 percent carrier must be approved or denied by the Commission within 60 days. I understand that the companies do not want merger reviews to drag on for years, but I would suggest that 60 days is too short and unrealistic.

While I believe the Commission is itself is streamlining its process, if the majority is insistent on having a merger review ''shot clock'' I would suggest giving the Commission a greater period of time.

Finally, I want to comment broadly on the overall intent of the bill and what I believe will be the unfulfilled promise that the sponsors of the bill seek to achieve. While the purpose of the bill as stated in its text, is to accelerate the deployment of advanced services in more rural areas of the country, there is no requirement that any of the savings a company garners through lessened regulatory obligations be spent or invested in deployment of new, or advanced services to rural areas. The legislation has no advanced services build-out requirement, no blueprint or timetable for deployment to rural areas for such services. It appears that the savings a company enjoys through this bill can go directly to profits and to shareholders.

As we proceed further on this bill I would encourage Members to further review suggestions made by NARUC and its membership and work again on these issues so that consumers and the public interest are fully protected.

Again, I want to thank Mrs. CUBIN for the adjustments in the bill that she has been willing to make thus far. I enjoy working with her and want to continue our discussions on this bill. I believe that working together, along with Chairman UPTON, Chairman TAUZIN, Mr. DINGELL, Mr. GORDON, Mr. BARRETT, Mr. PICKERING, Mr. LARGENT and other supporters of the bill, that we can ultimately reach a resolution with the Senate that works for everybody. In addition I want to commend and thank Mrs. CUBIN'S staff, Bryan Jacobs, and the Energy and Commerce Committee Republican staff, Howard Waltzman, for their efforts in fashioning compromises in many sections of the bill.

Mr. BEREUTER. Mr. Speaker, today this Member received a letter from the chief executive officer of one of the many rural telephone companies in Nebraska. Great Plains Communications is based in Blair, Nebraska.

Great Plains serves 33,600 lines across 13,600 square miles of rural Nebraska. The company's service area includes 76 communities and 63 exchanges. That amounts to about two and one-half customers per square mile. Fifty of those exchanges have 6 or fewer customers per square mile and 20 of the exchanges have 2 or fewer subscribers per square mile.

At a recent telecommunications conference at Creighton University in Omaha, Great Plains CEO Mick Jensen noted that most rural telephone companies are experiencing flat growth, that flat growth makes investment difficult, that costs continue to rise, and that these rural telephone companies lack economies of scale and are serving many customers with limited income.

Across the United States more than 1,000 small, local telephone companies are facing similar problems as they work to provide good service to rural residents. These telephone companies have more limited financial resources and relatively higher expenses than large telephone companies. Yet, these small companies must function under FCC regulations intended for large carriers.

Mr. Speaker, the Independent Telecommunications Consumer Enhancement Act will help to end ''one-size-fits-all'' regulation of small and rural telecommunications carriers. It will protect these carriers and their customers from unfair and unnecessary regulatory burdens. And, in doing so, it will free resources that can be used to provide advanced telecommunications services to residents of rural areas.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 496, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF MEMBERS TO BOARD OF TRUSTEES OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER pro tempore. Without objection, and pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), the Chair announces the Speaker's appointment of the following Members of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts:

Mr. HASTERT of Illinois;
Mr. KOLBE of Arizona; and
Mr. GEPHARDT of Missouri.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today, and then on the Speaker's approval of the Journal.

Votes will be taken in the following order: