SENATE—*Thursday, June 15, 1995*

(Legislative day of Monday, June 5, 1995)

The Senate met at 9 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 God, we often come to You listing out our urgent petitions. With loving kindness and faithfulness, You guide and provide. You bless us beyond our expectations and give us what we need on time and in time. Today, Lord, our prayer is for a much better memory of how You have heard and answered our petitions in the past. Now we really need the gift of a grateful heart.

We commit this day to count our blessings. We thank You for the gift of life, our relationship with You, for Your grace and forgiveness, for our family and friends, for the privilege of work, for the problems and perplexities that force us to trust You more, and for the assurance that You can use even the dark threads of difficulties in weaving the tapestry of our lives. Knowing how You delight to bless a thankful person, we thank You in advance for Your strength and care today. Lord, thank You not just for what You do but for who You are, blessed God and loving Father. In that confidence, we ask for Your providential care for Cardinal Joseph Bernardin in his time of physical need and suffering. Now guide us in the work of this Senate throughout this day. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. PRESSLER. This morning, the leader time has been reserved, and the Senate will immediately resume consideration of S. 652, the telecommunications bill. Under the consent agreement from last night, there are approximately nine amendments that are still pending to the telecommunications bill. Members should be on notice that at 12:15 the Senate will begin a series of rollcall votes on or in relation to those pending amendments with the last vote in the order being on final passage.

The Senate is open for business. We welcome Senators to come to the floor to make their speeches and deal with their amendments.

LEAVE OF ABSENCE

Mr. DOLE. Mr. President, I announce that the Senator from Utah [Mr. HATCH] is necessarily absent from the Senate. He is attending the meeting of the International Olympic Committee in Budapest, Hungary, along with the delegation of officials from Utah and the United States Olympic Committee.

Salt Lake City was earlier selected as America's choice to host the 2002 Winter Olympic Games, and a final vote on site selection will be taken by the IOC at their meeting in Budapest. Senator HATCH is in attendance at these important meetings in support of Salt Lake City to be the host city and of the United States to be the host country for this premier international event.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 652) to provide for a procompetitive, 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.

The Senate resumed consideration of the bill.

Pending:

Hollings (for Breaux) amendment No. 1299, to require that at least 80 percent of vessels required to implement the Global Maritime Distress and Safety System have the equipment installed and operating in good working condition.

Pressler (for McCain) amendment No. 1285, to means test the eligibility of the community users.

Simon modified amendment No. 1283, to revise the authority relating to Federal Communications Commission rules on radio ownership.

Heflin amendment No. 1367, to provide for a local exchange carrier to acquire cable systems.

Pressler (for Dole) amendment No. 1341, to strike the volume discounts provisions.

Warner modified amendment No. 1325, to require additional rules as a precondition to the authority for the Bell operating companies to engage in research and design activities relating to manufacturing.

Lieberman amendment No. 1298, to establish a determination of reasonableness of cable rates.

Rockefeller amendment No. 1292, to eliminate any possible jurisdictional question arising from universal service references in the health care providers for rural areas provision.

Stevens-Inouye amendment No. 1303, to ensure that resale of local services and functions is offered at an appropriate price for providing such services.

AMENDMENT NO. 1285

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

Mr. McCAIN. Mr. President, I wish to take a few minutes to discuss the amendment No. 1285 that I have offered on behalf of Senators SNOWE, ROCKEFELLER, EXON, KERREY, CRAIG, and myself.

Mr. President, it is my understanding that one-half hour has been reserved for debate on this amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. Mr. President, I intend to just use a few minutes and then reserve the remainder of that time for any of the Senators who wish to speak on the amendment any time between now and 12:15, if that is agreeable to the manager.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. I thank the Chair.

Mr. President, the amendment would effectively means test the community users provision in this bill. The amendment states that no for-profit business, school with an endowment of $50 million or more, or library that is not eligible for participation in the State-based plan qualifying for library services and Construction Act title III funds will receive preferential rates of treatment.

Mr. President, as the part of the bill that came to the floor which was added as an amendment in committee, as it states now, any school, library, or hospital would be eligible for preferential rates or treatment.

I understand the intent of that amendment. It has been made very clear and was again made clear when I proposed an amendment to remove that provision of the bill entirely.

However, I am very pleased that Senators SNOWE, ROCKEFELLER, EXON, KERREY, and others are in support of this amendment especially since Senators SNOWE and ROCKEFELLER are the prime sponsors of that amendment that was put into the bill in committee.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

This amendment would ensure that those who most need it, a rural health clinic or small school in any part of America including West Virginia, receive the most help. If this amendment is adopted, every public and nonprofit grade and secondary school in this country will receive preferential rates, every public library will receive preferential rates, and every nonprofit community health clinic will receive preferential rates. But this amendment will prevent some of the wealthiest in this country from unduly benefiting at the same time.

As I mentioned earlier, I offered an amendment that would have eliminated the Snowe-Rockefeller provisions. I believe it is unnecessary for us to federalize this role of the States. I am disappointed that the Senate disagrees. I pointed out that in nearly all of the 50 States in America, the States have acted to provide some kind of help for schools, libraries, and health care providers in various ways, each of these States tailoring specific programs to specific needs in those States. And again I question seriously that we in the Senate can tailor programs that fit as diverse a nation as we have today.

I listened to my colleagues from West Virginia, Nebraska, and Maine very closely. While they commented extensively on the need to ensure that we do not have technology haves and have-nots, surely they would agree we should not subsidize those who can well afford telecommunications services. My friend from Nebraska, Senator KERREY, specifically expressed his cogent argument on the need to help the poorest and most in need in our country. I believe this amendment addresses the issues raised by my friend, and I am pleased to offer this amendment with the support of the Senator from Nebraska.

Mr. President, I agree we must do what we can to prevent that from occurring. I believe that the free market will accomplish that goal. I also believe that vouchers will end up someday being the method by which we best address these problems of people who cannot afford basic telecommunications services. But at this time it is clear that neither the Senate nor the country is prepared for that.

I was interested in the opposition to the vouchers amendment that I put forward. If there was ever ample testimony to the clout of the special interests that are involved in this issue, it was the size of the defeat of that amendment—not because I believe it was a perfect amendment but there is no doubt in my mind that every player in this very complex issue, whether it be AT&T, the Bell telephone companies, the manufacturers, every other entity involved was opposed to this voucher idea, which has been supported by the Heritage Foundation, the Cato Institute, every objective observer of this situation that does not have any monetary involvement.

However, we received 18 votes, and if there was ever any testimony needed to the influence of the special interests in shaping this legislation, I believe when historians look at 18 votes, which was the purest and simplest way to provide the poor and the needy in this country with the ability to acquire telephone and telecommunications services, that was ample and compelling evidence and why I believe, Mr. President, that this bill, despite the great efforts of our distinguished chairman, who has done a magnificent job in shepherding this legislation this last nearly 2 weeks through the Senate, still has a lot of hurdles to overcome because of the inordinate influence of the special interests on this bill as opposed, very frankly, to the interests of the American public, which is not represented very well in this debate nor in the issues before the Senate.

Back to the amendment, Mr. President, the provisions in this bill would enable some of the wealthiest in our country to benefit. Rural hospitals will receive benefits. Certainly some rural hospitals need help. But there are rural hospitals operated by large parent companies that make hundreds of millions of dollars. There is no reason to subsidize these corporations.

Although the managers' amendment adopted allows the FCC to evaluate the subsidy scheme according to means, there is still a necessity to means test the provision. First, the FCC is going to pass regulations that treat all fairly and do not discriminate or which have a disparate impact. Such regulations benefit rich and poor equally. The amendment solves that problem.

Harvard University operates a library. The university also currently has a $6 billion endowment. Should the American people, many who do not have the resources of Harvard University, be forced to subsidize the school library's telecommunications services? I do not think so.

Do we want the well-to-do Humana Hospital Corp. which operates some rural hospitals to have a Government-sanctioned telephone discount? No, but we do want the small rural clinic to receive help. This amendment accomplishes that goal.

If the Congress is going to endorse a Federal role in ensuring technology to be available to all, then let us tailor it so we are helping those who need our help. It is a balanced, fair amendment. I have confidence in its adoption. I am greatly appreciative that Senators SNOWE, ROCKEFELLER, and KERREY in particular are in support of this amendment.

Mr. President, I reserve the remainder of my time. I believe that Senators SNOWE, ROCKEFELLER, and KERREY have expressed interest in speaking on this amendment. I ask the manager if he will allow them my time to do so when they come to the floor to speak.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in support as a cosponsor of Senator MCCAIN'S amendment to clarify how universal service discounts to schools, libraries, and rural hospitals under section 310 of the telecommunications bill should be targeted.

As I noted last week in my remarks, I support targeting of discounts. For example, elementary and secondary schools with large endowments simply do not have the same need as public schools for discounts in order to assure affordable access to telecommunications services. In my view, the language in the bill gave the FCC, the States, and the Joint Board some flexibility to target discounts. Specifically, the language guaranteed schools and libraries an affordable rate, which implicitly takes into account both the price of the service and the ability of an entity to pay.

I appreciate the time and effort Senator MCCAIN has invested in working with the sponsors of section 310 to build upon the affordability concept, to develop a solid, responsible test of when schools, libraries, and rural hospitals should receive discounts in order to promote the goal of affordable access to telecommunications services.

Under the McCain amendment, public elementary and secondary schools would be eligible for discounts, as would private, nonprofit schools without large endowments. Libraries would be eligible for discounts if they participated in State-based plans under title III of the Library Services and Construction Act, which coordinate library development within the State. Nonprofit rural health care providers would also be eligible for discounts.

This amendment meets the twin goals which I am sure are supported by most Members of this Senate. First, it guarantees affordable access to telemedicine and educational telecommunications services for those key institutions in our society which need assistance in order to take full advantage of the information age. Second, by targeting the discounts, this amendment ensures that the universal service fund is used wisely and efficiently.

Mr. President, the provision of the bill sponsored by myself, Senators ROCKEFELLER, EXON, and KERREY, is in my view one of the most important provisions of the bill. We know that competition will bring an array of improved services and exciting new services at a lower cost. Technology allows the transmission of information across traditional boundaries of time and space, dramatically changing the way that American school children learn, and the way that health care is provided. The Snowe-Rockefeller-Exon-Kerrey provision in the bill ensures

that competition ultimately achieves this goal for all Americans, regardless of where they live. I realize that the distinguished Senator from Arizona believes that a deregulated market will take care of everyone, but I simply do not share that belief. Furthermore, the stakes are too great to leave affordable access to the marketplace. Again, I appreciate Senator MCCAIN'S willingness to work with myself and Senators ROCKEFELLER, EXON, and KERREY to clarify how discounts should be targeted, and I urge my colleagues to support the McCain amendment.

Mr. PRESSLER. Mr. President, I note that we have limited time. I urge Senators to come early to make their statements, as we are on a time agreement at this point. Any Senator wishing to speak should come forth.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

CARRYING OUT THE MANDATE

Mr. INHOFE. Mr. President, I just want to make a few comments while we are waiting for those referred to by the Senator from South Dakota to come and be heard.

Those of us who are in the freshman class have recently had a number of town hall meetings back in our respective States. As a matter of fact, I think I lead the group. I have had 77 since January.

Last week, I had some, and I want to just reaffirm that, in spite of the fact there are many people who are here in the U.S. Senate who do not spend as much time back in the districts, back talking to real people, that the revolution that was voted on back on November 8, 1994, is very real and it is alive at home. Some people are skeptical and do not think things are going on the way they should be going on here.

So I just share with you that I sometimes have a difficult time in conveying to people that the Senate is actually doing some things here. They hear about the House, they hear about the Contract With America, and some of the personalities over there that have dominated the national media. I have to remind people that in the first 3 months of this year in the U.S. Senate, we passed a number of reforms: One being the unfunded mandates reform; one being congressional accountability, forcing us to live under the same laws that we pass for other people; we also did a line-item veto; a type of moratorium on endangered species; we are getting ready to do regulation reform, to get the Government off the backs of the people who are paying for all the fun we are having up here.

The Senate may be slower and more deliberate, but we are performing, and a revolution is going on here.

But I say, Mr. President, that the people at home are just as adamant today as they were on November 8, 1994. The people at home are demanding that we do something about and carry out the mandate to eliminate the deficit. I think that they are a little impatient with the fact that we passed a resolution that would do this in 7 years, by the year 2002. I find it rather interesting the response that we are having right now as to the President coming out with his revised budget a couple of days ago.

We have talked to people and told them the President had his budget before this body some 3 weeks ago, and it was the typical large tax-and-spend, high-deficit budget that was rejected by this body, the U.S. Senate, by a vote of 99–0, and then Republicans passed our budget resolution which would eliminate the deficit by the year 2002.

I think we were all taken aback and a little surprised when the President came out with his announcement a couple days ago. In essence, what he said was, Well, we tried my budget, and that did not work. I'll just join the Republicans. Some people thought maybe the train went by, but I do not think so. I think there is room on the caboose for the President, and he came out and said, "Instead of that, let's not be quite as severe, let's do it over 10 years, not 7 years."

I cannot speak for the people of America, but I can speak for the people of Oklahoma. I am talking about Democrats and Republicans alike. People in Oklahoma think that even 7 years is too long. When you stop and realize what goes with high deficits, that means more Government involvement in our lives.

Today, I will be going over and testifying in the other body on a Superfund bill. That is just one area of overregulation in our lives, of abuse, of bureaucracy on the businesses and the industries that are paying taxes to support this monster in Washington, and it is going to change.

So I would like to give the assurance that there has been a change in the majority party that is controlling both the Senate and the House, and the Republicans are now in charge.

As we talk to our fellow Republicans and remind them that the mandate that gave the Republicans a majority in the House and a majority in the Senate cannot be ignored, because if we ignore it we cannot fulfill the provisions of that mandate—that is, less Government in our lives, a balanced budget we can see in the near future, and the Government more in concert with what was foreseen by our Forefathers many years ago—if we do not carry out that mandate, the Republicans will not be in power.

Right now, I honestly believe we are on schedule to carry out the mandates. I think the whole United States, and I know my State of Oklahoma, is rejoicing in this.

It is not that the people who want more Government involved in our lives are bad people—they are not bad people; they are well-meaning people—but they have just forgotten what this country is all about.

So we have a new era, and we are providing the leadership in that era. I was very pleased to see the President of the United States joining us 2 days ago when he came with his revised budget.

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

The PRESIDING OFFICER (Mr. COATS). 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.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. PRESSLER. Mr. President, I urge Senators to come to the floor to use the time. Mr. President, is time running on amendments if Senators are not present?

The PRESIDING OFFICER. Time is not running.

Mr. PRESSLER. Time only runs when they actually speak?

The PRESIDING OFFICER. The 30 minutes allocated to Senators for discussion of amendments is running only when those Senators are on the floor speaking as to that amendment.

Mr. PRESSLER. In view of the fact that the majority leader has stated a desire to vote by about noon, I hope that Senators will come to the floor.

Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes on a separate subject.

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

Mr. PRESSLER. Let me emphasize, that upon the arrival of any Senator with business on the telecommunications bill, I will immediately yield the floor.

UNITED STATES-JAPAN AVIATION DISPUTE

Mr. PRESSLER. Mr. President, I rise today to discuss a matter of great importance to the Group of Seven summit meeting to be held this week in Canada. I refer to the current aviation dispute between the United States and Japan. The United States must stand firm in this dispute. It is vital to our long-term U.S. international aviation policy. It is critical to the future of our

passenger and cargo carriers. The millions of consumers who use air passenger and cargo services in the Pacific rim deserve the best possible service at competitive prices set by the market.

In recent months, many Senators have expressed views on the bilateral aviation negotiations between the United States and the United Kingdom. That interest was well-placed. In 1994, revenue for United States carriers between the United States and the United Kingdom was approximately $2.5 billion. To put the significance of the United States-Japan aviation dispute in perspective, in 1994 the total revenue value of passenger and freight traffic for United States carriers between the United States and Japan was approximately $6 billion.

First, let me put to rest a misconception. The United States-Japan aviation dispute is a bona fide, stand alone trade issue. It unquestionably is a separate trade issue. Commentators who suggest our current aviation disagreement is inextricably linked to our automobile dispute with Japan are wrong. Others who cynically suggest it is more than coincidence that the aviation dispute has come to a head at the same time as the automobile dispute obviously do not know the recent history of the United States-Japan aviation relations.

Plain and simple, this dispute arose as a result of actions by the Government of Japan to protect its less efficient air carriers from competing against more cost-efficient United States carriers for service beyond Japan to points throughout Asia. The issue is straightforward: Should the United States allow the Government of Japan to unilaterally deny United States carriers rights that are guaranteed to our carriers by the United States-Japan bilateral aviation agreement? As chairman of the Commerce, Science, and Transportation Committee, I believe the clear and unequivocal answer is "no."

The dispute relates to our bilateral aviation agreement which has been in effect for more than 40 years. Over the years, that agreement has been modified and otherwise amended to reflect changes in the aviation relationship between our two countries. Pursuant to the United States-Japan bilateral agreement, three carriers have the right to fly to Japan, take on additional passengers and cargo in Japan, and then fly from Japan to cities throughout Asia. The U.S. carriers who are guaranteed fifth freedom rights, or so-called beyond rights, are United Airlines, Federal Express, and Northwest Airlines.

Recently, Federal Express and United Airlines tried to exercise their beyond rights and notified the Government of Japan that they would start new service from Japan to numerous Asian cities. The Government of Japan refused to authorize these new routes. The bilateral agreement requires that such requests be expeditiously approved. In violation of the bilateral agreement, the Government of Japan has said it will not consider these route requests until the United States holds talks aimed at renegotiating the bilateral agreement.

Mr. President, the consequences of the Government of Japan's unilateral denial of beyond rights have been significant. For example, Federal Express, relying on its rights under the bilateral agreement, invested millions of dollars in a new, Pacific rim cargo hub at Subic Bay in the Philippines. The Subic Bay hub is scheduled to be fully operational in several weeks. The Government of Japan's refusal to respect the terms of the bilateral agreement threatens Federal Express' multimillion-dollar investment. Similarly, United Airlines has already essentially lost the chance to provide service between Osaka and Seoul during the busy summer season.

There is no doubt that the economic impact of Japan's refusal to recognize Federal Express and United Airlines' beyond rights has already been great for each of these carriers. The burden has also been shouldered by consumers who have been denied the benefits of a more competitive marketplace. As each day passes, the costs become more significant. Yesterday, Federal Express was forced to postpone for 30 days its proposed July 3, 1995, opening of its Subic Bay cargo hubs.

I point out to the Senate, that is a great loss not only for Federal Express but to the United States. It is our rights of moving our airplanes around the world, as we allow other countries to move them into our country.

How did the United States and Japan get to the brink of an aviation trade war? Let me first dispel three myths.

First, the aviation dispute has nothing to do with a bilateral aviation agreement that is fundamentally unfair to Japan. Nor does it really have anything to do with so-called imbalances in treaty rights that must be remedied. Yet, United States carriers do have an approximately 65 percent share of the transpacific between the United States and Japan. However, this is due to market forces. It has nothing to do with fundamental imbalances in the bilateral agreement.

Since this goes to the heart of the issue, let me reiterate this point. The reason United States carriers have a larger share of the transpacific market than Japan carriers is due to market forces. Just 10 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than United States competitors.

Japanese carriers lost transpacific market share and they lost it fast. The reason why is simple economics. The root of this dispute also is simple economics. Japanese carriers have operating costs nearly double United States air carriers and they cannot compete with our carriers. For example, a passenger flying from New York to Tokyo on a Japanese carrier pays approximately 23 to 33 percent more for that service. Japanese carriers have priced themselves out of market share. Passengers have, so to speak, voted with their feet and selected U.S. carriers that have significantly lower air fares.

Second, the aviation dispute has nothing to do with unequal beyond rights for Japanese carriers to serve beyond markets from the United States. Yes, Japan only has the right to serve on destination beyond the United States while United States carriers currently have the right to serve 10 points beyond Japan. This, however, is a statistic without any real significance. Higher operating costs would prevent Japanese carriers from competing for traffic beyond the United States even if Japanese carriers had a greater right to do so.

The beyond markets the Government of Japan truly wants are the Asian markets. These markets, particularly service from Japan to China, are cash cows for Japanese carriers. There is nothing the Japanese want less on these routes than a good dose of American competition.

U.S. air carriers are not the only victim of this protectionist effort to restrict competition in the Asian beyond markets. Consumers, including Japanese citizens, are big losers. For example, service on Japanese carriers between Hong Kong and Tokyo, a beyond route, is approximately 24 percent higher than on a United States carrier. Air fares on a Japanese carrier between Tokyo and Seoul are approximately 20 percent higher.

Third, the United States has not caused this dispute by refusing to renegotiate the bilateral agreement. Let me refute this myth loud and clear: Foreign nations who enter into agreements with the United States must abide by the terms of those agreements. There are no two ways about that.

The Government of Japan is trying to force us to the negotiating table by unilaterally denying clear rights provided to United States carriers by the bilateral agreement. Let me add, the Japanese want these negotiations to increase restrictions on United States carriers to further protect Japanese carriers. This would be detrimental to United States carriers and consumers.

That is the wrong direction negotiations should go. Aviation talks with the Government of Japan should focus on opening the Japanese market, not further restricting it.

Also, it is the wrong way to get to the table for meaningful negotiations.

The best way for the Government of Japan to open the door for negotiations of the United States-Japan bilateral agreement is to immediately honor and abide by the terms of the existing agreement. The approach the Government of Japan has taken by unilaterally denying rights guaranteed by the agreement is misguided, it violates international law, and it must not be tolerated.

Mr. President, we are at the brink of an aviation trade war with Japan for one reason. Operating costs of Japanese carriers are nearly double those of United States carriers. Japanese carriers cannot compete against our more cost efficient carriers. In a June 1994 report, Japan's Council for Civil Aviation, an advisory body to Japan's Transport Minister, warned that Japanese carriers need to become more competitive or they may not survive in international markets.

Japan's Council for Civil Aviation is absolutely correct. The solution is for Japanese carriers to become more competitive. Instead, as reflected by this dispute, the Government of Japan has chosen to prescribe yet another dose of protectionism.

Mr. President, on May 17, 1995, I urged President Clinton to take whatever steps deemed necessary and reasonable to assure that the Government of Japan abides by the terms of the United States-Japan bilateral aviation agreement. I ask that a copy of that letter be printed at the end of my statement in the RECORD.

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

(See exhibit 1.)

Mr. PRESSLER. Today, I again urged the administration to stand firm in our aviation dispute with Japan and to take whatever steps it deems necessary and reasonable to protect rights given to our carriers by the United States-Japan bilateral agreement.

Mr. President, at the beginning of these remarks, I mentioned the importance of the aviation rights issue to the Group of Seven Summit meeting to take place this week. I believe the Group of Seven leaders are in a position to promote a new system for aviation rights to replace the confusing web of bilateral agreements we now have.

That is something we have to do, and in the Commerce Committee one of my goals is to find a way that we can replace this bilateral aviation system with a new system for aviation rights.

We have a confusing web of bilateral agreements. I hope up there in Halifax, the Group of 7, especially I hope President Clinton talks to the Japanese about this situation.

Top-level leadership can bring about such a reform. I recommend to my colleagues an article I wrote for the June 7 edition of the Seattle Post-Intelligencer, "Rules for World Air Transport Need Overhaul."

Mr. President, I ask unanimous consent the article be printed in the RECORD.

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

(See exhibit 2).

EXHIBIT 1

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,

Washington, DC, May 17, 1995.

Hon. WILLIAM J. CLINTON,

The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: As Chairman of the Senate Committee on Commerce, Science, and Transportation, I am writing to urge you to take whatever steps you deem necessary and reasonable to assure the Government of Japan abides by the terms of the United States/Japan bilateral aviation agreement.

Since the early 1990s, the Government of Japan has routinely ignored the clear language of the U.S./Japan bilateral aviation agreement and in doing so has denied several U.S. air carriers permission to serve points in Asia from Japan. Recently, the Government of Japan failed to approve Federal Express' request for a route between Osaka and Subic Bay, the location of Federal Express' new cargo hub in the Philippines. Similarly, the Government of Japan rejected United Airlines' request to commence service between Osaka and Seoul. These carriers are guaranteed "beyond rights" by the bilateral agreement, each made economic decisions based on these rights, and the Government of Japan should honor its agreement.

Mr. President, the United States must require foreign nations to abide by the terms of international aviation agreements with our country. International aviation opportunities are critical to U.S. passenger and cargo carriers, as well as the thousands of individuals they employ, their customers and the communities they serve.

Sincerely,

LARRY PRESSLER,
Chairman.

EXHIBIT 2

[From the Seattle Post-Intelligencer, June 7, 1995]

RULES FOR WORLD AIR TRANSPORT NEED OVERHAUL

(By Larry Pressler)

Since the early 1990s, the Japanese government routinely has violated its bilateral aviation agreement with the United States. Japan currently is holding up approval of new routes involving "beyond rights" for Federal Express and United Airlines, even though those carriers explicitly enjoy such rights in the U.S.-Japanese agreement.

"Beyond rights" means that the Japanese government allows a U.S. carrier to arrive in Japan from the United States, unload and take on cargo or passengers and then fly to a third country. Japan's denial of routes is an explicit violation of the U.S.-Japan bilateral air agreement. Meanwhile, a more fundamental inequity is that only three U.S. carriers enjoy "beyond rights" with Japan, while Japan has denied five other American carriers such transit rights.

Japan apparently believes that by violating its air agreement with the United States, it can induce the United States to renegotiate the agreement on terms more favorable to Japan. That is unacceptable. I have urged President Clinton to take whatever measures he deems necessary and reasonable to get Japan back into compliance with the agreement.

Meanwhile, I urge the U.S. and Japanese governments to use their economic leverage and political skills to advance the longer-range project of global reform of international air-transport agreements.

The existing system of bilateral agreements is a bad arrangement. An outmoded patchwork of rules has international air transport stalled in a holding pattern. Instead of a uniform global agreement such as the General Agreement on Tariffs and Trade, there are about 3,500 different nation-to-nation air-transport agreements. That makes for babel of confusion and inefficiency.

Many countries have insisted upon agreements heavily protectionist in favor of their own national airlines. Others sharply limit the number of U.S. carriers allowed into their markets, fomenting rivalries between carriers having access vs. those that do not. Still other nations impose discriminatory cargo processing and freight-fowarding delays on the ground. All such arrangements put a drag on economic growth in America and around the world.

In Asia, the need for reform is especially important. The world has high hopes for continuation of the "Asian miracle" in economic growth. This phenomenon could be badly dimmed, however, without aviation reform. American air carriers' restricted access in Asia impairs our ability to enhance and share in Pacific Rim growth.

At Kimpo Airport in Seoul, for instance, U.S. and other non-Korean airlines are banned from operating domestic trucking companies. That increases costs and adds delay to freight delivery. At Tokyo's Narita Airport and Hong Kong's Kai Tak Airport, numerous other so-called "doing business" problems hamper foreign carriers.

Asia is not the only so-called source of friction for U.S. air carriers. The United Kingdom and France, for example, also have highly protectionist air access policies. Indeed, while world economic growth naturally depends on efficient transportation, transportation remains the most politically restrictive area of commerce.

The rules for world air-transport access need a complete overhaul. To accomplish that, we need a sense of mission, a model and top-level leadership.

The mission should transcend protecting the status quo. We need to keep our eyes on prizes for the next generation: commercial air routes and markets less developed now but clearly with great potential in years to come. China, India and Southeast Asia are examples; Russia and East Europe are others. Our policies need to keep opportunities open not just for existing companies, but also for the enterprises of tomorrow.

In form, a model for air-transport liberalization is the GATT: a multilateral, uniform, global agreement. In substance, the global air agreement should provide "open skies." An example of this open arrangement is the U.S.-Netherlands agreement. It allows Dutch air service full access into any U.S. city, with reciprocal rights for U.S. carriers.

Transforming a complicated web in international protectionism can't be done without leadership at the highest level. While I will use the chairmanship of the Senate Commerce, Science and Transportation Committee as a "bully pulpit" for reform, it is imperative that the cause have leadership from world heads of state.

I urge President Clinton to put world aviation reform on the agenda for the next Group of Seven Summit of the major industrialized nations. With attention at this level, we can get done what needs to be done.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. PRESSLER. I hope Senators will come to the floor and use their time on the telecommunications bill.

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. LIEBERMAN. 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. 1298

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Last night I called up amendment No. 1298. I would like to proceed for the half-hour allocated under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for up to 15 minutes, under the previous order.

Mr. LIEBERMAN. Mr. President, this amendment aims to maintain protection for the millions of cable consumers around America who, for the last 2 years, faced with cable systems that they enjoy, that they need, that they want to purchase, but faced with only one choice of a cable system in all but 50 of the more than 10,000 cable markets in America, are about to lose their consumer protection if the bill, as drafted and before the Senate, S. 652, passes.

I just think that would be a shame. In a way, an outrage, because of the way in which the cable consumer protections that were enacted in 1992, and were in effect for less than 2 years, have benefited consumers, and not hurt the cable industry.

Think about it, Mr. President. We are talking here about monopolies that exist in more than 10,000 markets in America. Only 50 have effective competition according to the FCC, and yet we will remove a consumer protection regulation that exists in the current system that has dropped rates cumulatively 11 percent, that has seen continued good health in the cable industry.

What is the rationale for this? The rationale seems to be in this overall reform of telecommunications, surprisingly, this termination of these consumer protection regulations that have just existed for a couple of years and worked so well.

Apparently, the argument by the cable industry has been they need to have rates deregulated. They need to take the cap off. They need to be free of any rule of reason, without competition, without regulation, because they need to go to the capital markets to raise capital so they can be ready to compete with the telephone companies direct broadcast satellites that are coming in.

Mr. President, the facts I showed last night show that not only have the cable companies continued to make money, with an operating margin industrywide of 20 percent—the highest of any element of the telecommunications industry—but their capital expenditures have continued to go up. In 1993, almost $3 billion; in 1994, $3.7 billion. Plenty of opportunity under regulation to raise money.

Perhaps as significant, take a look at what the market says. This is a bill that is procompetitive. It is market-oriented. Let me show the chart that talks about the cable index stocks.

We believe in markets. That is what this bill is all about. The blue line is an index of cable industry stocks. Look what happened in 1993 after regulation goes on: It shoots up, comes down, stays high, much higher than the S&P Standard 500 stock index. This is a measure of the market. Investors say the regulation that we put on was reasonable. It did not make them feel that these stocks were a bad investment. In fact, they continue to raise over the average stocks in the market.

I ask here, with this amendment, why are we doing this? On the face of it, respectfully, I would say it looks like the cable industry has used this overall reform of telecommunications to basically jump on or jump in to hide in a kind of Trojan horse of telecommunications reform, and put inside that horse an opportunity to raise rates.

I will say the system created in this bill is complicated. The bottom line is simple: Rates to most cable consumers in America are going to rise; by one estimate, $5 a month for a service that a lot of people consider to be a necessary, basic source of information, recreation, entertainment, even shopping, now, in their lives.

If the amendment I propose passes, I am convinced that rates will remain stable, the cable industry will continue to be competitive, and the rates will remain regulated only until there is competition. Part of what is happening here is the hope being raised of immediate competition in the cable business.

In 1984 when Congress last deregulated cable, and the consumers paid deeply out of their pockets for the ensuing years, until 1992 when we put regulation back on, the hope was raised that direct broadcast satellites were going to provide enormous competition for cable television.

Today, 11 years after 1984 when that argument was made, less than 1 percent of cable consumers, multichannel service consumers, get their television from direct broadcast satellites.

Telephone companies are authorized by the legislation before us to come into the cable business. I hope they do and I hope they do rapidly. When they are providing competition, the regulation will go off. But I am not so sure any of us can say that is going to happen next year or 3 years from now or 5 years from now or, in some cases, 10 years from now.

What this bill, without the amendment I am proposing, will do in that interim, it will simply take off the protection for consumers.

Incidentally, it substitutes, in place of that protection, a very ornate, complicated standard that there is no regulation unless the cable system charges substantially higher than the per channel average nationally on June 1, 1995. That is very complicated and actually shows you do not need regulation to have regulation. You can have all the problems of regulation through legislation.

My alternative here is simple and market oriented. It says a cable company will be subject to regulation if it charges substantially more than the national average in markets that are competitive. So my standard is not what the average is on June 1, 1995, or, as the bill suggests, what it will be 2 years from now after cable rates are raised. Then we are going to have substantially higher charges than the average 2 years later. My basis is what the market says where there is competition. As competition spreads throughout America, that standard will change and the consumers will benefit.

I want to respond to just a few comments that were made against the amendment last night as I wait for some of my colleagues who want to speak on this to come to the floor. There was some reference to the special status of smaller cable companies. I want to stress that no small cable company will be affected under my amendment. We are exempting any cable company that has less than 35,000 customers or any multiservice operator—that is, any company that owns more than one cable system—that has less than 400,000 customers. I am not interested in regulating these small, mom and pop cable operators. They are already economically responsible and I believe accountable to their communities, and therefore they are exempt from regulation.

Last night my friend and colleague from South Dakota suggested that cable revenues have remained flat for the first time in 1994. In fact, the cable act resulted in over $800 million in decreases in equipment charges and over $400 million in decreases for consumers in service charges. The fact that revenues—even taking this view that they remained flat indicates that the cable industry is thriving and is a highly profitable industry, even under regulation. Again, there is a 20-percent operating margin, the highest in the telecommunications business in 1993, and the stock market indicates continued consumer confidence in the business. All of that under regulation.

The distinguished chairman of the committee mentioned that public debt offerings dropped under regulation. Respectfully, I claim the opposite. Debt financing for the cable industry climbed from $6.9 billion in 1993 to $10.8 billion in 1994, an almost $4 billion increase, continuing a pattern of steady growth in debt financing since 1991, uninterrupted by the very reasonable regulation that we put on in 1992 on a bipartisan basis.

As for investments and access to capital, the major cable companies are consolidating and buying up other monopolies right and left and they are spending a lot of money doing so. For example, in February 1995, Time Warner offered $2.7 billion for Cablevision Industries systems. In January 1995, Time Warner offered $2.24 billion for Houston Industries cable systems. In January 1995, Intermedia Partners, TCI, and others offered $2.3 billion for Viacom's cable system. And the list goes on.

I am not saying this is wrong. I am happy about it. What I am pointing out here is that the cable industry, under the very reasonable consumer protection regulations that we have had on for the last 2 years, has been a healthy industry with lots of capital to invest. There is no reason to believe that will not continue to be the case under the amendment that I put forth. Let us remember, the great fear here of the cable industry is competition from the telephone companies—and they are regulated.

Often cited are the companies that are selling out these systems, these cable systems. But I want to say those who are selling are doing so at a very healthy profit.

One other argument that arises again is that competition is just around the corner. As I have indicated, I hope so. I hope competition is around the corner. I hope we can get the regulation out of here. But right now, to receive a direct broadcast satellite system, a consumer has to invest about $700 to buy the equipment and then pay a monthly charge at least as large as the current cable bills. At the moment, again, less than 0.5 percent of subscribers are choosing this DBS satellite. As my friend and colleague from South Dakota points out, at the current rate of subscription, in 5 years there will be 5 million subscribers to DBS. Mr. President, 5 million subscribers is only 8 percent of the current subscribers to cable. And 8 percent, in my opinion, is not effective competition in any market, certainly not under the bill, not under the law as it stands now.

As for the telephone companies, they are only doing experiments in some markets. It will take time before they are active competitors. If any competitor surprises us and gets to the market more rapidly, hallelujah, that is great news. All the regulation I am advocating will go away once competition hits the market. That is what this amendment is about. Let us let competition work for the consumer and for the industry.

Mr. President, I understood Senator LEAHY was going to come to the floor to speak to the amendment. Not seeing him on the floor, I reserve whatever time I have remaining and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LIEBERMAN. Mr. President, seeing no one seeking recognition, 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. SIMON. 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. 1283, AS MODIFIED

Mr. SIMON. Mr. President, I call up my amendment No. 1283.

The PRESIDING OFFICER. The amendment of the Senator from Illinois, No. 1283, has already been called up.

Mr. SIMON. Mr. President, I have not had a chance to talk to Senator PRESSLER or Senator HOLLINGS. But I would be willing to have a 20-minute time agreement, 10 minutes on my side and 10 minutes on the other side. I am not sure that anyone is going to speak in opposition. I would welcome no one speaking in opposition. But I do believe that at least one Member on the other side wants to vote against it.

The PRESIDING OFFICER. The Chair informs the Senator from Illinois that, under the previous order, time is limited to 30 minutes on first-degree amendments.

Mr. SIMON. I am willing to reduce that to 20 minutes.

Mr. PRESSLER. That is the best music I have heard this morning.

The PRESIDING OFFICER. The Senator is willing to either use or yield back whatever time he does not wish to use.

Mr. SIMON. Mr. President, let me outline what the situation is right now. We now have under the FCC rule a limit of 20 FM stations and 20 AM stations that may be owned by any one entity. The Dole amendment takes the cap off that completely. The most that is owned by any one entity right now is Infinity. They own 27 stations. CBS owns 26.

Under the bill as it is right now, anyone—the Dan Coats Co.—can theoretically own every radio station in the United States. Obviously, I do not think that would happen. But I think diversity in this field is extremely important.

My amendment raises that cap of 20 and 20 to 50 and 50 so that there could be 100 stations owned by any one entity. That is a 150-percent increase over where we are right now.

I think that is reasonable. I just think it is not in the public interest to have a concentration. Economic concentration generally is not good, but particularly in the media I think there are dangers to the future of our country.

Bill Ryan of the Washington Post and Newsweek wrote in Broadcast and Cable of May 27, and said,

> The whole world is trying to emulate the local system of broadcasting that we have in this country, and here we are creating a structure that will abolish it or put it in the hands of a very, very few. I think it is unsound.

Let me add that my friends in Infinity and CBS both have no objection to this amendment—the people who own the largest numbers right now. The National Association of Broadcasters do. Let me just say candidly that I worked with Senator STROM THURMOND and a few others here in trying to negotiate with them some kind of limitation or sensible packaging on liquor advertising on radio. They resisted any change. Here again, they want to have it all. I have been in this business of politics long enough so that when you have leadership at the National Association of Broadcasters that is so narrow minded that it wants to have it all, the pendulum is going to swing from one extreme to another. They are making a great mistake. I have yet to talk to a single radio station owner who does not think this is a sensible amendment.

I hope that my friends on the floor of the Senate and the House would vote for this amendment.

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

Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. 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. SIMON. Mr. President, I ask unanimous consent to speak as if morning business for 2 minutes.

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

THANKS TO THE PAGES, AND OTHERS

Mr. SIMON. Mr. President, I just learned talking to the pages they are going to be leaving tomorrow. One of the things that we do around here is we do not thank people enough. And the pages have just been terrific.

We are very proud of you, and I am sure some of you are going to be Senators someday in the future.

But it is not only the pages. It is the people who take the RECORD; it is the people at the front desk who tolerate us when we come up and say, "How did COATS vote on this? How did PRESSLER vote on this?" It is the people who are waiters and waitresses downstairs—all of the people, the people who watch the doors. I am going to get back in good graces with someone here—it is the people who write out our amendments. It is the people who provide the thousand-and-one little services that we just neglect to thank people for.

So I just wanted to get up and say we thank everyone, and wish the pages the very best. They are a fine group of young people with a bright future. We wish them the very best.

Mr. President, I see the Senator from Montana on the floor. He may wish the floor at this point.

I yield the floor.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Montana.

AMENDMENT NO. 1283, AS MODIFIED

Mr. BURNS. I rise in opposition to the Simon amendment.

The Senator is right; we do not thank people enough. I wish to thank the Senator from Illinois for bringing up this issue.

I think it important that the American people take a look and see exactly what is happening in the broadcast business. Radio ownership decisions should be made by owners and operators and investors and not by the Federal Government. That is why we need to eliminate all remaining caps on national and local radio ownership.

Let us take into consideration some things happening in the broadcast industry. Even if I own two radio stations in the same market, would I program them the same? Would I want the diversity to capitalize on an advertising market so that I can expand that advertising base? Because that is what pulls the wagon in the broadcast business—advertising dollars. Would I program it the same? I seriously doubt it. And there are some right now, even though they own an FM station and an AM station and operate it out of the same building, use the same engineer, sometimes the same on-the-air personalities, their programming is different. That is what is happening in the broadcast business today. Now, that is the real world.

Nationally, there are more than 11,000 radio stations providing service to every city, town, and rural community in the United States. Presently, no one can control more than 40 stations. That is 20 AM stations and 20 FM stations. Clearly, the radio market is so incredibly vast and diverse that there is no possibility that any one entity could gain control of enough stations to be able to exert any market power over either advertisers or programmers.

At the local level, while the FCC several years ago modified its duopoly rules to permit a limited combination of stations in the same service in the same market, there are still stringent limits on the ability of radio operators to grow in their markets. Further, the FCC rules permit only very restricted or no combinations in smaller markets. These restrictions handcuff broadcasters and prevent them from providing the best possible service to listeners in all of our States. And, unfortunately, the Simon amendment, whether intended or not, only addresses the national limitations and does nothing to alleviate excessive local market controls.

Increased multiple ownership opportunities will allow radio operators to obtain efficiencies from being able to purchase programming and equipment on a group basis and from combining operations such as sales and engineering which is going on today.

We do not hear any cry in just the local market of anything being really wrong in the broadcast business.

Radio stations have to face increasing competition from other radio stations and from other advertising and programming sources, such as cable television operators. Nowadays many cable operators have begun to provide music and related services that compete locally with radio stations, and soon satellite services will have the capabilities of providing 60 channels of digital audio service that will be available in communities across the Nation, of which there is no wall to receive their signal.

Also in the near future, radio stations will begin facing the need for new capital investment when the FCC authorizes terrestrial digital audio broadcasting. Without an opportunity to grow and to attract capital, our Nation's radio industry will face an increasingly difficult task in responding to these multiplying competitive pressures.

And they are competition. But we also wonder why should we in some way or other hamper a local broadcast station from supporting the local community. News, weather, sports, all the community services that we enjoy in our smaller communities, we have to be able to attract advertising dollars, yet we will be subject to the competition of direct broadcast and also the cable operators. But competition is what makes it good. I am not worried about that. We can compete. Just do not limit our ownership decisions to buy or sell based on a Government-imposed cap on what we can own.

I received a letter from Benny Bee, President of Bee Broadcasting up at Whitefish, MT. Benny writes, and I quote:

> I can't express how important it is that the markets be opened up and the ownership caps be taken off. Broadcasters like myself need to be able to compete. . . . I urge you to defeat the Simon amendment and help move broadcasters forward as we go into the Twenty First century.

Larry Roberts, who operates stations in my home State of Montana, has written me stating:

> [Radio deregulation] would provide us with the freedom to excel and succeed. It will not only allow us to compete more effectively, it will also increase the value of our radio stations.

And in the 1980's we had an explosion, Mr. President, of licenses granted to stations when really there was no market analysis done that the market could even handle another radio station.

There are many more examples that I could leave you with. One final one from Ray Lockhart of KOGA, an AM and FM station in Ogallala, NE, not my constituents but I know Ray very well. My wife comes from that part of the country. And he writes:

> Soon, one DBS operator will be able to deliver 50 to 60 radio channels into every market in the country with none of the rules that I labor under. The Baby Bells will be able to do the same thing at even less cost. Help broadcasters by not protecting us. Cut us loose from ownership . . . regulation so we can take advantage of our abilities to compete.

And I think that is the argument here, the ability to compete. Do not shut the doors of opportunity.

So we need to look at the true picture of the challenge that the industry faces. For the longest time we have viewed radio as competing only with itself, as if it exists in a vacuum. And basically I know something about that because my main competition basically in the advertising business was from the print media. You have to deal with that—and there is competition there—in order to stay economically viable.

Radio goes head-on with other forms of mass media for the audience and for those advertising dollars that fuel its well-being. We need to start acknowledging this important distinction and give radio the tools it needs to compete with all other information providers. That is why I urge you to vote against the Simon amendment.

Mr. President, I ask unanimous consent that the attached letters from the broadcasters that I mentioned be printed in the RECORD.

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

BEE BROADCASTING, INC.,
Whitefish, MT, June 14, 1995.

Senator CONRAD BURNS,
Washington, DC.

DEAR SENATOR BURNS: It was great visiting with you the other day when you were home

in Montana and I hope the conference went well.

The reason I am writing is I know that you will be introducing legislation that is going to have a tremendous impact on small market broadcasters like myself. I can't express how important it is that the markets be opened up and the ownership caps be taken off. Broadcasters like myself need to be able to compete with the large cable companies, which offer several channels as well as bulk discounts. Also, the "Information Super Highway" is just around the corner, which will allow large market radio stations to come in via satellites, competing with the smaller market operators for audience and advertising dollars. For us to compete at the local level, we need to be able to own and market several different formats. By owning four or five stations and formats, operating costs would drop dramatically, allowing us to pass tremendous savings on to the advertiser. Also, the audience benefits by having multiple choices of formats to listen to. And of course, we the broadcasters benefit by being able to compete with the "big boys" in our much smaller markets.

Senator, I urge you to defeat the Simon Amendment and help move broadcasters forward as we go into the Twenty First century. If I can be of ANY assistance on this matter, please don't hesitate to call.

Yours sincerely,

BENNY BEE, Sr.,
President.

SUNBROOK COMMUNICATIONS,
Spokane, WA, April 3, 1995.

DEAR FELLOW BROADCASTERS: We have very little time to act on a matter which will significantly impact our future. As you know, Congress is rewriting the Communications Act to reflect the new realities in which media operate. This bill is expected to be brought to the floor of the Senate so soon, that we have little time to make our feelings known to our Senators. However, it's imperative that we do so.

I urge you to support the Lott/Bryan Amendment on Radio Ownership. Here's why.

All of us are likely to soon be competing against an additional 30-60 new over-the-air radio stations in each of our markets. They will broadcast in digital stereo direct from a satellite, provided by 1 or 2 owners. If you add these stations to the recent addition of audio channels from your local cable company, plus still more channels from your telephone company which is likely to get into the cable biz, plus the additional channels offered by DirecTV satellite, it's obvious that local radio broadcasters are facing a serious threat.

If this weren't bad enough, the terrible news is that we local radio broadcasters . . . we who have worked so hard to provide service to our communities . . . are currently being left out of the deregulation of audio services. The rewrite of the telecommunications bill, as it stands today, would take the handcuffs off of the cable companies, the phone companies, and the national satellite broadcasters, giving each of them the ability to flood our markets with dozens of new channels. But as it stands, the bill leaves the handcuffs on local radio broadcasters!

Without the economies of scale provided by multiple-station ownership, we will be left unable to compete. To have just a single channel (or even 4 in the largest markets) would make our survival highly unlikely, in a world where other audio providers are operating without ownership restrictions, and without public service obligations.

Therefore, it's imperative that we support the Lott/Bryan Amendment. It would remove all radio ownership rules. It would put us on a level playing field with all of these new competitors. It would provide us with the freedom to excel and succeed. It will not only allow us to compete more effectively, it will also increase the value of our radio stations.

No matter how comfortable the past has been, with its artificial barriers to ownership, the times have changed. The issue before us is not whether radio's ownership environment will be changed from the past. It is being changed. The only question is whether it will be changed for the better, by the adoption of the Lott/Bryan Amendment, or whether it will be changed for the worse, by not allowing radio broadcasters the same freedoms of ownership that are being provided to non-traditional radio broadcasters.

Please call your Senators now and ask them to support the Lott/Bryan Amendment!

Sincerely,

LARRY ROBERTS,
President.

THE CROMWELL GROUP, INC.,
Nashville, TN, March 25, 1995.

Re lifting ownership restrictions—Locally, Nationally.

To: Small/Medium Market Licensees.

DEAR ASSOCIATES: As you know, the NAB Radio Board has supported the idea of eliminating restrictions on the number of radio station licenses that an individual operator/company can hold. If approved, the net effect will be to permit you or others to own/operate all the stations in your market area. Before you say "no", read on and consider what is happening:

(1) Cable systems operate 30, 40, 100 channels in your town under one owner locally . . . selling local advertising

(2) The telephone company may be offering 30, 40, 100 channels to your home as one owner . . . selling local advertising

(3) Direct TV (Satellite) now offers 30 channels plus to your home with two owners nationally . . . selling regional advertising.

(4) DARS Satellite Radio in a few years will offer 30 plus channels heard in your town with one/two owners nationally . . . selling regional advertising.

(5) Internet is fast growing and offers multiple information sources to the home in your community . . . selling who knows what with lots of options.

All of the above have/will have a subscription source of revenue plus compete with you and other broadcasters for local advertising.

As a small market broadcaster of the old school and with "localism" in my blood, I do not like the idea that my station could be owned by the newspaper, my competitor, a national company, Walmart, or others. It goes against my grain.

However, the Congress and the FCC are on track to permit telephone and cable companies, Satellite providers, and others to be single owners with multiple channels serving your and our communities. In the future the competition will be fierce. For a small market broadcaster with only one product (ie: one format) competing against other broadcasters AND the new technologies, survival will be a real difficult challenge.

Current rules hinder only the local broadcaster. All the others are free to operate. We may think we are protected by having ownership rules, but in the future we will be hamstrung. We won't be able to compete and we won't be able to sell because our value will have declined. Historically regulation has held broadcasters back in the face of new technology. Unless we act now, that could again be the case.

Eliminating ownership rules (as distasteful as it sounds to me today) makes it possible to have "localism" in the future. You or your buyer will be able to provide "multiple" signals in your community and be able to compete with the new technologies. As you think "NO" today, please consider that you might wish tomorrow you'd said "YES" and supported a chance to get in a position to compete. We can't use old regulation to protect against a horse that's already out of the barn.

Large and small market broadcasters (corporate vs small operators) do have different business objectives. But remember, one Baby Bell Operating Company is larger than the entire Radio/TV industry. There are seven Bell Operating Companies, plus all the cable, satellite, and others, so you can see that's coming and what we're up against.

I know it may go against your grain to support eliminating ownership limits today, but please do it to insure you have positive options in the future.

Sincerely,

BUD.

SORENSON BROADCASTING,
Sioux Falls, SD, March 27, 1995.

JOHN DAVID,
NAB Radio
Washington, DC.

DEAR FELLOW BROADCASTERS: Broadcast Ownership Rules, particularly Radio Ownership Rules are "up for grabs" in Washington, D.C. As a broadcaster who has built a career on Local-Service-Radio, I feel it's imperative you and I protect our Stations, Communities, and the concept of Local-Service-Radio. . . . Now.

What am I asking? (1) You and I must consider strong support of the position voted by our NAB (National Association of Broadcasters) Board of Directors, and (2) You and I need to contact our Congressmen . . . especially Senators on the Commerce Committee.

I grew up in a different world than we're now experiencing. It's excitingly scary what is being proposed for the future. However, I am certain. . . . I want to be able . . . as a local radio broadcaster to play in the new technologies . . . whatever they happen to end up being.

Experience shows it's hard to "Out localize" the local radio station. However, if the Ownership Rules are changed to give the "trump card" to other media in the changing and future world of technologies . . . we could find ourselves embarrassed into a "position of weakness." This could also affect the present and future value of the radio stations you and I own and operate.

In the communities where we operate . . . Cable systems are now offering 45-75 channels, complete with 10 channels of music (radio)! Telephone companies are throwing serious money at new business opportunities, and if satellite radio comes to my town, as Direct TV already has. . . . I'm not certain yet what those changes mean. But . . . I do realize the importance of my company . . . as the local radio folks . . . being able to compete on a level field.

And if ownership of the local newspaper makes sense. . . . I would like not to be forbidden from the chance to own it.

I have talked personally with our friends who serve on the NAB's Radio Board of Directors. They have thoughtfully presented a position which deserves our support. I ask

simply that you familiarize yourself with that position . . . then begin explaining your position to your Congressman.

Enthusiastically,

DEAN SORENSON,
President.

OGALLALA BROADCASTING CO., INC.,
Ogallala, NE.

DEAR FELLOW BROADCASTERS: I was stunned to hear that some Senators and the NAB were receiving calls from some broadcasters opposing the idea of deregulation for the radio industry. Are you kidding me? In my tiny market my local TCI cable system with 3500 paid subscribers delivers 30 Music Express channels, sells local commercials for $1.25 per 30 second spot and they have plans to deliver more TV signals with more local access all over the country. No ownership limits, no FCC intervention in anything but technical standards. Why shouldn't I as a broadcaster be afforded the same?

Soon (by year 2000) one DBS operator will be able to deliver 50 to 60 radio channels into every market in the country with none of the rules I labor under (localism, main studio, public file, lowest unit rate, FCC rules, etc.). The Baby Bell's will be able to do the same thing at even less cost. Our Public Interest Standard is a one way street that keeps us 2nd class and Government controlled. (1st Amendment freedoms do not apply to us, right?) We do have a shot at these freedoms if we're not afraid to take it.

Some local operators say, the FCC must protect us from someone buying everything up. Why? They protected us in the 80's with 80/90. Wasn't that fun? If I can't compete with the big boys that can and will buy multiple markets (yes, maybe even WalMart) at least a market has been created for my stations that will bring a better price than if we don't have a level playing field with the new technologies and players.

I am fortunate enough to have been able to take advantage of the small market duopoly rule and buy the other station in this town of 5,000. It is a very worthwhile venture that everyone should be able to do if they so desire.

Tell your Senators to help broadcasters by not protecting us. Cut us loose from ownership and everything but technical regulation so we can take advantage of our abilities to compete. It is the future of our "over the air" broadcast industry we're dealing with. Get involved if you're not!

Remember, a Government that is big enough to give you the protections you want today is big enough to take them away tomorrow.

Mr. BURNS. Mr. President, I urge that this amendment be defeated. For the first time, only 40 percent of the radio stations operating in the United States today are really making a profit. So some kind of consolidation is needed to keep them viable. It is like I said. If I own two newspapers in the same market, would I format those newspapers just exactly alike? Even with first amendment rights, would I slant them the right way? Or whatever. I think what I would do is be diverse with them, to broaden the base of the advertising market in that particular locale. That is also true whenever you start trying to attract national dollars on national advertising campaigns. And it is how good your reps are when they start representing your station.

So I appreciate the amendment because I think the American people have a right to know just what is happening in the broadcast industry. I understand where the Senator is coming from, but he also has to look at what is happening in the real world as far as radio broadcasting is concerned.

I thank the Chair. I yield the floor and reserve the remainder of my time.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I yield 5 minutes to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I stand in support of the amendment offered by the Senator from Illinois.

As I listen to some of the debate on this amendment, as well as the debate on the amendment I offered previously which tried to restore the restrictions on television station ownership, it occurred to me that we ought to really remove some desks in the Senate and provide a stretching area. When you go to a baseball game, you see these folks stretch out before the game, getting all limber. I do not know of anyone who can stretch quite so well as those who stand in this Chamber and preach the virtues of competition and then decide to advocate concentration of economic ownership by lifting the restrictions on ownership of television stations and radio stations.

That is some stretch. But it does not quite reach. It does not prevent people from trying, however. You cannot, in my judgment, preach the virtues of competition and take action that will eventually end up resulting in a half a dozen or a dozen companies owning most of America's television stations. With respect to this amendment, we will end up with conglomerates owning the majority of America's radio stations.

It is as inevitable as we have seen in other industries that concentration means less competition. Concentration is the opposite of competition. How people can preach competition and come to the floor of the Senate and advance the economic issues that lead to more economic concentration is just beyond me.

Even if that were to escape the folks who preach this unusual doctrine, one would think that at least the issue of localism would matter.

Let me read a quote, if I might, to my colleagues. Bill Ryan, of Post Newsweek, recently stated:

> The whole world is trying to emulate the local system of broadcasting that we have in this country, and here we are creating a structure that will abolish it or put it in the hands of a very, very few.

I do not know how you express it more succinctly than that. I understand why these things emerge in this legislation: It is big money, big companies, big interests. I understand the stakes here. But the stakes, it seems to me, that are most important are the stakes with respect to what is in the public interest in our country. Is it in the public interest to see more and more concentration of ownership in the hands of a few in television and radio, or is it not? In my judgment, the answer is clear; it is no.

So I just wish we could find a circumstance where those who preach competition would be willing to practice it. Practicing competition in this area would be to support this modest amendment. The Senator from Illinois comes to us with an amendment that provides for a limit of 50 AM and 50 FM stations that one person may own. I, in fact, think it ought to be lower than that. But the Senator from Illinois has proposed a modest approach, and then finds himself struggling because the very preachers of competition are suggesting that somehow the Senator from Illinois is proposing something that is wrong.

I tell you, there is a total disconnection of logic on the floor of the Senate on this issue. My friend from Montana grins about that. But I would bet all the cattle in North Dakota against all the cattle in Montana that 10 years from now if the broadcasting ownership deregulation provisions in this bill passes, that we will see the consequences that I have suggested. We will see massive concentration in television ownership and massive concentration in radio ownership.

The Senator from Montana will say, "Well, that would be OK, because, they wouldn't compete against themselves, they would have different formats." They would have a couple different stations. One would be producing country western music and the other classical music. They will both be extracting, if they control the marketplace, the maximum amount of money from the advertisers in that marketplace.

The issue here is competition. If you bring this bill to the floor with a dozen flowery opening statements and talk about the virtues of competition, then there seems to me there is some obligation to practice competition with respect to the amendments and the language in this bill. This is exactly the opposite of the tenets of competition. These provisions which eliminate the ownership restrictions, will inevitably, lead to greater concentration of ownership.

That is the point I make, and that is why I support the amendment of the Senator from Illinois. We had a close vote on the ownership of television stations yesterday. I won that vote for about an hour. But that was before dinner. Then after dinner, we had a bunch of folks limping into the Chamber all bandaged up and changing their votes. What happened was apparently before

dinner, they believed concentration of ownership in the television industry was not good. Then they had something to eat, or ate with someone who convinced them that concentration of ownership was good.

It would be interesting for me to hear how they explain that conversion over dinner, but I understand that you do not weigh votes, you count them.

I hope when we get to the issue of concentration of radio ownership that maybe we can win this one and maybe win for more than an hour. I think it would be in the public interest if we adopt the amendment offered today by the Senator from Illinois.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DORGAN. I yield the remainder of my time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SIMON. Does the Senator want to speak on this amendment?

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to proceed for not to exceed 10 minutes on the Lieberman-Leahy amendment, amendment No. 1298.

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

AMENDMENT NO. 1298

Mr. LEAHY. Mr. President, I think the Lieberman-Leahy amendment is necessary because we have to make sure that if we deregulate cable rates, we do not do it on the backs of the consumers. And, right now we are. In most areas in this country, consumers are captive to monopoly cable service providers. In fact, the only thing that stands between the consumers' wallets and the monopoly cable company is regulation.

Under the telecommunications bill, the sure-fire way for a cable company to avoid regulation is to raise their rates across the country. It is very, very interesting what we are doing. If we sent this up for a national referendum, the Lieberman-Leahy amendment would be agreed to overwhelmingly. If we had a referendum by only some of the well-heeled PAC's and lobbyists around here, well then, of course, it goes down. So the question is: Who do we stand with?

We all get paid enough money so that $10 or $20 added onto our cable rates each month probably does not seem like a lot. But to most people living in Vermont or any other State in this country, that is a big difference. Ask people who get cable television in this country whether they think their cable rates would go up or down if monopoly cable companies are left to themselves to decide what the rates would be.

The American people are pretty smart. They know darn well if we let the cable companies have a monopoly and have no regulation, those rates are going to go up. They are never going to come down. The only times they have come down is when Congress stepped in. In fact, when we passed the 1992 Cable Act, President Bush vetoed it, and we overrode the veto, because consumers were being gouged by cable company monopolies. Cable rates were rising three times faster than the inflation rate. Every American knew it, and finally Congress got the message and they overrode the Presidential veto.

Consumers demanded action to stop the rising cable rates. The law worked. In fact, since passage of that law, consumers have saved an estimated $3 billion, and they have seen an average 17 percent drop in their monthly rates. As rates have gone down, more people have signed up. Last year alone, over 1.5 million new customers signed up for cable service. One would think the word would get across: If you keep the rates reasonable, more people are going to join.

The telecommunications bill would lift the lid on cable rates.

Under current law, cable rate regulation is dispensed with only when the FCC finds there is "effective competition" in a local market.

The telecommunications bill, as reported, would change this law by deeming "effective competition" to be present wherever a local phone company offers video programming, regardless of the number of subscribers to, or households reached by, the service.

The bill would also lift rate regulation for upper tiers of cable service, unless the cable operator is a "bad actor" and charges substantially more than the national average. Of course, the national average could be set by the two largest cable companies. They almost have an incentive to raise the national average and the rates.

In fact, the day after Senator LIEBERMAN and I held a press conference to voice our concerns over the cable deregulation parts of the bill, the managers' amendment to this bill was adopted in an effort to provide more protection to consumers from the spiraling cable rates after deregulation. But I do not believe it goes far enough.

The managers' amendment ties rate regulation to whatever the national average was on June 1 of this year, to be adjusted every 2 years. But that still means if the two or three largest cable companies raise their rates, the national average will go up, and rates for all consumers would spiral upward.

Now, Mr. President, if any one of us went to a town meeting in our State and we said: Here is the way we are going to set cable rates. We are going to allow two or three huge cable companies to determine what the national average will be for your rates, and we will leave it to their good judgment. Should they raise rates, well, then everybody's rates would go up. If they lower rates, everybody's rates will go down. And now, ladies and gentlemen in this town meeting, what do you think those big cable companies are going to do? Will they raise your rates, or will they say their subscribers are paying enough—"Let us lower the rates, let us give the average household a break?"

Well, just asking the question, we would get laughed out of the hall. Every American who gets cable knows the cable companies are not going to just lower the rates on their own. I hear this back home. I do not care if a person is Republican, Democrat, independent, whatever, they are saying the same thing: Cable rates are too high. They also say that unless you have real competition to bring rates down, do not leave the cable companies to set the rates, because they are never going to bring them down. They are always going to raise them. Under this bill, the more cable operators raise rates, the more they can avoid regulation of their rate increases. If cable rate regulation is lifted before you have effective competition, then you can expect the rates to go up at least $5 to $10 a month. We are trusting in the generosity and good will of the cable companies. Good Lord, Mr. President, we are all adults; we ought to be smart enough to know better than that.

The Lieberman-Leahy amendment would fix the cable rate regulation problems in the bill. Our amendment would use competitive market rates as a benchmark for whether rate regulation is needed to protect consumers. Instead of letting a few cable companies control the cable rates for all consumers in the Nation, our amendment would ensure that rates are fair. Regulators can step in to protect consumers when rates are out of line with competitive markets.

Small cable companies, particularly in rural areas, of course, have different economic pressures on them than operators in high-density areas. Our amendment would exempt small cable companies from rate regulation. If you are in rural Pennsylvania or rural Vermont, and your house is maybe a mile or two a part, it obviously would cost you more to set up your cable system than if you are wiring high-rise apartments in a high-density area.

I do not think we have to give cable companies any incentive to raise rates. Mr. President, I have a feeling the cable companies will figure out how they can raise rates, without us encouraging them to do it. I do not think any one of us wants to go back home and tell our constituents that we passed legislation that actually encourages cable companies to raise rates, rather than doing something to hold them down.

We stepped in once before, over a Presidential veto, to curb spiraling cable rates. The Lieberman-Leahy amendment ensures that consumers

have the protection they need. Do you not think we ought to do this?

Now, if we have a situation where we have two or three cable companies in one community or one area, I would rely on competition to bring the prices down, and it will. But when you only have one cable company, or if you have a telephone company that has come in and bought out the cable company, so that you have a monopoly on top of a monopoly, Mr. President, altruism is not going to bring those rates down. People are not going to see their rates come down just out of good will on the part of the cable company. We are either going to have effective competition or regulation. If we have effective competition, let cable companies set their own rates. But if you have a monopoly, you should have regulation that is going to bring the rates down.

Again, I will tell you this. Any member of the public that is getting cable television would agree that if this was a referendum among the taxpayers of this country who have cable television, they would vote overwhelmingly for the Lieberman-Leahy amendment. If you are somebody representing one of the cable monopolies, of course, you are not going to want it because it is going to say that you do not have a license to print money. That is basically what they are going to have—a license to print money—if we do not have some regulation on them.

Let us at least wait until there is real competition. Some have said that these new satellite dishes will do it. Well, there is only, I believe, 600,000 or so of those in the country. Less than 1 percent of the people get their service that way. It is about $600, $700 to set it up. Let us wait until there is real competition.

Mr. President, I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I thank the Chair. I come to speak in strong opposition to this Lieberman-Leahy amendment. Seldom has something been so misguided, misconceived, and antimarket as what we have attempted to do to cable over the last decade.

I can speak with some degree of knowledge and history on this, because I was chairman of the Commerce Committee when we deregulated cable in 1984. When we deregulated them, we asked two things of them. One, give us lots more channels. Two, give us more diverse programming.

Mr. President, we got that in spades. There is hardly a person so young in this Chamber that they cannot remember precable days, when what you got was ABC, NBC, and CBS, through your local affiliates, maybe a public broadcasting station, and maybe an independent, unless you were in Los Angeles or New York. That was basically it on television. You got it with your rabbit ears.

Cable came in initially to fill a void where people could not get signals. Instead of growing from urban to rural, they grew from rural to urban. They began to realize if they were going to compete, they had to do more than just carry the signal of the major networks. And so when they were deregulated in 1984, they gave us what we asked for. Today, we have, unfortunately, limited them with that foolish 1992 act. But you could "channel surf," as we have learned to call it, and be fascinated. I find Spanish language stations here in Washington. You can find three or four in Los Angeles, and a number of them in Corpus Christi. They program to the market on things that the over-the-air networks could not do because, by the very nature of the fact that you were over the air, you had to have a wide audience. You could not program to a narrow audience. Cable can.

Cable can make money on programming to a narrow audience. So consumers got services and programs that they wanted, that they could never get before. You cannot probably justify a history channel on NBC or ABC or CBS, broadcasting over the air to a broadband audience; probably could not on MTV, if you had to cover the entire audience in an area. But you can on this narrow broadcast.

Now this argument about competition, holy mackerel, Mr. President. The argument about a referendum, put this to a referendum, people would vote down what they are paying for cable. My hunch is if you put to a referendum what they pay for phone bills, they would put that down. And electric bills.

I hesitate to say what they would do if you gave them a referendum on congressional salaries. My hunch is they would vote that down. Is that the standard this representative body will be—whatever a referendum might be, that will be it?

If you were to pose the question in a different way to people, do you want to cut your cable prices in half and have your programs cut in half and have the channels taken off, you might get a different answer. But if the question is, do you want some costs lowered, what answer do you expect to get? I would like to have the price of gasoline lowered. I might put that up for a referendum and see what we get.

Now look at the competition argument. I heard the Senator from Vermont talk about 600,000. This is not 600,000 direct broadcast satellite over the year, but 600,000 what we call wireless cable.

This is growing. You normally have to have flat terrain, but this does not come from the satellite. Wireless cable, as we call it, is line-of-sight from a transmitter. Because the terrain is relatively flat, the line-of-sight is good.

Corpus Christi is a good example where the line-of-sight has taken a fair portion of the market and the prices are cheaper than normal cable, and you can transmit a good program over the air because you have a straight line-of-sight.

Obviously, that kind of programming is limited, but it is growing. That is the 600,000 subscriber figure that the Senator from Vermont talks about. They expect to have 600,000 within 2 years grow to 1.5 million, and 3.4 million by the year 2000.

In addition, you already have Bell Atlantic, NYNEX, Pactel, phone companies, all of them experimenting in small areas with carrying the equivalent of cable on their phone wire system.

That is going to expand. But then beyond that, direct broadcast satellite. Here is a business, 2,000 new subscribers a day. The company that makes the dishes cannot make them fast enough. Mr. President, 2,000 additional subscribers a day. We will have over 5 million subscribers to this by the year 2000, and I bet that is an underestimate.

Except for the local news, you can get every program from the direct broadcast satellite you can get from cable. If you want the local news, you know that 94 percent of the people in this country can get local news with rabbit ears. Local is local, you do not broadcast very far.

All you have to do is turn the switch on your television set from cable to over the air and you can get the local news. So the fact that the direct broadcast satellite cannot physically carry it at the moment is not an impediment.

Mr. President, the market works. While we are talking about communications, the best example to probably use is the cellular telephones. Again, I speak with some degree of history on this.

In 1981, when I was chairman of the Senate Commerce Committee, we passed a bill restructuring AT&T. They had to have separate boards for Bell labs, and we worked out an agreement that was satisfactory to a lot of parties.

The bill went to the House. Before the House acted, the antitrust settlement between AT&T and the Government was arrived at. The so-called modified final judgment. Therefore, the bill became moot.

AT&T and everybody else agreed to a different method of restructuring than we passed in the Senate Commerce Committee, and that agreement was that they would spin off all the local Bell companies. They would get out of the local business and keep the long distance business.

That was not the only agreement in the modified final judgment. There were lots of things that the local Bells

could not go into—local information services, manufacturing. This was a structured settlement. Still regulatory, but very structured.

The one thing that the settlement left out was cellular telephones, because there was no future in cellular telephones of any great consequence, and nobody cared about it.

An analogy I used the other day was the dividing up of the Middle East by Britain and France after World War I. All of the Middle East had been part of the Turkish sovereign area. Turkey was allied with Germany in World War I, and Britain and France in the middle of the war said, "When this is over we will take a lot of Turkey's territory in the Middle East and divide it among ourselves."

At the end of the war, Britain took what has become now Israel and Jordan and Iraq. France took what has become Lebanon and Syria. Nobody wanted Arabia. It was not worth anything. Nothing but sand. So it got left out, on its own devices.

Today, it occupies a position of more extraordinary influence because of its oil reserves than all of the other countries, save Israel, put together.

Cellular telephones are the same analogy. They were left out of the modified final judgment. There were 100,000 of them in existence in 1982. AT&T predicted by the year 2000 there might be a million cellular telephones. Today, there are 25 million subscribers. Predictions are in 10 years that will be 125 million subscribers. I bet that underestimates the number.

This has happened because we did not regulate it. We left it to the marketplace. Does anybody think there is no competition in cellular telephone today? All you do is turn on your radio, turn on your television, open your newspaper, and you have company upon company stumbling over each year to compete for your business. "Sign up, we will give a free phone." And you have to understand that you have to make so many phone calls or pay so much.

People are pretty darn smart and managed to figure this out. They have done well figuring out long distance, watching MCI ads, AT&T ads, the Sprint ads. They have also discovered that there are lots of small long distance companies.

I have over 40 long distance phone companies in Oregon that are what you would call niche carriers. They rent their time from AT&T. They are a bulk buyer, they will buy it. Then they say we have 24 hours of time over the week, or 10 hours of time over the day on such and such, and they go out and sell it. They are specialists in certain niches. Some sell to the medical profession. Some to the insurance profession. They figured out a way—the companies are not big, some 8 or 10 employees, and they are renting everyone else's facilities—to do something very narrowly and good that is better than the big company can do it.

We have seen this in telecommunications. The innovators in this field are not always IBM and AT&T. They are more often new companies that are spinoffs—not spinoffs, been formed by some 35-year-old engineer who left the company, mortgaged his house, sold his hunting dog, and both he and his spouse put up everything that they had to take a chance. And they succeeded.

Come back again to cable. There is no need for any regulation of cable at any level. They have more competition now than they can handle, and they will have more competition than they can handle. The consumer is going to be the beneficiary.

I hope, Mr. President, that the Lieberman-Leahy amendment would be defeated overwhelmingly. If there is any example of where the market is working, and will get even more and more competitive, it is in communications generally. It is in cable specifically.

I think to adopt this amendment to further regulate cable beyond which we have already regulated in 1992—and we should not—would be a terrible mistake.

Mr. LIEBERMAN. Mr. President, if I may respond very briefly to my friend from Oregon.

The PRESIDING OFFICER. The Senator from Connecticut should be advised he has used all the time on his amendment.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be allowed to speak for no more than 5 minutes.

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

Mr. LIEBERMAN. Mr. President, my friend from Oregon has spoken against my amendment which would maintain some kind of consumer protection in the pricing of cable, based on the wonderful service and the extraordinary range of programming that cable provides. Since I got into this fight when I was attorney general in Connecticut in 1984 when cable prices were deregulated and most consumers in America were left facing a monopoly with no competition, I have said I was very supportive of cable. I think cable is an extraordinary service to the American people. It has been delivered well, and I like the expansion of the program.

What I do not like is allowing that expansion to occur without giving consumers some protection, because they have only one choice to make, and what is significant to me is that the programming has continued to expand even since the regulation, the consumer protection that went on in 1992. So there is no reason to believe that, if we sustain some protection for consumers until they face competition, that will stop.

The second point is this. There just is not adequate competition at this time to existing cable. If there were, then the FCC would have pulled off regulation for cable in more than 50 markets where they say there is now effective competition out of more than 10,000 in the country. The fact is, the direct broadcast satellites which were thought to be the next wave of great competition for cable are only used by less than 1 percent of the cable consumers in America.

Telephone companies may get into this. They probably will. But the question is, When? Until that time, most cable consumers in America will have no alternative except the local cable company, and if this bill passes without the amendment Senator LEAHY and I have offered, the consumer will not only not have a choice of another system to offer multichannel services, cable as we know it, but will have no benefit of consumer protection. History tells us where there is no competitive market, where there is a monopoly supplier and no regulation, the consumer is in real danger of being taken advantage of.

So in my humble opinion, respectfully, I think this amendment is all that stands between millions of cable consumers and what I would take to be a definite increase in their rates over the coming years until there really is effective competition to hold the rates down.

Again, I love cable. My family watches; selectively, of course. But I do not, any more than any other consumer, including a lot of the elderly out there, people on fixed incomes, I do not want only one choice and no consumer protection.

This system has worked. It saved consumers money. The industry has continued to thrive. They continue to be able to raise capital. There is simply no reason to remove these consumer protections. I will say respectfully again, to me what has happened here is that, in the Trojan horse of this great telecommunications bill, there has been inserted inside a repealer of cable consumer protection without cause and at great cost to American consumers.

I hope my colleagues will support this amendment so none of us will have to explain to our consumers back home why rates have risen, as they surely will in the years ahead if this amendment is not agreed to.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I really like this debate. But I would like to draw your attention to one thing. He says there is no competition. What is 2,000 subscribers a day being added to the DBS that provides the same channels, the same service—CNN, ESPN, all of those we enjoy now, and the USA, Lifetime, the History Channel, all of

those—off direct broadcast satellite? What is that other than competition? If the rates get competitive, whether you are on a fixed income or not a fixed income, it makes no difference. And it is going to make both services better when they compete equally. There are no restrictions on DBS. Nobody is setting their rates.

If one remembers, since way back in 1990 when we were talking about this, there was a great groundswell that went across the country, what about cable rates? Did you take into consideration—when you used to buy maybe three Salt Lake stations and two Billings stations and a PBS station for $5 or $6 a month and then all at once we pay $21 now for 45, I think, something like that—our cost per channel? One does not have to take it. Nobody is standing there with a gun to your head saying, You have to sign up for cable. They go by more houses than they service. It is another part of the market. We are trying to sell a service.

At the same time we said, Do not reregulate the cables; allow effective competition. DBS was part of that; C-band; satellite dishes, they were a part of that. I think also in the same time—and the chairman and ranking member remember this—I offered the amendment on a telco bill to allow them in the cable business to provide effective competition, to add an entity that already has a wire into the house. They would have to change their technology a little bit, and that is what we are really doing is providing the new technologies that will travel on this great thing called fiber optics, or fiber and coaxial interphased for broadband, two-way, interact telecommunications. That is where we are going. That is why we need Mickey Mouse to pave the way for other things that we have in store, and that is distance learning and telemedicine and these types of things.

So what, is C-band competition? Sure it is. Is telco competition? Yes, they are. Is DBA competition? Yes, they are. Even the store down the street that sells videos to rent is competition to the same service the cable operators are trying to provide over that wire into the house.

I said this before: The glass highway, the information highway, may be already in place and it has been done by this marvelous growth industry called cable television. The competition is there, and I urge the colleagues to defeat this amendment.

Mr. President, the solution to the cable problem is competition, not continued regulation. In fact, after the 1984 Cable Act, deregulation of the cable industry resulted in substantial benefits.

The cable industry has made substantial investments in programming, plant and equipment, investments that have directly benefited consumers, in particular my constituents in Montana.

If all we heed and hear are the problems of cable, then I am afraid that we will have lost an opportunity, a chance to look into the future and to shape it; for we do shape the future of this Nation when we shape its telecommunications infrastructure. It is an infrastructure that is critical to the whole Nation—from the Lincoln Center in New York City, to Lincoln, NE, to Lincoln County, MT.

So in the continuing debate over what to do about the so-called cable problem, there are two alternatives. Solution one is competition. And solution two is regulation. It has been my experience that regulation can actually harm consumers by slowing innovation and stifling new services. On the other hand, nothing is more pro-consumer than competition, most especially competition where there is a level playing field. And on no playing field can the benefits of competition be seen more clearly than on the field of communications. History teaches us that you cannot regulate technological advancements.

Regulation does a very poor job of guaranteeing a market choice for consumers. Most ironically, under a price regulatory regime, prices are unlikely to fall when they are effectively propped up by regulation.

On the other hand, we have all seen many instances where competitive market forces spur competitors to innovate in order to reduce costs and improve efficiency. And as costs come down, new technologies and new services can be extended to unserved areas. Those are the types of truly competitive market forces that I want to introduce, and the people of Montana need, to ensure that our State is fully served.

Again, I am not merely talking about video entertainment, I am talking about the communications revolution, and I want my constituents to benefit from that revolution and not be left behind by it.

Moreover, I want our Nation to lead that revolution much as we have led the revolutions for democracy around the world. Thus, I do not want the guarantee of participation in the electronic information age for the people of Montana to rest solely on heavy-handed regulation. I want Montanans to be able to rely on good old American know-how as stimulated by good old American competition.

I believe this competition is already arising through such technologies as DBS, wireless cable, the home satellite dish market, and even those technologies yet to be discovered. And I believe that with this legislation we have provided perhaps the best opportunity for competition in the video market by permitting the telephone companies to compete for cable services. And we have done so by promoting telco entry with safeguards and restrictions.

This legislation, drafted by this Congress, promotes the greatest public good by unleashing competition and technology to meet the Nation's needs. It will be this competition that will help ensure that a modern telecommunications infrastructure and innovative services are available to all Americans—and, most importantly, all Montanans—at reasonable prices. When telephone companies are able to compete with cable companies, as this legislation allows, a competitive cable market would:

First, put downward pressure on cable service rates;

Second, lead to greater diversity of television programming and program choices;

Third, accelerate the introduction of new services; and

Fourth, increase consumer access to high quality service.

I have been involved in this debate since I first arrived in the Senate. I believe that we are finally on the verge of passing a historic piece of legislation. I think that the Lieberman amendment is a significant step backward in our efforts. Competition is the answer, not re-regulation. I urge my colleagues to reject this amendment.

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

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to speak for 30 seconds.

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

Mr. LIEBERMAN. Mr. President, very briefly. My friend from Montana says 2,000 additional subscribers to direct broadcast satellites go on every day. That is compared to over 60 million cable customers. We are getting there, but we do not really have effective competition in most places in America. When we do, the FCC will pull this consumer protection off and then the consumers will be protected by competition.

I thank the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1283, AS MODIFIED

Mr. PRESSLER. Mr. President, I rise in strong opposition to the amendment by my good friend, Senator SIMON. The financial health and competitive viability of the Nation's radio industry is in our hands. We all agree that the telecommunications legislation we are considering is about competition and deregulation and not picking winners and losers. And we also agree that this legislation goes a long way toward giving cable, satellite, and the phone companies the freedoms they need to compete. We now need to agree to extend these same freedoms to the over 11,000 radio broadcasters in this country.

No other audio service provider, be they cable, satellite or telcos, has the multiple ownership restrictions that radio has. The language we are offering today eliminates those outdated radio-only rules.

It is imperative we in Congress end this discrimination against radio sooner by adopting this language, rather than wait for the bureaucracy to come around to it later, as this legislation as currently drafted would have it. Immediate action is critical because the FCC is on the verge of authorizing digital satellite radio service, whereby 60 new radio signals will broadcast in every market in the United States. This satellite service will be mobile and available in automobiles, homes, and businesses. Also, cable already provides 30 channels of digital radio broadcasting in markets across the United States under a single operator. Obviously, an incredible diversity of voices has been achieved with even more competition to radio quickly making its way down the information highway. Yet, let us not lose sight of the fact that all of these welcome new voices are also aggressive competitors for radio's listeners and advertisers, and, unlike radio, these competitors are not burdened with radio's multiple ownership restrictions nor do they have the same public service obligations as radio broadcasters.

Our Nation's radio broadcasters have a strong tradition of providing the American people with universal and free information services. In a telecommunications environment increasingly dominated by subscription services and pay-per-view, it is essential that we not foreclose the future of free over-the-air radio by restricting ownership options, for radio serving the public interest and competing are not mutually exclusive. They are complementary.

So it is left up to us to empower radio so it can grow strong well into the next century and continue to serve our communities as it has done so well for the past 70 years.

The last point I would like to make is perhaps the most important. Relief from ownership rules works. In the early- and mid-1980's the FCC issued hundreds of new radio licenses, and the market became oversaturated with radio stations without sufficient advertising revenues to support the increase. However, in 1992 the FCC granted limited relief in radio ownership restrictions. After many years of financial losses, suddenly radio became an attractive area for investment and an alarming multiyear increase in stations going off the air was arrested. The economies of scale kicked in. Stations gained financial strength through consolidation, and its overall ability to serve its markets and compete for advertising improved.

Allow me to quickly cite some statistics. In 1993, a year after the new limits took effect, the dollar volume of FM-only transactions almost tripled—$743.5 million—while radio station groups sales grew 44 percent.

In 1994, sales prices of single-FM stations rose 12.7 percent from 1993's $743.5 million to $838 million, and from 1993 to 1994, the total volume of AM radio station sales shot up 84 percent, totaling $132 million.

There is every reason to believe that all of these positive trends will continue to flourish if we remove radio's outmoded multiple ownership restrictions.

Clearly, maintaining local and national radio ownership limits in the face of tomorrow's competitive environment is not only unfair but it is a major step back.

Mr. President, let me emphasize that I understand some statements have been made. I understand that CBS does not support the Simon amendment. Bill Ryan is the NAB Joint Board Chairman. He supports the NAB position which is adamantly opposed to the Simon amendment. Mr. Ryan's comments, which Senator SIMON cited, related to TV ownership and not radio ownership.

Mr. President, I urge Senators to come to the floor to make their statements on the various pending amendments.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. 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. 1298

Mrs. HUTCHISON. Mr. President, I would like to speak against the Lieberman-Leahy amendment. The Lieberman-Leahy amendment will finish this bill once and for all.

The PRESIDING OFFICER. The Senator will be advised that all time has expired on the Lieberman-Leahy amendment.

Mrs. HUTCHISON. I ask unanimous consent that I be allowed to speak for up to 5 minutes on the bill and on the Lieberman-Leahy amendment.

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

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, the Lieberman-Leahy amendment will reregulate cable.

What we are trying to do with this bill is deregulate so that we have a level playing field, so that more people can come into the competitive market, and so that the consumers will benefit from the lower costs and lower prices. The Lieberman amendment will take away the balance that has been established in this bill. It will put the FCC back into the regulatory business. It will cause these cable companies to have to come to the FCC to spend their money paying lawyers' fees instead of dropping their prices and going to the bottom line.

I am sure that the intent of the amendment is very good. They want to make sure that we have low cost if there is not competition. But what we are trying to do here is promote competition so there will be choices, so that the consumers will have the ability to pick and choose.

The Lieberman amendment will put one more hassle to the cable companies even when it is not necessary.

I have watched day after day after day the chairman of the committee, on which I serve, and the ranking member talking about the need for this bill. It will put $3 billion into our economy in new jobs, and it will be a benefit to consumers. They have done a wonderful job. But what is very important to remember here is that we must keep a level playing field. And we have tried to balance.

Sometimes we have done something that the long distance companies do not like. Sometimes we have done something that the local Bell companies do not like. Sometimes we have done things that the cable companies think is onerous. This would be an onerous regulation that would put the FCC back in the mix when we do not need the FCC. We are trying to take the FCC out of every arena that we possibly can. The FCC is very much in the bill, I must say, of course. For instance, in broadcast ownership, we want the FCC to look at broadcast ownership to make sure there is not the concentration that would take away the diversity of voices in a market. But it is very important that we keep the balance. We must be able to say at the end of this bill that probably everybody does not like it as a perfect bill but we have allowed people to come into the process to compete, and we have tried to make the cost the least possible, and we have tried to make the cost fair. But the underlying element of this bill is that we take the regulations out to the greatest extent possible.

Mr. President, if we are going to even look at the Lieberman-Leahy amendment, it is going to gut the bill from the standpoint of keeping the level playing field, continuing to encourage competition, and giving the consumers the benefit of all the choices that will be available. If we can pass this bill and keep it fair, the telecommunications industry in this country is going to explode. It is going to be a wonderful boon to our economy. New jobs will come into the market. Consumers will get more choices. We will have choices that we have not even dreamed of today. We will have choices of technology that will give us the ability to research and grow because we are taking the regulations out of this bill to the greatest extent possible.

So, Mr. President, I think the chairman of the committee and the ranking member have done a terrific job. They have cooperated. There has been disagreement on every major part of this

bill, but we have not worked on this bill for days. We have not work on this bill for weeks. We have not worked on this bill for months. In fact, we have worked on this bill for years. We have talked about telecommunications deregulation for years in this country. I am a person who is not even a regulator. I do not like any regulations. I would like for Congress not to even be in the process. But because technology has exploded and because we have had a regulatory environment that has caused an unfair and unlevel playing field, we have had to correct the wrongs, and we are doing that by trying to reach a balance. That is what this bill does. The LIEBERMAN amendment will take that balance away, and we must not allow that to happen.

So I thank the Chair. I thank the chairman of the committee and the distinguished ranking member for their leadership. We must stick with the committee on this amendment. It is very important for the future of our jobs, of our economy, and for the consumers of our Nation.

I thank the Chair. I yield the floor.

Mr. PRESSLER. Mr. President, I thank the Senator from Texas for her great work and leadership on this telecommunications bill. She has been a stalwart in drafting this bill and in making it happen. Her leadership was crucial and I thank her very, very much.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Texas.

Mrs. HUTCHISON. Will the Senator yield for a question and comment?

I just wish to say that I did not mention this because I was talking about the level playing field of all of the competitors, but the other element here that the chairman and the ranking member have worked so hard on is the protection of our cities and our State regulatory boards.

Our cities have rights-of-way that they must control, and that is something that we worked very hard to make sure was not encroached on. We would have chaos if someone came in and said, Well, I now have the right to dig a hole in the middle of your street, without the city maintaining that control.

So I wish to say that that is another element of this bill that is protected, and the cities of America owe a great debt of gratitude to the chairman and the ranking member.

I thank the Chair.

Mr. PRESSLER. I thank the Senator.

AMENDMENT NO. 1325, AS FURTHER MODIFIED

Mr. PRESSLER. Mr. President, at this time, we are prepared to call up an amendment that has been agreed to that we will not have to have a vote on, and that is the Warner amendment. I would like to call up amendment 1325.

The PRESIDING OFFICER. The pending question is amendment No. 1325, as modified. Is there further debate?

Mr. HOLLINGS. Is there a modification?

Mr. PRESSLER. I have the perfecting amendment. I send an amendment to the desk and I ask for its immediate consideration. It is a perfecting amendment.

Mr. HOLLINGS. It should be a substitute, I think. It should be drafted as a substitute for the amendment.

The amendment (1325), as further modified, is as follows:

1. On page 102, after line 25, insert a new subsection as follows:

"(e) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—The Commission shall prescribe regulations to require that each Bell operating company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such Bell company to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.".

2. Redesignate subsequent subsections accordingly.

The PRESIDING OFFICER. If there is no objection——

Mr. PRESSLER. Mr. President, I would just like to say a word or two.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I would like to praise Senator WARNER. In his usual gracious way, we worked on this amendment for a few days, and we had various meetings with Senator WARNER and some of his constituents who are concerned about this manufacturing clause.

His original amendment he has agreed to set aside in favor of this modification. My colleague from South Carolina, the ranking member of the committee, has long been an expert in this area, having authored the bill on manufacturing that passed the Senate. He has graciously agreed to this modification.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this deals, of course, with the technical requirements for connection to the telephone exchange service facilities, which is quite appropriate. It does not allude to the research and design with respect to manufacturing. That has been cleared.

I join in the distinguished chairman's praise of Senator WARNER and his efforts here to clarify this to make certain that everyone could be prepared and on notice as to facilitating the interconnection services. So I join in the amendment as amended, I take it.

The PRESIDING OFFICER. If there is no objection, the amendment as so modified is agreed to.

So the amendment (No. 1325), as further 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. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, is time controlled at this point?

The PRESIDING OFFICER. Time is controlled on each amendment.

Mr. KERRY. Mr. President, I rise and will only speak for a very few minutes, but I would like to indicate my support for the cable provisions of S. 652 as it has been brought to the floor by the distinguished chairman and ranking member and the committee, of which I am a member.

AMENDMENT NO. 1298

Mr. KERRY. I want to voice, therefore, my opposition to the Lieberman-Leahy amendment. All of us are concerned about cable rates. We made a major effort a number of years ago to try to regulate that and guarantee that the consumer is going to have the lowest possible price. In my judgment, the fundamental thrust of this bill which has been very carefully tailored to work a balance between many varied very powerful interests, the fundamental effort of this bill is to create competition which will reduce rates across the board.

I think all of us have learned that when you have regulation, you inevitably have a skewing of the market which impacts the capacity of people to take risks, people to raise capital, people to invest and diversify. It is my belief that the upper tier versus the lower tier of regulation is sufficiently well tailored in the legislation that we sent out of committee that the interests of consumers are protected.

In point of fact, it is my belief that the availability of direct broadcast satellite today and the availability of video dial that is going to come on so rapidly people are going to be dizzy when they begin to see it, that to maintain a regimen of strict upper tier regulation on cable would be to disadvantage cable's capacity to be able to make the kind of investment necessary that this bill envisions, precisely to be able to compete with the regional Bell operating companies and to begin to create the dynamic synergy that we are looking for in the marketplace.

So I believe the greatest protection for consumers is, in fact, going to come from competition for video services, and I believe that competition is well structured and maintained in the format that has been brought to the floor.

When consumers have a choice and the marketplace is not artificially constrained, then that marketplace is going to provide for rates that are reasonable. I think that anybody who

looks at the current intentions of the regional Bell operating companies and long distance operators and those who are going to be moving into the provision of video services will understand that if cable all of a sudden went out and started raising its rates at any tier, it is going to be significantly noncompetitive, it will build resentment among consumers, and they will quickly move to the new provision of services.

I can speak to this on a very personal level because I have recently been making choices about where to put what kind of service in my own residence. I was amazed at the number of direct broadcast capacities versus cable that I could make a choice on right now.

Second, Mr. President, consumers do not only care about rates, they also care about the quality of the service and they care about the breadth of programming that is available to them. They want both of those as well, and they want that from cable. If cable all of a sudden ceases to do that, they are going to have the opportunity to make another set of choices because of the very things that we are proposing in this legislation.

Finally, this bill incorporates a so-called bad actor provision, so that the FCC can step in immediately if a cable company begins to move in a direction which is clearly anticonsumer or out of order with what the rest of the companies in the Nation are doing.

So, in my judgment, our objective should not be to strengthen the regulation of rates that cable now is allowed to collect for its upper-tier service. On the contrary, our objective ought to be to maximize competition and to get the Government out of the way of allowing these companies to begin to compete and the price mechanism to be able to provide the maximum amount of consumer benefit.

I think anybody who looks at what has happened in the last 5 or 10 years in this field cannot help be amazed at the way in which competition and private-sector initiative has changed the landscape of the provision of these services, and it will do so at such an extraordinary rate over the course of the next few years that Americans will, I think, understand the attributes of what the committee has brought to the floor.

So I urge my colleagues to stay with the committee mark and the chairman's and ranking member's efforts to try to maximize competition and to oppose the Lieberman-Leahy amendment.

At this time, I also express my admiration for the long efforts of the distinguished chairman and ranking member, and for the efforts of the ranking member when he was chairman, to really structure this. This has been a long road. I think that the balance, which is so difficult to maintain in this, has been maintained throughout, and I think we are going to be able to get a solid piece of legislation to the conference committee where further improvements can be made.

Mr. HOLLINGS. Mr. President, let me thank the Senator from Massachusetts. It has been a long road for all of us on our Committee on Commerce. We have been working veritably about 4 years to revise and bring to modern technology the provisions of the 1934 act. The distinguished Senator from Massachusetts has been a leader in participating as his staff has worked around the clock. I appreciate his comments.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I inquire of the floor manager, I would like about 3 minutes to speak in opposition to the Simon amendment.

Mr. HOLLINGS. Go right ahead.

AMENDMENT NO. 1283, AS MODIFIED

Mr. BRYAN. Mr. President, I rise in opposition to the Simon amendment which would strike language currently in the bill which removes radio ownership caps. I must say, I do so with reluctance because I have a great deal of affection and find myself generally in support of my good friend from Illinois when he takes the floor. In this instance, I believe his concerns are misplaced.

Currently, there are approximately 11,000 radio stations in this country. Unfortunately, far too many are losing money. The last figures that have been called to my attention would indicate that about half of those stations are actually losing money. If we do not take some action to help these stations, an increasing number will continue to fail.

One way to help radio stations get out of the red is to permit them to use economies of scale that they can achieve from consolidating their operations. Lifting the ownership cap will permit radio stations to achieve these efficiencies.

When the FCC raised the cap several years ago, we found that, in fact, this is what happened. Without ownership caps, economic forces will determine the appropriate size of stations. This, in my judgment, is a decision better left to the marketplace instead of some Government-mandated number.

I believe an ownership cap was put on radio stations many years ago because of the concern for undue concentration. In this day and age, such a concern, in my opinion, is unwarranted. With the avalanche of entertainment sources available to the public today, there is no need to worry that a concentration will cause public harm.

Cable systems already provide up to 30 channels of digital audio in a single market under a single owner. Satellite digital audio will soon be able to deliver 60 channels of digital music in every market across the country. Satellite television, like direct TV, now offer 30-plus radio channels to homes. This deluge of new entrants into the radio business will ensure that competition exists.

Extending the artificial restrictions on radio ownership will give the industry the wherewithal to compete against other mass media providers. It is my view that by ending these artificial restrictions, we encourage more competition and give the public greater choice. I urge my colleagues to oppose the Simon amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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 urge that Senators come to use time on these amendments. We are down to about an hour before the majority leader will start us voting, and we are trying to get agreements on amendments and we are negotiating. If anybody who wants to make a speech, we will make arrangements to speak in general on the bill or on an amendment. I urge Senators to come to the floor to finish this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. 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. BRYAN. I ask unanimous consent that I might speak for a period of time not to exceed 7 minutes as in morning business.

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

The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 926 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 1298

Mr. CRAIG. Mr. President, S. 652, as modified by the Dole-Daschle leadership amendment, balances reduced regulations with increased competition. That is exactly what the goal of the chairman has been all along.

I think the legislation recognizes that investment in new technology is an essential part of developing an advanced telecommunications infrastructure here in the United States.

Therefore, S. 652 provides a more stable and reliable business environment for both cable and television companies by reducing regulations and encouraging competition.

Mr. President, S. 652, as reported by the Commerce Committee, includes the following:

First, maintained the regulation of basic cable rates until there is effective competition.

Second, redefined the effective competition standard to include a telephone company offering video services.

Third, allowed competition from phone companies.

Fourth, deregulated upper tier programming, but kept it subject to a bad-actor provision. The bad-actor provision allows the FCC to make expanded tier services subject to regulation if rates are unreasonable and substantially exceed the national average of rates for comparable cable programming services.

These provisions were certainly a step in the right direction: away from regulations and toward more competition.

During consideration of S. 652, the Senate adopted the Dole-Daschle leadership amendment by a vote of 77 to 8, which included language addressing the concerns of those who believe that, despite the safeguards already contained in S. 652, it might lead to unreasonable rate increases by large cable operators.

It established a fixed rate, June 1, 1995, for measuring the national average price for cable services and only allows for adjustments to occur every 2 years. This provision eliminates the possibility that large cable operators could collude to artificially inflate rates immediately following enactment of S. 652.

The bill, as amended, establishes a national average based on cable rates in effect prior to the passage of S. 652 when rate regulation was in full force.

It excluded rates charged by small cable operators in determining the national average rate for cable services.

This provision addresses the concerns that deregulation of small system rates, which was included as part of the Dole-Daschle amendment in S. 652, would inflate the national average against which rates of large cable companies would be measured.

It specified that national average rates are to be calculated on a per channel basis.

This provision ensures that national average is standardized and takes into account variations in the number of channels offered by different companies as part of their expanded program packages.

It specified that a market is effectively competitive only when an alternative multichannel video provider offers services comparable to cable television.

This provision ensures cable operators will not be prematurely deregulated under the effective competition provision if, for example, only a single channel of video programming is being delivered by a telco video dial tone provider in an operator's market.

In addition, the leadership amendment also included critical provisions deregulating small cable operators.

In short, Mr. President, the reason I have given this explanation is the Dole-Daschle amendment tightened the bad-actor provision on expanded tier services and further limited the definition of effective competition.

This compromise closed any possible loophole that would allow large cable operators to unreasonably raise rates. It gave relief to our small cable companies and maintained the delicate balance struck in S. 652 of reduced regulations with increased competition.

The reason, again, I think it is important that we understand this, Mr. President, is that the Lieberman amendment puts us back at square one in this effort to move toward more competition in the cable industry. While it does include language similar to the leadership amendment that would deregulate small cable operators, the Lieberman amendment would undermine the competitive objectives of S. 652.

The amendment further restricts the national average standard by limiting it to the "national average rate for comparable programming services in cable systems subject to effective competition."

Mr. President, this is a backdoor route that leads back to the restrictive rate regulation standard similar to what now exists: regulating rates that substantially exceed those of companies subject to effective competition. It is precisely this standard that has created the highly bureaucratic regulatory morass that has stymied cable television investment, and therefore service to the consumer.

As I stated in my opening remarks on this bill last week, I opposed the Cable Act of 1992, and I voted against passage of that bill.

Since the enactment of S. 12—that was the Cable Act—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 as a result of that near closure and have been forced to pay astronomical costs associated with implementing the act.

A rural community hardly benefits if it loses access to cable service because the local small business that provides 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 consumer the benefit of competitive prices.

Mr. President, I would again suggest to my colleagues the importance of not losing sight of the ultimate goal of reforming the 1934 Communications Act, which should be to establish a national policy framework that will accelerate 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 the goal will spur economic growth, create jobs, increase productivity, and provide better services at a lower cost to consumers.

The balance of reduced regulations with increased competition contained in the provisions relating to cable in S. 652 will lead to the very important goals I just stated.

In addition, Mr. President, I am concerned if we continue to restrict the ability of cable companies to obtain capital necessary to invest in new programming and services, we will also be limiting the ability of cable companies as competitors to local phone monopolies.

Cable companies will require billions of dollars of 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. Quite the opposite will occur. We have already seen it. Only competition will provide the kind of services that our consumers want.

New entrants in the marketplace such as direct broadcast satellites and telco-delivered video programming will provide competitive pressures to keep cable rates low and fit within the framework of the market. Cable companies are likely to provide the needed competition to keep the telephone local exchange market operating.

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

I urge my colleagues to vote "no" on the Lieberman amendment. It is not a step forward. It is a step backward to the industry. It is clearly a step backward to the consuming public.

Mr. PRESSLER. Mr. President, could I briefly state that I have received a series of letters—the first of which I became aware of last night, from Time Warner. The first letter stated something that was not true, and it was sent to various people.

As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions . . .

And so forth. That was not true. So last night, I faxed to Timothy Boggs a letter stating in part:

At no time during our conversation did I indicate that any specific action by Time Warner would result in deletion of the program access provisions. I have had no further conversation with HBO/Time Warner about this matter since that meeting. My staff has not portrayed my position as being anything other than the industry negotiations suggested on May 4. Nothing I said during our short meeting could be construed as suggesting some sort of quid pro quo, which would be wrong, if not illegal. I resent the inference in your letter that I suggested something other than an industry-negotiated solution.

I have this morning obtained a letter from Time Warner saying "* * * the facts are exactly as outlined in your letter." It goes on to say that "* * * at no point did we seek or reach understanding with you or your staff regarding any change in the legislation."

Mr. President, I ask unanimous consent to have these three letters printed in the RECORD.

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

TIME WARNER,
June 13, 1995.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR CHAIRMAN PRESSLER: As you requested, the attached signature page confirms that Home Box Office has reached an agreement with the National Cable Television Cooperative, Inc. for HBO programming. As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions at Section 204(b) of S. 652, prior to Senate action on the legislation.

On behalf of Time Warner and HBO, I am pleased to report that we have reached this agreement and respectfully request that this provision be removed from the bill at the earliest possible opportunity. Without removal of this provision from the bill, the HBO distribution agreement with the NCTC will be void.

Thank you for your leadership on this matter. Please feel free to contact me if I can be of any assistance to you or your staff. I can be reached at my office at 202/457-9225 or at home at 202/483-5052.

Warm regards,

TIMOTHY A. BOGGS.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 15, 1995.

Mr. TIMOTHY A. BOGGS,
Senior Vice President for Public Policy, Time Warner, Inc., Washington, DC.

DEAR MR. BOGGS: Your faxed letter of June 13 contains misleading statements which do not accurately reflect my position.

On May 4, 1995, I met briefly with you, Ron Schmidt and HBO/Time Warner executives, in the presence of my staff, regarding the program access provision of S. 652. During that meeting, HBO/Time Warner urged me to support deletion of the program access provisions of the bill.

I stated that the program access provision was of enormous importance to small cable operators, including those in South Dakota. I suggested that if the program providers disliked the provision, they ought to negotiate with the small cable operators to reach an agreement which might address the problems this portion of S. 652 is attempting to solve. Specifically, since Ron Schmidt is from my home state, I suggested that he talk to a small cable operator from South Dakota, Rich Cutler, to see if an industry compromise were possible.

At no time during our conversation did I indicate that any specific action by Time Warner would result in deletion of the program access provisions. I have had no further conversations with HBO/Time Warner about this matter since that meeting. My staff has not portrayed my position as being anything other than the industry negotiations suggested on May 4. Nothing I said during our short meeting could be construed as suggesting some sort of quid pro quo, which would be wrong, if not illegal. I resent the inference in your letter that I suggested something other than an industry-negotiated solution.

Your letter indicates that failure to delete the program access provisions from the bill would vitiate any negotiated agreement HBO/Time Warner had reached with the small cable operators. While HBO/Time Warner is free to negotiate contracts as they see fit, such tactics, in my opinion, cannot be considered as good faith negotiations. Your letter implies that I tacitly approved such a condition, which is not the case.

I expect you to send this letter to the same individuals who received your letter to me. Your letter is misleading, and does not accurately characterize my position as presented in my May 4 meeting with HBO/Time Warner.

Sincerely,

LARRY PRESSLER,
Chairman.

TIME WARNER,
June 15, 1995.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of today. I write to respond and to join you in setting the record straight.

First, I am as distressed as you that any statement I have made could be misconstrued or infer anything other than the facts.

Second, the facts are exactly as outlined in your letter.

Third, at no point did we seek or reach understanding with you or your staff regarding any change in the legislation. Any understanding Time Warner and HBO have reached on this matter has been entirely with our private business associates.

Finally, as stated in my letter of June 13, Time Warner has urged that the Senate remove Section 204(b) from S. 652 because we are confident that industry negotiations, by ourselves and others could result in a change of business practices that would make Section 204(b) no longer necessary. Our good faith negotiations have borne out this confidence. I remain pleased to report that HBO and NCTC have reached a distribution agreement.

In closing, let me personally apologize for any misunderstanding my letter has caused. I deeply regret this confusion and remain available to discuss this matter with any interested party. As you request, I will distribute your letter of today to the very few people who received a copy of my letter to you of June 13.

Sincerely,

TIMOTHY A. BOGGS.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I very much appreciate the remarks my friend and colleague from South Dakota just made. He has had printed in the RECORD an outrageous letter, an outrageous letter from Time Warner on June 13, addressed to Senator PRESSLER, chairman of the Commerce Committee. Any lobbyist who would write a letter like this, especially when it is not true, should make a public apology. And his powerful employer, Time Warner, should do likewise. I am referring to the letter of June 13 that the Senator from South Dakota has just entered into the RECORD.

He has also entered in the RECORD a letter of June 15, which is supposedly an apology from Timothy Boggs for the letter he earlier wrote. However, in the letter of June 15, while admitting that his previous letter was in error, and in a way apologizing for it, I do not see anything in the letter that indicates to me that Time Warner may not have had or thought they had a quid pro quo with some other Members of the U.S. Senate.

What we are talking about here is money, and that is one of the problems with this whole telecommunications bill, in which I have had an integral part to play. I want to say Senator PRESSLER is an honorable man. He is a good and hard-working Member of the Senate and has a very decent staff. He is a friend and a colleague I respect, and I congratulate the Senator on his letter to Time Warner and their response. I object to the action taken by Time Warner and Viacom—two of the big giants today—for putting the U.S. Senate in a difficult if not compromising position.

Probably nothing else better demonstrates the power of the lobbyists around this place, who overreach and overreach and overreach, and get not only themselves but the reputation of this body in some degree of disrepute. There are good and substantive arguments for and against the cable volume discount provision in the committee-passed bill. Time Warner and Viacom have told the Senate they will give discounts to the small cable operators, as we had provided for in the bill, if and only if, Mr. President—they have not gotten themselves off the hook as far as this Senator is concerned—they will agree to these discounts that they never would have thought of had we not incorporated this in the bill, and they simply say that if and only if the Senate removes the volume discount language for the small cable operators will they carry out their commitment.

They still have a quid pro quo and it is wrong. That is why this Senator last

night objected to any unanimous consent requests that by voice vote we change the committee's position. I will insist on a rollcall vote. There may well be good reasons for the Senate to change that provision that came out of the Commerce Committee. Time Warner has obviously put all kinds of pressure on the small cable operators around the United States, which they can do. So now we have a situation, as I understand it, where the small cable operators, whom we wanted to protect to some degree with regard to insisting on some discounts, now have been pressured by Time Warner to appeal to us to eliminate the proviso of the bill.

I do not want to see the Senate agree to something like that, because I think whether we do it knowingly or unwittingly, we place ourselves in a position of being influenced when maybe that is not the case.

There comes a time when the U.S. Senate, despite money, despite power, despite pressure from competing interest groups, has to stand up and do what we think is right. Just because of the action of the Commerce Committee to provide some measure of relief for the smaller cable operators, who by and large are at the complete indirect control by the biggies like Time Warner, the little guys are now appealing that the big guys have said they will go along with what we want to do if we will knock it out of the piece of legislation.

This has gone way too far. Time Warner and Viacom have taken the small cable operators hostage, just like hostages are being taken in Bosnia today. They have taken these little guys hostage and they say, "If you will knock this out of the bill, then somehow we will get along." I think this is the time to teach Time Warner and every other lobbyist—and there are a lot of good lobbyists around this place—that they overstep their bounds. They clearly overstepped their bounds when they wrote the referenced letter I had just cited and which was placed in the RECORD by my friend and colleague, an honorable man, the Senator from South Dakota, Senator PRESSLER.

I hope we will recognize that Time Warner is attempting to take hostages. I think we should say to Time Warner, grab them right by the throat if we have to, and say: Mister, you may be very big and you may have control like no one else has ever had of our entertainment industry, but you cannot control the U.S. Senate.

Therefore, I will insist upon a vote and I will be against any kind of a voice vote because I think this is the time to teach some of these larger companies that enough is enough. These large companies are saying to the Senate, "If you do not remove this provision, we will not give fair prices to the small cable operators." They are trying to take the U.S. Senate hostage, also. If we, the U.S. Senate, do what Time Warner and Viacom want us to do, this type of contingency is dangerously close to a quid pro quo. It is not right and is probably illegal. The U.S. Senate should not negotiate with hostage takers.

Mr. President, because of this tactic, I insist on a rollcall vote on trying to knock out the volume discount provisions. The Senate can work its will but I will stick by the committee's provisions.

Mr. BYRD. Will the Senator yield?

Mr. EXON. I will be glad to yield to the Senator.

Mr. BYRD. Mr. President I thank the Senator for his clear and forceful statement. And I share his views. May I say that I am glad he will insist on a vote. If he does not, I will.

It seems to me—I will have more to say later—that the good work, the efforts, and the many hours and days and weeks and months that the committee has devoted to this legislation run the risk now of coming to naught, as far as this Senator is concerned.

It appears to me that in our efforts to control bigness, bigness is weighing in, and I am not going to be impressed by bigness or by money or by heavy lobbying.

I think this also goes to show we should not have voted for cloture yesterday. I voted against cloture. This is a massive bill. It is an important bill. I am sure it has a lot of good elements in it. But here at the last minute, we are under pressure now. Cloture has been invoked. And some kind of an agreement has been entered into to stack amendments with 2-minute explanations.

I thank the distinguished majority leader for including the "2-minute explanation" in the agreement. I went to him personally yesterday and asked him to do that. If there are going to be stacked votes, at least we should have some explanation.

But I think this situation should cure us of stacking votes, great numbers of votes with only a minute or 2 minutes of explanation. This is the United States Senate where debate is unlimited, unless we invoke cloture or enter into time agreements.

From now on, I am not going to be very congenial with respect to stacking a large number of votes. But to have a string of stacked votes on a very complicated bill that I do not understand, and I am not sure any other Senators will understand what is in this bill by the time this amendment process is completed, to call up amendments, and debate them for only 30 minutes; very complicated amendments; the kind of amendments that should be offered in committee, or, if they are going to be offered on the floor, there ought to be adequate debate so that we all know what we are doing—is going too far, especially if the vote on final passage is to occur immediately following the disposition of the enumerated amendments.

So I thank the Senator for stating that he will insist on a vote, and I want to put leadership on notice that in the future this one Senator is going to be a little more reluctant to enter into time agreements on complex matters like this and stack votes, to be followed by the immediate passage of a bill. There seems to be a mindset here that we have to finish any complex bill in 3 days or 4 days. I am not sure that Senators ought to be in such a hurry.

I am disturbed by the Time Warner letter. It is disturbing. It may be that this will be one of the straws that breaks the camel's back as far as this Senator is concerned in respect of the vote on this bill.

I thank the Senator for yielding.

Mr. EXON. Mr. President, may I have just one second to thank my friend from West Virginia for his usually thoughtful remarks? I appreciate them very, very much. As one who has presided over and has put the U.S. Senate on course, I think his words are well taken.

Mr. SIMON. Mr. President, I take 3 minutes of my time on my amendment.

I first want to comment on what Senator BYRD just had to say. I think in general we can say there are rare occasions when we take too much time on a bill. There are too many occasions when we take too little time on a bill, as far as legislative process.

AMENDMENT NO. 1283, AS MODIFIED

Mr. SIMON. I would like to just speak very briefly on an amendment that I have in. The present practice of the FCC is to limit radio station ownership by any one entity to 20 AM and 20 FM stations. The most any one entity now has is 27 total. The bill, without my amendment, takes the cap off completely. My amendment says let us put a cap of 50 AM, 50 FM, far more than we have now by any one entity. It is a 150-percent increase. But let us not move to the day when we have too much concentration of the media. I think that is not a healthy thing.

One of my colleagues speaking against my amendment says this is what is happening in the newspaper business. It is. It is not healthy in the newspaper business. But we do not have any control over that. We do have control through Federal licensing of radio stations and television. My amendment goes further than some people would want. I say let us increase that 40 limit now to 100. But let us not let anyone who wants control of the radio stations of this Nation to have unlimited ability to get those radio stations.

I hope my amendment will be approved.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, if no one wishes the floor, I question the presence 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 (Mr. KYL). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. PRESSLER. Mr. President, I ask unanimous consent that at the hour of 12:15 p.m., the Senate proceed to a vote on or in relation to the McCain amendment No. 1285, to be followed by a vote on or in relation to the Simon modified amendment No. 1283, to be followed by a vote on or in relation to the Lieberman amendment No. 1298, with the remaining provisions of last night's consent agreement remaining in place.

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

AMENDMENT NO. 1285

The PRESIDING OFFICER. The hour of 12:15 p.m. having arrived, there are 2 minutes—1 minute per side—for discussion of the amendment and then voting will occur on the amendment offered by the Senator from South Dakota, [Mr. PRESSLER] for the Senator from Arizona [Mr. MCCAIN].

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I urge my colleagues to vote for the McCain amendment and to vote the other amendments down. The arguments have been made. So I yield back the remainder of my time. I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1285 offered by the Senator from South Dakota for the Senator from Arizona. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—98

Abraham	Bradley	Coats
Akaka	Breaux	Cochran
Ashcroft	Brown	Cohen
Baucus	Bryan	Conrad
Bennett	Bumpers	Coverdell
Biden	Burns	Craig
Bingaman	Byrd	D'Amato
Bond	Campbell	Daschle
Boxer	Chafee	DeWine
Dodd	Inouye	Nickles
Dole	Jeffords	Nunn
Domenici	Johnston	Packwood
Dorgan	Kassebaum	Pell
Exon	Kempthorne	Pressler
Faircloth	Kennedy	Pryor
Feingold	Kerrey	Reid
Feinstein	Kerry	Robb
Ford	Kohl	Rockefeller
Frist	Kyl	Roth
Glenn	Lautenberg	Santorum
Gorton	Leahy	Sarbanes
Graham	Levin	Shelby
Gramm	Lieberman	Simpson
Grams	Lott	Smith
Grassley	Lugar	Snowe
Gregg	Mack	Specter
Harkin	McCain	Stevens
Hatfield	McConnell	Thomas
Heflin	Mikulski	Thompson
Helms	Moseley-Braun	Thurmond
Hollings	Moynihan	Warner
Hutchison	Murkowski	Wellstone
Inhofe	Murray	

NAYS—1

Simon

NOT VOTING—1

Hatch

So the amendment (No. 1285) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1283, AS MODIFIED

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

Mr. SIMON. Mr. President, parliamentary inquiry. My understanding is that before these next two amendments are voted on, the supporters get 1 minute, and the opposition gets 1 minute to explain.

The PRESIDING OFFICER. The Senator is correct. Two minutes are equally divided.

Mr. SIMON. Mr. President, if I may have the attention of my colleagues, the present FCC rule says one entity can own 20 AM stations and 20 FM stations, or a total of 40. Right now, the maximum owned by any one entity is 27.

This bill takes the cap off completely. My amendment says we will put a cap of 50 AM, 50 FM, a 150-percent increase, but do not take the cap off completely.

We should not concentrate media ownership in this country. It is not a healthy thing for the future of our country. I hope Members will resist the motion to table my amendment.

Mr. PRESSLER. Mr. President, I hope my colleagues will table this amendment. We voted on this last week in the leadership package, the Dole - Daschle - Pressler - Hollings package. We voted something like 78 to 8. This matter has been settled in this bill. It takes apart the leadership package. I urge everyone to table it. It is more regulation and I ask we proceed.

I yield the remainder of my time.

The PRESIDING OFFICER. The question occurs on the motion to table amendment No. 1283 offered by the Senator from Illinois [Mr. SIMON]. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mrs. KASSEBAUM (when her name was called). Present.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

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

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—64

Abraham	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Moseley-Braun
Bennett	Gorton	Murkowski
Bond	Graham	Nickles
Breaux	Gramm	Nunn
Brown	Grams	Packwood
Bryan	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatfield	Santorum
Chafee	Heflin	Shelby
Coats	Hollings	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Inouye	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
Daschle	Kohl	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Exon	Lugar	
Faircloth	Mack	

NAYS—34

Akaka	Feinstein	Moynihan
Biden	Harkin	Murray
Bingaman	Helms	Pell
Boxer	Johnston	Pryor
Bradley	Kennedy	Reid
Bumpers	Kerrey	Robb
Byrd	Kerry	Rockefeller
Conrad	Lautenberg	Sarbanes
DeWine	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Lieberman	
Feingold	Mikulski	

ANSWERED "PRESENT"—1

Kassebaum

NOT VOTING—1

Hatch

So, the motion to lay on the table the amendment (No. 1283), as modified, was agreed to.

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1298

Mr. PRESSLER. Mr. President, I move to table amendment No. 1298, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, there are 2 minutes equally divided between the proponents and the opponents of the amendment.

The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

I rise to speak against the motion to table. I ask my colleagues to listen for these 60 seconds.

I usually do not make predictions on the floor of the Senate. But based on my experience in cable consumer protection for more than a decade, I will predict to my colleagues that, if this bill passes unamended, most American cable consumers will see significant rate increases in the next couple of years. These rate increases are not necessary. In 1984, Congress removed regulation from cable consumers. It was a disaster. Rates skyrocketed.

In 1992, on a bipartisan basis, we came back and put in reasonable consumer protections, and they have worked brilliantly. Rates are down 11 percent, and the cable companies are thriving, with the highest profit margins in the telecommunications industry, and with a great ability to continue to raise capital. There is no reason to remove the protections that cable consumers have in this bill.

My amendment simply restores a standard of the marketplace saying that no cable company will be regulated unless it charges more than the average in markets where there is effective competition.

This amendment is not perfect, but it is all that stands between our constituents and significant cable rate increases every month for the next several years.

I thank the Chair.

Mr. PRESSLER. Mr. President, I ask my colleagues to table this amendment. This amendment is undoing the leadership package, the Dole-Daschle package, which we voted on already. The Dole-Daschle package and the committee bill will increase competition and will cause consumer rates on cable to go down as more entrants enter the market.

I urge that we table this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to lay on the table the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

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

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—67

Abraham	Faircloth	McCain
Akaka	Ford	McConnell
Ashcroft	Frist	Moseley-Braun
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Nunn
Breaux	Grassley	Packwood
Brown	Gregg	Pressler
Bryan	Harkin	Reid
Burns	Hatfield	Robb
Campbell	Heflin	Roth
Chafee	Hollings	Santorum
Coats	Hutchison	Shelby
Cochran	Inhofe	Smith
Cohen	Inouye	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
Daschle	Kerrey	Thompson
DeWine	Kerry	Thurmond
Dole	Kyl	Warner
Domenici	Lott	
Dorgan	Lugar	

NAYS—31

Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Helms	Pell
Bradley	Johnston	Pryor
Bumpers	Kennedy	Rockefeller
Byrd	Kohl	Sarbanes
Conrad	Lautenberg	Simon
Dodd	Leahy	Simpson
Exon	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

ANSWERED "PRESENT"—1

Mack

NOT VOTING—1

Hatch

So the motion to lay on the table the amendment (No. 1298) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1303

Mr. STEVENS. Mr. President, the next item to be taken up is my amendment No. 1303, which I have offered along with my good friends, the Senator from Hawaii, Senator INOUYE, and the Senator from New York, Senator D'AMATO.

This amendment would clarify the resale provisions of section 255 by requiring the Bell companies to make resale service available at prices reflecting the actual cost of providing those services or functions to another carrier.

The amendment seeks to carry out and really clarify the delicate balance of the bill. It really is just that, an amendment to clarify the relationship of sections 251 and 255. I do believe, however, that we have developed a situation where there is a misunderstanding about the actual terms of my amendment.

I might state that when I offered it, I thought it was an amendment that had support. I offered it along with a series of other amendments. As the Senate realizes, all of those amendments have been accepted by agreement. There has been no dissension concerning them.

I feel it essential this amendment have further study in order that it will maintain the delicate balance that this bill requires. I will be a conferee on this bill, and it is my intention to make certain that this subject is called up in the conference.

Any amendment clarifying these two provisions would be within the scope of the conference, in my opinion, and it is my intention to ask that this amendment be withdrawn at this time.

I want my friend from Hawaii to have a chance to make a comment about this before I do, however, because I want to make sure everyone understands that we are not abandoning this subject, we are going to postpone it to the conference in the hope that we will be able to work out an amendment there which will have the same success as the other amendments we have worked on so long, which have been adopted by unanimous consent.

I yield to my friend from Hawaii.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to join my colleague from Alaska in assuring all those who support the measure that it is not our intention to let it die at this stage. We will most certainly, as conferees, insist that this matter be discussed and, hopefully, we will be able to convince our colleagues in the House and the Senate to adopt it.

So, reluctantly but I believe necessarily, I will concur with the action that is about to take place.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I want to pay tribute to the two Senators from Alaska and Hawaii. They are two giants of the Senate and giants in our committee. They will both be conferees. They have provided enormous leadership.

We just feel, at this time, that we have carefully crafted an agreement, and the checklist, and so forth, might come apart. So we have decided to delay this discussion until conference. I want to pay tribute to both of them being willing to help move this bill forward. I thank them very much.

Mr. DOLE. Let me concur in the statement made by the manager. This is a controversial area. I think the managers have indicated they are both going to be conferees. It will be considered at that time, and it is within the scope of the conference. There is a disagreement, but this may help solve it. I thank my colleagues.

Mr. STEVENS. Mr. President, I ask unanimous consent that we may withdraw amendment 1303.

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

So the amendment (No. 1303) was withdrawn.

AMENDMENT NO. 1292

The PRESIDING OFFICER. The pending question is amendment No. 1292, offered by the Senator from West Virginia [Mr. ROCKEFELLER].

Mr. HOLLINGS. On behalf of the distinguished Senator from West Virginia, Senator ROCKEFELLER, I ask unanimous consent that the amendment be withdrawn.

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

So the amendment (No. 1292) was withdrawn.

AMENDMENT NO. 1341

The PRESIDING OFFICER. The pending question now is amendment No. 1341, offered by the Senator from South Dakota, Senator PRESSLER, for the majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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 we can turn now to the Heflin amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the pending Dole amendment be set aside so we can bring up the Heflin amendment.

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

AMENDMENT NO. 1367

Mr. HEFLIN. Mr. President, I believe this has been cleared by both sides. This deals with amendment 1367, which I previously sent to the desk.

This deals primarily with a rule, in urban areas, where there is a small town that has a limited number within the incorporated area or the urbanized area, and has a high percentage of customers in rural areas.

It is a unique situation in regard to cable systems that have gone out beyond the incorporated limits, and they have sold to customers there. That is a pretty expensive type of thing.

When they go out, there is not the density on the lines that you have in the city. In rural areas, you might have one customer per mile, and in the cities you may have 1,200 customers to a mile, or 1,000 customers to a mile.

This sort of takes care of a situation for rural areas. It affects those where I believe there are no more than 20,000 subscribers, and a high percentage is in urban areas. I move the adoption of this amendment.

Cable systems with less than 20,000 subscribers are extremely concerned that they will be unable to compete with the telephone companies once they enter the cable business, a very legitimate concern. Because of the very real possibility that they will be run over by their local telephone company if the only option is to compete head-to-head, small cable systems would like to have the option to form a joint venture with their local telephone company or to be acquired by their local telephone company.

The bill as it is currently written would disallow small cable systems in urbanized areas to form joint ventures or to be acquired by their local telephone company. Due to the broad definition of an urbanized area, many small cable systems serving very rural areas will be ineligible to form a joint venture or to be acquired by their local telephone company because they technically fall within the definition of an urbanized area.

My amendment would allow cable systems in an urbanized area that serve a significant number of subscribers in nonurbanized areas to be eligible to participate in joint ventures or to be acquired.

These small cable operators serving a significant number of rural subscribers but who are swept into the urbanized area definition should be given the option of forming joint ventures or of selling to their local telephone company. Without these options, S. 652 could well force many of them out of business.

Mr. PRESSLER. Mr. President, I want to commend the Senator from Alabama. I know he is leaving the Senate next year. We will miss him.

This is a good amendment. We agree to it. I think it will help smaller cities in rural areas. We are prepared to pass the amendment. I move we adopt the amendment. I congratulate my friend.

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

The amendment (No. 1367) was agreed to.

Mr. HEFLIN. 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 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. DOLE. 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. DOLE. Mr. President, I think one of the remaining two amendments is the amendment of the Senator from Kansas.

The PRESIDING OFFICER. That is correct. That is the pending question.

AMENDMENT NO. 1341

Mr. DOLE. Mr. President, let me state very simply the purpose of this amendment. I do not know anything about all the Time Warner material. It has nothing to do with this amendment. I heard the Senator from Nebraska. I thought we would be able to accept this amendment, but I understand he has a problem with it.

As I understand it, not being a member of the committee, the current bill is tantamount to Government price-setting in the programming market. The language in the bill would remove programmers from taking advantage of universally accepted marketing practices such as volume discounts.

It seems to me all I am doing is to strike out this section. It strikes a provision of the bill that would have the effect of regulating the prices paid by small cable TV companies for programming. And the intent of the provision was to crack down on those programmers who were gouging small operators. But, unfortunately, it also impacts on good programmers who did not engage in the price-gouging effort.

Finally, small cable TV companies have now negotiated good contracts. I have a letter from the National Cable Television Cooperative, Inc., and also a letter from Turner Broadcasting, which suggests that Discovery Communications, Black Entertainment Television, and Turner Broadcasting support my motion to strike section 204(b). They set forth the reasons:

> Although described as a "small cable operator" amendment, section 204(b) would effectively entitle every cable operator to the price charged to the largest cable operator. . . .

Which was never the intent. So we were just going to take it out. They have now negotiated good contracts.

I also include the letter from Turner Broadcasting and the letter from the National Cable Television Cooperative. Let me quote a part of that.

> We are pleased to report that the National Cable Television Cooperative has reached agreements with Time Warner's Home Box Office Unit, Showtime Network, Inc.'s Showtime and the Movie Channel Services, and Viacom's MTV Network Services. . . . As a result of this important change in circumstances, we no longer believe that the changes to the program access provisions of the Cable Act proposed in Sec. 204(b) of S. 652 are necessary, and we can accept the removal of those provisions from the bill.

I know the Senator from Nebraska brought in a lot of material on Time Warner. I do not have anything to do with that. I do not know anything about Time Warner. I mentioned their name myself a couple of weeks ago in Hollywood. So I do not have a dog in that fight. I do not understand what it is all about.

All I am doing is striking out a section that is no longer necessary, and it is supported, as I said, by Discovery Channel, Black Entertainment Television, Turner Broadcasting, National Cable Television Cooperative.

I will yield the remainder of my time. There may be time in opposition.

Mr. President, I ask unanimous consent the two letters be printed in the RECORD.

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

NATIONAL CABLE TELEVISION COOPERATIVE, INC.,
Lenexa, KS, June 15, 1995.

Hon. LARRY PRESSLER,
U.S. Senate, Chairman, Committee on Commerce, Science and Transportation, Washington, DC.

DEAR CHAIRMAN PRESSLER: We are pleased to report that the National Cable Television Cooperative has reached agreements with Time Warner's Home Box Office Unit, Showtime Network, Inc.'s Showtime and the Movie Channel Services, and Viacom's MTV Network Services (MTV, VH1, and Nickelodeon). As a result of this important change in circumstances, we no longer believe that the changes to the program access provisions of the Cable Act proposed in Sec. 204(b) of S. 652 are necessary, and we can accept the removal of those provisions from the bill.

As you know, other conflicts remain. Despite repeated attempts by the Cooperative, we have failed to conclude master affiliate agreements with many non-vertically-integrated networks which are exempt from existing law.

For example, we were recently notified by Group W of their intent not to renew our long-standing contract for Country Music Television. (Originally negotiated by NCTC with CMT's former owners in 1989, prior to CMT's purchase by Group W/Gaylord). Group W has also steadfastly refused to conclude a contract with us for The Nashville Network. The most difficult of many other examples we could cite would be that of ESPN.

Please accept our deepest appreciation for lending your support and good offices to bringing about a resolution of this matter which we believe is mutually beneficial to all parties.

Sincerely,

MICHAEL L. PANDZIK,
President.

TURNER BROADCASTING SYSTEM, INC., WASHINGTON CORPORATE OFFICE,
Washington, DC, June 14, 1995.

Hon. ROBERT DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: I am writing on behalf of Discovery Communications, Black Entertainment Television and Turner Broadcasting System, Inc., to support your motion to strike section 204(b) of S. 652, the "Telecommunications Competition and Deregulation Act of 1995."

Section 204(b) would remove the words "legitimate economic benefits" from current law, thereby outlawing the volume discounts charged by certain programmers (those with 5% co-ownership with cable systems) even where the volume discounts are economically justified.

Although described as a "small cable operator" amendment, section 204(b) would effectively entitle every cable operator to the prices charged to the largest cable operator, working substantial economic harm to the affected networks. Moreover, since section 204(b) applies only to some and not all programmers, it would have a very unfair competitive impact.

We deeply appreciate your efforts to correct this problem with the bill.

Sincerely,

BERTRAM W. CARP,
Vice President, Government Affairs.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. 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. HOLLINGS. 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. HOLLINGS. Mr. President, I thought the time was limited. I understand the time is not limited on this amendment.

I would simply say, with respect to the merits, that programmers give big cable operators the volume discounts and not to the small cable operators. So, in trying to provide for that universal service and to make sure that it is extended, particularly to the high-cost and rural areas, the provision in the bill is that the small cable operators get the similar discounts.

With the Dole amendment, that would be removed. There would be high-volume discounts to the big cities, let us say, and higher costs thereby and a diminution of universal service to the rural areas of America.

So, this side would oppose the amendment on the merit itself. There is some question in this Senator's mind, without seeing anything further, on how this amendment came to the floor. With that in mind, let me yield to my colleagues who have come.

I understand the distinguished Senator from Iowa wants to talk as in morning business while we are waiting.

Mr. PRESSLER. Mr. President, could I just make a statement on the program access issue?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise in strong support of the Dole amendment. Coming from a rural, small-city State, I have long been concerned with program access. In fact, in the 1992 cable bill, my main reason for supporting it was not the pricing side so much as the program access side. It is a controversial thing, but I think the pricing side of it was a mistake but the program access side was a necessary thing.

To understand this amendment, or this issue, remember that program access is not something that everybody has. I remember one of our REA's, which transmit TV signals by microwave, wanted to get ESPN on their channel and they could not even get ESPN to return a phone call because they were too small. So there was a need for program access. And this amendment is continuing in that tradition. So this is a subject that all of us have worked on for years.

The program access portions, I think, of that act have worked at least to help the smaller cities and to help the rural areas where they transmitted by microwave from one farm to the next where it is too expensive for cable lines to run. Nobody will sell those people programming because it is not worth it financially. There are myriad interests concerned with this issue. I know the Black Entertainment Network has endorsed this amendment for the same reason, that they are very much in need of program access.

There has been much discussion over the program access provisions contained in S. 652. From the beginning of this process, I wanted to deal with the problem which many small operators have faced in being charged higher rates for programming. S. 652's program access provision is important to small cable operators, especially those in South Dakota. Program providers strongly object to this provision. I suggested to the program providers that they work with the small cable operators to seek an industry agreement which could make a legislated solution unnecessary. The president of the National Cable Television Cooperative, Michael Pandzik, the organization that purchases programming on behalf of the small cable operators, wrote to me that the cooperative has reached agreement on the small cable rates on programs from the major vertically integrated entertainment companies. As a result, I support the amendment by Senator DOLE to strike the program access language change in S. 652.

The PRESIDING OFFICER. The question is on the amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Will the Chair advise the Senator from Nebraska what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending matter before the Senate is amendment No. 1341, offered by the Senator from South Dakota for the majority leader.

Mr. EXON. I thank the Chair. This is the amendment I had discussed earlier in the day. As I understand it, the Senator from South Dakota is recommending and has introduced this amendment for the majority leader, notwithstanding the discussions that we had earlier in the day on this specific matter?

Mr. PRESSLER. I am sorry, would my friend——

Mr. EXON. I simply say I want to understand what is being proposed. Do I

understand the Senator from South Dakota is offering the amendment for the majority leader?

Mr. PRESSLER. The majority leader offered it for himself and spoke for it.

Mr. EXON. Now you are calling it up for a vote, is that correct?

Mr. PRESSLER. Yes, if the Senator from Nebraska wishes.

Mr. EXON. No, it is fine to have the vote. I am not going to object to that. There is no way I can object to a vote.

I would simply say to my friend from South Dakota, is he, as the leader of the bill, recommending that the Senate vote for the Dole amendment?

Mr. PRESSLER. Yes, I am. I have a long tradition of support for program access. I voted for the 1992 cable bill mainly because of program access issues. Yes, I am recommending that.

Mr. EXON. I would simply say, I think the Senator from South Dakota knows this Senator came to the defense of my friend and colleague from South Dakota earlier because of what I thought was terrible precedent setting with regard to the letters that had been distributed, apologies given on this whole matter.

Notwithstanding the serious objection that the Senator from South Dakota, I thought, had with regard to the lobbying activities that took part on this, notwithstanding that, am I to understand the Senator from South Dakota is still going to support the measure?

Mr. PRESSLER. Yes. I have stated my views in my letter. But the underlying substance of this amendment I support.

Mr. EXON. Is the Senator saying that while he objects to the way this matter has been handled, the end result, in his opinion, is that it is good for rural areas with regard to receiving television material?

Mr. PRESSLER. Yes. I gave an example when the Senator was not here of some of my rural telephone co-ops having difficulty getting ESPN. We had to get the Vice President out there. My reason for supporting the 1992 Cable Act was program access. The substance of the amendment is good for the country, I believe. It is very much in keeping with that.

I wrote a letter back to Time Warner regarding that matter and have placed it in the CONGRESSIONAL RECORD. They wrote me a letter back. The National Cable Television Cooperative group supports it very strongly. I have a letter from them. I cited this earlier.

We are pleased to report that the National Cable Television Cooperative has reached agreements with Time Warner's Home Box Office Unit, Showtime Network, Inc.'s Showtime and the Movie Channel Services, and Viacom's MTV Network Services (MTV, VH1, and Nickelodeon). As a result of this important change in circumstances, we no longer believe that the changes to the program access provisions of the Cable Act proposed in Sec. 204(b) of S. 652 are necessary, and we can accept the removal of those provisions from the bill.

As you know, other conflicts remain. Despite repeated attempts by the Cooperative, we have failed to conclude master affiliate agreements with many non-vertically-integrated networks which are exempt from existing law.

For example, we were recently notified by Group W of their intent not to renew our long-standing contract for Country Music Television. (Originally negotiated by NCTC with CMT's former owners in 1989, prior to CMT's purchase by Group W/Gaylord). Group W has also steadfastly refused to conclude a contract with us for The Nashville Network. The most difficult of many other examples we could cite would be that of ESPN.

So, in any event, I think we are all aware of these problems. I support the substance of the amendment. I disagree with the way Time Warner dealt with that particular letter. I wrote them a strong letter back, and they wrote me a letter stating my letter was absolutely accurate, and they apologized.

Mr. EXON. Just so that I understand this, I would like to have my colleague from South Dakota explain a little bit more. As I understand it, Time Warner and all these other good folks that control massive sections of our entertainment industry were not treating the small cable owners in South Dakota and elsewhere fairly, in the opinion of the Senator from South Dakota and the Senator from Nebraska and the Senator from South Carolina, the ranking Democrat on the Commerce Committee.

Therefore, we wrote into the telecommunications bill that was reported out of committee language that would have required Time Warner and all these other good folks, who were very much concerned about the public interest and public access, and not interested in making money—we wrote that in there to try to force them to treat the subscribers to cable in South Dakota and elsewhere fairly.

Is that accurate? Is that an accurate reflection of what I thought we did in committee?

Mr. PRESSLER. I believe that the legislative process here, as it moves forward, is trying to be fair, and different Senators have different points of view. Senator DOLE has brought his amendment forth and has spoken on it, having made the arguments for it. I think the Senator's comments are most welcome.

I have a long record of fighting hard for program access. The Black Entertainment Network has endorsed this effort by Senator DOLE. I think it is a very good effort.

Mr. EXON. Is it fair to assume that, in the opinion of the Senator from South Dakota, Time Warner and all these good folks would not have made this arrangement at this very late hour had it not been for the actions that we in the Commerce Committee took to address some things that were going on with regard to the way Time Warner and others treated rural areas? Is it safe to assume, in the opinion of the Senator from South Dakota, that this grand compromise at the last minute would not have been reached had we not taken the action that we did in the Commerce Committee on the telecommunications bill?

Mr. PRESSLER. It is hard to say. But let me say that I have for years fought hard for program access for smaller cable people, for our rural people, and there is an understanding with the president of South Dakota East River Electric. We could not get ESPN even to return our calls. Finally, we called the head personnel up in New York and they sent a person out, and ultimately Time Warner may be responding to that.

The point is that there is a constant battle, trying to balance between price and program access. The same thing happened when Hubbard put up his satellite, DBS. He had a hard time getting program access.

All of us on the Commerce Committee, including the Senator from Nebraska, I am sure, and others, worked on this. That is a key part. Program access is a key part of this whole business. That is what we are working on.

Mr. EXON. So the Senator from South Dakota cannot confirm my suspicion that the grand compromise being offered by the Dole amendment would not likely have taken place had we not acted in the committee.

Mr. PRESSLER. The Senator from Nebraska will have to reach his conclusions. Obviously, he has reached some. If an intraindustry solution can be reached, a legislative mandate is not necessary. The NCTC has negotiated for small cable, and those intraindustry negotiations will undoubtedly continue.

We can reserve the opportunity to restore this language if the programmers of small cable cannot reach an accommodation in conference. My friend from Nebraska will no doubt be in that conference. So we welcome him.

Mr. EXON. I simply say that I will not take any more time on this. There will be others who may want to speak on it.

I happen to think this whole proposition is a pretty sorry mess. It seems to me that if we approve the Dole amendment, which Time Warner and others would like to have, we would simply be saying, regardless of your improper activities, regardless of the letters that you wrote within the last few days, which I thought was unfair to the Senator from South Dakota and others, and certainly unfair to the processes and workings, legitimate processes and workings, of the U.S. Senate, then I think it would be entirely proper to vote for the Dole amendment.

On the other hand, if you feel as I do that this is kind of a blot on the U.S.

Senate, and that if we vote for the Dole amendment we are just going to be saying to Time Warner and others to come in with your strong-arm lobbying, come in with your accusations in the form of letters about Senator PRESSLER and others, but we are all going to have one happy ending here now, because we have gotten together in a grand compromise and, therefore, this is a good for everyone.

The fact that Time Warner, in my opinion, has taken hostages through the small cable operators that you in South Dakota and myself in Nebraska, and my colleague from Nebraska, Senator KERREY, have tried to protect, it seems to me that we in the Senate, if we adopt this amendment, are winking and saying: You should not have done that, but you are going to get what you want in the end anyway.

I urge rejection of the Dole amendment.

Mr. HOLLINGS. Mr. President, let me join in the sentiment of the Senator from Nebraska. And to elaborate on my previous remark, I just quietly said it disturbed me—the process by which this particular amendment has reached consideration in the U.S. Senate. I figured, as the expression was used earlier, that I did not have a dog in the fight because I had been shown a letter to the Honorable LARRY PRESSLER, the chairman, dated June 13, which has already been included in the RECORD.

I will let my previous remarks be sufficient except that now I am shown another letter that is signed by Timothy Boggs, talking of the agreement. That letter, being dated June 13, says:

As you requested, the attached signature page confirms that Home Box Office has reached an agreement with the National Cable Television Cooperative, Inc. for HBO programming. As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions at Section 204(b) of S. 652, prior to Senate action on the legislation.

Without the removal of this provision from the bill, the HBO distribution agreement with NCTC would be void.

I had nothing to do with it, and nothing was addressed to me. I have now sent the staff to look, because these things surface.

I have been given another letter, dated June 13, 1995, signed by Mr. Mark M. Weinstein, with a copy to Senator BOB DOLE and Senator ERNEST F. HOLLINGS. I ask unanimous consent that the letter in its entirety be printed in the RECORD.

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

VIACOM, INC.,
New York, NY, June 13, 1995.

Hon. LARRY PRESSLER,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, at your request, Showtime Networks Inc., a cable programming division of Viacom, has been negotiating in good faith with the National Cable Television Cooperative (NCTC) to reach an agreement regarding carriage of its cable programming services.

We are pleased to report that we have reached an agreement between NCTC and Showtime for carriage of our premium cable services. NCTC also requested, just recently, that MTV Networks (MTVN) begin discussions over the basic cable services. Accordingly, MTVN has been negotiating in good faith with NCTC over carriage of the basic cable services. We are committed to continuing to negotiate and hope to reach an MTVN agreement in the near future.

We ask for your support in ensuring the adoption of an amendment deleting the volume discount language in S. 652, as previously agreed. Thank you for your assistance in this matter.

Sincerely,

MARK M. WEINSTEIN,
Senior Vice President.

Mr. HOLLINGS. I will read that to make certain that my comments are right to the point. This is to Chairman PRESSLER.

Dear Mr. Chairman: As you know, at your request, Showtime Networks, a cable programming division of Viacom, has been negotiating in good faith with the National Cable Television Cooperative to reach an agreement regarding carriage of its cable programming services.

We are pleased to report that we have reached an agreement between NCTC and Showtime for carriage of our premium cable services. NCTC also requested just recently MTV Networks, MTVN, begin discussions over the basic cable services. Accordingly, MTVN has been negotiating in good faith with NCTC over carriage of the basic cable services. We are committed to continuing to negotiate and hope to reach an MTVN agreement in the near future.

We ask for your support in ensuring the adoption of an amendment deleting the volume discount language in S. 652 as previously agreed. Thank you for your assistance in this matter.

Now, it is incumbent on me, Mr. President, and my dear colleagues of the Senate, I can tell you here and now "as previously agreed," by Mark M. Weinstein—he signs the letter—I can tell you I do not know the gentleman. I have never seen and have never spoken with him. And I have checked with my staff, and we have not had this letter or anything else, have we?

It could be that this has been faxed. We are searching the records now because we have been in the Chamber for a week.

Mr. PRESSLER. If my good friend will yield for a minute.

Mr. HOLLINGS. Yes.

Mr. PRESSLER. As my friend knows, when I discovered that same language in the Time Warner letter, I requested immediately a correction. I wrote a two-page letter, and they sent me not only a correction but an apology. I think I can obtain the same thing from these folks very quickly, because that is not true.

Mr. HOLLINGS. I understand so. The distinguished chairman is absolutely correct. And I think his letters have been made a part of the RECORD showing that he had nothing to do with it. The inference is not by the Senator from South Carolina that the Senator from South Dakota was in any way engaged in this kind of shenanigan. I can tell you here and now the Senate is going to operate not only with the correction but with the appearance of correct conduct here.

I just did not want this to pass. I would have hoped that this amendment would have not been pursued on the basis of its merits, and I hope it will be defeated on the basis of the process so that everyone knows you cannot deal this way and get your amendments passed. I just think this reflects on the Senate. I agree with the Senator from Nebraska. And since my name is on the Weinstein letter and the first I have seen it is here this morning, I wanted to make that record absolutely clear. I hope we kill the amendment.

Mr. EXON. Will the Senator yield for a question?

Mr. HOLLINGS. I will be glad to yield for a question.

Mr. EXON. I would like to ask the managers of the bill, both my friend from South Carolina and my friend from South Dakota, about exactly what we are doing here.

As I understood the Senator from South Dakota, the chairman of the committee, he said that if we accept the Dole amendment, it will fix or cure the problem that we have with regard to availability for small cable operators to get certain types of program from the likes of those good folks, Time Warner and Viacom. Is that right?

Mr. HOLLINGS. No. If you are asking this Senator a question, I can tell you my judgment. If this change on the amendment is adopted, then the rates are bound to go up. The bill provides very properly that small and rural cable television operators get the volume discount.

Now, what they want to say is, no, that is going to be stricken, and they are not going to get these volume discounts. Obviously, the price is going up on these small entities, and that is going to destroy the universal service theme of our particular S. 652.

Mr. EXON. I would like to ask a reply to my question from the Senator from South Dakota.

Did I understand the Senator from South Dakota to correctly say that if we pass the Dole amendment, it is the understanding of the Senator from South Dakota that we would fix or repair the essential problem that the Senator from South Dakota has recognized is an important player in including some protection for small cable operators in the measure that has passed out of his committee? Is the Senator saying he thinks that is repaired or fixed with the Dole amendment?

Mr. PRESSLER. Let me say that I think we should recognize that private

agreements and private negotiations are underway, have been underway, and that is something that goes on in our country.

Let me say that I shall seek corrections on these other letters, just as I have received a strong correction from the first one.

Let me say that if these private negotiations break down or do not work—we are now in a situation where Black Entertainment Network, the small companies, and so forth, are endorsing these private negotiations. And certainly I prefer private negotiations to Government activity, and that has been something that has been a cornerstone. But I have long been a champion of program access for smaller cable owners, for REA's, and I will continue to be so.

Also, it is my general observation—by the way, I did not make any requests here of anybody, and we are sort of arguing on two levels here because I agree with the Senator from Nebraska that the letter sent me was incorrect. I requested that it be corrected, and it was instantly.

Mr. EXON. What I am trying to get at, though, Mr. President, it obviously is the Senator's feeling——

Mr. PRESSLER. If I may conclude, if my friend will yield.

Mr. EXON. I am sorry.

Mr. PRESSLER. Basically, I would prefer that these problems be settled in private negotiations as opposed to being legislated by this Senate all the time. But if they cannot be solved, we have the conference coming up. There are additional opportunities. I think at the moment the materials read by Senator DOLE and myself here indicate very clearly that there are various small companies ranging from the National Cable Television Cooperative onward that are supporting Senator DOLE's efforts.

That is where we stand presently.

Mr. EXON. Could I rephrase my question? I took it from the statements that the Senator from South Dakota just made that he is recommending we accept the Dole amendment because he believes, with the private negotiations that are going on, the Dole amendment would satisfy or solve the situation as of now, and that is why he has supported the Dole amendment. Is that a fair interpretation of what the Senator from South Dakota is saying?

Mr. PRESSLER. No, the Senator from South Dakota has his own reasons for supporting the Dole amendment. I am supporting the Dole amendment because we have private agreements that are working these problems out, because the small cable companies and many other entities such as Black Entertainment Network, have supported that concept, that is, as of this time.

If problems arise, if the private parties cannot work it out, then the Government should get involved. This is my opinion.

I ask my friend from Nebraska, is he opposed to these things being worked out privately?

Mr. EXON. No, I am not opposed to something being worked out privately at all, except that I am opposed to the concept that nothing privately is worked out until the last minute when changes are made, which leads me to my next question.

It seems to me that what we are seeing is that Viacom and Time Warner, and all those other public-minded folks, are now at the last minute offering to have private negotiations with some of the smaller cable operators that they were not willing to do previously.

Let me phrase the question this way: Why would it not be wise to leave the amendment as it came out of committee in place and not adopt the Dole amendment? Am I to understand that unless we adopt the Dole amendment under the pressure and under the unsavory acts that I think have taken place in the last few days, that unless we can accept the Dole amendment that negotiations will break down?

Mr. PRESSLER. I think the Senator from Nebraska is tying things together here more than I would, in the sense that if one group of lobbyists behaves in a certain way, that does not mean that the underlying substance is changed.

It is my strong feeling, and I have been on this same subject for years, that program access is a very important thing. Sometimes it is negotiated privately. For example, we have ESPN involved privately, without a law. I always prefer to do something in the free enterprise system privately than with a Government law, with a Government regulation. That is what we are talking about.

I do not know what more to say to the Senator from Nebraska, except that I feel that the Dole amendment is a very positive thing.

Mr. EXON. Just let me add, I could not disagree more with my friend and colleague from South Dakota. I happen to feel that we have a gun to our heads and probably a gun to the heads of the small cable operators, where all those good folks I mentioned before, Viacom and those other public-minded nonprofit operations, have a gun to the heads of the small cable operators and, as part of that, they are taking the United States hostage.

It seems to me——

Mr. PRESSLER. If the——

Mr. EXON. I have the floor. It seems to me it would be much better to leave the measure as it is in hand and let them continue their negotiations. I point out again that I think anyone who understands the process knows we would not have had the Dole amendment had we not had action taken by the Senator from South Dakota, myself and others that forced their hand. It seems to me that we have forced their hand to try and give the small cable operators a decent chance. Now they are coming to us saying, "We will give them the decent chance, maybe, if you don't pass the law." I think that is putting the cart before the horse, but I have nothing further to say on the matter at this time.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have the highest regard for my friend from Nebraska, and I have said so on this floor many times. He is a giant in this Senate and on our committee.

I was watching Harry Truman's life story on TV the other night on "Biography." He was trying to settle the rail strike, I believe. He was speaking to Congress with proposed legislation when one of his Secretaries handed him a note, and he said that the parties have privately begun to negotiate and are going to arrive at a private settlement and he withdrew his legislation, or he lessened his legislation.

Many criticized him. They said, "Well, Harry Truman is a little too flexible, he is not standing as he said he would."

I like to read about Harry Truman. I found this a very interesting episode. And I am certainly not comparing myself to Harry Truman. I think he was a man of enormous stature.

Analogously in the same case, private agreements are coming into place, and if we get letters from the various groups, small cable and Black Entertainment Television, and so forth, why would we have Government regulation at that point, just for the sake of having it? A lot of times parties negotiate, realizing that down the road if they do not, there is going to be a problem. Certainly, there is that interaction.

So, in conclusion, I say I have great regard for my friend from Nebraska, but I think we are talking about two separate things here. I strongly support the Dole amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I come to the floor this afternoon to speak and vote against the Telecommunications Competition and Deregulation Act of 1995. I am deeply disappointed that I am not able to speak and vote in favor of it. For the past 10 years, I have been arguing for a radical overhaul of our telecommunications laws. They have not been changed significantly in the past 60 years, a time of unprecedented, breathtaking and, for many of us, I must confess, nearly incomprehensible change in the technologies of communication.

The short description of what has happened in the past six decades since the 1934 Communications Act was

passed is this: The need to continue monopoly franchises and the line of business restrictions has evaporated. The heat which turned the water of our law into steam is technology. Our laws have been overrun by changes in technology. Failure to acknowledge this and to liberate the businesses to compete has been detrimental to the consumer. Thus, the time for rewriting the people's law is long overdue.

However, Mr. President, technology does not have a vote, people do, and the American people have a love-hate relationship with technology. They love it when it entertains or amuses, but they hate it when amusement turns violent, pornographic or threatening.

They love it when they have the skills needed to survive the downsizing chain saw but hate it when a lifetime of dedication to doing a job well ends with a pink slip.

Not only do the American people have mixed feelings about technology, but the attitude of the people and the attitude of corporations toward technology is decidedly different.

Successful communication corporations must follow technology wherever it takes them. Successful communication corporations treat technology as if its status were somewhere between King and God. As people, we have learned the hard way that to worship technology is to select a graven image with a double-edge potential of doing grave harm and great good.

All of this is said, Mr. President, to put a brake on the wild and woolly expressions of enthusiasm for the glory of these new technologies. No doubt they can serve us well, no doubt they can expand our reach and improve our capacity to produce, to learn and to govern ourselves. However, there is also no doubt they can lead us astray if we do not think carefully about where we want to go.

We, the people, in our minds and our hearts, must drive these new technological wonders, or, most assuredly, they will drive us.

Regrettably, the rewriting of our law we have witnessed has created the perception that this was not paramount in our deliberation. Indeed, the amendment before us now reinforces that perception. The perception is that the law was not done for or by the people of the United States of America. The perception has been created that it was done by and for the telecommunications corporations of America. Rather than being a Contract With America, this legislation looks like a contract with corporations.

This is one reason Americans feel they have no power over their Government. Indeed, despite the scope of its impact on their lives, Americans neither asked for this bill, nor do many of them even know we engaged in this debate.

To be clear, I have nothing against corporations, or the people who temporarily run them. Indeed, most Americans work for a corporation. However, corporations—particularly public corporations—are not people. Incorporation is a charter granted by the people's laws to an organization, usually for the purpose of ensuring perpetual life and providing many of the beneficial powers of an individual, like entering into contracts, buying and selling property, while shielding the organizations from many of the detrimental liabilities of being an individual, such as conscience and public responsibility.

Public corporations provide first for shareowners and investors. If the analysts say that a CEO did the right thing by laying off 10,000 employees with no severance pay, health care, or retirement, then a CEO would be judged incompetent not to make this move. If plant closings and downsizing are judged to be sound business decisions, the market will bid up the value of the stock and the salary of the responsible CEO. If selling products that turn America into a society of efficient players of electronic games and selectors of video programs is good for business, then a corporate board would fire any CEO whose conscience interfered with the need to produce revenue.

This is not to say the managers of the leading telecommunications companies—who must be given credit for crafting and enacting this legislation—are heartless. They are not. This is not to say they are not concerned about the future of America or the quality of life in our country. They are. Nor does it mean that America does not benefit when tough-minded business executives make tough-minded business decisions. We do.

However, it is to say that we should take care when corporations appeal for changes in the law on eleemosynary grounds. When they tell us the new law is going to be good for America and American consumers, we should take care to remember who it is that butters their bread: their share owners. And we should take care and remember who butters ours: American consumers, citizens, and voters.

Over and over in this debate, we heard the phrase, "We have struck a delicate balance between the various corporate interests," used in defense of a specific provision. Over and over when changes were proposed which would have given consumers and citizens some protection, this "balancing of corporate concern" was raised as a barrier.

Regrettably, this has resulted in a law which will not guarantee that American households will have robust, competitive choices which would have ensured lower prices and higher quality. Regrettably, this law gives the power to those monopolies who already have the power to control the market and who will give consumers two choices: Take it or leave it.

The regret I feel is a child of lost opportunity. We have lost an opportunity to seize a three-part promise. The promise I see with the technologies of communication is to create jobs, improve the performance of America's students, and strengthen democracy by helping our citizens become better informed. And while this legislation will undoubtedly produce some gains in all three areas, narrow corporate concerns prevented us from doing all that was possible.

The regret I feel, as well, is also a consequence of believing that telecommunications is much more than just another business. Telecommunications defined is to communicate across a geographical space, across distances. Communication defined is one human being telling a story or delivering information to another. To communicate is to define what it means to be a human being.

We are not just deregulating another business with this law. We are deregulating businesses which have been granted the right to control what we read, hear, and see. They decide what is news and what stories are worth telling. When it comes to defining who we are as people, it is not an exaggeration to suggest that these businesses are as powerful an influence as parents or religious leaders or teachers.

What are the flaws of this bill which cause me to withhold an affirmative vote? The most important occurred before we started writing the legislation. The most important flaw was our attitude. We worried too much about liberating businesses and not enough about liberating people.

As a consequence, we made a crucial error when we wrote the law. The most important flaw is that we did not give the Antitrust Division of the U.S. Department of Justice a determinative role in ensuring that robust competition occurs at the local level before allowing the monopoly to enter other lines of businesses. Competitive choice means that households have the power to tell a company they do not like the price or quality of the service. Consumers must be able to buy from someone else before they have real power over the seller.

Substituting a checklist for the Antitrust Division of the Department of Justice is not an equal trade. A corporation could easily satisfy the checklist without giving the consumer competitive choice. And without competitive choice, this law will concentrate power away from the consumer.

Last year, under the leadership of Senator HOLLINGS of South Carolina, the Senate Commerce Committee reported a bill I could have supported. All but two members of the committee voted for a bill which gave the Department of Justice this determinative role. Unfortunately, in the distance and time traveled from November 8,

1994, to June 15, 1995, the law was changed, and I can no longer support it.

Why is it so important, Mr. President, to American consumers to have the Department of Justice with a determinative role? The answer can be found by following one of the most frequently used arguments in support of this bill: Consumers benefited when AT&T was forced to compete in 1982. Well, guess who was responsible for forcing them to compete? Was it the Congress? Was it the Federal Communications Commission?

Listening to the arguments against the Department of Justice role, or looking at the law itself, you might assume that the answer would be that Congress or the FCC made them compete. If you did, Mr. President, you would be wrong. It was the Antitrust Division of the Department of Justice that sued AT&T. It was the Antitrust Division of the Department of Justice that forced AT&T to compete. It was the Antitrust Division of the Department of Justice that should be given credit by consumers for the lower prices and higher quality service in long distance.

Neither Congress nor the Federal Communications Commission had the guts or the power to take on AT&T. So I guess it should not be surprising that under the banner of competition and deregulation, we pass a law that perpetuates the power of the monopolies.

Mr. President, this legislation is not without merit. It will help America's schools and America's school children take advantage of the technologies information age by ensuring affordable infrastructure, connectivity, and rates. It does preserve the goal of universal service for all of America's communities. It does encourage some competition by smaller carriers at the local level through joint marketing, a strong section favoring network interoperability and good interconnection and unbundling requirements in section 251.

It contains strengthened provisions for rural customers: Comparable services at comparable rates; geographic toll rate averaging; evolving national definition of universal service; support for essential telecommunications providers; waivers and modifications of interconnection requirements for rural telephone companies, and infrastructure sharing.

We fought for and succeeded in including in the law some protections for consumers including the prohibition of cable/telco joint ventures and buyouts except in rural markets of 50,000 or less, allowing State regulators to consider profits of telephone companies when using rate regulation methods other than rate of return, ensuring that price flexibility should not be used to allow revenues from noncompetitive services to subsidize competitive services, and protecting ratepayers from paying civil penalties, damages, or interest for violations by local exchange carriers.

With all of these good things, Mr. President, I regret the absence of a Department of Justice determinative role all the more. With the Department of Justice ensuring competition, consumers would not have to doubt that they would have a courageous, procompetitive Federal force on their side. Without it, we must trust that the corporations will do the right thing.

Mr. President, this legislation burdens trust too much. Ultimately this bill is about power. The bottom line is that in this case, corporations have it and consumers do not. Accordingly, I must vote "no".

Some things have been said in the heat of debate about the Department of Justice and the Antitrust Division that just are not true, and I would like to take this opportunity to correct the record.

For example, it has been said that the Antitrust Division has 800 or 900 attorneys. It has been said that it has several hundred lawyers acting as regulators. The fact is that the Antitrust Division had 323 attorneys total—to carry out all of its responsibilities—at the end of fiscal year 1994. This number is about 30 percent lower than the number of attorneys the Antitrust Division had in 1980 and is about equal to the number that it had more than 20 years ago during the Nixon administration, when the economy was much smaller, less global and less complex and when antitrust enforcement was less challenging.

When we talk about growth of bureaucracy, we certainly cannot reasonably mean the Antitrust Division. The Antitrust Division has for years been doing what we now ask of all Government agencies—carrying out vital missions more effectively, more efficiently and with fewer resources. With its relatively limited number of attorneys, the Antitrust Division has pursued vigorously criminal enforcement of the antitrust laws, a strong merger review program, civil antitrust enforcement and all of its other responsibilities.

It has been said that DOJ has failed to comply with a court order to review MFJ waiver requests within 30 days. The fact is that Judge Greene in 1984 issued instructions regarding how DOJ should handle specified waivers then pending and established a schedule under which DOJ had 30 days to handle those specific waivers. Those waivers, incidentally, were far less complex and sensitive than the waivers pending today. DOJ complied with that order and has fully complied with all schedules set by Judge Greene.

It has been said that DOJ has refused to conduct triennial reviews. In 1989, while the appeal of the first triennial review was still pending—it would not be finally resolved until 1992—Judge Greene gave DOJ complete discretion whether and when to file any subsequent triennial reviews.

He noted that the need for triennial reviews was not as great as had been anticipated when originally conceived. As it turned out, Judge Greene observed, there had been "a process of almost continuous review generated by an incessant stream of regional company motions and requests dealing with all aspects of the line of business restrictions." United States versus Western Electric Co., slip op. at 1, July 17, 1989, [emphasis added]. Judge Greene pointed out that he had "repeatedly considered broad issues regarding information services, manufacturing, and even long distance." Id. He explained that "as soon as there is a change, real or imaginary, in the industry or the markets, motions are filed and all aspects of the issue are reviewed in dozens of briefs." Id. at n.2. Further triennial reviews thus would have been duplicative of work that was already being done.

Judge Greene's observations are still valid. Over the life of the MFJ, incredible as it sounds, the Bell companies have filed an average of one waiver request every 2 weeks. They have buried the Department of Justice in an avalanche of paper—something never expected when the MFJ was entered. Now, some say they are "shocked, shocked" that the Bells do not expeditiously receive the approval they claim their requests merit.

And in fact, what amounts to a triennial review is underway right now, as DOJ investigates a motion pursued by three Bell companies to vacate the entire decree without any of the safeguards in S. 652, even in States where local competition is still illegal. This investigation will be completed in the next few months, with a report that will provide a comprehensive review of the need for continuing the line of business restrictions.

It has been said that the Bell companies' so-called generic request—that is, a consolidated request joined by all the Bell companies—for a wireless waiver is still awaiting action. In fact, Judge Greene has approved that request.

A colleague referred to that wireless waiver as simple. It was not. The initial request was very broad. It attracted a tremendous amount of comment and concern at the outset and each time it changed substantially. And change it did—it went from a very broad waiver to one carefully tailored and conditioned to protect competition. The long distance companies and the Bell companies disagreed with DOJ's ultimate recommendation to Judge Greene. That is not unusual. But Judge Greene adopted most of the provisions that DOJ recommended. DOJ exercises its responsibility by doing what is best for competition, not what one industry or another prefers.

It has been said that DOJ has not acted on a request for a waiver that would allow the Bell companies to offer long distance service in connection with information services. In fact, DOJ has recommended to Judge Greene that he approve the request, as modified after extensive negotiations between DOJ and the Bell companies.

The case of the information services waiver illustrates how any purported delay in resolving waiver requests relates to the overbreadth of the original Bell companies' requests. Much of the time between the filing of the initial waiver and DOJ's recommendation in favor of a heavily modified waiver occurred after DOJ rendered a decision based on the original waiver and informed the Bell companies that it would not support the waiver.

The details of the information services case are worth recounting at some length, because they belie some of the charges that have been leveled over the past several days.

In 1987, DOJ asked Judge Greene to eliminate the restriction on the Bell companies' provision of information services. DOJ did so over intense opposition from the information services industry, because of DOJ's conclusion that eliminating the restriction would promote competition in the information services market. But DOJ's focus was on competition and consumers. DOJ was not trying to protect vested industry interests or some role as a regulator. DOJ's position was initially rejected by Judge Greene, but after a reversal and remand by the Court of Appeals, the information services restriction was removed in 1992.

While seeking to lift the information services restriction, DOJ did not support authorizing the Bell companies to bundle interexchange service with their information services. The reason for this is that there is no clear distinction between information services and conventional telephone services. The FCC has been struggling for nearly two decades to define and enforce such a distinction in its Computer I, Computer II, and Computer III proceedings, which have tried to distinguish between basic services—including interexchange voice services—which are regulated, and enhanced services—or information services—which are unregulated. This has been one of the most prolonged and difficult proceedings in the history of the FCC.

Because there is no clear distinction between information services and basic services, a decision to allow the Bell companies to bundle interexchange services would substantially eliminate the core MFJ prohibition against their provision of interexchange service. The Bell companies tried to argue in court that the court's decision to lift the information services restriction meant that they could engage in such bundling, without any restrictions or safeguards. This interpretation by the Bell companies would have given them much more freedom than S. 652 proposes to do today. But that argument was firmly rejected by DOJ, Judge Greene and a unanimous panel of the Court of Appeals.

Judge Silberman of the Court of Appeals concluded that the Bell companies "urge a rather strained interpretation of the language of the decree—The Bell companies' interpretation—it seems rather obvious, would create an enormous loophole in the core restriction of the decree." 907 F.2d 160, at 163

Against this background, the Bell companies filed a waiver request in June 1993 that would have allowed them to bundle their information services with interexchange service. In doing so, they again sought to create what Judge Silberman had described as an enormous loophole in the interexchange restriction. In effect, they would have been able to offer interexchange service without the safeguards that are required by S. 652.

The Bell companies' waiver request naturally provoked strong opposition from the interexchange carriers and information services providers. DOJ gave the Bell companies an opportunity to respond to the arguments against their waiver, and the Bell company responses were filed in February 1994. After reviewing the Bell companies' arguments and the many arguments that had been submitted in opposition to the request, the DOJ told the Bell companies that it would not support the waiver request. The Bell companies were free at that time to challenge the DOJ decision in court. But presumably because they recognized that they had little chance of winning in the face of a clear decision by the Court of Appeals, the Bell companies chose to narrow their original waiver request to seek a more reasonable waiver.

The Bell companies submitted a somewhat narrower proposal to DOJ soon thereafter. DOJ again rejected the proposal, because it still did not deal with the loophole that the Court of Appeals had identified.

The Bell companies finally submitted a third proposal that was substantially narrower. This time, DOJ indicated that it would support the proposal. This last proposal has now been briefed and is awaiting decision by Judge Greene.

The reason for the delay in processing this waiver was that the Bell companies submitted—not once but twice—a waiver request that was very broad. Their proposal would have resulted in an enormous loophole in the core restriction of the MFJ. As a practical matter, this loophole would have given them much of the relief that S. 652 would give them, but without any of the safeguards that accompany such relief in S. 652. It does not make sense to criticize the Department of Justice for refusing to give the Bell companies what the authors of S. 652 certainly do not intend to give them in S. 652.

DOJ acted to protect competition and consumers. When DOJ supported the removal of the information services restriction in 1987, it did so over strong opposition from the information services industry. DOJ's support for the recent information services waiver has been strongly opposed by the interexchange carriers and by information services providers. DOJ isn't protecting industry turf; it's doing what's right for competition.

As the information services case demonstrates, the Department always has been willing to take the time to work with the Bell companies to fix waiver requests so that the Bell companies can get as much MFJ relief as is consistent with the consent decree's protection of competition in markets that the Bell companies seek to enter. Of the waivers approved by the Court in 1993–94 that were not mere duplicates of waivers filed by another Bell company, fully 60 percent were the product of negotiations between DOJ and the Bell companies that resulted in a modification of the original waiver request.

To be sure, these complex, negotiated requests generate a lot of public comment and concern. The number of comments per waiver for waivers filed in 1993–1994 is nearly six times the comments per waiver in 1984–1992. This is not surprising, as the more recent waivers go to the MFJ's core restrictions. This modification and comment process works to obtain workable waiver proposals while still protecting competition, as the information services case illustrates.

The fundamental point is that DOJ acted to protect competition and consumers. DOJ's support for the revised information services waiver has been strongly opposed by long distance and information services providers. But again, DOJ doesn't protect industry turf—it does what is right for competition.

Of course, no discussion of purported delay in the waiver process would be complete without noting the Bell companies' filing of overlapping and duplicative waiver requests. For example, several Bell companies filed a request to vacate the MFJ, seeking to completely eliminate its restrictions without replacing those restrictions with any safeguards or requirements, such as those contained in S. 652. Once again, the Bell companies sought relief that the Congress likely would not approve. The Bell companies argued that this motion was critically important to them, and urged prompt action on it. DOJ agreed that it would make this request its first priority.

But less than a week after submitting the request to vacate the MFJ entirely, one of the companies filed a separate waiver request for so-called out-

of-region relief. But that request is completely subsumed in the motion to vacate. And the other Bell companies that had filed the sweeping motion to vacate the MFJ apparently delayed and stalled in producing documents that DOJ required in order to evaluate the merits of the motion.

The AirTouch story that has been repeated during this debate is also not nearly as simple as has been suggested. Loosely casting aspersions on the independence and integrity of the Department of Justice in relation to its position on the AirTouch matter is deeply wrong. DOJ has enforced the terms of the MFJ through Republican and Democratic administrations of vastly different ideologies.

The Department has explained its position on the AirTouch matter in a letter to House Commerce Committee Chairman BLILEY. Regardless of what one thinks of the merits, the bottom line is that the Department has a responsibility under existing law to uphold the terms of the MFJ that differs from that of Congress, which can write new laws. I will include that letter in the RECORD.

It has been said on the Senate floor that DOJ has repudiated the VIII(C) test of the MFJ through the Ameritech plan, which I have supported since Ameritech introduced its Customers First program. The Ameritech Plan is completely consistent with the standard established by Section VIII(C) of the MFJ, because it builds on the idea that one possible basis for satisfying VIII(C) is if the development of local competition removes the ability of the Bell company to use the local monopoly to hurt competition in long distance. I encourage colleagues to read the Department's Ameritech brief, which the distinguished Senator from South Carolina put in the RECORD a few weeks ago.

The plan does not preclude Ameritech or any other Bell company from seeking VIII(C) relief in spite of the continued existence of the local monopoly. In fact, DOJ has supported numerous waiver requests where—in spite of the existence of the local monopoly—safeguards or other constraints ensured that there was no substantial possibility that the Bell company could use the local monopoly to impede competition in the market it sought to enter. Most recently—and after it outlined the approach of the Ameritech plan—DOJ supported the Bell companies' request for a waiver to provide long distance service in connection with information services.

It has been said that DOJ forced the Ameritech plan on Ameritech. In fact, the Ameritech plan originated with Ameritech itself. The plan now enjoys an unprecedented breadth of support among interested parties. It is supported by a Bell company, AT&T, Sprint, other long distance competitors, local competitors like MFS, consumer groups, the FCC, state regulators from all the States in Ameritech's territory, the Republican governor of Illinois and numerous other industry participants. In joint comments filed with the court in support of the plan, which I will include in the RECORD, the regulatory commissions from Illinois, Indiana, Ohio, and Wisconsin praised the proposal as a decisive step toward the goal of a competitive telecommunications market. This remarkable consensus is a lot more than S. 652 has attracted, and I commend Ameritech for taking this historic step.

DOJ has been criticized in this debate because the draft Ameritech order is 40 pages long. Forty pages doesn't seem like too much, when one considers that the order seeks to do something that has never been done before by anticipating the opening of a complex, monopolized market to competition and allowing a Bell company to enter a long distance market measured in the billions of dollars. But this criticism is especially ironic because it comes in a debate over a bill that seeks to do much the same thing as the Ameritech proposal—but that is some 150 pages long and getting longer as we speak. And while this 150-page bill has been the subject of much debate—to say the least—the 40-page Ameritech order enjoys unprecedented support from a broad array of interested parties.

It has been said that the Ameritech plan will shift power from State and Federal regulators to the Department of Justice. In fact, the implementation of the market opening provisions agreed to by Ameritech will be handled by State regulators and industry participants. The DOJ's role is to assess the end result: the marketplace effects of those market opening provisions.

The plan fully preserves the traditional functions of State and Federal regulators, as evidenced by the fact that the plan enjoys the support of all the State regulatory commissions in Ameritech's region and of the FCC. Moreover, the plan has the sort of safeguards and standby authority for DOJ that are well suited to an untried and groundbreaking initiative.

I have here, Mr. President, a letter to Assistant Attorney General Bingaman from Craig Glazer, the chairman of the Ohio Public Utilities Commission. Writing on behalf of all the State regulatory commissions in the Ameritech region, he praises the Department of Justice for its efforts in negotiating the Ameritech plan. Mr. Glazer writes, in part, "the willingness of the Department of Justice to work with and specifically accommodate a number of State concerns represented an exemplary level of cooperation and teamwork between the Department and the State commissions." I will include the entire letter in the RECORD.

The point that comes through loud and clear from this letter and from the briefs that State officials have filed with Judge Greene in support of the Ameritech plan is that DOJ is not trying to displace regulators or become a regulator itself. Governor Edgar of Illinois, for example, lauded "the Proposed Order's reliance on State regulators to complement the Department's supervisory role of the proposed trial." I will conclude Governor Edgar's comments in the RECORD. DOJ has proposed a well-crafted plan that maintains the traditional roles of all involved agencies. The State regulators and the FCC regulate; the Department of Justice assesses competition.

Mr. President, this bill deals with complicated issues, and there is a lot of room for reasonable people to disagree. But a lot of the things said about the Department of Justice were just plain wrong. I appreciate this opportunity to correct the record.

Mr. President, I ask unanimous consent to have the letters and other material printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, DC, January 31, 1995.

Re AirTouch Communications, Inc.

Hon. THOMAS J. BLILEY,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BLILEY: Thank you for your letter of January 27, 1995 concerning the status of AirTouch Communications, Inc. ("AirTouch") under the Modification of Final Judgment ("MFJ") in United States v. Western Electric, Co., Inc. I appreciate your interest in this matter, and I understand that this issue has significant implications for AirTouch and perhaps other cellular telephone companies.

As I will explain, the Department's recent action concerning AirTouch's status under the MFJ does not reflect a decision about the important competition policy issues to which your letter refers. We fully agree with you on the importance of those policy questions, and look forward to working with you to resolve them. As you know, I testified before a subcommiteee of the Committee on Commerce last year in favor of comprehensive telecommunications legislation based on competitive principles.

The only competition policy issue with respect to this AirTouch matter is whether we are willing to work with AirTouch on an appropriate waiver of the applicable MFJ provision—and you should know that we offered to do so before announcing our decision on the complaint that prompted our review of this matter. AirTouch did not accept that invitation.

I provide additional background below in response to your letter, including the respective roles of the Department and court under the MFJ on questions such as the AirTouch issue; the benefits to competition and consumers from the MFJ: the Department's reasoning and position on the AirTouch matter; and the Department's cooperation with AirTouch to facilitate court action now.

THE DEPARTMENT'S ROLE UNDER THE MFJ

First, let me put our role under the MFJ in context. As you know, the MFJ is a court decree which resolved a hard-fought litigation. Relief from the MFJ can only be given by a court, not by the Department of Justice. While we make our position known to the court, it is the court and not the Department which determines disputes about the coverage of the MFJ.

The court also has the power to give relief from provisions of the MFJ which become unnecessary. As you are aware, the Department is supporting an MFJ waiver which would allow cellular service providers affiliated with RBOCs to provide long-distance services, subject to certain safeguards, and this waiver is pending before the Court. The cellular market will be moving from the duopoly model toward more vigorous competition, a trend that will accelerate with completion of the spectrum auction and deployment of PCS. We also hope that landline local exchange competition will become lawful and real. If such developments occur, more relief will certainly be appropriate.

THE BENEFITS OF THE MFJ

In discussing how the MFJ is applied, it is useful to bear in mind what I know you understand—the pivotal role of the MFJ in unleashing the competition that has put our country at the forefront of the telecommunications revolution. I am also particularly pleased that the case against the telephone monopoly and supervision of the MFJ has been a priority at Democratic and Republican Departments of Justice alike, and that my antitrust professor, Bill Baxter, who served as Assistant Attorney General for Antitrust during the Reagan Administration, successfully negotiated the historic MFJ.

Since the MFJ, multiple fiber optic networks have been constructed by long distance competitors, consumers have reaped steeply lower long distance prices while dramatically increasing their minutes of usage, and according to a January 21, 1995 front page story in the New York Times headlined "No-Holds Barred Battle For Long-Distance Calls," at least 25 million residential telephone customers exercised a choice in 1994 by switching long distance carriers. The telecommunication equipment and services market have simply exploded.

Moreover, it is this growing competition, which can be accelerated through legislation which opens local markets to real competition while continuing to protect consumers and competition from monopolists, that will provide opportunities for deregulation.

THE DEPARTMENT'S AIRTOUCH POSITION

Our position in the AirTouch matter does not reflect an antitrust or policy judgment about the cellular industry. Instead, it reflects our interpretation of a narrow, but extremely important, question concerning the continuing applicability of antitrust decrees after the sale or reorganization of corporate antitrust defendants. Section III of the MFJ includes a provision, contained in *virtually all* of the government's antitrust decrees, making its limitations applicable to "successors" to the corporate entities originally bound by the decree. Such provisions are included to ensure that a decree's requirements cannot be avoided simply through a reorganization or transfer of ownership of the businesses that are subject to the decree. Without such limitations, of course, it would be relatively easy for an antitrust defendant to avoid its legal obligation to comply with a decree through a transfer of significant assets, restructuring or reorganization, thereby rendering the decree ineffective.

The position the Department has taken in response to the complaint submitted to it concerning AirTouch was made in the context of this history. AirTouch was spun off from one of the seven regional holding companies. It continues to operate, among other things, the cellular telephone business previously owned by that regional holding company and is subject to a common consent decree provision applying the decree to "successors."

In your letter, you refer to the purpose of the "spin off" from Pacific Telesis as to avoid MFJ objections. In this regard I want to advise you that neither AirTouch nor Pacific Telesis chose to submit any request for written guidance on this question to the Court or to the Department at the time of the transaction. Moreover, AirTouch's disclosure documents reflect that they understood and told the public that there was a risk that a determination such as we just made might ensue. (See Attachment)

After careful consideration of the history of the MFJ and the decisions interpreting its provisions, and after detailed consideration of AirTouch's arguments about the meaning of the relevant MFJ provisions, the Department concluded that AirTouch is a "successor" within the meaning of Section III of the MFJ.

OUR COOPERATION WITH AIRTOUCH

We have worked with AirTouch to assure that it will be able to continue its current business activities while seeking a ruling by the District Court on the question of whether it should be considered a "successor" under the MFJ. This is a legal question AirTouch can bring to the court. In the meanwhile, in light of the assurances AirTouch has given us that they will not undertake any new activities that could be viewed as violating the MFJ, we informed AirTouch that we have no intention of seeking enforcement action against them pending a decision by court as to their status under the MFJ.

Also, as you know, the MFJ contains provisions that allow parties to seek waivers or modifications if their activities, although technically covered by the decree, do not pose competitive problems. We have stated clearly to AirTouch that our position on the complaint before us rests solely on the meaning of the "successor" provision of the MFJ, and that they should *not* construe our position as reflecting a decision to oppose a waiver of MFJ restrictions which might be sought pursuant to section VIII (C) of the MFJ. Rather, we informed AirTouch that we would work with them to seek an appropriate waiver. Although AirTouch has not sought a waiver at this time, the opportunity to do so will continue to be available to them.

I know that you and the Committee understand and appreciate the importance and flexible nature of section VIII (C) where market conditions are changing. That is no doubt one of the reasons that the telecommunications legislation reported last Congress by the Committee on Commerce, which passed the House of Representatives with more than 420 votes, provided that the Department of Justice should apply this test to determine when, among other things, the RBOCs should be permitted to enter the long distance market.

I hope that this information is helpful to you in analyzing the Department's position in the AirTouch matter. With respect to the ATT matter that you briefly touch upon, this was addressed primarily under the Clayton Act and not under the MFJ, and requires separate discussion.

I would be very happy to discuss these or other telecommunications matters with you at our scheduled meeting or at your convenience.

Sincerely,

ANNE K. BINGAMAN.

[From the Wall Street Journal]

PACIFIC TELESIS IGNORED U.S. ON AIRTOUCH

(By Leslie Cauley)

NEW YORK.—Pacific Telesis Group ignored statements by the Justice Department in 1993 suggesting that its cellular spinoff could run afoul of the court decree governing the Baby Bells, a senior department official said.

Now the spinoff, AirTouch Communications, is scrambling to win a federal judge's approval lest it be forced to scale back drastically its ambitious plans for future expansion.

Rules governing the Bell System breakup prohibit the seven Baby Bells and their service spinoffs from offering long-distance communication services or making phone gear.

But Pacific Telesis, based in San Francisco, brushed aside these restrictions when it spun off the unit almost two years ago, said Robert Litan, deputy assistant attorney general for the Justice Department's antitrust division.

"We indicated to them at that time that it was an open question," Mr. Litan said, particularly since the unit had retained network facilities it had used as a Bell entity.

Air-Touch recently began transmitting long-distance calls on its cellular network, and it is developing phone equipment. On Jan. 11, the Justice Department formally notified AirTouch that it must abide by the terms of the decree just like its former parent.

Officials at Pacific Telesis and Air-Touch expressed surprise at the department's stance, noting that Justice Department officials had known for at least two years of AirTouch's intention to enter markets banned to the Bells.

"We could not have been more clear about what we were talking about," said Richard Odgers, Pacific Telesis' general counsel. Moreover, he added, three law firms hired by the company came to the same conclusion that the decree didn't apply to AirTouch.

Justice Department officials counter that its antitrust division, as a prosecuting arm of the government, doesn't offer casual assessments. Pacific Telesis "could have made a request for a formal (legal) opinion" when the spinoff was being contemplated in 1993, Mr. Litan said. "But they never did that. They went ahead and took their chances."

AirTouch's public documents issued at the time it went public indicate that it knew it might be jumping the gun if it pursued business barred by the decree. The company's November 1993 prospectus, released in anticipation of its initial public offering last spring, noted that there was no assurance "that DOJ or a third party might not object at some time in the future or that the courts might not agree" with AirTouch's opinion that it wasn't subject to the decree restrictions.

The prospectus added that AirTouch had advised the Justice Department of "its belief that the [decree] would not apply to the company after the spinoff. . . . [and] DOJ has not stated any intention to object [Pacific] Telesis' position."

Margaret Gill, an AirTouch senior vice president, maintained last week that "that

statement was made because we had carefully noted conversations with appropriate senior officials at the department."

Department opinions aren't binding with the courts, and even when it finds nothing objectionable, the agency can take action later. But it is virtually unheard of for the Justice Department to prosecute a company for engaging in activities that have been subject to a formal review, a process that can take several months or more to complete.

AirTouch has big plans. Besides operating one of the nation's largest cellular phone networks, the company already has begun offering highly profitable long-distance services in its territories. AirTouch is also building systems in international markets that will be tied through a sophisticated satellite network.

The company has proposed merging with the cellular unit of former sibling US West Inc. Together, AirTouch and US West are bidding with two other Baby Bells—Bell Atlantic Corp. and Nynex Corp.—for new wireless "personal communications services" licenses, with plans to build a nationwide PCS network offering anywhere-anytime wireless calling.

Efforts by AirTouch to boost growth and profits by also providing the long-distance links to its subscribers could be cut off if the company doesn't win a favorable ruling from the courts. A $7.5 million investment by the company in a satellite venture also seems in jeopardy.

AirTouch didn't reveal the department's concerns until last week, when it asked federal Judge Harold Greene for an immediate ruling saying AirTouch isn't subject to the decree. In the meantime, AirTouch has agreed to stop further expansion into prohibited businesses and the department has agreed not to take action against the company until a decision is rendered.

AirTouch's predicament underscores the gravity with which the U.S. government still views the restrictions on the regional Bell monopolies. the crackdown on the fledgling Bell spinoff could presage similar moves against the other Bell affiliates that were cut loose but are still considered local service bottlenecks.

Many telecommunications attorneys believe AirTouch won't get a favorable ruling from Judge Greene, who has historically taken a hard line in interpreting the decree. But they think it will prevail in the courts.

But that could take years, according to some attorneys. However, AirTouch could ask for a waiver from the courts that would allow it to continue its operations unchanged.

Even with its current predicament, AirTouch still has a healthy core business providing cellular services in its territory. The company's fledgling long-distance business is a miniscule part of total operations, and it has a stock market value of about $14 billion. The company, which has had growth rates of greater than 30%, is expected to release fourth-quarter earnings on Wednesday.

THE PUBLIC UTILITIES
COMMISSION OF OHIO,
April 25, 1995.

MS. ANNE BINGAMAN,
Assistant Attorney General, U.S. Department of Justice, Antitrust Division, Washington, DC.

DEAR MS. BINGAMAN: I am writing to you in my capacity as Chairman of the Ameritech Regional Regulatory Committee (ARRC). ARRC is an ad hoc group of the five state regulatory commissions in the Ameritech region: Illinois, Indiana, Michigan, Ohio, and Wisconsin. The ARRC mission is to facilitate the exchange of information among the public utility commissions of the five states regarding telecommunications issues in general and telephone companies operating within the five respective jurisdictions in particular. The ARRC is made up of representatives of the commissions and/or staffs of the Illinois Commerce Commission, Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the Ohio Public Utilities Commission and the Public Service Commission of Wisconsin.

On behalf of the ARRC, I want to thank you and members of the Department Staff for devoting many hours to meeting with the ARRC to seek input from and accommodate concerns raised by the respective state regulatory commissions and/or their staffs concerning the proposed request to Judge Greene to authorize an interLATA experiment in parts of Michigan and Illinois. Specifically, Mr. Willard Tom and Robert Litan of your Staff traveled to the region and met with the ARRC staff on a number of occasions concerning the proposed experiment. Moreover, the ARRC staff representatives received and were allowed to have input on the various drafts leading up to the proposed modification of the Decree filed with the Court on April 3, 1995. Although there may still be issues which individual state commissions and the ARRC may be raising in comments before Judge Greene, I can say on behalf of all of the ARRC states that the willingness of the Department of Justice to work with and specifically accommodate a number of state concerns represented an exemplary level of cooperation and team work between the Department and the state commissions.

Should the modification to the Decree be adopted by Judge Greene, by its own terms it calls for various regulatory and enforcement activities to be undertaken both by the States and the Department of Justice. I am heartened by the cooperative process that has occurred to date and feel that it bodes well for implementing the proposed trial in a manner which is in the public interest.

Again, on behalf of the ARRC, I express my sincere thanks for the Department's extra efforts to hear and attempt to accommodate state regulatory issues and concerns.

Sincerely,

CRAIG A. GLAZER,
ARRC Chairman.

Mr. KERREY. I yield the floor.

Mr. DOMENICI. Mr. President, I understand I have 3 minutes. I yield myself such time as I may need. I ask for 1 minute as in morning business out of my time.

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

A CELEBRATION OF DAD'S DAY

Mr. DOMENICI. Mr. President, as we approach Father's Day 1995, I want to share with the Senate and the American people a letter I have received from a fellow New Mexican, Chuck Everett. Mr. Everett originally wrote this letter while he was serving in Korea to his father who was back home in the United States.

Mr. Everett's father described the letter as "a masterpiece of simple truths." I could not agree more. In Mr. Everett's cover letter to me, he says to "delete the word 'Communism' and insert the word 'terrorism' and we have a thought that is as true today as in 1952." His prophetic and patriotic words are as valid now as they were when he first wrote them. I trust you will find the text of Mr. Everett's 1952 letter a hopeful and encouraging sample of a young man's commitment to America and its values. These are indeed "simple truths." Times have changed the face of totalitarian and Communist regimes, but new dangers are substituted for the old. As Mr. Everett says, we "are on a mission, so that next year and the years that follow, free people all over the world can celebrate Dad's Day." I respectfully ask unanimous consent that the text of Mr. Everett's letter be printed in the RECORD.

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

OCTOBER 1952

It's a beautiful morning, the kind of a day when a fellow likes to get up early in the morning, gather up his golf clubs and head for an early morning bout with fairways, roughs, greens and caddies.

I'd like to sit down to a nice roast beef dinner, with diced carrots, peas, Brussels sprouts, chopped salad, blue-berry pie and a big glass of milk. In the afternoon I'd like to siesta, then pack a picnic lunch of cold cuts, cheese and lemonade, and head for Stone Park. I left out something. Oh, yes, of course, church. I'd like to go to church after golf, where the services would be devoted to Father's Day.

That's how I'd like to spend the day. But some of us are on a mission, so that next year and the years that follow, free people all over the world can celebrate Dad's Day. We know we will succeed in our mission here, but will those at home remember our efforts and strive to realize our purpose? The battles we fight here cannot, in themselves, assure us that we will have a free world. It takes the combined efforts of educators, industrialists, politicians and religious leaders to assure a free world. The shackles of communism are not bound about the legs of only those behind the iron curtain. It has shackled the minds of free men everywhere into believing that it is better than free enterprise and democracy.

That is where you people must carry the fight to the enemy. Bullets alone will not stop communism. Let us, on this day dedicated to fathers, dedicate our lives to the support of free will, free speech, freedom from fear, freedom of religion, and freedom of thought.

We cannot fear communism, but we must make communism fear us. And, believe me, the Reds do. At every move of our enemy, we stop them, we repulse them and we humiliate them. It is but a matter of time before they will quit. They can only suffer defeat. Be it not the will of free men to be dictated to, and thus communism cannot succeed.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, in 1934, when the last major piece of communication regulation was passed, we

had radios and telephones, and often telephones had many parties on the same line.

Now we have telephones, radios, computers, modems, fax machines, cable television, direct broadcasting satellite, cellular phones, and an array of budding new technological improvements to communication.

As a matter of fact, I believe this period in modern history will be marked singly by the advances that humankind is going to make with reference to communications. I think it will add appreciably to the wealth of nations. It will add significantly to the time people have to do other things because it will dramatically produce efficiencies in communication that were unheard of. It will bring people together who are miles apart.

We can dream and envision the kind of things that will happen by just looking at what has happened to cellular phones, to portable phones, and think of how communications is going to advance.

Mr. President, fellow Senators, it is obvious that we have a law on the books and court decisions governing this industry that shackle it and deny the American people, and, yes, the people of the world, the real advantages that will come from telecommunications advances that are part of a marketplace that is competitive, where the great ideas of people can quickly find themselves converted from ideas to research, from research to technologies, and then rapidly into the marketplace to serve various needs of business, of individuals, of schools and on and on.

Some New Mexicans have told me, "We are happy with the phone service we have now. What are we changing in this legislation, and why must we change it?" Obviously, we are not going to be changing the phone service other than making the options that our people have, giving them more options, making the communication, be it a telephone, a more modern thing, and people will be able to do much more by way of communicating than before.

People should not fear, but rather look at this as a new dawn of opportunity and a way to communicate and enhance freedom beyond anything we could have comprehended 20 or 30 years ago.

It stands to reason that with all of that happening—and part of it has grown up under regulation and part of it not—it is time to change that old law and do something better, take some chances, if you will, with the marketplace. It will not come out perfect.

I just heard my good friend from Nebraska, Senator KERREY, indicate he was concerned. Obviously, I am less concerned than he. I believe this bill will cause much, much more good than the possibility for harm that might come because we may not totally understand the end product.

It may be difficult to totally understand the end product of this deregulation. Anybody that is that intelligent, knows that much about it, it seems to me, is well beyond what we have around here. Maybe there is not anybody in the country that could figure out where all of this will lead.

It is obvious to this Senator that if we are looking for productivity, if we are looking to enhancing communication, new technology, investment, new jobs, new gross domestic product growth, we must deregulate this industry.

There is great capacity—both human and natural—and there are large amounts of assets tied up in this industry. We have to let them loose to grow, compete and prosper.

I hope on the many issues that we voted on, that we came down on the right side. I do not think one should vote against this bill because one or two of their amendments did not pass.

Fundamentally, this is a giant step in the right direction.

We have outgrown the Communications Act of 1934. It is time to pass the Telecommunications Competition and Deregulation Act of 1995. This legislation will foster the explosion of technology, bring more choices and lower prices to consumers, promote international competitiveness, productivity, and job growth.

This legislation will open up local phone service to competition and when this market is open, allow local phone companies to enter the long distance markets. This will create more competition resulting in lower prices and better services for the consumer.

Some New Mexicans have told me "we are happy with the phone service we have now. Why do we need legislation to change it?" What I want to tell my fellow New Mexicans is that this legislation will not disrupt the phone service that they depend upon now.

What the Telecommunications Competition and Deregulation Act of 1995 will do is provide consumers with more choices and lower prices in long distance phone service and television programming. The legislation also preserves the universal service fund which subsidizes telephone service to rural areas.

Right now, consumers have a choice of what company they want to provide long distance phone service. After this legislation takes affect, consumers will be able to choose among companies that will provide them with local and long distance service.

This legislation will also give consumers more choices in how to receive television programming. Currently, if a consumer's area is served by cable, a consumer may choose between the cable company and somewhat expensive satellite or DBS service. This legislation will allow the phone company to offer television over phone lines, so there is a choice between the cable company, the phone company, and DBS.

The Telecommunications Competition and Deregulation Act of 1995 will remove the regulations that have hindered the development and expansion of technology. Regulations, such as the regulated monopolies in local telephone service, required by the Communications Act of 1934, have forced U.S. companies wanting to invest in local phone markets to invest overseas.

In 1934, it made sense to only have one company laying phone lines and providing phone service. But now that many homes have both cable and phone lines, and may have a cellular phone, it makes sense to open up phone service to competition. When this legislation opens local markets to competition, companies like MCI, which have plans to invest in the United States, but have been forced to make investments overseas, will be able to invest, create jobs, and provide better phone service to U.S. consumers.

The President's Council of Economic Advisors estimates that as a result of deregulation, by 2003, 1.4 million service sector jobs will be created.

Over the next 10 years, a total of 3.4 million jobs will be created, economic growth will increase by approximately .5 percent, and, according to George Gilder, the gross domestic product will increase by as much as $2 trillion.

This legislation will increase exports of U.S. designed and manufactured telecommunications products.

Increased investment in telecommunications products and services will bring a better quality of life to rural New Mexico. With fiber optic cable connections, doctors in Shiprock, NM, can consult with specialists at the University of New Mexico Medical Center or any medical center across the country.

The technology to let students in Hidalgo County, NM, in towns like Lordsburg and Animas, share a teacher through a video and fiber optic link. What this legislation would do is remove the regulations that currently prevent investment to get technologies to the local phone market.

Mr. President, I support this legislation because of the benefits to rural education and rural health care, better local and long distance phone services, and new technology and new jobs for Americans. I believe this legislation is a good start to accomplish these objectives.

I wish to commend the managers of this bill and their staffs for their tireless work to craft this legislation. I appreciate Chairman PRESSLER's willingness to listen to the concerns of each member of this body.

Mr. President, we need this legislation to move our citizens and our economy into the next century. I urge my colleagues to support it.

Mr. President, I want to take a minute. I remember when I first had the luxury and privilege of being the chairman of the committee and had to come to the floor to manage a bill. That was a few years ago when we had the luxury, for 6 years, of being in the majority.

I want to say that the majority, the Republicans, should be very proud of the new chairman, Senator LARRY PRESSLER, who has managed this bill. This is his first chairmanship of a major committee. That is rather exciting to him and I am sure to his family.

I want to say for the record that for this Senator, who has watched those who come to the floor for the first time managing a bill, that this Senator deserves our congratulations for the good job he has done.

This was a tough bill. It will stand in his accomplishment list high on the ladder, to have managed this great bill which will bring great, positive change for our country and for millions of people. My congratulations to him here today. I imagine that with this good effort, we can look for many more under his chairmanship.

Obviously, it goes without saying that the distinguished ranking member, who I have been on the floor with on the other side when he was chair, when I was chairman, that he always does a great job managing the bill, from whichever side, majority or minority. I want to congratulate him for getting this bill through. It is great to have something totally bipartisan. It will be very bipartisan.

When we have major problems to be solved for the country, we cannot always do it that way, but it sure is nice, and the public ought to be proud the Democrats and Republicans are working together on this bill.

Mr. PRESSLER. Mr. President, I want to sincerely thank the Senator from New Mexico who chairs our Budget Committee so well. I have watched him so often, and words from him mean a great deal. We thank the Senator very much for his statement.

Mr. GORTON. Mr. President, I heard the remarks of my distinguished colleague from New Mexico, and I can simply echo them from the perspective of membership on the Commerce Committee.

Senator PRESSLER has met this test with flying colors and deserves a tremendous amount of credit. But not the least of the items for which he deserves praise is his ability and willingness to work with the distinguished Senator from South Carolina, Senator HOLLINGS.

I have said this privately to the Senator from South Carolina, it is obviously difficult to be in charge, to be a chairman of the committee, to have strong ideas on a subject as he has had, and then find himself, without any action on his part, in a different position. His willingness to share his wisdom and his ideas—not just with Senator PRESSLER, but with all members on the Commerce Committee—and his willingness to make this such a constructive bipartisan endeavor is a tribute to him and, I think, to the Senate.

This bill, as I said in my opening remarks, is as important a piece of legislation as the Senate has dealt with, which has created no interest in the general public at all outside, of course, of the various entities that are in the business itself. To reach as good a conclusion as we seem to have reached and to have done it in such a bipartisan fashion brings great credit, in my view, on the chairman of the committee, but very, very much credit on my good friend from South Carolina, whose wisdom and guidance and views on this subject are very much impressed in the bill itself and are vitally important to our success.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank our distinguished colleague from Washington for his overgenerous remarks, although undeserved they are greatly appreciated. I join the Senator from New Mexico and join in the sentiments of both the Senators from New Mexico and Washington, that our distinguished chairman has done an outstanding job here in handling this bill. It has been totally in a cooperative fashion and in a very, very considerate fashion of everyone's amendments.

When you begin to appreciate that, I think, a 1-cent increase in a 1-minute telephone rate nationwide equals $2 billion, then you begin to see why that other room stays filled up. They are not going to leave until we get through the conference. So we just started that journey of 1,000 miles with the first step. I hope we can continue with the success we have had thus far.

I will even elaborate further when we get more time, because other Senators want to speak, but Senator PRESSLER has done an amazingly outstanding job.

Mr. PRESSLER. Mr. President, I thank the Senator from Washington. He has been key in moving this bill forward. I see he has moved to another part of the room. But his wise counsel has been very much—I know he has managed that enormous product liability bill in our committee. But on this committee he has just done—this bill would not be here if it were not for the Senator from Washington and I thank him very, very much.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to add my voice of commendation to the chairman of the committee and the ranking member for the manner in which they have presented this bill and given us an opportunity to understand its contents and debate its principal provisions.

It had been my full expectation that I would support this legislation. I was well aware of the legislation that had been introduced last year by the then chairman, the Senator from South Carolina. I was publicly, positively supportive of that legislation. I, frankly, therefore, state with regret that I will not be able to support the legislation that is before us in the form this afternoon. The debate we are having now on an amendment relative to a provision of the legislation having to do with the relationship between the providers of cable television product and the purchasers of that product is, to me, illustrative of a concern, a process that seems to have been too much operative in the development of this legislation and in its consideration. That is a process which essentially says that the Congress, as the elected representatives of the people, serve the role of ratifiers of private agreements developed among the parties who will be affected by this legislation.

Reference was made earlier to the model of President Truman and a railroad strike that occurred after World War II. He initially had proposed a congressionally mandated solution. Then the parties decided that maybe they could go back to the bargaining table and arrive at a resolution. I think that is an appropriate manner for the resolution of a labor-management dispute. But we are not here talking about a labor-management or other commercial controversy. We are talking about one of the most fundamental aspects of a democratic society, and that is control of ideas and their dissemination. That is a role in which any democratic government has a key responsibility. It has been a fundamental part of this Nation since the adoption of the first amendment to the Constitution, which guarantees freedom of press and freedom of speech.

So we here are not talking as ratifiers of some private agreement as to how ideas would be made available to the American people. We are here as the representatives of the American people, to try to structure a process of communications law that will best serve the interests and the values of the American people today and, in a highly dynamic era, into the future.

I started my consideration of this legislation from a basic economic premise of support of the marketplace as the best allocator of resources. While Governor of Florida, I actively supported the deregulation of a number of our industries. I supported the delicensure of professions where I felt licensure was not serving an adequate public purpose. Thus, I started with a presumption of support of appropriate opening up to the marketplace as the regulator for access, quality and cost of the communications industry.

I, regretfully, find two principal defects in the way in which we have implemented that movement towards the

marketplace. First, I do not believe that this legislation adequately creates the free, robust, competitive marketplace to which we can, with confidence turn in lieu of our tradition of regulation as a means of assuring open, quality, affordable communications in this Nation. I would just cite two examples of provisions which I think undercut that confidence that we will have a free market that will be the means by which we will achieve desirable public ends.

First, as it relates to cable television, we saw from 1984 until 1992 a period in which the Congress had denied to States and local governments their traditional role of providing some regulation for cable television. What we saw was not only an escalation of cost of cable TV, but in many communities an escalation of arrogance, as the cable TV companies did not provide what consumers considered to be an adequate level of service. In some areas, parts of the city which had the affluent neighborhoods were wired for cable TV, while those areas of the city that did not have adequate income base to meet the economic needs of the cable TV system were denied any service at all.

Beginning in 1992 there was a process of partial reregulation. We have seen significant benefits by that. We have seen a reduction in the cost of cable TV for most American families. At the same time we have seen a cable TV industry which is at an all-time high in terms of its economic prosperity. Yet, part of this legislation is going to be to roll back the progress that was made just 3 years ago in terms of providing some control, even though that control would fall away when it was established that there was in fact a competitive marketplace where people had options and choices and could use the marketplace as the means of assuring access, quality, and cost control. That provision is now out of this legislation. I think with it also has flown a significant amount of the rationale of allowing the marketplace to provide the alternative to regulation. In this case we have neither an open marketplace nor do we have any meaningful regulation.

I might say that I have had a number of contacts in our office from representatives of the cable TV industry, and they are very candid in their statements. Their statements are that they want to have this period of no regulation while they still are in a monopolistic position—that is, without effective competition within their market area—so that they can build up their cash position to be in a better position to compete with the regional phone companies at such time that the regional phone companies get into the cable TV business. That is a statement that they are not being clandestine or secret about. They are telling us that they are going to use this remaining period of monopoly as a means of raising rates in order to be in a strengthened position when they are in a competitive market. I think we will find it very difficult to explain to our citizens why we tolerated what I think is a basic abuse of the free enterprise system.

Second, as an example of where this legislation fails to assure that there will be, in fact, an open, competitive marketplace before we trade in regulation as a means of assuring the public access quality and cost control is the issue of the role of the Department of Justice as it relates to the entry of regional telephone companies into long distance.

In the legislation that was before us last year, the Department of Justice continued to have a role in terms of evaluating specific proposals to determine if they met basic standards of antitrust before they could go forward. That provision has now been eliminated. So we are going to have companies going into the long-distance business by meeting a checklist supervised by an agency that has not had the kind of background and tradition of ferreting out anticompetitive schemes as has the Department of Justice.

I believe that we are going to see the potential—when a person moves into a new neighborhood and calls the telephone company and asks to have their local service connected, then they are asked what long distance they want, there will be the potential of the local concern to tout, or otherwise steer, the local service customers to that same firm's long-distance service. That would be very much in the economic interest of the local service to do.

To provide sanctions and protections against exactly that type of situation, we ought to have the Department of Justice playing a role in making that judgment as to whether there is in fact a free and open market before we trade in our regulation that has provided consumers some protection.

So I think, first, this legislation fails to meet the basic premise upon which it is based; that is, that we will have meaningful competition as a substitute for regulation in the communications area.

Second, I believe that we cannot use the analogy that I have heard on the floor over the past few days of commercial products as a direct parallel to the service of communications.

The reality is that ideas are not like shirts or shoes or hamburgers or other products where there clearly have been benefits by having an unfettered, free market.

Thomas Jefferson once observed that, having to make choice between free government and free speech or freedom of the press, he would take free speech and freedom of the press because, if you did not have those fundamentals, you would not have a free government for long. And if you lost the free government but you still had people who could have the freedom to speak and the freedom to communicate ideas, you would build eventually a base for a restoration of free government.

This issue is as fundamental as our basic precepts of democracy and what is required for a functioning democracy.

I am very concerned about the effect of the concentration of power within this legislation, a concentration of power which I do not believe is necessary in order to accomplish the objectives of a greater role of the marketplace in the allocation of communications technology.

Why do we have to lift totally the number of television stations that an individual entity can own in order to get the benefits of technological innovation in telephones or in television or video or other services? I believe that this legislation is being used as a means by which to accomplish other ends, which are to concentrate power in an area that is critical to a democratic society. I have little doubt that, if this legislation is passed in its current form, within a few years from this afternoon we will see a handful of firms control the large majority of television stations in the United States. It frankly frightens me to see that kind of power turned over to a few hands. I do not see what benefit the consumers are going to receive by that. I believe that will be the inevitable result of this legislation. I do not see what purpose in the general thrust of this legislation is advanced by that kind of an open invitation to concentration of power and control over the access to ideas in our democratic society.

So I believe that this legislation had a worthy goal to bring modernity, a recognition of the changes in technology, to give us a chance for a greater access to the benefits of a rapidly changing telecommunications industry but that we have fallen short of those goals by failure to assure that there will be a functioning free market before we drop the protections of even minimal regulations such as those that are available today for cable TV customers, and we have allowed the general goal to be held out under which was buried efforts to concentrate economic power which has the potential to damage our democratic society.

So it is, Mr. President, with a sense of disappointment that I announce my inability to support this legislation in its current form. I hope that by stating the basis of my opposition, that might contribute to further reforms before this legislation is finally adopted, finally resubmitted to us out of a conference committee, so that we will have legislation that can draw the kind of broader support for change, I believe, as fundamental—I would say as radical—as this should have before it is adopted.

Thank you, Mr. President.

Mr. STEVENS. Mr. President, I rise merely to congratulate my good friend, the Senator from South Dakota, and also my friend from South Carolina for their management of this bill. It is a bill that means a great deal to rural America in particular. We have watched developments in the last part of this century with awe. I think the developments that are coming now will startle our imagination. I am talking about the developments in telecommunications and technology.

When I came to the Senate, the Army ran our only communications system. It was a telephone system. We had also the wireless and telegraph capability. We are moving now into the next century. Because, I think, of the work the Senate has done in this area, we are moving into the 21st century with everyone in the country, and we are probably ahead of everyone else in the world. The real necessity now is to devise a system that will carry us on beyond this developing technology into an era of really free competition without regulation in which the ingenuity and really resourcefulness of the American entrepreneur will bring us better and better and better communications.

Communications now have reached the point where at least in my State they dominate our educational pattern. They dominate the health care delivery system. They dominate our total communications system in terms of business.

In a State that is one-fifth the size of the United States, the one single factor that makes us equal is the equal access to the most recent developments for telecommunications. I think this bill will assure that in this interim period now as we shift from the 1934 Communications Act into a period where we will have very, very little regulation of communications, which I think should start sometime between 2005 and 2010 is where I see it in terms of the developments of technology that have been reported to us thus far. Developments are still on the drawing board in some instances, developments that are really being applied from our space research in other instances.

I do believe the work the Senator from South Dakota and the Senator from South Carolina have done along with their staffs in perfecting this bill so we can take it now to the House and, hopefully, early to conference will mean that we are going to have a change, an immediate change in this country. It will be a change for the best as far as Alaska is concerned.

I close by just remarking that the other day I heard about a young family that has moved to Alaska from somewhere around the San Francisco area. They bought an island, and they have moved themselves and their small business up to that island. They are going to continue to conduct their business in the San Francisco area by telecommunications from my State. They will have available all of the modern convenience where they are going to be.

That is something which could not even be dreamed of when I first went to Alaska, and now we are in a situation where we see people moving into our State from all over the country, if not the world, to utilize our wilderness, our beautiful surroundings, and at the same time maintain contact with the rest of the world through telecommunications. This bill, as I said, means more to us than I think it does anyone in the Senate.

I thank the Chair.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from West Virginia.

Mr. BYRD. Mr. President, I shall use such time as I may require under the time allotted to any Senator under the cloture rule. I shall not be long.

The purpose of this bill is to establish a framework to introduce more competition into the telecommunications sector and break down the current system of large monopolistic fiefdoms which characterize this market.

In addition, there is an attempt to deregulate cable and broadcasting sectors in an attempt to strike a compromise between the current regulatory environment and the desire for additional competition in those marketplaces. The question is, Does the bill go far enough in doing this? Can we predict how successful it will be? What are the dangers that additional influence by big corporations, big entities, will result despite the intentions of the hard-working managers of the bill, the distinguished Senator from South Dakota, the chairman, Mr. PRESSLER—and I compliment him on his management of this bill and the work that he has done on the bill during the committee process, throughout the hearings and the markup—and the ranking member, whom I compliment, the distinguished Senator from South Carolina [Mr. HOLLINGS] the former chairman of the committee, straight as an arrow in his physique, straight as an arrow in his integrity and honesty and straightforward manner.

Certainly it is intuitive that prices will drop with additional competition in the telephone marketplaces that might eventually occur, but the impact of bigness on the pending bill, which is attempting to reduce bigness, gives me great pause.

There is a substantial possibility that three-quarters of West Virginia's cable TV viewers will pay higher prices for this service as a result of the bill. This is because the definition of "small" cable company included in the leadership amendment on this floor would include about 74 percent of our West Virginia cable viewers. Even if they take the most basic cable service, it is subject to deregulation and the price can go through the roof before the ink is dry on the conference report.

The distinguished Senator from Connecticut [Mr. LIEBERMAN] this afternoon offered an amendment to correct those cable rate rises. Unfortunately, his amendment was not agreed to. I supported that amendment, which was an important consumer amendment.

In addition, Mr. President, on the amendment by the distinguished Senator from North Dakota [Mr. DORGAN] to keep the concentration of TV ownership at the current cap of 25 percent, the amendment failed after some heavy lobbying by interests that are interested in further concentration of broadcasting station ownership.

There are some good things in the bill, including in particular the initiative authored by my colleague from West Virginia, Mr. ROCKEFELLER, that extends the traditional concept of universal service which is essential for our State and broadens it to include affordable rates for such institutions as hospitals, secondary schools, and libraries, bringing the future information highway and the services it can give to every person—down to the basic infrastructure for learning and health care—to West Virginia. I congratulate my colleague, Mr. ROCKEFELLER, on this item, and I enthusiastically endorse it.

In addition, the Senators from North Dakota and Nebraska, Senators CONRAD and EXON, have authored valuable amendments to take steps to reduce violence and obscenity on TV in this bill, and we sorely need to take that kind of action.

Given these worthy provisions, I also take note of the observations made earlier by the distinguished Senator from Nebraska [Mr. KERREY] regarding the quality of the message and pictures going over the airwaves and the land lines. The issue is the manipulation and control of information made available to our citizens. Wide choice and quality programming must be available. Essential information must be available to our people so that independent judgments can be made. Bigness, big programming, cavalier concern for consumer choice and diversity of viewpoint seem to go hand in hand. We need to take care that we do not allow our media to hollow out the essence of information and diversity of viewpoint which are essential to creating an informed citizenry. Certainly, we ought to focus a great deal of attention on the effect that such legislation as we have before us today enhances and informs citizenry and erects barriers to the power of great financial and technological interests that care only about manipulation, control, and the bottom financial line.

This is a very big and complex bill dealing with a range of businesses and

interests that are vast, wealthy, and powerful. We have not had enough time to adequately debate the very important amendments in this bill. We should not be invoking cloture. I voted against cloture on yesterday. I was one of the few who voted against it. We should not be invoking cloture to truncate the doing of the legitimate business with adequate debate on this kind of measure.

Cloture is for filibusters. Cloture is not intended to shut off legitimate debate on important business such as this. Senators and their constituents are shortchanged by this technique, and it is not in the highest traditions of this deliberative body.

Mr. President, finally, the episode over the last 2 days regarding the transparent threats by one big conglomerate, Time Warner, to threaten the future of a business arrangement unless the Senate agrees to remove a particular provision from the bill is an outrageous illustration of the kind of influence peddling and pushing that surrounds this legislation.

The senior Senator from Nebraska [Mr. EXON] has drawn the attention of the Senate to the kind of intrusion into the legislative process that is illustrated by the threat that Time Warner has engaged in. One cannot help but wonder what leads a big organization like Time Warner to think that it can actually affect the legislative process in this way.

What does this episode say about the perception of the integrity of the Senate that prevails among the big concerns that mold public opinion? What leads such concerns to think that they can get away with this kind of blackmail?

There is too much money pushing around this legislative product and process. It is totally inappropriate, and I congratulate the distinguished Senator from South Carolina on his statement, and I shall support him in his urging that the amendment not be agreed to.

For the reasons stated, I shall also vote against the bill on final passage.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Tom Shales that appeared in the June 13, 1995 edition of the Washington Post, along with a letter from Time Warner, dated June 13, 1995, to Senator PRESSLER; and a letter from Senator PRESSLER to Mr. Timothy Boggs of Time Warner, dated June 15, 1995.

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

[From the Washington Post, June 13, 1995]

FAT CAT BROADCAST BONANZA

(By Tom Shales)

It's happening again. Congress is going ever so slightly insane. The telecommunications deregulation bill now being debated in the Senate, with a vote expected today or tomorrow, is a monstrosity. In the guise of encouraging competition, it will help huge new concentration of media power.

There's something for everybody in the package, with the notable exception of you and me. Broadcasters, cablecasters, telephone companies and gigantic media conglomerates all get fabulous prizes. Congress is parceling out the future among the communications superpowers, which stand to get more super and more powerful, and certainly more profitable, as a result.

Limits on multiple ownership would be eased by the bill, so that any individual owner could control stations serving up to 35 percent of the country (50 percent in the even crazier House version), versus 25 percent now. There would be no limit on the number of radio stations owned. Cable and phone companies could merge in municipalities with populations up to 50,000.

Broadcast licenses of local TV stations would be extended from a five-year to a 10-year term and would be even more easily renewed than they are now. It would become nearly impossible for angry civic groups or individuals to challenge the licenses of even the most irresponsible broadcasters.

In addition, the rate controls that were imposed on the cable industry in 1992, and have saved consumers $3 billion in the years since, would be abolished, so that your local cable company could hike those rates right back up again.

Sen Bob Dole (R-Kan.), majority leader and presidential candidate, is trying to ram the legislation through as quickly as possible. Tomorrow he wants to take up the issue of welfare reform, which is rather ironic considering that his deregulation efforts amount to a bounteous welfare program for the very, very, very rich.

Dole made news recently when he took Time Warner Co. to task for releasing violent movies and rap records with incendiary lyrics. His little tirade was a sham and a smoke screen. Measures Dole supports would enable corporate giants such as Time Warner to grow exponentially.

"Here's the hypocrisy," says media activist Andrew Jay Schwartzman. "Bob Dole sits there on 'Meet the Press' and says, yes, he got $23,000 from Time Warner in campaign contributions, and that just proves he can't be bought. He criticizes Time Warner's corporate responsibility and acts like he's being tough on them, but it's in a way that won't affect their bottom line at all.

"Meanwhile he is rushing to the floor with a bill that will deregulate cable rates and expedite the entry of cable into local telephone service, and no company is pressing harder for this bill than—guess who—Time Warner."

Schwartzman, executive director of the Media Access Project, says that the legislation does a lot of "awful things" but that the worst may be opening the doors to "a huge consolidation of broadcast ownership, so that four, five, six or seven companies could own virtually all the television stations in the United States."

Gene Kimmelman, co-director of Consumers Union, calls the legislation "deregulatory gobbedygook" and says it would remove virtually every obstacle to concentration of ownership in mass media. The deregulation of cable rates with no competition to cable firmly in place is "just a travesty," Kimmelman says, and allowing more joint ventures and mergers among media giants is "the most illogical policy decision you could make if you want a competitive marketplace.

The legislation would also hand over a new chunk of the broadcast spectrum to commercial broadcasters to do with, and profit from, as they please. Digital compression of broadcast signals will soon make more signal space available, space that Schwartzman refers to as "beachfront property." Before it even exists, Congress wants to give it away.

Broadcasters could use the additional channels for pay TV or home shopping channels or anything else that might fatten their bank accounts.

There's more. Those politicians who are always saying they want to get the government off our backs don't mind letting it into our homes. Senators have been rushing forth with amendments designed to censor content, whether on cable TV or in the cyberspace of the Internet. The provisions would probably be struck down by courts as antithetical to the First Amendment anyway, but legislators know how well it plays back home when they attack "indecency" on the House or Senate floor.

Late yesterday Sens. Dianne Feinstein (D-Calif.) and Trent Lott (R-Miss.) called for an amendment requiring cablecasters to "scramble" the signals of adults-only channels offering sexually explicit programming. The signals already are scrambled, and you have to request them and pay for them to get them. Not enough. Feinstein and Lott said: they must be scrambled more.

The amendment passed 91–0.

It's a mad, mad, mad, mad world.

An amendment expected to be introduced today would require that the infamous V-chip be installed in all new television sets, and that networks and stations be forced to encode their broadcasts in compliance. The V-chip would allow parents to prevent violent programs from being seen on their TV sets. Of course, they could turn them off, or switch to another channel, but that's so much trouble. Why not have a Big Brother do it for you?

The telecommunications legislation is being sponsored in the Senate by Commerce Committee Chairman Larry Pressler (R-S.D.), whose initial proposal was that all limits on multiple ownership be dropped. Even his supporters laughed at that one.

Dole is the one who's ramrodding the legislation through, and it's apparently part of an overall Republican plan for American media, and most parts of the plan are bad. They include defunding and essentially destroying public television, one of the few wee alternatives to commercial broadcasting and its junkiness, and even, in the Newt Gingrich wing of the party, abolishing the Federal Communications Commission, put in place decades ago to safeguard the public's "interest, convenience and necessity."

It's the interest, convenience and necessity of media magnates that appears to be the sole priority now. "The big loser in all this, of course, is the public," wrote media expert Ken Auletta in a recent New Yorker piece about the lavishness of media contributions to politicians. The communications industry is the sixth-largest PAC giver, Auletta noted.

Viacom, a huge media conglomerate, had plans to sponsor a big fund-raising breakfast for Pressler this month, Auletta reported, but the plans were dropped once Auletta started making inquiries: "Asked through a spokeswoman about the propriety of a committee chairman's shopping for money from industries he regulated, Pressler declined to respond."

The perfect future envisioned by the Republicans and some conservative Democrats

seems to consist of media ownership in very few hands, but hands that hold tight rein over the political content of reporting and entertainment programming. Gingrich recently appeared before an assemblage of mass media CEOs at a dinner sponsored by the right-wing Heritage Foundation and reportedly got loud approval when he griped about the oh-so-rough treatment he and fellow conservatives allegedly get from the press.

Reuven Frank, former president of NBC News, wrote about that meeting, and other troubling developments, in his column for the New Leader. "It is daily becoming more obvious that the biggest threat to a free press and the circulation of ideas," Frank wrote, "is the steady absorption of newspapers, television networks and other vehicles of information into enormous corporations that know how to turn knowledge into profit—but are not equally committed to inquiry or debate or to the First Amendment."

The further to the right media magnates are, the more kindly Congress is likely to regard them. Most dramatic and, indeed, obnoxious case in point: Rupert Murdoch, the Fox mogul whom Frank calls "today's most powerful international media baron." The Australian-born Murdoch has consistently received gentle, kid-glove, look-the-other-way treatment from Congress and even the regulatory agencies. When the FCC got brave not long ago and tried to sanction Murdoch for allegedly deceiving the commission about where he got the money to buy six TV stations in 1986, loud voices in Congress cried foul.

These included Reps. Jack Fields (R-Tex.) and Mike Oxley (R-Ohio), Daily Variety's headline for the story, "GOP Lawmakers Stand by Murdoch." They always ??? Indeed. Oxley was behind a movement to lift entirely the ban on foreign ownership of U.S. television and radio stations. He wanted that to be part of the House bill, but by some miracle, this is one cockamamie scheme that got quashed.

Murdoch, of course, is the man who wanted to give Gingrich a $4.5 million advance to write a book called "To Renew America," until a public outcry forced the House speaker to turn it down. He is still writing the book for Murdoch's HarperCollins publishing company. The huge advance was announced last winter, not long after Murdoch had paid a very friendly visit to Gingrich on the Hill to whine about his foreign ownership problems with the FCC.

Everyone knows that America is on the edge of vast uncharted territory where telecommunications is concerned. We've all read about the 500-channel universe and the entry of telephone companies into the cable business and some sort of linking up between home computers and home entertainment centers. In the Senate debate on the deregulation bill last week, senators invoked images of the Gold Rush and the Oklahoma land rush in their visions of this future.

But this gold rush is apparently open only to those already rolling in gold, and the land is available only to those who are already big landowners—to a small private club whose members are all enormously wealthy and well connected and, by and large, politically conservative. It isn't very encouraging. In fact, it's enough to make you think that the future is already over. Ah, well. It was nice while it lasted.

TIME WARNER,
Washington, DC, June 13, 1995.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR CHAIRMAN PRESSLER: As you requested, the attached signature page confirms that Home Box Office has reached an agreement with the National Cable Television Cooperative, Inc. for HBO programming. As discussed with you and your staff, this agreement is entirely contingent on the removal of the program access provisions at Section 204(b) of S. 652, prior to Senate action on the legislation.

On behalf of Time Warner and HBO, I am pleased to report that we have reached this agreement and respectfully request that this provision be removed from the bill at the earliest possible opportunity. Without removal of this provision from the bill, the HBO distribution agreement with the NCTC will be void.

Thank you for your leadership on this matter. Please feel free to contact me if I can be of any assistance to you or your staff. I can be reached at my office at 202/457-9225 or at home at 202/483-5052.

Warm regards,

TIMOTHY A. BOGGS.

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 15, 1995.

Mr. TIMOTHY A. BOGGS,
Senior Vice President for Public Policy, Time Warner, Inc., Washington, DC.

DEAR MR. BOGGS: Your faxed letter of June 13 contains misleading statements which do not accurately reflect my position.

On May 4, 1995, I met briefly with you, Ron Schmidt and HBO/Time Warner executives, in the presence of my staff, regarding the program access provision of S. 652. During that meeting, HBO/Time Warner urged me to support deletion of the program access provisions of the bill.

I stated that the program access provision was of enormous importance to small cable operators, including those in South Dakota. I suggested that if the program providers disliked the provision, they ought to negotiate with the small cable operators to reach an agreement which might address the problems this portion of S. 652 is attempting to solve. Specifically, since Ron Schmidt is from my home state, I suggested that he talk to a small cable operator from South Dakota, Rich Cutler, to see if an industry compromise were possible.

At no time during our conversation did I indicate that any specific action by Time Warner would result in deletion of the program access provisions. I have had no further conversations with HBO/Time Warner about this matter since that meeting. My staff has not portrayed my position as being anything other than the industry negotiations suggested on May 4. Nothing I said during our short meeting could be construed as suggesting some sort of quid pro quo, which would be wrong, if not illegal. I resent the inference in your letter that I suggested something other than an industry-negotiated solution.

Your letter indicates that failure to delete the program access provisions from the bill would vitiate any negotiated agreement HBO/Time Warner had reached with the small cable operators. While HBO/Time Warner is free to negotiate contracts as they see fit, such tactics, in my opinion, cannot be considered as good faith negotiations. Your letter implies that I tacitly approved such a condition, which is not the case.

I expect you to send this letter to the same individuals who received your letter to me. Your letter is misleading, and does not accurately characterize my position as presented in my May 4 meeting with HBO/Time Warner.

Sincerely,

LARRY PRESSLER,
Chairman.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I presume that within the hour, we will get to final passage of this very important legislation. I think it is appropriate that we take note of a little bit of the effort that went into it.

First, I want to refer again to the title of this bill: Telecommunications Competition and Deregulation Act of 1995. I think that is really what it is, but it has been a monumental undertaking. You have had the behemoths of the industries on both sides struggling mightily to protect their interests—their turf. Everybody has wanted, as the saying has been repeated on the floor earlier, "a fair advantage." The goal of the committee has been to try to make sure that it was just fair to everybody.

It has been very difficult. A lot of effort has gone into it, but I believe we have accomplished the goal we have set out to accomplish. And I believe that we will have an overwhelmingly bipartisan vote when we get to final passage.

So I wanted to take this early opportunity, in advance of the vote to thank and commend the managers of this bill, Chairman PRESSLER and the ranking member, Senator HOLLINGS of South Carolina, the former chairman, who have really done outstanding work.

I also want to commend the majority and minority leaders, Senator DOLE and Senator DASCHLE. I have commented to both of them that I believe this is the best example I have seen this year of our leaders working together and our managers working together for what is in the best interest of the country, not the best interest of one party or the other, or one segment of the telecommunications industry or the other, but what is the right thing to do.

It has been a long struggle, and it would not have been possible without the type of bipartisan cooperation and strong leadership that we have seen here. The legislation is truly a remarkable achievement. For 20 years, Congress has been trying, struggling to get comprehensive communications reform—without success. But we are on the verge of seeing that happen.

So this is a historic act that will bring, I think, a tremendous boost to our economy and our standing communications policy that will take us into the 21st century.

I believe that we will see a tremendous growth and expansion in this area—new innovation, new ideas, with the utilities being involved, along with the Bells, the long distance companies and cable companies. There are going to be jobs created and the economy will grow and expand in this area. As a member of the Commerce Committee, I am proud to have been a part of this effort.

I commend the chairman, in particular, because I do not know of anybody else that could have done it at this particular time. He has been persuasive and doggedly persistent. I wish I had a nickel for every time that he said to the distinguished leader, "We are ready to go. When can we get on the schedule? Is it alright if we go ahead and move it?"

How did the Chairman do it? He opened the process to the full committee. He involved everybody. He went to all of the committee members. I remember the first meeting we had in his office. Yes, he worked with the Republicans, but he did not stop there. He went to the Democrats and he did not talk through people to the former chairman; he went directly to him. When we got our first draft, he hand-delivered it to the Members. The leadership was involved every step of the way. Months of negotiations were held before we had the eventual agreement, and when we finally agreed upon the core, the entry test, he stuck with it in the markup and on the floor. Also, the distinguished Senator from South Carolina stuck with it.

So I just have to say Senator PRESSLER is one who gets the job done. He certainly did it here. The country will be better off because of his leadership on this bill and on the committee. I look forward to working with him in many other instances in the future.

Senator HOLLINGS' leadership and cooperation deserves great praise. I have had him on the other side of issues, and I did not appreciate it a bit. He was tough. But, boy, is it fun when he is with you. It has really been a pleasure to work with him. He is a man of his word. When he tells you he is going to stay put, he does—even when he has pressure on his side of the aisle not to. This would not have been possible without his cooperation, experience, and his perseverance.

I also thank some tremendous staff people: Paddy Link, staff director for Senator PRESSLER, and his counselors, Donald McClellan and Katie King. For Senator HOLLINGS, I thank Kevin Curtain, John Winhausen, who has been around on this issue for some time, and Kevin Joseph. For Senator DOLE, I appreciate the efforts by David Wilson, and for Senator DASCHLE, Jim Webber. I have never seen many staff people work so well together. They worked days and nights and weekends when we were back in our States, and they struggled along with it. So I think they deserve a lot of credit. I thank my own staff assistant, Chip Pickering for his work on this issue. I have called him the "peacemaker." Blessed are the peacemakers, for most of them are dead. Many times I thought he was going to get himself killed and me, too, because he had me in the middle of my friends on both sides. So I appreciate the effort he put forward.

I want to thank some other people, like Larry Johnson, Kelly Algood, Bernie Ebbers, Bernard Jacobs, and Eddie Fritz. All of these are Mississippians who have a direct interest and knowledge in this area. They are on the long distance side, they are on the Bell side, they are on the cable side, they are utility folks and broadcasters.

Although it is difficult in legislation of this magnitude to agree on all issues, I appreciate their insight, assistance and understanding of what I was trying to do. They made it possible for me to try to be helpful as we moved the legislation along toward what will be right for the country and fair to the competitors and the consumers.

Again, I congratulate the managers. I am proud of them and proud to have been associated with them. This is truly historic. In many ways, this bill is every bit as big and as important as the balanced budget resolution we passed. It will have a tremendous impact on the economy, and I believe it will greatly help our country's future.

I yield the floor.

Mr. PRESSLER. Mr. President, if I may for a minute, I want to thank the Senator from Mississippi, and Chip, his able assistant. I will be saying more later about thanking people. But the bill would not have happened without him. Every time I went to him as my deputy leader, he was there. I do not know how you get enough hours in the day to do all the things we ask you, but you were there, and I thank you very much for your kind comments.

Mr. HOLLINGS. Mr. President, let me also join in my thanks to the distinguished Senator from Mississippi. When we really got into trouble, I went to the Senator from Mississippi. He paved the way all the time in the 2 years previous here working on this bill and, of course, all this year. I cannot thank him enough. We could not have had this bill without his leadership.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I cannot help but observe the thankfulness that is going on here. I was standing here listening, and I thought to myself, in this Chamber the highest praise is usually reserved for those who are about to vote against you.

I stand to give credit to the Senator from South Dakota. I think the Senator from South Dakota has demonstrated real skill in moving this legislation. I am, of course, indebted to the leadership of not only the Senator from South Dakota, but the Senator from South Carolina, with whom I have worked carefully for a long, long while.

These have been difficult issues, no question about that. We are dealing with literally hundreds of billions of dollars in the American economy with interest groups that have very substantial stakes in the outcome of this legislation. I understand the passion with which some people stand here and debate to push their positions.

I started out very hopeful about this legislation and voted for it coming out of the committee. I think there are elements of this legislation that will be good for this country. I remain concerned, however, about the issue of concentration of ownership in the television and radio broadcasting. I remain concerned about the lack of the role of the Justice Department in being able to adequately enforce what I consider to be vital antitrust issues. For those reasons, I do not feel I am going to be able to vote for this bill on final passage. I say that with some disappointment because I had hoped as we started this process that we would be able to successfully amend it on the floor of the Senate.

The Senator from South Dakota and the Senator from South Carolina will recall when we had the markup in the Commerce Committee, the issue was to try to move this bill along as quickly as possible. I understood that morning the need in a couple of hours to move this bill out of committee. But we discussed at some length there about the opportunity to offer amendments on the floor of the Senate and to try to correct some of the areas that represented concerns.

I voted for it coming out of committee, but I did, in the committee, express the very concerns that I brought to the floor about concentration of ownership of television and radio stations and my concerns about an adequate role for the Justice Department on the issue of RBOC entry into long distance.

When I came to the floor, we had an opportunity to fully debate them. I compliment the two leaders on the floor. They were very cooperative. For that I am appreciative.

I suffered one of these unusual experiences of having won briefly and then lost on an amendment I cared a great deal about: that is my amendment on television ownership.

We now restrict ownership to 12 television stations and we limit the audience reach to 25 percent. These limits prevent a concentration of media ownership in this country. This bill says that there is no limitation on how many stations one can own, as long as you do not cover more than 35 percent of the country.

I do not support that, and I brought an amendment to the floor that would have retained the existing limits. We debated it and voted.

At the end of the vote, my amendment won by a vote of 51–48. It taught me a lesson—this whole set of circumstances—because although I won by a vote of 51–48, an hour and a half later, it turns out some folks had new opinions about this issue after having debated it for hours and days, and we had another vote.

Then I learned that not all Members are equal in this Chamber. Some have a better grip in wrenching arms than others, and I will be darned if I did not lose. You win for an hour, and I guess you lose forever, in these circumstances.

For that reason, I do not feel I can vote for the bill on final passage. I did want to explain briefly that I view the issue of telecommunications reform as critically important to the United States. Its development, its opportunity for this country is a very significant issue.

I admire the work of the two Members who brought this to the floor and have spent days on the floor. I wish very much that the couple of major amendments I had offered would have been adopted, in which case I would have been one to cast a yes vote on final passage. I hope the managers will understand the reason for my no vote.

I expect when the votes are counted, this legislation will advance. I still have some hope that when this bill comes out of conference committee the issues I have mentioned will be addressed.

I yield the floor.

Mr. INHOFE. Mr. President, I ask unanimous consent to be recognized to address the Senate for not to exceed 12 minutes as in morning business.

Mr. President, I thank the Chair.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 928 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. We are currently on amendment No. 1341 of the telecommunications bill.

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to speak for 5 minutes on the bill but not on the amendment.

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

Mr. BUMPERS. Mr. President, I come to the floor to say that I have concluded, after considerable debate with myself, not to vote for this bill on final passage. It was not a decision easily reached. This is an immensely complex bill. Frankly, there are very few Senators in the U.S. Senate who really understand the full complexity and ramifications of this bill.

My decision is not based on whether or not the baby Bells can get into the long distance telephone market. That is a problem for me. But it is not nearly the problem of the unlimited power of people owning an unlimited number of radio stations and television stations, which I consider to be highly dangerous.

I heard the Senator from Florida, Senator GRAHAM, this morning say that Thomas Jefferson once asked which would he choose between a free government and a free press? He said he would always take a free press because you cannot have a free government without a free press.

These airwaves of radio and television stations can only be allocated by the Government. You cannot allow people willy-nilly to take a particular channel in the airwaves for a radio or television station. That is what the Federal Communications Commission was set up to do, allocate those things. And for years the Government gave away billions and billions of dollars' worth of television station channels and radio station channels. It has only been in recent years that the Government has decided it was being taken and it ought to start making people bid at public auction for those airwaves. Incidentally, it has helped a great deal in our efforts to balance the budget. We have been getting billions of dollars for radio and television station channels on the airwaves.

There was a time not too long ago in this country when you were prohibited from owning a television station and a newspaper in the same community. Now, under this bill, you can own 500 radio stations, 1,000 radio stations. You can own as many television stations as you want, as long as you do not control more than 35 percent of the market as determined by the Federal Communications Commission. Can you imagine some people—I will leave it to your imagination, and I will leave it to your imagination as to who it may be—can you imagine some of the people in this country who are very big in telecommunications owning 1,000 radio stations; 100 television stations? Let us face it, the newspapers are not nearly as powerful as the television stations. It is a concentration of communications power that I think is dangerous to the country.

So I believe that some ideological bent or belief, not an empirical belief but an ideological belief, a philosophical belief that the free market will solve this problem—turn them all loose to buy and sell these stations however they will—it has not even worked in a lot of the rest of our society. That is the reason we have an antitrust division down at the Justice Department. It was the very reason Teddy Roosevelt saw that the people were suffering from the gigantic trusts of his day. So from that evolved the Sherman Act, the Robinson-Patman Act and all the other acts that protect people from what can become a tyranny.

I think it was Madison who said—and I sometimes wonder what James Madison would think today—but it was James Madison who said the Congress, the Congress is what stands between the people and what would otherwise surely become a tyrannical leader, tyrannical government.

Mr. President, for all of those reasons history tells me we are about to make a colossal mistake that will be very difficult to undo when we discover it someplace down the road.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thought, with the permission of the Senator from South Carolina, I might speak for 6 minutes or so before the final vote.

Mr. President, this debate we have had on this bill has opened all eyes to the dazzling possibilities provided by our new, emerging information technologies. I will quote from some of the speech that I gave several days ago during this debate.

> I can imagine workers in rural Minnesota telecommuting to and from work as far away as New York or Washington without ever having to leave their homes or families. Or schoolchildren in a distressed Minneapolis school district reading the latest publications at the Library of Congress via thin glowing fiber cables—

Mr. President, this really excites me as a teacher.

> or rural health care providers on the iron range consulting with the top medical researchers at the Mayo Clinic in Rochester to better treat their patients.

Mr. President, all of this is before us. I felt like this bill presented to each Senator a daunting—an exciting but also daunting—responsibility. The concern that I have has to do with whether or not we can make sure that there will be true competition, and that this technology and information will truly be available to everyone in the Nation, not just the most privileged or the most wealthy.

What has disappointed me the most—and the Senator from South Carolina has to be one of the colleagues I most respect here in the Senate even when we disagree—is that over and over again where there have been amendments to I think assure competition and to also protect consumers—I am not just concerned about the alphabet soup corporations. I am also concerned about the people that live in Ferguson Falls or live in Virginia, Minnesota, or live in Minneapolis or St. Paul or Northfield. I was hoping that at least we could build in more protection for

consumers and more guarantees that there would in fact be the competition that we all talk about.

While I fully appreciate the potential of this legislation, I am really worried about where we are heading because I think there is going to be entirely too much concentration of power.

I would just simply build on the remarks of my colleague from Arkansas. The media is the only private enterprise in the United States of America that has first amendment protection. The reason for that, though we did not have the same kind of communication technologies we have today back in the days of Thomas Jefferson, was that the Founders of our Nation understood the importance of the media and the importance of information. And the importance of it was to contribute to an informed electorate. We are talking about something very precious here.

I see a piece of legislation that will lead to way too much concentration of power, way too much concentration of power in a very, very important and decisive area of public life in the United States of America. That has to do with radio and television, and information, and who controls the flow of information.

So, Mr. President, I was hoping that some of the amendments that were introduced on the floor of the Senate that I think really would have provided the consumer protection, that would have provided regular people—I do not mean in a pejorative sense, but I mean in a positive way—with some protection and which would have assured some competition as opposed to more and more concentration of power, more and more very, very vital and important areas being taken over by just a few conglomerates. It did not happen.

I think we are making a mistake if we pass this piece of legislation. I will therefore, vote against it.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I will be very, very brief. I want to take 2 or 3 minutes if I could to congratulate the chairman of the committee, Senator PRESSLER, and the ranking member, Senator HOLLINGS, who have struggled long and through many difficult situations—and that I have been with them on—on many occasions. This is a bill that is criticized, that as a bill is easy to vote against because voting against the bill, if there is ever any problem, you can always say, "Well, I voted against the legislation."

I happen to feel that this bill is very important, and I rise in support of the legislation that has been deliberated on, been written and rewritten so many, many times. I would have to say that at least everyone has had their chance at an input on this piece of legislation, through what we worked on last year, reported out but never got passed, and then taken up by Senator PRESSLER when he became chairman of the committee; worked very hard and very closely with Senator HOLLINGS.

Certainly the bill before us, the telecommunications reform bill, is a good bill, although not a perfect one. A bill as complicated and as detailed as this one could be, I simply point out that it has many good features. It includes strong education provisions, including the Snowe-Rockefeller-Exon-Kerrey educational library, and rural health care discount provision.

It includes important market protections, including the farm team provisions of last year, all of which were incorporated here in the bill this year. It includes the Grassley-Exon infrastructure sharing provision. It includes the Communications Decency Act that we debated and passed yesterday. It includes a revolutionary, and I think very positive, TV ratings system. It includes a strongly needed and fair universal service language. And it abandons the one-fits-all regulation that has been a problem for a long time.

The cable provisions in this bill are still a disappointment to this Senator but were improved somewhat from the committee bill.

Final passage will take America's telecommunications industry off hold.

Mr. President, it is time to move on and pass this legislation.

I thank the Chair. I yield floor.

Mr. PRESSLER. Mr. President, I thank our friend from Nebraska for his numerous efforts on this bill as time has gone forward. He and his staff have been a key part of working on it. I thank him very much for his spirit of cooperation.

Mr. EXON. I thank my friend from South Dakota.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I have been listening to the speeches on the floor from the different committee members of the Commerce Committee, and it sounds like a funeral from time to time on the floor of the Senate. There are so many accolades and potential eulogies. But, in fact, I have to say that the accolades are really warranted, and it is because this bill has been so tough and so hard fought. And it has lasted for so long.

What we have seen on the floor is the tip of the iceberg. The work has been going on in committee nonstop for so many months that it is correct for the committee members who are so aware of all that has been done to be able to say job well done.

It is a job well done not because anyone feels victorious. It is a job well done because nobody feels victorious. It is a job well done because it has been a tough battle. It is because people that we respect so much, the entrepreneurs in the cable industry, the entrepreneurs in the long-distance industry, the local providers, the Bell companies that have been in business a long time but have made huge capital investments based on a regulatory scheme that now is going to be taken away—everyone in this business I respect because they are providing jobs. They are doing what we must do to continue to provide jobs in our country.

But what we are trying to do here is open the door even more. We are trying to provide more job opportunities. We are trying to provide more opportunities for the entrepreneurs in this country to go out and improve the technology and become a competitor throughout the telecommunications field.

So it has been a tough thing to balance the needs of all of these people who are out there on the front line spending their money for capital to go out and try to build a business that will make a difference for the consumers of America, that will add to the quality programming, add to the quality of telecommunications and telephone systems and video programming, and to also provide lower prices for those consumers.

So the fact that there are no victories here is a victory in itself. I think that if we look at the overall, we are only one step, but there is a finish line that we have not yet crossed. After we vote this bill out of the Senate—and I believe we will in a very short time—we are going to go to the House. The House is going to pass a bill, and there will be differences, and those are going to have to be worked out in conference. And once again, all of the entrepreneurs and all of the people who have built businesses on a regulatory scheme are going to come in and say, "We have been treated in an unfair way." And we are going to have to once again do a balance between the House and Senate versions of this bill. But we must do it because technology has leapt over the regulatory environment that we have in our telecommunications industry, and we have a lawsuit that has caused deregulation by a judge, and in fact it is just not the right way to have deregulation. It does not cover enough of the area to be fair to all people concerned. The only way that we can be fair is to have everyone at the same table and everyone give and everyone take a little bit.

So while I do not agree with everything in this bill and while probably no one who is voting on it agrees with everything in it, I wish to commend the chairman, the ranking member and the members of the committee who have put their small differences aside to do something that would move forward this very important step that I think will be able to bring as much as $3 billion, maybe more, into our economy

with new jobs and new opportunities and new technologies that we can then export all over the world. It is an exciting bill. It is an exciting time. It is an exciting opportunity for this Senate to take that one step forward. Let us do what we can now and be ready to continue this fight until it is finished.

Mr. President, I commend those who have worked on it, and I thank you and I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I again want to praise Senator HUTCHISON and her staffer, Amy Henderson, for the many hours of work they have done. I am going to recognize the staff. I do not know if I mentioned this before, but our staffs met night after night and on weekends, in addition to Senators participating. But the bill would not have happened without the Senator from Texas, and I thank her very, very much.

Mr. HOLLINGS. Mr. President, let me also join in my gratitude for Senator HUTCHISON's leadership. We all on the committee worked very closely.

A moment ago my distinguished colleague from Arkansas gave me the theme that comes to mind. He concluded his observation that he was prepared to vote against the bill; that it would be a colossal mistake to pass this bill.

Let me say in a word it would be a colossal mistake not to pass this bill. I came to the Senate almost 29 years ago, and they were talking then. And I immediately got on the Communications Subcommittee, and I can see Senator John Pastore, the chairman, talking about revising the 1934 Communications Act. I worked very closely with Senator Goldwater when he was the chairman, and I have been the chairman of the subcommittee and the full committee, and we worked time and time again and we were prepared, as everyone now knows—the distinguished Senator from South Dakota, now our chairman, was working with us—in the last closing moments to pass the bill last year.

It would be a colossal mistake not to pass this bill. This bill is an excellent bill. It did not do all things, but the truth of the matter is the experience has been, with the breakup of AT&T, that what we have now is 500 competitors in the long distance market. And with this bill by breaking up the regional Bell operating companies—this is how you legislatively, not by court order, but legislatively break up the monopolies of the local exchange—we are going to bring in hundreds and thousands of competitors. We are doing this in the most deliberate, measured fashion possible in that we appreciate that we in America have the best communications system in the entire world.

We are not repairing the communications system in that light. What we are trying to do is remove the obstruction in the middle of the information superhighway, namely, the Government. With all the plethora of rules, hearings, injunctions and precedents, we are finding now that the judicial branch is totally overwhelmed; it could not possibly deal with the explosion of this technology. No one individual could.

On the other hand, we are going to get communications policy back into the policymaking body of our Government, namely, the Congress and its administrator, the Federal Communications Commission.

We have an outstanding bill. Senator PRESSLER has done an outstanding job. I am ready, as I understand, to prepare to vote on the Dole amendment, the Breaux amendment, which will be agreed to, and then final passage.

As I stand here, I have been moved, as all Senators do, from the subject of the week—almost like Sealtest Ice Cream; we have the flavor of the week—we move to the other particular issue at hand. But staff on the other side of the aisle has been duly recognized, and I would again recognize Kevin Curtin and John Windhausen and Kevin Joseph, as well as Jim Drewry, Sylvia Cikins and Pierre Golpira, on our staff. They have worked not just during the 5 days of the week but weekends and evenings, around the clock, on and on again to keep us on a deliberate, measured, fair course of entering into competition and maintaining at the same time the wonderful universal service that we have.

There is a tremendous balancing act that is involved here, and no one should run a touchdown in the wrong direction with the idea that, yes, we could have gotten in more competition or more protection for the consumers. We have gotten in the basic competition and the basic protections that were necessary and even more.

So with that said, I hope we can move to the vote on the Dole amendment, Mr. President.

Mr. PRESSLER. Mr. President, when we receive notification from the leadership on both sides—I am certainly eager—we will vote. We are awaiting word.

I welcome all Senators who have statements.

I, too, wish to thank my friend, Senator HOLLINGS, for his great leadership. He has been working on this bill for years and years, and he got a similar earlier version through the Commerce Committee last year, where he has done a terrific job. He has been great to work with. Without his efforts, we would not have gotten this bill out of the committee or to this point. He has helped bring broad bipartisan support and has shown great courage and independence. He has done a terrific job.

Extraordinary effort has been expended on the measure's birth and ultimate passage. I have already talked about the process the staff went through in drafting this bill. This was not drafted outside of the Capitol as some have said. It was drafted in long nights and weekends by bipartisan staff working together at the direction of the Senators.

I wish to thank my committee chief of staff, Paddy Link, who has worked tirelessly on this bill. She is a first class professional without whom this telecommunications bill would not have passed. Communications counsels Katie King, who has done a terrific job in working diplomatically with the staffs of many Senators with an interest in the legislation, and Donald McClellan, who has worked days, nights, and weekends for months on this bill. Together, their efforts have helped shape this historic legislation. Special thanks must also go to staff assistants Sam Patmore, James Linen, and Antilla Trotter.

Senator HOLLINGS' staff has been enormously helpful in this effort. Commerce Committee Democratic chief counsel and staff director Kevin Curtin has been of invaluable assistance in this bipartisan effort, with his legislative drafting skills and knowledge of procedure. Counsels John Windhausen and Kevin Joseph brought their great expertise to the task; and staff assistant, Yvonne Portee. The good working relationship our committee staff has developed is the major reason we have been successful in developing a bill.

Lloyd Ator of the Commerce Committee bipartisan staff deserves thanks from both sides of the aisle for his legislative drafting skills.

Additionally, my heartfelt thanks are extended to the following staff members who have devoted substantial hours working with the committee in the process of getting this measure to the floor and passed. This is more or less the team that worked on the legislation. I used to go up and occasionally bring them some pizza. I do not know if people in the outside world realize how hard this staff on Capitol Hill works, especially when there is a major bill coming up.

I want to thank: David Wilson from Majority Leader DOLE's office for his assistance in getting the bill to the floor and for working with my staff; Elizabeth Greene, for her invaluable assistance while the bill was on the floor; Jim Weber, from the Democratic Leader DASCHLE's office for his assistance; Chip Pickering with Senator LOTT; and, Earl Comstock with Senator STEVENS. I must add that night after night, Chip Pickering helped lead a bipartisan team. Chip will someday be one of our Nation's finest leaders. Earl Comstock is one of the brightest, hardworking people I have ever encountered.

I also thank: Hance Haney with Senator PACKWOOD; Mark Buse with Senator MCCAIN; Mark Baker with Senator

BURNS; Gene Bumpus with Senator GORTON; Amy Henderson with Senator HUTCHISON; Angela Campbell with Senator SNOWE; Mike King with Senator ASHCROFT; Margaret Cummisky with Senator INOUYE; Martha Moloney with Senator FORD; Chris McLean with Senator EXON; Cheryl Bruner with Senator ROCKEFELLER; Scott Bunton and Carole Grunberg with Senator KERRY of Massachusetts; Mark Ashby with Senator BREAUX; Andy Vermilye with Senator BRYAN; Greg Rohde with Senator DORGAN; and Carol Ann Bischoff with Senator KERREY of Nebraska.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

DOD UNMATCHED DISBURSEMENTS

Mr. GRASSLEY. Mr. President, many times in the last several months, I have addressed my colleagues in this Chamber on the subject of the bad accounting system in the Defense Department and particularly the subject of unmatched disbursements, a subject that involves the principle that if you are going to spend the taxpayers' money, you ought to be able to show exactly what that money went for.

The Defense Department has accumulated several billions of dollars over the last several years in money that has been spent. It is very difficult for them or anybody else to show exactly what that money has bought: A service or commodity.

So the unmatched disbursement problem at the Pentagon has been a problem that has been simmering on the back burner for several years. Now, all of a sudden, it is on the front burner, and the pot is boiling over.

The Department of Defense is getting hammered with bad publicity about this problem. Most of the heat is directed at the Defense Department's chief financial officer, Mr. John Hamre. He is fighting back, countering with damage control, sending letters and papers to allies on the Hill. He is trying to debunk all the criticism being directed his way.

As I have said many times, I think that Mr. Hamre is trying to do a good job. I think his heart is in the right place, but career bureaucrats under him are feeding him bad information.

In a nutshell, Mr. President, this is the problem: The Department of Defense does not match disbursements with obligations before making payments. Unless the matches are made, then we do not know how the money is being spent. Of course, this leaves the Department of Defense accounts vulnerable to theft and abuse.

DOD accounts are vulnerable to the tune of at least $28 billion. Those are not my numbers, those are the Department of Defense numbers. Mr. Hamre is desperately trying to diffuse all the criticism. Mr. Hamre says that my arguments that I have been stating on the floor over the last several months are baloney. He says the Department has, in his words, "certified receipts for every penny spent."

Mr. President, he said that in his latest rebuttal, and his rebuttal appears on page A15 of the June 10, 1995, Washington Post. I ask unanimous consent to print that article in the RECORD.

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

[From the Washington Post, June 10, 1995]

PENTAGON SPENDING: BY THE BOOKS

(By John J. Hamre)

Colman McCarthy's May 23 column "The Pentagon's Accountability Problem" so badly distorts my statements on Department of Defense financial management that the record must be corrected.

McCarthy implies that I am a naive dupe absolving government workers and defense contractors of any financial responsibility. He further suggests that our reform efforts are merely verbal smokescreens to mask business as usual. Nothing could be farther from the truth.

It is clear McCarthy did not attend the May 16 congressional hearing on which he bases his column. Had he been there he would have learned that not a penny of taxpayer dollars has been "lost," as his article implies—since the crux of the matter is not "phantom payments" but outmoded accounting procedures.

For every disbursement he characterizes as lost, we have a validated receipt with an independent confirmation that the government received the goods and services. He also would have learned that in the past 18 months we researched and correctly accounted for $20 billion in problem disbursements inherited from a decade of defense spending. He would have learned that during the same time period we also froze more than 20,000 payments to more than 1,500 contractors until we could correct underlying accounting problems.

He would have learned that we are reversing a 25-year-old "pay first, account later" policy. Beginning this summer, we will match disbursements to accounting records—not just against valid, certified invoices as we do now—before payments are made. And he would have learned that we created a special financial fraud detection organization.

Unfortunately none of this was reported by McCarthy, and I am unaware of any effort on his part to attempt to gather the facts.

The public has every right to know the extent of the Pentagon's accounting problems, as well as the efforts in place to remedy them. Your readers deserve far better than McCarthy provided.

Mr. GRASSLEY. Mr. President, I want to state, where he says that "the crux of the matter is not phantom payments but outmoded accounting procedures," I will agree with him on the outmoded accounting procedures, but I will not believe that that is an excuse for getting off the hook. It is designed to put us at ease, Mr. President. I think it is a neat distraction. Outmoded accounting procedures are seemingly harmless, are they not? They pose no threat, seemingly, to the security and the control of money. But that is a long way from the truth.

To assure us that no money has been lost, Mr. Hamre makes one bold assertion, and he makes it from this article. It says:

For every disbursement he characterizes as lost, we have a validated receipt with an independent confirmation that the Government received goods and services.

I think I know what Mr. Hamre is trying to say. He is trying to say for every Defense Department payment, he has a receipt to prove that the goods and services were actually received. This was brought up in some recent testimony of Mr. Hamre on the Hill. He used form DD250 as an example of "validated receipts"—his words. Those are his words, "validated receipts for goods handled."

The DOD form DD250 is called the Materials Inspection and Receiving Report. I have a copy of that here.

This particular one that I have in my hand is for the purchase of a high-powered amplifier for the Air Force Milstar satellite.

I ask unanimous consent to print this in the RECORD.

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

MATERIAL INSPECTION AND RECEIVING REPORT

Proc. Instrument Iden. (Contract): F19628-89-C-0131.

Invoice: 10030-472, 92Dec14.

Shipment No.: WAL0051.

Date shipped: 92Dec08E.

BA: D-2,424,371B.

TCN: S2206A2275A270XXX.

Prime contractor: Raytheon Co., Equip. Div. Headquarters, Hager Pond Facility, 1001 Boston Post Rd., Marlboro, MA 01752.

Administered by: DPRO, Raytheon Co., Wayside Ave., Burlington, MA 01803-4608.

Shipped from: Raytheon Co., 20 Seyon St., Waltham, MA 02254.

Payment will be made by: DFAS—Columbus Center, Attn: DFAS-CO-EB/Bunker Hill, P.O. Box 182077, Columbus, OH 43218-2077.

Shipped to: FB2049, Transportation officer, McClellan AFB, CA 95652-5609.

Marked for: FB2049, Account 09.

Item No.: H00A.

Stock/Part No.: MOD: P00017; CLIN: 0003AB.

Description: NSN: 5895-01-325-8555MZ; P/N: G287706-1; Amplifier, R.F.; Rev: BT/AV; Ref: PLG494453-21; S/N: 1005; Containers: 1 Skid; Gross shipping wt: 230#.

Quantity Ship/Rec'd: 1.

Unit: EA.

Unit price: $363,735.00.

Amount: $363,735.00.

Total: $363,735.00.

Procurement quality assurance: A. Origin—Acceptance of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents.

Receiver's use: Quantities shown in column 17 were received in apparent good condition except as noted.

Date: Dec. 4, 1992.

Typed name and office: D Albrizio, S2205A.

Tax coding: 04-671.

Customer code No.: 53-936493-2.

Remit to: Raytheon Co., D-3007, P.O. Box 361346, Columbus, OH 43236-1346.

Mr. GRASSLEY. Mr. President, form DD250 is meant to tell us a lot. But what does it tell us? For starters, it gives us the contract number: F19628-89-C-0131.

It tells us that the Milstar amplifier was shipped on December 8, 1992.

It tells us the contractor was Raytheon, Burlington, MA

It tells us the amplifier's destination was McClellan Air Force Base, CA.

It gives us the national stock number: 5895-01-325-8555MZ.

It gives us the amplifier's serial number: 1005.

It tells us that the unit price for the amplifier is $363,735.

Remember that figure, because I am going to tell you how this item was sold for $20 in just a minute.

Finally, it tells us the name of the Government official who accepted the amplifier and certified that it met contract specs. The certifying official's name shown is D. Albrizio.

Well, Mr. Hamre wants us to believe that DD250, the form I inserted into the RECORD, is proof that the Government got what it paid for.

Now, the Air Force got the Milstar amplifier, right? No, they did not get it. We paid for an amplifier all right. Yes, we did. But we did not get it—at least not right away.

A citizen in North Carolina—Mr. Roger Spillman—got this $363,000 amplifier instead. While there is a long trail of signed certified receipts proving—and I use that advisedly—that DOD received it, the amplifier never showed up at the warehouse where it belonged.

First, it turned up as something identified as unknown overage cargo at the San Francisco terminal of the Watkins Motor Lines. Watkins had a DOD contract to deliver it to the McClellan Air Force Base. It was held there in San Francisco for 30 days. When no one showed up to claim it, it was shipped to Watkins salvage warehouse in Lakeland, FL. The Milstar amplifier was stored in the salvage warehouse for about 9 months.

Now, at that point, it was declared excess cargo and shipped to DRS, Inc., in Advance, NC, for auction. The public auction was held on October 25, 1993. The bidding started at $20. Within 45 seconds, Mr. Roger Spillman was the proud new owner of the Milstar amplifier, and it cost him exactly $75. Remember, for the original product we paid $363,000-plus.

The Air Force did not know the amplifier was missing until the owner, Mr. Spillman, called to request the instructions manual because he wanted to use it. That was almost a year after DOD officials had shown us this validated receipt of the amplifier.

Mr. President, what lesson does the case of the missing Milstar amplifier teach us? It is this: Despite Mr. Hamre's assurances to the contrary, the form that I have been reading from today—the DD250—provides no guarantee that DOD gets what it pays for. All the form does is tell DOD what is supposed to be on the loading dock or stocked in some warehouse. It does not mean that it is really there.

The DD250 is not an internal control device.

The DD250 will not tell us whether the item received was indeed ordered.

The DD250 will not tell you whether the price paid was the price agreed to in the contract.

The DD250 will not tell you whether your accounts contain enough money to cover the payment.

The DD250 will not warn you if you are about to make an underpayment, overpayment, or erroneous payment.

To protect and control public money, then, the Defense Department must match disbursements with obligations before payments are made. That is the way it must be done.

These DD250 forms are no substitute for nitty-gritty accounting work.

If Mr. Hamre wants to do effective damage control and silence his critics, then he needs to go back to the drawing board. He needs to find a device that addresses the source of the criticism. These forms—the DD250's—miss the mark, and miss it completely. The DD250's do not protect and control the people's money.

Mr. Hamre is the DOD comptroller, and he ought to know all these things.

Mr. President, I yield the floor and yield back any time I may have.

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. 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.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1283, TELEVISION CONTENT

Mr. DODD. Mr. President, I rise to address the issue of television violence, which we debated earlier this week in the context of this telecommunications bill. I opposed the Lieberman-Conrad amendment on this subject, but I strongly supported the Simon-Dole sense of the Senate amendment. I want to take this occasion to briefly sketch out my thinking on this subject.

I completely agree with my colleagues about the terrible effects of television violence on our children. The average American child witnesses 8,000 murders and 100,000 other acts of violence on television by the time he or she finishes elementary school. That is simply unacceptable. The American Medical Association, the National Commission on Children and other interested groups and individuals have spoken persuasively about the effect of this incessant violence on our children.

I believe that something must be done about this terrible problem, but I also believe that it should be up to parents and the industry itself to accomplish that end. This is an area where I do not believe Congress should be mandating a solution. Especially in the context of this deregulatory bill, we should not be creating federal commissions to promulgate highly prescriptive new rules in areas we should stay out of.

I was also concerned about some of the vague language in the Conrad-Lieberman amendment. It refers, for instance, to "the level of violence or objectionable content." We might—might—be able to come to agreement on a definition of "violence," but I do not see how we could reach a consensus on the meaning of "objectionable content." Everyone would have a different view.

As consumers and parents, we must all do a better job of turning the dial when programming to which we object comes across our television set. If that were to happen in large numbers, the market would dictate a dramatic improvement in television programming.

I supported the Simon-Dole sense of the Senate amendment, which calls on the industry to police itself but does not establish an unprecedented set of onerous government rules. I think this represented a more sensible approach to this problem.

AMENDMENT NO. 1325

Mr. DODD. Mr. President, I rise in support of Senator WARNER's amendment requiring Bell operating companies to fully disclose their protocols and technical requirements for connection with their facilities. This is a complex, technical issue, but it is a critical safeguard as the Bell companies move into manufacturing.

Section 222 of the bill before us applies the same competitive check list to Bell entry into manufacturing as it does to entry into long distance services. I have been concerned, however, by the fact that the legislation carves out a major exception for manufacturing research and design activities. This exception would allow Bell companies to commence these activities almost immediately.

Research and design is one of the most expensive phases of the manufacturing process, and it often holds the key to the end success of the product. But under S. 652's provisions, Bell companies would be able to engage in such activities before they face competition. This could open the door to cross-subsidization, unfair use of privileged information about RBOC network interfaces and other monopoly abuses that

could decrease competition in the already competitive telecommunications manufacturing industry.

I have argued that the simplest solution to this problem was to delete the bill's exception for research and design activities. But this solution proved unacceptable to the bill's managers, so instead I supported Senator WARNER's efforts to add important safeguards.

Senator WARNER's amendment would ensure that the public network remain open and accessible to independent manufacturers. By requiring disclosure of technical specifications and planned changes in those specifications, the amendment would prevent Bell companies' manufacturing subsidiaries from gaining exclusive or early access to the kind of information that is the lifeblood of telecommunications manufacturing.

Independent manufacturers do not fear competition from Bell companies, so long as that competition is fair. Senator WARNER's amendment makes a great deal of progress in the effort to ensure fairness, and I hope we can build on this progress to make further improvements as this bill moves to conference.

I thank Senator WARNER for his leadership on this important issue, and I also thank Senators HOLLINGS and PRESSLER for agreeing to accept this modest amendment.

Mr. BINGAMAN. Mr. President, today we have had an historic opportunity to vote on a sweeping revision of the 1934 Communications Act, an act which is now, over 60 years after its original passage, woefully out of date. We tried last Congress to revisit this legislation but we were unable to bring the matter to the floor. I am glad that we have had a chance to consider this legislation on the floor this year. I hoped to be able to vote for it. We owe it to the people of this country to modernize the laws which govern telecommunications services and to do so in a way that promotes competition among the companies attempting to provide those services, and thus provide American families with more and better services at lower prices.

This legislation serves the first purpose—that of modernizing the law to reflect the many changes in technology since 1934.

However, there is a real question as to whether the end result will be more competition. On the contrary, I believe that the result of this bill may be more concentration of power in the market. I do not believe American families will benefit from this concentration.

I would like to believe what I have heard on the floor over the last week: that true competition will ensue from this bill, and the result of that competition will be a new world of innovative products at affordable prices. Nevertheless, I fear that the flaws in this bill will likely defeat those hopes. Accordingly, while I would like to be able to vote for this bill, I cannot.

I am a longtime student of technology and of telecommunications. I know what benefits they can bring. I have promoted State and Federal support for technology in the classroom and I have sponsored legislation to provide that support. I am proud to have been an early and eager supporter of the Snowe-Rockefeller-Exon-Kerry language in this bill which will, for the first time, make access to telecommunications services by schools, libraries, and rural health care providers affordable. I am especially proud that the Senate approved this aspect of the bill.

But there are a series of amendments to this bill which I had hoped would pass and which would have made this bill what I had hoped it could be and what I think the American consumer deserves.

First, and foremost, I was disappointed that the efforts of my colleagues from North Dakota, Senator DORGAN and Senator THURMOND of South Carolina, to bring the Department of Justice into the process, were defeated. I fear that this bill—without the amendment to give the Department of Justice a more active role—may lead to abuses and more concentration in the long distance market. There are serious issues competition issues raised by the entry of the Bells into long distance, yet we have given the Nation's expert competition agency, the Department of Justice, a toothless role. The Department of Justice has long and deep experience with this market and with these competitors. It is the best positioned entity to evaluate the many issues which are going to arise as new entrants seek access to the local exchange networks controlled by these companies. In my view, only the Department of Justice can assure that what is billed as competition does not become concentration to the detriment of the American consumer.

I also have concerns about the potential for concentration in the cable market which this bill presents and the potential for greatly increased cable rates for consumers in rural areas where competition is unlikely to exist in any meaningful way. The marketplace will very likely bring lower prices and greater choice to consumers in urban and affluent areas. But in many parts of the country, and in much of my State of New Mexico, the marketplace will do little. We have seen in airline deregulation how rural consumers are treated. I hope that that does not happen in the cable marketplace as well. If it does, and we shall see in the next few years, Congress should revisit this issue to provide the protections which I would have liked to see this bill today.

Other amendments, such as the ones offered by the Senator from Nebraska, [Mr. KERREY], to put a consumer representative on the universal service board and to restrict cross subsidization by public utility of services, were defeated. Other amendments designed to keep some reasonable limits on broadcast ownership were also defeated.

Taken as a whole, this bill, while up-to-date, seems to be to anticonsumer and anticompetitive. I foresee an increasing concentration in the telecommunications industry with increasing prices for consumers with little increase in choice or innovation for those living in rural America. I hope that I am wrong. I hope that this bill can be improved in the conference. If it is, I will be happy to vote for it when it returns to the floor. In its present form, however, I must vote no.

Mr. LEVIN. Mr. President, I will vote for S. 652, the Telecommunications Competition and Deregulation Act of 1995, because a myriad of technological innovations over the past few years have made the current regulatory system obsolete.

New rules are needed to acknowledge and encourage competitive innovative technological developments which will enliven the marketplace and offer the consumer greater choice and new technologies. However, these regulatory changes should be done in a way that maintains adequate protections of the public interest.

There are several issues that concern me regarding S. 652.

My first concern is with the lack of a Department of Justice role in determining when the Baby Bells should be allowed into the long distance market. I believe a specific Department of Justice role is needed to ensure that existing monopoly powers are not used to take advantage of the new markets being entered.

It's reasonable that such broad and unprecedented telecommunications deregulation should include reasonable oversight of potentially anticompetitive behavior in an industry where a few giants could control large segments of the various markets.

Without a specific Department of Justice role, there is a greater risk that the monopolistic and concentrated businesses will increase and we will not achieve the competition that this bill promises. If this happens, American consumers will be the losers.

I supported the Thurmond-Dorgan compromise amendment which would have provided the Attorney General a simultaneous role with the FCC in approving a request by a Bell company to provide long distance service providing that action would not substantially lessen competition, or tend to create a monopoly. Unfortunately, that amendment was not adopted.

I hope, therefore, that the House will move to adopt a Department of Justice role so that this issue can be revisited in conference.

My second concern regards the cable rate deregulation provisions of the bill. In 1992 Congress passed a comprehensive cable act in response to a strong public outcry about skyrocketing cable rates. This bill undoes much of the good that bill accomplished in slowing down cable rate increases and in many cases reducing cable rates for Americans. This bill deregulates all but the basic tier of cable television and in so doing runs the very real risk of resulting in increased cable rates for Americans which is contrary to what Congress attempted to do just 3 years ago in the 1992 Cable Act.

I am also concerned that the bill allows for the preemption of local rules and regulations relating to the management of local rights-of-way. I supported the Feinstein amendment to remove the provision in S. 652 which would preempt local control of the public rights-of-way. Unfortunately, that amendment was defeated. A weaker alternative was accepted which modified but did not eliminate language in the bill allowing for the preemption of local regulations. The Feinstein amendment would have eliminated the preemption capability of the FCC altogether.

I believe it is important that we in Congress pay proper recognition to the rights of local government and I am disappointed this bill does not adequate do that.

The telecommunications bill before the Senate today will have a huge impact on our economy and on the lives of every single American. I believe the telecommunications reform is both necessary and important. But equally important in that process are the necessary checks and balances to protect consumers and discourage monopolies. While I will vote for this bill because I recognize that telecommunications reform is long overdue and must move forward, I am not convinced this bill contains adequate checks and balances. I hope the House will be able to add those back into the bill and I reserve judgment on whether I will support a final conference report.

Mr. BAUCUS. Mr. President, I rise today in support of the Telecommunications Competition and Deregulation Act of 1995.

Over the last week I have heard many of my colleagues address this legislation. One statement is common to their remarks. This legislation will touch, indeed will impact, a significant portion of our economy. It will be felt in one way or another in each of our lives.

Of the many advances in our society of the past century, telecommunications is among the most pervasive. Our movement into this information age has yielded tremendous changes in our lives. The ability to communicate around the globe instantaneously has helped us become part of a global marketplace. It is an advance from which there can be no retreat.

I believe that we all benefit when competition is enhanced. Retaining a competitive edge has been quite difficult as we have forced technology of today to fit the restrictions of yesterday's regulations. The potential for continued improvement in these industries is tremendous. This bill should usher in new products, better prices, and more choices in the services which consumers demand in Montana and across the country.

Mr. President, the development in the personal computer, and even the hand-held calculator before it, is a tangible example of what I expect in telecommunications. In the past 30 years, these technologies have become commonplace. In fact I can't imagine life without them.

The development of telecommunications technology has been no less dramatic. And with this legislation, we advance the ball. While this bill fails to satisfy my entire wish list, I believe it leaves us better than before. But we still have work to do and as legislation moves through the House and into conference, I am confident we can improve this bill.

In recent days we have voted on changes designed to improve the measure. The amendment offered by Senator CONRAD will encourage television manufacturers to include computer technology allowing parents to prevent objectional material from entering their home. I supported that measure and I believe it is important in this bill.

An amendment offered by Senator EXON protects against harassment, obscenity, and indecency to minors via telecommunications devices. Together, these two amendments will go a long way toward protecting our youth from harmful material. There has been some public comment on this topic recently and I believe these amendments are what Montanans want in this kind of legislation.

Finally, I want to go on the record in stating my belief that passage of this measure does not finish our work in this area. Granted, this legislation has been a long time coming. But we now have a serious responsibility to conduct congressional oversight over this legislation. As we work to construct the information superhighway, we must make certain that the system works.

I don't want a system which is a restrictive entry highway. And I don't want a toll road where nobody can afford the fare. And I want to make certain that in Montana, my constituents have access to the benefits of this technology. I will be watching to see that this effort succeeds and I stand ready to step in if intervention is needed.

But Mr. President, this bill has strong support. I have heard from broadcasters, small business owners, and those in the telecommunications industry in Montana. And all these groups want this legislation to pass. I share their desire to help the best telecommunications system in the world leap forward into the next century and I will cast my vote in favor of this measure.

Thank you, Mr. President. I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise to state my reasons for opposing the Telecommunications Competition and Deregulation Act of 1995.

Yesterday the Senate adopted amendment No. 1362 by a vote of 84–16. The amendment purports to prohibit computer transmission of obscenity and indecency. I voted "no" out of concern that we were taking this action improvidently and without adequate consideration for its significant constitutional and practical implications.

In 1973, the Supreme Court in Miller versus California, and in several subsequent decisions, held that the Constitution does not protect obscenity, which the Court defined as material that appeals to "prurient interests" or is "patently offensive." The government accordingly has the authority to regulate obscenity, and properly so. But we must do so with care.

The amendment attempts to apply existing laws against obscene and harassing telephone calls to computer transmissions. Regrettably, the language of the amendment is too broad, raising serious questions of constitutionally under the first amendment. For example, the amendment could reasonably be interpreted to prohibit an individual from sending an annoying e-mail message. The penalty for such a transgression: a fine of up to $100,000 or up to 2 years in prison—or both. And, as was noted by Senator LEAHY and others during the debate yesterday, the amendment likely makes unlawful on computers materials that are perfectly lawful in books or letters. I suspect the courts will take a dim view of this provision when it is challenged, which it surely will be.

Similarly problematic is the failure of the amendment to recognize the difference between telephones and the unique characteristics of computers. In order to view the kinds of lewd and lascivious material complained of by the proponents of the amendment, an individual must take numerous affirmative steps to gain access to it via the online services where it can be found. I grant that this is not terribly difficult for one who is computer literate, but the fact remains that in order to look at this material on the computer, you have to actively seek it out. It does not just pop up on the screen when you turn it on. One who looks for and then views such material on his or her computer is in a very different position than a victim of obscene telephone

calls. Yet the amendment fails to recognize this distinction.

I am also troubled by the Senate's action on another amendment to this bill. This afternoon, by a vote of 67–31, the Senate tabled the Lieberman amendment to retain cable television rate regulation. Senator LIEBERMAN knows the subject of cable rate regulation as well as anyone, having fought cable rate increases in Connecticut in the 1980's when he was State attorney general. He predicts that, without the reasonable rate restrictions in his amendment, cable TV rates will surely rise as a result of this bill. I am afraid he is right. Cable rates rose sharply after Congress lifted rate regulations in 1984, and they are likely to do again if we pass this legislation. This is why I supported the Lieberman amendment, and why I believe it was a mistake for the Senate to defeat it.

For this and for the other reasons I have given, I will vote against the Telecommunications Competition and Deregulation Act of 1995.

THE DOLE AMENDMENT ON CABLE VOLUME DISCOUNTS

Mr. KERRY. Mr. President, we are faced here with a very unfortunate situation. Senator DOLE has offered an amendment to address a significant public policy matter raised by S. 652 as reported by the Commerce Committee, and that amendment has become entangled in a dispute that goes to the way the Senate deals with those who do business in areas affected by legislation upon which the Senate acts.

I must say that I am distressed by the appearances of what has occurred regarding the interactions of two cable programming providers with the chairman of the Commerce Committee. While I have not been involved at all in—or even knowledgeable about—these interactions, and believe according to what I have been told that there may be more inadvertence and clumsiness in evidence here than anything else, it is unfortunate for all involved that some evidently see this as a case where inappropriate pressure has been brought to bear in such an interaction.

Regardless, and without in any way acting as judge and jury and attributing blame, I will say unequivocally that I do not believe that the proper way for elected officials and business executives to interact is for elected officials to threaten businesspeople with injurious legislation if they do not comport their business activities with the policy desires of those elected officials, nor for businesspeople to threaten elected officials with business actions deemed undesirable by the officials if those officials fail to take legislative actions favored by the businesspeople. Further, the way I have always understood the concept of honor, a deal's a deal, and starting with the assumption that honorable elected officials should make only deals that are in the public's interest, both those officials and businesspeople who enter into agreements ought to honor those agreements.

Having said these things, when the day is over here, what really counts in my judgment is the public policy that the Senate makes, and the effect it has on our Nation and its people. I think it is important that we keep our eye on the ball here, and by that I mean I think we should cast our votes on this amendment based on the public policy impact of the policies those votes will determine. It is on that basis, rather than with reference to the regrettable dispute that has emerged concerning what has preceded the offering of and voting on this amendment, that I cast my vote on the amendment.

Many of the decisions with which this body must grapple are not simple, where two courses, one black and the other white, present themselves and all we have to do is choose the easily discernible right course. Many decisions we make have multiple and varying implications, and we are forced into the position of playing Solomon to mediate disputed interests and needs.

Such is the case here, Mr. President. On the one hand none of us to my knowledge wants to act in a way that will deprive persons in rural areas or other areas served by small cable systems of programming that those who live in areas served by large cable systems can enjoy. On the other hand, we should approach extremely seriously any decision that could result in the government imposing controls on the free marketplace, especially a decision that leads to price controls. There have been situations in our history that have warranted such actions, but they are the exception, not the rule.

Mr. President, I do not believe that the circumstances of the cable industry warrant imposing what amount to price controls on those who provide programming. Yes, I do believe that those programming companies should deal responsibly with all cable operators who wish to purchase their products. But no, I do not believe that in this industry the Government should prohibit practices of volume discounting or other methods of pricing that are employed in virtually every industry in our Nation, whether it be selling shoes or cabbages or long distance phone service.

So, Mr. President, before I had heard anything about the dispute concerning the agreement that did or did not exist between Time-Warner and Viacom and the chairman of the Commerce Committee, I had concluded that I should vote for the Dole amendment. Now that the dispute has surfaced, I continue to believe that the correct public policy is reflected in the Dole amendment, and I will vote for that amendment for that reason.

Mr. DORGAN. Mr. President, the Senate votes today on a very important piece of legislation, the Telecommunications Competition and Deregulation Act of 1995. There is no question in my mind that telecommunications reform legislation is needed. The communications laws in this country are without a doubt antiquated and the Congress must take action and pass telecommunications legislation.

I am sad to say, however, that I cannot support the legislation the Senate is voting on today. This bill, in my judgment, could be more accurately described as the "telecommunications concentration act" rather than the "telecommunications competition act." Unfortunately, this legislation, in its present form, is going to lead to greater concentration in the telecommunications and media industries—which is antithetical to competition.

Robust competition is the driving force of our free market economy. Competition offers consumers lower prices and wide ranging services. True marketplace competition also eliminates the need for regulation. If our goals are to ensure that consumers receive advanced telecommunications and media services at competitive prices and to free the industry from government regulation, competition is our means to that end. But it must be true and fair competition.

This is where this legislation misses the mark. There are two key areas of this legislation that lead me to the conclusion that existing competition in telecommunications is in jeopardy: First, the conditions under which regional Bell operating companies [RBOC's] may offer long distance services; and second, the liberalization of broadcast ownership rules.

This legislation, mistakenly in my judgment, deregulates both the television and radio broadcast industries at the risk of promoting greater concentration at the expense of competition. The bill raises the national audience cap from 25 to 35 percent and eliminates the 12 station limit on TV broadcast ownership. It also eliminates ownership rules on radio ownership. Liberalization of these limits runs absolutely contrary to the goal of promoting competition. I am convinced that if these changes are enacted, the media industry in this country will be controlled by a handful of conglomerates in future. The long-held principles of localism and diversity will suffer.

I offered an amendment, unsuccessfully, to strike the provisions liberalizing the ownership limits in the bill. Under my amendment, the FCC would have been instructed to review and modify its broadcast ownership rules to "ensure that broadcasters are able to compete fairly with other media providers" while ensuring that diversity

and localism are protected. The amendment would have maintained the current limits while directing the FCC to review and modify the ownership rules on a case-by-case basis.

At the heart of this issue is the relationship between the networks and the local affiliate stations. Raising the national ownership limits would represent a drastic shift in power from the local affiliate stations to the national networks. The provisions in the bill; including the Dole amendment, threaten local media control—both in terms of programming and in terms of news content—in favor of national control. The change will remove the ability of local stations to make local programming and news decisions—such as preempting network programming in favor of local news, public interest, and local sports programming.

The change would also mean that station managers will not be able to stop network programs he or she believes is inappropriate for the local market. When the networks buy up the affiliates, the networks will be able to dictate the terms of the affiliate/network relationship. The networks will leverage their power over affiliate preemption of network programming, conduct of news divisions, and the moral tone of network entertainment. The change proposed in broadcast ownership rules under S. 652 will turn locally owned stations into extensions of large multimedia companies and will result in the nationalization of television programming and the demise of localism and local program decisions.

The bill's changes to broadcast ownership rules will lead to greater concentration of the media—a concentration towards the national networks. The fact is that the present limits help preserve competition. Fox television would not be the fourth network today if it were not for the existing limits on ownership. The current limits are what made it possible for Fox Broadcasting to develop so quickly because there were affiliates available in media markets that were not owned by the established networks with whom Fox had to compete with to build a market for itself.

Proponents of removing the ownership limits have a single purpose—to reduce the number of people participating in broadcasting ownership. The current limits permit small companies to own stations in large markets. Because the existing limits ensure that concentration is limited and entrepreneurial efforts in broadcasting are possible. Elimination of ownership limits will make it more difficult for minority participation in broadcast ownership—something the FCC has been trying to promote for years is more minority ownership. This bill would send a blow to that effort.

Will the local television landscape be better off if the local television stations are controlled by the national networks in New York and Hollywood instead of by stations in Bismarck or Wichita? Will there be less violence on TV if there is more national control? I do not think so. In fact, I expect that these problems will get worse.

This bill will rob local stations of the opportunity to say no to network programming that local station managers think is inappropriate for their local communities—where they themselves live. If the national networks are permitted to own a substantial portion of the local stations in the country, then all programming decisions will be made in Hollywood and New York, without regard for the concerns of local communities. Make no mistake about it. The bill's provisions represent nothing short of a power grab on the part of the national networks under the guise of deregulation. The proposed changes to the ownership rules would concentrate power in the hands of the networks and would be anticompetitive.

Another unsuccessful amendment I offered with the senior Senator from South Carolina relates to what is perhaps the most contentious battle in the development of this legislation: the conditions under which the RBOC's would be permitted to offer long distance services. One of the major reasons why I cannot support this bill is because it does not provide for an adequate role for the Department of Justice to ensure that competition in the long distance market is protected when an RBOC that controls the local loop is permitted to enter what is already a competitive market.

Under the bill in its present form, an RBOC need only apply to the FCC to enter long distance services. The FCC would utilize a public interest standard and determine that the RBOC has completed the competitive checklist. The bill provides only for a consulting role by the Justice Department.

Mr. President, it seems to me that the debate over this legislation has been turned upside down. The fact is that the fundamental policy goal confronting the Congress as we develop telecommunications reform legislation is how do we employ competition in markets which are currently controlled by regulated monopolies, such as the local exchange. The fact is that the long distance market is a truly competitive market. We risk damaging that competitive market if the RBOC's are permitted to enter the long distance market prematurely. Our goal should be to promote the same level of competition in the local exchange that currently exists in long distance. Unfortunately, this bill is weak on incentives that would promote local competition and it also threatens to damage the competitive long distance market.

It was the Justice Department that investigated and sued to breakup the Bell system monopoly—which resulted in making the long distance and manufacturing markets competitive. If the local exchange networks are going to be vertically reintegrated with long distance service, there is a danger that entry by RBOC's could impede competition and unravel the progress made over the past decade in promoting competition since the breakup of the Bell system. DOJ has a unique role to assess whether the conditions for meaningful competition are present.

The experience of airline deregulation shows that the protection and promotion of competition is not accorded enough weight when DOJ has only an advisory role. In the case of airlines, mergers that were approved by the Department of Transportation over the objection of DOJ, the result was monopolization of certain hubs and higher ticket prices for consumers.

A DOJ role would avoid expensive AT&T-type antitrust suits in the future by making sure that competition is safeguarded in the first instance. RBOC enter that occurs without assurances that it will not impede completion will invite complex litigation, which will consume resources better spent on competing. Having DOJ apply a marketplace test as a condition to entry will help avoid wasted litigation.

Since the breakup of the Bell system, long distance rates have dropped 66 percent and the long distance competitors have constructed four nationwide fiber optic networks—the backbone of the information superhighway.

It cannot be assumed that a series of specified steps will result automatically and inevitably in the development of local exchange competition. Potential barriers to competition are sometimes subtle and overcoming these barriers is a very complex task. Congress cannot hope to successfully specify in advance a set of conditions that will provide answers to all issues before meaningful competition is a reality. The only way to ensure true competition is to look at actual marketplace facts and DOJ must provide this role.

A series of specified steps—for example, the competitive check list in Section 255—is not by itself sufficient to bring real competition to local markets. The RBOC's must have a positive incentive to cooperate with the development of competition.

Monopolists have proven themselves adept at erecting new barriers faster than old ones can be identified and dismantled. Complete elimination of barriers to competition will occur only if the monopolists have positive incentives to cooperate with the introduction of meaningful competition. The RBOC's will have such incentives when the check list is supplemented by a process that ensures application of real competitive analysis to actual marketplace facts.

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I still hope that these areas can be perfected in the conference committee. Unless these two areas are addressed, this legislation will do more to harm competition than to promote it. That would not be in the public interest and I hope that the Congress will not make that mistake.

Although there are serious problems with this legislation, I do believe that some provisions in this bill I strongly support. This bill contains some very important provisions that would preserve universal service and ensure that rural areas will have access to advanced telecommunications services. I have worked long and hard with many of my colleagues on the Senate Commerce Committee to ensure that universal service will be preserved as competition is introduced into local exchange service. The provisions in the Senate bill with respect to universal service are vitally important to rural areas and it is my hope that these provisions will be retained in the conference committee.

In conclusion Mr. President, I would ultimately like to vote for this legislation. Unfortunately, I cannot in its present form. As I said earlier, this legislation will not adequately promote competition. Rather, it will have the opposite affect: concentration. I urge the managers of the bill and all those Senators who have spoken with such passion about promoting competition to work to improve this measure so that we can truly call it the Telecommunications Competition and Deregulation Act.

RESTRICTING CABLE-TELCO IN-REGION BUY-OUTS

Mr. LEAHY. Mr. President, I want to note an important amendment that has been made to the telecommunications bill.

As introduced, the telecommunications bill modified our outdated law that bans cable companies and telephone companies from offering the service of the other. With digital and other new technologies being developed, the demarcations between the businesses of telephone and cable service is blurring.

It is about time for Congress to update the law to catch up with the new convergence in video, computer, and telephone technologies.

But by repealing the telco-cable cross-ownership ban altogether, the telecommunications bill, as reported, failed to impose any limits on the ability of telephone companies to buy out cable companies—their most likely competitor—in the telephone companies' local service areas. Allowing such mergers would destroy the best hope for developing competition in both local telephone service and cable television markets.

Without the protection of an antibuyout provision, consumers would be deprived of the lower cable and telephone prices that would result from two-wire competition.

Because of these concerns, the distinguished chairman of the Antitrust Subcommittee, Senator THURMOND, and I sent a letter to our colleagues a few weeks ago detailing the reasons why standard antitrust scrutiny would not be enough to preserve the potential competition between telephone and cable companies.

The leadership package of amendments adopted last Friday took seriously the concerns that we expressed, and provided some antibuyout restrictions to prevent telephone companies from merely substituting one video service monopoly for another.

The amendment restricting in-region buyouts improves this bill and promises to benefit consumers by promoting greater competition in the delivery of video services, increasing the diversity of video programming, and advancing the national communications infrastructure.

In particular, the amendment eliminates ambiguity and makes clear that the antitrust enforcement authorities will maintain their authority to challenge anticompetitive buyouts under the antitrust laws.

Even when the FCC has decided that from its perspective that the telco/cable buyout is acceptable, or when the buyout comes within the rural exception, standard antitrust scrutiny may still be applied.

The amendment maintains the specialization and expertise of the antitrust authorities—the Justice Department and the Federal Trade Commission, as well as State antitrust authorities—in determining whether a buyout would violate the antitrust laws and harm consumers.

This amendment is necessary to help promote the competition we want to develop between cable and phone companies, with the hope that prices for both services will be lowered for consumers, while their options and choices increase.

CHOICE CHIP

Mr. CONRAD. I am very pleased my amendment was accepted by such a wide margin on the Senate floor. The choice chip could be a very important tool for parents to help protect their children from the violence that is all-too available on television. I am hopeful that the Senate-House conferees will see the value in this approach and retain my amendment. However, I deeply regret that I will have to vote against S. 652, even though it contains an amendment I sponsored.

I have deep concerns about the approach this bill takes, in the name of competition, by removing protections that currently safeguard against media concentration. Diversity of opinions and voices is at the very heart of our democracy. I believe this bill creates the potential to stifle many of those voices in our media by greatly consolidating broadcast ownership in this country.

My colleague, Senator DORGAN, offered an amendment earlier this week that would have prevented a single television owner from concentrating ownership above the current, reasonable limit of 25 percent of the national audience. This bill raises that limit, and initially the Senate agreed that was a dangerous precedent. Then politics took over and the Dorgan amendment was defeated.

Today, an amendment by Senator SIMON which would have restricted radio station ownership to a very reasonable limit of 50 AM and 50 FM stations was tabled. The bill, as it stands, eliminates virtually all ownership restrictions. That simply does not safeguard the diversity of voices that democracy requires.

I am also concerned that cable television rates for consumers will rise under this bill. An amendment by Senator LIEBERMAN to keep rates in check before real competition is in place was also tabled today. I believe it is a mistake to pass a bill that includes the word "competition" in the title but does not safeguard consumers in the absence of competition.

Finally, I have concerns about rebuilding the telephone monopoly that the Department of Justice and the Federal courts rightly ended. Now, the Department of Justice, the very agency which protects Americans from antitrust practices, will not have a role beyond consultation in preventing a potential monopoly from being reestablished. I supported what I believed was a very reasonable amendment from Senator DORGAN and THURMOND to apply a time-honored antitrust standard to any application to enter long distance. That amendment was defeated.

I hope that the final report from the Senate-House conference is a bill that truly promotes competition, while also safeguarding the interests of the consumers before competition arrives. I do not believe this bill meets that goal, and I regret that I cannot support it.

AMENDMENT NO. 1421

Mr. LEAHY. Mr. President, I seek to clarify a part of the Leahy-Breaux amendment (No. 1421) on intraLATA toll dialing parity that was adopted yesterday. As the amendment states, the joint marketing provision in subparagraph (iii) of the amendment applies only in those States that have implemented intraLATA toll dialing parity during the relevant period and to telecommunications carriers in those States offering intraLATA services using "1+" dialing parity. The prohibition on joint marketing however, was not intended to apply to telecommunications carriers offering intraLATA services that do not make use of "1+" dialing parity. That is my understanding of the Breaux-Leahy amendment. Is this consistent with your understanding?

Mr. BREAUX. Yes.

AMENDMENT NO. 1367

Mr. HEFLIN. Mr. President, I rise to make a comment relative to the amendment I successfully offered earlier today to the provision of the bill addressing cable-telephone company mergers and alliances. I understand that some concern has been expressed that the effect of the amendment may be broader than intended. I do not intent that this amendment have broad effect or undo the carefully crafted buyout limitations agreed to previously. I look forward to working with the managers and conferees as we move forward to make any language changes necessary to ensure that the amendment has only the narrow effects intended.

FEES IN LIEU OF FRANCHISE FEES

Mr. PRESSLER. In part, section 203 of the bill adds a new subsection to the 1934 Communications Act that would permit the collection of fees from providers of video programming in lieu of franchise fees. It is my understanding that this requirement does not permit local or State governments to impose such fees on direct-to-home satellite services. Is this correct?

Mrs. HUTCHISON. Yes, the intent of the subsection to which you refer, which authorizes fees in lieu of franchise fees, does not apply to the direct-to-home satellite industry. However, nothing in section 203 is intended to affect whether direct-to-home satellite services are otherwise subject to other taxes or fees under current law.

Mr. DODD. Mr. President, I rise in support of S. 652, the Telecommunications Competition and Deregulation Act. This bill is far from perfect, but on balance I believe it will be a plus for American consumers and the American economy.

We now find ourselves in a highly competitive, global economy, and telecommunications is an increasingly important part of it. In order to keep up in this booming sector, it is imperative that the United States replace a regulatory structure crafted in the 1930s with one suitable for the 21st century. This bill represents an important step in that direction.

The communications industry is a $1 trillion segment of our economy, and it is among the fastest growing sectors. This boom is not widely understood, but it has tremendous implications for consumers and business.

This trend is being driven by a variety of factors, foremost among them technology. Old copper phone wires can only carry a handful of conversations at once. But one fiber optic cable can carry 32,000 conversations at once. New services can be sent to the home or office over fiber optic cable at virtually zero marginal costs to the producer.

An incredible array of companies has a stake in the emerging communications marketplace—both obvious and surprising players. Consumers can only benefit from the stepped up competition if we break down the walls that now separate cable companies, local phone companies, long distance firms, electric utilities, satellite firms, radio and television broadcasters, cellular companies, computer companies, and Hollywood studios.

With passage of this bill, we hope that companies in all these areas will eventually invade each others' territory, providing consumers with a multiplicity of new choices and creating jobs along the way. Some reports estimate that true competition in all sectors of the telecommunications industry could create 3.6 million jobs by 2003.

We cannot even imagine much of what will eventually be available to consumers in this area. Among the possibilities are movies on demand, interactive home shopping, home banking, interactive entertainment and the ability to take classes and talk with the teacher from home.

The break-up of the old AT&T monopoly in 1984 is the best case study in the benefits of competition in communications. We all remember the time when there was no choice in long distance—no price competition, no incentive to improve quality, no innovative new services in long distance.

But since the break-up of AT&T, 30 million Americans switch long distance carriers a year, and long distance rates have fallen 60 percent. Five hundred companies now offer long distance service.

There is now a wide consensus about the need to further unleash these technological and market forces for the benefit of consumers. It is imperative that we update Federal communications policy to allow this to happen. We are still operating under the Communications Act of 1934. That should speak for itself.

And since 1984, much of the communications industry has been regulated by one man—Judge Harold Greene, who oversaw the AT&T break-up and who continues to oversee the consent decree that governs the behavior of the Bell operating companies. He has done an admirable job, but it is time for Congress to reenter the game.

That is what this bill represents. As I mentioned before, I supported a number of important amendments that did not pass. I believe the Justice Department should have a formal role in deciding whether Bell Companies should be allowed to offer long distance. The Antitrust Division at Justice has the expertise to assess a market and to prevent monopoly abuse.

I also supported my colleague from Connecticut, Senator LIEBERMAN, in his effort to strengthen the cable rate regulations in this bill. The leadership package of amendments we passed last week included some additional protections for cable consumers. They represent a considerable improvement over the cable provisions in the bill as reported out of committee. Like Senator LIEBERMAN, however, I wish we could have gone further.

I hope that the remaining problems with this bill can be corrected as the House considers its version and the two chambers meet in conference. Furthermore, if problems develop on cable rates or other matters down the road, Congress can revisit the issue and make improvements at that time.

I commend Senators PRESSLER and HOLLINGS on all of their hard work on this bill, which I think will provide a shot in the arm for our economy.

Mr. KERRY. Mr. President, the United States and, indeed, the world have embarked upon a new technological revolution. Like previous revolutions sparked by technological innovation, this one has the potential to change dramatically our daily lives. It will certainly transform the way we as humans communicate with each other.

What we are witnessing is the development of a fully interactive nationwide communications network. It has the potential to bring our Nation and our world enormous good; without appropriate ground rules to assure fair competition, however, this revolution could create giant monopolies. The communications policy framework we create in this legislation will determine whether many voices and views flourish, or few voices dominate our society.

The impact of this new age communications revolution on the way we send and receive information, and the way we will view ourselves and the world, is profound. Even more staggering is its potential impact on our economy. We could be seeing the largest market opportunity in history. Some forecasters, including the WEFA Group in Burlington, MA, predict a January 1996 opening of the telecommunications market to full competition would create 3.4 million new jobs, increase GDP by $298 billion, save consumers nearly $550 billion in lower communications rates and increase the average household's annual disposable income by $850 over the next 10 years. As the Communications Workers of America have underscored, delaying free and fair competition means fewer new high-wage, high-skill jobs.

New technologies and industries seem to be emerging and merging almost daily. They range from such sectors as entertainment and education to broadcasting, advertising, home shopping and publishing. One key player in this revolution is the Internet—the global computer cooperative with a current subscriber base of approximately 20 million and a 10 to 15 percent monthly growth rate. One billion people are expected to have access to the net by the end of the decade. While

some may consider the net to be the revolution, it is only one of many players in the new communications network game.

We see examples of this new era almost daily, such as someone driving a car while talking on a cellphone. The pace of change is so rapid that words like "cellphone" and "Internet" and "telemessaging" are not in my office computer's spellcheck system. In the weeks and months ahead, more and more Americans will gain access to video dialtone, choosing their television programs through their telephone service. Likewise, cable franchises will enter the local telephone service market. Residents of Springfield, MA, will be able to watch their State legislators in Boston debate an education bill and instantaneously communicate with their legislators about how to vote on an amendment. We will hear more talk about the players in this new game: content providers, transporters, and technology enablers.

As we consider this brave new age of communications, it is clear the current law, the 1934 Communications Act, is a wholly adequate foundation upon which to build a communications system for the 21st century. Moreover, although the courts on occasion properly have intervened to halt monopoly abuse—most notably a little over a decade ago in the telephone industry—we should no longer leave the fundamentals of telecommunications policy to the courts.

S. 652, the telecommunications bill reported by the Commerce Committee on March 23, 1995, by a vote of 17–2 and which I am confident will be passed momentarily by the Senate, is not perfect. In some respects, I would have preferred S. 1822, the bill crafted so ably by Senator HOLLINGS and reported by the committee last year. However, the legislation before the Senate now is preferable to the status quo. It will establish fair and balanced ground rules for competition in the communications sector as we enter the next century. It will foster competition, assuring a needed balance among existing competitors and new entrants in this rapidly evolving field.

This legislation provides us with a national policy framework to promote the private sector's deployment of new and advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition. Free and fair competition and maintaining universal service are the twin pillars of this new framework.

The bill assures that no competitor, no business and no technology may use its existing market strength to gain a head start on the competition. The legislation requires that a company or group of companies satisfy certain competitive tests before being able to offer a new service or enter a new market. Entry into new services and new areas is contingent upon a demonstration that competition exists in the market in which the business currently competes. But once competition has been achieved, most Federal and State regulation is replaced by consumer demand to regulate the market.

These fundamental features of S. 652 are designed to create a level playing field where every player will be able to compete on the basis of price, quality, and service, rather than on the basis of monopoly control of the market.

The bill also maintains universal service as a cornerstone of our Nation's communications system. With many new entrants in the communications market, S. 652 assures every player pays his fair share to continue universal service throughout our Nation. As the committee report states:

> The requirement to contribute to universal service is based on the long history of the public interest, convenience and necessity that is inherent in the privilege granted by the government to use public rights of way or spectrum to provide telecommunications services.

The present system, where certain parts of the country indirectly subsidize low-cost service in other areas, will be phased-out.

I am also pleased the legislation includes two amendments which I sponsored in committee and one I sponsored on the floor. The two amendments adopted in committee seek to restore a level playing field in two areas: broadcast rates for public, educational and governmental entities—known as PEG access groups; and competition in the pay phone markets. I am disappointed that efforts to refine the payphone amendment were unsuccessful, but I hope that further progress can be made on the subject in conference.

As I noted earlier in my statement, there are several provisions in the bill that continue to trouble me. On the floor, I offered and the Senate passed an amendment to ensure low income and rural areas are not bypassed as communications companies implement new technologies and services.

As the bill moves to conference, I will continue to do what I can to make further improvements and defend against efforts to weaken its provisions protecting consumer interests and assuring free and fair competition.

Through this legislation and this debate, we have a unique opportunity to craft a telecommunications policy framework for the next century. Today, Mr. President, each of us is in a sense a pioneer heading out on the new information highway. Each of us is not only a witness to, but a participant in, one of the most amazing technological revolutions in history. We, as legislators, bear a special responsibility to assure that competition in this new era is fair and that every American in this and future generations may enjoy the fruits of this competition. This is truly one of the greatest challenges we face as we enter the 21st century.

RADIO SPECTRUM FOR LAW ENFORCEMENT PURPOSES

Mr. HATCH. Mr. President, I share the concerns that have been expressed by others regarding the availability of radio spectrum for law enforcement purposes. I have been contacted by law enforcement organizations across the country, including those in my State of Utah, expressing these concerns.

A critical element in the effort to battle crime and to respond to emergencies of all types is the existence of reliable and secure radio communications facilities, which in turn depends on adequate spectrum availability. Yet, current allocations may well be inadequate to meet present needs. Many metropolitan police departments are unable to add new channels to alleviate congestion.

Moreover, spectrum space is also needed to bring new technologies online. Just last week, we passed a counterterrorism bill, which included important provisions to increase information sharing between law enforcement. Yet these provisions will be for naught if spectrum space is not available for the deployment of these technologies.

I appreciate the commitment expressed by the managers of this bill to address this issue. I know that the Senator from South Dakota, the Distinguished Chairman of the Commerce Committee, shares my concerns. As a former member of the Judiciary Committee, he understands the needs of law enforcement. I understand that he is committed to attempting to resolve these concerns as this legislation moves forward. I look forward to working with him and the Senator from South Carolina on this vital issue as the legislation moves through conference.

Mr. BIDEN. I am very concerned that Federal, State, and local law enforcement have adequate spectrum availability, and would like to work with the chairman of the Judiciary Committee and the managers of this bill to ensure that this vital issue is addressed in the conference on this legislation.

The reason this is so important is twofold. First, in this era where Federal, State, and local law enforcement often work together we need to maintain spectrum space so that these, and other public service agencies, can communicate with ease and with the most advanced technology available. If we develop better technology to allow the police to talk to each other without the bad guys listening in, we must have the spectrum available to use this technology.

Second, we must work to ensure sufficient spectrum space for the myriad technological advances being made in

the area of secured communications. I have heard several of the law enforcement leaders in my home State of Delaware raise these key points. So, I believe this is a practical problem that we face in Delaware and around the Nation.

We do a disservice to law enforcement and to the American people if we do not provide these public servants with the many benefits of our rapidly advancing telecommunications industry. I look forward to working with my friend from Utah on this important effort.

Mr. HATCH. I thank my friend and colleague from Delaware for his support on this issue. As the former chairman of the Judiciary Committee, his strong support of law enforcement is wellknown, and I look forward to working with him in this.

Mr. BIDEN. I want to acknowledge and thank my colleagues for their efforts on this issue. In particular, Senator HATCH and the managers of this important legislation, Senator PRESSLER and Senator HOLLINGS not only for their support of this effort, but also their support of law enforcement.

Mr. PRESSLER. I do share my colleagues' concerns, and appreciate the interest of the chairman and ranking member of the Judiciary Committee in this issue. I look forward to working with them on it.

Mr. HOLLINGS. I, too, understand these concerns and look forward to addressing them.

CABLE ISSUES

Mr. PRESSLER. Mr. President, I would like to engage my colleague from South Carolina in a colloquy on several cable issues. First, it is my understanding that neither section 204(a) of the bill nor the relevant provisions in the Dole-Daschle-Hollings amendment is intended to prevent the FCC and cable operators from entering into "social contracts" or other similar arrangements to settle rate complaints, under which the operator agrees to offer a low priced basic tier to offset an increase in the rate for cable programming services.

Mr. HOLLINGS. The Senator from South Dakota is correct.

Mr. PRESSLER. I thank the Senator. Second, it is my understanding that the reference to comparable video programming, added by the Dole-Daschle-Hollings amendment to new section 623(*l*)(1)(D) of the Communications Act, has the same meaning as it does elsewhere in section 632(*l*)(1) of the Communications Act and the FCC's regulations defining comparable.

Mr. HOLLINGS. The Senator's understanding is correct.

Mr. PRESSLER. Finally, I call the Senator's attention to the managers' amendment to S. 652. As amended by the managers' amendment, new section 613(b)(2)(B) of the Communications Act clarifies that a Bell operating company providing cable service as a cable operator utilizing its own telephone exchange facilities is not required to establish a video platform. However, a Bell operating company that provides cable service as a cable operator, whether through its own telephone exchange facilities or otherwise, would be subject to the PEG and commercial leased access requirements of the Communications Act—sections 611 and 612—applicable to all cable operators.

Mr. HOLLINGS. The Senator accurately states the intent of the bill as amended by the managers' amendment.

Mr. PRESSLER. I thank the Senator from South Carolina.

POLE ATTACHMENT

Mr. MURKOWSKI. Mr. President, I have reviewed the provisions of S. 652, as reported, that seek to amend section 224 of the Pole Attachment Act of 1978. As a result of that review, I am deeply concerned that these provisions would have a significantly adverse impact on electric utility ratepayers throughout the Nation. I am particularly concerned that these provisions would require electric ratepayers to shoulder the burden of subsidizing not only cable operators but also telephone companies and telecommunications providers. The amount of money foregone by the bill as reported is not trivial. It amounts to tens of millions of dollars annually, if not hundreds of millions of dollars. Put simply, it is not fair to ask consumers of electricity to subsidize cable operators and telephone companies. In this connection, it is important to point out that this subsidy does not even necessarily go the customers of these companies.

From a consumer protection standpoint, I believe the legislation should be amended to ensure that all entities that attach to poles are required to pay a fair and proportionate rate that provides for recovery of the cost of installing and maintaining the entire pole, including the common space. I ask the chairman of the Committee, Senator PRESSLER, and the ranking minority member, Senator HOLLINGS, whether they have any concerns on this matter and what their plans are to remedy the situation.

Mr. PRESSLER. I agree with the Senator from Alaska [Mr. MURKOWSKI], that this is a real concern that needs to be addressed. I believe that many of these concerns are being addressed in the Manager's amendment, but to the extent that they are not fully addressed I will work with you to address them.

Mr. HOLLINGS. I concur in the comments of the Senator from Alaska [Mr. MURKOWSKI] and the comments of the Chairman of the Committee, Mr. PRESSLER.

SUBMITTED AMENDMENT NO. 1320

Mr. BROWN. Mr. President, I filed an amendment No. 1320, that addresses the part of the bill which amends existing law regarding pole attachments. Under the bill, all utilities are required to open up their poles, ducts, conduits or rights-of-way to other telecommunications carriers on a cost basis. Of course, there are exceptions to this. I filed an amendment which would have removed that obligation for nondominant telecommunications carriers. In other words, no nondominant telecommunications carrier would have to provide access on a cost basis. Instead, they would offer access on a free-market basis.

The reason this amendment was filed is straightforward. I can understand requiring the incumbent monopoly to provide access on a cost basis, since the captured rate payers funded the construction. But, I cannot understand requiring other, competitive providers to provide access on a cost basis—particularly if their business is largely in providing access to those very same conduits on a market basis.

There are competitive telecommunications businesses that have laid lines and built a long distance service through hard work and purely private capital. There are telecommunications businesses that have focused on laying conduit or lines for purposes of leasing or selling that capacity. The obvious problem would arise if these businesses that focus on selling capacity lose any chance of profit because they must provide access on a cost basis. I do not think the bill should apply to them, but I am not sure that it does not.

I am sure that the intent of this section was not to burden competitive carriers that are in the business of providing capacity. I ask the managers if they agree with me that this was not the intent of the section?

Mr. PRESSLER. That is right.

Mr. HOLLINGS. I agree with the Senator.

Mr. BROWN. The amendment I filed would have exempted nondominant carriers from application. At this time, we will not offer the amendment.

The difficulty in this area is that it is unclear whether the bill actually causes an inequitable result and thus whether anything needs to be done. We will take a second look at drafting a solution to this potential problem between passage in the Senate and the conference with the House.

At this time, I ask the managers of the bill if they will support our effort to solve this potential problem in conference?

Mr. PRESSLER. I agree with the Senator from Colorado that there may be a unwanted inequitable result from this section, and I will work to solve this potential problem in conference.

Mr. HOLLINGS. I, too, believe there may be a potential problem and will work to solve this problem in conference with the House.

Mr. BROWN. I thank the managers for their help on this important issue

and commend them for their work on the bill. I yield the floor.

SINGLE LATA STATES

Mr. PRESSLER. This amendment refers to "single-LATA states." I understand this to cover only states where the LATA and the state are the same—where the state constitutes the entire LATA.

Mr. ROTH. That is my understanding as well. The amendment would not exempt those states, like Delaware, that are part of a LATA that includes part of another state.

Mr. PRESSLER. I agree with that interpretation of the amendment. I thank the Senator from Delaware. I believe we all have the same understanding of the Breaux-Leahy amendment. That amendment would not exempt Delaware which is part of a LATA that includes part of another state.

Mr. DASCHLE. Mr. President, this debate on S. 652 has clearly demonstrated the potential of emerging telecommunications technologies. It is truly exciting to contemplate what this legislation could mean for American society.

A particularly intriguing new development in the telecommunications field is the creation of Personal Communications Services (PCS). These devices will revolutionize the way Americans talk, work and play.

While this new technology opens new vistas for personal communications services, its emergence also highlights the potential downside of entering untested areas. Specifically, concerns have been raised about the potential side-effects of some new PCS technology on other devices such as hearing aids.

Recently, the government completed an auction that netted $7 billion for the right to provide advanced digital portable telephone service. It is my understanding that some of the companies that obtained these PCS licenses have considered utilizing a technology known as GSM—Global System for Mobile Communications. I am informed that people who wear hearing aids cannot operate GSM PCS devices, and some even report physical discomfort and pain if they are near other people using GSM technology.

It should not be our intent to cause problems for the hearing impaired in promoting the Personal Communications Services market. It is my view that the Federal Communications Commission (FCC) should carefully consider the impact new technologies have on existing ones, especially as they relate to public safety and potential signal interference problems. An FCC review is in keeping with the intent of S. 652, which includes criteria for accessibility and usability by people with disabilities for all providers and manufacturers of telecommunications services and equipment.

Mr. HOLLINGS. Will the Senator yield?

Mr. DASCHLE. I would be glad to yield to the honorable ranking member of the Commerce Committee.

Mr. HOLLINGS. I thank the Senator for yielding and support his suggestion that the FCC investigate technologies that may cause problems for significant segments of our population before they are introduced into the United States market. Such review is prudent for consumers, and it will help all companies by answering questions of safety interference before money is spent deploying this technology here in the United States.

Four million Americans wear hearing aids, and the Senator from South Dakota has raised an important issue. GSM has been introduced in other countries, and problems have been reported. It is reasonable that these problems be investigated before the growth of this technology effectively shuts out a large sector of our population.

Mr. DASCHLE. I thank the Senator for his remarks, and would also like to commend his role in bringing telecommunications reform to the floor. His leadership and patience throughout this three-year exercise that has spanned two Congresses is well known and widely appreciated.

Mr. President, the public record indicates that if companies are allowed to introduce GSM in its present form, serious consequences could face individuals wearing hearing aids. I would urge the FCC to investigate the safety, interference and economic issues raised by this technology. I also would urge the appropriate congressional committees to consider scheduling hearings on this issue.

Mr. PACKWOOD. Mr. President, S. 652 contains what appears to be two checklists—the first is in section 251(b)—and it deals with such issues as interconnection, access, unbundling, resale, number portability and local dialing parity. Section 255, which deals with the removal of the long distance restriction imposed upon the Bell operating companies by the modification of final judgment, has the second checklist in section 255(b)(2). Section 251(b) deals with the very same issues as section 255(b)(2) does, but its requirements are stated in a broader and less specific manner. Is a Bell operating company required to have "fully implemented" both the section 251 and the section 255 checklist before the Communications Commission can authorize a Bell operating company to provide interLATA service pursuant to section 251(c)?

Mr. PRESSLER. No.

Mr. PACKWOOD. When Section 255 makes reference to section 251, is that reference intended to incorporate the minimum standards of section 251?

Mr. PRESSLER. No.

Mr. CRAIG. What is the intended relationship between the section 251(b) "minimum standards" and the section 255(b)(2) "competitive checklist" given that both the "minimum standards" and the "competitive checklist" address many of the same issues?

Mr. PRESSLER. The competitive checklist is found in section 255(b)(2) and is intended to be a current reflection of those things that a telecommunications carrier would need from a Bell operating company in order to provide a service such as telephone exchange service or exchange access service in competition with the Bell operating company. This competitive checklist could best be described as a snapshot of what is required for these competitive services now and in the reasonably foreseeable future. In other words, these provisions open up the local loop from a technological standpoint as section 254 opens the local loop from a legal barrier to entry standpoint. Section 251's "minimum standards" permit regulatory flexibility and are not limited to a "snapshot" of today's technology or requirements.

NONDISCRIMINATORY TREATMENT

Mr. HELMS. Mr. President, may I direct a question to my distinguished colleague from South Dakota regarding a minor technical matter in the Committee amendment?

Specifically, I believe a clarification is in order regarding the Senate's intent in changing the heading on page 101 at lines 15 and 16 to read "(2) Non-Discrimination Standards . . . ." It is my understanding that this amendment is necessary to express clearly the Senate's intent that the nondiscrimination provisions in this paragraph shall apply to transactions of Bell operating companies with all parties, not just other local exchange carriers as incorrectly suggested in the Committee Report.

Such nondiscriminatory treatment in procurement, standards-setting, and equipment certification is particularly important to the telecommunications equipment supplier community. Independent suppliers must have the same opportunity to sell to the Bell operating companies as any of their affiliates. This is good for the consumer, good for the suppliers, and good for the telephone companies.

Mr. PRESSLER. The understanding of my colleague from North Carolina is correct.

Mr. HELMS. I thank my good friend from South Dakota for making this clarification in the bill.

AMENDMENT NO. 1256

Mr. PRESSLER. Mr. President, I understand there is some concern among those in the transportation industry over an amendment agreed to earlier regarding the use of auctions for the allocation of radio spectrum frequencies. Specifically, the amendment would extend the FCC's authority to use auctions for the allocation of radio spectrum frequencies for commercial

use. That amendment, which I supported, also includes a provision to exclude so-called "public safety radio services" from competitive bidding requirements.

I see the sponsor of the amendment on the floor. Will the Senior Senator from Alaska enter a very short colloquy to help me put to rest the concerns over this amendment?

Mr. STEVENS. Certainly.

Mr. PRESSLER. For purposes of public safety radio services, there are many circumstances when the transportation industry must rely on radio telecommunications to address safety concerns. For example, the railroad industry uses radio spectrum for voice and data communications that are essential to public safety. Freight and passenger railroads rely upon radio communications to transmit authority for train movements, to broadcast emergency warnings, and to seek emergency response in the event of accidents. Indeed, radio communications can often be critical to addressing the safety concerns of many modes of transportation. Does the Senator from Alaska agree with my views?

Mr. STEVENS. Yes. The transportation industry's reliance on radio communications can be critical to public safety. The amendment is not intended to impose economic burdens on the transportation industry or other industries when meeting public safety obligations.

For example, public safety radio services also include private, internal non-commercial use radio services used to provide reliable and secure communications in the management and operation of utility and pipeline services, like the Trans-Alaska pipeline and other oil, gas, mining, and resource development activities in my state under federal, state, and local statutes, regulations and standards relating to public health, safety or security.

Mr. PRESSLER. I thank the Senator. Now, I will yield to the Senior Senator from Oregon, who I understand would also like to comment on this important subject.

Mr. PACKWOOD. I thank the Chairman. I wanted to stress that the availability of radio frequencies is critical to technological advancements which enhance transportation safety. For example, the Department of Transportation is currently working with the Union Pacific Railroad and the Burlington Northern Railroad on an important test program to demonstrate the benefits of a new technology using radio spectrum called Positive Train Control. In fact, a 1994 Federal Railroad Administration report to Congress specifically emphasized the importance of radio technology in the development of positive train control.

This is just one example of how the radio spectrum can be important to the development of new transportation safety technologies. Since the availability of radio frequencies will be critical to these efforts in the future, I strongly agree with my colleagues the term "public safety radio services" includes safety-related communications of railroads and other modes of transportation.

Mr. PRESSLER. I concur with the Senator and thank him for his comments.

Mr. HOLLINGS. Mr. President, I am concerned that the language in S. 652 is unclear concerning the requirements that the regional Bell operating companies [RBOC's] must fulfill before they are permitted to provide interLATA, or long distance service. The entry provisions of section 255(b)(1) require that the RBOC must reach an interconnection agreement and must fully implement the checklist under section 255(b)(2). The language is unclear, however, whether the RBOC actually must simply reach an agreement to provide interconnection or whether it must also actually provide such interconnection to a carrier. I would simply clarify that, as one of the principal authors of this legislation, it is my understanding that the legislation requires the RBOC not only to reach an agreement but it must also actually provide such interconnection to a carrier fulfilling the checklist under section 255.

I understand that the legislation does not require that the RBOC's comply with both the minimum standards under section 251(b) and the section 255 checklist before being authorized to provide interLATA service. I would clarify one additional point, however, concerning the charges of providing interconnection under section 255. While there is no explicit reference to the charges that the RBOC's may assess for interconnection under section 255, it is my interpretation of the language in section 255 that the RBOC's must provide interconnection under section 255 at charges that are consistent with section 251(d)(6). Indeed, while the reference to section 251 in section 255(b)(1) is not intended to refer to the minimum standards under section 251, it is intended to include reference to subsection (d)(6) in section 251 concerning the charges for each unbundled element under section 255. I appreciate the opportunity to share this interpretation with colleagues.

Mr. FEINGOLD. Mr. President, I rise in opposition to the Telecommunications Competition and Deregulation Act of 1995. Mr. President, I had hoped that, following the adoption of several proconsumer amendments on the floor, that I would be able to support this legislation.

I favor increased competition and deregulation of telecommunications markets because true competition benefits consumers by providing them with more choices, lower prices, and improved service. However, Mr. President, S. 652, as it was reported by the Commerce Committee, did not contain adequate assurances that the deregulation of telecommunications markets will result in true competition. And unfortunately, Mr. President, virtually all of the amendments offered on the floor to ensure that this bill would benefit users of telecommunications services were rejected by the Senate.

Mr. President, I am disappointed about that turn of events because I think there was ample opportunity to make this bill a good bill for consumers, local communities, State governments, and private businesses alike. I regret that the Senate took what should have been an opportunity to better serve consumers, and turned it into an obstacle to greater true competition in telecommunications.

The amendment offered by the Senator from North Dakota, Senator DORGAN, and the Senator from South Carolina, Senator THURMOND, was among the most critical amendments offered to improve this bill. That amendment would have included in the legislation a strong decisionmaking role for the Antitrust Division of the Department of Justice in the approval of the regional Bell operating companies [RBOC's] entry into long distance telecommunications markets. It was an attempt to rectify the inadequate long distance entry provisions contained in the bill.

Mr. President, while the bill did attempt to provide protections for consumers, such as the competitive checklist and the public interest test, there was still a distinct need for review by the Antitrust Division of the Department of Justice. The competitive checklist in S. 652 only ensures that certain technical and legal barriers to competition in the areas served by the Bell monopoly have been eliminated prior to the RBOC entry. This checklist does not require that competition actually exist in local markets dominated by the RBOC's before they are able to use their substantial market power to enter long distance markets.

The power of the local monopoly is without equal in telecommunications markets. The advantages provided to them over those with lesser market power, fewer resources, and limited opportunities to control entry by their competitors are without bounds. We must keep in mind that competition in both local and long distance markets cannot exist when one player has substantially greater market power than his/her rivals.

S. 652 also prohibits the Federal Communications Commission, the agency required to enforce the competitive checklist, from expanding on the criteria contained in the checklist. If Congress has overlooked crucial criteria with respect to barriers to entry, FCC would be unable to consider it. At

the same time the bill limits FCC's role, it provides absolutely no role for the Department of Justice which is the agency responsible for the competition that exists today in long distance markets. Senators DORGAN and THURMOND worked hard to rectify that inadequacy by offering an amendment giving the Department the authority to approve individual RBOC applications to enter long distance markets. Mr. President, that crucial amendment failed.

The absence of a sound antitrust review of RBOC applications to offer long distance service means there is little assurance that the benefits consumers have realized in a competitive long distance markets will not evaporate if this bill becomes law.

And Mr. President, if the absence of a DOJ role did not provide adequate reason to oppose this bill, the rejection of a substantial number of basic proconsumer amendments only added to my opposition.

Mr. President, this bill repealed much of the cable rate regulation established in the 1992 Cable Act, a law enacted in response to consumer outcries about skyrocketing cable rates. The Senator from Connecticut [Mr. LIEBERMAN] offered an amendment which would have merely provided an accurate yardstick to measure whether a cable company's cable rates were out of line and should be subject to regulation. That amendment was tabled.

An amendment offered by the Senator from California [Mrs. BOXER] would have provided some assurance that channels currently included as part of a consumers' basic tier cable service, which remain under Government regulation, would not be moved into more costly upper tier packages, which will be deregulated under this bill. S. 652, in its current form actually provides an incentive to move channels offered as part of a basic package into the unregulated upper tier packages for which cable companies can now charge higher rates. Senator Boxer's amendment was tabled.

The Senator from Nebraska [Mr. KERREY] offered several very good amendments on this bill. One very simple amendment would have merely required that a consumer representative sit on Federal-State Joint Board on Universal Service, the board which will study existing universal service support mechanisms and make recommendations about how to preserve and advance universal telecommunications service. It seems entirely appropriate that rural consumers be guaranteed representation on this board. Senator Kerrey's amendment was tabled.

The package of leadership amendments that was approved earlier this week by the Senate eliminated virtually all restrictions on the number of radio stations one entity might own raised a number of concerns about undue market concentration in broadcasting. While I voted for that package of amendments because it contained a prohibition on cable/telephone company cross ownership, I remained concerned about the radio ownership provisions in the package. The Senator from Illinois [Mr. SIMON] attempted to increase the number of stations one entity might own by 150 percent from current law rather than lifting the restrictions entirely. His effort was designed to ensure that this bill did not actually result in less competition in radio broadcasting. His amendment was rejected.

Mr. President, the list of defeated proconsumer amendments goes on. I was astonished by the rejection of some of these amendments which were intended to benefit consumers and protect them from potentially anticompetitive practices of some within the telecommunications industry. I have wondered if my colleagues have forgotten that the reason we are attempting to encourage grater competition through deregulation is to benefit consumers, not the competitors themselves. This bill might be very good for telecommunications business interests, but it is not good for consumers.

In addition, Mr. President, I am very disturbed by the passage of an amendment yesterday, offered by the Senator from Nebraska [Mr. EXON] which I believe contains an unconstitutional provision. I spoke at great length yesterday about my specific concerns with that amendment.

Mr. President, it is with disappointment that I must oppose S. 652. However, the outcome of the floor action on this bill, leaves me very little choice.

LEGISLATIVE HISTORY LANGUAGE ON OWNERSHIP CAP/ATTRIBUTION

Mr. PRESSLER. Mr. President, In raising the ownership cap to 35 percent of the Nation's TV households immediately, with a biennial regulatory reform review, it is our intent to permit broadcast companies to achieve greater operational efficiencies through expanded group ownership of television stations. There is a danger, however, that future changes to the FCC's attribution rules—for example, prospectively or retroactively restricting the availability of the single majority shareholder exemption or attributing nonvoting stock—could cause some ownership interests not now covered by the cap to fall within the scope of this regulation. Such a result could seriously undermine the goal that we are seeking to advance through adoption of this legislation. Accordingly, the committee expects the FCC to avoid the adoption of more onerous or restrictive attribution policies that would reduce the national station ownership potential of individual companies below the level that would be permitted under a 35-percent cap utilizing the attribution rules that are currently in effect.

PROMOTING THE USE OF TELECOMMUTING

Mr. SPECTER. Mr. President, I have sought recognition to speak more fully about my amendment on telecommuting, which passed the Senate yesterday by voice vote. My amendment directs the Secretary of Transportation to research successful telecommuting programs and to inform the general public as to the types of telecommuting programs that are succeeding and the benefits and costs of such programs. This amendment is appropriate in the context of the pending bill, which accelerate the deployment of advanced telecommunications and information technologies.

As my colleagues are aware, telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to their home during their normal working hours, substituting telecommunications services, either partially or fully, for transportation to the traditional workplace. I believe that it is in the national interest to encourage the use of telecommuting because it can enable flexible family-friendly employment, reduce air pollution, and conserve energy. Further, as a Senator from a State which has major urban areas like Pittsburgh and Philadelphia, I recognize there is a real need to improve the qualify of life in and around America's cities.

According to a July, 1994, Office of Technology Assessment report, between 2 to 8 million American workers already telecommute at least part time. A 1994 survey by the conference board found, however, that in 155 businesses nationwide, only 1 percent of employees telecommute, although 72 percent of the businesses had such an option.

According to the Office of Technology Assessment, the most significant barriers to telecommuting are business and worker acceptance and costs. This legislation responds to the need to broaden public awareness of the benefits and costs of telecommuting, and to identify and highlight successful programs that can be duplicated.

I believe telecommuting is profamily. I have seen several news articles which featured working mothers and other parents who endorse telecommuting as benefiting child care and flexibility generally. One General Services Administration employee who now telecommutes was interviewed for a June 11, 1995, Washington Post article remarked, "I just wish they had this much sooner, when my kids were little."

Telecommuting should also appeal to computer-literate younger Americans, such as those described as Generation X, for whom a balance between work and lifestyle is very important. This new generation of American workers is the most adept at utilizing computers

and should welcome the opportunity to spend less time commuting and more time pursuing other interests.

It is also important to note that some physically impaired individuals are able to obtain jobs thanks to their ability to telecommute. An April 23, 1995, Boston Globe article detailed a pilot project in Massachusetts, where physically impaired individuals such as the legally blind and quadriplegics do transcription work for doctors and hospitals. One women who suffered crippling injuries in an automobile accident noted that she never thought she'd work again, but that this new telecommuting program "is like a gift sent from heaven."

Telecommuting should be of interest because of its potential implications for transportation, particularly the mitigation of traffic congestion. The Energy Department issued a report in June, 1994, in which it stated that telecommuting and its benefits will be concentrated in the largest, most congested urban areas, with 90 percent of the benefits accruing to the 75 largest American cities. Thus, the greatest benefits will occur where they are most needed. Reflecting the direct effects of telecommuting on transportation, the Department of Transportation has reported that in 1992, telecommuting saved 2 million Americans an estimated 3.7 billion vehicle miles, 178 million gallons of gasoline, and 77 hours of commuting time each. The Department also estimated that telecommuting would lead to reductions of hydrocarbons and nitrogen oxides on the order of 100,000 tons in the year 2002 and 1 million tons of carbon monoxide. Rural areas should also benefit from a broader use of telecommuting because more employment opportunities would be available through the information superhighway.

My amendment is simple and straightforward. It directs the Secretary of Transportation to identify successful telecommuting programs used by Government agencies and companies and publicize information about such programs in order to broaden public awareness of the benefits of telecommuting. The Secretary would carry out this directive in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, so that work force and environmental concerns will be taken into account. The Secretary of Transportation would also be required to report to Congress on his findings, conclusions, and recommendations with respect to telecommuting within 1 year of enactment. Using such information, Congress may consider whether additional legislation to promote telecommuting is warranted or desirable.

I ask unanimous consent that the texts of the Washington Post and Boston Globe articles I have mentioned be printed in the RECORD.

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

[From the Washington Post, June 11, 1995]

FEDERAL WORKERS TEST DRIVE TELECOMMUTING

(By Todd Shields)

In a federal office in Waldorf, Julie Jones occupies workstation 13. Chrissie Edelen sits right beside her, in mirror-image No. 14.

Their cubicles are bereft of humanizing touches, bare of the snapshots or photocopied cartoons that might proclaim that a person is in the bureaucrat's seat.

They'll go all day without walking down the hall to a meeting.

They'll not be visited by a boss, and no colleague will drop in for a chat.

Office grumps? Strange ascetics?

Certainly not. They are happy telecommuters, using their cubicles in Southern Maryland once a week, on the blessed day when they don't devote two or three hours to the simple act of getting to and from work. And that, they certainly love.

"The morale is excellent," said Edelen, a graphic artist. "I feel more relaxed. You're not fighting traffic. . . . You just feel better."

Edelen and Jones, a paralegal, are early beneficiaries of a pilot program that may spare tens of thousands of federal workers enervating commutes while boosting productivity and cutting air pollution.

The women are among 56 workers who spend one or two days a week at the InTeleWorkNet Center, a 14-station office suite replete with computers, faxes, printers and other equipment. The center, set up with money from the General Services Administration, is one of five on the fringes of the Washington area, where federal commuters face particularly grueling trips.

Proponents see the centers as forerunners of scores of similar stations that would dot the area, in essence bringing many workplaces within a short drive or even a bicycle ride of workers' homes. The GSA, which is using the Washington area as its prototype, expects to expand the program nationwide, fostering "telework" centers for 60,000 federal employees by 1998.

The federal pilot, funded by a $6 million appropriation through late 1996, is one of several initiatives to bring telecommuting—working at a distance from the usual office—to government workers in the Washington area.

Fairfax, Arlington and Montgomery county governments all have begun small pilot programs for their staffs to work from home. The Metropolitan Washington Council of Governments, a regional planning agency, envisions four work centers in Virginia an done in the District for private and public workers. And this year, Maryland is to launch a three-year pilot program for state employees, who would work at home.

The programs are initial steps toward a transformation already well begun in the private sector. Estimates of the number of telecommuters in the United States begin at 5 million, yet the federal government, with its 2.8 million employees, has only 3,000 workers enrolled in telecommuting programs. By comparison, one regional telephone company alone, Bell Atlantic Corp., has 2,000 telecommuting employees. Public or private, the programs' impetus is the same. Planners and executives look around and see the same things workers by the legion experience—bad air, traffic jams and stress-filled schedules that commonly have workers leaving home before dawn and placing their children in the care of others in eerily empty suburbs.

"You wonder: My God? Isn't there a better way to do this?" said Warren Master, head of the GSA pilot project.

Master speaks with the zeal of the converted, sketching aloud plans for work centers that play host to both government and private employees and that attract the broader public with copying shops, Internet access and services such as Veterans Affairs counselors or Internal Revenue Service advisers.

For the time being, though, the benefits go primarily to people such as Jones, the paralegal. A resident of Clinton, in southern Prince George's County, she usually commutes more than an hour to Defense Mapping Agency offices in Merrifield or Bethesda. On Wednesdays, she travels a few miles south against traffic to reach the Waldorf center in 15 minutes or less.

The hours saved leave more time with her husband and 22-month-old son. But Jones was surprised to find an added plus: She can accomplish far more at the Waldorf center, where she has all the equipment she needs without the countless distractions of big-office life, she said.

"It makes things easier," Jones said. "It's just the same as if I'm working at my desk in Merrifield or Bethesda, except I don't have as many interruptions."

Jones and Edelen, who works for the Federal Highway Administration, said they save large, complex tasks for their telecommuting days. Being able to work without interruption is a relief. "It's off my brain," Jones said, "and I'm on to something else."

The Waldorf workers have experienced what telecommuting consultants and advocates long have contended: that teleworkers are more productive. Studies document increases of 15 percent to 25 percent, said Master, of the GSA.

But telecommuting still can be a tough sell, said Jennifer Thomas, program director at the GSA's telecommuting center in Fredericksburg, VA., which opened its second branch last month.

"Some kind of grumpy middle manager will say, 'How do I know this person's not goofing off?'" Thomas said. Her center advises the managers to judge by results. So far, she said, the center has received only positive feedback from workers and their managers.

Despite the good reviews and the affected workers' adulation—virtually all Waldorf teleworkers surveyed by the University of Baltimore's Schaefer Center for Public Policy thought the arrangement improved morale and their quality of life—the centers' future is by no means assured.

"Once the funding runs out on these pilots, they, of course, have to be self-sufficient," Master said. When subsidies drop away, the charge to agencies that rent the computer workstations will increase. Master said agencies still could save money if they reduce the number of desks in central offices, to take account of telecommuters.

One person who hopes the centers will succeed is Ruth Ann Campbell, a GSA budget analyst who for 28 years has endured commutes of as far as 42 miles from her home in La Plata. Now she revels in the opportunity to drive just 10 miles north of the Waldorf center.

"My family and friends think I'm much nicer," she said during a break in the work center's small video-conferencing room. "I'm not only happier on Wednesdays, I'm happier

because I'm looking forward to next Wednesday. . . .

"I just wish they had this much sooner, when my kids were little."

[From the Boston Globe, Apr. 23, 1995]

QUADRIPLEGICS GET HELP IN WORK-AT-HOME PROGRAM

(By Andrew Blake)

When Mary M. Palermo suffered crippling back injuries after an automobile accident in Revere in the summer of 1992, she thought she would never be able to work again—certainly not as a waitress or in an office.

In some respects she was right. She says she can't commute to work because of back pain. But under a program just gearing up at Melrose-Wakefield Hospital, Palermo will "tele-commute" as she and several others work for doctors at the hospital via computer, without leaving their homes.

"For me this is like a gift sent from heaven," said Palermo, 42, of Revere.

"I started getting assignments for transcriptions on April 4 and the best part is I can work at home at my own pace," she added.

One doctor at the hospital has been using the new service since February. Several more physicians employed by the hospital or affiliated with it are expected to start using the service within a week or two.

Doctors dictate their patient medical notes, progress notes or surgical notes into a Dictaphone. The notes are then heard by a transcriptionist at his or her home, typed into a home computer and sent back to the hospital or doctor.

The program, which allows physically impaired people including the blind, to do transcription work for doctors and hospitals, originated at Boston University's Helping Hands project, best known for its work in training monkeys to help quadriplegics. It is funded in large part by a $50,000 grant from the State Department of Employment and Training.

M.J. Willard, executive director of Helping Hands, affiliated with Boston University's Medical School, described this pilot project "as diversification of the original program."

The idea came about, she said, after talks with the Massachusetts Rehabilitation Commission, the Massachusetts Commission for the Blind and Gov. Weld's Telecommuting Initiative. A variation on the program is working in California, she said.

"Over the summer, working with people referred by state agencies and scored for compatibility with home transcription work, a dozen trainees learned medical terminology, learned how to use computers and communication modems and software programs for writing and communication by computer.

"Not surprisingly, we discovered the very reasons that we set up the program were causing problems for the students—commuting," she explained.

The classes at BU were scaled back to once a week and then the students could learn by communicating with their computers. While BU provided the class space and administrative help, Willard said IBM donated computers and modems, the Dictaphone company donated some Dictaphones and deeply discounted others, Willard explained. And the state paid the salary for the instructor.

"We had contacted 82 hospitals and transcription companies to gauge their interest. Thirteen expressed interest but Melrose-Wakefield Hospital expressed deep commitment in making this happen, so we went with them," said Willard.

At the hospital, Jackie Valente, director of medical management, said the Helping Hands project could not have come at a better time. An increasing number of physicians need faster and more efficient transcription services.

"We see this expanding to 50 or so physicians with about one transcriptionist for every three doctors," said Valente.

Right now, she added, Dr. Khaleet Beeb is working with a transcriptionist to establish formats and to work out kinks in the system. For the moment, the transcriptionist first sends the transcribed reports to a proofreader working at home in Quincy, who checks for correct medical terminology and then sends it to Beeb at the hospital.

Three more transcriptionists she said, including Palermo, are about to start possibly as early as this week. One is in Dorchester and the other lives in Watertown.

One of the physicians about to use the program is Dr. Joseph L. Pennacchio, a Revere native who is president of the medical staff at Melrose-Wakefield Hospital.

"This sounds like a good program. I can definitely see advantages. With this service we can better document our notes, communicate faster for the benefit of patients and get more detailed information to us more efficiently," said Pennacchio.

The system currently used by doctors to have their notes transcribed relies heavily on commercial transcription services and free-lance transcriptionists who stop by the hospital or doctor's office to pick up tapes. The person then listens to the tapes, transcribes the information on a typewriter and then carries the material back to the hospital. That can take days or weeks, according to Valente.

Under the telecommuting system she expects the turnaround time to be greatly reduced.

"People can work at their homes at midnight or 3 a.m. if they feel like it or they can tend to their children and start work any time they like. The more they work, the more they earn," she added.

The homebound computer transcriptionists will be paid 7 cents a line. They can work as much as or little as they like, and much will depend on how extensive a doctor's notes are on any given assignment, she explained.

Palermo, originally from Watertown, N.Y., and with a degree in English, came to the North Weekly region about 19 years ago on assignment from the Social Security Administration to the Lynn office.

Later she worked as a waitress at Durgin Park in Boston, "where I was entertaining people for 12 hours a day. So I decided to be a stand-up comic, where I only had to be funny for 5 minutes."

"When the accident happened I was in the process of thinking about a work change. I never imagined I'd be working at home with a computer," she said.

RESTRICTION ON IN-REGION MERGERS OF TELEPHONE AND CABLE COMPANIES

Mr. THURMOND. Mr. President, I rise to commend the leadership and the managers of the telecommunications bill, S. 652, for the amendment which was made to ensure that potential competition between telephone companies and cable companies will be maintained for the benefit of consumers. Until this amendment was made, I had serious concerns about S. 652 removing the current prohibition on mergers between local telephone exchange carriers and cable companies in their service regions, subject only to standard antitrust scrutiny. I was prepared to offer an amendment to the original language in the bill because it lessened the likelihood of vigorous competition developing between telephone and cable companies, with each offering the services of the other.

As the chairman of the Judiciary Committee's Antitrust, Business Rights, and Competition Subcommittee, I am particularly pleased that the amendment adopted to restrict telephone-cable mergers contains a savings clause which makes absolutely clear that the antitrust laws are maintained and will be applied by the antitrust enforcement agencies. Thus, even if the FCC grants a waiver as permitted in the amendment or a merger comes within the rural exception, the Department of Justice and the Federal Trade Commission still have the authority and the obligation under the law to consider whether any telephone-cable merger, acquisition, or joint venture violates the antitrust laws.

Mr. President, antitrust analysis by the antitrust authorities is critical to promote competition between the two wires—cable and telephone—that already run to the home, and avoid a single monopoly provider of both cable and telephone services, which would result in higher cable and telephone prices for consumers.

I am pleased that an agreement was reached in this area and that this amendment is now part of the bill.

RURAL HEALTH PROVIDERS

Mr. ROCKEFELLER. Mr. President, I want to take a few moments to talk about how the Snowe-Rockefeller provision in the bill before us today will assure rural residents that when it comes to their health care they will have the same advantages as urban residents.

A shortage of family doctors, pediatricians, nurse practitioners, and other primary care providers has been a chronic problem in rural areas. Access to a medical specialist has been practically nonexistent unless a rural citizen was willing and able to travel, sometimes a very long distance, to be treated.

Telemedicine is a telecommunications technology that can address both these problems, and at the same time, save money for both patients and health care facilities. Patients save because they can be treated in their own hometown rather than being referred to an out-of-town specialist. This saves them transportation and overnight accommodation costs.

Patient cost-sharing payments will also be less if a patient can be treated locally rather than transported to a referral or specialty center. The costs of a local, rural hospital are generally lower than a teaching or specialty hospital. In those cases when a patient must be transferred for specialty care,

the availability of telemedicine consultations can speed up when a patient can be transferred safely back home.

Mr. President, a major difficulty in recruiting doctors and other health care providers to rural areas is the professional isolation, the heavy workload, and little or no back-up medical support. Telemedicine can provide lifesaving back-up support for medical emergencies which eases the minds of patients and their families and the doctor taking care of the patient. Telecommunication hookups can reduce the sense of professional isolation and provide for continuing education opportunities. And, over the long run telemedicine can increase training opportunities for health care professionals at rural sites, increasing the chances a doctor or nurse will return to practice in a rural community.

Mr. President, in West Virginia and all across the country, rural hospitals are finding it increasingly difficult to retain patients in the community because specialty physicians have a hard time diagnosing a patient's condition over the phone based only on a verbal description of the problem by the rural physician. Now with telemedicine, many of those rural hospitals can safely and effectively care for their patients instead of referring them elsewhere.

For example in West Virginia, a medical student and a primary care doctor consulted with the chief of neurology at West Virginia University about an elderly Medicare patient. The chief neurologist was able to diagnose the patient's medical condition through telemedicine technology. This saved the patient a 138-mile trip over mountainous terrain to West Virginia University Hospital. The patient instead was able to be treated at the rural hospital and ended up saving the Medicare Program $2,500.

And, of course, when minutes, even seconds, count, having the instant availability of emergency consultations can literally mean the difference between life and death. Just last week in West Virginia, an emergency medical resident staffing a rural hospital emergency room had to treat a patient with a broken neck. The medical resident had never treated a broken neck before, but because the rural hospital had telemedicine capabilities, Dr. John Prescott, the chief of emergency medicine at West Virginia University was able to immediately consult with the doctor on the appropriate treatment protocol. The patient was stabilized and later transferred to a referral hospital.

Our amendment will help bring down a significant financial barrier to the development of telecommunications technology in rural areas: the costs of transmission. While the basic start-up costs for acquiring telemedicine technologies are coming down, transmission costs remain unaffordable. A small, rural hospital in West Virginia reported that the estimated charge for a T1 line to allow them to hook up with a larger hospital for administrative and quality assurance support was an unaffordable $4,300 a month.

The West Virginia University which started a pilot telemedicine project 5 years ago, recently solicited bids for carrier services; three companies bid for the service. The winning bid's monthly charges ranged from $475 a month to $2,200 a month. The highest monthly charge of $2,200 was for a telecommunications hookup with a small rural health center in Greenbrier County, WV with the closest teaching hospital in the area.

The cost of transmission must be lowered if telemedicine is to become economically feasible for many rural communities. Right now the West Virginia telemedicine project is funded by Federal grant dollars. This is true for hundreds of telemedicine projects all across the country. Congress with enthusiastic bipartisan support has encouraged the development of telemedicine technologies all across the country. The Government has provided seed money for telemedicine, but unless we make sure that telecommunication transmission costs are affordable over the long run, many rural health care providers won't be able to continue with these very important projects.

Tommy Mullins, a hospital administrator for a small rural hospital in West Virginia, recently told my staff that "the $2,000 per month service charge for the T1 is more than I spend for educational programs for my entire staff of 150 employees. If we did not have the grant money to pay for the monthly charge we could not maintain the hookup."

Mr. President, our amendment is carefully targeted to health care facilities that are providing health care services in rural areas. We have also specifically included academic health centers, teaching hospitals, and medical schools in our amendment. These institutions have been essential partners with rural health providers in planning and creating rural health telemedicine networks and have been leaders in initiating rural health networks. Rural health care providers are generally so overloaded with patient care demands that it is difficult for them to spend the time planning and coming up with the resources to implement a telemedicine program.

In addition, academic health centers bring health professions training programs and continuing education programs to the rural health network which reduce professional isolation for the rural health care providers. Finally, it promotes an increased understanding and sensitivity on the part of the academic health center to many aspects of rural health care.

Mr. President, I am extremely pleased and relieved that the amendment I sponsored with the Senator from Maine, Senator SNOWE, was not stricken from the telecommunications bill. I believe that our provision will have a tremendous positive effect on rural health care. We are already seeing amazing results in terms of quality of care and in improving access to primary and specialty care in rural areas as a result of telemedicine. This amendment will make sure that the important progress we have made in rural health care will continue and expand.

LIMITING ACCESS BY CHILDREN TO INAPPROPRIATE MATERIALS ON THE INTERNET

Mr. ROBB. Mr. President, as you know, the Internet is a remarkable development that has transformed the way people communicate. On the Internet, you can converse on-line with family, friends, and associates across the globe, search untold numbers of data bases on every imaginable subject, and share ideas with millions with the push of a button. The Internet is an enormous highway with few rules. Its simplicity is part of its appeal. But its lack of rules is also a source of considerable concern, because of the widespread availability of materials on the Internet that are entirely inappropriate for children.

Certainly one option is to impose stricter legal penalties for putting offensive materials on the net, and the provisions in the bill accomplish this. I am concerned about these provisions, however, because they challenge first amendment rights and undermine one of the freest, most spontaneous communications media ever devised.

Another approach is to pursue a technological solution. Parents can block cable TV channels they deem inappropriate for children. We need similar controls for the Internet and other electronic communications media.

Some Internet providers are offering schools a service that denies access to unsuitable Internet sites. One software vendor is now offering a service which identifies and, if a parent desires, filters out inappropriate materials on the Internet. These are encouraging steps, and I hope industry will continue to develop and market such services. These services must be purchased, however, and will not come cheap for all Internet users. Hence a more ubiquitous fix is needed.

Another option, addressed in this amendment, is to include a "tag" or "marker" in the filename of Internet text or graphics of a mature nature. For example, if an Internet user is preparing to post a file that is of a mature nature, he or she can include a tag such as "adult" or "mature" in the file name. Similarly, he or she can put this tag in an address—essentially this would mark all files under that address as inappropriate for children. It is then

a simple matter for programmers who develop the software that connects users to the Internet to include an optional parental block to filter out all such files. Teachers could use the filter as well.

This amendment simply encourages the Internet community to self-regulate its behavior by adding tags to files that are inappropriate for children. It does not mandate such tags, Mr. President. The amendment encourages vendors of software that links users to the Internet to include a parental block to filter out the tagged files. Finally, it requires the Department of Commerce to promote the program and GAO to study whether the voluntary tags are effective after one year. This amendment does not conflict in any way with the indecency provisions in the bill.

I should note that one industry initiative, announced Monday, involves putting a "stamp of approval" on materials judged appropriate for children, where parents can then choose to let their children see only those approved materials. Since the vast majority of material on the Internet is entirely appropriate for children, it is unclear how this idea can be implemented practically. It is nonetheless a useful initiative and complements the approach of this amendment.

This amendment offers only a partial fix, but in concert with appropriate legal penalties and other technical approaches, it will help address a very serious problem.

BELLCORE

Mr. LAUTENBERG. Mr. President, it is my understanding that the interested parties to the Bellcore issue raised during the debate on the manager's amendment have come to an agreement on a statement of goals that outline a mutually agreeable solution to the issue. The parties intend to negotiate legislative language to be included in the final bill.

I ask unanimous consent that the statement of goals be printed in the RECORD.

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

STATEMENT OF GOALS FOR AMENDMENT ON STANDARDS-MAKING AND CERTIFICATION

In addition to the provisions in S. 652 regarding Bellcore manufacturing, the parties agree to negotiate an amendment for adoption in the final act that will:

Ensure that entities engaged in industry-wide telecommunications equipment standards-making use open and non-discriminatory procedures.

Ensure that any entity that is an affiliate of more than one Bell operating company will engage in open, fair, and non-discriminatory establishment of generic network requirements intended to be a significant reference point for more than one Bell operating company in their product specifications, standards-making, and product certification for hardware, software, and related products when such company undertakes an activity for more than one company.

Ensure that Bellcore, if no longer an affiliate of any Bell operating company, will not be considered a Bell operating company, or a successor or assign of a Bell operating company.

Ensure that the Bell operating companies have choices in awarding contracts for the purpose of establishing product and service standards and requirements.

Ensure that vendors selling telecommunications equipment to Bell operating companies have opportunities to have their equipment certified under circumstances that are open, fair, and non-discriminatory.

Ensure that proprietary information submitted in the standards-making and certification processes is not released for any purpose other than that authorized by the owner of such information.

Mr. LAUTENBERG. It is my desire that the parties conclude these negotiations in a timely manner. I will support the product of the negotiations and urge that the Senate accept that product in the final version of this bill. Finally, I would like to thank the Senator from North Carolina for helping to bring the parties back to the negotiating table.

Mr. FAIRCLOTH. I concur with the Senator's statement. It is in everyone's best interest to seek a negotiated settlement. I thank the Senator for his work in getting the parties to agree to the statement of goals. It is an important first step. I understand that the statement of goals is acceptable to all Senators that have expressed an interest in this issue, including Senators HELMS, BRADLEY, DORGAN, EXON, and KERRY. I also understand that the statement of goals is acceptable to the managers of the bill, and that the managers are amendable to including the negotiated legislative language in the final bill.

Mr. PRESSLER. Mr. President, I shall stop speaking the minute either the Majority Leader or Minority Leader walk in the door. I wanted to take this time to make my concluding remarks.

I think this bill will result in lower telephone rates, lower cable rates, and more services to the American people. I think this is a very exciting era, and this bill an historic opportunity. I hope the House acts quickly, and I hope we have a conference as soon as is practicable. I hope a Conference Report can be adopted by both the House and the Senate, and I hope the President will sign the bill.

The intention of this bill is to get everybody else into everybody else's business. It is to promote competition and to deregulate. It has been a struggle because almost everybody in the industry says they are for deregulation. Yes, they say they are for deregulation, but they usually mean deregulation of the other guy.

This is a balanced, bipartisan bill. I think it is truly the first major bipartisan bill we have moved through the Senate this year. We have had our differences, but I believe that this bill will cause an explosion of new jobs. I believe that it will cause a new era, similar to what has occurred in the computer industry.

AMENDMENT NO. 1299, AS MODIFIED

AMENDMENT NO. 1422

AMENDMENT NO. 1423

AMENDMENT NO. 1313

Mr. PRESSLER. Mr. President, I ask unanimous consent that the remaining Breaux amendment be modified with the modification I send to the desk, that the modified amendment be agreed to and the motion to reconsider be laid upon the table, and that it be in order for me to send to the desk two technical amendments and a modification of amendment No. 1313, that they be considered and agreed to, en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the amendments (Nos. 1299, as modified; 1422; 1423; 1313) were agreed to, as follows:

AMENDMENT NO. 1299

On page 123, line 10, add the following new sentence: "This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition."

AMENDMENT NO. 1422

In section 623 of the Communications Act of 1934 (as added by section 204 of the bill on page 70), strike "and does not, directly or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier." and insert "and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

AMENDMENT NO. 1423

In section 262 of the Communications Act of 1934, as added by section 308 of the bill—

(1) strike subsection (e) and insert the following:

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission on the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

(2) strike subsection (g) and insert the following:

"(g) REGULATIONS.—The Commission shall, not later than 24 months after the date of enactment of the Telecommunications Act of 1995, prescribe regulations to implement this section. The regulations shall be consistent with the guidelines developed by the Architectural and Transportation Barriers Compliance Board in accordance with subsection (e).

AMENDMENT NO. 1313

On page 116, between lines 2 and 3 insert the following:

(D) Nothing in this section shall prohibit the Commission, for interstate services, and the States, for intrastate services, from considering the profitability of telecommunications carriers when using alternative forms of regulation other than rate of return regulation (including price regulation and incentive regulation) to ensure that regulated rates are just and reasonable.

Mr. DOLE. Mr. President, I think the distinguished Democratic leader would like to speak at this time. As I understand, after he speaks, I will have just a few minutes to speak on my amendment. Then we vote on the Dole amendment and then final passage.

I hope during the two votes I can determine what we will do the balance of the day and the balance of the week, so my colleagues will have some information before 6 o'clock. We are attempting to take up two bills and we are meeting objections from different sides for different reasons on each. We may be able to work that out during the vote.

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. 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, citizens in my State of South Dakota often ask me, what does this legislation mean to the State of South Dakota? What does it mean to people living in small cities?

I say a great deal.

First it will mean that a small city will be able to be on the same basis as a big city in terms of getting information. We have CitiBank's credit card operation located in Sioux Falls. We have the Spiegel Catalog telephone mail order facility in Rapid City.

Recently, a team from Georgetown University came to Sioux Falls to start a joint research project on telemedicine. Georgetown is planning to work with a Sioux Falls hospital to establish this telemedicine project.

Recently, I was talking to some of the major universities in this country about partnering with small South Dakota colleges. Modern telecommunications will make such partnerships not only possible, but productive.

I have recently approached one of the largest companies in the United States about doing a project jointly with small companies, using modern telecommunications.

The city of Aberdeen, SD, has a new upgrade digital switch. They are now able to use this capability for telemedicine, to have an interaction with some of the big hospitals as operations are being performed. As a result of the upgrade, a major motel chain, Super 8, was able to locate its nationwide reservation system in the city.

Someone living in a small city or a small town has the same information available as someone in a great city. You do not have to be in downtown New York, downtown Minneapolis, or in downtown Los Angeles to get information, use it and respond to it.

The executive director of the Northeast Council of Governments in my State has sent me a well-prepared report on what new telecommunications will mean in that region of smaller cities in rural areas. She reports that upgrading telecommunications technology has already attracted national companies to Aberdeen, where they have created hundreds of new jobs in the last year.

Other communities are clamoring for upgrades to their communications technology. They know this will help improve the quality of life in their communities.

Faye Kann's report also describes the potential for telemedicine and long-distance learning with an improved telecommunications infrastructure in northeast South Dakota.

I ask unanimous consent to have this report printed in the RECORD.

TELECOMMUNICATION TECHNOLOGY IN NORTHEAST SOUTH DAKOTA

(By Faye Kann)

Competition in the telecommunications arena could benefit rural areas such as northeast South Dakota. The SD Public Utilities Commission worked very hard to help Aberdeen and the region upgrade the telecommunications capabilities in order to effectively compete for business retention and creation. With the availability of competition, the upgrade of technology equipment could have occurred earlier.

In 1994–5, approximately 400 jobs have been newly created or retained in Aberdeen due to the upgrade of telecommunications technology and the ability for rapid data transmission. Four separate national and local entities saw the opportunity to utilize upgraded telecommunications equipment but needed the assistance of the state PUC in order to obtain the equipment upgrades. Companies such as Super 8 reservation systems, Howard Johnson's Reservation system, Aman Collection Company, and Student Loan Finance Corporation are among companies that added employees due to the technology upgrades. Without the telecommunications upgrade, one of these companies would have located in another state instead of South Dakota.

Those upgrades include the installation of SwitchNet 56, ISDN lines, and Signal 7 technology. That more up-to-date technology has enabled those companies to locate and maintain their companies in Aberdeen and keep jobs in northeast South Dakota. The increased payrolls and job opportunities have added to the number of jobs available to a broad spectrum of age groups employed in telecommunication agencies. The general nature of telecommunications jobs allow for flexible work schedules to accommodate workers from all age groups to interact both professionally and to maintain their excellent quality of life in South Dakota.

Other communities in northeast South Dakota such as Britton, Eureka, and Gettysburg are actively seeking job growth due to upgrades in telecommunications equipment throughout the region. Manufacturers in Britton such as Horton Industries and Sheldahl, Inc. with approximately 400 employees are currently using telecommunications equipment to communicate with their suppliers, markets, potential contracts and corporate headquarters. Use of the telecommunications equipment allows for quick, effective two-way interaction in the design stage before production.

Another component of the telecommunications industry focuses on long distance learning. The statewide Rural Development Telecommunications Network (RDTN) allows higher education to offer classes for students across the state. Schools in communities such as Groton, Frederick, and Webster in northeast South Dakota utilize cost efficiencies and class offerings that are available with telecommunications through the North Central Area Interconnect (NCAI) system. Continuing education for communities and school district staff allow for future development and curriculum enhancement.

Northern State University is moving ahead with expanding the connections on campus. The campus infrastructure would allow all video/audio conferences, meetings and instructional programs to be shown in the individual classrooms. Many classrooms, one existing microcomputer lab, and a new multi-media based Instructional Classroom will be connected to the LAN network. This classroom will be equipped with appropriate printers, scanners, and display equipment as well as a fully interactive video-conferencing component.

In addition, telemedicine is being used in the experimental stage in the region. The impact of the next phase of the regional telecommunications upgrade will place the high resolution telecommunications equipment in outlying clinic for patient diagnosis and effective utilization of physician's assistants and nurse practitioners. Those types of clinics are in communities where doctors are unwilling or unable to locate. The aging population as shown in the demographics of South Dakota rate health care as one of the top concerns.

Another community which is a good example of the need for state-of-the-art technology for a point of presence and fiber optics is Huron. Several major employers have considered Huron for economic development expansion but because of the lack of access and equipment, jobs and economic opportunity were denied in the northeast region of South Dakota. When checking with telecommunications companies who provide the necessary equipment, the cost to benefit ratio is not attractive in the rural areas and therefore equipment has not been installed and access is denied.

Education, government, and business are supporting the creation of CityNet in Aberdeen. The local cable company is upgrading its system with the installation of a large fiber-optic cable network. In addition to the cable company's normal services, this fiber-optic infrastructure will be used to connect various entities (K–12 education, higher education, all levels of governments, health care, and individual homes and businesses). The uses for the network are virtually limitless and offer a means for connections not only within the community but to the world as this network connects with other networks.

Competition coupled with universal service is a must for rural states to have access for all citizens. If major telecommunications networks such as Internet access are denied

in the rural areas, state-of-the-art technology will be deployed only in the mass markets with dense population where the providers are able to obtain cost-benefit ratios which are attractive to the provider. It is imperative that Congress understand this issue. Aberdeen hosts an annual telecommunications conference and was the first demonstration nationwide with an interactive two-way audio/video link over the public switched network with the US Senate Recording Studio in 1994. We invite interested parties to northeast South Dakota to view our projects and partake in demonstrations of the effect of utilization of the technology.

Mr. PRESSLER. Mr. President, I have received a letter from Laska Schoenfelder, public utilities commissioner of the State of South Dakota. Commissioner Schoenfelder has many years experience working to support South Dakota consumers and to help provide them better telecommunications services. She enthusiastically endorses S. 652.

Commissioner Schoenfelder writes, "This bill will allow Americans greater access to communication services at an affordable price which can only be achieved through a competitive market. The bill also preserves universal service, which is vital to rural states."

I ask unanimous consent that the letter be printed in the RECORD.

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

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION, STATE CAPITOL BUILDING,

Pierre, SD, June 9, 1995.

Memo to: Senator LARRY PRESSLER.

From: Laska Schoenfelder, SD Public Utilities Commissioner.

Re SD 652.

Residential and business consumers of communication services will be the real winners if Senator Pressler's bill, the Communication Act of 1995 (SB 652), passes.

While South Dakota has promoted telecommunications competition at the state level this bill will be a boon for economic development in all states. This bill takes a step forward in recognizing the essential role of the State in promoting fair competition.

This bill will allow Americans greater access to communication services at an affordable price which can only be achieved through a competitive market. The bill also preserves Universal Service which is vital to rural states.

Mr. PRESSLER. Mr. President, competition and deregulation will bring great benefits to South Dakota and other States with small cities.

For example, the bill is designed to rapidly accelerate private sector development of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

A recent series of television commercials have shown people sending faxes from the beach, having meetings via computer with people in a foreign country, using their computer to search for theater tickets and a host of other services that soon will be available. My bill would make those services available even sooner by removing restrictive regulations.

A person living in Brandon could work at a job in Minneapolis or Chicago, students in Lemmon would be able to take classes from teachers in Omaha, and doctors in Freeman could consult with specialists at the Mayo Clinic. Telecommunications can bring new economic growth, education, health care and other opportunities to South Dakota.

Competition in the information and communications industries means more choices for people in South Dakota. It will also mean lower costs and a greater array of services and technologies. For instance, competing for customers will compel companies to offer more advanced services like caller ID or local connections to on-line services such as Prodigy and America On-Line.

It hasn't been that long since Ma Bell was everyone's source for local phone service, long distance service and phone equipment. Now there are over 400 long distance companies and people can buy phone equipment at any department or discount store. Under my bill, eventually people would be able to choose from more than one local phone service or cable television operator.

This new competition also should lead to economic development opportunities in South Dakota. People will be able to locate businesses in towns like Groton and Humboldt and serve customers in Hong Kong or New York City. We are entering an exciting, historic era. I want to spur growth and bring new opportunities to South Dakota and everywhere in America.

Mr. President, we are reaching the close of this debate and a vote on final passage of S. 652. I am confident we are about to approve telecommunications reform by a wide margin.

This reform is not a partisan issue. This is the first major bipartisan legislation of the 104th Congress. I want to thank my comanager, the Senator from South Carolina, for his leadership. Today's vote will bring to fruition a project he has been working on for many, many years. I want to thank the majority leader and the minority leader for their indispensable efforts for passage of this bill.

The bill we are about to pass will break up monopolies. It will tear down competitive barriers. It will open up communications networks.

Mr. President, every American household and every business large and small, uses the services we are about to make more competitive. The bill we are about to pass will give the American people unprecedented freedom to choose.

After this bill is signed and implemented, Americans will be free to choose from competing local phone companies. This is unprecedented. It will lower prices. It is pro-consumer.

S. 652 will give Americans freedom to choose among more long-distance companies. This will cut prices. This is pro-consumer.

This bill will usher in a new era of robust competition in cable TV. It will, in effect, break up all the cable TV monopolies. This will give consumers more freedom to choose. It will cut prices. It will expand services. This, too, is pro-consumer.

S. 652 will let electric utility firms get into the phone or cable business if they wish. It will give broadcasters new flexibility to use new digital technology to offer multichannel programming with the same allocated spectrum that formerly could carry only one channel. This, Mr. President, dramatically gives consumers more freedom to choose.

No earlier legislation concerning cable prices—neither the deregulation of 1984 nor the reregulation of 1992—included these powerful procompetitive reforms.

This reform bill is historic. It is strongly bipartisan. It deserves the President's support.

Some who still oppose our reform bill are trying to get the President's ear. They say this bill will lead to more concentration in the communications business. I say that is a myth.

Concentration is what we have had under the old, 1930s-era system of government-created monopolies. Breaking up the monopolies and lifting burdensome regulation will give room for more entrepreneurs to compete.

Just consider other segments of the information industry, segments which did not strain under regulation and the monopoly model:

Fax machines aren't regulated or organized into a government-sanctioned monopoly. Just look at how prices have dropped, quality has improved, and sales have soared.

So it is, too, with cellular phones and pagers.

The computer market now gives consumers 200 times more value, in terms of lower price and greater power, than it offered just a decade ago.

Freedom for consumers and entrepreneurs did not lead to concentration in the computer business. No, quite the contrary. There have been winners and losers, large and small. Hundreds of start-up firms have flourished, including Gateway 2000 in my State of South Dakota. Meanwhile the biggest computer firm of all has seen a huge loss in market share and has been forced into significant restructuring. Free market capitalism breeds a kind of creative destruction of big businesses. This is good for continuing innovation and renewal in business. It is clearly pro-consumer.

Mark my word, in the years after this bill comes into force, it will have

helped bring about the rise of exciting new firms which do not exist today. It will have helped usher in industry segments which have no lobbyists in the reception room today—industry segments which do not even exist at this time.

This bill will accelerate the digital revolution. Through digitization, the very same data can travel through space from satellites, over the atmospheric spectrum, through coaxial cable, fiber-optic threads or copper wire. The same digitized data can be stored on computer disks or drives, displayed on computer screens, or played on audio or video disk players. The trends of technology are erasing old distinctions between cable TV, telephone service, broadcasting, audio and video recording, and interactive personal computers.

But in many instances, the only thing standing in the way of consumers and businesses enjoying cheaper and more flexible telecommuncations services is our outdated law. This reform bill will allow the cable, telephone, computer, broadcasting, and other telecommunications industries more easily to converge and transform themselves.

The information industry already constitutes one-seventh of the U.S. economy. Worldwide, the information marketplace is projected to exceed $3 trillion by the close of the decade.

Digital convergence, more communicating power, and wide-open competition is what consumers want. It is what American businesses need to stay competitive with the rest of the world. It will come soon if the President signs this reform legislation.

Mr. DOLE. Mr. President, I thank the Senator from South Dakota for yielding and congratulate him for the outstanding job he has done, as well as the Senator from South Carolina, for their teamwork, efforts, and partnership that produced a historic bill.

No question about it, this is one of the most important pieces of legislation we may have passed so far this year. Others may have different views. But it is near the top of the list.

The Senator from South Dakota, Senator DASCHLE, the Democratic leader, is in a meeting, so I will make my little statement on my amendment, and then we will vote on that. After that vote, he will make a very brief statement and then we will vote on final passage. Is that satisfactory?

Mr. HOLLINGS. Yes.

AMENDMENT NO. 1341

Mr. DOLE. The vote will occur in a minute on the so-called Dole amendment.

It was explained earlier, but I want to make myself perfectly clear, this amendment is about allowing private interests—not big Government—to work out their own problems.

I thought that was why we were considering this bill in the first place. The telecommunications industry is currently one of the most regulated industries in the United States. Unfortunately, the provisions in question regulate prices.

The point is that business should be allowed to negotiate. As I have pointed out, the provision I have proposed to delete would prohibit such negotiation, and amounts to rate regulation. It is that simple—no more, no less.

The language is there. We had negotiations and worked on their differences. I do not know about all the discussion of the Senator from Nebraska. I am not involved with all that.

The provision I proposed was supposed to stop some players from taking advantage of small operators. There is no question it would do that, but it would also hurt those in fair deals. It solves the problems and creates a new one.

The bill's provision also does not treat all programmers evenly, and only applies to those affiliated with cable TV companies, meaning nonaffiliated programmers not under these pricing restrictions. That means they would have an unfair competitive advantage.

Not only does the bill regulate the price of programming, but it is anticompetitive. That is not what this bill is about. I printed in the RECORD earlier letters from Turner Broadcasting, representing the Discovery Channel, the Black Entertainment Network, and also—I do not have the letter with me now—all the small cable companies, the National Cable Television Cooperative, and they are all in support of the bill.

I have heard the comments of the Senator from Nebraska. He is entitled to his own interests, but I assure him, my interest in this amendment is consistent with the intent of this bill—getting Government off the backs of business and benefiting consumers.

I hope the amendment I am offering will pass. I think it will have bipartisan support.

I yield back my time 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.

Mr. DOLE. Following the vote, the Senator from South Dakota, Senator DASCHLE, will be recognized, and then we will have final passage.

The PRESIDING OFFICER. Is there further debate on the Dole amendment?

Mr. BREAUX. Mr. President, I would use this opportunity to commend both the ranking member of the committee, the Senator from South Carolina, and the chairman of the committee, for the good work they have done.

This has not been an easy process, I say to all of our colleagues. We have worked on this for not just a couple of days on the floor, but we have been working on this legislation for several years.

In the last Congress, all Members of the committee spent 2 years on this communications bill, and then again the better part of this year, working on trying to bring this product to the floor.

There has been a great deal of compromise. There has been a great deal of trying to balance the very competing interests in order to get a 1995 communications bill.

I think it is important that all of our colleagues realize that this country has been run by the 1934 Communications Act. That is hard to believe that we have been operating under an act that is 60 years old. Does anybody think that the communications technology of 1995 is anywhere similar to the communications technology of 1934? The answer is, of course, no.

The reason everybody has been in court is because Congress was unable to get an agreement that wrote a modern 20th century bill to govern all the decisions about who does what.

This legislation makes some fundamental points. That is that we are going to create more competition. Competition is good for society. It is good for consumers. It is good for the development of new technology. This legislation is a fragile compromise. Almost everyone in the industry would like to have more. Some would like to have guarantees with regard to what they can do and what they cannot do.

We were trying to really create a bill that was fair to all of our American industries and fair to the American consumer. I think that while this bill is certainly not perfect—nothing we ever do is—certainly, it represents a major milestone in the communications legislation that has been brought before the Congress over all of these last 60 years since the first passage of the 1934 Communications Act.

I congratulate all the members of the Commerce Committee for their input, their suggestions. We have had a lot of cooperation on the floor. A lot of very difficult things have been worked out. I think that is good.

With regard to the Dole amendment, I happen to agree with it. I think the amendment by Senator DOLE really will encourage more competition and will encourage small cable companies to be able to form cooperatives like they are doing in order to be able to get discounts because they purchase cable services in volume just like the larger cable companies will be able to get volume discounts because they buy large amounts of products from the various producers. I think the Dole amendment really does try to promote additional competition. I think in that sense—it does allow cooperatives to be formed—there is nothing wrong with that.

There was a lot made about who does this benefit and what-have-you, I think

it benefits the consumer. I think the Dole amendment is a good consumer amendment. It encourages small cooperatives and cable companies to be able to deliver services at a better rate. There is nothing wrong with that. It allows large sellers of cable services to get volume discounts. The ultimate benefit of all of this is the American consumer.

I think the ultimate benefit of the entire package we have before the Congress is the American consumer and those who bring about the technology for the 21st century. If there is one thing the United States of America excels in—there are so many things, but one thing is the entertainment industry, the telecommunications industry. We can be proud of that. Other countries would love to have what we have in this country. This bill ultimately will make all of that a lot better and we will all benefit from that product.

So I support an affirmative vote on the Dole amendment and certainly support the passage of the telecommunications act that is now pending.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I thank the Senator from Louisiana. He has been at the forefront every step of the way in this bill and we could not have done it without his bipartisan effort. His staffers, Thomas Moore, who has now gone on to an appointment, and Mark Ashby, have been in the night meetings, night after night.

I thank the Senator from Louisiana from the bottom of my heart.

The PRESIDING OFFICER. Is there further debate on the Dole amendment?

If not, the question is on agreeing to the Dole amendment, No. 1341. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

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

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—59

Abraham	Coats	Frist
Ashcroft	Cochran	Grams
Baucus	Coverdell	Grassley
Bennett	Craig	Gregg
Bond	D'Amato	Hatfield
Breaux	DeWine	Heflin
Brown	Dodd	Helms
Bryson	Dole	Hutchison
Burns	Domenici	Inhofe
Campbell	Faircloth	Jeffords
Chafee	Feinstein	Kassebaum
Kempthorne	Murkowski	Smith
Kennedy	Nickles	Snowe
Kerry	Packwood	Specter
Kyl	Pressler	Stevens
Lott	Reid	Thomas
Lugar	Roth	Thompson
McCain	Santorum	Thurmond
McConnell	Shelby	Warner
Moseley-Braun	Simpson	

NAYS—39

Akaka	Ford	Levin
Biden	Glenn	Lieberman
Bingaman	Gorton	Mikulski
Boxer	Graham	Moynihan
Bradley	Gramm	Murray
Bumpers	Harkin	Nunn
Byrd	Hollings	Pell
Cohen	Inouye	Pryor
Conrad	Johnston	Robb
Daschle	Kerrey	Rockefeller
Dorgan	Kohl	Sarbanes
Exon	Lautenberg	Simon
Feingold	Leahy	Wellstone

ANSWERED "PRESENT"—1

Mack

NOT VOTING—1

Hatch

So, the amendment (No. 1341) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, telecommunications reform legislation was a focus of the last Congress. Unfortunately, election-year politics prevented then-Chairman HOLLINGS from bringing the bill to the floor for a vote.

This year, with changes and modifications that are inevitable given the political change in the make-up of the Congress, a new telecommunications was brought to the Senate floor.

This is complex and potentially far-reaching legislation. It will affect an economic sector that constitutes 20 percent of our economy and whose services reach virtually every American.

I want to commend the ranking member of the Senate Commerce Committee, Senator HOLLINGS, whose patience and efforts have done a great deal to bring this measure to its present state. Senator HOLLINGS' work in the last Congress, and in this, has been focused on developing a bill that will enhance true competition in the telecommunications field without shortchanging American consumers.

From the beginning, our nation has understood the significance of communications and transportation. It is not an accident that the words of the Constitution require the Congress "To establish Post Offices and post Roads." The Founders could not have known that one day the roads would be fiber networks and the post offices would be e-mail. Yet that is where we have arrived.

When Congress first confronted the need to legislate for an entirely new technology, it produced the Communications Act of 1934. The regulated monopoly that was legislated into existence by that law was the best outcome then possible. And the old Bell system gave Americans the cheapest, most efficient universal telephone service in the world.

In fact, consumer resistance to the breakup of the Bell phone system was widespread in the early 1980's. Americans feared that the courts were breaking up something that worked well and might replace it with something that didn't.

We know today that those fears were unfounded. Competition in phone service has been a boon to American consumers. Long-distance rates are the lowest in the world. Equipment is cheaper and better-made. Competition has spurred innovation and improved customer service.

At the same time, it's important to remember and learn from our experience. The concept of universal service was at the heart of the old 1934 Communications Act. It is a New Deal era concept that is as valid today as it has proven to be over the decades.

When the reach of a technology is limited by cost, innovation and progress remain slow. But as soon as a technology is within reach of a broader sector of the population, an explosion of invention, development and innovation takes place. We have seen that happen in computers, in personal communications services, in wireless cable transmissions and countless other applications. Twenty years ago, calculators were sophisticated and relatively costly devices. Today they're offered as advertising promotions.

While legislation focuses on competition and deregulation, the bill before us also contains essential rural safeguards. It would create a Federal-State joint board to oversee the continuing issue of rural service and to monitor and help evolve a definition of Universal Service that makes sense for the present day and for the kinds of services that will be coming on-line. It does not demand unrealistic competition in towns of 50 households.

Our own history teaches us that it is good economics for the private sector as well as the public sector to make universal service a reality for all Americans, no matter how small their community. I believe this is still the case, and I believe it is particularly important to preserve the viability of rural communities in this respect.

The legislation before us recognizes the need to redefine universal service in terms of developing technology and products. The joint Federal-State board created by the bill is essential to making certain this function is fulfilled.

The bill before us also recognizes the important role that must be played by State Public Utilities Commissions. PUCs are the best entities to judge whether a given market within their

State can or cannot support competition. That's not a judgment we should make from Washington.

Nor is it something we can or should leave to the unbridled, unsupervised judgment of the private sector. Those who have taken the risks and made the investments to extend cable or phone service to smaller rural communities should not now be placed at risk of being overwhelmed by larger, better-financed companies.

As Congressman ED MARKEY has said, that's not competition, it's "communications cannibalism." State PUC's will be able to judge where communities can sustain competition and where they cannot. We should preserve the viability of the Universal Service Fund, for that reason as well.

The purpose of the bill before us is to create the competitive, free market environment that will most efficiently bring the Information Superhighway into existence for all Americans. I don't believe anyone disagrees with that key to achieving that goal is competition. The Senate's task is to ensure that the competitive elements in the bill do the job.

The best outcome is one that brings on line the new products and services that Americans want at a cost they're willing and able to pay. Not only will consumers benefit, but the process of creating new services and products will be a substantial engine of job creation.

The present economic recovery has been a period of exceptionally strong job creation. Under the Clinton administration, 6 million new jobs have been created, more in he first 2¼ years of this administration than in the preceding 8 years of the Reagan-Bush administration.

Democrats believe the key to longlasting economic growth and expansion is the creation of more jobs and higher income for working families. When Americans are working and earning good wages, our economy prospers and we can invest for the future well being of our children. The passage of the bill before us will help continue this pattern of job creation as our information-based economy creates significant employment opportunities. That will mean more families can send their kids to college, buy a home, and save for their own future. That is the best economic program and the best social program any nation can have.

This technology also means new opportunities for innovative economic development. I am in the process of working with a tribal college now on ways to market native American and agricultural products through the Internet. The technology that is helping do this is breaking down the geographic and technical barriers that have retarded our movement to a more information-based economy.

There is little doubt that our urban areas can and will sustain an enormous expansion of telecommunications services in the years ahead. We must make certain that our rural areas are not left behind as services expand and new products come on line. In the long run, universal service at high standards nationwide is in the best interests of the entire country.

In addition, we must not neglect the role of the public sector in the new telecommunications world. Schools, public libraries, state universities, all should have the ability to share in and disperse the benefits of the telecommunications revolution.

Senators ROCKEFELLER and SNOWE offered an amendment in committee to make certain that the public sector's ability to connect with the Internet and other information services is enhanced. That's important, not only to prevent stratification into information-rich and information-poor populations and regions, but to assure that all our children have the tools with which to enter the 21st century work force.

While the bill before us is far from perfect, it has been significantly improved over the course of the past 6 days. Senator HOLLINGS and I introduced an amendment that strengthens the bad actor test in the cable provisions.

It also places reasonable limitations on the ability of cable and telephone companies to eliminate each other as potential competitors through buyouts and mergers, except in rural areas where competition may not be viable.

Finally, our amendment, which was adopted, allows small telephone companies to jointly market local exchange service with long distance service providers that carry less than 5 percent of our nation's long distance business. This will allow consumers to realize the benefits of competition in the local telephone exchange, while preserving the competitive balance between the Bell companies and major long distance carriers.

I believe the provisions in our amendment strike a better balance between consumer protections and market deregulation. These safeguards are designed to protect consumers by expanding services and keeping them affordable.

This bill is a reasonable and balanced one, and it deserves the Senate's support.

Mr. DOLE. Mr. President, gentlemen start your engines, because we are about to pass telecommunications reform that will be the roadmap to our Nation's future.

When we started floor consideration of S. 652 more than 1 week ago, I noted that this was just the beginning. A beginning of a new era of leadership for the telecommunications industry and for America. While some see America's power dwindling, I see it growing. I see our renaissance, and its called the information age. America's years of leadership in telecommunications, whether it was inventing the telegraph or the microchip, gives us the right to lay claim to this future. We have earned it. We must now reach out and take it.

RECOGNIZING SENATOR PRESSLER'S HARD WORK

And one person who deserves a good deal of credit for making this new era a reality is Senator PRESSLER. As all Members know, telecommunications reform is a tough, complex, and often contentious issue. Congress has struggled with it for more than a decade, with no success. And along comes Senator PRESSLER. He tackled this issue and has moved it through the Senate in record time. His tenacity proves that the Senate is capable of delivering on the toughest issues.

Not only did he have to fight competing interests, but also the White House. Senator PRESSLER has won, the Senate has won, and America has won.

The bill also could not have been possible without Senator HOLLINGS. Both Senators PRESSLER and HOLLINGS have done an outstanding job at bringing the competing interests together, or as close together as possible.

THE REAL JOBS STIMULUS PACKAGE

No doubt about it, telecommunications reform is the real jobs stimulus package. Except this one relies on the private sector to create those jobs. And it will.

Thousands of jobs will be necessary to build new communications networks. And that's just the beginning. Studies indicate that millions of more jobs will be created because information will become more accessible, jobs that will make America more efficient, more productive, and ultimately more powerful.

While some may argue that it is not the perfect bill, its message is right—competition, not government, is the best regulator. Competition, not regulation, has the best record for creating new jobs, spurring new innovation, and creating new wealth. It's that simple.

Competition and deregulation are also the only ways to accommodate the explosion of new technology.

CONCLUSION

Mr. President, removing the telecommunications industry's shackles is not about politics as usual. It is not about Republicans versus Democrats. It is about providing all Americans, rich or poor, urban or rural, a better future. I believe that a procompetition, deregulatory telecommunications bill can help make that future a reality.

Mr. PRESSLER. Mr. President, I ask unanimous consent that S. 652, as amended, be printed in the RECORD immediately following the final vote.

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

Mr. PRESSLER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question occurs on the passage of S. 652, as amended. The yeas and nays have been ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to have Senator HOLLINGS added as a cosponsor.

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

The question occurs on passage of S. 652, as amended.

Mr. DOLE. Mr. President, just let me indicate to my colleagues, as I said earlier before many were here, we hope to determine the balance of the schedule this evening and tomorrow before 6 o'clock this evening, and so we will try to let everybody know by then what the schedule will be. Hopefully, it will not be too heavy. It depends on how this bill comes out.

I will let Senators know in a few minutes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

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

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—81

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Ashcroft	Frist	Mack
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Gramm	Moseley-Braun
Bond	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatfield	Pell
Burns	Heflin	Pressler
Campbell	Helms	Robb
Chafee	Hollings	Rockefeller
Coats	Hutchison	Roth
Cochran	Inhofe	Santorum
Cohen	Inouye	Sarbanes
Coverdell	Jeffords	Shelby
Craig	Johnston	Simpson
D'Amato	Kassebaum	Smith
Daschle	Kempthorne	Snowe
DeWine	Kennedy	Specter
Dodd	Kerry	Stevens
Dole	Kohl	Thomas
Domenici	Kyl	Thompson
Exon	Lautenberg	Thurmond
Faircloth	Levin	Warner

NAYS—18

Bingaman	Feingold	Moynihan
Boxer	Graham	Packwood
Bumpers	Kerrey	Pryor
Byrd	Leahy	Reid
Conrad	Lieberman	Simon
Dorgan	McCain	Wellstone

NOT VOTING—1

Hatch

So the bill (S. 652), as amended, was passed.

(The text of S. 652, as passed, will appear in a future edition of the RECORD.)

Mr. PRESSLER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I thank everybody involved. I thank the majority leader and minority leader. I have already thanked the staff. I am feeling like this Chamber was almost a funeral parlor this afternoon, we had so many good words said about everybody.

I yield the floor.

Mr. DOLE. Mr. President, let me indicate, as I did earlier, that this is a tremendous vote—81 to 18. It is a very significant piece of legislation that has passed this Chamber, largely through the efforts of the distinguished Senator from South Dakota [Mr. PRESSLER].

It is not a perfect bill. I understand that almost everybody finds something wrong with it, which probably means it is not that bad; it is probably a very good bill. I think it is a very important piece of legislation. I thank all my colleagues on both sides of the aisle for their cooperation.

I do not think we took too much time. On a bill of this magnitude, it takes a little longer on the Senate side, and it probably should, as the Senator from Illinois [Mr. SIMON] said earlier today.

I thank the Democratic leader, Senator DASCHLE, for his cooperation throughout the debate.

Mr. President, I have had a discussion with the Senator from South Dakota, [Mr. DASCHLE], the Democratic leader, and I outlined to him what I would like to do. First, I will ask unanimous consent that we go to S. 440—I will not ask it now—and I understand there will be an objection. Then I will move to the consideration of S. 440, and I understand the Senator from Massachusetts, [Mr. KENNEDY], and others will at that point discuss the motion to proceed.

If that would be the case, there would be no votes tonight and no votes tomorrow. Then we would try to work out something to accommodate our colleagues on Monday.

So I do not want to make the request until the Senator from South Dakota indicates it is all right to do so.

Mr. DASCHLE. If the majority leader will yield. Let me just speak very briefly, because I know there are other Members that need to conduct business. I share the sentiment expressed by the distinguished majority leader about the bill just passed. It may not be everything we all want, but it represents a real achievement.

I commend the distinguished Senator from South Dakota and certainly the ranking member, the distinguished Senator from South Carolina, for all of the effort he has put forth in the last seven days to accomplish what we have now. A number of people had a lot to do with bringing us to this point. It represents a balance between providing new opportunities and communications to provide the flexibility and the freedom to go out and do what we must to build the information superhighway. But it also represents a desire on the part of many to protect consumers as we conduct that construction.

So I hope very much that we can move this legislation through the remaining parts of the legislative process here and accommodate all Senators as we attempt to pass this very significant piece of legislation.

ORDER OF PROCEDURE

Mr. DOLE. I failed to announce no more votes this evening, and no votes tomorrow. For Monday, I will make that announcement before I leave here tonight, so Members will know what the schedule will be on Monday. I need to discuss that with the Senator from South Dakota, Senator DASCHLE.

EXPRESSING GRATITUDE TO SHEILA P. BURKE FOR HER SERVICE AS SECRETARY OF THE SENATE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 134, submitted by myself and Senator DASCHLE.

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

The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 134) expressing the Senate's gratitude to Sheila P. Burke for her service as Secretary of the Senate.

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

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

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be agreed to, that the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements on the resolution be placed in the appropriate place in the RECORD.

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

So the resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 134

Whereas Sheila P. Burke faithfully served the Senate of the United States as Secretary of the Senate from January 4, 1995 to June 8, 1995, and discharged the difficult duties and responsibilities of that office with unfailing devotion and a high degree of efficiency; and

Whereas since May 26, 1977 Sheila P. Burke has ably and faithfully upheld the high standards and traditions of the staff of the Senate of the United States for a period that includes 10 Congresses, and she continues to demonstrate outstanding dedication to duty as an employee of the Senate; and

Whereas through her exceptional service and professional integrity as an officer and employee of the Senate of the United States, Sheila P. Burke has gained the esteem, confidence and trust of her associates and the Members of the Senate: Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Sheila P. Burke to the Senate and to her country and expresses to her its appreciation and gratitude for her long, faithful and continuing service.

SEC.2. The Secretary of the Senate shall transmit a copy of this resolution to Sheila P. Burke.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT—MOTION TO PROCEED

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to consideration of S. 440, the highway bill.

Mr. WELLSTONE. Mr. President, I object.

The PRESIDING OFFICER. The objection is noted.

Mr. DOLE. I move to proceed to the consideration of S. 440.

The PRESIDING OFFICER. Does any Senator wish to debate the motion?

Mr. DOLE. I will yield to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, a few weeks ago, we in the Labor Committee held a single hearing on Senator KASSEBAUM's legislation to repeal outright Davis-Bacon, which has been in law for over 60 years.

Last year, we worked long and hard on an alternative Davis-Bacon reform bill on which there had been bipartisan support. That was a responsible effort to deal with this issue and update the law.

Today, with little warning, the highway bill is being brought to the floor, which contains a provision to repeal Federal prevailing wage-rate requirements for highway construction, known as the Davis-Bacon law.

This is part of the larger assault on working families, in this case, families of highway construction workers who make between $20,000 to $30,000 a year.

This is central to the Republican agenda, and it is all in the name of deficit reduction—all while we protect the large military contractors, big corporations with huge tax breaks, oil companies, and others who have long been subsidized by the Federal Government.

Today, without any additional hearings or time for reflection or careful consideration of reform alternatives--and my colleague from Massachusetts will be speaking on this in just a moment—we are faced with a bill that would overturn 60 years of labor law related to Federal highway construction in a single moment.

Why is that? Could it have anything to do with the fact that the large trade association of mostly noncontract, nonunion contractors is in town this week? And this measure is suddenly brought to the floor now, simply to fly the flag for anti-Davis-Bacon forces who would try to turn the clock altogether on prevailing fair-wage standards.

I do not know, Mr. President, but I am surprised by how suddenly the Senate's schedule was changed to bring this up. I thought we were going to turn to regulatory reform or Bosnia or welfare reform. Apparently the majority leader has other priorities.

Mr. President, as a Senator from Minnesota, I am opposed to this attempt to slash wages of working families, families who dig our roadbeds, pour our tar, flag us to a stop at construction sites or do any other number of hard and sweaty jobs at construction sites and highway sites across this country.

That is not a priority that I am willing to go along with. I will fight any effort to cut the wages of working families as hard as I can.

I imagine over the next several days, we will have a considerable amount of discussion on this issue. We should be clear. This repeal effort is part of a larger systematic assault on the wages and living standards of working families.

Mr. President, it is a mistake. We have cuts in Medicare, cuts in Medicaid, cuts in job training, cuts in school lunches, education, and now cuts in the wages of working families.

Just name it, the majority has proposed it and are trying to program it through the Congress at a breakneck speed. We intend to slow it down. We intend to oppose it. This highway bill on its own merits ought to be debated and is an important piece of legislation. To try to put this amendment into the highway bill and essentially overturn over 60 years of people's history I think it is a huge mistake. Of course, that is what this debate will be about.

Mr. President, let me just say a few words specifically on Davis-Bacon itself and prevailing wage rates that it requires on certain Federal projects.

Mr. WARNER. Would the Senator allow me to, in the way of a question, make a brief comment about why we did this?

I was the Senator that brought up the amendment in the Committee on Environment and Public Works. I did so in my capacity as chairman of the subcommittee with the responsibility for this piece of legislation.

I say to my good friend, Mr. President, it was in no sense chicanery or subversion. It was done quite openly. This is an issue, Davis-Bacon, on which many who have had the privilege of serving the institution for many years have had a very clear difference of opinion. That difference of opinion is shared widely across this Nation. We will develop that in the course of the debate.

Mr. President, I am delighted to have the opportunity to debate with my good friend from Minnesota, my good friend from Massachusetts, and others who will engage in this very important debate. We should not start out with a characterization that there is any attempt on this side to do so by way of anything other than an absolute clear and full discussion of this issue in full view of everybody. Then it is my hope an up or down vote can be had here in the U.S. Senate on this issue. Each Senator can express for himself or herself their views on this.

I thank my distinguished colleague for allowing me to speak.

Mr. WELLSTONE. Mr. President, I say to my colleague from Virginia, and I thank him for his remarks, that I just want to be clear I am speaking for myself, that I am very interested in this highway bill.

It is an important piece of legislation. We have been working for several years on reform of Davis-Bacon, not repeal. A lot of work has gone into that. But all of a sudden to have this become a part of this piece of legislation, I say to my colleague, I think is a profound mistake.

Speaking just for myself, I would point out that only today did I hear that this was going to be the bill before the U.S. Senate. Before, I thought we were going to go to regulatory reform, then I heard we were going to go to welfare reform, then I heard we might be debating Bosnia.

I know my colleague from Virginia is interested in full debate. That is what we will have and certainly we will make sure that it is not personal or acrimonious. I want to be clear as to why we have objected to the motion to proceed and why we intend to have a very thorough discussion about Davis-Bacon and about this effort not only to repeal Davis-Bacon, but I think it goes beyond that. I think it is an effort to roll back 60 years of hard-earned history that have a lot to do with people being able to have a decent wage, 60 years that have a lot to do with people being able to have jobs that pay them a middle-class wage.

I think the stakes are very high. For that reason, with my colleague from Massachusetts, we intend to have a full discussion on that.

Mr. WARNER. Mr. President, I welcome that full discussion. But somehow in the Senator's remarks, the remarks just given, I got the impression,

why on the highway bill? Mr. President, why is it? My projections are $1.3 billion is directly associated with Davis-Bacon over the next 5 years of projected highway construction. Those are scarce dollars in today's economy. Those are dollars that could be translated into actual roads and road improvements were it not for this piece of legislation. And it is time. My distinguished colleague mentioned reform, he has been working on it for several years. Perhaps the time has finally arrived for him to bring out those reforms. They are long overdue.

I simply think the statute has served its purpose. When I see $1.3 billion taken from the highway budgets of our 50 States over the next 5 years, this Senator says the time has come to eliminate it.

Mr. President, I thank my colleague for this opportunity to have a few opening remarks.

Mr. WELLSTONE. Mr. President, I think in a moment I would yield to my colleague from Massachusetts, who will take the lead in this debate. I will be very proud to be a part of it.

Again, let me say in this Congress I think we have had a single hearing on legislation to repeal outright the Davis-Bacon. We will surely have a quarrel about the figures and amount of money lost. And we certainly will have a full discussion about the meaning of prevailing wages and what that means to this country, what that means to this society, what that means to communities across the country. That I think will be the important part of this debate.

There is no reason to argue any longer about the timing of it, but I want to make it crystal clear that we intend to focus on this effort in this bill. And this bill is an important piece of legislation. But this particular provision to repeal Davis-Bacon is, of course, where we intend to focus our attention.

I will yield to my colleague from Massachusetts.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. WELLSTONE. Mr. President, no, I am not prepared to yield the floor yet.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. WELLSTONE. Mr. President, why do I not go forward with some remarks. But if my colleague has a question, I do not want to interrupt the flow of that.

Mr. CHAFEE. I do not have a question. I was prepared to make a statement.

Mr. WELLSTONE. On Davis-Bacon?

Mr. CHAFEE. We will be here quite a while. Everybody will have a chance to say what they want. If the Senator has something to say, go ahead. I will have my say later when he is through.

Mr. WELLSTONE. Mr. President, why do I not defer to the manager, and I will speak later on, because I have extensive remarks on Davis-Bacon. So I will defer to the manager of the bill and then be back in this debate later on.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am sorry we cannot proceed on this bill because this is an important bill. What it does, it opens the way to some funds, additional funds in the neighborhood of some $5 billion that we are going to have to—if we want, we are going to have to pass this legislation before October. So now is the time to get with it.

I heard—I would like the Senator from Minnesota's attention if I might. I heard him say how erroneous it was for us to be dealing with legislation that has been on the books, I think he said, for 60 years? Is that the time limit, how long Davis-Bacon has been on?

I have seen the Senator on the floor discuss striker replacement that has been on about the same length of time. He had no hesitancy about dealing with that legislation that has been on the books for a considerable time.

So dealing with legislation that has been on the books for some time, labor legislation, is not unique in this place. It is not unique for the Senator from Minnesota, either.

Mr. WELLSTONE. Will the Senator yield for a moment?

Mr. CHAFEE. Sure.

Mr. WELLSTONE. As I understand the debate about what was S. 55, which was a ban on permanent replacement of striking workers, I would say to my colleague, it was not an amendment on another piece of legislation. That was a separate bill that went through extensive hearings, that was scheduled for debate, that came up at the time scheduled, and then led to full debate.

So I do think it is a rather different proposition.

Mr. CHAFEE. Mr. President, no one who has been in this Chamber very long will find repeal of the Davis-Bacon is something new. We have debated it. There have been hearings. There have been hearings in the committee of the Senator from Kansas, and the Senator from Massachusetts has been through those hearings many times. There is nothing unique.

This is not a creeping up by night with this provision.

Mr. WELLSTONE. Will the Senator yield?

Mr. CHAFEE. This is something that has been around. I do not know how many times we voted on it.

Mr. WELLSTONE. Will the Senator yield?

Mr. CHAFEE. Yes, I will be glad to.

Mr. WELLSTONE. I thank my colleague. As always he is very gracious.

My point was not that we have not debated the Davis-Bacon before. We certainly have. My point simply was that this bill was just scheduled to come to the floor—we thought there were going to be any number of other pieces of legislation. It has come to the floor. Unfortunately, as a part of this piece of legislation, there is the provision for repeal of Davis-Bacon. That is why we objected to the motion to proceed. That is why we will have extensive debate. That is my only point.

Mr. CHAFEE. Mr. President, I would stress that the provision of Davis-Bacon that we have in this National Highway Systems law solely deals with highway construction. It does not deal across the board. It seems to me there is no more appropriate place for it than in this National Highway System legislation.

Let me just say a few words, if I might. First, Congress must approve the National Highway System bill, as I mentioned, by September 1 of this year. If we do not, the States will not receive—I said $5 billion, it is $6.5 billion of their Federal aid highway money. This amount includes $2.9 billion for interstate maintenance and $2.6 billion for the National Highway System.

Mr. President, a few words about the National Highway System. Why are we in this? The National Highway System was established by the so-called ISTEA, Intermodal Surface Transportation Efficiency Act of 1991. That was a major highway bill that we passed in 1991.

The National Highway System can make a significant contribution to our transportation system. The 159,000 miles of designated National Highway System routes are the roads the States and the localities have chosen as some of their most important roads. These are the roads that provide mobility for our citizens and promote economic development.

The National Highway System, which includes the Interstate System—we are all familiar with the Interstate System—represents 4 percent of the highways of the United States of America, a very small part. But these are the important roads. These roads carry 40 percent of the Nation's highway travel. These are the roads that connect our intermodal and strategic facilities such as our ports and airports and train stations and military bases.

How was the whole thing developed? What is the National Highway System? It was developed by the Department of Transportation through the Federal Highway Administration in cooperation with the States. This was not something drawn up in Washington by a bunch of Federal bureaucrats. This was done in cooperation with the States. The Federal Highway Administration and the States designated the system based on the criteria of efficiency, connectivity, and equity among

the States. The mileage distribution among the States and between urban and rural areas was another important element.

The process to designate the National Highway System has worked quite well. There is a high degree of consensus among Federal, State and local officials that the map submitted by the Secretary of Transportation in December of 1993 represents the best effort at identifying the National System.

What has happened is that the Federal Highway Administration has worked with, as I say, the State and local officials, to make changes in this map of 1993 to reflect new information and decisions made at the State and local level. This process will continue. This thing is not carved in stone. People come to us and say: We want to be added. There is a system for adding routes within the various States.

This legislation includes a provision which will permit this process to continue, even after this bill has been enacted into law. So State and local officials with the Secretary of Transportation's approval will have the ability to make changes in this, as long—there is a maximum limit of mileage. That maximum limit is 165,000 miles.

So what I am stressing here is that this is a dynamic, changing system, and it is important that the ability to make these changes is retained.

Because we have this process that involves the local officials, the State officials, and the Federal Government officials—namely, the highway administrator—I think Congress has to be very restrained in making systems; in other words, changes. Somebody will pop up here on the floor and say, "I want such and such added, I so move." Well, maybe that is valid. But we do not know. The managers of this bill, and the others involved here on the floor, do not know whether that particular road meets the criteria. So we have set forth in the legislation a method of making changes. We think it is a fair method. We want to resist the temptation to add a whole series of other routes. Once we depart from the criteria, we say, "Well, Senator X has presented a very moving story about this highway he wants added." But once we start down the path of not adhering to the criteria or to the system set forth in the legislation, we are opening our way up to a lot of problems.

This bill which was reported out by the Environment and Public Works Committee preserves the important principles of the 1991 surface transportation law. That was a monumental piece of legislation that we passed. It makes changes to provide greater flexibility to the States to resist administrative burdens.

As I mentioned, there are a series of requirements that the States are relieved from, the principal one being the Davis-Bacon Act which brings us here this evening. The bill also provides additional flexibility for design standards for the national highway routes which are not applicable to the Interstate System.

This legislation which is S. 440—we will hear that term quite often this evening; that is the number of this bill—provides the States with additional financing options to address the needs of the transportation systems. It allows the States to credit private sector donations 100 percent to the States' cost share.

This legislation addresses something that those of us here in this Senate are pretty familiar with, and that is the Woodrow Wilson Bridge. The replacement of that bridge is essential. Its remaining lifespan is estimated to be only 10 years. The bridge was designed 40 years ago to carry 75,000 vehicles a day. How many vehicles does it carry, 75,000? No. Today the bridge carries 167,000, more than twice what it was designed for as maximum load.

Title II of this legislation authorizes the States of Virginia, Maryland, and the District of Columbia to enter into an interstate agreement or a compact to establish the National Capital Interstate Transportation Authority. I must say sometimes we get long titles here. But that is what this is, the National Capital Interstate Transportation Authority.

The ownership of this bridge is transferred to the authority. The authority has the ability to use various financing provisions, including tolls, to replace the bridge. The bill provides $97 million of Federal funds for completion of the environmental impact statement, for interim repairs to the bridge, and for the preliminary design and engineering of a replacement bridge.

There is one action the committee took which is a great disappointment to me personally; and, that is, there is a change made in the speed limits. I believe the Federal speed limit maximum of 65 miles per hour in rural areas on the interstate has been remarkably successful in reducing fatalities. It has resulted in major savings to the taxpayers of our country. The health care costs of speed-related crashes is currently estimated to be $2 billion a year; the health-related costs of the carnage that comes from excess speeding is currently estimated to be $2 billion a year. The total economic cost to society—not just the health care costs but the property damage, lost work—is estimated to be $24 billion a year.

According to the Department of Transportation, the decision that this Congress made several years ago to allow a maximum of 65 miles an hour just on rural interstates, increased from 55—which was the limit before—jumping from 55 to 65, and has estimated to have cost this country 500 additional deaths.

In my view, it is inevitable that, if the Federal speed limit is repealed, which this bill does—not with my vote, but, nonetheless, the committee chose to do so—States will raise the speed limit, and the cost to everyone, including the Federal Government, would go up dramatically. In other words, what we have said is there are not going to be any Federal limits, no Federal speed limits on these highways. Let the States put on what they want. I suppose the States will say 65 is not enough. Let us try 70. And the competitor will say, "Well, why have any speed limit?" And I think that is unfortunate.

I am aware that there are likely to be amendments which will be offered to repeal or weaken other safety laws, particularly the safety belt and motorcycle helmet law requirement. What are those? When we did the ISTEA legislation in 1991, we provided that a State would have a certain amount of time to enact a mandatory seat belt bill and a mandatory motorcycle helmet bill. If the States failed to do that, then a certain amount of that State's highway money would have to go into safety features, including safety education. As a result of that, some 26 States have passed mandatory motorcycle helmet legislation, and the strong seat belt legislation. What has been the result? California passed it. The Governor signed it. And as a result, the number of motorcycle deaths on the California highways has been reduced by 35 percent. Maryland did likewise. As a result of the passage of the motorcycle law, with the mandatory helmet, the number of motorcycle deaths in Maryland decreased by 25 percent.

You might say, "Well, this is a State problem. What is the Federal Government doing in mandating motorcycles helmets?" The answer is the following: The Federal Government is in it because we pay the health bills. The Federal Government has to pay the Medicaid costs of those who are in comas in hospitals because they had no helmet and got into a very serious motorcycle accident. I have seen that myself in my own State. We have one individual regrettably in our State hospital who has been there in a coma for 20 years severely injured by a head injury on a motorcycle without a helmet. The helmet would have prevented such an injury. That individual's medical costs have cost the State of Rhode Island and the Federal Government through Medicaid to date $3 million.

So, Mr. President, I hope that this Senate would resist any efforts to reduce the mandatory motorcycle helmet and seat belt laws.

Mr. President, I finally want to commend the chairman of the Transportation and Infrastructure Subcommittee of the Environment and Public Works Committee. This bill came from

a subcommittee, and that subcommittee was chaired by Senator WARNER. He has done a splendid job on this legislation. When it came up to the full committee, there were no changes, and it passed out of the full committee by a vote of 15 to 1, with Democrats and Republicans voting for this legislation.

So I have had the privilege of working with Senator WARNER on this, and with the ranking member of the full committee, Senator BAUCUS, and with all members of this committee in this legislation. So I am very pleased that the Senator from Virginia has agreed to manage this bill before this full Senate.

I mention Senator BAUCUS being the ranking member of the full committee. But Senator BAUCUS is also the ranking member of the subcommittee likewise. I greatly appreciate the cooperation and assistance that he has given us in this legislation.

So, Mr. President, I hope we can get to this bill. It is important. I know the business about Davis-Bacon is contentious. I would like to see us have a vote on it, and see what happens. But most of all, I would hope at least we could move to the consideration of the legislation.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to just take a moment of the Senate's time to perhaps bring it up to speed in terms of where we are on the overall issue of consideration of the Davis-Bacon Act because it is not unrelated to the concerns a number of us are expressing this evening and tomorrow and the early part of next week in terms of proceeding to the highway bill. And that is on March 29 of this year, the Senate Labor and Human Resources Committee, chaired by Senator KASSEBAUM, after having hearings and after having committee discussion, made a judgment about the Davis-Bacon proposal, which I did not support, but nonetheless reported that measure out, and it is now on the calendar. So that would be legislation that would be applicable to all Federal jurisdiction. And we would have an opportunity when that would be called off the calendar by the majority leader, which is his right and his privilege at any particular time, to get into a debate and discussion on that particular measure. I think it is important that we do get into a discussion on that particular measure, and I will elaborate on the reasons for that because there has been a great deal that has happened in terms of various recommendations, adjustments, changes, amendments, which would I think be constructive and positive and which I think the Members would welcome and which I think would improve the legislation.

However, we are not afforded that opportunity. We are faced now with a repeal effectively on the highway legislation, and there can be those who suggest, well, this really is not repealing it. The fact of the matter is that up to 40 percent of all Davis-Bacon construction is related to this piece of legislation. So in effect although it is not a repeal of Davis-Bacon, it is its death knell. And those of us who are willing and obviously want to debate the whole issue of Davis-Bacon and its implications thought that the most appropriate way of doing it is the way the Senate generally considers measures, and that is to deal with them on the basis of the legislation itself which would have general application rather than dealing with it piece by piece, on one piece of legislation after another.

This measure, in terms of the Highway Act, is commendable, and I intend to support the underlying legislation. I see no reason why that legislation could not have been completed, even with discussions, tonight or tomorrow. There may be other Members of this body who wanted to address particular provisions in that legislation, but it is the decision and judgment of the committee to insert the provisions repealing the Davis-Bacon Act in here, which should be addressed as we normally address these measures on the piece of legislation which has been reported out of the Labor and Human Resources Committee, and which is on the calendar, and I would have welcomed the opportunity to debate it this evening, tomorrow, or any other time.

But, no, it is said, well, we are going to circumvent the procedures and the process of the Senate, and we are going to repeal it; we are not going to wait for the Senate to debate that measure independently but we are going to tag that on to the highway legislation, and so we are forced into this circumstance. We are not the ones who are delaying the consideration of the highway legislation. It is those who want to circumvent the Senate procedures who are forcing this kind of delay. And so we are quite prepared to make some of our case this evening and tomorrow and the days ahead and welcome that opportunity to do so and to correct some of the comments that have even been made earlier this evening.

I think that is the best way to address the legislation reported out of that committee. And I would say that as recently as today there have been coalitions that have been working on a series of recommendations and changes that are being considered by a number of our colleagues in the Senate on both sides of the aisle. I have not had the chance to review those. It is coincidental that those measures are being circulated today because those that are most involved in those negotiations, to my knowledge, had no awareness that this measure was going to be considered tonight. I think most of us in the Senate understood that we would be debating probably welfare legislation. And as I understood, at least from our side of the aisle, they thought that that would take us through this weekend and perhaps the regulatory reform would take up the early part of next week. And then in the past hours, as is the right of the majority leader, it was decided to move to this legislation.

And so that is why we are in this situation. Those of us who want to speak on Davis-Bacon would urge the Senate to move toward the highway legislation. If this measure were not part of it, we would say all right, we are prepared to see a full debate and a timely debate on this issue and a resolution of the Davis-Bacon issue in a timely way on the measure that was reported out of our committee. That would let the Senate consider a number of the different changes and suggestions and amendments that might come at that time. But we are not given really that opportunity to do so.

So we wanted to address this issue and speak to some of the misunderstandings which have been expressed even earlier this evening on this issue.

I believe the vote on the bill and the provision to waive the application of Davis-Bacon to Federal highway construction is a critical test of whether the Senate will abandon its historic protection of local labor standards. In March, the Committee on Labor and Human Resources voted along party lines to repeal Davis-Bacon altogether. I opposed that legislation. I know other Members of the Senate opposed it, too.

Repealing the Davis-Bacon protections would take this country back to the days when cutthroat competition on wages drove down living standards for construction workers and reduced their families to poverty. I cannot believe that a majority of the Senate wants to return to the harsh employment practices of a half a century ago. The Republican argument for repealing Davis-Bacon is that the Government will save money by paying construction workers less than it does today. The problem is that the argument is not true.

Now, listen to this, Mr. President. In fact, the Government will not save anything by driving down the wages of construction workers on highway projects. According to a recent study, the 13 States with the highest construction wages build their highways at lower cost than the 13 States with the lowest wages.

Let me just repeat that. And we will get back into the studies. We will have time. But I want to make an opening comment about the issues before us. The 13 States with the highest construction wages build their highways at lower cost than the 13 States with the lowest wages.

Mr. CHAFEE. Will the distinguished Senator from Massachusetts be good

enough to tell me, one, whose study is that?

Mr. KENNEDY. I will speak just briefly.

Mr. CHAFEE. The Senator can speak all he wants; he will have plenty of time.

Mr. KENNEDY. I intend to put those in the RECORD. I intend to outline this, Mr. President, and then I will spend some time going through the various studies with the Senator.

The average construction wage on a federally assisted highway project in Wisconsin was $15.55 an hour, more than twice the rate on projects in Mississippi, where the workers average $6.69 an hour.

The cost per mile of construction was much lower in Wisconsin, $78,083 versus $95,329 in Mississippi. Cutting wages does not mean cutting costs.

That is taking into consideration the variants in terrain and other kinds of construction. That is using a singular standard, and we will come back to review those studies in detail later this evening if that is the desire.

Even if it were true that we could save money by driving down the wages of construction workers, it would be wrong to do it. This mean-spirited attack on construction workers and their families is unwarranted and unfair.

Mr. President, I have here a chart of what the workers are receiving. For example, this is in heavy construction, for iron workers. It shows the hourly wage and what their annual wage is on heavy construction.

Let us talk about what the income of these workers is in America. The average income is $26,000 a year. That is a lot of money perhaps for a lot of people—and it certainly is—but it is $26,000 a year. We are having, effectively, an assault on these workers that are averaging $26,000. With all the problems that we have in this country, we want to undermine the ability of the average construction worker to make $26,000 a year.

We just passed, less than an hour ago, legislation that is going to mean hundreds of billions of dollars to various financial interest groups in this country, and I supported it. But make no mistake about it, that is going to put hundreds of millions and billions of dollars in the pockets of Americans. Here we are talking about what goes into the pockets and pocketbooks of construction workers.

The average is $26,000 a year. If you are an iron worker in Nashville, TN, you make an $8.41 hourly wage, $12,000 a year under Davis-Bacon—$12,000 a year.

If you are up in Burlington, VT, it is $9.70 an hour, $14,000 a year. If you come up to our part of the country in Providence, RI, it is $20 an hour, $31,000 a year. Up in Massachusetts, it reaches as high as $33,000 a year.

This is for every construction worker under the Davis-Bacon Act, and I am going to come back as to how you reach Davis-Bacon figures.

The same is true on residential construction; wages are not high. In fact, in residential construction wages are generally much less. For carpenters in Nashville, TN, $6 an hour, $9,000 a year. This is extraordinary. It is a real ripoff of the taxpayer to be paying someone who is going to make $9,000 on Federal construction.

I find it troublesome that there is so much excitement about trying to alter or change Davis-Bacon, to somehow suggest that these men and women are making too much with these annual earnings of $9,000 in residential construction for carpenters in Nashville, or $11,000 in Ohio, or $15,000 in Connecticut, or even $21,000 in Michigan, or $28,000 for carpenters in Illinois, that this is somehow an injustice, that somehow these men and women are ripping off the system because they are making that.

It just does not hold water, Mr. President. These are hard-working men and women. Their annual hours are only 1,500 hours. Some work a little bit more, 1,700 hours, depending on the weather and the economy, but it has been difficult in the construction industry over the period of recent years.

Apparently some Republican Senators believe those construction workers are so overpaid that their wages should be cut. In fact, construction workers are not overpaid. Despite their considerable skills, the danger and physical hardship of their work, and the years of apprenticeship many have served to attain journeyman, their average annual income is about $28,000 a year.

The second most dangerous industry is construction. The second most dangerous industry—construction. We are saying, "Oh, no, they are doing too well in America," in spite of all the studies that show that the working families of this country over the period of the last 12 years have fallen further and further behind in terms of the economy. They are working longer and making less in real income. That has been happening for 15 years, and if you go ahead with the repeal of Davis-Bacon, you are going to accelerate that.

It seems to me that we ought to be speaking for working families. We are not asking for them to get some special boondoggle when they are making $15,000, $16,000, $20,000, or $25,000 a year. That does not seem to me like some boondoggle. There are a lot of boondoggles around here, but this is not one of them.

Republicans like to accuse the Democrats of class warfare when we oppose their tax cuts for the rich, but this is an uglier class warfare conducted by Republicans to keep blue-collar workers down, to keep them out of the middle class. This bill and the repeal of the Davis-Bacon Act for highway construction are part of a larger assault Republicans are mounting on all fronts against America's working families.

What is happening to these families? They are having a hard time making ends meet. They are falling further and further behind in terms of real income and working harder.

What is happening to their kids? If their kids want to go to college and they are eligible for the Stafford loans, under the Republican proposal, they are going to pay $3,500 more for those Stafford loans.

If the kids need summer jobs, they will be lucky to get one. Mr. President, 1,400 jobs were cut in my city of Boston because of the cutback in the Summer Jobs Program.

In terms of support in the school reform programs, even the projection in the Head Start Program, the Republicans are cutting back on the support for the children of these working families.

We are having an assault on the income of working families, and with the Republican program for cuts in the Medicare Program, you are cutting back on the parents of the working families. You cannot get around that, Mr. President; you cannot get around that.

What happens when they get savings under Medicare? They use it for tax cuts, $350 billion in tax cuts for the wealthy individuals in this country, reaffirmed in the last 48 hours over in the House of Representatives by the Republicans.

We should not just treat these one by one, I would not think. Certainly the families do not figure it that way. They just do not look at it as a problem in one particular bill. They are looking at what the impact is totally on them, and that is what is happening.

This goes right to the heart of the dollars and cents that they are able to make working in construction.

Mr. President, in talking about what is happening and the impact on the working families, we will have in just a few days the regulatory reform bill which, effectively, emasculates the OSHA program with a supermandate that provides an entirely different cost-benefit ratio than is used by OSHA at the present time and will put at serious risk the various proposals that have been put out by OSHA to protect the American worker, not just in the construction industry, but in all industries. We will have that out here.

They repeal the Delaney clause, which is going to mean that no longer are you going to be required to keep carcinogens out of the food stream in the United States of America. That came out of the Judiciary Committee. We will be debating that over here.

For years, we talked about changing the Delaney clause to a more responsible risk-benefit ratio, a particularly

sensitive issue for children who have an entirely different kind of risk-benefit ratio than adults. We tried to work that out in our committee. Oh, no, the votes were there to repeal the Delaney clause, and the Republicans have done that as well. So it will have an impact on the food stream in this country and greater risks will be out there, Mr. President.

So, what happens with this Davis-Bacon proposal? The highway bill has become the latest battleground in that attack. It contains a provision to repeal Davis-Bacon. It proposes to take $1.1 billion out of the pockets of construction workers over the next 5 years. That is how much the committee's Republicans claim they can save by cutting wages on Federal construction projects.

It is a typical Republican policy: Wage cuts for the workers, tax cuts for the rich. In fact, as the Federal highway construction data indicate, it is highly unlikely that any of these so-called savings will actually be achieved by the taxpayer. If anything, lower wages mean higher construction costs, not lower costs.

The notion that reducing the wages of construction workers on Federal construction projects will result in substantial cost savings for the Federal Government has been examined and categorically rejected by the leading construction industry economist in the country, Dr. John Dunlop, a former Secretary of Labor under President Ford and a professor of economics at Harvard for many years. According to Dr. Dunlop, who is a Republican,

> There is simply no sound basis for gratuitously assuming that lower wage rates in the construction industry generally mean lower costs to the public.

> There is simply no sound basis for gratuitously assuming that lower wage rates in the construction industry generally mean lower costs to the public.

The reason is obvious. You get what you pay for. Lower paid workers are likely to be less skilled workers and, therefore, less productive workers. If wages are lower, but it takes the workers longer to complete the work, there are no cost savings. If their work is inferior in quality, it means higher long-term maintenance and repair costs. So there are no cost savings. And that has not been figured into these cost savings. There are no provisions for the diminution in terms of the experience of workers on the job or for inferior kinds of work or for longer-term maintenance. That is not figured into these figures that are bantered around so easily on the floor this evening.

This kind of attack on construction workers and their families is unjustified. There is nothing unfair about paying the prevailing wage on construction projects. Again and again over the years, we have heard the argument that Davis-Bacon is inflationary and that it mandates artificially high union wages. On the committee, Republicans made this argument in their report on the bill on page 11. They say, "The existing law protects union laborers at the expense of unskilled workers." That simply is not true.

Only 29 percent of the prevailing wage schedules issued by the Labor Department in 1994 reflected union wage rates. Forty-eight percent of the wage schedules reflected nonunion rates, and the rest were mixed. Listen to this. Only 29 percent of the prevailing wage schedules issued by the Labor Department in 1994 reflected union wage rates. Forty-eight percent of the wage schedules reflected nonunion rates. And the rest were mixed.

The Davis-Bacon law does not require contractors to pay union wage rates. The Washington Post recently got this wrong and had to print a correction. So let there be no mistake. The Davis-Bacon Act does not require the payment of union wages or the employment of union workers—two misconceptions that are bantered around here on the floor and were in our committee. It requires the payment of prevailing wages, the going rate in the community. You are basically saying that in any of these communities, if they are paying $6 an hour, they get $6 an hour if they are going to build a Federal project. If you are going to build the highways or build residential construction, or if you are going to build heavy construction, it is a higher rate—whatever is the prevailing wage in the local community. Whether it be union or nonunion, that is the wage rate. So that the Federal Government will not be driving the wages down or artificially inflating them. That is basically the reason for the law.

The goal of the act is not to artificially inflate wages. The goal is to keep Federal projects from being used to drive down local wages and local labor standards. That goal is as valid today as it was in 1931, 64 years ago, when the law was first enacted.

The construction labor market is not a national labor market. There are thousands of local markets, and the wage rate for laborers, for example, varies from one part of the country to another, from the minimum of $4.25 an hour to more than $20 an hour. Carpenter wages vary from less than $6 an hour to more than $25 an hour. The Davis-Bacon Act respects these differences. Those who want to repeal the act ignore those differences. They would let Federal contractors drive wages down as low as they can. Repealing Davis-Bacon or its application to highway construction is an invitation to exploitation, and it ought to be rejected.

Mr. President, the evidence of the harmful effects of a repeal on minorities, as well, is clear. This would have an adverse impact in terms of the employment opportunities for women, as well as minorities. There is a very important study—but I see others who want to speak, so I will get into that later this evening or tomorrow.

A Davis-Bacon repeal is wrong. The legitimate concerns about the act's threshold and unnecessary paperwork can be taken care of through a sensible reform amendment, like the one Senator SIMON offered in our Labor and Human Resources Committee when we considered the issue. The Davis-Bacon Act does need to be updated, but the core principle of the law is as valid today as when it was signed 64 years ago. The Federal Government should not try to save money by cutting the wages of its citizens. The Davis-Bacon Act has not been substantially revised in 64 years, since it was enacted. Reforms are needed. The threshold for coverage needs to be adjusted to reflect inflation. The paperwork requirements for contractors are overly burdensome and need to be cut back.

Clear and more sensible lines should be drawn on what work is covered. Workers who are not receiving the wages they deserve need to have a more effective way to resolve complaints. That is why I am for reform of the Davis-Bacon Act. I have been on record in favor of reform for many years.

But there is a world of difference between reform and repeal. A coalition of nearly 20,000 contractors, all opposed to an outright repeal, are lobbying for reform, not repeal. We stand ready to work with colleagues on both sides of the aisle on any reasonable proposal for reform. We are strongly opposed to the anti-worker scheme that would dismantle basic construction workers' protections in all parts of the Nation. Repeal of Davis-Bacon is an anti-work ideology run amok and should be rejected out of hand by the Senate.

I would be glad to either yield to the Senator from Rhode Island about those reports or to make some general concluding remarks.

Mr. CHAFEE. Mr. President, I think what we are going to do this evening is this. The Senator from Illinois has something he wants to discuss as in morning business, which will take about 15 minutes. And then it would be my intention—and the leader said we can—to adjourn for the evening. Then we would be here tomorrow morning at whatever time we come in. Then there will be a chance for everybody to discuss this further. I have some questions I would like to ask the Senator from Massachusetts, but obviously he will be here tomorrow. This is what we call a filibuster on the motion to proceed. Rather than wearing everybody out, it would be my suggestion that we adjourn following the comments by the Senator from Illinois, as in morning business.

Mr. KENNEDY. Well, Mr. President, I see my friend from Illinois wanting to

talk. I will welcome the opportunity to continue this dialog tomorrow. I will make a final comment on this.

I do want to just underline a point, because I think it is a point worth reiterating—that is, that there is a proposal on the Senate calendar that deals with this generically. Those of us who are speaking about this measure wanted the opportunity to at least debate that measure independently and have a chance to amend it and have the focus and attention of the Senate on it. It has been the desire of the Republicans in the committee to put this measure on a matter that is out of your jurisdiction, quite frankly. Your committee does not have jurisdiction on the Davis-Bacon Act, nonetheless, the Senator made the judgment decision to take that step.

Now, that is something that can be done, but it is not in the jurisdiction of your committee. It is in the jurisdiction of Senator KASSEBAUM's committee. They have taken action, but the Senator has circumvented the procedure and we are faced with this particular issue. We intend to speak to that.

I do think that the point needs to be reiterated, that there is a total array of different Republican activities that are symbolized by this assault on working families that are making $27,000 a year.

It is an assault on Davis-Bacon today. We had that assault on education just 3 weeks ago. We had that assault on Medicare. We still have not had the closing of the billionaires' loophole. It is interesting. We are all debating this issue out here and we still have not found time to debate and close the billionaires' loophole. I do think it is important for the American people to have some understanding of how we are spending our time and how we are spending our energy and what we are doing as a matter of priorities.

We will have a full day, and I always welcome the chance to have this discussion with my friend and colleague. I see the Senator from Illinois here.

Mr. CHAFEE. I wonder if the Senator from Massachusetts mentioned reforms, and I am curious as to what the suggested reforms are.

To suggest we have come out of the blue without any consideration in the respective committee that deals with Davis-Bacon, in our committee, we have trespassed into areas we do not belong in. Davis-Bacon we have had out here on the floor as the Senator from Massachusetts knows, many, many times. And this provision that came from our committee solely applies for the areas that we deal with. I am not willing to concede that it is not within our jurisdiction.

However, I am curious as to what the suggestions are, and I do not need them in great detail, but roughly, what is the Senator talking about? The Davis-Bacon now applies to any contract over $2,000. In other words, it applies to everything.

What is the general trend, if I might ask the Senator from Massachusetts, of these reforms?

Mr. KENNEDY. I see my colleague who offered the reform proposal which I supported in the committee. I wonder if the Senator from Illinois would like to take a few moments and go through the different provisions with regard to raising the thresholds and with regard to other features such as the paperwork provisions—the range of different areas which have been raised as matters of concern.

The Senator from Illinois has a very comprehensive program. I see the Senator on the floor now. I will let him comment on that. I look forward to adding to it tomorrow.

Mr. SIMON. Mr. President, I would like to deal with this tomorrow. I would say to the Senator from Rhode Island that what we do is raise the ceiling. We also deal with the problems that contractors say they have with Davis-Bacon. I think it is a practical bill that answers the fundamental problems.

Mr. CHAFEE. What does the ceiling go to?

Mr. SIMON. The ceiling would go, as I recall, to $100,000. I will have the full information on this tomorrow.

We offered this in committee. We checked this out with a number of contractors. We think the proposal that we have makes a great deal of sense. I will have a chance to discuss that tomorrow.

Mr. KENNEDY. I say to the Senator it is $100,000 for new construction; $25,000 for alteration, repair, renovation, rehabilitation.

The second part deals with contract splitting. There is a whole provision in here affecting the reporting requirements, to allow inspection of payrolls by interested parties.

This was an important issue to determine which workers are actually being covered.

We will have an opportunity to discuss the compliance provision, the definition of various employees.

Mr. SIMON. If my colleague will yield, we also reduced the reporting by contractors very significantly. I think that the average contractor would be pleased.

Now, a contractor wants to depress wages, they probably will not be pleased.

Mr. CHAFEE. I am not prepared to concede that every contractor that does not like Davis-Bacon is out to depress wages. We will have time to discuss that further.

I am not sure what has been done. It has been raised to $100,000. If the Senator will show me the building or any job that is less than $100,000 that the Federal Government goes out and contracts for, I will be surprised.

Never mind. We will have all day tomorrow to discuss that. I would say that one of the things I would appreciate the Senator addressing, in my experience, in my State, I have discovered that Davis-Bacon is an anti-small business law.

In other words, the small businessman cannot qualify to do Davis-Bacon jobs. They do not have the record built up, or the recordkeeping machinery, the capabilities. It is a bad move for small businesses.

Mr. SIMON. If the Senator will support the Simon-Kennedy amendment, the Senator will find that it helps small business people.

Mr. CHAFEE. Mr. President, I would be happy if that were so.

Why do we not proceed as in morning business?

Mr. SIMON. Mr. President, I ask unanimous consent that I may proceed as in morning business for 15 minutes.

Mr. CHAFEE. Mr. President, it would then be my thought that we would wind up here and adjourn for the evening.

Mr. SIMON. Mr. President, I thank the Chair.

(The remarks of Mr. SIMON pertaining to the introduction of S. 933 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGES OF THE FLOOR

Mr. CHAFEE. Mr. President, I ask unanimous consent that Larry Dwyer, detailed from the Federal Highway Administration, be granted floor privileges during the duration of the Senate's debate on S. 440.

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

Mr. SIMON. Mr. President, I have been handed a note by the staff.

On behalf of Senator KENNEDY, I ask unanimous consent that Ross Eisenbrey, a fellow on the staff of the Labor Committee, be granted floor privileges during the pendency of this matter.

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

USE OF THE CAPITOL GROUNDS FOR AN EXHIBITION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Rules Committee be immediately discharged from further consideration of Senate Concurrent Resolution 17; and, further, that the Senate now proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 17) authorizing the use of the Capitol Grounds for the exhibition of the RAH-66 Comanche helicopter.

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

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

Mr. CHAFEE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table, and that any statements relating to the concurrent resolution appear at the appropriate place in the RECORD.

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

So the concurrent resolution (S. Con. Res. 17) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

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 make 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.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL AND TESTIMONY BY FORMER SENATE EMPLOYEE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 135, submitted earlier today by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 135) to authorize production of documents and testimony by a former Senate employee, and representation by Senate legal counsel.

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

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

Mr. DOLE. Mr. President, the plaintiffs in two civil actions pending in North Dakota State court have requested documents and testimony from a former member of Senator CONRAD's staff relating to constituent casework the staff member performed for the plaintiffs. The following resolution would authorize the former staff member to testify at a deposition with representation by the Senate Legal Counsel, and would authorize the production of documents.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, that the preamble be agreed to, that the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 135) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 135

Whereas, the plaintiffs in *Schneider* v. *Schaaf*, Civ. No. 95-C-1056 and *Schneider* v. *Messer*, Civ. No. 93-C-124, civil actions pending in state court in North Dakota have sought the deposition testimony of Ross Keys, a former Senate employee who worked for Senator Kent Conrad and documents from Senator Conrad's office;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288B(A) and 288C(A)(2), the Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it

Resolved, That Ross Keys is authorized to produce records and provide testimony in the cases of *Schneider* v. *Schaaf* and *Schneider* v. *Messer*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Ross Keys in connection with the testimony authorized by section 1 of this resolution.

CLOTURE MOTION

Mr. CHAFEE. Mr. President, I send a cloture motion to the desk that is signed by 16 Senators.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar Number 114, S. 440, the National Highway System bill, signed by 16 Senators.

Bob Dole, Lauch Faircloth, Larry Pressler, Rod Grams, Don Nickles, Robert F. Bennett, Craig Thomas, James M. Inhofe, Pete V. Domenici, John W. Warner, Hank Brown, John Chafee, Christopher Bond, Kay Bailey Hutchison, Bob Smith, and Dirk Kempthorne.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, on that memorable evening in 1972 when I learned that 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 certainly proved beneficial to me because I've been inspired by the estimated 60,000 young people with whom I've visited during the nearly 23 years I've 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 U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That's why I began making these daily reports to the Senate on February 22, 1992. I wanted to make it a matter of daily record precisely the size of the Federal debt which as of yesterday, Wednesday, June 14, stood at $4,905,557,258,890.90 (or $18,621.58 for every man, woman, and child in America).

"TAKE THE MONEY AND TALK"

Mr. BYRD. Mr. President, without a doubt, the relationship between the media and politicians is a unique and interesting one. All would agree that press attention on politicians is a natural function of journalistic coverage of the legislative process. It is a necessary and useful role for the members of the press.

Over the years, there has been a lot of media coverage focused on the effects of special interests on the legislative process. Reams have been written on how the wishes of the American people are compromised by the practice of legislators accepting gratuities from the pockets of highly paid lobbyists. Miles of video tape have been aired on programs critical of Members of Congress who cavort with special interest groups which have influence over matters under consideration by Congress. Often, by focusing their investigative light on elected officials, the media have brought instances of unethical behavior to the public's attention.

Partly as a result of this attention, Members of Congress got the message. In an effort, which I led here some years ago, to eliminate possible conflicts of interest and perceptions of such conflicts, Members chose to prohibit the acceptance of honoraria and to require public disclosure of gifts from outside groups. Now, because of reporting requirements, the American people are able to judge the effects that any undue influence lobbyists may have on their elected representatives.

What is distressing to me is the lack of parity that exists in this area as far as the media are concerned. In the June 1995 edition of the American Journalism Review, Alicia C. Shepard, in an article entitled, "Take the Money and Talk," makes a compelling argument for members of the press to turn the light of honoraria disclosure on themselves. As the article points out, journalists who receive honoraria from the very groups they cover have become a matter of considerable concern. It seems that even many reporters feel uncomfortable with the large sums that their peers receive from speaking engagements.

In this age of instant communication, no one can doubt the tremendous impact of the media. Their stories—either in print, through newspapers and magazines, or on the air waves, through network news and talk radio—control the very way the public receives the news each day and perceives the issues and the players in the coverage. Reporters have the ability to frame a story through virtually any filter they choose. Theirs is a powerful tool that cannot be taken lightly.

At a time when public cynicism with both politicians and the media seems to have reached new proportions, the journalism profession ought to put the brakes on and reflect on how it is tainted by the policy of accepting speaking fees. How is one to know if a given journalist has a private agenda or an ax to grind? Right now, the public is not assured of balanced reporting and can only hope that members of the press are above ethical compromise. Although some media outlets are beginning to put restrictions into place, no rules of disclosure with respect to outside income are required by the journalism profession. There is no place to go to find out if a reporter has been compromised.

Somewhat arrogantly or perhaps naively, many reporters have adopted the "trust me" theory of reporting, insisting that their ethical standards are not to be questioned. For some unclear reason, they assume that they are different from the individuals about whom they write. Simply by virtue of their name and employer, we are to believe that they are above reproach.

The hypocrisy of this line of thinking is not only absurd, but it is also truly disturbing. To have a virtual field day in castigating politicians for allowing special interest groups access and influence, and then to turn around and ignore the same criticism in regard to themselves, in my mind, portrays a press corps that is unaccountable and, as a result, compromised or at least highly suspect. In an age of instant communications, the media hold an unequaled sway over the distribution of information to the public. Their access to, and influence on, the American people are unparalleled. The communications industry thus has an important obligation to guarantee the highest ethical standards among its members. As the press are fond of pointing out, in the public arena there are no free rides. It is past time for journalists to accept the same responsibility in this regard and acknowledge the dangers, within their own ranks, of receiving money from special interest groups.

One of the liberties our Constitution speaks of is freedom of the press. Certainly, no one wants to see controls put on the media that would jeopardize the ability to report objectively. But, we are all better served when possible perceptions of misconduct are removed. Unfortunately, by refusing to address what is perceived at the very least as a double standard, the journalism profession runs the risk of losing further credibility with its audience. It is time for all thinking members of the media to face up to the same standards they so stridently require of others, and let the light of day reflect the objectivity of their work.

Mr. President, in this regard, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

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

[From the American Journalism Review, June 1995]

TAKE THE MONEY AND TALK

(By Alicia C. Shepard)

It's speech time at the Broward County Convention Center in Fort Lauderdale.

ABC News correspondent and NPR commentator Cokie Roberts takes her brown handbag and notebook off of the "reserved" table where she has been sitting, waiting to speak. She steps up to the podium where she is gushingly introduced and greeted with resounding applause.

Framed by palm fronds, Roberts begins her speech to 1,600 South Florida businesswomen attending a Junior League-sponsored seminar. Having just flown in from Washington, D.C., Roberts breaks the news of the hours-old arrest of a suspect in the Oklahoma City bombing. She talks of suffragette Susan B. Anthony, of how she misses the late House Speaker Tip O'Neill, of the Republican takeover on Capitol Hill. Then she gives her listeners the inside scoop on the new members of Congress.

"They are very young," says Roberts, 52, "I'm constantly getting it wrong, assuming they are pages. They're darling. They're wildly adept with a blow dryer and I resent them because they call me ma'am." The audience laughs.

After talking for an hour on "Women and Politics," Roberts answers questions for 20 minutes. One woman asks the veteran correspondent, who has covered Washington since 1978, when there will be a female president.

"I think we'll have a woman president when a woman is elected vice president and we do in the guy," Roberts quips.

This crowd loves her. When Roberts finishes, they stand clapping for several minutes. Roberts poses for a few pictures and is whisked out and driven to the Miami airport for her first-class flight back to Washington.

For her trouble and her time, the Junior League of Greater Fort Lauderdale gave Roberts a check for $35,000. "She's high, very high," says the League's Linda Carter, who lined up the keynote speakers. The two other keynote speakers received around $10,000 each.

The organization sponsored the seminar to raise money for its community projects, using Roberts as a draw. But shelling out $35,000 wouldn't have left much money for, say, the League's foster care or women's substance abuse programs or its efforts to increase organ donors for transplants.

Instead, Robert's tab was covered by a corporate sponsor, JM Family Enterprises. The $4.2 billion firm is an umbrella company for the largest independent American distributor of Toyotas. The second-largest privately held company in Florida, it provides Toyotas to 164 dealerships in five southeastern states and runs 20 other auto-related companies.

But Roberts doesn't want to talk about the company that paid her fee. She doesn't like to answer the kind of questions she asks politicians. She won't discuss what she's paid, whom she speaks to, why she does it or how it might affect journalism's credibility when she receives more money in an hour-and-a-half from a large corporation than many journalists earn in a year.

"She feels strongly that it's not something that in any way, shape or form should be discussed in public," ABC spokeswoman Eileen Murphy said in response to AJR's request for an interview with Roberts.

Roberts' ABC colleague Jeff Greenfield, who also speaks for money, doesn't think it's a good idea to duck the issue. "I think we ought not not talk about it," he says. "I mean that's Cokie's right, obviously," he adds, but "if we want people to answer our questions, then up to a reasonable point, we should answer their questions."

The phenomenon of journalists giving speeches for staggering sums of money continues to dog the profession. Chicago Tribune Washington Bureau Chief James Warren has created a cottage industry criticizing colleagues who speak for fat fees. Washington Post columnist James K. Glassman believes the practice is the "next great American scandal." Iowa Republican Sen. Charles Grassley has denounced it on the Senate floor.

A number of news organizations have drafted new policies to regulate the practice since debate over the issue flared a year ago (see "Talk is Expensive," May 1994). Time magazine is one of the latest to do so, issuing a flat-out ban on honoraria in April. The Society for Professional Journalists, in the process of revising its ethics code, is wrestling with the divisive issue.

The eye-popping sums star journalists receive for their speeches, and the possibility that they may be influenced by them, have drawn heightened attention to the practice, which is largely the province of a relatively small roster of well-paid members of the media elite. Most work for the television networks or the national news weeklies; newspaper reporters, with less public visibility, aren't asked as often.

While the crescendo of criticism has resulted in an official crackdown at several news organizations—as well as talk of new hardline policies at others—it's not clear how effective the new policies are, since no public disclosure system is in place.

Some well-known journalists, columnist and "Crossfire" host Michael Kinsley and U.S. News & World Report's Steven V. Roberts among them, scoff at the criticism. They assert that it's their right as private citizens to offer their services for whatever the market will bear, that new policies won't improve credibility and that the outcry has been blown out of proportion.

But the spectacle of journalists taking big bucks for speeches has emerged as one of the high-profile ethical issues in journalism today.

"Clearly some nerve has been touched," Warren says. "A nerve of pure, utter defensiveness on the part of a journalist trying to rationalize taking [honoraria] for the sake of their bank account because the money is so alluring."

A common route to boarding the lecture gravy train is the political talk show. National television exposure raises a journalist's profile dramatically, enhancing the likelihood of receiving lucrative speaking offers.

The problem is that modulated, objective analysis is not likely to make you a favorite on "The Capital Gang" or "The McLaughlin Group." Instead, reporters who strive for objectivity in their day jobs are often far more opinionated in the TV slugfests.

Time Managing Editor James R. Gaines, who issued his magazine's recent ban on accepting honoraria, sees this as another problem for journalists' credibility, one he plans to address in a future policy shift. "These journalists say things we wouldn't let them say in the magazine. . .," says Gaines, whose columnist Margaret Carlson appears frequently on "The Capital Gang." "It's great promotion for the magazine and the magazine's journalists. But I wonder about it when the journalists get into that adversarial atmosphere where provocation is the main currency."

Journalists have been "buckraking" for years, speaking to trade associations, corporations, charities, academic institutions and social groups. But what's changed is the amount they're paid. In the mid-1970s, the fees peaked at $10,000 to $15,000, say agents for speakers bureaus. Today, ABC's Sam Donaldson can get $30,000, ABC's David Brinkley pulls in $18,000 and the New York Times' William Safire can command up to $20,000.

When a $4.2 billion Toyota distributor pays $35,000 for someone like Cokie Roberts, or a trade association pays a high-profile journalist $10,000 or $20,000 for an hour's work, it inevitably raises questions and forces news executives to re-examine their policies.

That's what happened last June at ABC. Richard Wald, senior vice president of news, decided to ban paid speeches to trade associations and for-profit corporationsmuch to the dismay of some of ABC's best-paid correspondents. As at most news organizations, speaking to colleges and nonprofits is allowed.

When Wald's policy was circulated to 109 employees at ABC, some correspondents howled (see Free Press, September 1994). Protests last August from Roberts, Donaldson, Brinkley, Greenfield, Brit Hume and others succeeded only in delaying implementation of the new guidelines. Wald agreed to "grandfather in" speeches already scheduled through mid-January. After that, if a correspondent speaks to a forbidden group, the money must go to charity.

"Why did we amend it? Fees for speeches are getting to be very large," Wald says. "When we report on matters of national interest, we do not want it to appear that folks who have received a fee are in any way beholden to anybody other than our viewers. Even though I do not believe anybody was ever swayed by a speech fee, I do believe that it gives the wrong impression. We deal in impressions."

The new policy has hurt, says ABC White House correspondent Ann Compton. Almost a year in advance, Compton agreed to speak to the American Cotton Council. But this spring, when she spoke to the trade group, she had to turn an honorarium of "several thousand dollars" over to charity. Since the policy went into effect, Compton has turned down six engagements that she previously would have accepted.

"The restrictions now have become so tight, it's closed off some groups and industries that I don't feel I have a conflict with," says Compton, who's been covering the White House off and on since 1974. "It's closed off, frankly, the category of organizations that pay the kind of fees I get." She declines to say what those fees are.

And it has affected her bank account. "I've got four kids * * *," Compton says. "It's cut off a significant portion of income for me."

Some speakers bureaus say ABC's new policy and criticism of the practice have had an impact.

"It has affected us, definitely," says Lori Fish of Keppler Associates in Arlington, Virginia, which represents about two dozen journalists. "More journalists are conscious of the fact that they have to be very particular about which groups they accept honoraria from. On our roster there's been a decrease of some journalists accepting engagements of that sort. It's mainly because of media criticism."

Other bureaus, such as the National Speakers Forum and the William Morris Agency, say they haven't noticed a difference. "I can't say that the criticism has affected us," says Lynn Choquette, a partner at the speakers forum.

Compton, Donaldson and Greenfield still disagree with Wald's policy but, as they say, he's the boss.

"I believe since all of us signed our contracts with the expectation that the former ABC policy would prevail and took that into account when we agreed to sign our contracts for X amount," Donaldson says, "it was not fair to change the policy midstream." Donaldson says he has had to turn down two speech offers.

Greenfield believes the restrictions are unnecessary.

"When I go to speak to a group, the idea that it's like renting a politician to get his ear is not correct," he says. "We are being asked to provide a mix of entertainment and information and keep audiences in their seats at whatever convention so they don't go home and say, 'Jesus, what a boring two-day whatever that was.'"

Most agree it's the size of the honoraria that is fueling debate over the issue. "If you took a decimal point or two away, nobody would care," Greenfield says. "A lot of us are now offered what seems to many people a lot of money. They are entertainment-size sums rather than journalistic sizes."

And Wald has decided "entertainment-size sums" look bad for the network, which has at least a dozen correspondents listed with speakers bureaus. It's not the speeches themselves that trouble Wald. "You can speak to the American Society of Travel Agents or the Electrical Council," he says, "as long as you don't take money from them."

But are ABC officials enforcing the new policy? "My suspicion is they're not, that they are chickenshit and Cokie Roberts will do whatever the hell she wants to do and they don't have the balls to do anything,"

says the Chicago Tribune's Warren, whose newspaper allows its staff to make paid speeches only to educational institutions.

There's obviously some elasticity in ABC's policy. In April, Greenfield, who covers media and politics, pocketed $12,000 from the National Association and interviewing media giants Rupert Murdoch and Barry Diller for the group. Wald says that was acceptable.

He also says it was fine for Roberts to speak to the Junior League-sponsored business conference in Fort Lauderdale, even though the for-profit JM Family Enterprises paid her fee.

"As long as the speech was arranged by a reasonable group and it carried with it no tinct from anybody, it's okay," says Wald. "I don't care where they [the Junior League] get their money."

Even with its loopholes, ABC has the strictest restrictions among the networks. NBC, CBS and CNN allow correspondents to speak for dollars on a case-by-case basis and require them to check with a supervisor first. Last fall, Andrew Lack, president of NBC News, said he planned to come up with a new policy. NBC spokesperson Lynn Gardner says Lack has drafted the guidelines and will issue them this summer. "The bottom line is that Andrew Lack is generally not in favor of getting high speaking fee," she says.

New Yorker Executive Editor Hendrik Hertzberg also said last fall that his magazine would review its policy, under which writers are supposed to consult with their editors in "questionable cases." The review is still in progress. Hertzberg says it's likely the magazine will have a new policy by the end of the year.

There's something aesthetically offensive to my idea of journalism for American journalists to be paid $5,000, $10,000 or $20,000 for some canned remarks simply because of his or her celebrity value," Hertzberg says.

Rewriting a policy merely to make public the outside income of media personalities guarantees resistance, if not outright hostility. Just ask John Harwood of the Wall Street Journal's Washington bureau. This year, Harwood was a candidate for a slot on the committee that issues congressional press passes to daily print journalists.

His platform included a promise to have daily correspondents list outside sources of income—not amounts—on their applications for press credentials. Harwood's goal was fuller disclosure of outside income, including speaking fees.

"I'm not trying to argue in all cases it's wrong," says Harwood. "But we make a big to-do about campaign money and benefits lawmakers get from special interests and I'm struck by how many people in our profession also get money from players in the political process."

Harwood believes it's hypocritical that journalists used to go after members of Congress for taking speech fees when journalists do the same thing. (Members of Congress are no longer permitted to accept honoraria.)

"By disclosing the people who pay us," says Harwood, "we let other people who may have a beef with us draw their own conclusions. I don't see why reporters should be afraid of that."

But apparently they are. Harwood lost the election.

"I'm quite certain that's why John lost," says Alan J. Murray, the Journal's Washington bureau chief, who made many phone calls on his reporter's behalf. "There's clearly a lot of resistance," adds Murray, whose newspaper forbids speaking to for-profit companies, political action committees and anyone who lobbies Congress. "Everybody likes John. But I couldn't believe how many people said—even people who I suspect have very little if any speaking incomes—that it's just nobody's business. I just don't buy that."

His sentiment is shared in the Periodical Press Gallery on Capitol Hill, where magazine reporters applying for press credentials must list sources of outside income. But in the Radio-Television Correspondents Gallery, where the bigname network reporters go for press credentials, the issue of disclosing outside income has never come up, says Kenan Block, a "MacNeil/Lehrer NewsHour" producer.

"I've never heard anyone mention it here and I've been here going on 11 years," says Block, who is also chairman of the Radio-Television Correspondents Executive Committee. "I basically feel it's not our place to police the credentialed reporters. If you're speaking on the college circuit or to groups not terribly political in nature, I think, if anything, people are impressed and a bit envious. It's like, 'More power to them.'"

But the issue of journalists' honoraria has been mentioned at Block's program.

Al Vecchione, president of McNeil/Lehrer Productions, says he was "embarrassed" by AJR's story last year and immediately wrote a new policy. The story reported that Robert MacNeil accepted honoraria, although he often spoke for free; partner Jim Lehrer said he had taken fees in the past but had stopped after his children got out of college.

"We changed [our policy] because in reading the various stories and examining our navel, we decided it was not proper," Vecchione says. "While others may do it, we don't think it's proper. Whether in reality it's a violation or not, the perception is there and the perception of it is bad enough."

MacNeil/Lehrer's new policy is not as restrictive as ABC's, however. It says correspondents "should avoid accepting money from individuals, companies, trade associations or organizations that lobby the government or otherwise try to influence issues the NewsHour or other special * * * programs may cover."

As is the case with many of the new, stricter policies, each request to speak is reviewed on a case-by-case basis. That's the policy at many newspapers and at U.S. News.

Newsweek tightened its policy last June. Instead of simply checking with an editor, staffers now have to fill out a form if they want to speak or write freelance articles and submit it to Ann McDaniel, the magazine's chief of correspondents.

"The only reason we formalized the process is because we thought this was becoming more popular than it was 10 years ago," McDaniel says. "We want to make sure [our staff members] are not involved in accepting compensation from people they are very close to. Not because we suspect they can be bought or that there will be an improper behavior but because we want to protect our credibility."

Time, on the other hand, looked at all the media criticism and decided to simply end the practice. In an April 14 memo, Managing Editor Gaines told his staff, "The policy is that you may not do it."

Gaines says the new policy was prompted by "a bunch of things that happened all at once." He adds that "a lot of people were doing cruise ships and appearances and have some portion of their income from that, so their ox is gored."

The ban is not overwhelmingly popular with Time staffers. Several, speaking on a not-for-attribution basis, argue that it's too tough and say they hope to change Gaines' mind. He says that won't happen, although he will amend the policy to allow paid speeches before civic groups, universities and groups that are "clearly not commercial."

"Academic seminars are fine," he says. "If some college wants to pay expenses and a $150 honorarium, I really don't have a problem with that."

Steve Roberts, a senior writer with U.S. News & World Report and Cokie Roberts' husband, is annoyed that some media organizations are being swayed by negative publicity. He says there's been far too much criticism of what he believes is basically an innocuous practice. Roberts says journalists have a right to earn as much as they can by speaking, as long as they are careful about appearances and live by high ethical standards.

"This whole issue has been terribly overblown by a few cranks," Roberts says. "As long as journalists behave honorably and use good sense and don't take money from people they cover, I think it's totally legitimate. In fact, my own news organization encourages it."

U.S. News not only encourages it, but its public relations staff helps its writers get speaking engagements.

Roberts says U.S. News has not been intimidated by the "cranks," who he believes are in part motivated by jealousy. "I think a few people have appointed themselves the critics and watchdogs of our profession. I, for one, resent it."

His chief nemesis is Jim Warren, who came to Washington a year-and-a-half ago to take charge of the Chicago Tribune's bureau. Warren, once the Tribune's media writer, writes a Sunday column that's often peppered with news flashes about which journalist is speaking where and for how much. The column includes a "Cokie Watch," named for Steve Roberts' wife of 28 years, a women Warren has written reams about but has never met.

"Jim Warren is a reprehensible individual who has attacked me and my wife and other people to advance his own visibility and his own reputation," Roberts asserts. "He's on a crusade to make his own reputation by tearing down others."

While Warren may work hard to boost his bureau's reputation for Washington coverage, he is best known for his outspoken criticism of fellow journalists. Some reporters cheer him on and fax him tips for "Cokie Watch." Others are highly critical and ask who crowned Warren chief of the Washington ethics police.

Even Warren admits his relentless assault has turned him into a caricature.

"I'm now in the Rolodex as iconoclast, badass Tribune bureau chief who writes about Cokie Roberts all the time," says Warren, who in fact doesn't. "But I do get lots of feedback from rank-and-file journalists saying. 'Way to go. You're dead right,' It obviously touches a nerve among readers."

So Warren writes about Cokie and Steve Roberts getting $45,000 from a Chicago bank for a speech and the traveling team of television's "The Capital Gang" sharing $25,000 for a show at Walt Disney World. He throws in parenthetically that Capital Gang member Michael Kinsley "should know better."

Kinsley says he would have agreed a few years ago, but he's changed his tune. He now believes there are no intrinsic ethical problems with taking money for speaking. He does it, he wrote in The New Republic in May, for the money, because it's fun and it boosts his ego.

"Being paid more than you're worth is the American dream," he wrote. "I see a day when we'll all be paid more than we're worth. Meanwhile, though, there's no requirement for journalists, alone among humanity, to deny themselves the occasional fortuious tastes of this bliss."

To Kinsley, new rules restricting a reporter's right to lecture for largesse don't accomplish much.

"Such rules merely replace the appearance of corruption with the appearance of propriety," he wrote. "What keeps journalists on the straight and narrow most of the time is not a lot of rules about potential conflicts of interest, but the basic reality of our business that a journalist's product is out there for all to see and evaluate."

The problem, critics say, is that without knowing who besides the employer is paying a journalist, the situation isn't quite that clear-cut.

Jonathan Salant, president of the Washington chapter of the Society of Professional Journalists, cites approvingly a remark by former Washington Post Executive Editor Ben Bradlee in AJR's March issue: "If the Insurance Institute of America, if there is such a thing, pays you $10,000 to make a speech, don't tell me you haven't been corrupted. You can say you haven't and you can say you will attack insurance issues in the same way, but you won't. You can't."

Salant thinks SPJ should adopt an absolute ban on speaking fees as it revises its ethics code. Most critics want some kind of public disclosure at the very least.

Says the Wall Street Journal's Murray, "You tell me what is the difference between somebody who works full time for the National Association of Realtors and somebody who takes $40,000 a year in speaking fees from Realtor groups. It's not clear to me there's a big distinction. I'm not saying that because you take $40,000 a year from Realtors that you ought to be thrown out of the profession. But at the very least, you ought to disclose that."

And so Murray is implementing a disclosure policy. By the end of the year, the 40 journalists working in his bureau will be required to list outside income in a report that will be available to the pubic.

"People are not just cynical about politicians," says Murray. "They are cynical about us. Anything we can do to ease that cynicism is worth doing."

Sen. Grassley applauds the move. Twice he has taken to the floor of the Senate to urge journalists to disclose what they earn on the lecture circuit.

"It's both the amount and doing it," he says. "I say the pay's too much and we want to make sure the fee is disclosed. The average worker in my state gets about $21,000 a year. Imagine what he or she thinks when a journalist gets that much for just one speech?"

Public disclosure, says Grassley, would curtail the practice.

Disclosure is often touted as the answer. Many journalists, such as Kinsley and Wall Street Journal columnist Al Hunt—a television pundit and Murray's predecessor as bureau chief—have said they will disclose their engagements and fees only if their colleagues do so as well.

Other high-priced speakers have equally little enthusiasm for making the information public. "I don't like the idea," says ABC's Greenfield. "I don't like telling people how much I get paid."

But one ABC correspondent says he has no problem with public scrutiny. John Stossel, a reporter on "20/20," voluntarily agreed to disclose some of the "absurd" fees he's earned. Last year and through March of this year Stossel raked in $160,430 for speeches—$135,280 of which was donated to hospital, scholarship and conservation programs.

"I just think secrecy in general is a bad thing," says Stossel, who did not object to ABC's new policy. "We [in the media] do have some power. We do have some influence. That's why I've come to conclude I should disclose, so people can judge whether I can be bought."

(Stossel didn't always embrace this notion so enthusiastically. Last year he told AJR he had received between $2,000 and $10,000 for a luncheon speech, but wouldn't be more precise.)

Brian Lamb, founder and chairman of C-SPAN, has a simpler solution, one that also has been adopted by ABC's Peter Jennings, NBC's Tom Brokaw and CBS' Dan Rather and Connie Chung. They speak, but not for money.

"I never have done it," Lamb says. "It sends out one of those messages that's been sent out of this town for the last 20 years: Everybody does everything for money. When I go out to speak to somebody I want to have the freedom to say exactly what I think. I don't want to have people suspect that I'm there because I'm being paid for it."

On February 20, according to the printed program, Philip Morris executives from around the world would have a chance to listen to Cokie and Steve Roberts at 7 a.m. while enjoying a continental breakfast. "Change in Washington: A Media Perspective with Cokie and Steve Roberts," was the scheduled event at the PGA resort in Palm Beach during Philip Morris' three-day invitational golf tournament.

A reporter who sent the program to AJR thought it odd that Cokie Roberts would speak for Philip Morris in light of the network's new policy. Even more surprising, he thought, was that she would speak to a company that's suing ABC for libel over a "Day One" segment that alleged Philip Morris adds nicotine to cigarettes to keep smokers addicted. The case is scheduled to go to trial in September.

At the last minute, Cokie Roberts was a no-show, says one of the organizers. "Cokie was sick or something," says Nancy Schaub of Event Links, which put on the golf tournament for Philip Morris. "Only Steve Roberts came."

Cokie Roberts won't talk to AJR about why she changed her plans. Perhaps she got Dick Wald's message.

"Of course, it's tempting and it's nice," Wald says of hefty honoraria. "Of course, they [ABC correspondents] have rights as private citizens. It's not an easy road to go down. But there are some things you just shouldn't do and that's one of them."

TRIBUTE TO GEN. JOHN MICHAEL LOH, USAF, ON HIS RETIREMENT

Mr. NUNN. Mr. President, today I want to recognize Gen. John Michael Loh for his 39 years of distinguished service to our Nation. General Loh has displayed exceptional leadership in a wide-ranging Air Force career that culminated as commander of the Air Combat Command. As a Georgian, I am proud to note that General Loh is a native of Macon, GA.

General Loh graduated from the U.S. Air Force Academy as a distinguished graduate in 1960. Ultimately, he rose to command the 250,000 men and women of Air Combat Command

General Loh is a highly decorated veteran of the Vietnam war. He flew over 200 combat missions in the F-4 at Da Nang Air Force Base, South Vietnam. Later, General Loh also served as a test pilot, helping usher in the technological improvements we see in today's advanced fighters. As the director of the F-16 System Program Office, he led the acquisition efforts that brought our country the world's best multirole fighter.

His numerous military awards and decorations include the Distinguished Service Medal, Legion of Merit with Oak Leaf Cluster, the Distinguished Flying Cross, Meritorious Service Medal, and the Air Medal with seven Oak Leaf Clusters.

General Loh has flown over 5,000 hours as a command pilot in the F-16, A-7, F-4, and F-104 to mention just a few. He recently capped his career by flying our Nation's most sophisticated aircraft—the B-2 bomber. Perhaps his greatest feat, however, was in leading the successful merger of Strategic and Tactical Air Commands into Air Combat Command. In fact, the Air Force Association awarded him its highest military honor, the Hap Arnold Award, for his leadership of Air Combat Command and his national reputation for quality improvement. Vice President GORE singled out Air Combat Command as a shining example of reinventing government.

Despite the significant changes in the Air Force and our military structure as a whole, General Loh leaves a command that performed brilliantly during and after the gulf war, and more recently, has responded quickly and effectively to contingency operations around the world.

The United States is indebted to General Loh for his selfless and distinguished service. I offer my sincere thanks and appreciation for a job well done and wish General Loh and his wife, Barbara, continued success in the future.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-987. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-988. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-989. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-990. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-991. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-992. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-993. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-994. A communication from the Public Printer of the Government Printing Office, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-995. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-996. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-997. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-998. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-999. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1000. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1001. A communication from the Acting Director of the Peace Corps, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1002. A communication from the Federal Trade Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1003. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1004. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1005. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation and the Chairman of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1006. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1007. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1008. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1009. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1010. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1011. A communication from the Chief Executive Officer of the Corporation for National Service, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1012. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1013. A communication from the Attorney General, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1014. A communication from the Secretary of Energy, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1015. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1016. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1017. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1018. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1019. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1020. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1021. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-1022. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC-1023. A communication from the Administrator of the Office of Independent Counsel, transmitting, pursuant to law, the report on audit and investigative activities; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

John P. White, of Massachusetts, to be Deputy Secretary of Defense.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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 Mr. GREGG:

S. 924. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself, Mr. LIEBERMAN, Mr. GRAMM, Mr. HELMS, and Mr. DOLE):

S. 925. A bill to impose congressional notification and reporting requirements on any negotiations or other discussions between the United States and Cuba with respect to normalization of relations; to the Committee on Foreign Relations.

By Mr. BRYAN:

S. 926. A bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 927. A bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties; to the Committee on Finance.

By Mr. INHOFE (for himself, Mr. BURNS, and Mrs. KASSEBAUM):

S. 928. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ABRAHAM (for himself, Mr. DOLE, Mr. FAIRCLOTH, Mr. NICKLES, Mr. GRAMM, and Mr. BROWN):

S. 929. A bill to abolish the Department of Commerce; to the Committee on Governmental Affairs.

By Mr. SHELBY (for himself, Mr. LOTT, Mr. BROWN, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. INHOFE, Mr. MACK, Mr. MCCONNELL, and Mr. SIMPSON):

S. 930. A bill to require States receiving prison construction grants to implement requirements for inmates to perform work and engage in educational activities, and for other purposes; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HARKIN, and Mr. WELLSTONE):

S. 931. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis And Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. CHAFEE, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 932. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

By Mr. SIMON:

S. 933. A bill to amend the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes; to the Committee on Labor and Human 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. DOLE (for himself and Mr. DASCHLE):

S. Res. 134. A resolution expressing the Senate's gratitude to Sheila P. Burke for her service as Secretary of the Senate; considered and agreed to.

S. Res. 135. A resolution to authorize production of documents, testimony by a former Senate employee and representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG:

S. 924. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax for assets held more than 2 years, to impose a surcharge on short-term capital gains, and for other purposes; to the Committee on Finance.

THE LONG-TERM INVESTMENT INCENTIVE ACT OF 1995

•Mr. GREGG. Mr. President, I introduce a bill that will have a significant impact on the promotion of long-term investment through a reduction in the capital gains tax. I believe the Congress has a responsibility to enact laws promoting long-term capital investment and savings by all Americans. Part of fulfilling this obligation must include implementing a plan that would reduce the current capital gains tax rate on long-term investments.

We must also, however, balance this important economic goal against the moral issue of adding increasing debt onto our children's shoulders. This becomes an unavoidable issue in the capital gains debate because the Joint Committee on Taxation scores capital gains a big revenue loser. This scoring issue is an unfortunate fact that we in Congress cannot ignore.

Accordingly, I have developed legislation that would encourage long-term investment by amending the current capital gains tax using a sliding scale plan. My bill encourages an individual to hold an asset over a number of years, thus, allowing a greater tax reduction on investments, with the maximum benefit being reached after 4 years. It would reward individuals who look toward contributing to a savings plan over a number of years, while at the same time making quick fix investments less attractive. This sliding scale plan would encourage investments that benefit long-term savings, such as a child's education, an individual's retirement, or other nonspeculative holdings.

The theory behind the sliding scale reduction on capital gains hinges upon an agreed goal: the promotion of savings and long-term investment through a capital gains cut, while recognizing our current fiscal realities. The Joint Committee on Taxation estimates this plan would lose just $7.4 billion in revenue over the 1995–2000 period.

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. 924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Investment Incentive Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REDUCTION OF TAX ON LONG-TERM CAPITAL GAINS ON ASSETS HELD MORE THAN 2 YEARS.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR ASSETS HELD BY NONCORPORATE TAXPAYERS MORE THAN 2 YEARS.

"(a) GENERAL RULE.—If a taxpayer other than a corporation has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

"(1) 20 percent of the qualified 4-year capital gain,

"(2) 10 percent of the qualified 3-year capital gain, plus

"(3) 5 percent of the qualified 2-year capital gain.

"(b) DEFINITIONS.—For purposes of this title—

"(1) QUALIFIED 4-YEAR CAPITAL GAIN.—The term 'qualified 4-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 4 years were taken into account, or

"(B) the net capital gain.

"(2) QUALIFIED 3-YEAR CAPITAL GAIN.—The term 'qualified 3-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 3 years but not more than 4 years were taken into account, or

"(B) the net capital gain, reduced by the qualified 4-year capital gain.

"(3) QUALIFIED 2-YEAR CAPITAL GAIN.—The term 'qualified 2-year capital gain' means the lesser of—

"(A) the amount of long-term capital gain which would be computed for the taxable

year if only gain from the sale or exchange of property held by the taxpayer for more than 2 years but not more than 3 years were taken into account, or

"(B) the net capital gain, reduced by the qualified 4-year capital gain and qualified 3-year capital gain.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(e) TREATMENT OF COLLECTIBLES.—

"(1) IN GENERAL.—Solely for purposes of this section, any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(2) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of paragraph (1), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(3) COLLECTIBLE.—For purposes of this subsection, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).

"(f) TRANSITIONAL RULE.—

"(1) IN GENERAL.—Gain may be taken into account under subsection (b)(1)(A), (b)(2)(A), or (b)(3)(A) only if such gain is properly taken into account on or after July 1, 1995.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(c) MAXIMUM CAPITAL GAINS RATE.—Clause (i) of section 1(h)(1)(A), as amended by section 3(a), is amended by striking "the net capital gain" and inserting "the excess of the net capital gain over the deduction allowed under section 1202".

(d) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—

(1) CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(A) Subparagraph (B) of section 852(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the company as allocable to qualified 4-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years,

"(ii) the portion of any such dividend designated by the company as allocable to qualified 3-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iii) the portion of any such dividend designated by the company as allocable to qualified 2-year capital gain of the company shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under clause (i), (ii), or (iii)."

(B) Clause (i) of section 852(b)(3)(D) is amended by adding at the end the following new sentence: "Rules similar to the rules of subparagraph (B) shall apply in determining character of the amount to be so included by any such shareholder."

(2) CAPITAL GAIN DIVIDENDS OF REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of section 857(b)(3) is amended to read as follows:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as gain from the sale or exchange of a capital asset held for more than 1 year but not more than 2 years; except that—

"(i) the portion of any such dividend designated by the real estate investment trust as allocable to qualified 4-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 4 years,

"(ii) the portion of any such dividend designated by the trust as allocable to qualified 3-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 3 years but not more than 4 years, and

"(iii) the portion of any such dividend designated by the trust as allocable to qualified 2-year capital gain of the trust shall be treated as gain from the sale or exchange of a capital asset held for more than 2 years but not more than 3 years.

Rules similar to the rules of subparagraph (C) shall apply to any designation under clause (i) or (ii)."

(3) COMMON TRUST FUNDS.—Subsection (c) of section 584 is amended—

(A) by inserting "and not more than 2 years" after "1 year" each place it appears in paragraph (2),

(B) by striking "and" at the end of paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (6) and inserting after paragraph (2) the following new paragraphs:

"(3) as part of its gains from sales or exchanges of capital assets held for more than 2 years but less than 3 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 2 years but not more than 3 years,

"(4) as part of its gains from sales or exchanges of capital assets held for more than 3 years but less than 4 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 3 years but less than 4 years,

"(5) as part of its gains from sales or exchanges of capital assets held more than 4 years, its proportionate share of the gains of the common trust fund from sales or exchanges of capital assets held for more than 4 years, and".

(e) TECHNICAL AND CONFORMING CHANGES.—

(1) Subparagraph (B) of section 170(e)(1) is amended by inserting "(or, in the case of a taxpayer other than a corporation, the percentage of such gain equal to 100 percent minus the percentage applicable to such gain under section 1202(a))" after "the amount of gain".

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(3)(A) Section 220 (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 220 and inserting "references".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1(h) or 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 or any exclusion allowable to the estate or trust under section 1203(a). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of paragraph (3) of section 643(a) is amended to read as follows: "The deduction under section 1202 and the exclusion under section 1203 shall not be taken into account."

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8) Paragraph (4) of section 691(c) is amended by striking "sections 1(h), 1201, and 1211" and inserting "sections 1(h), 1201, 1202, and 1211".

(9) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "1202".

(10) Subsection (d) of section 1044 is amended by striking "1202" and inserting "1203".

(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Capital gains deduction for assets held by noncorporate taxpayers more than 2 years."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after June 30, 1995.

(2) CONTRIBUTIONS.—The amendment made by subsection (e)(1) shall apply to contributions on or after July 1, 1995.

SEC. 3. SURCHARGE ON CAPITAL GAINS ON ASSETS HELD 1 YEAR OR LESS.

(a) IN GENERAL.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS TAXES.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).

"(2) SURCHARGE ON NET SHORT-TERM CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has a net short-term capital gain for any taxable year, the tax imposed by this section (without regard to this paragraph) shall be increased by an amount equal to the sum of—

"(i) 5.6 percent of the taxpayer's 6-month short-term capital gain, plus

"(ii) 2.8 percent of the taxpayer's 12-month short-term capital gain.

"(B) MAXIMUM RATE.—

"(i) IN GENERAL.—Subparagraph (A) shall not be applied to the extent it would result in—

"(I) 6-month short-term capital gain being taxed at a rate greater than 33.6 percent, or

"(II) 12-month short-term capital gain being taxed at a rate greater than 30.8 percent.

"(ii) ORDERING RULE.—For purposes of clause (i), the rate or rates at which 6-month or 12-month short-term capital gain is being taxed shall be determined as if—

"(I) such gain were taxed after all other taxable income, and

"(II) 12-month short-term capital gain were taxed after 6-month short-term capital gain.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) 6-MONTH SHORT-TERM CAPITAL GAIN.—The term '6-month short-term capital gain' means the lesser of—

"(I) the amount of short-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for 6 months or less were taken into account, or

"(II) net short-term capital gain.

"(ii) 12-MONTH SHORT-TERM CAPITAL GAIN.—The term '12-month short-term capital gain' means the lesser of—

"(I) the amount of short-term capital gain which would be computed for the taxable year if only gain from the sale or exchange of property held by the taxpayer for more than 6 months but not more than 12 months were taken into account, or

"(II) net short-term capital gain, reduced by 6-month short-term capital gain.

For purposes of clause (i)(I) or (ii)(I), gain may be taken into account only if such gain is properly taken into account on or after July 1, 1995.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1995.•

By Mr. MACK (for himself, Mr. LIEBERMAN, Mr. GRAMM, Mr. HELMS, and Mr. DOLE):

S. 925. A bill to impose congressional notification and reporting requirements on any negotiations or other discussions between the United States and Cuba with respect to normalization of relations; to the Committee on Foreign Relations.

CUBA LEGISLATION

Mr. MACK. Mr. President, on May 2, the Clinton administration reversed 30 years of United States policy by agreeing with Fidel Castro that future refugees would be picked up by United States forces and returned to Cuba. The administration portrays its decision as an immigration control measure reached in secret for the good of misguided Cubans who might set out on rafts and inner tubes to reach the United States before the doors slammed shut. Apparently, it was necessary to keep senior United States officials responsible for Cuba policy in the dark as well. The Clinton administration has not satisfactorily explained its motives and objectives in reaching this agreement with the Castro regime. Therefore, I am introducing this bill which would deny funds for negotiations or other contacts related to normalization with the Castro regime unless the administration has notified Congress 15 days in advance.

This measure is not intended to interfere with the administration's ability to conduct diplomacy. It simply requires that if and when President Clinton decides to abandon the centerpiece of the United States' historic policy toward the Castro dictatorship, he does so in an open and public way.

For 36 years, Fidel Castro has terrorized Cuba's people, destroyed its economy, and used it as a base for subversion. I could never have imagined circumstances under which the United States would treat Castro's Cuba like just another negotiating partner. But last month, that's just what the Clinton administration did when it cut a deal reversing 30 years of United States policy on welcoming refugees from Castro's Cuba.

I will not dignify what the administration did by calling it "secret diplomacy." It was a craven exercise. As A.M. Rosenthal wrote in the New York Times, the Clinton administration "got a contemptuous zero from Castro for breaking its promises, not even the release of some political prisoners, not the grant of a single civil liberty."

At a briefing on Capitol Hill the day the policy U-turn was announced, a Clinton administration official was asked whether, under the terms of a deal between the United States and Cuba on interdiction and repatriation of refugees, the Castro regime had pledged to repeal the Cuban law that makes it a crime to leave Cuba without permission. The official didn't know. Then the official was asked how we can be sure the Castro regime won't use the law to retaliate against returned rafters. "Prosecutorial discretion," replied the official.

In a nutshell, that anecdote illustrates the mindset of the Clinton administration. Administration officials—some of them anyway—cannot distinguish between the Castro regime and governments based on the rule of law. This is why many of my colleagues and I are so deeply disturbed by recent overtures to Castro. We don't know where they will stop. We have no reason to believe that the administration won't continue to make concessions at the expense of the Cuban people. My colleagues and I are introducing this bill to let the administration know that the friends of the Cuban people in the United States Congress will not stand by and let this administration engage in anything but a strong policy of support for democracy and freedom in Cuba.

By Mr. BRYAN:

S. 926. A bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes; to the Committee on Finance.

THE CHILD SUPPORT ENFORCEMENT ACT

Mr. BRYAN. Mr. President, today I am introducing my Child Support Enforcement Act legislation from the last Congress to help further strengthen our efforts to get deadbeat parents to responsibly provide for their children.

Congress has recently taken many positive steps to increase the effectiveness of child support enforcement laws. In the 102d Congress, we were successful in enacting legislation, which I sponsored in the Senate, to require credit bureaus to indicate on an individual's credit file when he or she is delinquent in child support payments. This has provided a strong incentive for parents to stay current in their payments.

The 103d Congress enacted laws to make deadbeat parents who fail to pay child support ineligible for small business loans; to designate child support payments as priority debts when an individual files for bankruptcy; to

strengthen State paternity establishment procedures and to require health insurers to carry out orders for medical child support; and to restrict a State court's ability to modify a child support order issued by another State.

As part of much needed welfare reform, we must include improvements to the child support enforcement system. I will introduce portions of this bill as an amendment when welfare reform is debated in the Senate, which I hope will be done before July 4. We need to find as many ways as possible to find delinquent parents, and hold them to their responsibilities.

We all lament the increasing number of unwed teenage girls who have children. This situation is particularly disheartening when these young mothers are themselves mere children. But too often in the past, our public policies have focused on the mother and ignored the responsibility of the father. Those fathers, who many times have already walked away before their children are even born, must face the reality of their parental and financial responsibilities.

During the past 2 months, I have visited child support enforcement offices in Las Vegas and Reno, NV. These visits included both the State welfare division and the district attorney child support enforcement offices. It was an eye-opening experience.

I was overwhelmed by the thousands of case files stacked throughout these offices. Employees in these offices are literally surrounded by files. They are joined by scores of investigators and attorneys who work ceaselessly to ensure as many deadbeat parents as possible are found, and legally persuaded to fulfill their financial responsibilities.

Although Nevada is the fastest growing State in the Nation, it is a comparatively small State with about 1.6 million people. Yet its State Child Support Enforcement Program had 66,385 cases in fiscal year 1994. The program was able to collect $62.7 million. The unfortunate fact, however, is that the total owed was almost $352 million, leaving an uncollected balance of almost $290 million. In April of this year, Nevada's caseload has already grown to over 69,000 cases.

These cases represent only those children whose families are receiving aid to families with dependent children, or who are using the services of the county district attorney offices to enforce child support. The many Nevadans using private attorneys are not included.

The facts are simple. Nationally, one in four children live in a single-parent household. But one of the most startling statistics is that only half of these single parents have sought and obtained child support orders.

This means 50 percent of these single mothers either have been unable to track down the father, have not pursued support, or are unaware of their legal child support enforcement rights.

Of the parents who have sought out and obtained child support, only half receive the full amount to which they are entitled.

Let me make this clear—50 percent of single mothers do not even have child support orders, and of the 50 percent that do, only half of them are getting what their children are entitled to receive. Thus 25 percent of the single parents who have child support orders actually receive nothing at all.

These facts should concern us. It is all too true that many single parents must seek public welfare assistance in order to be able to support their children. When we taxpayers are asked to lend a helping hand to these children, we should be assured every effort is being made to require absent deadbeat parents meet their financial responsibilities to those same children. Public assistance should not be the escape valve relied upon by those parents who want to walk away from their children.

No one who shares the responsibility for bringing children into this world should later be allowed to shirk that responsibility by refusing to admit paternity or failing to pay child support. The legislation I am introducing today adds to the arsenal available to those trying to enforce child support.

In April, I visited with eligibility workers in a local Las Vegas welfare office. I was incredulous when I learned many Federal welfare assistance programs do not require recipients to participate in State and Federal child support enforcement efforts. In fact, only Aid to Families with Dependent Children or AFDC, and Medicaid currently require their recipients cooperate with child support enforcement efforts.

For example, if a parent with children receives food stamps, there is no requirement, as a condition of receiving that assistance, that the parent cooperate with child support enforcement agencies to collect any child support payments to which he or she is entitled. Under my legislation, all welfare assistance programs receiving Federal funds will require all recipients to cooperate with efforts to collect child support benefits as a condition of receiving benefits.

Second, this legislation authorizes State and Federal Governments to deny delinquent parents an array of benefits. A delinquent parent can be denied an occupational, professional, or business license, a Federal loan or guarantee, and could even have his or her passport revoked if the threat of fleeing the country was likely. The goal is not to drive those who want to meet their obligations away, but rather to make sure those ignoring their children understand society will not tolerate that irresponsible behavior.

These provisions should be particularly effective in dealing with delinquent parents who are self-employed, and who are not covered by the mandatory employer child support payment withholding.

The bill also builds on our past efforts of using the credit reporting system. It permits State agencies to obtain credit files in order to track down delinquent parents, or to help determine the appropriate amount of child support payment.

The bill also improves the interstate enforcement process by establishing a jurisdictional basis for State court recognition of child support orders of other States. The problems associated with collecting child support are magnified when parents live in different States. Part of the difficulty stems from differences in State laws, policies, and procedures.

I have heard numerous cases of frustrating experiences in attempting to serve process on out-of-State delinquent parents, and in getting certain evidence obtained in one State admitted at a hearing in another State. One in three children support orders involve parents in different States. On average, it takes 1 year to locate an absent parent, and 2 years to establish a court order if the parent has deserted a family.

Finally, the bill makes it more difficult for parents to hide assets in an attempt to avoid paying their fair share of child support. A difficult problem to resolve is when a delinquent parent transfers property to a friend or relative for little compensation to avoid child support payments. Under this bill, States would be allowed to void conveyances of property made to avoid paying child support.

We must give our courts and law enforcement agencies the tools they need to crack down on delinquent parents. We must assure taxpayers who lend the helping hand to impoverished single mothers and their children that every effort is being made to get the deadbeat parents to pay up. We must ensure the children receive adequate and consistent child support, so they are able to have the opportunity to become successful, productive and healthy adults.

I believe my legislation will move us a long way on the path to meet those goals. I request my colleagues to join with me in this effort to make this law before the end of the year. The children deserve no less.

By Mr. HELMS:

S. 927. A bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties; to the Committee on Finance.

DUTY LEGISLATION

Mr. HELMS. Mr. President, I send to the desk, for appropriate referral, a bill on behalf of D&S International of Burlington, NC, which imported from Germany, four warp knitting machines at

a duty-free rate which D&S then sold to a Venezuelan company, which decided not to keep the machines and returned them to D&S.

Upon reentry, the Customs Service mistakenly classified the machines first as a reentry of United States goods, instead of a German, then misclassified them at a duty rate of 4.4 percent.

D&S contacted Customs to protest the duty assessment. However, Customs ruled that the D&S memorandum did not qualify as a formal protest because D&S did not file form 19. Amazingly, no right of appeal exists within Customs on such rulings if a company misses the deadline for protesting. D&S would have to spend a lot of money going to court to try to rectify the mistake.

Mr. President, as a result of these mistakes, D&S now owes $25,000 in duties on machines that were supposed to be duty-free. This error by the Customs Service will be remedied by my bill, which instructs Customs to reclassify the machines as duty-free and refund to D&S the duties improperly assessed.

By Mr. INHOFE (for himself, Mr. BURNS and Mrs. KASSEBAUM):

S. 928. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE FEDERAL AVIATION ADMINISTRATION REFORM ACT OF 1995

Mr. INHOFE. Mr. President, today I will be introducing a major piece of legislation with Senator KASSEBAUM and Senator BURNS.

As a frequent user of the air traffic control system, I have a very real stake in addressing the persistent problems which have plagued the FAA for many years. Former Senator Barry Goldwater accurately described way back in 1975 the current FAA shortcomings when he introduced a bill to reestablish the FAA as an independent agency.

Senator Goldwater noted, and this was back in 1975, 20 years ago:

> In 1967, when the then new Department of Transportation was created, the Federal Aviation Agency was terminated and its powers and functions were transferred to and vested in the Secretary of DOT. The previously independent Federal Aviation Agency was in effect converted to a new bureau within the Department of Transportation, named the Federal Aviation Administration. The Administrator of this "bureau" reports to and is subject to the control of the Secretary of Transportation.

Barry Goldwater went on to say, 20 years ago:

> There is extensive evidence to show that subsequent to this transformation, there has been undue interference on the part of the Department of Transportation in the internal affairs of the Federal Aviation Administration, so much so that the FAA's procurement process has been slowed down to an average time period of 1½ years or more—

I understand it is more than that today, but I am quoting from 20 years ago.

> resulting in the cancellation of many procurement projects or unnecessary losses in the millions of dollars to companies involved. It is important to note, too, that aviation users, who pay much of the money which goes into the Airport and Airway Trust Fund, have no effective participation in the development of FAA finance plans so long as it is under the Department.

These words that were stated on the floor of the Senate by Senator Barry Goldwater 20 years ago are just as true today as they were then. Unfortunately, the Senate failed to pass the Goldwater bill. The problems Senator Goldwater identified in 1975 are yet to be resolved.

As a pilot, I have found holding town hall meetings in small towns and airports is an effective way of communicating with people. In doing these on the weekends—virtually every weekend, I do 10 or so—I talk to pilots, I talk to controllers. I do not think there is a controller that I do not know by their first name in Oklahoma.

They all agree that something needs to be done about changing the FAA. Even though Barry Goldwater attempted to do this back 20 years ago, what he said then is true today and we need to do it.

A careful analysis of these proposals that have been made in order to corporatize or privatize shows that they really do not work and there is a lack of understanding.

Mr. President, there has been an effort by the administration to privatize or corporatize the FAA. I think that while I do believe in privatizing, it is not appropriate in this case.

People who use the system oppose the privatization of the FAA. After working with users of the system, I am pleased to announce that we have been able to come up with a workable solution. Along with Senators CONRAD BURNS and NANCY KASSEBAUM, I am introducing legislation to reform the Federal Aviation Administration.

Our bill is similar to a bill introduced in the House by my good friend from Iowa, Representative JIM LIGHTFOOT, and also Representative JOHN DUNCAN. This bill provides dramatic yet realistic reform that will resolve the problems that were identified by Senator Goldwater in 1975 and continue today to plague the FAA.

It will restore the Federal Aviation Administration to an independent agency status. This will ensure that the agency is able to manage and regulate the safety of the air traffic control system without the second-guessing or interference by the politically appointed Department of Transportation officials and staff.

Our approach represents a reform from within Government. It offers a more prudent and realistic approach to the FAA reform than the extremely risky alternative of privatizing or corporatizing the air traffic control system.

As a former mayor of a major metropolitan area, I know something about privatizing. I have been a fan of privatizing for a long time. In fact, I privatized everything I could when I was mayor of the city of Tulsa, OK, many years ago.

One of the systems that has been emulated today by cities all over America was the privatization of the trash system. A refuge or trash system is not a sensitive system like air traffic control.

As a believer in the ability of the private sector to generally do a better job of managing than Government, I believe that there are some inherently governmental functions. Oversight of our air traffic control system is one. The safety implications are too great to allow a management team that has to worry about the bottom line to make these decisions.

Those who use the system and those who use it in commercial aircraft—it does not matter whether you are in an American Airline 747 as a pilot or a passenger, or you are with me in a 20-year-old Piper Aztec. The fact is that your lives are in the hands of these individuals on the ground.

In addition, our proposal provides for appointment of an FAA Administrator with a fixed term of 7 years. The average tenure of the FAA Administrator since I have been in Congress has been less than 2 years. By the time they find their way to the cafeteria, they are out of there. There is no continuity in planning for the FAA. Clearly, we need the continuity of leadership if real changes are to take hold.

This proposal establishes a personnel pilot program which would provide FAA greater latitude managing personnel by giving increased flexibility in measuring performance. The pilot program has been designed to improve performance of individuals and departments, rather than merely rewarding longevity.

Our bill establishes a procurement reform pilot program which will permit the FAA to simplify its procurement procedures by shifting from the rigid procurement rules to allow routine off-the-shelf purchases.

We have example after example of instances where complicated procurement practices have delayed the purchasing of technology and of products that are needed to save lives, until they are no longer current, in terms of their technology.

A good example is the microwave landing system. The MLS system is supposed to replace the ILS system. By the time they got around to implementing this program, the GPS, the global position system, had reached a degree of technology that allows for precision approaches.

The other areas are in the area of costs. I mean, the same thing regarding the GPS system. I happen to be the only Member of Congress in history to fly an airplane around the world. I did it a couple of years ago. In doing this I used a GPS system. Never, all the way around the world, did I lose a satellite. This system is a beautiful system. Yet that system that I used only 2 years ago flying around the world is one-fourth the cost today that it was then.

That means if we and the FAA procure this highly technical machinery, the mechanics to run the system, by the time the system goes through following the procurement practices, that which you have purchased is much cheaper and it would be out of date. So, for cost purposes and technology purposes, this has to happen.

Under our bill, a select panel is created to review and report back to Congress on innovative financing mechanisms for long-term funding of our aviation infrastructure and needs. Panel members will review loan guarantees, financial partnerships with for-profit private sector entities, multiyear appropriations, revolving loan funds, mandatory spending authority, authority to borrow, and restructured grant programs.

Each of these proposals has the support of virtually all of the aviation industry. This bill is strongly supported by the Aircraft Owners and Pilots Association, who have, in just the State of Oklahoma, 4,500 general aviation pilots; and throughout America have 340,000 general aviation pilots. They support this.

In addition, the National Aviation Coalition Association, a consortium of 28 major aviation organizations representing all segments of the aviation community, has indicated that this proposal is a valuable contribution to a healthy debate concerning much needed reform of the FAA.

Mr. President, it is clear that everyone, the administration, Congress, and the aviation community, agrees on the need to reform the FAA. I urge my colleagues to join with Senators BURNS and KASSEBAUM, Representative LIGHTFOOT and Representative DUNCAN from the House, and Senator Goldwater and me in supporting a meaningful reform of the FAA.

By Mr. ABRAHAM (for himself, Mr. DOLE, Mr. FAIRCLOTH, Mr. NICKLES, Mr. GRAMM, and Mr. BROWN):

S. 929. A bill to abolish the Department of Commerce; to the Committee on Governmental Affairs.

THE DEPARTMENT OF COMMERCE DISMANTLING ACT OF 1995

Mr. ABRAHAM. Mr. President, when President Theodore Roosevelt sat down with his Cabinet for a meeting, he needed just nine chairs to accommodate everyone, including the Post-Master General. If he desired an impromptu gathering, he could just walk to the Old Executive Office Building next door. The offices of almost the entire executive branch were located there.

Ninety-four years later, a Cabinet meeting has almost twice as many participants—even without the Postmaster's presence—and includes the Secretaries of 14 Cabinet-level Departments spread all over the District of Columbia. These meetings don't include the heads of hundreds of administrations, commissions, boards, and other Federal agencies below the Cabinet level.

This tremendous growth in the size and scope of the Federal Government has resulted in enormous tax and debt burdens on our economy which, in turn, means lower living standards and fewer job opportunities for the American people. The Federal budget in 1901 consumed just over 2 percent of total national income. Today, it spends almost 25 cents for every dollar we produce. Measured against the size of the economy, the Federal Government is 12 times larger than it was at the turn of the century. In the meantime, a Federal budget that routinely enjoyed surpluses of 10 percent or more during Roosevelt's tenure hasn't seen the black in 25 years.

In restraining the growth of the Federal Government, we need to target those departments and agencies whose activities are unnecessary, duplicative, wasteful, and simply outside the limits of Federal power prescribed by the U.S. Constitution. While this description fits much of the Federal Government, Majority Leader BOB DOLE has set the standard by calling for the elimination of four Cabinet departments—Commerce, Energy, Housing and Urban Development, and Education. These four departments alone employ more than 74,000 bureaucrats and have combined budgets of $70 billion—133 times more than the entire Federal Government spent in Roosevelt's era. While some of the programs within these departments serve useful purposes, we don't need these huge bureaucracies and buildings to oversee them. Instead, these programs ought to be consolidated, privatized, and devolved to the States and localities.

Today, I am joined by Senators DOLE, FAIRCLOTH, NICKLES, GRAMM, and BROWN in introducing legislation to begin that process by abolishing the Department of Commerce. The Department of Commerce Dismantling Act of 1995 is the product of the Dole Task Force on the Elimination of Federal Agencies. It is the first of several bills the task force intends to introduce this Congress targeted at reducing the size of Government. It is the product of extensive work by several Senate offices, as well as the members of the House Freshmen Task Force, and it has been endorsed by the National TaxPayers Union, Citizens For a Sound Economy, the Business Leadership Council, Americans For Tax Reform, and the Small Business Survival Committee.

The Department of Commerce houses the least defensible collection of Federal agencies in Washington, many of which are either duplicated or outperformed by other Government agencies and private industry. According to the General Accounting Office [GAO], Commerce shares its mission with "at least 71 Federal departments, agencies, and offices" while former Commerce Secretary Robert Mosbacher recently called the Department "nothing more than a hall closet where you throw in everything that you don't know what to do with."

Ironically, regulating interstate commerce isn't one of them. That's handled by the independent Interstate Commerce Commission, itself a target for elimination. Commerce is a bit player in international trade as well. At least 10 Federal agencies are charged with promoting U.S. exports, but only a fraction of the funding is directed to Commerce. The Agriculture Department receives three-fourths.

So what's left for Secretary Ron Brown, 263 political appointees, and the 36,000 bureaucrats who work for Commerce? Over half of the Department's $3.6 billion budget is consumed by the National Oceanic and Atmospheric Administration [NOAA]—the Nation's weather and ocean mapping service. Another $400 million funds the notorious Economic Development Administration [EDA], a traditional source of pork barrel spending on things like public docks and sewer systems. At one point in its history, 40 percent of the Administration's loans were in default, while economic assistance grants were distributed to such economically troubled areas as Key Biscayne, FL. Even when it is effective, the EDA duplicates the efforts of numerous other programs in other departments.

The Commerce Dismantling Act targets this waste and duplication. It transfers those functions that can be better served elsewhere, consolidates duplicative agencies, and eliminates the remaining unnecessary or wasteful programs. The terminations, transfers and consolidations are to be completed over a 36-month period under the direction of a temporary Commerce Programs Resolution Agency. According to preliminary Congressional Budget Office figures, the bill saves the American taxpayer $7.7 billion over 5 years. Let me quickly go through the bill.

While the activities of NOAA are only tangentially related to the promotion of commerce, it makes up over half of the Department of Commerce budget. The individual functions of this agency would be sent to more appropriate agencies or departments.

First, the enforcement functions of the National Marine Fisheries Service are transferred to the Coast Guard, while the scientific functions are transferred to the Fish and Wildlife Service. Seafood inspection is transferred to the Department of Agriculture, which already carries out most food inspection programs. The State fishery grants and commercial fisheries promotion activities are terminated.

Second, the geodesy functions of the National Ocean Service are transferred to the U.S. Geological Survey while coastal and water pollution research duplicated by the Environmental Protection Agency is terminated. Marine and estuarine sanctuary management would be transferred to the Interior Department, which already manages some fisheries. Nautical and aeronautical charting is privatized, as the private sector undertakes this activity already.

Third, the National Environmental Satellite, Data and Information Service's weather satellite of this agency are transferred to the National Weather Service to consolidate these functions which, in turn, is transferred to the Interior Department. The NESDIS data centers would be privatized.

Fourth, because many of its activities are duplicative of other Federal agencies or could be better served by the private sector, this office is terminated. The labs which could operate in the private sector will be sold and the remaining labs will be transferred to the Interior Department.

Finally, the NOAA Corps is terminated and its vessels sold to the private sector. Services can be obtained in the private sector and its fleet is in disrepair.

Another significant part of the Department of Commerce, the Economic Development Administration, is terminated under this legislation. The EDA provides grants and assistance to loosely defined "economically depressed" regions. EDA's functions are duplicated by numerous other Federal agencies including the Departments of Agriculture, HUD, and Interior, the Small Business Administration, the Tennessee Valley Authority and the Appalachian Regional Commission. The parochial nature of the program often targets EDA grants to locations with healthy economies which do not need Federal assistance. This bill terminates the EDA, transferring outstanding obligations to the Treasury Department for management or sale.

Although the Minority Business Development Administration has spent hundreds of millions on management assistance—not capital assistance—since 1971, the program has never been formally authorized by Congress. The MBDA's stated mission, to help minority-owned businesses get Government contracts, is duplicated by such agencies and programs as the Small Business Administration and its failed 8(a) loan program, and Small Business Development Centers, along with the private sector. The MBDA is terminated and its 98 field offices closed.

The U.S. Travel and Tourism Administration seeks to promote travel and tourism in the United States through trade fairs and other promotional activities. According to the Heritage Foundation, "the agency often works with private sector organizations, including the Travel Industry Association of America, to organize events such as the 'Discover America Pow Wow' or the 'Pow Wow Europe.' There is no justification for Federal involvement in such promotional activities of a commercial nature." Because functions such as these are already extensively addressed by States, localities, public sector organizations, and the private sector, the USTTA is immediately terminated.

The Technology Administration currently works with industry to promote the use and development of new technology. Because Government in general, and the Federal Government in particular, is poorly equipped to pick winners and losers in the marketplace—frequently allowing political criteria rather than market criteria determine the choice—this agency is terminated, including the Office of Technology Policy, Technology Commercialization, and Technology Evaluation and Assessment.

The Industrial Technology Service programs, including the Advanced Technology Program [ATP] and the Manufacturing Extension Partnerships, are terminated; these programs are often cited as prime examples of corporate welfare, wherein the Federal Government invests in applied research programs which should be conducted in the private sector.

The weights and measures functions of the National Institute for Standards and Technology would be transferred to the National Science Foundation. The National Technical Information Service, a clearinghouse for technical Government information, would be privatized.

The National Telecommunications and Information Administration, an advisory body on national telecommunications policy, would be terminated, including its grant programs. Federal spectrum management functions would be transferred to the Federal Communications Commission.

Providing for patents and trademarks is a constitutionally-mandated Government function. Our proposal would transfer this office to the Justice Department, requiring the PTO to be supported completely through fee collection.

The Bureau of the Census, another constitutionally-mandated function, is transferred to the Treasury Department. Select General Accounting Office recommendations for savings at the Bureau would be implemented. The Bureau of Economic Analysis is transferred to the Federal Reserve System to ensure the integrity of data. The superfluous ESA bureaucracy would be eliminated.

The Bureau of Export Administration is one of several agencies responsible for monitoring U.S. exports that may compromise national security. Because this function remains important to the country, this legislation would reassign these functions as follows.

The determination of export controls is transferred to the Department of Defense. The United States Trade Representative would advise the Defense Department in disputed cases. The Customs Service, which already has the staff, expertise, and facilities, would enforce the export licensing determined by the DOD.

While the Department of Commerce claims to be the lead in trade promotion, it actually plays a small part. Five percent of Commerce's budget is dedicated to trade promotion, and it comprises only 8 percent of total Federal spending on trade promotion. The International Trade Administration is the primary trade agency within the Department of Commerce. This bill makes the following changes.

The Import Administration is transferred to the Office of the United States Trade Representative. The USTR, which already plays a role in this area, would make determinations of unfair trade practices.

The U.S. and Foreign Commercial Service is transferred to the Office of the U.S. Trade Representative. The domestic component of USFCS is terminated, and the foreign component would be transferred to the Office of the U.S. Trade Representative, which already takes the lead in trade policy.

The International Economic Policy is also terminated and these functions would continue to be carried out by the USTR.

Finally, the Trade Development functions are terminated and replaced with a series of industry advisory boards, composed of representatives from the private sector to provide advice to policy makers, at no cost to the Federal Government.

Mr. President, the philosophy behind the Dole Task Force, and the underlying objectives of this bill, are based upon the same fundamental principles of limited and efficient government that the electorate overwhelmingly supported last November. It is a reasonable approach to restore some much needed fiscal sanity to our Federal Government; making it smaller, less costly, yet more efficient.

The new Republican Congress is committed to balancing the budget by the year 2002. While this commitment means we must do the heavy lifting of reducing the growth of Government, it

also presents us an opportunity to establish a proper balance between States and the Federal Government that protects the vigor and diversity of our States and local communities. Only by recognizing the limits of the Federal Government can we restore the vitality that breeds character, innovation, and a sense of community.

This bill represents the first step in the process of achieving that goal. It conforms with both the Senate and House-passed budgets and it has the support of leadership in both House and the Senate. I encourage my colleagues to support it as well.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

NATIONAL TAXPAYERS UNION,
June 14, 1995.

HON. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ABRAHAM: National Taxpayers Union is pleased to endorse the "Commerce Department Dismantling Act of 1995," as proposed by you and Congressman Dick Chrysler. Your excellent proposal will streamline the federal government and provide significant savings for America's taxpayers.

The terminations, transfers and consolidations provided in your proposed legislation would be completed over a thirty-six month period. The "Abraham/Chrysler Act" would save $7.765 billion over five years.

The General Accounting Office has reported that the Commerce Department "faces the most complex web of divided authorities," sharing its "missions with at least 71 federal departments, agencies, and offices." Your bill will finally end this wasteful duplication.

Again, NTU is pleased to endorse the "Abraham/Chrysler Commerce Department Dismantling Act of 1995." We urge your colleagues to join you in this effort.

Sincerely,

DAVID KEATING,
Executive Vice President.

BUSINESS LEADERSHIP COUNCIL,
Washington, DC, June 9, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ABRAHAM: The Business Leadership Council, a newly-formed business association of entrepreneurial business leaders who are committed to working to limit the size of government and to expand global economic growth, strongly endorses the Abraham-Chrysler Commerce Department Dismantling Act of 1995.

BLC represents businesses of all types and sizes who want what is best for America, rather than a perk or subsidy that may be best in the narrow, short-term, self-interest of their individual business. Its members are willing to take bold, principled positions and are not afraid to confront the status quo. They recognize that, although some of their businesses may benefit from particular Commerce Department programs, it is clear America is better off saving the money, reducing subsidies, and eliminating unnecessary regulations.

For that reason, we enthusiastically support the dismantling of corporate welfare, whose voice in the cabinet has been the Commerce Department. The old established business groups fear the wrath of their members who enjoy corporate pork and therefore will not take a stand on this controversial issue. BLC, on the other hand, applauds your efforts to abolish unnecessary, duplicative, wasteful programs and save the taxpayers $7.8 billion over the next five years. In these times, when Congress is endeavoring to balance the budget and reduce the size and scope of the federal government, the business community must do its part.

Sincerely,

THOMAS L. PHILLIPS,
Chairman of the Board of Governors.

AMERICANS FOR TAX REFORM,
Washington, DC, June 14, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ABRAHAM: Americans for Tax Reform, a 60,000 member coalition of individuals, taxpayer groups and businesses concerned with federal tax policy and spending reduction, enthusiastically endorses the Abraham-Chrysler Commerce Department Dismantling Act of 1995.

The Commerce Department is a classic example of wasteful government spending run amok. Its own Inspector General referred to it as "a loose collection of more than 100 programs." If we are ever to balance the budget, rein in federal spending and allow Americans to keep more of their hard-earned dollars, unnecessary departments must be eliminated. The Commerce Department is such a department.

We are impressed by the four principles used in drafting the legislation: terminating unnecessary or wasteful programs, consolidating programs duplicated by other departments or agencies, transferring programs that serve a valid purpose to other agencies, and privatizing programs better performed outside the government. If all federal agencies were scrutinized in this fashion, we would be well on our way toward the smaller and more efficient government that Americans are demanding. Indeed, your legislation alone would allow budget savings of almost $7.8 billion over five years, according to estimates by the Congressional Budget Office. That's $7.8 billion more for hard-working Americans to keep for themselves.

Certainly there will be howls of outrage from special interests which gain some advantage from a pet program. But for too long, Washington has ignored the concerns of the most important national interest: the American taxpayer. That era has come to an end. Americans have signalled that they have had enough of endless government taxing and spending. The Commerce Department Dismantling Act of 1995 begins the scaling back of the overgrown federal government. Americans for Tax Reform fully supports this important legislation.

Sincerely,

GROVER G. NORQUIST,
President.

SMALL BUSINESS SURVIVAL COMMITTEE,
Washington, DC., June 7, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR ABRAHAM: Every so often, a piece of legislation crosses my desk that the Small Business Survival Committee (SBSC) can support without any reservations. "The Commerce Department Dismantling Act of 1995" is such a legislative act.

First, let me compliment you on your four straightforward principles for evaluating the Commerce Department. They should serve as a guide for reviewing every federal government department:

Terminating unnecessary and wasteful programs;

Consolidating programs duplicative of other departments or agencies;

Transferring valid programs to more appropriate agencies; and

Privatizing programs which can be better performed in the private sector.

Federal government spending has been out of control for decades. The Commerce Department, with its myriad unnecessary and duplicative programs, serves as one of the most glaring examples of wasting taxpayer dollars. The elimination of the Department of Commerce will send a loud and clear message to the American people—business-as-usual, big-government politics is finished. Indeed, eliminating the Commerce Department would be an historic step toward bringing some sanity back to the federal government, while saving U.S. taxpayers an estimated $7.8 billion over five years.

"The Commerce Department Dismantling Act of 1995" offers a sound plan for eliminating programs within the Commerce Department that government should not be undertaking in the first place (e.g., the United States Travel & Tourism Administration); for moving programs to more appropriate areas of the federal government (e.g., the Bureau of the Census and the Bureau of Economic Analysis); or for privatizing programs (e.g., the National Technical Information Service).

Naturally, every federal department or program has a vocal special interest attached to it. The Commerce Department is no different. Indeed, a small part of the business community likely will oppose the termination of the Commerce Department. Please rest assured that any business voices raised in support of the Commerce Department will be a very small minority. America's entrepreneurs have little use, if any, for the U.S. Department of Commerce.

The best agenda for entrepreneurs, business and the economy is clear: deregulation, tax reduction, and smaller government. Eliminating the Department of Commerce has the full support of SBSC and our more than 40,000 small business members. The time has come to rein in federal government spending, and the Department of Commerce is a fine place to start.

Sincerely,

KAREN KERRIGAN,
President.

S. 929

Mr. GRAMM. Mr. President, I am proud to be an original cosponsor of the Commerce Department Dismantling Act of 1995. I want to compliment Senator ABRAHAM and Senator FAIRCLOTH for their hard work in producing this legislation, and I look forward to working with them as this legislation is considered in committee and the Senate. The Commerce Department is the only Cabinet-level agency terminated in the Senate budget resolution, and it is important that we keep our promise to the American people to put the Federal Government on a budget, say no to more Federal spending, and allow American families to keep more of what they earn.

Mr. President, I do have concerns about some specific transfers of Commerce authority to other Departments and feel that, with further study, we can find a more appropriate destination for those functions that are retained. Nevertheless, I am strongly supportive of our effort to eliminate the Commerce Department, and will work with my colleagues to strengthen the bill we are introducing today.

By Mr. PRESSLER (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HARKIN, and Mr. WELLSTONE):

S. 931. A bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1995

Mr. PRESSLER. Mr. President, today I am introducing legislation that authorizes construction of the Lewis and Clark Rural Water System. This system, when complete, will provide much needed, safe drinking water for hundreds of communities in southeastern South Dakota, northwestern Iowa, and southwestern Minnesota.

Joining me in introducing this legislation are Senators DASCHLE, GRASSLEY, HARKIN, and WELLSTONE.

Mr. President, this is the second year I have introduced legislation to authorize this water project. I am proud of the citizens of South Dakota who have worked extremely hard on this project. They are to be commended. Nothing is more important to the health of the South Dakota ranchers, farmers, and people living in towns and cities than the availability of safe drinking water. The bill I am introducing today will achieve that goal.

Since first coming to Congress, I have continually fought for the development of South Dakota water projects. In return for the sacrifices South Dakota made for the construction of the dams and reservoirs along the Missouri River, the Federal Government made a commitment to South Dakota. That commitment was to support water development in my State. This water project, in part, helps to meet that commitment.

In this day of fiscal austerity, only projects of the greatest public benefit can be brought forward. The Lewis and Clark Rural Water System is the only feasible means of ensuring that future supplies of good quality water will be available well into the next century. The Lewis and Clark Rural Water System will provide a supplemental supply of drinking water that is expected to serve over 180,500 people.

Mr. President, water development is a health issue, economic development issue, and a rural development issue. The ability of rural America to survive and grow is intrinsically related to its ability to provide adequate supplies of safe drinking water. Without a reliable supply of water, these areas cannot attract new businesses and cannot create jobs. The creation of jobs is a paramount issue to a rural State such as South Dakota. The Lewis and Clark Rural Water System will help assure job growth in the areas to be served.

It is extremely difficult for rural communities and residents to maintain a healthy standard of living if they do not have access to good quality drinking water.

I urge my colleagues to take a close look at this legislation. We would greatly appreciate their support for it.

Mr. DASCHLE. Mr. President, I join my colleague, Senator PRESSLER, in introducing legislation to authorize the Lewis and Clark Rural Water System. The Lewis and Clark Rural Water System is seeking authorization for the construction of a rural water system to provide clean water to southeastern South Dakota, northwest Iowa, and southwest Minnesota.

The need for this project is clear. In Sioux Falls, and in the rural counties that rely on Sioux Falls as a center of economic growth, we are now face-to-face with water shortages. Population growth is outstripping existing supplies of clean water.

Despite heroic efforts by the city of Sioux Falls to conserve water, supplies are not keeping up with demand. Sioux Falls has imposed water restrictions every year since 1987. Water rights for the Big Sioux aquifer, which supplies water to Sioux Falls, have been committed. Therefore, Sioux Falls has been forced to explore other long-term options. Similar problems exist in the nearby rural counties in southeastern South Dakota, Iowa and Minnesota, areas where water use restrictions are not uncommon. Unless the water supply problem is resolved, it could affect the long-term growth and development of the city.

Not only are there shortages of water, but much of the water that currently supplies the area is contaminated with high levels of iron, manganese, sulfate, and total dissolved solids. In many cases, drinking water is at or above EPA limits, leading to concern over public health in those areas.

There is a solution; the people of this region can tap the enormous resources of the Missouri River to provide long-term public health and economic development benefits. But they cannot do this alone. It will require a partnership between local, State, and Federal governments.

With the Missouri River carrying billions of gallons of water by this area each year, I am reminded of the ironic line "water, water everywhere, but not a drop to drink." With the construction of the Lewis and Clark system to convey Missouri River water to the people of this region, that irony will cease. Impacts of this project on the flow of the Missouri River will be negligible. Nearly all the water would be returned to the Missouri River via the James, Vermillion, Big Sioux, Little Sioux, Rock, and Floyd Rivers.

In conclusion, there is a strong need for this project throughout the three-State area. The water supply shortages, the poor water quality, and the need to allow this region to grow economically, all demand that a solution be found that allows the people of this region access to clean, safe drinking water. The Lewis and Clark project is a sensible and timely answer to those needs. I encourage my colleagues to lend their support to this project in hopes that Congress will authorize its construction in the near future.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. CHAFEE, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 932. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

THE EMPLOYMENT NON-DISCRIMINATION ACT OF 1995

Mr. JEFFORDS. Mr. President, today I am pleased to introduce the Employment Non-Discrimination Act of 1995. I am joined in doing so by nearly one-third of the Members of the Senate.

In my view, Mr. President, this bill is perhaps the most important civil rights legislation to come before Congress this year. I am honored to be a principal sponsor of the legislation in the Senate.

The legislation extends to sexual orientation the same federal employment discrimination protections established for race, religion, gender, national origin, age, and disability. The time has come to extend this type of protection to the only group—millions of Americans—still subjected to legal discrimination on the job.

The principles of equality and opportunity must apply to all Americans. Success at work should be directly related to one's ability to do the job, period. People who work hard and perform well should not be kept from leading productive and responsible lives—from paying their taxes, meeting their mortgage payments and otherwise contributing to the economic life of the

nation—because of irrational, non-work-related prejudice.

Mr. President: As a 61-year-old white male who grew up in a rural area, I fully understand how one could feel prejudice. I was not immune to it myself. However, through education and understanding, we must overcome such prejudice, as individuals and as a nation.

When this issue has been raised in the states, the debate has often turned on the phrase "special rights." This bill does not create any "special rights." Rather, it simply protects a right that should belong to every American, the right to be free from discrimination at work because of personal characteristics unrelated to successful performance on the job.

I'm proud to say that my home state of Vermont is one of several states that have enacted sexual orientation discrimination laws. It is no surprise, Mr. President, that the sky has not fallen. I am not aware of a single complaint from Vermont employers about the enforcement of the state law. However, I do know that thousands of Vermonters no longer need to live and work in the shadows.

My little state of Vermont was the first to abolish slavery, the first to answer Lincoln's call to arms, and the only state I know of with the audacity to declare war on Germany before Pearl Harbor. Once again, I think it is time for the federal government to follow the lead of Vermont, and the other states and cities across the country that have declared war on this, the final front of discrimination. The bill we introduce today takes important steps in that direction. I look forward to the day when we can see it signed into law.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY—EMPLOYMENT NON-DISCRIMINATION ACT OF 1995

The Employment Non-Discrimination Act of 1995 (ENDA) extends federal employment discrimination protections currently provided based on race, religion, gender, national origin, age and disability to sexual orientation. Thus, ENDA will ensure fair employment practices—not special rights—for lesbians, gay men and bisexuals.

ENDA prohibits employers, employment agencies, and labor unions from using an individual's sexual orientation as the basis for employment decisions, such as hiring, firing, promotion, or compensation.

Under ENDA, covered entities cannot subject an individual to different standards or treatment based on that individual's sexual orientation, or discriminate against an individual based on the sexual orientation of those with whom the individual associates.

The "disparate impact" claim available under Title VII of the Civil Rights Act of 1964 (Title VII) is not available under ENDA. Therefore, an employer is not required to justify a neutral practice that may have a statistically disparate impact based on sexual orientation.

ENDA exempts small businesses, as do existing civil rights statutes, and does not apply to employers with fewer than fifteen employees.

ENDA exempts religious organizations, including educational institutions substantially controlled or supported by religious organizations.

ENDA prohibits preferential treatment, including quotas, based on sexual orientation.

ENDA does not require an employer to provide benefits for the same-sex partner of an employee.

ENDA does not apply to the uniformed members of the armed forces and thus does not affect the current law on lesbians and gay men in the military.

ENDA provides for the same remedies (injunctive relief and damages) as are permitted under Title VII and the Americans with Disabilities Act (ADA).

ENDA applies to Congress, with the same remedies as provided by the Congressional Accountability Act of 1995.

ENDA is not retroactive.

Mr. KENNEDY. Mr. President, from the beginning, civil rights has been the great unfinished business of America—and it still is. In the past thirty years, this nation has made significant progress in removing the burden of bigotry from our land. This ongoing bipartisan peaceful revolution of civil rights is one of the great hallmarks of our democracy and an enduring tribute to the remarkable resilience of the nation's founding principles.

Federal law now rightly prohibits job discrimination on the basis of race, gender, religion, national origin, age, and disability. Establishing these essential protections was not easy or quick. But they have stood the test of time—and they have made us a better and a stronger nation.

Today, we seek to take the next step on this journey of justice by banning discrimination based on sexual orientation.

The Employment Non-Discrimination Act is a significant step in that direction. The Act parallels the protections against job discrimination already provided under Title VII of the Civil Rights Act. It prohibits the discriminatory use an individual's sexual orientation as the basis for decisions on hiring, firing, promotion, or compensation. This kind of prohibition on job discrimination is well-established in the civil rights laws and can be easily applied to sexual orientation.

Our bill is not about granting special rights—it is about righting senseless wrongs. Its goal—plain and simple—is to eliminate job discrimination against fellow Americans. It does not allow for disparate impact claims, it prohibits quotas, it does not require domestic partners benefits, and it does not apply to the armed forces.

What it does require is basic fairness for gay men and lesbians, who deserve to be judged in their job settings—like all other Americans—by their ability to do the work.

Today, job discrimination on the basis of sexual orientation is too often a fact of life. From corporate suites to plant floors, qualified employees live in fear of losing their livelihood for reasons that have nothing to do with their skills or their job performance. Yet in 42 states a person can be fired—just for being gay.

This bill is not about statistics. It is about real Americans whose lives are being shattered and whose potential is being wasted. They are American heroes who paid dearly for being true to themselves as they pursued their professions. They performed well and were rewarded by being fired or brutally beaten. For them, ability didn't count—bigotry did.

That kind of vicious discrimination happens every day, in communities across America. The price of this prejudice, in both human and economic terms, is unacceptable. It is time for Congress to take a stand against it.

Job discrimination is not only un-American—it is counterproductive. It excludes qualified individuals, lowers workforce productivity, and hurts us all. For the nation to compete effectively in a global economy, we have to use all our available talent, and create a workplace environment where everyone can excel.

This view is shared by many leaders in labor and management. They understand that ending discrimination based on sexual orientation is good for workers, good for business, good for the economy, and good for the country.

In the absence of federal action, many state and local governments have acted responsibly to prohibit job discrimination based on sexual orientation. Over a hundred mayors and governors, Republicans and Democrats, have signed laws and issued orders protecting gay and lesbian employees. It is time for the federal government to make this protection nationwide.

We know we cannot change attitudes overnight. But the great lesson of American history is that changes in the law are an essential step in breaking down barriers of bigotry, exposing prejudice for what it is, and building a strong and fair nation.

I am honored to join my colleagues in introducing the Employment Non-Discrimination Act of 1995. This bipartisan legislation has the support of a broad bipartisan coalition that includes Coretta Scott King and Barry Goldwater—the conscience of civil rights and the conscience of conservatives.

Today's action brings us one step closer to the ideals of liberty. Our case is strong, our cause is just, and we intend to prevail.

I urge the Senate to support this essential effort.

By Mr. SIMON:

S. 933. A bill to amend the Public Health Service Act to ensure that affordable, comprehensive, high quality

health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes; to the Committee on Labor and Human Resources.

HEALTHY MOTHERS, HEALTHY CHILDREN ACT OF 1995

Mr. SIMON. Mr. President, we have a serious problem in health care. We have almost 41 million now who do not have health care coverage.

As the Presiding Officer knows, because he has now been designated to lead the effort for the Republican Party, and he and I last year had some discussions about what kind of a practical compromise could be made.

This is a compromise. I would love to have universal coverage for everyone. This is a practical compromise that says "Let's protect pregnant women and children 6 and under." It provides affordable, comprehensive, quality private health care coverage for these groups.

The health of America's mothers and children is simply unacceptable. The U.S. is No. 1 in wealth; we are 22d in infant mortality; we are 18th in maternal mortality.

Mr. President, 24 percent of the children of our country live in poverty. No other Western industrialized nation has anything like these figures. Many developing countries have much more coverage in terms of immunization.

Mongolia is a country I have had a chance to visit. Very few Americans visit Mongolia. It is really remote. Talk about developing nations that have problems, and yet they have a higher percentage of their children immunized than we do.

Mr. President, 22 percent of pregnant women do not have prenatal care in the first trimester. Uninsured children of the United States today, 11.1 million, or 1 out of 6, and it is getting worse.

What is going to happen, whether the Clinton bill passes in terms of the budget or the Republican budget passes—and obviously it is more likely to be the Republican budget—what if the distinguished junior Senator from Utah were a hospital administrator and the amount you get for coverage for Medicare and Medicaid goes down, what happens is you shift the burden to the nonMedicaid/nonMedicare patient and health insurance premiums go up? As health insurance premiums go up, the percentage of employers providing insurance will go down.

The estimate is the year 2002, somewhere between 17 million and 20 million children will not be covered.

Incidentally, I would love to have a bill that covers all children, covers 18 and under. But I know, realistically, that does not have a chance of passage.

But if we were to say let us at least cover pregnant women and children 6 and under, of the 1.1 million net increase in uninsured persons from 1992 to 1993, 84 percent, 922,000, were children. That is the increase for children. That is the increase for adults. Obviously, we are talking about the future of our Nation when we talk about the children.

Guiding principles of this act, the Healthy Mothers, Healthy Children Act? Coverage is independent of family income, employment, or health status. Everyone can get insurance.

This is a single-tier health care system for everyone.

Coverage is affordable for all families. We have some flexibility here. Health services are comprehensive. And we ensure quality.

Eligibility? All children under the age of 7 and pregnant women; replaces Medicaid for those groups. The States save money and the Federal Government would save money. And it calls for a report on possible future expansion.

Enrollment? There would be a national open enrollment month; plus, if you go to the hospital, if you go to a physician, if you are not enrolled, you can enroll at that point. It is administratively simple. Plans must accept any eligible person, no preexisting conditions. And within the State, you would have competition among the insurers so we keep the rates down.

Cost sharing is part of it. Our friends in Canada say they made a great mistake in not having all people contribute something. There is overutilization of the system when you do not have everyone contributing something. So we have all families contributing. Families receive premium subsidies ranging from 99 percent to 5 percent, depending on income. And there is a cap because even a family of upper income, if you have a devastating kind of an illness—we just heard Senator CHAFEE talk about someone who had a $3 million medical bill.

State flexibility and accountability—States and plans are given maximum flexibility; States develop and administer the program; States and Federal Government and health plans are accountable for meeting certain objectives.

There is a matching rate. The Federal matching rate is more generous than Medicaid. The national average would be 80 percent. That means very substantial savings for Illinois, for Utah, and for the other States. The maximum matching rate would be 90 percent.

Comprehensive health care services, and there are some limits here, let me just say, because—which I will outline in a minute. Preventive health, ambulatory care, laboratory services, prescription drugs, hospital, and in-home services, mental health services, dental and vision care—this is an example where there are limitations. We do not cover orthodontia services. We do not cover cosmetic surgery. There are obviously limitations that have to be here.

Long-term health care for children with disabilities and chronic health conditions, durable medical equipment, allied health services. Here is the way it would work. A family of four at 250 percent of poverty, that is $37,000 with one child under 7, the mother is pregnant, the father works in a small business, with no dependent health care coverage, they would have the option to enroll into this plan. They would receive comprehensive coverage for the mother and the child—not for the father, not for any children over the age of 6. With their income, they would receive a 40 percent premium subsidy. In other words, they would have to pay 60 percent of the costs and they would pay a maximum, during the course of the year, of $1,830 per year. Then, if their costs exceed that $1,830, the Federal Government would pay.

Here is a lower-income family, a family of four at 100 percent of poverty, $15,000 with two children under 7, a single parent who works part time and is covered by Medicaid. Both children are automatically enrolled. Everyone who is on Medicaid is automatically enrolled into the Healthy Mothers, Healthy Children Act. The parent remains in Medicaid also, but we do not cover that parent. The Medicaid Program continues as is for that parent. They would have a choice of provider, get quality services, and coordination of care improves. They would receive a 90-percent subsidy. In other words, if they have a problem, they would have to pay 10 percent, even a poor family. So we do not have overutilization. But they would pay a maximum of $80 per year. For a family that is on the poverty level or below, that is still a sizable amount of money but it is a restraining factor. But then the Federal Government picks the tab up after that.

An upper-income family, a family of four, at 500 percent of poverty, $75,000, with two children under 7, one parent works for a large company and has a health plan through the employer but no coverage for preexisting conditions. They have the option of staying with the company plan or enrolling in this plan. They receive complete coverage, including preexisting conditions. They receive only a 5 percent premium subsidy. They would have to pay 95 percent. Obviously, at $75,000 a year, they can afford that.

But they can pay a maximum of $6,000 per child for a year. So if you have a child who is a diabetic, who has a serious problem—if you have the kind of problem that Senator CHAFEE just mentioned, with somebody who had a $3 million expenditure—that would be covered.

Financing sources? Medicaid funds, that we have right now. Here is the tough one. We increase the tax on a package of cigarettes by $1.50. There is no question that is going to be tough. Some of our colleagues are going to resist it strongly. I add, even if we were not providing any benefits for anybody, we would have a healthier America if we increase the tax on cigarettes $1.50 per pack. Young people, particularly, like these pages—if I may pick on them here—they are very price sensitive. That really would make a difference.

The State has to match. They will not have to match as much as they have been. The States would save some money; some employers would save some money. The family has to contribute. I think that is proper. There would be savings from elimination and reduction of duplicative programs.

In controlling costs, they are controlled by market competition. They have to bid within the State. Premium subsidies are based on the lowest-priced plan. Obviously, quality has to be there. The funding increases to States limited to the national rate of inflation.

If, for example, in Utah you have a plan and it increases the cost 20 percent while the national average is 5 percent, we say to Utah: Sorry, you can only have a 5-percent increase. So there is that limitation.

Specific options for reducing program costs to ensure financial integrity of the program.

Then, finally, a quote from this radical by the name of Herbert Hoover. Herbert Hoover said:

> The greatness of any nation, its freedom from poverty and crime, its aspirations and ideals are the direct quotient of the care of its children.
>
> There should be no child in America that is not born and does not live under sound conditions of health.

That is not the case today. We ought to make Herbert Hoover's dream for America a reality.

So I have this bill. I think it is appropriate that the two Members on the Republican side who are here right now are Senator BENNETT and Senator CHAFEE. Senator CHAFEE provided excellent leadership last session. We were not able to put the package together. Senator BENNETT now has that mantle on the Republican side.

We ought to do something. My proposal is let us provide coverage for pregnant women and children 6 and under. That would be a great initial step for the future of our country, and would protect 11 million children in our country today. I hope we take a look at this. At some point, whether the Finance Committee approves this idea or not, I am going to offer it as an amendment on the floor so we get a vote on it.

My instinct is you have to be pretty hardhearted to vote against coverage for pregnant women and children 6 and under. I think this might be politically acceptable. I certainly know the American people would favor it.

So I am introducing this bill today. I hope we will consider it. I commend it to my colleagues who have done more work in the health care field on the other side of the aisle than any others—Senator CHAFEE and Senator BENNETT.

The purpose of this act is to ensure that affordable, comprehensive, high quality private health care coverage is available through State-based programs for all children, initially for those under seven, and for all uninsured pregnant women.

Mr. President, friends, yesterday was Flag Day. A day for all Americans to reflect upon our country, where we've been and where we are heading. When I think about the future of this country, I realize that the future is already here—in our children. What should be our national direction? Let me share with you my vision for our children. I suggest that we move towards a society where every child at least has adequate health care, receives a good education, lives in a caring family, and grows up in a safe community.

THE POOR HEALTH OF AMERICA'S MOTHERS AND CHILDREN

How are we doing in fulfilling that vision? My friends, I have to tell you that we as a country are failing to properly care for our children. We are the wealthiest Nation in the world. But if our wealth was measured by the health status of mothers and children, we fall well behind the other major industrialized nations. Despite the highest per capita spending on health care of any country, we currently rank 22d in infant mortality and 18th in maternal mortality. Approximately 24 percent of all our children live in poverty. Many developing countries including Albania, Malawi, Mongolia, and Turkmenistan, have higher childhood immunization rates than we do. In addition, approximately 22 percent of mothers did not receive prenatal care in the first trimester. We can do better.

LACK OF HEALTH INSURANCE AMONG CHILDREN AND PREGNANT WOMEN IS INCREASING

What about health care coverage? Unfortunately, the lack of insurance among children and pregnant women is unacceptable and is getting worse. A recent report by the Employee Benefit Research Institute shows that between 1992 and 1993, the number of uninsured people increased by 1.1 million or 17.8 percent to 40.9 million. The most alarming finding is that children accounted for the largest proportion of the net increase in the number of the uninsured: Of the 1.1 million net increase between 1992 and 1993, 922,500 or 84 percent, were children under 18.

In 1993, 11.1 million or one of every six children did not have health insurance or publicly-financed health care, up from 10.2 million or 15 percent in 1992. Despite recent expansions in Medicaid, 22 percent of all poor children were uninsured, and approximately 500,000 pregnant women did not have health insurance in 1992.

In addition, if this Congress significantly reduces the Medicaid budget as proposed under the current Senate and House budget resolutions, it is estimated that between five and seven million children in addition to the 12.6 million children already projected to be uninsured under the current health care system, will not have health coverage by the year 2002.

It is important to note that lack of health insurance is not solely a problem of poverty. A large proportion of children in middle class families are uninsured. For example, among children in families with incomes between 100 and 199 percent of poverty, 25 percent are uninsured. And among children in families with incomes between 200 and 399 percent of poverty, 12 percent lack insurance.

My friends, we can do better. We must do better.

INVESTING IN THE HEALTH OF MOTHERS AND CHILDREN

Given the state of the Federal deficit, some of you may question whether the Government should be expanding health coverage for children. You may ask, "Is this a proper role for government?"

I think the words of Abraham Lincoln are helpful. He said: "The legitimate object of government, is to do for a community of people, whatever they need to have done, but cannot do, at all, or cannot, so well do, for themselves—in their separate, and individual capacities." Children do not have the capacity to ensure their health. Yes, families have primary responsibility for ensuring that their children receive medically necessary care. The Government's role is to ensure that health coverage is accessible and affordable for all. It is clear that the private sector has been unable to accomplish this goal.

There are more reasons why we should invest in our children's health. Investing in health services for children substantially increases their potential to be productive members of society and averts more serious or more expensive conditions later in life. Similarly, ensuring that all pregnant women receive adequate prenatal care is cost saving to society. Ensuring coverage for children is also relatively inexpensive: In 1993, the Medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

Therefore, if the question to me is "Can we afford to invest in the health of our children?," I reply by asking you, "How can we afford not to?"

GUIDING PRINCIPLES FOR THE HEALTHY MOTHERS, HEALTHY CHILDREN ACT

In developing the Healthy Mothers, Healthy Children Act, I considered 10 fundamental guiding principles that I believe should be the basis for any national health care program for children and pregnant women. They are:

First, coverage is independent of family income, employment, or health status;

Second, there is a single-tier health care system;

Third, coverage is affordable for all families;

Fourth, health services are comprehensive;

Fifth, ensuring quality is a primary goal;

Sixth, everyone shares responsibility for mothers and children;

Seventh, health, not just health care, is emphasized;

Eighth, States and health plans have maximum flexibility and accountability;

Ninth, administrative costs and complexity are minimized; and

Tenth, program costs and fraud and abuse are controlled.

SUMMARY OF THE HEALTHY MOTHERS, HEALTHY CHILDREN ACT

Let me summarize the legislation I am introducing:

A national trust fund is established to support state-based programs that involve private health plans. Participation is voluntary for states, health plans, and families.

All children under age seven are eligible, regardless of family income, employment, or insurance status. Pregnant women without employer-based coverage are eligible. Medicaid-eligible children and pregnant women are brought into the program to enhance their choice of providers and to avert a multi-tier health care system. There is no impact on the Medicaid program for nonparticipating States for noneligible children seven years of age and older. Every 2 years, if sufficient funds are available and the public is supportive of the program, the Secretary will increase eligibility to older children on a national basis. A State that has achieved universal coverage for children under seven in their State can extend coverage to older children before such children are eligible on a national basis.

In my legislation, children are enrolled during a national open enrollment period. States ensure that the enrollment process is simple and is not a barrier to care. Participating plans must accept any eligible person who wishes to enroll and cannot deny coverage for pre-existing conditions or any other reason.

All families contribute according to their ability to pay and receive a premium subsidy, ranging from 99 percent to 5 percent, based on a sliding scale of income. There is a cap on annual family medical expenses and a required $5 copayment for most services, except for preventive services.

The legislation is based on a management by objectives approach: States and health plans are given maximum flexibility to determine how they will meet program objectives, but are also fully accountable for results. States develop and administer the program, and are evaluated on an annual basis regarding their progress in achieving program objectives.

State funds are matched by Federal funds at a rate based on the State per capita income that is more generous than the State's current Medicaid matching rate. The average Federal matching rate for all States is 80 percent with a maximum matching rate of 90 percent.

Health services in the Healthy Mothers, Healthy Children Act are provided by private health plans. States certify health plans and negotiate premium rates with all interested plans. Participating plans compete to deliver the highest quality care at the lowest price. There are a series of standards to prevent adverse selection and discrimination, ensure access to primary and specialty care, and ensure that all participating plans compete on a "level playing field." The program encourages innovation by existing plans and formation of new health plans.

All participating health plans must provide a comprehensive package of services.

The services will be specified by the Secretary and health professional groups. In general, services include: preventive health, ambulatory care, laboratory services, prescription drugs, hospital and in-home services, mental health services, dental and vision care, long-term health care for children with disabilities and chronic health conditions, durable medical equipment, and allied health services.

Because I believe that we must emphasize quality and accountability, the bill includes a series of standards to ensure quality at the health plan, State, and Federal levels. National guidelines for quality assessment and improvement, utilization review, and other programs are developed in consultation with private health plans and other nongovernmental organizations. All participating States must have a program for preventing, monitoring, and controlling fraud and abuse. As a check and balance, nongovernment advisory council provides program oversight and advises the Secretary on program administration and modifications. A national maternal and child health information system and a national childhood immunization database are established to monitor program quality and to increase childhood immunization rates.

How would employers be affected by this bill? Experience from the last Congress demonstrates that the issue of the role of employers in health care reform is extremely difficult to resolve. I propose that employers who drop coverage of employee-dependent children as a result of this Act must pay a temporary (5-year) annual maintenance of effort fee equivalent to 50 percent of health coverage costs for their employees' children. To discourage dropping of coverage, families whose coverage is dropped by their employers are not eligible for the program for 6 months.

In my legislation, there is a strong emphasis on prevention. Up to 5 percent of trust monies can be used to fund activities by States and nonprofit organizations to improve the health of mothers and children. Eligible activities include: supporting school-based clinics, increasing the use of telecommunications and computer technology to increase health care access, supporting biomedical and health-related research, enhancing core public health functions, and supporting health promotion and disease prevention activities. To minimize duplicative programs, existing Federal and State maternal and child health programs are integrated and coordinated under the bill.

Controlling health care costs is crucial. Therefore, I have several mechanisms designed to control costs in the program. Costs are controlled by market competition and delivery of care primarily through management care plans. Because premium subsidies for families are based on the lowest priced plan in an area, plans have an incentive to control costs. Because annual funding increases to the States are limited to the average increase in medical care costs for children and pregnant women on a national basis, states have an incentive to control program costs. There are also mechanisms in the bill that allow the Secretary to reduce program costs or request additional funds as necessary to ensure the financial integrity of the program. I am asking the Congressional Budget Office to score the bill.

How will we pay for the program? Funding sources for my legislation include shifting of Federal Medicaid funds for targeted groups, increase in Federal excise taxes on cigarettes of $1.50/pack, state matching funds, partial premiums from families, savings from elimination/reduction of duplicative Federal and State programs, and charitable contributions.

Perhaps I can best summarize my legislation by illustrating how it affects different families.

First, let's take the example of a middle class family of four at 250 percent of poverty with one child under seven, a pregnant mother, and a father who works in a small business that does not offer dependent coverage. In this situation, the mother and child may be enrolled into the Healthy

Mothers, Healthy Children Program. They would receive comprehensive health care coverage and 40 percent of the cost would be subsidized. The family would pay a maximum of $1,830 per year for total medical expenses for the mother and child.

Now let's look at a lower income, single parent family at 100 percent of poverty with two children under 7, the parent works part time and the family is covered by Medicaid. In this case, the children would be automatically enrolled into the Healthy Mother, Healthy Children program. Under this program, the choice of provider, quality of care, and coordination of care would improve. Ninety percent of the cost of the coverage would be subsidized, and the family would pay a maximum of $80 per year for total medical expenses for both children.

Finally, what about higher income families? Let's consider a family at 500 percent of poverty with two children under 7, one parent works in a large company that provides family coverage but does not cover the children's preexisting conditions. This family may elect to stay with their coverage or enroll their children into the Healthy Mothers, healthy Children program. The children would receive comprehensive health coverage including for preexisting conditions. The family would also receive a 5 percent premium subsidy, and pay a maximum of $6,000 per year for total medical expenses for the mother and child.

TOWARD A HEALTHY FUTURE FOR OUR NATION

Mr. President, I am introducing this bill today as a starting point for discussions towards a bipartisan bill to ensure that the most vulnerable members of our society have a chance to lead productive lives regardless of the circumstances of their birth. I urge all of my colleagues who are concerned with our Nation's future to join me and further develop my proposal.

As Congress revisits health care reform this year, it is likely that we will agree to at least provide for portability of coverage for employed individuals and limit exclusions for pre-existing conditions. These insurance reforms will improve access for some, but such reforms unfortunately fall far short of what we should and can do to expand coverage for children and pregnant women. We can do better.

There is a health care crisis in this country. Should we accept a society where children in many neighborhoods have better access to drug and handguns than to doctors? A society that ensures health care for all prisoners but does not extend that guarantee to all children?

I recognize that health care reform is complex. We must move cautiously and incrementally. A sensible approach is to start by at least ensuring that every child under seven and all uninsured pregnant women have affordable, comprehensive, high quality health care coverage.

In accepting the Republican nomination for President in 1928, Herbert Hoover said "* * * the greatness of any nation, its freedom from poverty and crime, its aspirations and ideals are the direct quotient of the care of its children." And that "* * * there should be no child in America that is not born and does not live under sound conditions of health * * *"

Sixty-seven years later, we are the only developed Nation that does not ensure that all children and pregnant women have health coverage as part of national maternal and child health policy. I know we can do better.

There is a saying that children will treat us as they have been treated. I urge that we, our society, start treating them well.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

HEALTHY MOTHERS, HEALTHY CHILDREN ACT OF 1995

Purpose.—Amends the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of state-based programs for all children and for all uninsured pregnant women; and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children.

TITLE 1—NATIONAL HEALTH TRUST FUND FOR MOTHERS AND CHILDREN

Sec. 101. Establishment

Amends subchapter A of chapter 98 of Internal Revenue Code of 1986.

PART II—HEALTH CARE TRUST FUNDS

Sec. 9551. National Health Trust Fund for Mothers and Children

Establishes the National Health Trust Fund for Mothers and Children to support state-based programs that ensure affordable, comprehensive, high quality health care coverage for all children, and for all uninsured pregnant women.

Transfers into the Trust Fund shall include: (1) revenue from an increased tobacco tax, (2) shifting of funds from the Medicaid program, (3) designation of overpayments on tax returns and charitable contributions, and (4) savings from duplication of services or functions of existing federal programs.

Expenditures from the Trust Fund shall include: (1) funding state-based programs to cover children and pregnant women; (2) up to 5% of Trust Fund monies for awarding grants to states, universities, and other nonprofit organizations for activities to improve the health of mothers and children; and (3) up to 0.2% of the annual revenue from the increased tobacco tax to fund activities at the Office of Smoking and Health, Centers for Disease Control and Prevention to prevent the use of tobacco products by children and to coordinate federal and state tobacco control initiatives.

TITLE 2—HEALTHY MOTHERS, HEALTH CHILDREN PROGRAM

Sec. 201. Establishment and Allocation of Funds

Amends the Public Health Service Act (42 USC 201).

TITLE XXVII—HEALTHY MOTHERS, HEALTHY CHILDREN PROGRAM

Sec. 2700. Establishment of Program

States that wish to participate in this program must establish a state program to provide for or cover comprehensive, high quality health services for eligible individuals.

PART A—ALLOCATION OF FUNDS

Sec. 2701. Allocation of Funds to Participating States

For the first two years, the amount of funds allocated to each participating state will be determined by the Secretary of Health and Human Services, hereafter referred to as the Secretary, based on three factors: the estimated number of eligible children under seven years, the number of uninsured pregnant women in the state, and a geographic adjustment factor that is dependent on the average cost of health care in the state. In subsequent years, to encourage enrollment of all eligible persons, allocations to each state shall also be based on the number of persons enrolled in the state program in the previous year (the greater the number of eligible persons enrolled in the previous year, the greater the funds to the state).

After the first two years of funding to participating states, the annual per capita allocation to the states shall be increased each year up to an amount as determined by a formula, calculated and established annually by the Secretary. The formula shall be based on an index that reflects the estimated national average rate of inflation or health care expenditures for children and a similar index for pregnant women. The Secretary may consider state-specific waivers to this requirement on an annual basis if the state can demonstrate that extenuating circumstances within the state caused unavoidable increases in the cost of health services to children and pregnant women, and that the state has considered all reasonable strategies to control costs, including, but not limited to, working with certified plans to control costs, reducing administrative costs, restructuring the state program, and minimizing fraud and abuse.

Sec. 2702. State Trust Funds and Matching Contribution

Each state shall establish its own state trust fund (or in the case of regional programs, a regional trust fund) in which allocated federal funds and matching state funds shall be deposited. States are allowed to deposit additional funds into their trust fund at any time, but these state funds shall not be subject to federal matching unless they are deposited for the purposes specified in sections 2732, 2735, and 2753. Monies from the state or federal trust funds may be used only for activities directly related to the provision of health services or other activities specifically covered by this Act. Monies from the Trust Fund shall be transferred directly to the state's trust fund on an annual basis and the states shall deposit their matching funds on an annual basis. The annual transfer of funds to the states is contingent on a satisfactory annual evaluation of the state's program and approval of the state's annual plan by the Secretary as specified in section 2731.

Each participating state is required to match federal funds to the state trust fund at a rate determined by a formula developed by the Secretary that takes into account each State's annual per capita income. The Secretary shall ensure that: 1) each State's matching requirement is more generous for the State than the State's matching requirement under the Medicaid program at the

time of the approval of the State program, 2) the average State matching requirement for all States is $2 for every $8 of Federal funds under the allocation (average Federal matching rate for all States of 80%), and 3) no State shall have a matching requirement less than $1 for every $9 of Federal funds under the allocation (maximum Federal matching rate of 90%).

States may elect to accept a donation of funds, services, or equipment toward a state program under this Act from individuals and the private sector. However, the state shall ensure that donations from individuals and for-profit entities do not result in a conflict of interest in terms of the state giving preference to the individual or entity related to the award of contracts for a federal or state health program.

Sec. 2703. Excess and Insufficient Funds in Trust Funds

In the case that monies exist in the Trust Fund that are not transferred to participating states or awarded for activities under this Act, such monies shall remain in the Trust Fund and be available for use in subsequent years. In the event that there exists a surplus of monies in a state trust fund, such monies do not need to be transferred back to the Trust Fund. However, such surplus state monies must be used to expand eligibility to older children.

In the case that there exist insufficient monies in the Trust Fund, or it is expected that insufficient funds will exist, in any given year to fully transfer to the states the amount ordinarily allocated by the Secretary, then the National Advisory Council for Mother's and Children's Health as established under section 2742, and to be referred to hereafter as the Council, shall recommend to the Secretary, within 60 days of the Council's discovery, strategies for correcting the discrepancy. The Council may choose to recommend additional sources of revenue for the Trust Fund, adjusting the state matching requirements under section 2702, adjusting the range or nature of health benefits provided under section 2721, adjusting the cost sharing requirements for families under sections 2725–2728, decreasing grants awarded under Part F, or other measures as deemed appropriate by the Council. In consultation with the Council, the Secretary shall submit implementing legislation to Congress, within 60 days of the Council's recommendations, for correcting the problem.

In the event that a state does not have sufficient monies in the state trust fund to meet its obligations during a given year, the state may petition the Secretary for additional monies and the Secretary shall make a decision for funding or a loan from the Trust Fund within 90 days of the petition. However, the Secretary shall not transfer any additional funds to the state if it is determined that the state mismanaged funds, failed to prevent foreseeable fiscal problems, or failed to control fraud and abuse.

PART B—ELIGIBILITY AND ENROLLMENT

SUBPART I—ELIGIBILITY

Sec. 2710. Eligibility of Individuals

The following groups are eligible under this Act:

1. All children under seven years of age regardless of income or insurance status, plus older children (up to 21 years) as the Secretary or states expand eligibility as funds are available.

2. All pregnant women, regardless of income, who are not insured through their own employer or their family's employer. However, pregnant women who have employer-based coverage, but do not have coverage for pregnancy-related health benefits, shall also be eligible. (The 1978 Pregnancy Discrimination Act, which applies to employers who have 15 or more employees and requires that any health insurance provided to employees must cover expanses for pregnancy-related conditions on the same basis as expenses for other medical conditions, shall remain in effect.)

3. Legal residents or United States citizens only. States may elect to extend eligibility to other residents, but no federal funds shall be used to provide for such coverage.

An individual is not eligible under this program if he/she was covered under an employer-based health plan and coverage was dropped by the employer within the six-month-period prior to the individual's application.

Sec. 2711. Election of Eligibility

Children who are eligible for or receive health services from the Department of Defense (military medicine or the Civilian Health and Medical Program of the Uniform Services (CHAMPUS)), the Indian Health Service, or the Department of Veterans' Affairs, may continue to use such services or elect to enroll in a certified plan under this Act.

All age-eligible children who are enrolled in Medicaid at the time of full implementation of this Act in their state of residence shall be automatically enrolled in the respective state program under this Act. In the case of an age-eligible child in state-supervised care or a child who does not live with his/her parents, the child shall be enrolled in a plan by the state agency or guardian that has been awarded temporary or permanent custody of the child unless there is a specially designed health care system for such children.

Pregnant women who are enrolled in Medicaid at the time of full implementation of this Act in their state of residence shall be automatically enrolled in the respective state program under this Act. Pregnant women who are eligible for health services under the Department of Defense, the Indian Health Service, the Department of Veterans' Affairs, and other federally sponsored health plans are not eligible under this Act.

In the case where an individual elects or is automatically enrolled in a state program under this Act, all privileges (such as choice of certified plans) and responsibilities (such as payment of premiums or copayments) accorded to their families or themselves under this Act shall apply.

Sec. 2712. Eligible Health Plans and Providers

All health plans and providers who are licensed and credentialed, or otherwise legally authorized by their state, to provide the health services specified under this Act, under the respective rules and regulations of their state, are potentially eligible to participate in the state program if they meet all relevant state and federal requirements under this Act.

SUBPART II—ENROLLMENT

Sec. 2715. Enrollment of Eligible Persons

Families with eligible children may enroll their children during a national open enrollment period as defined by the Secretary. Congress shall designate this one-month period as National Healthy Mothers, Healthy Children's Month.

Participating states shall establish a system for enrolling eligible children and pregnant women that minimizes barriers to enrollment. The application process shall be reasonably convenient, efficient, and available through a wide range of methods. At a minimum, enrollment shall be available through the mail, telephone (via a toll free number), and in person.

Enrollment materials shall be available from health care providers, health provider organizations, hospitals, health clinics, and at facilities that provide health and nutrition services to children and women, and from local and state government health offices. The Secretary, in consultation with the states and representatives of certified plans, shall develop the essential data elements for a standardized enrollment form and it shall not be more than one page in length. However, additional data collection instruments for the purposes of program assessment and improvement may be allowed as long as they are not a requirement for enrollment.

States shall process enrollment applications and give a final decision on the application to the family and relevant plan within 30 days of application submission. Approval of the application shall be dependent on eligibility and income verification and must occur within 30 days. Upon approval, the state shall notify the family and relevant plan of the family's expected annual premium contribution, the first payment of which must be received by the plan or the state within 30 days of application approval. Income verification mechanisms and requirements shall be developed by the state. States may elect to waive income verification requirements for families who are already subject to similar requirements under other state or federal programs or in other situations deemed to be appropriate by the state.

Children may also be enrolled by their family at any time outside of the open enrollment period, but a late enrollment surcharge, to be determined by the state, will be imposed for doing so. Families shall be given the opportunity to enroll their newborn before or at the time of delivery (through the hospital or birthing center). In order to avoid a surcharge, newborns must be enrolled into the program prior to their birth, within 30 days of their birthdate, or during the open enrollment period.

Upon enrollment application, the family shall indicate their choice of certified plan. The period of enrollment shall not be less than one year for a child, and in the case of a pregnant woman, the period shall be for the duration of her pregnancy and eligible post-partum period. Families with enrolled children in a certified plan may freely elect to change plans during the next open enrollment period. Families with enrolled children may also change plans outside of the open enrollment period but the state shall impose a substantial surcharge, to be determined by the state, for doing so. However, there shall be no surcharge for families with enrolled children or pregnant women if the change of certified plans is due to the family moving to another area not served by the current plan, in the case of a plan withdrawing from a market area, or for other justifiable and legitimate reasons as determined by the state.

A pregnant woman may enroll at any time after the diagnosis of pregnancy is confirmed by a physician or qualified health professional, or she may enroll in order to confirm her pregnancy. Women who plan to become pregnant may also enroll in the program, but covered benefits are available only after the pregnancy is confirmed by a physician or qualified health professional.

There shall be no waiting period for covered health services; access to services shall

be effective immediately at the time of enrollment application. All applicants shall be presumed to be eligible until the state has determined otherwise. Certified plans must provide covered health services to any pregnant woman or child who has not been enrolled in a certified plan under this Act and who reasonably appears to be of an eligible age until such time that the state has notified the plan that the applicant is not eligible under this Act. In these cases, however, an application for enrollment in the certified plan must be submitted by the pregnant woman or on behalf of the child during the initial point-of-service visit. The state shall impose a surcharge, to be determined by the state, for enrollment at the point-of-service. States may elect to directly compensate plans for services delivered to persons who are subsequently deemed ineligible, or allow plans to factor in the estimated costs of providing services to such persons in their rate negotiations with the state.

Waivers to any enrollment surcharge may be obtained from the state if the applicant can demonstrate that he/she was out-of-state during the open enrollment period or for other unavoidable and legitimate reasons as determined by the state, including, but not limited to, sudden loss of health coverage due to unemployment, divorce, and financial crisis.

Sec. 2716. Transition from Eligibility

When a child enrolled in a certified plan reaches the end of an enrollment period on the day of or after attaining his/her seventh birthday, he/she shall no longer be eligible for premium subsidies under this Act. However, the child's health plan in effect immediately prior to the individual attaining his/her seventh birthday must continue to provide coverage indefinitely, at the discretion of the child's family, for as long as the full unsubsidized premium and copayments are paid. There shall not be any exclusion of coverage for pre-existing conditions. In addition, if the individual's family elects to leave the current health plan for another plan or for an employer-provided plan that provides similar benefits to employee dependents, the plan or employer must accept the individual into the plan and is not allowed to exclude coverage for any pre-existing conditions.

A woman shall no longer be eligible for health benefits under the program two months after the end of pregnancy. If the woman was covered under a health plan or employer-based plan (without pregnancy-related benefits) immediately prior to her enrollment in the state program, her previous plan and employer must readmit her into the plan with no exclusions for pre-existing or pregnancy-related conditions at a cost comparable to what she had paid prior to her enrollment in the state program.

Sec. 202—Comprehensive Health Benefits and Cost Sharing Requirements

Amends title XXVII of the Public Health Service Act.

PART C—COMPREHENSIVE HEALTH BENEFITS AND COST SHARING REQUIREMENTS

SUBPART 1—COMPREHENSIVE HEALTH BENEFITS

Sec. 2721. Comprehensive Health Benefits Package

Within 180 days of enactment of this Act, the Secretary, in consultation with specific health care professional and health-related organizations, shall develop a specific comprehensive benefits package for children and pregnant women based on the general groups of benefits outlined in section 2722. The Secretary shall determine the organizations that will be consulted in development of the benefits package. At a minimum, the American Academy of Pediatrics, the Association of Maternal and Child Health Programs, and the American Dental Association shall be consulted in developing the benefits package for children, and the American College of Obstetricians and Gynecologists and the Association of Maternal and Child Health Programs shall be consulted in developing the benefits package for pregnant women. To the extent possible, periodicity schedules for preventive services shall be specified in the benefits packages.

As a guide for development of the comprehensive benefits packages for children and pregnant women, the Secretary shall ensure that the specific comprehensive benefits packages are consistent with the following "floor" and "ceiling": The actuarial equivalent of the specific comprehensive benefits packages must exceed the average actuarial equivalent of health benefits offered to the children and pregnant women by all states under the Medicaid program on the date of enactment of this Act. In addition, the actuarial equivalent of the specific comprehensive benefits packages shall not exceed the actuarial equivalent of health benefits provided to children and pregnant women in the specifics state(s) with the most generous Medicaid benefits package for these populations on the date of enactment of this Act.

In addition to developing the specific benefits package, the Secretary, in consultation with selected health professional organizations, shall determine which types of services shall be subject to utilization copayments under section 2727. At a minimum, preventive services shall be exempt from any utilization copayment.

The benefits packages shall be reviewed and revised as necessary every two years by the Secretary in conjunction with relevant professional organizations and the Council. Revision of the benefits packages shall be consistent with changes in the age group of eligible children, standard medical practice, new technologies, emerging health problems and health care needs. The benefits package may be revised immediately if children seven and older are eligible on a national basis or in a state within two years of the development of the initial benefits package.

Certified plans operating under this Act shall cover or provide the comprehensive health services as specified by the Secretary. Certified plans may not offer any plan to eligible individuals under this Act that does not cover or provide for all the benefits specified by the Secretary. However, certified plans may offer additional plans that have more generous benefits than those specified by the Secretary.

In the case where the State has determined that no participating health plan is able to provide for or cover all the services in the comprehensive benefits package, or the State has determined that certain services are most effectively delivered by providers other than participating health plans, then the State may elect to develop an alternative mechanism, such as entering into agreements with other providers, to provide for or cover specific services. In all cases, however, the State must ensure that all services covered under the comprehensive benefits package are of high quality and are fully coordinated and integrated.

Sec. 2722. General Categories of Health Benefits

At a minimum, the following general categories of health services shall be provided for or covered by certified plans participating under this Act:

For children, from birth up to seventh birthday (or end of enrollment period after birthday): preventive services (including immunizations as recommended by the Advisory Committee on Immunization Practices (ACIP), well baby/child care, routine exams and check ups, recommended screening tests, dental prophylaxis and exams, preventive health counseling and health education); ambulatory care; laboratory services; prescription drugs; inpatient care; vision, audiology and aural rehabilitative, and other rehabilitative services (including prescription eyeglasses, hearing aids); durable medical equipment (including orthotics, prosthetics); dental care (excludes orthodontic care); mental health and substance abuse services; long-term and chronic care services; special health care services for children with disabilities or chronic health conditions; occupational, physical, and respiratory therapy; speech-language pathology services; investigational treatments (limited to participation in a clinical investigation as part of an approved research trial as defined by the Secretary. Services or other items related to the trial normally paid for by other funding sources need not be covered.)

For pregnant women, from diagnosis of pregnancy through 60 days after the end of pregnancy: maternity care (including prenatal, delivery, and postpartum care, including preventive services such as routine exams and check ups, recommended immunizations and screening tests, family planning services, preventive health counseling including nutrition and health education); ambulatory care; laboratory services; prescription drugs; inpatient care; inpatient hospital and nonhospital delivery services; mental health and substance abuse services; any other pregnancy- or nonpregnancy-related health condition; investigational treatments (limited to participation in a clinical investigation as part of an approved research trial as defined by the Secretary. Services or other items related to the trial normally paid for by other funding sources need not be covered.)

States may elect to extend comprehensive coverage or coverage of selected health services to pregnant women beyond the two-month postpartum period as long as federal funds are not used for such additional coverage.

During the first two years of the implementation of this Act, the items and services in the comprehensive benefits package shall not be subject to any duration or scope limitation. In addition, there shall be no cost sharing that is not required or allowed under this Act. In subsequent years, however, the Secretary, in consultation with selected professional organizations and the Council, may implement utilization or other limitations on covered benefits on a national basis if such limitations are deemed to be absolutely necessary for the solvency of the program and Congress fails to authorize and appropriate additional monies to the Trust Fund. However, alternatives to decrease program costs such as minimizing administrative costs, increasing cost sharing requirements, and increasing federal or state funding shall be considered before limitations on covered benefits are considered. In no case, however, shall preventive services in the benefits package be subject to such limitations.

Certified plans need not provide coverage for health services that are greater in frequency than that specified in recommended periodicity schedules, to the extent they are specified under section 2721. However, certified plans must cover any health services,

within the general scope of the comprehensive benefits package, that are medically necessary or appropriate for children and pregnant women.

Nothing in this Act shall be construed as limiting the ability of states or certified plans from providing additional health services not covered by this Act, as long as federal funds are not used to pay for such additional services. However, a certified plan may provided for extra contractual services and items determined to be appropriate by the plan and individual (or family).

Nothing in this Act shall be construed as limiting the ability of individuals to obtain additional health services that are not covered by the benefits package as long as federal funds are not to pay for such services.

In the interest of ensuring that all children in the United States receive comprehensive health services, employer-based, self-insured, and other health plans not participating under this Act, are encouraged to, but are not required to, provide comprehensive benefits to children and pregnant women similar to those specified in this Act.

SUBPART II—COST SHARING REQUIREMENTS

Sec. 2725. Principles of Cost Sharing

All families who participate under this Act shall contribute towards the cost of their own or their child's health care. There shall be two types of costs for individuals participating in a state program: a premium and copayments. There are no deductibles allowed under this Act.

The following schedules for determining premium subsidies, copayments, and maximum annual family contributions are intended as a guide for participating states. States may elect to develop their own specific cost sharing requirements as long as they are consistent with the principles that all participating families contribute towards the program and all families receive premium subsidies, all families pay the same copayment for services, and coverage is affordable for all income levels. In addition, state cost sharing schedules shall not result in any overall funding obligations to the federal government in excess of that based on the cost sharing schedules specified in this Act. In all participating states, the annual family contribution under this Act shall not be less than $10 per child and $20 per pregnant woman.

States may not require additional cost sharing for families with annual incomes less than 150% of the federal poverty level that exceed the cost sharing amounts specified in this title. States may elect to provide additional premium or copayment subsidies for families whose income is less than 400% of the federal poverty level if there are sufficient funds in the state trust fund and no additional federal monies are used for such additional subsidies.

Participating states, in conjunction with certified plans, shall monitor the impact of cost sharing requirements (premiums and copayments) on low income families and ensure that any cost sharing requirements are not significant barriers that prevent such families from enrolling in a certified plan or from obtaining medically appropriate care. An analysis of the impact of cost sharing on low income families shall be presented to the Secretary in the State's annual quality assessment and improvement plan specified in section 2741.

Sec. 2726. Premiums and Premium Subsidy

All families are responsible for paying their portion of the premium to enroll into a certified plan. Premium payments are payable directly to the plan or the state (as elected by the state) on a monthly, quarterly, or other basis. Upon final approval of an enrollment application, states shall transfer funds directly to certified plans for the amount of the premium subsidy calculated for each individual enrolled.

All families, regardless of income, shall receive a subsidy on their premiums. The annual premium amount to be paid by families to the plan is the annual per capita premium negotiated by the state with each certified plan minus the premium subsidy provided by the state. In no case shall the annual premium subsidy be greater than the annual premium negotiated with the plan.

In the case where multiple certified plans are available in a geographic area or a certified plan offers additional benefits package options at additional cost, the premium subsidy shall be calculated based on the lowest priced certified plan that is available in the area. Families shall be responsible for any costs not covered by the premium subsidy as a result of enrolling in higher priced plans. In addition, any such premium amounts that result from the selection of higher priced plans shall not be credited toward the maximum annual family contribution amounts under section 2728.

In the case where the calculated annual premium contribution for a family after applying the appropriate premium subsidy exceeds the maximum annual family contribution, the difference shall be paid by the state directly to the plan.

In the case of a single eligible individual enrolled, the percentage of the annual premium subsidy shall apply to the individual annual premium, and, in the case of multiple eligible individuals enrolled from one family, the premium subsidy percentage shall be applied to the total annual family premium.

The annual premium subsidy percentage is based on the following scale of adjusted annual family gross income as a percentage of federal poverty level (FPL):

Annual Income (% FPL) and Percentage Subsidy:

<50, 99%.

50–149, for each 10% point increase in FPL, decrease subsidy by 1.5% points.

150–299, for each 10% point increase in FPL, decrease subsidy by 4% points.

300–399, for each 10% point increase in FPL, decrease subsidy by 1.5% points.

<400, 5%.

The following are examples of premium subsidies at various incomes.

Annual income (% FPL):	*Percentage subsidy*
<50	99
<100	90
150	80
250	40
350	15
>=400	5

For example, if the annual premium negotiated by the state with a certified plan is $500 per child, a family of four with two children enrolled and an annual family income at 250% of the federal poverty level ($37,875 in 1995), would contribute $600 (i.e. $1000—$1000(.40)=$600).

Sec. 2727. Utilization Copayments

There shall be a $5 copayment for selected services or items covered by this Act as designated by the Secretary under section 2721, which is payable to the certified plan. Preventive services are exempt from copayments.

In addition to plans with a standard $5 copayment, a state may also choose to offer plans that have higher copayments and lower annual premiums. However, the premium subsidy for a family who selects a high copayment plan shall not be greater than that calculated for the plan with a $5 utilization copayment. In all cases, the copayment amount shall be the same for all income levels and the minimum copayment amount shall be $5.

Utilization copayments are waived by the plan after a family's annual contribution (includes premiums and copayments) has exceeded the maximum annual family contribution.

Sec. 2728. Maximum Annual Family Contribution

For families with children, the maximum annual family contribution towards health care (inclusive of premiums and copayments) for each child shall be capped according to the following scale based on adjusted annual family gross income:

Annual Income (% FPL and Maximum Contribution Per Child

< 50, $10.

50–149, $15 increased by $5 for each 10% increase in annual income in excess of 49%.

150–299, $110 increased by $50 for each 10% increase in annual income in excess of 149%.

300–399, $960 increased by $150 for each 10% increase in annual income in excess of 299%.

>=400, $3,000.

The following are examples of maximum family contribution per child at various income levels.

Annual Income (% FPL):	*Maximum contribution per child*
< 50	$10
100	40
150	110
250	610
350	1,710
>=400	3,000

The above caps represent the maximum annual family contribution for a family with one child. Maximum contribution for families with two children are double the above amounts. For a family with three children enrolled, the maximum annual family contribution shall increase by an additional 40% beyond the cap for a family with two children. For a family with four or more children enrolled, the maximum annual family contribution shall increase by an additional 80% beyond the cap for a family with two children.

For example, a family of four with two children enrolled and an annual family income at 250% of the federal poverty level ($37,875 in 1995), would contribute a maximum of $1,220 annually (i.e., $610 2=$1,220). A family of six with four children enrolled and an annual family income at 250% of the federal poverty level ($50,675 in 1995), would contribute a maximum of $2,196 annually ($610 2 1.8=$2,196).

For families with a pregnant woman, the maximum annual family contribution towards health care (inclusive of premiums and copayments for the pregnant woman) for each pregnant woman, shall be capped according to the following scale based on adjusted annual family gross income:

Annual Income (% FPL and Maximum Contribution Per Woman:

< 50, $20.

50–149, $30 increased by $10 for each 10% increase in annual income in excess of 49%.

150–299, $220 increased by $100 for each 10% increase in annual income in excess of 149%.

300–399, $1,820 increased by $200 for each 10% increase in annual income in excess of 299%.

>=400, $5,000.

The following are examples of maximum family contribution per pregnant woman at various income levels.

Annual Income (% FPL):	*Maximum contribution per woman*
< 50	$20
100	80
150	220
250	1,220
350	2,820
>=400	5,000

For example, for a family of four with one pregnant woman and one child enrolled with an annual family income at 250% of the federal poverty level ($37,875 in 1995), the maximum annual family contribution would be $1,220 + $610=$1,830.

These maximum family contribution caps shall be in effect for the first two years of the program. In subsequent years, the maximum annual contribution shall be adjusted upwards annually to the nearest $5 indexed directly to the indexes used by the Secretary to calculate funding allocations to the states under section 2701.

The premium contribution or copayments assessed for families under this Act shall not be subject to any increase during the one-year-period of enrollment until the subsequent open enrollment period. However, the amount of the premium subsidy and maximum annual family contribution assessed may be adjusted during the one-year-period of enrollment before the subsequent open enrollment period, if the family can demonstrate a sufficient decrease in income that allows them to receive a larger premium subsidy. The premium contribution for the family shall then be recalculated based on the larger premium subsidy for the remainder of the period up to the next open enrollment period. Families must apply directly to the state for income reconciliation adjustments and each family shall be limited to one income reconciliation adjustment on their cost sharing amounts per year. In cases where premium subsidies have been subject to income reconciliation, the state shall appropriately adjust its payments to the respective plan.

Sec. 203. State Program Development and Administration

Amends Title XXVII of the Public Health Service Act.

PART D—STATE PROGRAM DEVELOPMENT AND ADMINISTRATION

Sec. 2731. Application and Date of Implementation

States that wish to participate in the program must implement their coverage for children and pregnant women under this Act by January 1, 2000. However, states may elect to implement their program as early as January 1, 1996.

States intending to participate in this program may submit their initial five-year strategic plan to the Secretary at any time after the enactment of this Act. The Secretary, in consultation with the Maternal and Child Health Bureau, shall provide specific guidance to the states on the elements of an acceptable plan within 90 days of the enactment of this Act. At a minimum, the initial plan must describe the current health status of the target population, short- and long-term health objectives with time schedules, performance and outcome measures and mechanisms for monitoring health indicators, details of the proposed structure, comparative analyses of at least one alternative structure considered, and cost estimates. In addition, the strategic plan must outline how coverage for all eligible persons can be achieved within five years under the proposed structure. In the case that a State proposes a structure that is different from that described in this title, the plan must include a comparative analysis of the State's proposed structure and the structure described in this title, including an analysis of achievement of the objectives of this title and program costs.

The initial plan may incorporate elements required under current state Title V program applications. If the plan is not accepted, the Secretary shall work with the state to improve it and give specific guidance on how to achieve an acceptable plan. The Secretary must give a final decision on the proposal within 90 days of receiving the state submission. States with plans that are not approved may submit another initial strategic plan in the following year.

Not later than 90 days after the date of enactment of this title, the Secretary, in consultation with the Maternal and Child Health Bureau, shall develop and make available specific criteria that will be the basis for evaluation and approval of state strategic plans.

Regardless of the proposed structure, the state program must be likely to ensure affordable, comprehensive, high quality health care coverage for all children under seven years and pregnant women within a reasonable time period. In addition, the proposed program must offer the comprehensive benefits package specified in section 2721, be consistent with the principle that all families contribute towards their own or their children's health care, have a quality assessment and improvement program and utilization review program under section 2743, fulfill health information systems requirements under sections 2744–2745, and have a program for preventing and controlling fraud and abuse under section 2746.

Participating states shall, at a minimum, offer a program consistent with the guidelines and principles outlined in this Act. States must consider a program similar in structure to that described in this Act, but are encouraged to be innovative and may propose structures or a blend of structures for their program that are different from that described in this Act. Such structures may include, but are not limited to, modifications of existing state or federal programs, capitated programs, fee-for-service programs, subsidy programs for individual purchase of insurance, and programs where the state is the direct payer for services. However, such structures must be as effective in meeting the program objectives and containing program costs as the structure described in this title. States shall be allowed to establish a state-specific program or establish regional programs with neighboring states.

Sec. 2732. Special Status States

If a state considers that their existing health care program has achieved, or is expected to achieve within one year, affordable, comprehensive, high quality care coverage for all children under seven and pregnant women, the state may petition the Secretary to designate it as a special status state in their initial five-year strategic plan. In addition, states participating under this Act that have achieved this objective may petition for special status in their annual quality assessment and improvement plan after the first year of state program implementation. For the purposes of this section, a state will be considered as fulfilling the requirements for special status if the state can demonstrate that at least 95% of all eligible children and pregnant women in the state are covered either by the state program or other sources of health insurance.

Special status states so designated by the Secretary may submit proposals to expand health services for children under seven years and pregnant women or to expand comparable coverage for health services for older children up to age 21. Funding for expanded eligibility programs shall be subject to the respective state federal matching requirement under section 2702. Proposals from special status states shall receive the same priority for funding as non-special status states. Any expanded eligibility programs, however, must be consistent with the requirements and guidelines under this Act. The Secretary shall make a final decision on the state petition for special status within 90 days of receiving the state proposal.

Sec. 2733. States with Medicaid Waivers

States that have Medicaid waivers under sections 1115 or 1915 of the Social Security Act are eligible to be a participating state under this Act. Such states that elect to participate shall be subject to all program guidelines and responsibilities that apply to non-waiver states. States with Medicaid waivers may also elect to petition for designation as a special status state if it qualifies as such under section 2732.

Sec. 2734. Development Grants for State Programs.

Upon approval of a state's initial five-year strategic plan under section 2731, the Secretary shall make a one-time program development grant available from the Trust Fund to the state for a period not to exceed two years. The amount of funds distributed to each state shall be based on a formula developed by the Secretary. Such funds may be used only for the purposes of developing and implementing the approved proposed state program including the development of community-based health networks and plans. There is no requirement for states to match federal development grant funds.

Sec. 2735. Expansion of Eligibility

Every two years after the enactment of this Act, the Secretary, in consultation with the Council, shall determine if sufficient public support and funds exist to expand eligibility coverage to additional groups of children up to 21 years of age. If the Secretary has determined that sufficient public support and monies exist in the Trust Fund to expand coverage to additional age groups on a national basis, then he/she must do so. If public support exists but funds are insufficient, then the Secretary may recommend to Congress that legislation be passed to expand the program to cover additional age groups with appropriate additional federal funding.

States that do not qualify as special status states under section 2732 may also petition to expand their program to cover additional age groups in their annual evaluation report to the Secretary, if sufficient funds are available in the state's trust fund or if additional state funds are deposited into the state's trust fund. Additional state funds deposited into the state fund for the purposes of expanding eligibility to older children in the state not eligible on a national basis

shall be matched by monies from the Trust Fund on an equal basis (1.1 state/federal ratio) if the Secretary approves the expansion petition. Such expanded eligibility programs, however, must be consistent with the requirements and guidelines under this Act. The approved expanded eligibility component of the state program shall be considered for funding only after funds for all participating states with approved programs covering the regular target population (children under seven and pregnant women) and approved expanded eligibility programs of special status states are allocated. The Secretary shall give a final decision on a state request for expanding eligibility within 90 days of receiving the state petition.

Sec. 2736. Failure of State to Administer a Program in Compliance with Title

If the Secretary has determined that a participating state's program has failed to meet the program guidelines in this Act, including cost containment and the prevention and control of fraud and abuse, the state must demonstrate that it has made a reasonable effort to address the deficiencies or the Secretary may elect to directly administer, or enter into agreement with a non-state government organization to administer, the state program. Premiums and copayments for federal or non-state government administered programs shall not be greater than those ordinarily charged by a state administered program. The budget for running the federal or non-state government administered program shall not be greater than that ordinarily allocated to the state. Under a federal or non-state government administered program, the state must continue to provide matching funds at the respective state: federal matching ratio.

Sec. 2737. Limits on State and Federal Administrative Costs

States and the Secretary shall ensure that administrative complexity and costs of programs under this Act are minimized to the extent possible. Administrative costs for state programs shall not exceed 5% of the annual budget for any given year subsequent to the first two years of the program. The state shall be responsible for any administrative costs in excess of 5%. Similarly, the administrative costs for federal or non-state government administered programs shall not exceed 5% of the annual budget for any given year subsequent to the first two years of the program.

PART E—ENSURING QUALITY, ESTABLISHING INFORMATION SYSTEMS, AND PREVENTING ABUSE

Sec. 2741. Annual Quality Assessment and Improvement Plans

Subsequent to the approval of the initial strategic plan, participating states in coordination with existing state Title V health programs, shall submit a quality assessment and improvement plan to the Secretary on an annual basis. The Secretary, in consultation with the Maternal and Children Health Bureau, shall provide guidance on the elements of an acceptable annual quality assessment and improvement plan within 180 days of the enactment of this Act. At a minimum, the plan shall include an assessment of the state's progress toward ensuring coverage for all eligible persons, cost containment, assurance of quality care, impact on the health status of the target population (including outcome measures and process objectives), a financial statement, and proposed changes to the state program. The Secretary shall give feedback and make a final decision on proposed modifications to the state program within 90 days of receiving the state's evaluation and quality improvement plan. Evaluations of the state program by the Secretary shall be based on an assessment of the performance of the state program in meeting program objectives rather than on the specific methods used to achieve such objectives.

Sec. 2742. Establishment of National Advisory Council for Mothers' and Children's Health

The National Advisory Council for Mothers' and Children's Health, to be referred to hereafter as the Council, shall be established to advise the Secretary regarding the administration of and modifications to programs under this Act.

The Council shall have the responsibility for evaluating programs under this Act and advising the Secretary on improving the health of children and pregnant women. The Council evaluates and makes recommendations in the following areas: covered benefits; cost sharing; allocation and management of funds; eligibility and enrollment issues; standards and responsibilities of certified plans, of the states, and of the federal government; quality improvement programs; development of practice guidelines; information systems and reporting requirements; general program administration; and any other relevant areas identified by the Council. As part of its evaluation, the Council shall provide an assessment of the impact of programs under this Act on the health status of children and pregnant women.

The Council shall be comprised of 11 individuals, appointed by the Secretary within 90 days of the enactment of this Act, confirmed by the Senate, who were not employed by the federal government within the one-year period prior to their appointment. Members of the Council shall represent pediatricians, obstetricians, and other health care providers, consumers, health policy experts, state and local government health officials, public health and maternal and child health professionals, experts in population-based health information systems, experts in health promotion and disease prevention, health care managers and economists, medical ethicists, representatives of the health care industry, and other related disciplines as deemed appropriate by the Secretary. The ratios of affiliations may vary, but no less than three members shall be health care providers and no less than three members shall represent consumers (members representing health care providers or consumers must be different individuals). After the initial appointment of consumer representatives, subsequent consumer representatives must be from families currently enrolled in a certified plan under this Act.

Members of the Council shall be appointed on the basis of their experience and expertise. No member shall have a substantial financial interest in the issues addressed by the Council. Each member shall be appointed for a two year term and six of the initial Council members shall be appointed to three year terms. No member may serve more than two complete terms. The Secretary shall appoint one chairperson and one vice chairperson of the Council for a term of two years. No chairperson shall serve in that capacity for more than one term. In the case that a member does not complete a full term, the Secretary shall appoint a replacement, subject to Senate confirmation, to serve the remainder of the term.

The Council shall meet on a regular basis, not less than four times a year, to review the operations of the program and to make specific recommendations to address identified problems. The Council may elect to appoint professional or technical task groups, as necessary, to carry out specific functions if appropriate expertise is not sufficient in the Council. The Council shall submit a summary of their activities, analyses, and evaluation of the program with their recommendations for program improvement to the Secretary on an annual basis. The Secretary shall provide all necessary logistic, administrative, and financial support to the Council. Council members shall be compensated for each day spent on official Council business and reimbursed for official travel and business expenses. Compensation shall not exceed the maximum rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, U.S. Code.

In cases where the Council and the Secretary irreconcilably differ on major policy related to programs under this Act or the Council has evidence that the Secretary is not fulfilling his/her responsibilities under this Act to ensure affordable, comprehensive, high quality health care coverage for all eligible individuals, the Council may elect to issue a report to Congress.

Sec. 2743. Establishment of National Quality Assessment and Improvement Program Guidelines and Utilization Review Program Guidelines

Within one year of the enactment of this Act, the Secretary, in consultation with relevant government and non-government organizations as determined by the Secretary, shall develop national guidelines for quality assessment and improvement programs and national utilization review guidelines for certified plans under this Act. At a minimum, the National Committee on Quality Assurance, the National Association of Insurance Commissioners, private health care accreditation organizations, representatives of certified plans, and relevant maternal and child health care professional organizations shall be consulted. The quality assessment and improvement guidelines should be consistent with the concepts and principles of Continuous Quality Improvement/Total Quality Management (CQI/TQM). The national guidelines shall be specific for pediatric and maternal health care delivery systems to the extent possible. The guidelines shall be flexible and adaptable, and serve as the basis for each certified plan's quality assessment and improvement program and utilization review program.

At a minimum, certified plans must ensure that the following attributes are incorporated into a utilization review program: The utilization review program is clearly documented; only qualified licensed or certified health professionals with training/experience in pediatric or obstetrical care are used for specific case utilization reviews; persons involved in specific case utilization review do not have a financial interest or incentive to deny or limit utilization; descriptions and protocols for utilization review are disclosed to enrollees, affiliated providers, and appropriate state officials upon demand while protecting proprietary business information; criteria for review must be based on sound scientific principles and standard medical practice; and there is a mechanism for regular evaluation and modification of the program.

Sec. 2744. National Health Information Systems for Mothers and Children

Within one year of enactment of this Act, the Secretary shall implement the National Health Information System for Mothers and

Children. The Secretary, in consultation with states and representatives of certified plans, the Agency for Health Care Policy Research, the Health Resources and Services Administration, the Centers for Disease Control and Prevention, other agencies or nongovernment organizations as deemed fit by the Secretary, shall develop the specific data elements and operating procedures for a national information system.

Data from the information system shall be used for the purposes of: Monitoring and evaluation of certified plans, monitoring the health status of the population; supporting core public health functions; increasing capacity for health policy and program evaluation, planning, and research; quality assessment and improvement activities; improving provider coordination and access to care; and other purposes related to the public health.

States shall require that each certified health plan submit the requested data in electronic form under the guidelines established by the Secretary. The Secretary shall develop and freely distribute computer software that will allow states and certified plans to efficiently collect and transmit the requested data. States and certified plans are not required to use such software if they can fully comply with the data collection and reporting requirements with their own information system.

To ensure privacy of medical information, the Secretary and the states shall implement safeguards against unauthorized access to medically confidential information, and penalties shall be developed under section 2746 for such violations. Applicable state laws that protect medical confidentiality shall also apply to data collected under this Act excepting such laws that interfere with the uses of the data as specified in this Act. The state is responsible for ensuring reporting of data from certified plans and transmitting the data from all plans within the state to the Secretary. Data collected by certified plans shall be available to the plan, and data collected by the state shall be available to the state. States shall use these data and other information as deemed relevant by the state as the basis for their monitoring and evaluation of certified plans.

Certified plans must use the standards established by the Secretary and the state for all relevant administrative, financial, quality improvement, and public health activities covered under this Act. The Secretary and states shall ensure that any similar data reporting requirements for certified plans under other state and federal health programs are integrated with those established under this Act to the extent possible. In addition, the Secretary and states shall ensure that the resources and time required for certified plans to comply with the Secretary's and state's information standards are reasonable and not excessive.

Any state law that requires medical or health records, including billing information, to be maintained in written, rather than electronic, form shall be satisfied if such records are maintained in a manner consistent with the information system standards developed by the Secretary in this section.

Sec. 2745. National Childhood Immunization Database

To reduce missed opportunities for immunization with the goal of 100% age-appropriate immunization coverage for children, the Secretary shall establish a National Childhood Immunization Database as part of the National Health Information System for Mothers and Children. The database shall contain up-to-date information regarding childhood immunization on every child enrolled in a certified plan under this Act. This database would ensure that current immunization information is available on a real time basis to health care providers who need the information to access appropriate immunizations. Information in this database shall be accessible to the child's enrolled plan electronically or by toll free telephone. If the child presents to a certified plan other than his/her enrolled plan, the presenting plan or public health authorities may access the child's immunization record if it is needed to assess the need for appropriate immunization. Certified plans shall ensure that electronic immunization records are brought up-to-date as required under the guidelines developed by the Secretary and the state.

All certified plans participating in a State program under this title and all other health plans not participating under this title but located in a participating State under this title and providing 10,000 or more childhood immunizations per year, shall participate in the National Childhood Immunization Database.

Nothing in this title shall be construed as preempting existing state or federal statues regarding disease reporting or reporting of other health-related data to local, state, and federal health authorities. However, in the design of the National Health Information System for Mothers and Children, the Secretary and the states shall integrate existing health data reporting requirements with the proposed system to the extent possible.

Within one year of enactment of this Act, the Secretary shall establish penalties for unauthorized use of data collected under the requirements of this Act, including the sale or transfer of data for commercial use or use of data for illegal activities.

Sec. 2746. Prevention, Monitoring, and Control of Fraud and Abuse

Within 180 days of the enactment of this Act, the Secretary and the U.S. Attorney General shall establish a federal program and develop state guidelines for preventing, monitoring, and investigating fraud related to this program. The duties of the federal program include assisting states in monitoring and control of fraud and abuse, and investigating and prosecuting individuals and certified plans whose activities cross state lines.

Within 180 days of the enactment of this Act, the Secretary and the U.S. Attorney General shall submit to Congress a legislative proposal for civil and criminal penalties for fraud and abuse or other violations by individuals and certified plans related to any aspect of this Act unless such penalties are already specified in this Act.

Prior to transfer of federal funds to a state, the state health department and state attorney general shall establish a system for preventing, monitoring, and investigating fraud and abuse that occurs within the state. The state program must have the authority to prosecute individuals or certified plans for criminal activities. This state program shall also solicit consumer feedback, investigate complaints and assist in the resolution of consumer complaints against certified plans. Such a state system may be integrated with existing systems for controlling Medicaid fraud and abuse. The state system shall have a formal mechanism for sharing information and working with its federal counterpart. The state system shall submit an annual report summarizing its activities to the program established by the Secretary and the U.S. Attorney General.

Federal or state guidelines developed and implemented under this section shall be developed in recognition of the differences among the various types of health plans and be applicable to all health plans.

Any funds recovered or fines collected related to fraud and abuse shall be deposited in the trust fund of the state where the fraud and abuse occurred. Funds recovered on a national or regional level shall be apportioned by the Secretary among the states involved.

Any certified plan, health care provider, or other individual or entity participating in a state or federal program under this Act, that has been found guilty of fraud or abuse, shall not be allowed to continue or renew a contract with a state or federal government program under this Act, or otherwise participate in a program under this Act, for a period not less than five years, unless there is compelling reason to allow such participation (e.g., in the case where the plan or provider is the only source of services in an area) as determined by the Secretary.

Sec. 204. Grants to Improve the Health of Children and Pregnant Women

Amends title XXVII of the Public Health Service Act.

Sec. 2751. Establishment of Program and Eligible Activities

Authorizes the Secretary to use monies in the Trust Fund to award grants to states, universities, and other nonprofit organizations, for the following purposes: increasing capacity of the primary care health system; developing and enhancing enabling services; increasing access to health services in rural and underserved areas (including the use of telecommunications and computer technology such as telemedicine and information systems); supporting school-based health programs; enhancing core public health functions of state and local health departments; supporting health promotion and disease prevention, including population- and community-based health assessments and interventions; supporting biomedical, social science, health policy, and public health research; supporting pediatric- and maternal-specific quality assessment and outcomes research to improve health plan and program accountability including quality assessment of services for children with disabilities and chronic health conditions; development and implementation of clinical practice guidelines; and other purposes related to improving the health of children and pregnant women.

All funded activities must be primarily targeted, but need not be exclusively targeted towards children (under 21 years) or pregnant women.

All grant proposals will be evaluated on a competitive basis. The Secretary shall ensure, however, that at least 50% of funds awarded annually to states, universities, or organizations within a specific state, support activities that are not directly related to the delivery of health care services, such as research, public health, community health, and health promotion and disease prevention activities.

The Secretary may elect to designate existing Department of Health and Human Services agencies to administer the grants in this title. However, the Secretary shall ensure that any monies transferred from the Trust Fund are only used to support grant awards under this title, there is a full accounting of such monies, and that there is maintenance of effort regarding current federal grant funding for maternal and child health activities. In addition, the Secretary shall ensure that all federally-funded activities related to material and child health are

coordinated and integrated to the extent possible, and that such activities are consistent with the strategic plan outlined by the Secretary in section 2754.

Sec. 2752. Eligibility and Application Process

To be eligible for funding, states must be a participating state under this Act, and universities and other nonprofit organizations must be located in a participating state. There shall be a single application procedure for all grants awarded under this title.

Sec. 2753. Matching of Federal Funds and State Maintenance of Effort

There is a matching of federal funds requirement for grants awarded under this title. States, universities, and nonprofit organizations shall match federal funds on a 1:9 basis (States or other applying entities shall provide $1 in funding for every $9 in federal funds). Matching funds may be in cash or in kind such as equipment, facilities, personnel, or services. Private sector funds may be solicited to partially or fully subsidize matching funds on behalf of states, universities, and nonprofit organizations.

States receiving grant awards under this title shall also be subject to a maintenance of effort requirement that the state maintains a level of state funding for the activity covered by the grant award that is at least equal to the level in the year previous to the grant award for the duration of the grant award.

Sec. 2754. Development of Priority Areas and Funding Criteria

Within 180 days of this Act's enactment, the Secretary shall develop a five-year strategic plan that outlines the national priorities for maternal and child health, including priority areas for funding, short- and long-term objectives, specific criteria for determining merit of funding proposals, standards for monitoring and evaluating funded activities (including outcome and performance measures), and administrative procedures for processing proposals. In addition, the strategic plan should specifically review existing federal programs related to maternal and child health and develop national priorities for research, population-based activities, and other activities outlined in section 2751.

In determining the evaluation criteria for funding proposals, the Secretary shall consider the following attributes: technical and scientific merit, relative need of the population or geographic area targeted, potential positive impact of activity on advancing the goals of the Healthy People 2000 objectives, innovation in program design and cost effectiveness, application of current scientific and medical knowledge, integration with existing similar health programs or research, quality control and program accountability, and other attributes deemed to be relevant by the Secretary.

Sec. 2755. Coordination and Integration of Funded Activities

The Secretary shall ensure that the functions of funded activities are fully integrated and coordinated with similar existing federally funded activities, and the states shall ensure that funded activities are fully integrated and coordinated with similar state and locally funded activities.

To ensure coordination of related activities and programs within the state, universities and other nonprofit organizations that apply for funds under this section must initially submit their proposal to the state for review and comment before submitting the proposal to the Secretary. Proposals submitted to the Secretary shall be accompanied by the state's comments and the submitting organization's response to the state's comments. All proposals must describe existing similar programs in the targeted community and describe how the proposed program will be coordinated and integrated with existing similar programs, including state Title V maternal and child health programs.

Sec. 2756. Annual Budget

The total annual budget for such grants shall not exceed 5% of the total federal funds transferred into the Trust Fund in that year.

Sec. 205. Responsibilities of Families, Certified Plans, Employers, States and the Federal Government

Amends Title XXVII of the Public Health Service Act.

PART G—RESPONSIBILITIES OF FAMILIES, CERTIFIED PLANS, EMPLOYERS, STATES, AND THE FEDERAL GOVERNMENT

Sec. 2761. Responsibilities of Families

Families with uninsured children under seven years of age and uninsured pregnant women are responsible for: enrolling their age-eligible children or themselves into a certified plan; paying their share of premiums and copayments; and assuming an active role and participating in the health care system to ensure that their children receive appropriate, high quality health care.

Sec. 2762. Responsibilities of Certified Plans

All certified health plans participating in state programs under this Act shall: be certified by their state and fulfill all requirements for such certification or recertification and participate in a national open enrollment period and allow for point-of-service enrollment.

In the case of families who have at least one eligible child enrolled in the plan and other children who are not eligible under this Act due to age limitations, also offer optional family enrollment for additional older children who are not eligible under this Act as a reasonable cost. (The premium subsidy, however, shall be calculated based on the prorated portion of the premium assessed for the eligible children. The family shall be responsible for the portion of the family premium amount in excess of that ordinarily assessed for the eligible children under this Act.)

In the case of a family that has at least one eligible child enrolled in the certified plan and one or more other children who are eligible for health services under Medicaid but not eligible for coverage under this title, offer health services under Medicaid for such other children in the family.

Not discriminate against persons during marketing, enrollment, or provision of services based on pre-existing conditions, genetic predisposition of health conditions, medical history, expected utilization of services or health expenditures, race, ethnicity, national origin, religion, age (within the eligible age group), gender, income, or disability. The plan must accept any applicant who is eligible within the geographic area served by the plan and may not deny enrollment to any eligible person except on the basis of documented plan capacity. In addition, in the case of currently enrolled individuals who are re-enrolling in the plan, such persons cannot be denied re-enrollment even on the basis of plan capacity.

Not use excessive pressure, misleading advertising or marketing, or other unethical practices to coerce or discourage certain persons or groups from enrolling into the plan or disenrolling from the plan.

Establish a system for collecting premiums and copayments; not drop an individual from the plan except in cases of failure to pay for premiums or copayments, fraud and abuse, or withdrawal of the health plan from the market. The plan must notify the state of its intention to drop an enrolled individual not later than 60 days before discontinuing the enrollee's coverage.

Not impose a waiting period before coverage begins and provide for and cover all health benefits as specified under sections 2721 and 2722, and shall consider the premium amount negotiated by the state under this Act to be the full premium. Other than authorized copayments, there shall not be any additional charges for covered services.

Not exclude coverage or deny care for any pre-existing conditions, congenital conditions, or genetic predispositions to conditions that are covered by the comprehensive benefits package.

Ensure that a choice of primary care providers is available, and that primary care and preventive services are readily available and convenient to all plan members within the geographic area served, and that emergency services are available on a 24-hour basis, seven days a week.

Establish a program for credentialing and performance monitoring of providers. In addition, adequate health provider to enrolled ratios shall be established.

Provide strong, comprehensive preventive health and patient education services.

Ensure that the special health needs of children with disabilities or chronic health conditions are adequately met. If sufficient capacity to deliver health services for such children do not exist within the certified plan, including pediatric specialty and subspecialty care, the plan must enter into agreements with such providers or facilities to provide appropriate care.

To the extent that such resources or services are not available within the plan, provide access to an integrated child and maternal health care network, which consists of a network of providers who together can provide for the full continuum of health care, including preventive, primary, secondary, tertiary, rehabilitation, chronic and long-term care, home care, and hospice care. This network must specifically include access to pediatric and maternal specialty and subspecialty care. In areas covered by the plan, the plan shall enter into cooperative agreements with providers or facilities to provide the continuum of care if resources to provide such care are not available within the plan. If medically-indicated subspecialty care is not available within the geographic area, the plan shall provide transportation to the nearest appropriate facility.

Cover emergency care obtained in out-of-area or out-of-state facilities as long as the health condition was certified to be an emergency by the attending physician or could have been reasonably assumed to be an emergency by the family; and cover deliveries of newborns at nonhospital facilities in areas where such facilities are available.

Make a reasonable effort to provide language translation services in areas where languages other than English are relatively common.

Implement disincentives (e.g., high copayments) for inappropriate use of emergency rooms for nonemergency care; and provide incentives (e.g., reduced premiums, premium rebates, additional services) for enrollees and their families to follow medical and public health recommendations for immunizations, prenatal care, health behaviors, or other preventive health guidelines.

Implement an information system to collect and report data as specified in sections

2744 and 2745; implement a quality assessment and improvement program and utilization review program as specified in section 2743; and within the guidelines developed by the state, submit an annual evaluation and quality improvement plan, including an evaluation of the plan's cost containment measures, assurance of quality care, impact on the health status of the enrolled population (including outcome measures and process objectives), a financial statement, proposed changes in premium rates, and other relevant changes to the plan. The state shall provide guidance to certified plans on the elements of an acceptable annual evaluation and quality improvement plan. The state may use the annual evaluation and quality improvement plan as the basis for recertification of plans.

Establish a program for consumer feedback and resolution of consumer complaints that includes specified time frames for decision. The program shall be clearly documented and made available to all enrollees.

In consultation with local health departments and maternal and child health programs under title V of the Social Security Act, establish, support, or substantially participate in a community-based maternal and/or child health program in the coverage area served by the plan.

Comply with any other relevant state or federal regulations.

In order to minimize regulatory burden and potentially duplicative standards and regulations, a certified plan shall be considered as fulfilling a requirement or complying with a standard under this Act, if the plan is already meeting an existing state or federal requirement or standard that has been deemed to be identical or at least as effective as that specified under this Act, by the state or the Secretary (as appropriate).

The requirements and guidelines specified in this Act shall not apply to health plans that do not participate in a state program under this Act, and shall not apply (unless the plan elects for such requirements to apply), to the care and treatment of individuals in the plan who are not enrolled in the state program under this Act.

Sec. 2763. Responsibilities of Employers

Under this Act, employers shall: in the case of an employer who provides health benefits to pregnant women, not drop such coverage as result of this Act; and in the case of an employer who provides health benefits to employee dependents under seven years of age, not drop such coverage unless the employer agrees to pay the temporary maintenance-or-effort fee specified in section 2771. The employer is restricted from dropping such coverage until 180 days after the implementation date of the State program.

Sec. 2764. Responsibilities of States

Under this Act, participating states shall:

Develop and submit an approved initial five-year strategic plan and annual evaluation and quality improvement plans to the Secretary.

Develop a process for certifying and re-certifying health plans under this Act. The criteria for certification shall include, but are not limited to, an evaluation of minimum capital requirements, solvency requirements, and other standards related to financial stability, premium rating methodology, quality of services provided by the plan, and ability of the plan to provide required services. Certified plans shall be re-certified at least once every four years and when the plan has undergone significaticant changes such as a merger or other changes as determined by the state.

Establish a system whereby the state shall solicit and evaluate proposals from all interested certified plans operating in the state, and enter into cooperative agreements with certified plans. In order to maximize the choice of plans in an area, states shall ensure that any certified health plan that fulfills all state and federal requirements and guidelines under this Act, and is otherwise in good standing with the state, is allowed to participate in the state program. In addition, states may elect to enter into risk and/or profit sharing agreements with all or selected certified plans. States may elect to implement rate margin provisions in their agreements with certified plans such that, at the end of a contract period, certified plans would be reimbursed by the state if incurred costs exceeded anticipated costs, and states could recover excess premiums from the plan if incurred costs are less than anticipated costs at the time of rate negotiation.

Implement risk adjustment methods, reinsurance mechanisms, or other mechanisms to ensure that state payments to specific certified plans are reflective of the expected utilization or expenditure rates of its enrollees and to protect specific certified plans that enroll a disproportionate share of persons who are expected to have higher than average utilization or expenditure rates.

Ensure that the plans' premium rating methodologies are well documented, actuarially sound, and minimize large variations in annual premium rates; and directly reimburse each certified plan for the state's portion of the negotiated premium for enrolling eligible children and pregnant women.

Ensure that the premiums negotiated with each certified plan applies for all eligible children and applies for all eligible pregnant women who enroll in the plan; negotiate with certified plans discounted premiums for families with multiple children (i.e., if the premium for a family with a single child enrolled is $100, the premium for a family with two children enrolled shall be less than $200); and ensure that negotiated premium rates fairly compensate certified plans for their services, but that such rates do not result in excessive profits by plans.

Offer families a choice of certified plans to the extent possible as long as at least one managed care plan for children is available to all eligible children regardless of geographic location.

May use financial or other incentives to encourage adequate coverage of rural and undeserved areas.

Develop and implement an open enrollment system during the national open enrollment period consistent with the guidelines specified in section 2715; and implement an outreach program to maximize enrollment of eligible individuals.

Ensure that certified plans accept any applicant who is eligible within the geographic area and do not discriminate or use coercive or unethical practices to encourage or dissuade enrollment into their plan.

In determining or approving the boundaries of coverage areas for certified plans, ensure that the coverage areas are consistent with the anti-discrimination standards specified in section 2762, and that such boundaries do not result in plans avoiding enrollment of persons who are expected to have higher than average rates of utilization or expenditures.

Impose a surcharge for persons who enroll outside of the regular open enrollment period as specified in section 2715; and monitor, evaluate, and address the potential barriers, including cost sharing requirements, that may prevent certain families, especially low income families, from enrolling in the state program or from obtaining health services after enrollment.

Develop a mechanism to assist families who cannot temporarily pay for premiums or copayments due to unexpected shortfalls in income; in the case of fee-for-service plans, the state must use pediatric- and maternal-specific prospective payment schedules for the reimbursement of services. Such schedules shall be negotiated between providers, plans, and the state.

Ensure that any relevant health services provided by local and state health departments are integrated and coordinated with the state program under this Act; and establish a state advisory council analogous to the national council under section 2742, except that the composition, organization, and other guidelines for the state council shall be determined by the state. The majority of state council members, however, must be comprised of health care providers and consumers.

Develop and implement standards for dissemination of consumer information provided by certified plans, provide consumers with comparative information on certified plans during the open enrollment period as requested, and set up hotlines and other mechanisms to assist consumers. Standards for consumer information must address services for children with special health care needs. States shall approve all advertising or other marketing materials from participating plans to ensure that such materials do not contain misleading or false information, and that the content of the material does not selectively encourage or selectively discourage certain groups of persons from enrolling in or disenrolling from the plan. States may elect to contract with non-government entities to perform these functions. States shall ensure that decisions regarding the approval of advertising or other marketing materials are made in a reasonable time frame and are based on consistently applied criteria as determined by the state.

Establish a mechanism for consumer feedback, collection of complaints, filing of grievances, and assist in the resolution of complaints against certified plans. Establish at least one alternative dispute resolution mechanism for malpractice claims filed by persons enrolled in a certified plan.

Address deficiencies in enabling services to ensure access to health services among underserved areas or populations; and ensure that primary care services are accessible by public transportation in municipalities that have a public transportation system.

For a period not less than five years, ensure that health facilities that provide care to large numbers of children, pregnant women, children with special health care needs, or low income persons, including non-investor-owned hospitals, community health centers, school-based health clinics, rural health clinics, and local health departments, are able to participate fully in the state program, are adequately reimbursed for their services, and are able to enter into agreements with certified plans. In cases where such providers are not affiliated with a certified plan, the state may encourage such providers to form their own certified plan.

Enter into agreements with bordering states to ensure that persons who need to travel across state borders for medically necessary health services that are otherwise not accessible may do so without penalty.

May elect to implement laws to take legal action against families who fail to enroll

their children or who fail to pay premiums for children under their care who require medical treatment for a health condition.

Establish a system for preventing, monitoring, and controlling fraud and abuse as specified in section 2746. In addition, establish a system to prevent and address any conflicts of interest on the part of the state or its designated representatives regarding the award, management, or evaluation of contracts with certified plans, ensure that certified plans are in compliance with state and federal guidelines under this Act.

Sec. 2765. Responsibilities of the Secretary of HHS

Establish and administer the Trust Fund as specified in Part A; approve, evaluate, and monitor state programs as specified in Parts D and E; provide states with technical and or other assistance; establish, appoint, and support the Council as specified in section 2742; and establish and coordinate the national open enrollment period as specified in section 2715.

Develop a specific comprehensive benefits package as specified in section 2721; develop national guidelines for quality assessment and improvement programs and utilization review programs as specified in section 2743; and develop and implement the National Health Information System for Mothers and Children and the National Childhood Immunization Database as specified in sections 2744 and 2745.

Review, prioritize, integrate, and coordinate federally funded material and child health programs as specified in sections 2754, 2755, and 2773.

In conjunction with the US Attorney General, establish a system for preventing, monitoring, and controlling fraud and abuse as specified in section 2746.

Devleop and administer the grants program to support states, universities, and nonprofit organizations for the purposes of improving the health of mothers and children as specified in 2751.

Sec. 2766. Responsibilities of the US Attorney General

In conjunction with the Secretary of HHS, establish a system for preventing, monitoring, and controlling fraud and abuse as specified in section 2746.

Sec. 2767. Responsibilities of the Secretary of Agriculture

Establish and administer the Tobacco Alternatives Trust Fund as specified in section 9512

Sec. 205. Existing Programs

Amends title XXVII of the Public Health Service Act.

PART H—IMPACT ON EMPLOYERS AND EXISTING PROGRAMS

Sec. 2771. Impact on Employers

Employers are encouraged to, but not required to, provide or continue to provide comprehensive health services to their employees' dependent children. In participating states, employers who provide health benefits for an employee's dependent children at the time of enactment of this Act and drop their coverage of all children or children under seven years after the enactment of this Act, shall be subject to a temporary annual maintenance of effort fee, which will be deposited into the Trust Fund. The fee will be equivalent to 50% of the estimated annual cost of providing comprehensive coverage for all employee-dependent children. The annual fee shall be in effect for a period not to exceed five years.

In no case, however, shall the employer drop such coverage until 180 days after the implementation date of the respective state program. Employers shall not selectively drop coverage for specific employee-dependent children who have, or are expected to have, higher than average utilization or health care costs. Employers who provide pregnancy-related benefits for their employees and dependents shall continue to do so after the implementation of this Act. (The Pregnancy Discrimination Act of 1978 would remain in effect.) Funds from the temporary employer maintenance of effort fee shall be transferred by the Treasury of the United States into the Trust Fund.

Sec. 2772. Impact on Medicaid

In participating states, children under seven years and pregnant women who are enrolled in Medicaid shall be automatically enrolled into the respective state program under this Act, and all health benefits, including long-term and chronic care services for children with disabilities or chronic health conditions, shall be received under the state program. States may elect not to shift long-term and chronic care services for children with disabilities or chronic health conditions into the state program under this Act, if the state can demonstrate that doing so would significantly compromise the quality of care for such children. However, states that elect not to shift long-term and chronic care services into the state program under this Act must develop health care coordination plans that integrate the various sources of health services for such children in consultation with state Title V maternal and child health programs. States may also elect to establish a transitional period to gradually phase in children with disabilities or chronic health conditions into the state program.

Federal Medicaid payments to states towards the care of children under seven and pregnant women in effect at the time of enactment of this Act shall be shifted to the Trust Fund. Except for the state-federal matching requirements specified in sections 102 and 503, there is no additional maintenance of effort required on the part of the states' Medicaid contribution towards the care of the targeted group.

There is no impact on the Medicaid program for noneligible children seven years of age and older under this Act. Applicable federal guidelines and payments to the state towards the care of these children shall remain in effect. States are required to maintain their effort towards the Medicaid program for children who are not eligible under this Act. There is no impact on the Medicaid program for states that do not participate under this Act.

Sec. 2773. Integration of Health Services and Impact on Existing Federal and State Government Health Programs

Every two years after the enactment of this title, the Secretary, in consultation with the Maternal and Child Health Bureau, shall review all federal maternal and child health programs. Participating states, acting through a single designated lead agency, in consultation with state health programs authorized under Title V of the Social Security Act, shall review state-funded programs that provide health services to children under seven and pregnant women to ensure that these programs are integrated and coordinated with the services covered by this Act. If the Secretary determines that specific functions performed by federal health programs under review are duplicated or made extraneous by the benefits provided under this Act, then the Secretary may recommend to Congress that the federal program, or portions of the program, be eliminated or reduced. The most recent year appropriation for the program or portion of the program shall be transferred to the Trust Fund. Similarly, states shall deposit any savings from duplicated state-funded services to the state-specific trust fund (this does not apply to the state contribution to the Medicaid program).

In all cases, however, the Secretary and the states shall ensure that federal Title V funds and matching state funds are retained within existing programs to meet the needs of children over seven years, and eligible children and pregnant women who do not participate in the state program under this Act, to perform core public health functions, to coordinate care for children with special health care needs, and otherwise to meet needs identified through Title V needs assessments consistent with Healthy People 2000 objectives.

Sec. 207. General Provisions

Amends title XXVII of the Public Health Service Act.

PART I—GENERAL PROVISIONS

Sec. 2781. Definitions

For purposes of this legislation, the following are definitions of terms used:

Adjusted family gross income—means the sum of all adjusted gross income of all family members of the child or pregnant women involved in the most recent tax year. In the case of a pregnant woman, such term also includes the adjusted gross income of the pregnant woman.

Advisory council—means the National Advisory Council for Mother's and Children's Health established under section 2742.

Certified plan—means the agreement entered into by an organized health care entity to cover or provide specified health care services under State and Federal guidelines under this title. Organizations that may enter into such agreement shall include health maintenance organizations, preferred provider organizations, point-of-service plans, fee-for-service plans, indemnity insurance plans, hybrids of such plans, and any other organized health care entities that fulfill the requirements of this title.

Child—In general means an individual who has not attained the age of 21. References in this title to a child shall be construed to mean, in the case of a State program that does not have an expanded access component, an individual under 7 years of age and, in the case of a State program that offers an expanded eligibility component, an individual under 21 years of age.

Comprehensive benefits package—means either the benefits package for children or the benefits package for pregnant women, as the case may be, developed by the Secretary under section 2721.

Core public health functions—means the following: (A) The collection and analysis of public health-related data and the technical aspects of developing and operating information systems. (B) Activities related to protecting the environment and ensuring the safety of workplaces, food, and water. (C) Investigation and control of adverse health conditions and exposures to individuals and the community. (D) Information and education programs to prevent adverse health conditions. (E) Accountability and health care quality improvement activities. (F) The provision of public health laboratory services. (G) Training for public health professionals.

(H) Health care leadership, policy development, coalition-building, and administrative

activities. (I) Integration and coordination of prevention programs and services of health plans, community-based providers, government health agencies, and other government agencies that affect health including education, labor, transportation, welfare, criminal justice, environment, agriculture and housing. (J) Research on effective and cost-effective public health practices.

Enabling services—means community outreach, health education, transportation, language translation, and other services that facilitate or otherwise assist eligible individuals to receive health service provided under this title.

Family—means a pregnant woman residing alone or a group of two or more individuals who reside together in the same housing unit. Such individuals may be related (such as parent and child) or unrelated (such as guardian and foster child) individuals. In the case of children who do not reside with their parents, such term may also include individuals (such as family friends) or entities (such as government agencies) that have primary responsibility for the health and welfare of the child.

Information system—means the National Health Information System for Mothers and Children established under section 2744.

Participating state—means any of the 50 States, the District of Columbia, Puerto Rico, and any of the trust territories of the United States, that elects to participate in the program established under this title.

Poverty level—means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Service Block Grant Act (42 USC 9902(2)) applicable to a family of the size involved.

Tobacco alternatives trust fund—means the trust fund established under section 9512 of the Internal Revenue Code of 1986.

Trust fund—means the National Health Trust Fund for Mothers and Children established under section 9551 of the Internal Revenue Code of 1986.

Sec. 2782. Authorization of Appropriations

From the Trust Fund, the Department of Health and Human Services and the Department of Justice is hereby authorized such sums as may be necessary for each of the fiscal years 1996 through 2000 to develop and implement the requirements of this Act.

Sec. 208. Unlawful Use of Tobacco Products Manufactured for Export

Amends section 2341 of title 18 USC.

Any person or business entity who illegally purchases, sells, distributes, or smuggles (or assists in these activities), tobacco products that are manufactured in the US and designated for export only shall be subject to a fine of $10,000 or an amount equal to five times the tax imposed under this Act, in addition to any taxes ordinarily assessed for such tobacco products. Any equipment or vehicles (includes ships, aircraft, motor vehicles, etc.) used to illegally transport export-designated tobacco products in the US shall be confiscated and deemed to be the property of the US. Any penalties recovered from successful prosecution of these illegal activities, including the proceeds from sale of related equipment and vehicles, shall be transferred to the Trust Fund.

TITLE III—FINANCING PROVISIONS

Sec. 301. Increase in Taxes on Tobacco Products

Amends section 5701 of IRS Code 1986.

Sec. 5701. Rate of Tax

Federal excise taxes on cigarettes offered for sale in the US shall increase over the existing tax ($0.24/pack) by $1.50/pack. There shall also be an equivalent tax increase for smokeless tobacco products calculated on an equivalent retail unit basis (e.g., $1.50 increase per package of chew tobacco and similar increase per tin of snuff). In addition, an equivalent increase shall apply to cigars, cigarette papers, cigarette tubes, or other products that are used to "roll your own" cigarettes. The total federal excise tax shall be indexed to the CPI in subsequent years and recalculated on an annual basis.

Sec. 302. Assistance to States Adversely Impacted by Tobacco Tax

Amends subchapter A of chapter 98 of the Internal Revenue Code of 1986.

Sec. 9512. Tobacco Alternatives Trust Fund

To minimize the potential economic impact of the increased tax on tobacco farmers and tobacco industry workers, the Tobacco Alternatives Trust Fund is established at the time of enactment and shall exist for a period not to exceed five years. Every year, 2% of the annual federal revenue from the increased tobacco tax will be deposited into the Tobacco Alternative Trust Fund. Monies from this Fund shall be allocated on an annual basis by the Secretary of Agriculture to states adversely affected by the tobacco tax.

States that are significantly impacted by the tax shall develop an initial five-year strategic plan for assisting tobacco farmers and tobacco manufacturing/production workers who are adversely affected by the increased tobacco tax. The strategic plan must be approved by the Secretary of Agriculture before any federal monies are provided to the state. The Secretary shall allocate funds on an annual basis to each state based on a formula that takes into account the number of farmers and workers affected in that state and the severity of the economic impact. Monies from the Fund may be used for direct payments to tobacco farmers or workers, assisting farmers in converting to alternative crop and livestock production, infrastructure and business-related financing in impacted areas with significant numbers of tobacco-related jobs, job training, and other economic development projects that the state considers worthwhile upon approval of the Secretary of Agriculture.

Each year the states receiving monies from the Fund shall submit to the Secretary of Agriculture an annual report documenting the economic impact of the tax, an evaluation of their program activities, and their improvement plan for the coming year. Upon approval by the Secretary, the state's annual allocation from the Fund shall be transferred to the state.

Administrative costs for this program are limited to 5% of annual program expenditures and shall be offset by monies in the Tobacco Alternatives Trust Fund.

Sec. 303. Designation of Overpayments and Contributions for the National Health Trust Fund for Mothers and Children

Amends subchapter A of chapter 61 of the Internal Revenue Code of 1986.

PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR THE NATIONAL HEALTH TRUST FUND FOR MOTHERS AND CHILDREN

Sec. 6097. Amounts for the National Health Trust Fund for Mothers and Children

Beginning with the first full tax year subsequent to the enactment of this Act, every individual (or couple in the case of joint returns) filing a tax return shall have the option of making a contribution to the Trust Fund through either electing to donate any portion (not less than $1) of a tax overpayment for that year, or electing to make a cash contribution to be transferred to the Trust Fund. These mechanisms for contributions through tax returns shall not apply in the second year subsequent to any year where the total contributions designated from tax returns are less than $5 million.

In addition, any individual, corporation, foundation, or private sector entity may elect to donate monies to the Trust Fund or to one of the state trust funds established under this Act at any time. Charitable donations to the state or national trust funds shall be considered tax deductible donations to the extent allowed by federal and state tax laws.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to commend the distinguished Senator from Illinois for the presentation he made, and for the effort he is making to cover pregnant women and children. I certainly will look at the legislation he has presented.

I think it is a great help in this ongoing debate that we are having that the Senator has stepped forward with this legislation, which seems to me to hold a lot of promise.

As he mentioned, always the funding part is difficult. But, nonetheless, I agree with the source of funding from the increased tax on cigarettes. I am not sure everybody else will enthusiastically embrace it. But I think the Senator mentioned Rhode Island and what we are doing to fund this program. There may have to be, in fact, an increase in the price of cigarettes, which will hopefully keep them away from those who are price sensitive in connection with purchasing that kind of deleterious substance.

So, again, I think it is wonderful what the Senator has done. I take it that the Senator has not yet introduced that legislation.

Mr. SIMON. I just introduced it. I welcome any suggestions for a modification. I welcome having JOHN CHAFEE, as well as the distinguished junior Senator from Utah, as cosponsors, if at any point they feel comfortable doing that.

Mr. CHAFEE. I will certainly take a good look at it. I will get a copy either from the Senator's office or from the reprint here, and take a good look at it.

Mr. SIMON. I thank the Senator.

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 308

At the request of Mr. HATFIELD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 308, a bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health, medical research, and reduction of fraud and abuse, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 356

At the request of Mr. SHELBY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 440

At the request of Mr. WARNER, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor 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. 526

At the request of Mr. GREGG, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 526, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 555

At the request of Mrs. KASSEBAUM, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 555, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health education programs, and for other purposes.

S. 585

At the request of Mr. SHELBY, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Minnesota [Mr. GRAMS], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 585, a bill to protect the rights of small entities subject to investigative or enforcement action by agencies, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 770

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 830

At the request of Mr. SPECTER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 830, a bill to amend title 18, United States Code, with respect to fraud and false statements.

AMENDMENT NO. 1283

At the request of Mr. WELLSTONE his name was added as a cosponsor of amendment No. 1283 proposed to S. 652, an original bill to provide for a procompetitive, 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.

SENATE RESOLUTION 134—RELATIVE TO THE SECRETARY OF THE SENATE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 134

Whereas Sheila P. Burke faithfully served the Senate of the United States as Secretary of the Senate from January 4, 1995 to June 8, 1995, and discharged the difficult duties and responsibilities of that office with unfailing devotion and a high degree of efficiency; and

Whereas since May 26, 1977 Sheila P. Burke has ably and faithfully upheld the high standards and traditions of the staff of the Senate of the United States for a period that includes 10 Congresses, and she continues to demonstrate outstanding dedication to duty as an employee of the Senate; and

Whereas through her exceptional service and professional integrity as an officer and employee of the Senate of the United States, Sheila P. Burke has gained the esteem, confidence and trust of her associates and the Members of the Senate: Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Sheila P. Burke to the Senate and to her country and expresses to her its appreciation and gratitude for her long, faithful and continuing service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sheila P. Burke.

SENATE RESOLUTION 135—AUTHORIZING THE REPRESENTATION OF SENATE EMPLOYEES BY LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 135

Whereas, the plaintiffs in *Schneider* v. *Schaaf*, Civ. No. 95-C-1056 and *Schneider* v. *Messer*, Civ. No. 93-C-124, civil actions pending in state court in North Dakota have sought the deposition testimony of Ross Keys, a former Senate employee who worked for Senator Kent Conrad and documents from Senator Conrad's office;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it

Resolved, That Ross Keys is authorized to produce records and provide testimony in the cases of *Schneider* v. *Schaaf* and *Schneider* v. *Messer*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Ross Keys in connection with the testimony authorized by section 1 of this resolution.

AMENDMENTS SUBMITTED

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995 COMMUNICATIONS DECENCY ACT OF 1995

PRESSLER AMENDMENTS NOS. 1422–1423

Mr. PRESSLER proposed two amendments to the bill, S. 652 to provide for a procompetitive, 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:

AMENDMENT NO. 1422

In section 623(m)(2) of the Communications Act of 1934 (as added by section 204 of the bill on page 70), strike "and does not, directly or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier." And insert "and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

AMENDMENT NO. 1423

In section 262 of the Communications Act of 1934, as added by section 308 of the bill—

(1) Strike subsection (e) and insert the following:

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

(2) Strike subsection (g) and insert the following:

"(g) REGULATIONS.—The Commission shall, not later than 24 months after the date of enactment of the Telecommunications Act of 1995, prescribe regulations to implement this section. The regulations shall be consistent with the guidelines developed by the Architectural and Transportation Barriers Compliance Board in accordance with subsection (e).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, June 15, 1995, in open session, to receive testimony on the current situation and policy options in Bosnia.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on affirmative action in employment, during the session of the Senate on Thursday, June 15, 1995 at 2 p.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be permitted to meet on Thursday, June 15, 1995 for a hearing on the Election Commission's budget authorization request for fiscal year 1996.

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

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 15, 1995, to conduct a hearing on the administration's proposal to restore section 8 rents to market rates on multifamily properties insured by FHA.

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

SUBCOMMITTEE ON PRODUCTION AND PRICE COMPETITIVENESS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Production and Price Competitiveness be allowed to meet during the session of the Senate on Thursday, June 15, 1995 at 9 a.m., in SR-332, to discuss commodity policy.

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

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND GOVERNMENT INFORMATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Government Information for the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 15, 1995, at 9:30 a.m. to hold a hearing on the militia movement in the United States.

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

ADDITIONAL STATEMENTS

TRIBUTE TO LINDSEY NELSON

• Mr. THOMPSON. Mr. President, Lindsey Nelson, Tennessean, died this week. He left behind a rich national heritage in broadcasting matched by very few in our history. During his life he was voted by his peers into the Baseball Hall of Fame at Cooperstown; the Broadcasters' Hall of Fame; and the Pro Football Hall of Fame in Canton, OH.

He richly deserved this recognition for his remarkable achievements in sports broadcasting.

After working in administration at NBC in New York City for a number of years, Mr. Nelson took to the airwaves and started his career in broadcasting.

In 1962, he became the announcer for the just-formed New York Mets, where he remained for 17 years. Working with Ralph Kiner and Bob Murphy, he broadcast the Miracle Mets' World Series season of 1969.

Later he became the voice of the San Francisco Giants. He also broadcast Notre Dame football during his distinguished career, along with many of our Nation's great sporting events, including the Masters Golf Tournament and the Cotton Bowl.

But, as distinguished as Lindsey Nelson's career was at the national level, he was first and foremost a son of Tennessee. He graduated from the University of Tennessee in 1941. While in UT he tutored English to football players, and planned to go into sports writing.

However, the Second World War intervened, and Mr. Nelson joined the Army and saw battle duty in Italy, Germany, and France. He won seven battle campaign stars and a Bronze Star.

After the war he did the play-by-play for the University of Tennessee football team. In 1949 he founded the Vol Network, and became the university's sports information director in 1951. He also did announcing for the school's basketball games and the Knoxville Smokies baseball team.

The university's baseball stadium, one of the finest in the Nation, was named after Lindsey Nelson.

For a number of years Mr. Nelson wrote a column for The Knoxville News-Sentinel.

Lindsey Nelson loved Tennessee. He loved its State university in Knoxville. Wherever he served in his long and productive life, he was never far from his beloved State and school.

Tennessee lost one of its most favored and distinguished sons with the passing of Lindsey Nelson. As his old friend Ben Byrd, former sports editor of The Knoxville Journal, said on hearing of Mr. Nelson's death: "A lot of people knew him, and without exception they all loved him. He was just something special."

I join all of Lindsey Nelson's many friends in Tennessee and around the world in mourning his passing.•

RETIREMENT OF RICHARD A. GIESSER, CHAIRMAN OF THE MASSACHUSETTS PORT AUTHORITY

• Mr. KERRY. Mr. President, I rise to pay tribute to Richard A. Giesser as he leaves office after 10 years as chairman of the Massachusetts Port Authority.

Mr. President, I have known Dick Giesser as a friend and adviser for many years. He is one of those all-too-rare individuals who balanced a successful career in business with a deep commitment to public service. I have no doubt that his service to the public will continue long beyond his tenure at the Massachusetts Port Authority.

Dick Giesser will be remembered, not only as the longest serving chairman of the port authority, but as a chairman who worked tirelessly to build MassPort's strength while providing safe and efficient service to the public. Under his leadership MassPort put the highest premium on safety, building inclined runway safety ramps at Logan International Airport and developing state-of-the-art fire and rescue facilities.

Mr. Giesser was a key architect of the Logan Airport modernization plan, now known as Logan 2000, which will enable Logan Airport to meet the ever-increasing demands of the regional integration into the global economy.

In the meantime, Dick Giesser kept faith with communities surrounding Logan Airport, by pioneering noise rules that alleviate the impact of air traffic over East Boston and Winthrop. He was instrumental as well in providing MassPort's support to the adjoining city of Chelsea so that Chelsea

could climb back from bankruptcy and regain its fiscal stability.

Under Dick Giesser's guidance in MassPort became an important promoter of New England companies in international trade. During his tenure the authority hosted the successful Sail Boston exhibition, which showcased Boston Harbor and Massachusetts to the world, and with his leadership MassPort launched a broad effort to restore marine-related industries to the harbor.

Dick Giesser is proud that the Massachusetts Port Authority achieved a AA bond rating for the first time during his tenure. I am sure he is even prouder that he leaves MassPort a stronger agency, capable of meeting the demands of the 21st century without turning its back on its neighbors.

Mr. President, once again, I salute Richard Giesser for his service to MassPort, to Massachusetts, and to New England. He exemplifies the importance of public service, but beyond that, he is a friend, and I join with my colleagues and the people of Massachusetts and New England in wishing him well.•

TRIBUTE TO THEO POZZY

• Mr. COHEN. Mr. President, I rise today to pay tribute to Theo J. Pozzy, a close friend of mine who passed away on May 29 at the age of 94. Theo was a longtime community volunteer in my hometown of Bangor and was revered by everyone in the community.

In 1919, while still a teenager, Theo came to the United States from France. Even toward the end of his life, his voice contained the telltale sign of a French accent. His love for his adopted country, however, could not have been stronger.

Theo served admirably in World War II under the command of Gen. Douglas MacArthur. After the war, he helped carry out the Marshall plan in Europe, working closely with Ambassador Averill Harriman. On the recommendation of French President Charles DeGaulle, Theo was awarded the French Medal of the Legion of Honor for his work abroad.

After returning from Europe, Theo dedicated much of his life to helping others through volunteer work. Toward the end of his life, he was very active with programs that helped individuals cope with drug and alcohol addictions, and he was the treasurer of the Eastern Regional Council on Alcohol and Drug Abuse in Bangor.

Some may ask what kept Theo going all these years. After all, many people view their golden years as a time to relax, and they eagerly look forward to enjoying themselves after a lifetime of working for and rewarding others.

I truly think that Theo Pozzy knew nothing other than giving of himself. While most people slow down in retirement, Theo sped up. While many people are anxious to celebrate themselves, Theo celebrated others. While some ask for something in return for their charity, Theo was much more comfortable as a benefactor than a beneficiary. These are some of the things that made him great.

Mr. President, I and many others lost a very close friend last month. Theo Pozzy will truly be missed.•

TRIBUTE TO CAPT. CAROLYN V. PREVATTE, U.S. NAVY

• Mr. GLENN. Mr. President, I rise to recognize the dedication, public service, and patriotism of Capt. Carolyn V. Prevatte, U.S. Navy. She has retired from active duty after more than 23 years of faithful service to our Nation. Captain Prevatte's contribution in formulating and implementing personnel policy helped to sustain the highest quality naval force we have had in the history of our armed services. Her strong commitment to excellence will have a lasting effect on the vitality of our modern warfighters. Her outstanding service commands the admiration and respect of her military colleagues and the Members of Congress.

Captain Prevatte is a native of the great State of Tennessee, but it can truly be said that she has spent her entire life in the service of our country since she is the daughter of a retired Army master sergeant. Commissioned in August 1971 at the Women Officers School, Newport, RI, Captain Prevatte served her first tour in Training Squadron 28, Naval Air Station, Corpus Christi, TX. Her department head tour followed at Naval Station, Annapolis, MD. While in Annapolis, she served as an assistant company officer on plebe detail for the U.S. Naval Academy class of 1980, the first to include women. In 1977, she commenced duty as Senior Instructor, Naval Reserve Officer Training Corps Unit, at the Texas A&M University. From there, she served as Operations Officer, Office of Legislative Affairs and as a Joint Manpower Planner, organization of the Joint Chiefs of Staff in Washington, DC. While on the joint staff, she was assigned additional duty as a military social aide at the White House. Captain Prevatte was Executive Officer of Navy Recruiting District, Houston, TX, from April 1984 to December 1985.

In January 1986, Captain Prevatte returned to Washington, DC for assignment as Head, Fleet Command Support Branch, Naval Military Personnel Command [NMPC]. In April 1987, she became the Deputy Director, Restricted Line/Staff Corps Officer Distribution and Special Placement Division, NMPC, and in February 1989, she became Administrative Assistant/Aide to the Commander, NMPC. Captain Prevatte served as Commanding Officer, Personnel Support Activity, Pensacola, FL, from December 1989 through August 1991. She reported to the Bureau of Naval Personnel in September 1991, where she served as Director, Allocation Division (Pers–45) prior to her assignment to the staff of the Assistant Secretary of the Navy (Manpower and Reserve Affairs) as Executive Director, Standing Committee on Military and Civilian Women in the Department of the Navy in April 1993. Additionally, in June 1993, she assumed duties as Staff Director (Manpower) in the Office of the Deputy Assistant Secretary of the Navy (Manpower).

In March 1994, Captain Prevatte was selected to serve as Executive Assistant and Naval Aide to the Assistant Secretary of the Navy (Manpower and Reserve Affairs). She transferred to the Office of the Secretary of Defense in October 1994, where she served as Military Assistant to the Assistant Secretary of Defense (Force Management Policy) until her retirement.

A proven Navy subspecialist in Manpower, Personnel and Training Analysis, Captain Prevatte holds a bachelor of science degree from Middle Tennessee State University and a master of science degree from Texas A&M University. She was named an Outstanding Young Woman of the Year in 1982. Her military awards include the Legion of Merit, Defense Meritorious Service Medal, Navy Meritorious Service Medal with three gold stars, Navy Commendation Medal, and Navy Achievement Medal with one gold star.

Our Nation, the U.S. Navy, and her parents, Master Sergeant (Retired) and Mrs. James L. Prevatte, can truly be proud of the captain's many accomplishments. A woman of such extraordinary talent and integrity is rare indeed. While her honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Captain Prevatte before my colleagues and wish her all of our best wishes in her well deserved retirement.

HONORING NICHOLAS KALIKOW

• Mr. D'AMATO. Mr. President, I rise today to offer congratulations to a young man from New York City who is being honored this coming weekend in Washington, DC. This fine young man, Nicholas Kalikow, will receive the coveted silver medal award in the annual Scholastic Art and Writing Awards given by the Alliance for Young Artists and Writers. The ceremony will be held at the Corcoran Gallery of Art on Saturday, June 17, 1995.

I have had the privilege of knowing the parents of Nicholas Kalikow, Peter and Mary Kalikow, for many years. Peter is an accomplished businessman, philanthropist, and public servant. Recently, the Governor of New York appointed him to the board of the Port Authority of New York and New Jersey. Mary, in addition to being a caring

mother, is deeply involved in the education of the learning disabled, serving on several board's dealing with this critical matter.

I have watched Nicholas grow to his early manhood and have been impressed with his talent and character. In addition to his other fine traits, he is a fine gifted writer, as evidenced by this award.

The Scholastic Art and Writing Awards, administered by the Alliance for Young Artists and Writers, Inc., has recognized young artists and writers for their achievements in the arts since 1923. It is the largest and longest running program of its kind in the Nation. The awards program attracts entries from all 50 States. Some of our country's most important artists and writers, including Truman Capote and Joyce Carol Oates, received their first recognition from this program.

Nicholas will receive the silver medal in the short story category. Many entries were received in this category and I am proud to say the Nicholas' story was selected as a winner.

Mr. President, I want to congratulate Nicholas, his parents, sister Kathryn, his grandmother Juliet, and her husband Steve Levene, all of whom will be present at the awards ceremony. I also want to congratulate the sponsors of this event, many of whom are New York based corporations and foundations, who recognize the achievements of our Nation's youth.•

ALTERNATIVE MEDICINE

• Mr. HARKIN. Mr. President, on March 2, I was honored to participate in a press conference on a report to the National Institutes of Health on Alternative Medicine: Expanding Medical Horizons. The report, which was prepared by an editorial committee chaired by Dr. Brian Berman and Dr. David Larson, represented more than two years of work by more than two hundred practitioners of alternative medicine. It is my sincere hope that the NIH carefully read this document and use some of its recommendations as the basis for a long-term strategic plan for the NIH's Office of Alternative Medicine (OAM).

For my colleagues' review, I am attaching the opening remarks of Dr. James Gordon. Dr. Gordon, a Clinical Professor in the Departments of Psychiatry and Family Medicine at Georgetown Medical School as well as the Chair of the Advisory Council of the Office of Alternative Medicine, presents an excellent overview of various kinds of alternative therapies now being used by America's health consumers along with a cogent justification for the expansion of NIH-sponsored investigations into those therapies. I have also included the short introductory remarks I made at the March 2 press conference. I ask that these remarks be printed in the RECORD.

The remarks follow:

ALTERNATIVE MEDICINE: A REPORT TO THE NATIONAL INSTITUTES OF HEALTH

[Statement by James S. Gordon, M.D.]

Welcome to the press conference on the Report to the National Institutes of Health on Alternative Medicine. This is a very happy and fulfilling occasion for us. For the last two and a half years the efforts and good will of more than two hundred people have gone into creating this Report.

I'm James S. Gordon, M.D.—a psychiatrist who uses a number of alternative therapeutic approaches in his medical practice. I'm a Clinical Professor in the Departments of Psychiatry and Family Medicine at Georgetown Medical School; Director of the Center for Mind-Body Medicine here in Washington; and Co-Chair of the section on Mind-Body Interventions of this report. I'm going to be the moderator for today as we discuss this Report and its origins, and present it to the National Institutes of Health.

I'll begin with an overview of the field and set the context for the development of this Report. I'll then introduce Senator Tom Harkin. Afterwards Brian Berman, M.D. and David Larson, M.D.—the Chair and Co-Chair of the Editorial Board of this Report—will speak briefly on the contents of this Report. Drs. Berman and Larson will present the Report to Alan Trachtenberg, M.D., the Acting Director of the Office of Alternative Medicine. Then, I'll introduce the Editorial Board and several other contributing writers, and we'll be available to discuss the Report and answer your questions on it.

I'd like to begin by giving you some background on the Report and putting it in the context of the field of alternative medicine. Let's start with the name "alternative medicine." Alternative comes from the word "other," and, indeed, this is the other medicine or, more accurately, the other medicines—the ones that are not taught in our medical schools or ordinarily practiced in our hospitals or clinics.

This use of this term is of recent origin. Over the last two decades, it is one of several that has been created to apply to new developments in medicine. Others include "humanistic medicine;" "holistic" or "wholistic" medicine; "mind-body medicine;" and "complementary medicine." Holistic medicine refers to an understanding of the whole person in his or her total environment and the wide range of both conventional and alternative treatments that comprise the whole or comprehensive approach. Humanistic medicine emphasizes the interaction between those who come for help and those who offer it. Mind-body medicine suggests the importance of the two-way connection between mind and body and their integrity. Complementary medicine—the term of choice in Europe—implies a mutually enhancing effect between conventional medicine and other approaches.

Alternative medicine does indeed emphasize other practices. It calls attention deliberately to what is not, or not yet, conventional. It is a way for medicine and our society to observe and evaluate what is new or unfamiliar—to hold it at arm's length while deciding whether and how it may be used and integrated into our larger practice.

The emphasis on alternative medicine emerges now as part of the ongoing development of our medical system and practice. Thirty-five years ago the great microbiologist Rene Dubos suggested that we had begun to approach the limits of modern biomedicine, the surgical and pharmacological treatment of discrete disease entities. We still appreciate the great power of this approach in curing infections and treating acute, life-threatening illnesses, but we have also begun to see how difficult it is to use these methods to treat a variety of kinds of chronic illnesses. And we have begun to become painfully aware of the side effects and overuse of once promising therapies. During these last two decades both patients and physicians have also become increasingly impatient with the kind of care that they have been receiving and offering. They feel a lack of participation and partnership. According to polls taken by Gallup and the A.M.A. itself, there is a sense of alienation on both sides.

During this time, too, the world has become smaller and more intimate. We've become increasingly aware of the healing traditions of other cultures, and of approaches that have been ignored, neglected, marginalized, or scorned within our own culture. Finally, all of us have become acutely sensitive to the enormous financial drain that health care and our medical system are putting on our government and all of us. Health care required four percent of the Gross National Product when Dubos was writing in the 1950's. Now, it is almost fifteen percent. These forces have set the stage for a new approach and new techniques that have propelled alternative medicine to the front of many of our minds, and to a significant place in the on-going health care debate.

With an appreciation and experience of the potential of some of these new therapies, a sensitivity to the wisdom of traditional approaches, and a weather eye on financial realities, Senator Tom Harkin drew up legislation to create the Office of Alternative Medicine three and a half years ago. He and the Health Appropriations Subcommittee gave that Office a mandate to study these alternative approaches; to find out which ones were most useful; and to make the information widely available.

This Report is one of the Office's first and most significant projects. It had its genesis in Chantilly, Virginia in 1992, when more than two hundred people—among them some of the most experienced and best known researchers and clinicians—gathered to begin to assess the state of the art. This effort was requested and supported, then and now, by the Office of the Director of NIH and by the Principal Deputy Directors—initially, Dr. Jay Moskowitz and, more recently, Dr. Ruth Kirschstein.

At that conference and since, participants divided into groups to work on the thirteen major sections that are covered in this Report. Later, as members of the smaller Editorial Board (most of whom are here today), they began to shape its overall structure, content and tone. Each of these sections are worked on by its own writers and editors. Then, the Editorial Board re-evaluated, discussed, debated, and re-wrote each section.

Each section has its different emphasis and tone. The one on mind-body medicine highlights the range of what we know about the mind's capacity to affect the body—the power of hypnosis, meditation, biofeedback and visual imagery. It provides thoroughgoing documentation of their efficacy and suggests now easily these approaches can and should be integrated into every aspect of medical care. The section on bioelectro-magnetism emphasizes the theoretical promise

of this field and its possible role in explaining the underlying mechanisms of many alternative approaches, including acupuncture, homeopathy and laying on of hands. The section on pharmacological and biological therapeutics, by contrast, records the vital importance of studying therapies that are already widely used for such life-threatening conditions as cancer and AIDS—but have never received any critical attention.

In virtually all of the sections there are also common themes. To begin with we see the sometimes surprising number of authoritative articles. There are literally thousands of articles in peer reviewed journals on biofeedback, hypnosis and visualization. And there are also hundreds on herbal therapies, acupuncture, and homeopathy. We see as we read through the Report how deep the historical use of these practices is. Foods like ginger, onions and garlic which we are just beginning to validate scientifically have been used therapeutically for thousands of years. The same is true of spinal manipulation, herbal and mind-body therapies. We learn also how widely used these approaches are. In 1990, a third of the people in this country were using alternative medicines. It is likely that the number now is far higher. Worldwide, according to the World Health Organization, 80% of all people use these "alternatives" as their primary care.

We see, too, how cost effective these approaches can be. To cite several examples: (1) A study done at the Harvard Community Health Plan showed that six weeks of behavioral medicine teaching, including meditation, enabled patients to record savings of $171.00 each in the six months following the treatment. (2) A program of diet, mind-body therapies, yoga, exercise and group support, designed by Dean Ornish and his colleagues of the Preventive Medicine Research Institute, has been shown to reverse coronary heart disease in patients who would otherwise have had coronary by-pass surgery. This program costs approximately $5,000 for its one year—in contrast to the $40,000–$60,000 for each by-pass surgery. (3) At the University of Miami, Tiffany Field's use of several minutes of gentle massage several times a day to treat low birth weight babies not only helped the babies to gain 47 percent more weight per day in the hospital, but enabled them to leave the hospital six days sooner, at a savings of $3,000 per child.

Taken as a whole then, this Report is a unique compilation of authoritative information. It is also a remarkable bibliographical resource for those who wish to learn more—to prepare them to undertake research, select treatments or participate in their own care. Finally, it is a guidebook for the Office of Alternative Medicine—a map to help the Office to develop new directions in research and to undertake specific studies. It suggests new research methodologies and new programs of research training which need to be developed. It offers suggestions for new ways to collect and disseminate information; improve peer review; and enlarge and expand collaboration between conventional and non-conventional researchers and practitioners. It explores possible new links between the Office of Alternative Medicine and the rest of NIH, and between the OAM and the general public.

In the Report, there are a number of creative tensions—tensions that reflect the diversity of the medical enterprise and our own experience as people trained in conventional science and medicine, and interested in alternative medicine. I want to acknowledge these tensions because they give life and excitement to the Report.

Among them are tensions between conventional practitioners and researchers who have been outside the mainstream; between those applying conventional research methodologies to unconventional therapeutic methods and those searching for new, perhaps more appropriate, methodologies; between respect for the integrity of traditional healing systems and a need to study their effectiveness in a way that conventionally trained scientists and clinicians can appreciate; between the requirements of scientific precision and the need for easy, popular accessibility; between the hope for encyclopedic inclusion and the need for careful selection; between the demands of activists desperate for answers to desperate public health problems—among them AIDS, cancer, cardiovascular disease—and the requirements of rigorous, definitive research; between the huge number of tasks to be accomplished and the, so far, very small amounts of money ($5 million dollars out of NIH's total budget of $10 billion dollars) available to these tasks.

I hope and believe we are on our way to resolving these tensions in favor of our own greater understanding and the greater understanding and progress of the field as a whole.

This Report is a compilation of much of the best that is known and thought about alternative medicine. It is comprehensive and authoritative. It has many and varied recommendations for future directions for NIH. And, there is more as well.

All of us who have worked on it see this Report as an arrow towards the future as well as a progress report and a summing up. In the end, alternative medicine becomes most important as it helps, in the words of the subtitle of our Report, "To expand medical horizons." Our goal is then to create a more comprehensive, responsive, humane and cost-effective system and practice of medicine and health care.

We are concerned with establishing a way of understanding and practicing which balances the power of definitive treatment with the authority of self care; which is both open to and critical about new approaches; which respects and enjoys the interplay of modern science and perennial wisdom.

Finally, then, this is a Report which goes beyond the opposition of either/or, conventional or alternative. It is a Report based on the concept of both/and it is, we hope, a step on the way to a healing synthesis and a new synthesis of health care and medical practice—one which includes and is greater and more valuable than either its conventional or alternative halves.

STATEMENT OF SENATOR HARKIN ALTERNATIVE MEDICINE PRESS CONFERENCE

I want to commend Dr. Brian Berman and Dr. David Larson for their leadership in preparation of this report, Alternative Medicine: Expanding Medical Horizons, as well as the other members of the Editorial Committee present here today.

In October 1991, Congress provided $2 million to establish the Office of Alternative Medicine at the National Institutes of Health for two main reasons. First, to seriously investigate the potential of alternative medical practices; and second, to break down the bias in medical research against review of worthy treatments not now in the mainstream of conventional medicine.

Before this Office's creation, the NIH and the medical establishment failed to accept the important of alternative medicine. But the American people had already voted their support for alternative therapies with their pocketbooks.

In 1990 alone, the New England Journal of Medicine found that Americans spent nearly $14 billion on alternative therapies, and made more visits to alternative practitioners than they did to primary care doctors.

American consumers are turning to these therapies because they're a less expensive and more prevention-based alternative to conventional treatments. And they're investing their dollars and their hopes without hard scientific evidence of the effectiveness—or ineffectiveness—of these alternative treatments. The American people have a right to know whether these alternative treatments are effective! That's why the Office of Alternative Medicine was created in the first place * * * to begin evaluating the efficacy, safety and potential cost effectiveness of alternative medical therapies. This is a health issue and a consumer issue, and the American people deserve nothing less!

Admittedly, since its creation three years ago, the Office has gotten off to a slow start. That's due to the continued skepticism of the medical establishment as well as the office's own mismanagement and lack of planning. It's for this reason that I'm so encouraged by the document being presented today to the NIH. This report, which represents more than 2 years of work by more than 200 practitioners and researchers of alternative medicine, should serve as the basis for a long-term strategic plan for the Office of Alternative Medicine.

It's my sincere hope that the NIH will carefully read this document and use some of its recommendations to put the office back on track, to begin operating efficiently and expand its investigations of alternative therapies.•

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

• Mr. BUMPERS. Mr. President, I rise today to pay tribute to the just concluded 1995 White House Conference on Small Business, and especially to 18 of my fellow Arkansans who traveled a great distance at personal expense to participate in this conference. These delegates took time away from their work and their families to represent the Arkansas business community and are to be commended for their dedication and sacrifice. The Arkansas business owners who attended the conference as national delegates and their respective businesses are as follows:

J. Baker, Baker Car and Truck Rental, Inc., Little Rock; Bob Boyd, Boyd Music and Pro Sound, Inc., Little Rock; Greg Brown, Union Bancshares of Benton, Inc., Benton; Mel Coleman, North Arkansas Electric Cooperative, Salem; Dexter Doyne, Doyne Construction Company, Inc., North Little Rock; Bill Ferren, B–B–F Oil Company, Inc., Pine Bluff; Michael Jackson, Jackson Development Group, Brinkley; Thomas Jacoway, Artran, Inc., Springdale; Phyllis Kinnaman, P.K. Interiors, Little Rock; Charles Mazander, Mazander Engineered Equipment, Inc., Little Rock; Bruce McFadden, Improved Construction Methods, Inc., Jacksonville; Ron McFarlane, Process 1500, Inc., Little Rock; Mary Rebick, Copy Systems, Little Rock; Mary Gay Shipley, That

Bookstore, Blytheville; Walter Thayer, Walter Thayer & Associates, Inc., Little Rock; Daniel Warmack, Warmack and Company, Fort Smith; Mark D. Diggs, Software Innovators, Inc., Little Rock; and George White, Delta Vending Enterprises, West Helena.

Mr. President, the 1995 White House Conference was created by a Congress and President who care about small business—specifically, a Democratic Congress and a Republican President. In 1993, small business in this country was responsible for 50 percent of the gross domestic product, while employing 54 percent of the American work force. This conference was attended by approximately 2,500 delegates from around the country to discuss the most pressing issues facing small businesses.

Although political circumstances have changed, the President and Congress still deeply care about the views and interests of small business owners. Recently, President Clinton signed into law a reauthorization of the Paperwork Reduction Act of 1992, a law that was originally proposed by the first White House Conference on Small Business during the Carter administration in 1980.

Recognizing the important role that the Small Business Administration plays in promoting the entrepreneurial spirit, Congress has said no to proposals to abolish that agency. I am proud to say that last year SBA was directly responsible for stimulating $10.6 billion in small business growth while spending only $232 million of American taxpayer money—an amount, I might add, less than the taxes paid by three companies that started with SBA loans—Intel, Apple, and Federal Express.

It is time to listen again to the backbone of our country. In the weeks to come, the White House Conference delegates will be sending their suggestions for the future of small business to both the President and the Congress. On behalf of the 18 delegates from my home state, I urge this Congress to take a close look at their suggestions and debate the legislative agenda set forth by the 1995 White House Conference on Small Business.•

SEVENTH ANNUAL CHINESE HERITAGE FESTIVAL

• Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995, the Garden State Arts Center in Holmdel, New Jersey began its 1995 Spring Heritage Festival Series. This Heritage Festival program salutes many of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old country customs and culture, the festival programs are an opportunity to express pride in the ethnic backgrounds that are a part of our collective heritage. Additionally, the Spring Heritage Festivals will contribute proceeds from their programs to the Garden State Arts Center's Cultural Center Fund which presents theater productions free-of-charge to New Jersey's schoolchildren, seniors and other deserving residents. The Heritage Festival thus not only pays tribute to the cultural influences from our past, it also makes a significant contribution to our present day cultural activities.

On Saturday, June 17, 1995, the Heritage Festival Series will celebrate the 7th Annual Chinese Heritage Festival. Cochaired by Margaret Ko Ma of Murray Hill and Chia Wang Whitehouse of Freehold, this year's event promises to be a grand celebration alive with colorful costumes, traditional foods, ethnic arts and crafts and talented entertainers of Chinese descent. The day-long event will feature a martial arts display by the Shaolin Hung School, as well as traditional flower, lion and drum dancers and music from China will highlight the artistic program. Mall activities will also include an arts and crafts exhibit, vendors selling Chinese food and a fine arts exhibit will feature both traditional and modern Chinese art.

On behalf of all New Jerseyans of Chinese descent, I offer my congratulations on the 7th anniversary of the Chinese Heritage Festival.•

SKI AREA FEE STRUCTURE REFORM

• Mr. LEAHY. Mr. President, I rise to ask my colleagues to take a close look at a bill which I cosponsored with Senator MURKOWSKI and others. The ski area fee system for Forest Service special use permits needs reform and S. 907 is a good way to get this done.

Skiing is one of the best uses that we have today on our national forests. The ski industry brings millions of people to the mountains to enjoy fresh air, scenery, and the mountain environment. Few other national forest activities are able to host such intense public use with relatively minimal impact.

In fact, many resorts have taken extra steps to protect and enhance the environmental resources with trail and resort designs that include modifications for wildlife use, special sensitivities to wetlands, base villages that minimize the need for cars, and plantings that provide forage for birds. Over the years ski resorts have become adept at reducing water pollution, erosion, and snowmaking. There are still problems to resolve, but I am confident that citizens, communities, and the ski industry will find solutions to each challenge.

In addition to providing access to National Forests on a mass scale, the ski industry provides critical economic benefits. From the first American rope tow installed in Woodstock, VT, in 1934, to the high-speed quads on Sugarbush 60 years later, the ski industry has brought economic opportunity to Vermont towns. The 1993–1994 ski season in Vermont generated $230 million from 4.3 million visitor days according to the Vermont Ski Area Association. These revenues translate into $17 million in tax revenue for Vermont towns. The ski industry represents a sustainable use of national forests and a good neighbor. They deserve our support.

The Murkowski-Leahy bill refines the fee structure for ski areas on national forests. The Independent Offices Appropriations Act of 1952 and the National Forest Ski Area Permit Act of 1986 both mandate that the Federal Government collect fair market value for the use of Federal property. In 1965, the Forest Service developed the graduated rate-fee system [GRFS] which is still in use today. GRFS is based on the ski area's investment in fixed assets and sales generated in nine business categories. The ski industry and the Forest Service together agree that the system is complex, outdated, inefficient, and in need of reform.

I wish we could say that the reform we propose is based on a comprehensive assessment of fair market value as current law, but such an assessment simply does not exist. Neither the General Accounting Office nor the Forest Service—or any other organization—has been able to offer assistance in developing a widely accepted assessment of fair market value. The revenue collected today is the closest approximation of fair market value, and therefore we have used the total revenue collected as the best available assessment. This bill solves the problems that we know how to solve, and does not preclude adjustments for issues that may benefit from further study.

The solution proposed in the Murkowski-Leahy bill is a simple progressive rate structure based on gross sales. Since it operates much like an annual tax form, it is easy to prepare, relatively easy to audit, and less prone to litigation. The fees are linked to the economy so ski areas can make regular and fair payments that reflect their ability to pay. The bill also has a provision to adjust the rate structure for

inflation and it would be easy to amend if the public wants to adjust the ski-fee revenues up or down based on further information on fair market value.

This bill is a reasonable, balanced, and progressive bill that offers clear reform for the ski area fee system. This is basically the same bill that the Senate passed in 1992 with strong bipartisan support. I hope we can pass the S. 907 this year with equally strong support.•

SALUTING THE 25TH ANNIVERSARY OF THE ZYGO CORPORATION

• Mr. DODD. Mr. President, I rise today to recognize the 25th anniversary of an outstanding corporate citizen in my home State of Connecticut, the Zygo Corporation. Since it's inception in 1970, Zygo has become one of the foremost manufacturers of measurement instrumentation products in the world. This achievement is the result of hard work, creativity, and a highly skilled workforce.

I am proud that the State of Connecticut is home to so many talented and capable individuals. The high-tech, precision work done at Zygo and so many other companies in Connecticut is a testament to the quality workforce my State has to offer.

I am pleased to congratulate Paul Forman, Carl Zanoni and Sol Laufer, founders of Zygo Corporation, on this important milestone. Their ingenuity, forsight and commitment to a quality product enabled them to follow their dreams and launch this firm in 1970. Today, they deserve commendation on their success.

Zygo's reputation is well known throughout the country and the world. As our economy becomes increasingly high-tech, we need more companies like Zygo to provide leading edge products for a demanding market. The surface measuring instruments and precision surface manufacturing produced by Zygo contribute to a variety of products used world-wide every day.

It is with great pride and admiration that I stand today to acknowledge the 25th anniversary of the Zygo Corporation and to wish this exceptional company continued success.•

COMMEMORATING THE ACHIEVEMENTS OF MOUNT ST. DOMINIC ACADEMY

• Mr. BRADLEY. Mr. President, I rise today to honor a group of students whose accomplishments are as varied as they are praiseworthy. On Thursday June 15, 1995, the young women of Mount St. Dominic Academy in Caldwell, NJ, will celebrate their championship season in three sports at their annual athletic awards dinner. With championship seasons in basketball, volleyball, and softball, the students of the Mount captured the attention of the Bergen Record as the "sports story of the year." In addition to these championship titles, the school won the New Jersey Interscholastic Athletic Association's C. Clarke Folsom Sportsmanship Award for the 1994 basketball tournament. This award is made annually to the school whose players, coaches, cheerleaders, and fans demonstrate the ideals of good sportsmanship throughout the tournament. The Mount has made a name for itself not only through outstanding athletic ability; but through the commitment of the school to a strong academic and extracurricular program with an emphasis on community service.

Students at the Mount participate in the Siena program of community service as part of their curriculum by donating their time to service projects, in addition to their regular studies and extracurricular activities. Although their prizewinning athletics certainly merit attention, I offer additional praise to these students for their school's unique commitment to community service. The Siena program teaches that the donation of time and energy in service to others is as meaningful as winning a championship season or scoring well on the SAT's. I can only admire a program which views giving back to the community as a basic part of education. In the words of the Mount's own Sister Fran Sullivan, these promising young women "use their own giftedness to better the world."

Mr. President, once again I offer my congratulations to these talented and generous young women, who are truly athletes, scholars and public servants.•

GENERAL MOTOR'S 1997 FLEXIBLE FUEL VEHICLES

• Mr. HARKIN. Mr. President, I want to offer my congratulations to General Motors for making what I believe is a good move for our environment, for our economy, and for their business. All of GM's 1997 four cylinder light-duty pickup trucks will have the capability to run on ethanol as well as gasoline. This represents a significant milestone in the acceptance of ethanol as a widely-used fuel for America. Ethanol helps clean the air and is a renewable domestic energy resource. I ask to have printed in the RECORD the May 11, 1995, news release from GM concerning this development.

GENERAL MOTORS NEWS RELEASE

DES MOINES, IOWA—General Motors today announced the largest single-model alternative fuel vehicle production program of any manufacturer. All of GM's 1997 four-cylinder light-duty pickup trucks will be flexible fueled to permit them to run on gasoline, ethanol, or a combination of the two.

Speaking at a meeting of the Governors' Ethanol Coalition, GM Vice President Dennis R. Minano said GM will use the 1997 Chevrolet S-series and GMC Sonoma pickups as flexible fuel vehicles because they will meet the broad spectrum of needs of many fleet and retail buyers.

"The inclusion of ethanol capability in this program is a win/win for the environment and the customer," Minano said. "As a near-term alternative fuel, ethanol provides many positives. Ethanol is a renewable domestic energy source, provides more range than some other alternative fuels, and is good for the environment."

"We are making this announcement today," said Minano, "in order to provide time for us all to develop an infrastructure and prepare for the volume of ethanol capable trucks Chevrolet and GMC Truck will begin selling in 1997 in the U.S. and Canada." Minano said the ethanol industry needs to continue to work with the automobile manufactures to finalize fuel specifications, commonize fuel delivery systems, and develop a refueling infrastructure.

Minano also said, "We are particularly pleased to have the opportunity to make this announcement at the Governors' Ethanol Coalition meeting. I know the governors are committed to working with us and with the private infrastructure business to make this program a success. This program is really a partnership in the truest sense of the word."

General Motors has been a leader in developing alternative fuel vehicle technologies for more than 25 years. Our strategy has been, and will continue to be, fuel neutral. This strategy includes continuing the development of gaseous, alcohol, and electric vehicles. Minano said, "The market has to have room to allow multiple fuels. There should not be a mandate for a single technology."

The trucks are scheduled for production beginning in the summer of 1996 and will be produced at North American Truck Group facilities in Shreveport, Louisiana, and Linden, New Jersey. They will be sold in the U.S. and Canada under the GMC Truck and Chevrolet nameplates.•

DISAPPOINTMENT OVER DELAY IN FOSTER NOMINATION

• Mrs. BOXER. Mr. President, today is the third day I am stating for the RECORD my sincere disappointment that the Foster nomination has not been sent to the Senate floor for a vote.

Clearly, the Nation needs a Surgeon General; clearly we have problems with AIDS, Alzheimers, cancers of every type, Parkinson's, teen pregnancy, just to name a few.

Clearly the time is long overdue for this Nation to have a Surgeon General. Dr. Henry Foster is qualified and eager to be Nation's top doctor. We need his leadership.

Dr. Foster was voted out of committee with a favorable, bipartisan vote. He deserve confirmation and there is no need to delay.•

100TH BIRTHDAY OF ESTHER EARNEST HEWICKER

• Mr. HARKIN. Mr. President, I was recently contacted by the O'Brien family in Iowa about a very special event that will happen on June 21. On that day,

Esther Earnest Hewicker, of Remsen, IA, will celebrate her 100th birthday. Mrs. Hewicker has lived a long and vibrant life and I want to join with her family and her many friends in Iowa in wishing her my warmest birthday greetings on this very special day. During her lifetime, Iowa and our Nation have undergone many changes and endured many great challenges.

Mr. President, in commemoration of this very special day and in tribute to Esther Hewicker, I ask that a letter to me from the O'Brien family reviewing her life be included in the RECORD at this point.

The letter follows:

DEAR SENATOR HARKIN: It is with great pride that we, the O'Brien family, inform you of the one hundredth birthday of a woman who has dedicated her life to the welfare of those around her. Esther Earnest Hewicker, born June 21, 1895, near Remsen, Iowa, was the youngest of eight surviving children. At that time Esther's life was typical of the era. Her days were spent going to school, doing chores, and often caring for the children of her adult siblings. Esther lost her father to a medical condition, "consumption", when she was ten years old and as a result she, her mother, and remaining underage siblings left the farm and moved into Remsen.

Esther graduated from Remsen High School in 1913. After working for one year as a seamstress and caring for various nieces and nephews, Esther borrowed money from her mother to enter the Normal School in Cedar Falls, Iowa, where she earned a two-year degree in intermediate education. Esther taught seventeen years in small towns in Northwestern Iowa; two years each in Akron and Aurelia, and thirteen years in Marcus.

Esther began teaching in 1916 in Akron, Iowa, during World War I. At that time, it was important for civilian citizens to do what they could to support the war. Esther served through the Red Cross, making bandages and rolling gauze. Further, when teaching, Esther incorporated war effort projects into appropriate school subjects. For instance, during the teaching of hand work, Esther got yarn pieces from the Red Cross and had her students knit squares that would later be sent back to the Red Cross and sewn into lap blankets.

At the onset of her career, teachers earned approximately $65.00 monthly for only nine months of the year. During summers, holidays, and weekends Esther returned home and assisted her mother with a house full of chores, for everything in those days was done by hand and without refrigeration. Food preservation, preparation and storage were long-term projects involving gardening, butchering, canning, and baking using a wood stove. Water was carried for daily needs, drinking, bathing, cleaning, etc. General housekeeping involved floor scrubbing, hardwood waxing, rug beating, lamp trimming and window washing. Often the supplies for doing such chores needed to be made. The soap used for laundry and cleaning was made at home, usually in conjunction with butchering. Further, more time had to be made when specific attention needed to be paid to caring for the sick or repairing broken items.

In 1920, at the time Esther began teaching in Marcus, she also took on the responsibility of singlehandedly caring for her aging and ailing mother on a full-time basis. To supplement their income and make ends meet. Esther also "kept roomers". Esther maintained her full-time teaching position and eventually became Junior High principal, which in those days constituted an increase in responsibility as her teaching duties continued. Esther continued to live independently, maintaining her career, caring for her mother and keeping roomers. Esther did this until 1934.

At the age of 37½, Esther married Frank Hewicker, a Remsen, Iowa farmer. Her mother was transferred to the care of other siblings. Esther then began a new career, farming with her husband, for in those days, farming could only succeed if done as a partnership between husband and wife. The volume of work and sheer labor required to complete necessary tasks could not be done by one person alone. Esther cared for twin lambs abandoned by their mothers, raised ducks, geese and up to one thousand chickens each year. She kept a huge garden and did all of the housework, laundry, mending and cooking necessary for her family and the hired help, all without the aid of electricity, running water or refrigeration. The Hewickers began farming land south of Remsen and after approximately twelve years purchased land south of Marcus, where they stayed their entire married life. Presently, with the help of dedicated renters, Esther continues to oversee the farm.

At the age of 45, prior to the couple's move to the new land, Esther gave birth to a daughter, Ila Jean Hewicker. Esther continued to run the farm with her husband, and raised her family. At that time, Esther and her family were active contributors to their church and community, both in a physical and financial sense. Esther maintained a position on the Marcus Fair Committee for twenty-five years and was part of the decision-making process for the building of the Marcus Theater, original community swimming pool, health clinic, and countless other projects. Further, the couple found time to frequent area nursing homes, where they provided the residents with fresh produce and flowers. Esther and her husband also made a point to tend to the sick, shut-in or underprivileged within and outside their immediate families whenever they could.

Strong believers in education, there was never a doubt that their daughter would go to college. Esther and Frank supported and encouraged Ila through college and proudly watched her earn her Bachelor's Degree in Education. Ila eventually married and had a family of her own.

It is important to note that Esther's dedication to education did not stop with her career or her daughter's completion of college. Esther was an active member of the P.E.O. Club for many years and following Ila's high school graduation, Esther was elected to the Marcus School Board. Further, Esther and Frank created college funds for all four of their grandchildren, adding substantial amounts of money to each over the years. With that financial assistance, Esther's two eldest grandchildren received Masters degrees, one in Education, and one in Social Work. The third is presently an undergraduate in an Art Education program and the fourth will enter college in the Fall.

Esther is presently a resident of Happy Siesta Nursing Home in Remsen, Iowa, and has been for the past nine years. Esther made this move independently and presently continues to welcome new residents, helps ease their transition from home to nursing home living and encourages them to participate in the many activities available to them. Esther often receives visitors from the area and enjoys keeping up with the news and lives of life-long friends. Though her old students are senior citizens now, she sees many who visit, and makes a point to ask after those who cannot.

Clearly, Esther Earnest Hewicker's contributions to society have been vast throughout her long lifetime and still her humor, character, and gregarious personality have yet to be mentioned. It is with sincere pride that we ask that Esther's contributions be recognized formally, as the benefits of her life reaped by others are immeasurable.

Thank you for your time.

Sincerely,

KATHY O'BRIEN
and the entire O'Brien family.●

ORDERS FOR TOMORROW

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Friday, June 16; 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 that there be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each with the following exception: Senator SARBANES, 15 minutes.

I further ask unanimous consent that, at the hour of 11 o'clock, the Senate resume consideration of the motion to proceed to S. 440, the National Highway System bill, which we have been on this evening.

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

CLOTURE VOTE ON MONDAY, JUNE 19, 1995, AT 3 P.M.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the cloture vote on Monday occur at 3 p.m. and the mandatory quorum under rule XXII be waived.

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

PROGRAM

Mr. CHAFEE. Mr. President, for the information of my colleagues, the Senate will resume consideration of the motion to proceed to the highway bill tomorrow. However, the majority leader has announced that no rollcall votes will occur during Friday's session of the Senate.

A cloture motion was filed on the motion to proceed. So Senators should be on notice that a cloture vote will occur at 3 p.m. on Monday next.

RECESS UNTIL 10 A.M. TOMORROW

Mr. CHAFEE. 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 6:57 p.m., recessed until Friday, June 16, 1995, at 10 a.m.